



RSM/COAI/2020/013

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**Shri. Syed Tausif Abbas,**  
**Advisor (NSL),**  
Telecom Regulatory Authority of India (TRAI),  
Mahanagar Door Sanchar Bhawan,  
J.L. Nehru Marg, (Old Minto Road)  
New Delhi – 110002.

**Subject: COAI Response to the TRAI Pre-Consultation Paper on “Enabling Unbundling of Different Layers Through Differential Licensing”**

Dear Sir,

This is with reference to the TRAI Pre-Consultation Paper on “Enabling Unbundling of Different Layers Through Differential Licensing” released on December 09, 2019

In this regard, please find enclosed COAI response to the Pre-Consultation Paper.

We hope that our submission will merit your kind consideration and support.

With Regards,

Yours faithfully,

**Rajan S. Mathews**  
**Director General**



**Response to the TRAI Pre-Consultation Paper on Enabling Unbundling of Different Layers Through Differential Licensing released on December 09, 2019**

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At the outset, COAI welcomes the opportunity to comment on the TRAI Pre-Consultation Paper on Enabling Unbundling of Different Layers Through Differential Licensing.

Regulatory predictability and certainty is the founding ground for instilling confidence in the players in the sector who have made huge investments in building the telecom infrastructure. With technological developments, it is possible to provide telecom services through a myriad of technologies. For example, Internet service can be provided through fixed-line and cellular networks. Therefore, the policy should aim that all the players/operators who are providing telecom services enjoy a level playing field.

**The Present Scope of Licensing framework is as follows:**

1. Licensing framework is established under Section 4 of the Indian Telegraph Act
2. License is for establishing, operating & maintaining of Telegraph – message /signals sent on telegraph
3. Section 4 –ITA (Indian Telegraph ACT) further details as follows

**Licensing pursuant to ITA**

Types of Messages	Who can send/transmit?	License Required (Y/N)	Security Obligation	Data Privacy Obligation	Revenue Share Obligation
Voice – PSTN/PLMN/Packet	Licensee	Y	Y	Y	Y
Data –All kinds of Data Packets (including video)	Licensee	Y	Y	Y	Y
SMS	Licensee	Y	Y	Y	Y

Considering the above our submission to the question-wise response is as follows:

## Issue -Wise Response:

Q1. In your view, what could be the possible benefits and anticipated problems in having an unbundled licensing regime? Kindly suggest the measures that can be taken to overcome the anticipated problems (if any).

## COAI Response:

The following should be the objectives of any licensing framework

1. Simplicity:
  - a. Clear enunciation of the framework under the new policy, including what is permitted / not permitted;
  - b. Provide time-bound, web-based & single-window application & approval process; least scope of discretion
  - c. Simple license + some general conditions publicly notified
  - d. Remove archaic processes /approval requirements like import license / SACFA – ease of doing business
2. Consistency & Transparency:
  - a. Regulatory Impact Analysis-pre-requirement for any change or recommendation of any change
  - b. Public disclosures about spectrum holdings / availability
  - c. Accountability of regulator for decisions/ recommendations
3. Future-Fit:
  - a. Encompasses all communication services
  - b. Technology neutral services / spectrum approach
  - c. Encourages innovation
  - d. Encourages investments
  - e. One India One License as an option
  - f. Commitment to address legacy issues – appropriate migration schemes
  - g. Accept that on EMF, India should not be over-conservative- follow international standards like ICNIRP
4. We submit that a 'differential' licensing regime for different layers amounts to moving away from the principles of unified licensing and convergence. Thus, the same needs to be examined carefully before taking any step in that direction.
5. We believe that the Policy should focus on simplifying the Licensing conditions on the lines of harmonized and equal policies for the competing technologies.

