

Nelco Response wrt TRAI's Consultation Paper
on Rationalization of Entry Fee and Bank Guarantees

We would like to thank TRAI for coming up with the consultation paper related to 'Rationalization of Entry Fee and Bank Guarantees'. As the telecom services, technology and overall eco-system has changed over last few years, it is important to relook at various means of reducing barrier for entry and continued support to the industry.

Please find Nelco's response to the relevant questions raised in the Consultation paper:

Q1. Should the entry fee be rationalized from the present levels in the UL and UL (VNO) licenses?

Please support your comments with detailed justification.

Response:

Yes. The telecommunication in India has gone through its own learning curve and has come long way to reach its present stage.

- Large investments are requirement to build & run the telecommunication services.
- The spectrum is now delinked and is assigned and allocated independently through either an auction or administrative allocation and associated terms/conditions, fees & charges.
- The networks have been widely laid out covering length and breadth of the country.
- All these are making sure that only serious players able to enter survive in the market.

Considering all the above it is very important to rationalise the Entry fee.

Q2: If the answer to Q1 is yes, should the entry fee be rationalized across all authorizations or some specific authorizations, both within each license and across licenses? Please justify.

Response:

Entry fee should be rationalised across all authorisations across all for UL-VNO licenses/authorisation. A UL-VNO license holder does not deploy its own network but only creates service layer using the core network of the parent UL licensee, which is being sold as its service. UL-VNO licensee does not get points of interconnection with other UL licensee or right of way etc. UL-VNO licensee is essentially a reseller of the network created by parent UL-licensee.

Considering this, it is important that for UL-VNO, the Entry fee should be completely abolished or kept at the bare minimum level, which is substantially lower than the existing Entry fee.

With respect to the UL licensees also, the number of service providers are few (except for ISP licensees) and thus lower Entry fee will help to encourage more service providers to opt for additional authorisations.

This will also help more innovative and sector/segment specific services to be offered by multiple service providers, increasing the competition in the market & better service level for the customers.

For example, if an ISP wants to build its own NLD network and offer services in couple of cities, he can take UL-NLD and start offering its own services.

Considering the above, Entry fee for UL Licensees also should be substantially reduced to promote more service providers and competition in the market

Any reduction in Entry fee and resultant reduction in minimum license fee payable from second year of the authorisation, should be rationalised so that existing service providers and new entrants are at par.

Q3. What should be the methodology for arriving at the rationalized entry fee and/ or other terms and conditions for each authorization? Please provide the detailed rationale for each authorization.

Response:

Few points that need to be considered when deciding w.r.t revised Entry fee:

- i) The UL-VNO for each of the authorisations should be at bare minimum level or should be abolished.
- ii) Similar type of license should have comparable Entry fee like VSAT CUG and GMPCS are both satellite based services and thus Entry fee should be similar.
- iii) Entry Fee should be substantially reduced even for other pan-India (national) based authorisations/licenses to promote more service providers and competition.

Q4. Should a uniform Entry Fee be charged for each of the authorizations in the UL and UL (VNO) licenses, both within each license and across licenses? Please justify.

Response:

The existing Entry fee for each of the authorisations in UL and UL (VNO) licenses have some basis and genesis. For example, UL (VNO) does not own any infrastructure, network or own spectrum/network assets/points of interconnection with other UL licensee/right of way etc. The following should be considered:

- i) The entry fee for UL-VNO for each of the authorisations should be bare minimum or should be abolished.
- ii) For authorizations in UL License, Entry fees are considered differently basis service area, type of services, capability of potential service provider to pay Entry fee with significant impact on its financials etc. All these factors have led to consideration of different Entry Fee. As such suggest the following:
 - a) either reduce Entry fees for all Authorisations under UL to bare minimum. or
 - b) rationalise the Entry fees with x% reduction in respective authorisations under UL along with rationalisation of Entry fees similar services (like VSAT CUG & GMPCS).

Q5. What should be the amount of the uniform Entry Fee for various authorizations? Please justify.

Response:

- i) The Entry fee for each of authorisation under UL-VNO should be bare minimal or should be abolished.
- ii) Entry fee for authorisation under UL should be bare minimum to facilitate it to be uniform across all authorisations.

Q6. Should the Entry Fee in licenses/ registrations/ authorisations/ permissions, other than UL and UL (VNO) be rationalized? If yes, please provide the reasons and appropriate levels of entry fee for each of these licenses/ registrations/ authorisations/ permissions.

Response:

Entry fee for licenses/ registrations/ authorizations/ permissions other than UL and UL (VNO) are rationalised from current context of Entry fee applicable on UL and UL-VNO.

