RJIL/TRAI/2019-20/304
30th September 2019

To,
Sh. S.K. Singhal
Advisor (BB&PA),
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg, New Delhi 110002

Subject: Comments on 'Consultation Paper on Review of Scope of Infrastructure Providers Category-I (IP-I) Registration' dated 16.08.2019.

Dear Sir,

Please find enclosed comments of Reliance Jio Infocomm Ltd. on the issues raised in the 'Consultation Paper on Review of Scope of Infrastructure Providers Category-I (IP-I) Registration' dated 16.08.2019.

Thanking You,
For **Reliance Jio Infocomm Limited,**

Kapoor Singh Guliani
Authorised Signatory

RELIANCE JIO INFOCOMM LIMITED

Enclosure: As above.

Reliance Jio Infocomm Limited's Comments on TRAI's Consultation Paper on "Review of Scope of Infrastructure Providers Category-I (IP-I) Registration"

1. At the outset we welcome Authority's initiative to solicit feedback and comments on consultation paper on "Review of Scope of Infrastructure Providers Category-I ('**IP-I**') Registration" ('**CP**'). We also appreciate the Authority's endeavor to support the NDCP-2018 strategy of Rashtriya Broadband Abhiyan' by proposing enhancement of scope of IP-Is and to leverage their expertise and experience in rolling out telecom infrastructure in the country.

2. Please find below our general comments on select topics, followed by response to individual questions raised in the CP.

General comments on select topics

I. **Regulatory provisions for sharing of active infrastructure by Telecom Service Providers ('TSPs') already exist and may be incentivized further**

1. Optional sharing of active infrastructure between TSPs is already allowed as per provisions of Unified License ('**UL**'). Government has already taken necessary steps to create conducive environment for sharing of active infrastructure:
    a. In April 2008, DoT issued guidelines for active infrastructure sharing among service providers
    b. In February 2016, DoT amended the licensing conditions to permit active infrastructure sharing as discussed earlier.
    c. In 2015, DoT permitted the sharing and trading of spectrum.
    d. From May 2016, the operation of mobile virtual network operations has been permitted.

    There are no additional steps required in this direction.

2. Despite the enabling provisions for sharing active infrastructure available, TSPs have chosen not to share active infrastructure, notwithstanding their vastly different coverage maps. It may be due to multiple reasons including applicability of huge levies and taxes on revenue earned from such sharing.

3. Therefore, to further incentivize existing TSPs to share active infrastructure among each other, the charges paid by one TSP to other TSP for active infrastructure sharing should be considered as pass through charges for AGR calculation. This will avoid present case of double taxation, bring parity with the provisions made for VNOs and will further incentivize TSPs to share active infrastructure without requiring any

amendment in IP-I service providers' scope. We recommend that Authority may explore the option of allowing all charges paid by one TSP to other to be considered as pass through charges for AGR calculation as a principle.

4. Thus, without altering the existing licensing regime by way of expanding the scope of IP-1s, all the intended objectives envisaged in the NDCP-2018 can be achieved. Notwithstanding this, if the Authority still believes that IP-I scope needs to be revisited, the following issues need to be examined by the Authority

II. Licensing related issues for extending the scope of IP-Is

1. IP-Is, are currently permitted to provide passive infrastructure (dark fiber, right of way, duct space and tower on lease/rent out/sale) to the TSPs on mutually agreed terms and conditions. IP-Is have played a positive role in development of passive infrastructure in the country.

2. However, as the Authority has mentioned in the CP, the Government is already of the view that owning of active elements like the antenna, feeder cable, Node B, Radio Access Network (RAN) and transmission media should only be permitted to the companies that have been licensed under Section 4 of the Indian Telegraph Act. Further, the fact that IP-Is will require a license under Indian Telegraph Act 1885, to own, establish and rent/lease active network infrastructure pertaining to "telegraph" implies that the fulfillment of the goal of NDCP-2018 should be sought within the framework of UL framework.

