

Date: July 11, 2016

To,

Shri U. K. Srivastava,

Pr. Advisor (Networks, Spectrum & Licensing),

Telecom Regulatory Authority of India

**Subject: Response to Consultation Paper on Review of Voice Mail/Audiotex/Unified Messaging Services Licence**

Dear Sir.

Please find below the question wise response to the Consultation Paper on ‘Review of Voice Mail/Audiotex/Unified Messaging Services Licence’:

Q1. In view of the discussion in Para 2.13, is it necessary to have a separate standalone licence for Voice Mail Service? If so, why? Please provide detailed justification?

As per the current regulations, Voice Mail Services (hereinafter “VMS”) can be provided by licensees holding the Unified License (hereinafter “UL”), or by those holding at least Access Service License as per the UL Guidelines (August 19, 2013). Under these two licenses, the licensee does not need to pay any extra authorisation or license fee for providing Voice Mail Services. However, the revenue generated by a licensee through VMS (and also Audiotex/Unified Messaging Service) will be counted towards the revenue (AGR) used for calculating the annual License Fee payable under the Access Service License Agreement.

We understand that VMS have received many alternatives in the last few years with the advent of smartphones and OTT (“Over-The-Top”) service providers. Cellular Mobile Telephone Service (“CMTS”) Providers have started providing it over their wireless networks and OTT service providers like WhatsApp give users the ability to send voice messages over the Internet. However, this is no reason to require a separate standalone license. A separate licence will increase costs for companies that want to offer the services over the wireless cellular network. Further, since VMS alternatives are being provided over the internet as well, the ISPs (“Internet Service Provider/s”) will have to purchase a separate license to allow their internet bandwidth to be used for the purpose of sending VMS. This will be in addition to the ISP license that they already need to purchase (which is not covered under the Unified License). In both these situations we feel that there will be harmful effects, including:

1. For CMTS Providers, the increased cost will probably be recovered by charging consumers more. This will disincentives consumers from using VMS, and might even lead to a reduction in its usage, resulting in the reduction of the revenue generated by the CMTS Providers.

2. Even though there is no separate authorisation or license fee for VMS, the Access Service annual license fees already includes the revenues generated from VMS. Thus, the Telecom Authority is already generating an annual income via the provision of VMS. There is no justification for requiring more or now charging an authorisation fee.
3. ISPs will try to recover the cost of this extra license by either charging more or sub-licensing this service to other companies (like OTT service providers) This means that companies like WhatsApp, Skype, Viber, or anyone else allowing the sending of voice messages, will have to pay the ISPs in some way. This is in stark contrast to the current situation, where OTT service providers do not pay ISPs anything for the services they offer to consumers. It is highly possible that these OTT service providers will in turn pass the cost onto their customers (i.e. the final consumers) by also charging for this situation. Thus, we may have a situation where WhatsApp is charging users each time they choose to send a voice message.

In all of the above situations, the consumer is the one likely to feel the burden and negative effect of the extra license.

4. The above point number 3 will cause an indirect violation of net neutrality as well. In effect, ISPs will now be charging companies differently for providing a particular service over their network. After already having gone through a long and thorough consultation process on regulations regarding net neutrality, it will seem strange for the Telecom Authority to go back on this and create this new rule.

Q2. If the answer to the Q1 is in the affirmative, whether the existing technical specifications need to be revised or redefined? What should be the revised technical specifications?

Please refer to the above mentioned response to Q1.

Q3. In view of Para 2.17 and present technological developments, is it necessary to have a separate standalone licence for only Audiotex Service? If so, why? Please provide detailed justification?

In accordance with the terms and conditions of the existing Internet Service Provider (“ISP”) licence, any storing and forward transmission of messages using the Internet, except real time voice or telephony on internet is permitted. Further, the existing ISPs can provide the transmission part of this service at par with e-mail on internet platform. The storage and retrieval part of the voice mail (in an audio format) is covered under the existing Voice Mail Service (“VMS”).

The voice-based email service on a non-real-time basis is to be treated as a combination of internet content application service for the forwarding (or transmission) part, together with VMS for storage and retrieval of message.

