No.:067/TRAI/2014-15/ACTO
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Subject: Consultation Paper (09/2014) on Definition of Revenue Base (AGR) for the Reckoning of LF & SUC.

Dear Sir,

Association of Competitive Telecom Operators (ACTO) is pleased to submit its comments on TRAI Consultation Paper (09/2014) on Definition of Revenue Base (AGR) for the Reckoning of License Fees & Spectrum Usage Charges.

We hope that our comments (enclosed as Annexure - I) will merit consideration of the Hon'ble Authority.

Thanking you,
Respectfully submitted

Yours sincerely,
for Association of Competitive Telecom Operators

Tapan K. Patra
Director
9899242273

Encl: As above

Annexure-I

Response from ACTO on TRAI consultation paper on Definition of Revenue Base (AGR) for the Reckoning of License Fees & Spectrum Usage Charges

Association of Competitive Telecom Operators (ACTO) is pleased to submit its comments to the Telecom Regulatory Authority of India (TRAI) Consultation Paper No. 09/2014 dated 31st July 2014 titled 'Definition of Revenue Base (AGR) for the Reckoning of License Fee and Spectrum Usage Charges.

At the outset, we thank the Hon'ble Authority for bringing out the suo-motu consultation paper on such an important matter. This is indeed timely and much awaited by the industry.

ACTO has been requesting the Hon'ble Authority to consider the issue of defining the components of Adjusted Gross Revenue (AGR) for the purpose of levying license fee in the context of current telecom licenses. A brief reference on the above matter was made by TRAI in its recommendations on Unified License dated 16th April 2012 wherein under clause 2.49 it has stated -"***Regarding the revenue which shall be taken into account for calculating GR/AGR for levying of licence fee, the Authority has not proposed any change in the definition of GR/AGR as the issue requires deeper study***". (Emphasis Supplied).

The current consultation paper has indeed paved the way for a deeper study on the various aspects of revenue base for the purpose of estimation of revenue share license fee, which have direct impact on the growth of the telecom sector, viability of the telecom service providers leading to access &affordability at the hands of the consumers.

Pursuant to the series of reforms introduced by the Government including privatization & liberalization of the telecom sector, since 1994-95, the sector has done remarkably well in terms of revenue& subscriber growth. However in order to ensure this growth trajectory remains viable & sustainable, it is very important that the definition of revenue which is subject to license fee payments should be aligned aptly with stated policy under NTP-12 , Digital India and the emerging economic realities. The current definition of revenue has several anomalies which needs to be corrected for an orderly growth of the sector.

ACTO would like to respectfully submit that the revenue which is subject to license fee should only cover the activities / services carried out on the strength of the underlying telecom license or can be directly attributable to the service permitted under the telecom license. Any revenue which has been derived from an activity which does not requires a telecom license should be outside the purview of license fee.

In this regard it is worth mentioning that TRAI had recommended in its recommendations dated 13th January 2005 that ***"AGR shall include only the revenue accrued out of telecom services and shall not include sale of capital goods, sale of handsets, dividend and interest earned on various deposits. To ensure that bundling of handsets with tariff schemes is not misused, the***

existing provision of tariff schemes with bundling to be made available to subscribers even without bundling, shall continue".

A company is granted license to provide telecom services under section 4 of Indian Telegraph Act, 1885(ITA 1885). The extract from the Act is stated below:

"4. Exclusive privilege in respect of telegraphs, and power to grant licenses.

(1) Within [India], the Central Government shall have exclusive privilege of establishing, maintaining and working telegraphs:

Provided that the Central Government may grant a license, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of
[India]:

[Provided further that the Central Government may, by rules made under this Act and published in the Official Gazette, permit, subject to such restrictions and conditions as it thinks fit, the establishment, maintenance and working-

(a) of wireless telegraphs on ships within Indian territorial waters [and on aircraft within or above [India], or Indian territorial waters], and

(b) of telegraphs other than wireless telegraphs within any part of[India].

