

**Asianet Satellite Communications Ltd Response to TRAI Consultation
Paper on AGR**

Response to the Questions raised in the Consultation Paper

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 the GR in the Unified License in the interest of uniformity?

Ans: There is a need to review the definition of GR and AGR considering the following:

- a) License independent businesses are levied License Fee (LF) for telecom licenses while they are not levied LF if the company does not have telecom license which is discrimination against telecom licensees. There is a need for exempting non licensed revenues of TSP from GR and AGR.
- b) License fee on pure internet services makes the service less affordable and is against the objectives of NTP 2012 which aims at 60 crore broadband subscribers
- c) License fee on pure internet services at this budding stage is against the goal of transforming the country to Digital India with all public services – from cradle to grave to be made over internet. The revenue loss of about Rs.50 cr by exempting LF on broadband is not significant given the GDP growth broadband brings in and the related income to the government.

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?

Ans:

The guiding principles should be :

- a) Ensuring that non licensed activities like CPE sales / other businesses and revenues of licensee which do not require the license are not charged license fee.
- b) to achieve goals of increasing broadband base in the country to 600 million by 2020 and achieve the goal of Digital India as envisaged by the government -

which means to make broadband affordable.

The license fee at this stage on pure internet may be avoided as it is counter productive.

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?

Ans. No. We believe that definitions of GR and AGR needs to be modified excluding the unlicensed revenues and also ensuring that Pure internet revenue and revenue from content is deducted and allow PTC as mentioned below to arrive at AGR.

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 the licensed activities? What are the accounting rules and the conventions supporting the inclusion or exclusion of income from the activities that may not require license?

Ans: Since players doing non licensed business do not pay license fee, it is the discriminatory for licensed ISPs to pay license fee on non licensed revenues. Hence, the LF should be derived from licensed activities of business only.

In this regard, the authority may kindly note the revenues from CPEs like modem sales / modem rentals / modem activation charges may also be exempted from license fee as these activities can be done by other non licensed players like CPE vendors.

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

Ans: No. We are of the view that LF should not be levied as a percentage of GR in the place of AGR, in the interest of simplicity and ease of application.

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

Ans: No. Only the revenues under the licensed activities may be considered for calculating the license fee. Since other income does not come under the licensed activities, such income should be exempted while calculating the license fee.

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

- (a) Income from dividend;**
- (b) Income from interest;**
- (c) Gains on account of profit on assets and securities'**
- (d) Income from property rent;**
- (e) Income from rent/lease of passive infrastructure (towers, dark fibre etc.);**
- (f) Income from sale of equipment including handsets;**
- (g) Other income on account of insurance claims, consultancy fees, foreign exchange gains etc,;**

Ans: No telecom license is needed to earn interest, dividend, interest on income-tax refund, foreign-exchange gain, income from consultancy & management-fee, property rent, dark fibre , sales of equipment including handsets and Modems etc. **Therefore all such income MUST be excluded in the revenue base, for computing the LF and SUC.**

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

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

Ans: As is done at present, Statutory Auditors may certify the income from non licensed businesses and also to arrive at the revenues to be excluded while calculating the LF.

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?

Ans: We do not expect any major issues on GR definition, due to new business practices coming up.

If authority has an apprehension of any loss of revenue in this regards, to prevent TSPs from passing the licensed revenues as non licensed revenues, a few measures can be considered:

- a) in the case of bundled services, the CPE price upto maximum of 125% of the landed cost of CPE incurred by the TSP may be treated as handset /CPE revenue.
- b) Apprehension that TSPs will shift operational revenue to interest income are quite unlikely.
- c) Discounts offered by TSPs should be treated as genuine and LF should be calculated on the discounted prices.

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 the providing for additional exclusions from the top line?

Ans: Yes. We would like to submit that the potential benefits accruing to TSPs by moving from a simpler to a more complex definition of the revenue base (i.e. providing for additional exclusions) justify the additional costs of strengthening the assessment, accounting and monitoring system. Moreover this would be the right thing to do as in our opinion only the revenues from the licensed services should form the gross revenue. Moving the GR and AGR regime by providing for additional exclusions which are well justified will also reduce the LF disputes and litigations resulting in faster realization of government dues.

Such fair license regime will stimulate investment in the sector.

We would also like to submit that the definition of AGR should not remain unchanged once the revenue base is reduced by providing for additional exclusions from the top line. The deductions MUST be allowed w.r.t. all charges payable to other service providers, as the same are income in the hands of other TSPs and they pay License-Fee on the same.

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

Ans: There is no need for a minimum presumptive AGR.

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

Ans: We believe there is no need for prescribing minimum presumptive AGR.

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

Ans: Yes. In our view intra circle roaming charges paid to another TSP should be treated as a component of PTC, because the same is income/revenue in the hands of other TSP and considered for the computation of AGR.

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?

Ans: Since IP I service is used to deliver a service by the TSP, the charges paid to IP I player should be allowed as deduction to arrive at AGR.

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

Ans: The items discussed in paragraph 3.35 (Lease line charges, Port Charges, Cable landing station charges, Sharing of infrastructure charges, Interconnection set-up cost, Roaming Signaling charges should be considered as PTC as this is an income to another TSP and should not be treated as AGR to avoid double taxation.

Receipt of USO fund: Since the USO fund is to support the telecom services in uneconomic areas like rural, a levy on such a fund is undesirable and hence should be allowed as a deduction in computing AGR.

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

Ans: A certificate / statement certified by the statutory auditors can be a sufficient fool proof process.

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

Ans: First and foremost we would like to submit that the revenues derived from a) pure internet services by the UL-ISP or old ISP Licensees should be considered for incorporation as PTC as this will help in achieving the objective of Broadband proliferation as per NTP 12 which will enable e governance and m governance.

B) We are also of the view that the charges payable by one TSP to other TSP, for network connectivity , should be considered as PTC to avoid double taxation on the same income.

c) The revenue on account of CPE / handsets should be deducted as PTC if it is considered as GR.

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.

Ans: Only revenue earned from license specific activities should be included and MUST exclude all other kinds of revenue/income. Further, all charges as mentioned in reply to Q 18 should be considered as PTC and should be allowed as deduction from the GR.

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.

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 items as deduction.

Ans: The existing system of filing the statement of Revenue and License Fee for the quarter along with annual certification from statutory auditors should be sufficient .

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

Ans: Quarterly audit is not needed as auditors certified statements are submitted annually.

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?

Ans. Not applicable.

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?

Ans: Not necessary as this will increase the work load of TSPs and does not serve the purpose.

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

Ans: We would like the authority to exempt LF on pure internet and allow broadband penetration to grow and achieve Digital India goal of the government.