6. We also, submit that the licensing regime should be uniform with the same services being subject to the same rules.
7. Further, we believe that there is no requirement of unbundling various layers of the license as the current licensing regime supports the layered approach w.r.t Infrastructure, Service and Applications for e.g.:
  - a. **Infrastructure:** IP1 are already allowed to own the Passive Infrastructure and also the active Infrastructure on behalf of TSPs. IP1 are providing these services under a Registration.
  - b. **Service:** As highlighted in the consultation paper, VNO has a separate authorization to provide the telecom services, on the network of the TSPs.
  - c. **Application:** Various Applications services are currently being provided on the TSPs network, such as Cloud services, OTT etc, which do not require any license.
8. We believe that the objective of introducing different licensing layers is to promote building common telecom network/infrastructure and making more efficient utilization of telecom network/infrastructure. This objective can be achieved by providing appropriate Policy and Financial stimulus to the existing TSPs i.e.
  - a. **By Allowing Pass-through for any consideration paid by one TSP to another for active infrastructure sharing**
    - i. All the TSPs are allowed to share the active infrastructure, however, the payment made by one TSP to another TSP is not allowed as a pass-through, to calculate the Adjusted Gross Revenue (AGR), to determine the amount of License Fee (L.F) and Spectrum Usage Charges (SUC).
    - ii. Thus, to facilitate the sharing of the active infrastructure elements, the Government should immediately allow the pass-through for any consideration paid by one TSP to another for active infrastructure sharing.
    - iii. Further, irrespective of the issue of the active Infrastructure sharing, the regime of pass-through charges for admissibility of deductions from Gross Revenue for the levy of LF & SUC be reviewed and all kind of payments (either fixed or variable) made for any telecom input resource by one TSP (Licensee) to another TSP (Licensee) should be allowed as a deduction to the former.
    - iv. **We believe that if pass-through is allowed for these payments made for the sharing of active infrastructure between the TSPs, the same will facilitate the active infrastructure sharing and no additional change in the licensing regime is required.**

**b. By Allowing sharing of Core network elements:**

- i. Currently active Infrastructure sharing is allowed to TSPs for only antenna, feeder cable, Node B and transmission systems.
  - ii. The policy on infrastructure sharing should be further liberalized to allow sharing of core infrastructure such as MSC, HLR, IN etc. among licensees having UL (Access Authorization).
  - iii. Sharing of core network elements such as MSC, HLR, IN etc. among the TSPs will reduce cost for the TSPs and facilitate faster roll -out.
9. Notwithstanding the above, we believe that OTT Communications players provide similar service as TSPs and hence there is a need to formulate a Legal, Licensing and Regulatory framework for ensuring that all OTT Communication service providers comply with requirements of National Security, Data Security, Privacy and Confidentiality of user information, support in disaster management and emergency call services and other issues of national and consumer interest. We acknowledge that TRAI has already completed a Consultation on this issue and will be soon coming out with its Recommendations.

**Q2. In case it is decided to unbundle the different layers of licensing,**

(a) what should be the different layers and their scope? What changes would be required in licensing regime to enable such a framework?

(b) Should there be a new regime of licensing on which the existing licensees should migrate within a specified time frame or there should be a parallel incentivized licensing regime for unbundled layers of license?

**COAI Response:**

1. As highlighted in the preamble, we do not support 'differential' licensing regime which leads to unbundling of the different layers of licensing.

**Q3. In case you are of the opinion that there is no need of unbundling of different layers of the license, what changes should be made in the existing licensing regime to**

- (i) promote sharing to increase utilization of the existing resources, and
- (ii) catalyse investments and innovation in Digital Communications sector

**COAI Response:**

1. As highlighted in the preamble, the objectives which are proposed to be achieved by the unbundling of different layers of the license can also be achieved by providing appropriate Policy and Financial stimulus to the existing TSPs. i.e.
  - a. To provide a boost to active infrastructure sharing, the Govt. should allow pass-thru of the amount paid by one TSP to another for sharing of active infrastructure sharing.
  - b. The Govt. should allow sharing of Core Network elements.

Q4. What other reforms / changes are required in the existing licensing regime?

**COAI Response:**

Pls see response to Q1 above.

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