(2) The Central Government may, by notification in the Official Gazette, delegate to the telegraph authority all or any of it its powers under the first provision to sub-section (1).

***The exercise by the telegraph authority of any power so delegated shall be subject to such restrictions and conditions as the Central Government may, by the notification, think fit to impose*.(Emphasis Supplied)"**

It is quite clear that the license is granted based on some terms and conditions (license agreement) and in lieu of some consideration (Entry fee, license fee, requirements) to establish, maintain or work a telegraph within India. Therefore it is quite clear that the consideration and conditions all are interlinked to the activity of establishing, maintaining and operating a telegraph. If there is no grant of any such license, such conditions and considerations do not come into existence.

Therefore, there cannot be any condition under the license which is not linked to the license or telegraph. This applies to the revenue base as well. The consideration for operating a telegraph, for which license fee cannot be charged on any activity which has not been carried out under the license granted under section 4 of ITA 1885.

In contrast, to compute the said consideration, the current definition of revenue base defined under all telecom licenses (issued under section 4 of ITA 1885) subjects all avenues of revenue (telecom and non-telecom) accrued to the licensee company to license fee payment. In summary:

- The revenue accrued only from telecom services on the strength of the telecom license, granted under section 4 of ITA 1885 needs to be considered for license fee payment purposes.
- The AGR definition should eliminate the issue of **multi stage assessment of license fee** which is currently in vogue and severely impedes competition in the enterprise services and data sector. Therefore input cost (i.e. interconnection / IUC and bandwidth cost for voice and data respectively) should be allowed for deduction while calculating AGR.
- The license fee should be based on actual revenue of the service provider without any linkages to the concept of presumptive AGR. **There should not be any presumptive AGR in the telecom sector as the concept itself is contrary to the principles of revenue sharing regime adopted in 1999. Presumptive AGR will entail taking the sector back to the pre 1999 era wherein irrespective of the fact whether service under the telecom license is commenced or not , revenue is accrued or challenges in roll out or getting statutory permissions were in place, still a fixed charge was to be paid by the licensee**.

ACTO recommends that the following should be excluded from the Gross Revenue to arrive at the AGR:

(i) Pass through charges like leased circuits, port charges etc paid to other telecom service providers.
(ii) Charges paid to other Licensees for any input Telecom Service.
(iii) Revenue from pure internet (except Internet Telephony (IPT/VOIP).

Revenues which do not accrue from telecom services should not form a part of AGR, such as:

- Foreign Exchange Gains (including set off for losses on account of foreign exchange fluctuations).
- Dividend.

- Interest on other than refundable security deposits received from the customer,
- Capital Gains on sale of immovable property, securities, warrants or debt instruments, other items of fixed assets.
- Gains from Foreign Exchange Fluctuations (Forex Gain).
- Exclusion of Recovery of Bad Debts, Waivers, Discounts.
- Reversal of Provision & Vendor Credits from AGR.
- Income from Property Rent.
- Income from Sale / lease of passive infrastructure like towers, dark fibres, etc. – is a reduction of cost, of that portion of assets which are not used by the licensee to provide the license services.
- Sale of any kind of Customer Premise Equipment (CPE).
- Other income including Miscellaneous Income.

ACTO members generally operate in the Enterprise and Data Services space of the Telecom Sector. This has been identified as the segment for ushering in the next wave of telecom revolution. The NTP 2012 has also specifically laid stress on formulating suitable policies for this sector which will fuel growth and attract investments. The AGR issue has a direct bearing on the financial viability as well as the competiveness of the Enterprise and Data sector as a whole.

Present definition and its administrative challenges:

The present definition of GR and AGR subjects all avenues of revenue (telecom and non-telecom) accrued to the licensee company to license fee. The current definition even subjects forex gains (on which operators like our members do not have any control) to license fee payments. Not only this, the members have also been asked to pay the license fees on the reversal of the provision of bad debts and also on the reversal of the excess liabilities created in the earlier years. When such liabilities or provisions for the bad debts were created, they would not have been deducted from the revenue of the TSP for the purpose of calculating the AGR. The permissible deductions are restricted only to voice based pass through charges (interconnection), service and sales tax paid. We request that the Licenses (current and future) should consider revenues accrued only on the strength of the telecom license for license fee payment purposes.