3. Therefore, our primary submission is that any extension of the scope of IP-Is should be considered only under the Unified License. This is also imperative from the security point of view that the entities owning and operating wireless equipment should be mandatorily made to comply with security related provision of the UL. We recommend that the Authority should ensure that all other relevant provisions/obligations of UL should also be applicable on IP-I to ensure level playing field between players offering similar services.

4. Within such licensing framework, we recommend that Authority may initially focus and explore the option of increasing the scope of IP-Is specifically for rural and remote areas which suffer poor network connectivity owing to lack of commercial feasibility for network expansion in such areas by individual TSPs. It will be feasible for TSPs to roll out access services in a commercially viable manner in such rural area, when a common infrastructure developed by a third party can be collectively used by all TSPs; hence reducing the capex for individual TSPs. This will help connect remote parts of the country and achieve the goal of a truly connected India.

5. We recommend that when IP-Is, if licensed under UL, are allowed to provide active infrastructure in rural areas, the Authority should ensure that the infrastructure is available to TSPs in a fair, transparent and non-discriminatory manner. Further scope of such licensed IP-Is not to include bottleneck facilities like IBS, since many of those are installed at strategic and critical locations like Airport, Hospital, Malls, large commercial establishments etc. and these facilities constitute integral part of Access Service Providers network. In the past such practice was found to be detriment to the TSPs and customers interest and regulatory intervention was necessitated to resolve the issue.

III. Stress should be on promoting 'truly independent' IP-Is.

1. We recommend that to ensure that IP-Is function in transparent manner to effectively reduce the capex for the TSPs, the Authority should ensure that such IP-Is are not jointly or separately and directly or indirectly majority controlled by the prevailing TSPs. It has also been recognized by the Authority in its consultation paper that sharing of active infrastructure by an IP-I may be effective only when undertaken by a non-competing entity. To stress the requirement on non-competitiveness, the relevant citation from the consultation paper is reproduced as below:

   "Sharing of active elements among licensed TSPs is permitted but it may not be very effective because the TSPs operating in the same geographical area and providing similar telecom services are competitors as well. Some TSPs may not be willing to share their resources if it leads to a competitive disadvantage."
   ".....TSPs may be more comfortable in sharing of the telecom infrastructure, owned and maintained by a non-competing entity"

2. We will like to stress that the independence of IP-Is, from any direct or indirect control of prevailing TSPs, is an important parameter to ensure the success of IP-is in offering active infrastructure and effective cost savings for the sector. Active infrastructure sharing requires active operational coordination or sharing of any network information which is commercially sensitive for any TSP. In comparison, passive infrastructure are technology neutral elements and could be shared by TSPs without any apprehensions. Hence it is critical that the IP-I entity, offering active infrastructure to TSPs, is a neutral entity and can offer services to all interested TSPs in a non-discriminatory and unbiased manner.

3. Similarly, we suggest that Authority should explore the possible concerns related to dilution of competitive spirit in the sector in long term and adverse impact on investor's confidence by expanding scope of IP-Is. These issues also have been deliberated by various international bodies in reports like (i) BEREC report on

infrastructure sharing (June 2018); (ii) France: The Autorité de la concurrence sets out Conditions for Network Sharing in Mobile Telephony Sector (2013). Issues covered include dealing with issues like potential impact on introduction of new technology and possible adverse impact on the future investments, sector competition, consumer interests etc.

Summary

1. **Optional sharing of active infrastructure is already allowed as per provisions of UL and the same can be incentivized further. With this there may not be any need to amend existing licensing framework.**
2. **If at all active infrastructure sharing by IP-Is is to be considered, it should be done after considering provisions of the Indian Telegraph Act 1885 while ensuring level playing field between players offering similar services**
3. **Therefore, the enhancement of the scope of service for IP-Is should be done only under UL. The IP-Is should be encouraged to initially focus on offering sharable active infrastructure to TSPs in rural, remote and poorly served areas.**
4. **Scope of such licensed IP-Is should not to include bottleneck facilities like IBS, since many of those are installed at strategic and critical locations like Airport, Hospital, Malls, large commercial establishments etc. and these facilities constitute integral part of Access Service Providers network.**
5. **The IP-Is, offering active infrastructure, should not be directly or indirectly and jointly or separately controlled by TSPs but should be 'truly' neutral entities.**

Specific responses to consultation questions:

Q1) Should the scope of Infrastructure Providers Category – I (IP-I) registration be enhanced to include provisioning of common sharable active infrastructure also?

