



**Spectra’s response on TRAI’s Consultation Paper on “Rationalization of Entry Fee and Bank Guarantees”**

We are thankful to the Authority for bringing out this Consultation Paper which highlights various relevant and pressing issues faced by the industry today for a thoughtful consideration and public consultation.

The Telecom Sector has evolved from the time when the first set of telecom licenses were issued in 1994. Subsequently, the Unified License (UL) regime segregated the license from spectrum and the subsequent UL (VNO) license has delinked the license for networks from the delivery of services.

The Telecom Reforms issued in September 2021 were pathbreaking and infused life back in the ailing telecom sector which had come out of the phase of consolidation in the form of merger and acquisitions and was facing an existential crisis as many big operators were on the verge of shutting down their operations due to the hyper competition in the market.

It is noteworthy that the reforms related to the rationalization of Bank Guarantees primarily aided the access service providers as thousands of crores of Bank Guarantees submitted by them were returned by DoT, while on the other hand, the Bank Guarantees submitted by various non-access licensees could not get rationalized due to various conditions associated with the rationalisation process.

We welcome all the initiatives and the corresponding steps taken by the Government and are hopeful that the next set of reforms will not only protect and promote the interests of access service providers (essentially providing mobile and fixed line services) but also promote the growth of the non-access service providers (providing NLD, ILD, ISP, VSAT, M2M and other services and VNO licensees).

Amongst the non-access services as mentioned above, the fixed line broadband services have become an indispensable part of everyone’s life. Whether it is a home or an office, these services have become the lifeline of the nation and its uptake during the COVID times has been exemplary. The nation could remain connected with the outside world and work from home for majority of the population was only possible because of the access to fixed line broadband services during this tough period. However, with life coming back to normal and restrictions getting eased, the growth of fixed line broadband services has slowed down. Therefore, more support is needed to expand the proliferation of these services in the farthest corner of the country.

The fixed line broadband services is characterised by a stable, consistent and affordable broadband connectivity with high uptime to cater to the needs of both the B2C and B2B customers. The large number of service providers in this segment gives the customers switching options and is in stark contrast to the limited players in the access services segment and is characterised by the intense competition.

The provision of fixed line broadband services is highly capital intensive in nature and the amount of capex spent on the provision of services to the customer is slowly recovered over the life cycle of the customer. Intense competition, eroding margins and high churn rate due to multiple options at the disposal of the customers coupled with the additional burden of payment of Entry Fee and provision of Bank Guarantees is putting immense pressure on the provision of fixed line broadband services by ISPs.

In the above context, our submissions on the questions raised in the Consultation Paper are as below:

- 1. Should the entry fee be rationalised from the present levels in the UL and UL (VNO) licenses? Please support your comments with detailed justification.**
- 2. 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.**

**Comments:**

The main purpose of levy of any kind of Entry / Upfront Fee is to ensure that the competent players come forward to effectively utilize the public resources and provide efficient services to their customers. Such players are abreast with the risks and rewards of running a business and can tap into the pulse of the customers for providing them services for which the permit / license is granted by the Government.

In the Telecom Sector, the levy of Entry Fee ensured that only the competent operators came forward to apply for the telecom licenses and for providing telecom services to the customers. Therefore, the motive was to efficiently utilize the public resources with an intention to discourage the non-serious players from entering the domain.

However, with the passage of time, the sector has greatly evolved and has proved that the operators with strong fundamentals and robust strategies who can adapt to the changing business and regulatory environment can survive with the rest getting slowly phased out on their own owing to not keeping up with the changing times.

In today's scenario, only the operator with the ability to take risks, entrepreneurial spirit and sound business judgment can survive. Moreover, the introduction of UL (VNO) license which has delinked the network from the delivery of services has encouraged many smaller players as well to enter the telecom sector. These operators are using the changing technology for providing innovative services without needing to worry about creating the corresponding

network infrastructure for it and are focusing solely on increasing the spread of their services.

As the telecom market in India has matured, the purpose of charging Entry Fee has now become redundant. The entrants / operators are aware of the significant quantum of capex and opex investment that is needed to run the business and to expand the reach of telecom / broadband services in the country.