It is submitted that presently, double levy exists as certain payment made for critical inputs, like bandwidth, port etc., are not allowed as deductions while calculating the AGR on which LF is payable by a Telecom Service Provider (TSP) and only the pass through charges for interconnection is a permissible deduction. Such inter se Licensee transactions are logically purchase of necessary input resources to provide SERVICE under the License, this is even when the bandwidth provider is subject to LF on the revenue received from other TSP and thereby leading to double taxation.

It is submitted that the concept of the current regime of pass through charges being only "call based charges" deduction needs to be seriously re-visited in the era of digital convergence. With digital convergence growing steadily, and in the current regime of levy of license fee, operators are bound to offer multi play services. This would thereby increase the complexity and litigation.

We strongly believe that if the current regime is not simplified; establishing what would constitute an input cost for the service would be highly complex and difficult to assess. For e.g., currently bandwidth charges are not allowed as deduction as input/pass through for data services; such deduction is not permitted carrying the old principle of disallowing leased line expenses taken in lieu of network roll-out.

As discussed above relating to disallowance of input cost of bandwidth for data services discards the principle of double levy and directly attributable costs do not qualify for deduction. With the impetus on significant growth and increased coverage of broadband/data, TSPs would be forced to have optimum utilization of their network infrastructure, share fiber etc.; thereby excluding this for the purpose of revenue share adjustment would be a double levy. Consequently, continuing with the current regime of only having limited component eligible for pass through charges casts a cascading tax effect and leads to double levy of taxes.

Furthermore, the National Telecom Policy 2012 (NTP 2012) highlights the need to move towards convergence between telecom, broadcast and IT services, networks, platforms, technologies and overcome the existing segregation of licensing, registration and regulatory mechanisms in these areas to enhance affordability, increased access, and delivery of multiple services and reduced cost.

In view of above analysis it is recommended that revenue share adjustment should be made on all the charges paid to the other licensed TSPs, so that there is an avoidance of double taxation and there is no further interpretation issue in the era of digital convergence and increased infrastructure share between the TSPs.

With the above background, we now provide our responses to the issues raised in the consultation in-seriatim.

Q1: Is there a need to review/ revise the definition of GR and AGR in the different licenses at this stage? Justify with reasons. What definition should be adopted for GR in the Unified License in the interest of uniformity?

Yes, there is a need to review /revise the definition of GR and AGR in the different licenses. In fact it is absolutely pertinent and apt from a timing perspective to review and

revise the definition of GR and AGR in the different licenses at this stage. The importance and need has already been explained in the previous paragraphs.

There are various anomalies in the current definition of GR and AGR under the telecom licenses:

- It includes several revenues unrelated to licensed activities under the licence.
- It includes service items that strictly do not fall under the definition of revenue.
- It results in dual charge of the same revenues twice in the hand of different operators.
- It includes notional income that is unrealized/remains uncollected by the Licensee.
- It includes item on accrual/billed basis but allows deduction on collected/paid basis.
- It includes several items of pass through revenues resulting in differential treatment of similar revenue.

Hon'ble Authority has not addressed the issue of defining the components of GR/AGR for levying license fee stating – "***Regarding the revenue which shall be taken into account for calculating GR/AGR for levying license fee, the Authority has not proposed any change in the definition of GR/AGR as the issue requires deeper study***" (Emphasis supplied).

Unified License has already been issued and we understand that the work on Phase II of Unified License is in progress within DoT. So it is important that when the terms and conditions of a new license have been written, it is important that the previous aberration in the definition of GR/AGR that exists in the current licenses needs to be reviewed and addressed in the phase II of Unified License.

The definition of GR/AGR for payment of license fee needs to be reviewed to ensure level playing field among the service providers.

