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Shri Maruthi P. Tangirala
Advisor (F&EA-II), TRAI

COMMENTS ON CONSULTATION PAPER ON DEFINITION OF REVENUE BASE (AGR) FOR THE RECKONING OF LICENCE FEE AND SPECTRUM USAGE CHARGED

Dear Shri Maruthi,

The APCC is an industry association of global and regional carriers operating in the Asia Pacific region, formed to work with governments, national regulatory authorities and consumers to promote open market policies and best practice regulatory frameworks throughout the Asia Pacific region that will support competition and encourage new and efficient investment in telecommunications markets. We are writing to you in relation to the Consultation Paper on Definition of Revenue Base (AGR) for the Reckoning of Licence Fee and Spectrum Usage Charges, issued 31 July 2014.

The Asia Pacific Carriers Coalition (APCC) would like to thank the Telecom Regulatory Authority of India (TRAI) for issuing this consultation on this very important topic, as licence fees are a significant cost for telecommunications operators.

It is important for the industry that these are set at a level that meet the needs of the Indian Regulatory authority and that the Universal Service component aids to the proper development of the network, especially in rural areas. Balanced against this it is necessary that the fees that are charged do not act as a brake on the development of the industry and lead to higher prices to the end customer.

The APCC has carefully followed the debate on this issue and supports the arguments set forward by the Association of Competitive Telecoms operators (ACTO). In particular the APCC would like to comment on what items of revenue should be excluded/included in the calculation of the licence fee, namely questions 7 and 8 of the consultation. The APCC has experience of other regulatory regimes around the region and thought it might be helpful to give examples from other countries.

The main point we would like to draw the Authority's attention to is that in all jurisdictions in which the licence fee is calculated as a basis of revenue, only the revenue that is derived from activities undertaken under the licence are subject to the

payment of a licence fee. Four examples in the region where the licence fee is based as a percentage of revenue are Indonesia, Malaysia, Singapore and Thailand.

Indonesia. Pursuant to Government Regulation No.7/2009 the current USO tariff level and licence fee was set, which is calculated as a percentage of unconsolidated gross revenue less uncollectable receivables from the telecommunication operation and domestic interconnection expenses.

Malaysia. Regulations published in 2003 as an amendment to the Malaysian Communications and Multi-Media Act defined the basis as to how Universal Service is to be derived. The structure is that the amount is based on a percentage of weighted net revenue. This is defined as the Gross Revenue for designated services (these are all licensed services) less payments to other Malaysian Network Facilities providers x a weighting factor of either 1 or 0.5.

Singapore. In the Guidelines for the application of a Facilities Based Operators Licence it is indicated that the Fee is based on Annual Gross Turnover which is described as the “annual fair value of the consideration received or receivable for licensable activities taking into account the amount of any trade discounts and volume rebates allowed by the licensee”. The same definition applies for Service Based Licences, although the levels of the licence fees are not the same.

Thailand. Under guidelines issued by the National Broadcasting and Telecommunications Commission indicates that the licence fee should be based on a percentage rate of revenue from conducting Telecommunications business.

We therefore would like to reiterate the point that if a licence fee is to be derived from revenue, it is only equitable that the calculation should be based on that revenue that is derived under the licence. We believe this is the standard practice for other regulatory regimes around the world. We should stress that we mean that the base for the licence fee should be limited to revenue for licensed services only, and certainly exclude gains/profits from such items as foreign exchange earnings or dividend earnings which are irrelevant from the licence perspective.

Additionally we would like to strongly recommend that the double levy of the licence fee be eliminated. In the case of India with such a high level of licence fee, this double levy substantially increases the costs of services ultimately driving up prices to the end customer.

If you would like to reach out to us on any further comments or queries, you may contact Simon Smith, President, APCC at simon.smith@pacnet.com.

Thank you