ISPAI's Comments on TRAI's Draft Reporting System on Accounting Separation (Amendment) Regulations, 2025

A. Background:

1. ISPAI represents a diverse spectrum of licensed Internet Service Providers across the country, ranging from small regional ISPs operating in rural and semi-urban areas to large national providers offering pan-India services. This diversity places ISPAI in a unique position to reflect the compliance realities and operational challenges of the entire ISP ecosystem.

2. Against this backdrop, ISPAI respectfully submits that the proposed amendments to the Accounting Separation Regulations (ASR), particularly the introduction of enhanced financial disincentives, will disproportionately burden service providers without delivering commensurate regulatory benefit. The proposal also runs counter to the Government of India's ongoing initiatives aimed at decriminalisation, simplification, and reduction of compliance costs under the Jan Vishwas (Amendment of Provisions) Bill, 2023 and the forthcoming Jan Vishwas Bill 2.0.

B. Limited Relevance of the ASR Framework:

1. Maintaining and auditing ASR reports no longer yields meaningful regulatory insights and instead imposes compliance obligations.

2. The ASR framework was originally introduced to support cost-based regulation such as *Interconnection Usage Charges (IUC)*. With the shift to the *Bill and Keep* regime and the convergence of voice and data over IP networks, the rationale for ASR submissions has become redundant.

3. The objectives of transparency and financial reliability that ASR sought to achieve are already met through:
   a. Audited Financial Statements prepared under the Companies Act, 2013; and
   b. Audited AGR Statements submitted to DoT and TRAI for licence fee and SUC computations.

4. In addition, service providers are already governed by the *Companies (Cost Records and Audit) Rules, 2014* and telecom-specific Cost Audit Annexures, which require detailed service-wise costing reports. These are derived from the same financial records used for ASR, resulting in unnecessary duplication and heightened compliance cost.

5. **ISPAI therefore submits that TRAI may rely on these existing audited statements for analytical purposes rather than requiring a separate ASR submission**.

C. Disproportionate Impact of Proposed Amendment:

1. ISPAI sincerely believes that the proposed turnover-linked financial disincentive is arbitrary, excessive, and inequitable. Linking monetary liability to total turnover,

rather than the gravity or recurrence of violation, disproportionately penalises service providers. ISPAI sincerely believes that for minor or inadvertent reporting errors, the imposition of severe fiscal penalties would be punitive and inconsistent with principles of proportionality and natural justice.

2. ISPAI respectfully submits that the draft amendment does not provide supporting data or justification for the proposed escalation of financial disincentives, such as evidence of recurring non-compliance or an assessment of how increased penalties would enhance reporting quality. The absence of such reasoning also raises serious concerns regarding transparency and proportionality in regulatory decision-making.

3. We also express concerns regarding the imposition of interest on delayed payments as outlined in TRAI's draft Paragraph 6 (3).
   a. Firstly, interest should not be levied as it constitutes a financial disincentive, which could unfairly penalize service providers. It may kindly be emphasized that providers have the right to seek remedies concerning the quantum of payment, and the continuous accrual of interest on non-payment could undermine their efforts to resolve disputes or discrepancies.
   b. Additionally, there may be legitimate reasons for a delay in payment by a few days, and the provision to treat a part of a month as a full month for interest calculation purposes exacerbates the financial burden. This approach could result in interest demands for minor delays that exceed the actual interest accrued. Therefore, it is suggested that if interest is to be charged, it should be calculated based on the actual number of days of delay, and only transition to a monthly basis after a full month has elapsed.

D. Legal and Jurisdictional Concerns:

ISPAI sincerely submits following legal and jurisdictional concerns relating to the proposed amendment and ASR submission:

1. **Absence of Licence Mandate:** The Unified Licence does not prescribe submission of audited ASRs. Clause 9.1 (Requirement to furnish information) merely requires the licensee to provide such information as may be reasonably required for licence compliance assessment.
2. **Non-Fiscal Nature of Data:** Data collected purely for analytical purposes, with no fiscal nexus, should be treated as operational and furnished on a best-effort basis.
3. **Lack of Statutory Power to Impose Financial Disincentives:** The *TRAI Act, 1997* does not empower TRAI to impose monetary penalties or "financial disincentives." Hence, ISPAI respectfully submits that the proposed provision for up to 1% of annual turnover is *ultra vires* and legally unsustainable.

E. ISPAI's Request:

In light of the above, ISPAI respectfully requests that TRAI may consider the following:

1. **Discontinue** the requirement for submission of ASRs and rely on existing audited financial and AGR statements.
2. **Refrain** from introducing or enforcing any turnover-linked financial disincentive mechanism.

3. **If data collection is still required**, it may be sought on a **voluntary or best-effort** basis without punitive consequences.
4. **Ensure alignment** of the framework with the Government's ongoing reform agenda under the *Jan Vishwas Bill* and the *Telecommunication Act, 2023*, with focus on simplification, proportionality, and predictability.
5. The ASR regulations are quite complex, and smaller Licensees may not have the capabilities to understand and provide the requisite data.
   Hence, we request TRAI to
   a. conduct the webinar/ session with the concern licensee (to whom ASR 2016 is applicable) for detailed explanations and training.
   b. Sample documents and flow chart of the process in simple language.
   c. Need to provide sufficient time to rectify the non-compliance, if any. (at least 4 weeks' time)
6. **Levy of interest on delayed payment:** We request TRAI not to levy interest on delayed payment. In case TRAI decides to levy interest, it should be calculated based on the actual number of days of delay, and only transition to a monthly basis after a full month has elapsed.

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