1. As detailed out in the General Comments above, the intended objectives can be achieved by further incentivizing existing active infrastructure sharing provisions among TSPs and therefore there may not be any need to enhance scope of IP-I registration.

2. If at all scope of IP-I registration is to be increased to include provisioning of common sharable technology neutral active infrastructure, it should be done only through including them in Unified Licensing framework. They should be mandatorily made to comply with all security related provision of the Unified License, among others.

3. We further recommend that Authority may initially focus and explore the option of increasing the scope of IP-Is specifically for rural areas, where it may not be commercially feasible for TSPs to develop network individually but a common infrastructure, developed by a third party, may make it commercially viable for the TSPs to roll out access service in such deprived areas.

Q2) In case the answer to the preceding question is in the affirmative, then

i) What should be common sharable active infrastructure elements which can be permitted to be owned, established, and maintained by IP-I for provisioning on rent/lease/sale basis to service providers licensed/ permitted/ registered with DoT/ MIB? Please provide details of common sharable active infrastructure elements as well as the category of telecommunication service providers with whom such active infrastructure elements can be shared by IP-I, with justification.

1. Licensed IP-Is may be permitted to own, establish and maintain following active infrastructure components for the purpose of sharing with other licensed entities:
    a. Antenna
    b. Feeder cable
    c. Transmission systems

2. Current regulatory provisions should be maintained, and IP-Is should provide infrastructure services only to licensed TSPs. Expansion of scope of IP-Is is aimed at reducing the infrastructure cost for TSPs through sharing. Hence IP-Is should not be allowed to offer telecom services to non-telecom players, who are customers of TSPs under current regulatory framework.

ii) Should IP-I be allowed to provide end-to-end bandwidth through leased lines to service providers licensed/permitted/ registered with DoT/ MIB also? If yes, please provide details of category of service providers to it may be permitted with justification.

1. Licensed IP-Is may be allowed to provide end-to-end bandwidth through leased lines in rural areas to licensed TSPs, as elaborated in the response above. As stated above, IP-Is should be allowed to offer active infrastructure only to licensed TSPs.

iii) Whether the existing registration conditions applicable for IP-I are appropriate for enhanced scope or some change is required? If change is suggested, then please provide details with reasoning and justification.

1. Existing registration conditions applicable for IP-I are appropriate for current scope. As detailed out in our above submission in case of enhanced scope the IP-Is should be

required to obtain authorization under Unified License. This is also imperative from the security point of view that the entities owning, and operating telegraph equipment should be mandatorily made to comply with all security related provision of the Unified License, among other relevant applicable provisions/obligations of UL and any non-level playing condition may face legal challenges.

2. The IP-Is, offering active infrastructure, should not be directly or indirectly and jointly or separately controlled by TSPs but should be 'truly' neutral entities.

iv) Should IP-I be made eligible to obtain Wireless Telegraphy Licenses from Wireless Planning and Coordination (WPC) wing of the DoT for possessing and importing wireless equipment? What methodology should be adopted for this purpose?

1. IP-I should not be made eligible to obtain wireless telegraph licenses from WPC wing of DoT. They can import wireless equipment under dealership authorization.

v) Should Microwave Backbone (MWB) spectrum allocation be permitted to IP-I for establishing point to point backbone connectivity using wireless transmission systems?

1. The existing procedure for Microwave Backbone (MWB) spectrum allocation to TSPs should be continued and IP-Is should not be allocated MWB spectrum.

Q3) In case the answer to the preceding question in part (1) is in the negative, then suggest alternative means to facilitate faster rollout of active infrastructure elements at competitive prices.

Not applicable

Q4) Any other issue relevant to this subject

None