Streamlining the definition of GR/AGR has direct relation to the affordability of services to the end customer as well as the financial / business viability of a service provider.

The current definition subjects all sources of revenue (telecom and non-telecom) accrued to the licensee company to license fee. Also the permissible deductions are restricted only to switched voice based pass through charges (interconnection), service and sales tax paid. It does not accord similar treatment for telecom provider providing data services.

We are of the firm view that for license fee payment purposes the definition of revenue base should consider revenues accrued only from telecom sources / derived on the strength of telecom license or activities which can be directly attributable to a telecom license.

Interconnection cost should also consider payment made for input bandwidth charges which forms an integral part of data services. This will eliminate the issue of **multi stage assessment of license fee** which is currently in vogue and severely impedes competition in the enterprise services and data sector. Therefore, input cost (i.e. interconnection / IUC and bandwidth cost for voice and data respectively) should be allowed for deduction while calculating AGR.

Q2: What should be the guiding principles for designing the framework of the revenue sharing regime? Is the present regime easy to interpret, simple to verify, comprehensive and does it minimize scope for the exercise of discretion by the assessing authority? What other considerations need to be incorporated?

The guiding principle should be as explained in the aforesaid paragraphs. Since the license is governed under section 4 of ITA, 1885, all its constituents should also be governed accordingly. This means that revenue from all activities which requires a telecom license to undertake should only qualify for a revenue sharing regime. Revenue from other activities which do not require a telecom license or do not come under the ambit of ITA 1885, should not be subjected to any share.

The current regime is comprehensive but not objective in nature. An attempt has been made to include all revenues to make it simple. However, this has led to issues relating to interpretation especially on non-telecom revenues, resulting in issues of verification etc.

If the regime would have been simple and calls for minimal intervention of assessing authority, then we should not have witnessed plethora of litigations and show cause notices etc.

Therefore the guiding principle as stated above along with as indicated below, should be followed which will eliminate the need for any subjectivity or interpretation:

1. Only revenue from service under the license to be part of Revenue Base.
2. Multistage regulatory levies should be eliminated.
3. It should be easy to verification.
4. There should be transparency and minimum scope for exercise of discretion by the assessing authority.
5. The license fee should be based on actual revenue of the service provider which has received from subscribers without any linkages to the concept of presumptive revenue base.

To overcome the existing problems and achieved the stated objectives of the NTP-12, it is submitted that present regime of regulatory levies on telecom sector may gradually move towards international best practices and only administrative cost should be recovered.

Q3: In the interest of simplicity, verifiability, and ease of administration, should the rate of LF be reviewed instead of changing the definitions of GR and AGR, especially with regard to the component of USO levy?

Yes, it is submitted that present rate of license fee along with its respective definition of GR and AGR should be reviewed and these should be aligned with NTP-12, Digital India and international best practices etc.

It is further submitted that the rate of license fee especially the USO levy which is a major portion (5%) needs to be significantly reduced. TRAI in its recommendations on Unified License dated October 2003 has noted that the license fee should cover USO (5%) and administrative cost (1%) in contrast to 3% currently. The license fee has been significantly reviewed from 15% to 8% currently. However, the USO levy has remained consistent at 5%.

We note that TRAI in its October 2003 recommendation has noted that the license fee should be in the form of an administrative cost which is to take care of managing, licensing and regulating the sector. On the USO levy TRAI stated that with technological developments, flexibility in the licensing regime, deployment of more and more wireless technologies and the growth of telecom services even in backward areas from telecom point of view, the Government may consider reviewing the level of USO levy and Administrative fee.

Therefore it is the need of the hour to gradually reduce the license fee starting with immediate phase wise reduction of USO levy. The USO is currently sitting on a Rs 33683 crore fund which is not being effectively utilized. The same needs to be reduced to 0~3% to start with and gradually brought to a level that brings affordability in the sector. As the Authority has already noted that presently, very large amount of USO is laying as unsent. We believe that under the current circumstances, there is no need for creation of such fund when operators are liable to roll out their networks across the country in time bound manner.

