



From
Raunak Maheshwari
Extreme Infocom Pvt. Ltd.

To,
Shri Amit Sharma,
Advisor (Finance & Economic Analysis),
TRAI

**Subject: Comments on Consultation Paper on
'Rationalisation of Entry Fee and Bank Guarantees'**

Dear Sir,

Extreme Infocom Pvt. Ltd. is holder of NLD and ISP-A Universal Licences. The company is operating Extreme IX (www.extreme-ix.org) - India's leading Internet Exchange Provider. Extreme IX is serving peak traffic of about 1.6 Tbps (www.extreme-ix.org/technical/statistics/) in 35+ Points of Presence across 6 cities - Mumbai, Delhi NCR, Chennai, Bengaluru, Hyderabad and Kolkata.

We're committed to bringing India up to speed and making India a global hub for internet content, services and apps by providing world class peering solutions across all states of India.

We are pleased to learn about the authority's keen interest in furthering the uptake of important technologies in the telecom sector. We believe that the questions under consideration indicate a progressive approach towards achieving the said goal.

In this regard, we would like to share a few comments and recommendations on the questions pertaining to the rationalisation of entry fees, uniform entry fees, and bank guarantees.

1. Rationalisation of Entry Fee

Question 1) Should the entry fee be rationalised from the present levels in the UL and UL (VNO) licences?

Currently, entry fees are subject to a maximum limit of Rs. 15 Cr, under the UL regime. While this fee has been reduced from previous levels, our suggestion is that it should be rationalised further to cover only the cost of administering the licence, and any other cost to the regulator, which needs to be defined and specific. This would allow for the proliferation of telecom services in India and have a positive impact on economic growth and connectivity. The Internet economy contributed up to \$537.4 billion to India's GDP in 2020,¹ and as per a World Bank study every

¹ Sikdar, A., 2021. The economic impact of the Internet in India. [online] Times of India Blog. Available at: <https://timesofindia.indiatimes.com/blogs/economic-update/the-economic-impact-of-internet-in-india/> [Accessed 22 August 2022].

10% increase in broadband penetration boosts GDP growth by 1.38 % in developing countries.² Rationalising entry fees to reflect only the cost of administration and regulation will make it easier to expand telecom services and lead to a boost to overall economic growth, increased coverage, and quality of services for the end-consumer, while also resulting in a higher revenue collection for the government through taxes and levies on different services.

For instance, the current application processing fee is rationalised in the manner suggested above, where it only covers the cost to the regulator for processing the application and we would suggest that this should be used as a benchmark for the method to be followed while setting the licence entry fee.

Question 3) What should be the methodology for arriving at the rationalised entry fee and/ or other terms and conditions for each authorization?

In this regard, we propose that any authorization/licence fee imposed should only be in the nature of administrative fee, i.e., fees to compensate the regulator for its costs of regulation and set on a cost recovery basis. This has been reflected in Article 16 of the EU Directive 2018/1972 and is emerging as a best practice in telecom regulation around the world. Such a fee should account for the charges incurred by the competent authority in the management and enforcement of the general authorisation, specific licences, and any consequent rights, and obligations.

Additionally, the authority may also consider fees over and above the administrative fee, such as a spectrum management fee, and other fees which may be imposed for a specific purpose, such as universal service or access deficit charges. However, such fees should be unbundled from the administrative fee, the criteria for its calculation should be clarified and based on objective and transparent considerations, and the purpose for the same must be clearly defined. Any fee should not be imposed in a manner which acts as a barrier to entry for the market or acts as a source of revenue for the government disproportionate to the service provided for regulation or the purpose for which the fee is charged.

2. Uniform Entry Fee

Question 4) Should a Uniform Entry Fee be charged for each of the authorizations in the UL and UL (VNO) licences, both within each licence and across licences?

Considering the suggestions discussed above, a Uniform Entry fee may not be feasible since the cost of administering different authorizations and/or licences may be different. For example, the cost of administering a National Long-Distance Service (NLD) licence/authorisation may be different from the cost of an Internet Service Provider (ISP) licence/ authorisation, and the quantum of any fees must be based on the specific costs involved, which should be clearly defined and transparent.

² Minges, M., 2016. Exploring the relationship between broadband and economic growth. Digital Dividends. [online] World Bank. Available at: <<https://documents1.worldbank.org/curated/en/178701467988875888/pdf/102955-WP-Box394845B-PUBLIC-WDR16-BP-Exploring-the-Relationship-between-Broadband-and-Economic-Growth-Minges.pdf>> [Accessed 22 August 2022].

This means, administrative fees combined with any additional fees across different authorisations and licences could be the same only if the costs involved for the regulator and the specific purpose of the additional fees are similar.

3. Bank Guarantees

Question 7) Is there a need to continue with the practice of the Bank Guarantee in various licences/authorizations?

Bank guarantees can be a deterrent to competition and market entry. Along with the funds which are frozen due to a bank guarantee and cannot be used for investment in business endeavours, banks may also charge additional fees such as processing and handling fee, as well as recurring fee which may be charged based on the value of the bank guarantee, which increases the overall cost of obtaining a license.³

Currently, the amount required for a bank guarantee is not a significant amount for bigger entities, and they may treat it as a formality without it really creating any obligation on them. However, for smaller entities it acts as a significant barrier to entry and limits their ability to invest in business endeavours and expand services.

We would recommend that the requirement of bank guarantees be removed entirely due to the reasons mentioned above.

Question 8: If the answer is no, then what practice should be followed to secure the Government dues and performance of service providers?

The authority may choose to impose conditions as a part of general authorisation/specific licensing requirements which can provide assurance of the technical and financial capabilities of the entity to discharge its obligations under the authorisation/licence. This may be in the form of technical expertise, experience in providing similar services, asset ownership, audited financial statements, etc. This should serve the purpose of ensuring that the entity has both the technical ability and finances to be able to provide the services as per the authorisation/ licence and also fulfil any charges imposed by the government on such services.

For instance, at the time of GST registration, or the setting up of a company, a similar requirement to provide a specific financial or performance bank guarantee is not required. Additionally, the performance of service providers should be dictated by market forces and consumers, and any entity unable to provide the services for which it has received authorisation/licence, will be phased out of the market in such a case. A specific instrument for this purpose, which only serves to block funds should be done away with.

Once an entity meets the technical and financial conditions laid down under general authorisation or any specific licences, the government may use any existing enforcement and/or recovery

³ <https://www.hdfcbank.com/sme/trade/letters-of-credit-and-bank-guarantees/fees-and-charges>

mechanisms, as per the due process of the law to secure dues and ensure performance, without requiring entities to provide a specific instrument for this purpose.

We appreciate the consultative approach TRAI has adopted. We are confident that through these consultations, the final directives will be inclusive and beneficial to India's telecom sector. We would be grateful if our recommendations are considered in the preparation of the final draft of the regulatory framework.

Sir, we shall be glad to provide you with more substantiation on our submissions detailed above.

We are thankful for your consideration, and look forward to hearing from you.

Warm regards,
For **EXTREME Infocom Pvt. Ltd.**

Raunak Maheshwari