The aim of the telecom services now is to reach the hinterlands of the country and connect the unconnected while making the services more affordable to the customers. **The removal of the burden of Entry Fee for such services will help in the proliferation of the telecom services across the geography of the country and help connect the entire nation with affordable and quality services.**

**From the above perspective, the rationalization of Entry Fee can be categorized as follows:**

- a. **Long-term - The complete removal of Entry Fee across all the services and licenses should be the way forward as license fee is already charged from a licensee on revenue share basis over the revenues generated by it.**
- b. **Short-term - The complete removal of the Entry Fee should be only for those services whose proliferation can help in accelerating the vision of a Digital and Connected India.**

**Therefore, the Entry Fee can be rationalized for some specific service authorizations both within the UL / UL VNO licenses for services such as fixed line broadband services, M2M services etc and any other service whose expansion / proliferation will help to achieve the vision of a Digital and Connected India.**

3. **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.**
4. **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.**
5. **What should be the amount of the uniform Entry Fee for various authorizations? Please justify.**

- 6. 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.**

**Comments:**

In our view, there cannot be a uniform Entry Fee across all service authorizations under UL / UL VNO for the simple reason that the **scope of each service authorization is different and all of them cannot be equated with each other and the Entry Fee cannot be kept at the same level.**

As already suggested in our response, in the Short Term, the Entry Fee can be completely removed for certain specific service authorizations which are critical from the perspective of achieving the vision of Digital India.

In this case, the Entry Fee for other service authorizations can be charged in a staggered manner which implies that **rather than charging the entire Entry Fee upfront, the same can be charged equally over the duration of such service / license.** This will especially be beneficial for the smaller players who find it difficult to manage the large upfront cost of a license (Entry Fee) along with the cost of setting up and operating a business thus helping to lower the barriers to entry.

Further, 10% of Entry Fee is presently charged as minimum License Fee. In case the Entry Fee is made nil for certain service authorizations in the short term or all the service authorizations in the long term, then the **clause of minimum license fee should be removed and License Fee should only be levied on the Actual Revenue generated by the licensee and reported in its Statement of Revenue and License Fees.**

- 7. Is there a need to continue with the practice of the Bank Guarantee in various licenses/authorizations? Please Justify.**
- 8. If the answer to Q7 is no, then what practice should be followed to secure the Government dues and performance of service providers?**

**Comments:**

The main purpose for which DoT seeks the Bank Guarantees from the operators is to securitize its interest in case of any default by the operator. This default can be in terms of failure to meet the licensing conditions / violation of licensing conditions for which PBG is submitted or the failure to meet its recurring

financial obligations determined on revenue share basis for which an FBG is submitted.

The Bank Guarantees are usually issued by banks to TSPs after submission of an equivalent amount of collateral by the TSPs to securitize the Bank Guarantee. This collateral is usually in the form of a Fixed Deposit which is to be maintained for the duration for which the Bank Guarantee is live and submitted with DoT.

This results in blockage of funds which can alternatively be used to meet the working capital requirements of the operators. This impacts the smaller and medium sized operators much more as compared to the bigger operators in the industry as the banks are always willing to connect with the latter to meet their Bank Guarantee requirements.

**In our view, to further help the industry especially the small and medium sized operators, the DoT should do away with the requirement to submit PBGs and continue to seek the submission of FBGs only from the operators so that it continues to have at least some form of security against the defaulting TSPs. Further, the quantum of FBGs should be further reduced to half of the existing levels.**

This will help in the following:

- a. Resolve the issue of multiplicity of BGs as only 1 type of Bank Guarantee will be submitted by the TSPs instead of the current practise of submission of both FBG and PBG.
- b. Help to avoid the blockage of funds of TSPs which can be effectively used to meet the working capital requirements of the operators and help to channelise the funds which otherwise will remain idle with the banks.
- c. Protect the interests of DoT as they have some form of security against the defaulting operators.

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

**10. 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?**

**Comments:**

As per the current license terms, the TSPs are required to maintain both PBGs and FBGs. **The justification of merging the FBGs and PBGs together is purely from the perspective of achieving operational efficiency** and to reduce the count of Bank Guarantees submitted by the operators. The current practise of submitting separate FBGs and PBGs to DoT leads to issuance of multiple Bank

Guarantees for each license held by an operator thus leading to increase in formalities and paperwork.

Even after the telecom reforms of last year which had reduced the Bank Guarantee amount to 20% of the existing levels, majority of the operators submitted separate FBGs and PBGs for each of the licenses held by them to comply with the existing license requirements.

**Therefore, we reiterate that the PBGs should be removed and only the FBGs should continue to be sought from the TSPs to continue to securitize the interest of DoT. Further, the FBGs should be reduced to half of the existing levels to ease the burden on the TSPs.**

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

**Comments:**

Presently, for new entrants, both PBG and FBG is submitted at the time of submitting the compliance to the Letter of Intent (LOI) issued by DoT. Therefore, even if there is no revenue during the first year of the operation or in case the services are not yet launched, the FBG as submitted at the time of submitting the compliance to the LOI is required to be maintained by the licensee.