This will certainly help the sector improve its financial viability by reduction of cost leading to affordability at the hands of the consumers.

Also, the reduction in the absolute amount in the collection of the USO levy as a result of such reduction in the percentage, if accepted, will be more or less be offset by the increase in its collection as a result of increase in business of the TSPs .

We strongly support to review the present rate of LF and especially the USO component should be reduced gradually at the level of 0~3% only.

Q4: If the definitions are to be reviewed/ revised, should the revenue base for levy of license fee and spectrum usage charges include the entire income of the licensee or only income accruing from licensed activities? What are the accounting rules and

conventions supporting the inclusion or exclusion of income from activities that may not require license?

The revenue base should factor only those activities which require a telecom license to undertake. Any other income / credits in the profit and loss account of the TSP should not be included in the AGR. The accounting rules are clear in respect, for example, of the reversals of the provision of bad debts, reversal of the excess liabilities created in the earlier years, foreign exchange fluctuation gains etc which, by any stretch of imagination can not be termed as 'revenue'.

Likewise, any interest or dividend earned cannot be termed as revenue as they do not arise on the basis of the licensed activities.

We believe that generally accepted accounting principles (GAAPs) and industry best practices should be adopted for the purpose of inclusion or exclusion of income from activities which may not require license.

Q5: Should LF be levied as a percentage of GR in place of AGR in the interest of simplicity and ease of application? What should be the percentage of LF in such a case?

The license fee should be levied as a percentage of AGR to factor the various underlying legitimate inter operator payments whereby the consumer can get access to various services. The percentage of LF in such case should be on the same principle as recommended by TRAI in October 2003. It is an accounting principle that revenue should be recognized after adjusting the underlying costs. Therefore AGR based model as against GR should be adopted. Cost reimbursement or cost credit should not be viewed as revenue by DOT; these are purely cost adjustment presented under the expense category in the audited financial statements.

Keeping in mind the international best practices highlighted by the Hon'ble authority in its consultation paper in table 3.2, the rate of License fee should be aligned with accordingly and it should be in line with the NTP-12, which may support the affordability of network services across the country in long term.

Q6: Should the revenue base for calculating LF and SUC include 'other operating revenue' and 'other income'? Give reasons.

No. The revenue should only factor income or sources of revenue which are derived based on activities requiring a telecom license. All other income which are derived from activities not requiring a telecom license should be excluded.

Q7: Specifically, how should the income earned by TSPs from the following heads be treated? Please give reasons in support of your views.

(a) Income from dividend;
It needs to be excluded from the revenue base for LF purposes.

(b) Income from interest;
It needs to be excluded from the revenue base for LF purposes.

(c) Gains on account of profit on assets and securities;
It needs to be excluded from the revenue base for LF purposes.

(d) Income from property rent;
It needs to be excluded from the revenue base for LF purposes.

(e) Income from rent/ lease of passive infrastructure (towers, dark fibre, etc.);
It needs to be excluded from the revenue base for LF purposes.

(f) Income from sale of equipment including handsets;
It needs to be excluded from the revenue base for LF purposes.

(g) Other income on account of insurance claims, consultancy fees, foreign exchange gains etc;
It needs to be excluded from the revenue base for LF purposes.

It is submitted that income items (a to g) as stated in the question no. 7 are not revenues accrued/earned on the strength of License and these have nothing to do with telecom license activities, therefore , these should not be considered for computation of license fee. Apart from above, even the reversal of the provision for bad debts and the reversal of excess liabilities should not be considered for computation of the license fee.

Q8: What categories of revenue/income transactions qualify for inclusion in the revenue base of TSPs on 'net' basis? Please support your view with accounting/ legal rules or conventions.

The revenue realized from subscriber should only be considered for revenue base. It is also submitted that the revenue should be recognized as per industry best practices and accounting standards issued by the Institute of chartered accounts of India (ICAI) with the consultation of the National Financial Reporting Authority, Ministry of Corporate Affairs.