It is not necessary to have a separate standalone licence only for **Audiotex Service**. A new category of licences for ISP offering Unified Messaging Services (“UMS”) and having an ISP licence and a separate VMS licence, will have more cons than the pros.

The performance of this service is to be monitored by way of performance monitoring reports as it is done for existing ISP licences.

Reliance must be placed upon the National Telecom Policy-2012 which recognizes that the evolution from analog to digital technology has facilitated the conversion of voice, data and video to the digital form. It is worthy to note that these are now being rendered through single networks bringing about a convergence in networks, services and also devices. Hence, moving against the convergence between various services, networks, platforms, technologies will only result in decreasing affordability, decreasing access and enhanced cost for the delivery of multiple services. A unified licencing system will be more effective and efficient as compared to a separate standalone licence in providing secure, reliable, affordable and high quality converged telecom services anytime, anywhere for an accelerated socio-economic development.

It is pertinent to note that one of the objectives of the National Telecom Policy-2012 is “12. Strive to create *One Nation-One Licence* across services and services areas. The whole idea of separate standalone licences for only Audiotex services nullifies this objective.

The ISP licensees should be allowed to provide all IP based services under a single licence to encourage competition and to ensure the viability of the ISPs. Considering the multi-tasking, multi-function, convergent nature of Internet; it would be illogical to consider regulated isolated applications under separate licences. Further, bringing the Audiotex services under a separate licencing regime would also create difficulties for the regulatory authority to issue thousands of licences and monitor the licensees. However, a registration process can be provided for under the appropriate government body to ensure entry of serious players only and to safeguard the right and privileges of the end subscribers, besides compliance on security and nature of content/services.

Q.4. If the answer to the Q3 is in the affirmative, whether the existing technical specifications need to be revised or redefined? What should be the revised technical specifications?

Please refer to the above mentioned response to Q3.

Q11. If Voice Mail/Audiotex/Unified Messaging Services is made a part of the Unified Licence as one of the services requiring authorisation, then what should be the Entry Fee?

Considering the above stated reason/response, we are not in favor of imposing a requirement of procuring a standalone license for the Voice Mail and Audiotex Services. Hence, whether or not the services are brought under one header of “Unified License”, there should not be any extra cost involved in providing such services and/or requiring a separate entry/authorisation fee.

Q12. Whether there should be any requirement for Minimum Net worth and Minimum Equity for Voice Mail/Audiotex/Unified Messaging Services authorisation under Unified Licence?

Please refer to the above mentioned response to Q11.

Q13. The annual licence fee for all the services under UL as well as for existing UASL/CMTS/Basic Service/NLD/ILD/ISP licensees have been uniformly fixed at 8% of AGR since 1st April 2013. Whether it should be made same for Voice Mail/Audiotex/Unified Messaging Services authorisation under Unified Licence? If not, why?

As reasoned and stated under Q.1 above, the revenue generated from Voice Mail/Audiotex/Unified Messaging Services is already counted while calculating the AGR of Access Service Providers, levying a separate fee on the such services is not required.

Q14. In case the answer to the Q13 is in the affirmative then what should be the definition of AGR for Voice Mail/Audiotex/Unified Messaging Services authorisation under Unified Licence?

Please refer to the above mentioned response to Q13.

Q16. Whether the duration of the licence with Voice Mail/Audiotex/Unified Messaging Services authorisation be made 20 years as in the other licence authorisations under Unified Licence? If not, why?

Please refer to the above mentioned response to Q11.

Q17. What should be the terms and conditions for the migration of the existing Voice Mail/Audiotex/Unified Messaging Services licensees to Unified Licence?

Please refer to the above mentioned response to Q11.

Q18. Whether the existing Voice Mail/Audiotex/Unified Messaging Services licensees may be allowed to continue or it would be mandatory to migrate to the Voice Mail/Audiotex/Unified Messaging Services authorisation under Unified Licence?

Please refer to the above mentioned response to Q11.

Q19. What should be the annual licence fee for existing Voice Mail/Audiotex/Unified Messaging Services licensees who do not migrate to the Voice Mail/Audiotex/Unified Messaging Services authorisation under Unified Licence?

Please refer to the above mentioned response to Q11.

**Yours Sincerely,**

**NovoJuris Legal.**