Depending on new Entry Fee for the UL and UL (VNO) licenses, Entry fee for in licenses/ registrations/ authorisations/ permissions, for categories other than UL and UL (VNO) may be relooked w.r.t. need for further rationalisation.

Q7. Is there a need to continue with the practice of the Bank Guarantee in various licenses/authorizations? Please Justify.

Response:

Large amount of Bank Guarantees was relevant when the private telecom industry was at its nascent stage and Government wanted to use it as additional tool to ensure that service provider rolls out the network as per its performance obligation and pays respective license fee.

UL-VNO are more like resellers and relatively much smaller service providers. Entry fee and Bank Guarantee are barrier for any smaller potential VNOs to take-up UL-VNO license/authorisation and may stress its financials.

Considering above, it is suggested that for UL-VNO licensees/authorisation, there should not be any requirement to submit specific Bank Guarantee.



Q8. If the answer to Q7 is no, then what practice should be followed to secure the Government dues and performance of service providers?

Response:

UL-VNO licensee/authorisation is not creating network neither is any specific valuable rights like its own spectrum etc. UL-VNO is more like reseller on parent services and the commercial relationship between UL Licensee and UL_VNO should cover and safeguard UL licensee interest including compliance to related regulations. There should not be any need for Bank Guarantee from UL-VNO.

For UL Licensee, Government has sufficient checks and alternate tools to ensure compliance including performance obligations and payment of license fee etc. More as licensee, service provider is bound by those specific performance, timely payment of licensee fee and other related terms else it risks the licensee itself. It is suggested that PBG & FBG for UL licensee should be merged to one and should be reduced significantly.

Q9. Is there any justification for merging the two bank guarantees i.e., Financial Bank Guarantee and Performance Bank Guarantee? Please give detailed justification.

Response:

Two Bank Guarantee should be merged to one and in case of non-compliance related to performance/payment of regulatory fees/ other relevant terms of license, the department should be eligible to encash the Bank Guarantee.

Q10: What should be the methodology to calculate the amount of merged Bank Guarantee? Please Justify. What should be associated terms and conditions with reference to financial and performance parameters?

Response:

For UL licensee, the value of the merged BG should be nominal and should be small compared to the value of dues required to be paid.

It is to be noted that for authorisation under UL, existing value of FBG is also lower and very small percentage of licensee fee which generally would be due from the respective service provider and such value is not determinant of any Service provider to not pay the licensee fee or other regulatory fees which is due.

For UL-VNO, there should not be any requirement to submit bank guarantee.

Q11. What should be the amount of merged bank guarantee that should be made applicable for new entrants during the first year? Please justify.

Response:

Amount of Bank Guarantee is also more relevant for new entrants to ease wrt their financials. The merged bank guarantee for new entrants should be kept same at par with existing license for respective UL authorisation.

For UL-VNO new entrant, there should not be any requirement to submit bank guarantee.

Q12: What should be the methodology to review the merged Bank Guarantee and after how much time? Please justify. In case of failure to meet only performance parameters or only financial parameters what should be the methodology for partial encashment of BG?

Response:

DOT & TRAI have their power to review the merged Bank Guarantee policy from time to time. The criteria should be based on the following as a result of this policy change (along with many other factors):

- i) Increase in number of new UL-VNO licensee and authorisation
- ii) Change %age in default wrt performance & payments from licensee to the Govt and should be compared with pre-merged Bank Guarantee and post merged Bank guarantee policy
- iii) Number of times Bank Guarantee was encashed – fully or partially.

Q13. Should the merged bank guarantees be applicable for new entrants as well as existing licensees other UL/UL(VNO)? Please give justification for your response.

Response:

Amount of Bank Guarantee is also more relevant for new entrants to ease wrt their financials. The merged bank guarantee for new entrants should be kept same as existing license for respective UL authorisation.

For UL-VNO new entrant, there should not be any requirement to submit bank guarantee.

Q14. Is there any need to merge or review the bank guarantee for the licenses/ registrations/ authorizations/ permissions other than UL and UL (VNO)? Please justify.

Response:

Bank Guarantee for licenses/ registrations/ authorizations/ permissions other than UL and UL (VNO) are rationalised from current context of Bank Guarantee applicable on UL and UL-VNO.

Depending on merged Bank Guarantee for than UL and UL (VNO), Bank Guarantee for licenses/ registrations/ authorisations/ permissions, other than UL and UL (VNO) may be relooked w.r.t. need for further rationalisation.