For example, if Forex gain/loss is considered as licensable, then any FX gain/loss should be allowed to be netted. Forex gain should not be viewed in isolation by DOT for license fee calculation purposes. This is in line with the audited financial statements accounting treatment of Forex gain/loss whereby they are presented as net. This is without prejudice to our contention that the gains from foreign exchange fluctuations should not form a part of the AGR.

Q9: What are the mechanisms available for proper verification from the financial statements of TSPs of items/ income proposed to be excluded from the revenue base, especially for TSPs engaged in multiple businesses? Would new verification mechanisms be required?

No new verification mechanism is necessary as the license fees paid / payable is also certified by the statutory auditors of the TSPs as being paid as per the existing regulations.

We believe that presently there are sufficient mechanisms available for proper verification from financial statement under the new companies Act, 2013 and the Telecom Regulatory Authority of India, Service Providers (Maintenance of Books of Accounts and other Documents) Rules 2002.

In view of the provisions/instructions of companies act, **"No"** new mechanism is required.

In case the Government wants to verify the same, trust can be placed on the audited accounts of the TSPs in all such cases. It is submitted that the regime of self-certification and self-assessments should be promoted in line with other Financial laws / Acts e.g. Income Tax, Company Law etc.

Q10: What is the impact of new and innovative business practices adopted by telecom service providers and licensees on the definition of GR? What impact will exempting other income from the revenue base have on the verification mechanism to be adopted by the licensor?

Excluding other income will make task of verification quite simple. We believe that there is perhaps no impact of the new and innovative business practices adopted by telecom service providers and licensees on the definition of GR if the definition of GR is clear and easy to interpret.

As indicated in response of question number 9 above. The Exempting "other income" from the revenue base will have no impact on the verification mechanism to be adopted by Licensor. Presently, licensees are required to submit annual audited accounts (license-wise) to licensor, with a Reconciliation-statement duly audited by the Statutory-Auditors of the licensee company and TSPs are also liable for number of other audits i.e. TRAI's audit, C&AG's audit and DoT special audit etc.

Q11: Do the potential benefits accruing to TSPs by moving from a simpler to a more complex definition of the revenue base (providing for additional exclusions) justify the additional costs of strengthening the assessment, accounting and monitoring system? Should the definition of AGR remain unchanged once the revenue base is reduced by providing for additional exclusions from the top line?

The current framework for audit and assessment is sufficient and there is no requirement for any additional over the top monitoring. The definition of AGR should be aligned with the principle stated in aforesaid paragraphs.

Q12: Should minimum presumptive AGR be applicable to licensees? How should minimum presumptive AGR be arrived at?

As stated above, we do not support any type of presumptive AGR framework. In the present hyper competitive telecom market, where spectrum is not bundled with license and TSPs are required to pay market determined prices the rationale for imposition of levies based on presumptive AGR become redundant now, since the licensee has already paid significant amounts upfront and any idling of the spectrum resource would be to the licensee's detriment.

Q13: Should minimum presumptive AGR be made applicable to access licensees only or to all licensees?

As stated above, we do not support any type of presumptive AGR framework.

Q14: Should intra circle roaming charges paid to another TSP be treated as a component of PTC? If so, why?

We have no specific comments. However, principally in inter operator payments should be allowed as a PTC being the underlying cost. We note that intra circle roaming (ICR) pass through is presently allowable as deduction under the License Agreement.

Q15: How should the permissible deductions be designed keeping in view future requirements? Specifically, what treatment should be given to charges paid to IP-I providers in the context of the possibility of bringing them under the licensing regime in future?

Principally in inter operator payments should be allowed as a PTC being the underlying cost.

Q16: Should the items discussed in paragraph 3.35 be considered as components of PTC and allowed as deduction from GR to arrive at AGR for the purpose of computation of license fee? Please provide an explanation for each item separately.

We support for deduction of items indicated in paragraph 3. 35 from GR to arrive at AGR, as these are necessary inputs to complete the end services. With respect to receipts from USO fund, it is a grant from government, it cannot be considered as revenue. Therefore, it is recommended that these should be allowed as deduction.