**It is proposed that for new entrants, the requirement of submitting the FBG at the time of submitting compliance to the LOI should be relaxed and the Bank Guarantee should solely be based on the revenue earned by the licensee from offering services to its customers.**

The first year of operations is a critical period for any TSP as it makes efforts to acquire customers and provides services to generate revenue to meet its operating expenses. The removal of the additional burden of maintaining an FBG when no revenue is getting generated will bring ease in the life of small and medium sized operators.

**Therefore, in case the services are not yet launched and no revenue is reported to DoT in the license fee statements, then no Bank Guarantee on revenue share basis should be sought to be submitted with DoT. As already mentioned in our response to previous questions, we continue to support the discontinuation of submission of PBG by the licensees and suggest that the FBGs should be reduced to half of the existing levels.**

**12. 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?**

**Comments:**

As already suggested in our submission, the merged Bank Guarantee should be solely based on the revenue reported by the licensee in its Statement of Revenue and License Fees. **This Financial Bank Guarantee can continue to be reviewed once every six months** which is also the usual practise followed by DoT. **Additionally, we also request that the current restriction on the downward revision of the FBGs basis the quantum of revenue share dues should be immediately reviewed and withdrawn forthwith.**

The failure to meet the performance and financial parameters should lead to encashment of the Bank Guarantee to the extent of the financial obligation that arises and is due from the operator.

- 13. 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.**

**Comments:**

The merged bank guarantee i.e. discontinuation of PBG and submission of only FBG, should be applicable for all kind of licensees whether existing or new entrants to ensure that the level playing field is maintained across the category of licenses irrespective of the period for which their license has been in existence. Further, as mentioned earlier in our response, the FBGs should be reduced to half of the existing levels.

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

**Comments:**

In case of licenses/ registrations/ authorisations/ permissions other than UL and UL (VNO) the same rules should be followed that may be made applicable for UL and UL (VNO) licenses. This will ensure that same set of rules are applicable for all kind of licenses / registrations/ authorisations/ permissions issued by DoT.

- 15. Any other relevant issue that you would like to highlight in relation to the above issues?**

**Comments:**

We would also like to make the following additional submissions for the kind consideration of the Authority:

**a. Discontinuation of submission of new PBG and FBG in case of License Migration to Unified License (UL) regime upon expiry of original license**

– Presently, upon the expiry of the validity of a license, an operator is required to mandatorily migrate to the Unified License regime and obtain the relevant service authorization.

Upon receipt of the LOI (Letter of Intent) for signing the new service authorization, an operator is required to submit a new PBG and FBG as per the terms of the UL. **This leads to submission of another set of Bank Guarantees to DoT** under UL as the Bank Guarantees already submitted under the terms of the previous license are continued to be maintained till all the dues of the previous license are cleared by the licensee.

It is submitted that in case of migration cases to UL, the Company is continuing its operations rather than starting new operations. The activities / operations that were undertaken under the previous license regime will continue under the UL too. Therefore, the process of migration to the UL regime is just a procedural formality which needs to be complied with.

**Therefore, the same Company or licensee should not be made to submit the same type of BGs twice, once under the original license and then under the UL at the time of its migration.**

In view of the above, we request that in **cases of license migration, the licensee should not be required to submit the new Bank Guarantees under UL and the Bank Guarantees submitted under the previous license should continue.**

- b. Entry Fee to be prorated basis the remaining validity of the license** - The validity of a UL / UL VNO begins from the date when the first service authorisation becomes effective. For instance, if a licensee obtains the UL which has validity of 20 years and applies for another service authorisation in the 15<sup>th</sup> year, even then it has to pay the **complete Entry Fee for the respective service authorisation and it is not allowed to be prorated for the duration for which the UL is remaining i.e. 5 years.**

This is unfair towards the operators as they pay the **complete Entry Fee while they can operate only for the remaining validity of the license.**

While we support the complete removal of Entry Fee for all categories of licenses / authorizations under UL / UL (VNO) in the long term, **however, in the short term, we request that the current practise of charging full Entry**



**Fee for the subsequent service authorizations under UL / UL VNO for the cases involving partial validity of the license should be immediately revised and only prorated Entry Fees for the balance period of validity should be charged.**

- c. Case of non-return of PBG of expired licenses** – It is ironical that operators need to maintain the PBG submitted by them even after the **expiry of their licenses under which they were offering services. Further, such PBGs were also not rationalised under the previous telecom reforms.**

It is submitted that there should be a proper time bound process under which the dues, if any, of the expired licenses should be calculated and assessed so that they can clear the same and are able to discharge the performance bank guarantees submitted by them.

In circumstances involving a litigation or policy ambiguity, the assessment can be done on provisional basis and finalised later once there is sufficient policy clarity around the same. In such cases, **the Bank Guarantees of expired licenses should be immediately rationalised to 20% of the existing levels** as has been done by DoT in case of live licenses under the telecom reforms issued last year.

\* \* \* \* \*