We further believe that these are not in the nature of PTC or charges paid by one operator to another. Hence should be outside the ambit / format of GR/AGR.

Q17: If answer to Q16 above is in the affirmative, please suggest the mechanism/audit trail for verification.

We note that presently licensees submit license-wise audited AGR statement along with details of Revenue, deductions and License-fee, on yearly basis. A reconciliation statement is also submitted, duly audited by statutory auditors of the licensee company, over and above, Licensee are also liable for number of other audits i.e. TRAI's audit, DoT's Special audit and C&AG's audit etc ,therefore, we believe that there is no need for any further mechanism in this regard.

Q18: Is there any other item which can be considered for incorporation as PTC?

As submitted above, we believe that all input costs may be considered as PTC.

Q19: Please suggest the amendments, if any, required in the existing formats of statement of revenue and license fee to be submitted by service providers.

The existing formats should be revised to reflect the principle stated above in terms of what should and should not form part of revenue base.

Q20: Is there a need to develop one format under unified license for combined reporting of revenue and license fee of all the telecom services or separate reporting for each telecom service as in present license system (as per respective license) should continue? If yes, please provide a template.

We would not recommend separate reporting for each telecom service as in the present license system as it still carries service specific distinctions and somehow does not reflect true and complete unification. We understand work on Phase II of unified license is underway. Unifying the definition should be considered if a unified licensee is allowed to provide any service using any infrastructure or network topology which goes beyond the current distinction of service specificity.

We understand that under the current unified license as it still carries service specific distinctions and somehow does not reflect true and complete unification, in such a situation it is very difficult to offer any suggestion on unification of format.

Q21: In case any new items, over and above the existing deductions, are allowed as deduction for the purpose of computation of AGR, please state what should be the verification trail for that and what supporting documents can be accepted as a valid evidence to allow the item as deduction.

All the deductions which are claimed by the TSPs, in any case, are certified by the auditors of the TSPs as per the regulation. As such, no additional verification trail is needed as it will make it very voluminous.

Q22: Is there is need for audit of quarterly statement of Revenue and License Fee showing the computation of revenue and license fee?

The current framework of yearly audit by the statutory auditors appointed under Section 139 of the Companies Act , 2013 should continue.

We believe that there is no need for audit of quarterly statement of Revenue and License Fee, showing the computation of revenue and license-fee.

The present practice of accepting quarterly payments based on self-certification of Revenue& License fee statements may be continued with the requirement of annual audit by the statutory auditors and reconciliation to the audited financial statements.

We note that presently, licensees submit annual audited AGR statements, in which details of revenue and license-fee is provided on quarterly-basis. Keeping in view this system, the audit of quarterly statement of Revenue and License-fee will be a duplication of activity, which will burden the licensees with additional efforts and extra cost.

Q23: If response to Q22 is in the affirmative, should the audit of quarterly statement of Revenue and License Fee be conducted by the statutory auditor appointed under section 139 of Companies Act, 2013 or by an auditor, other than statutory auditor, qualified to act as auditor under section 139 & section 148 of Companies Act, 2013 or by any one of them?

Not applicable in view of our comments as above. However, it is submitted that the revenue statement should be audited by the same person who have audited the financial accounts of the company i.e. statutory auditor under section 139.

Q24: Is it desirable to introduce deduction of LF at source as far as PTC payable by one TSP/ licensee to another are concerned, in the interest of easy verification of deductions?

We believe that the introduction of such system i.e. deduction of LF at source, would further increase the administrative hassles.

Q25: Is there any other issue that has a bearing on the reckoning of GR/ AGR? Give details.

In view of above submissions and analysis it is suggested that revenue share adjustment should be made on all the charges paid to the other licensed TSPs, so that there is an avoidance of double taxation and there is no further interpretation issue in the era of digital convergence and increased infrastructure share between the TSPs.

The regulatory levies of India should be aligned with the similarly placed competitive telecom markets.

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