VIL Comments to the TRAI Consultation Paper on
"Rationalization of Entry Fee and Bank Guarantees"

At the outset, we are thankful to the Authority for giving us this opportunity to provide our comments to the TRAI Consultation Paper on "Rationalization of Entry Fee and Bank Guarantees" dated 26.07.2022.

Key submissions:

1. The entry fee has already been reduced considerably by the Government to an optimum level. Hence, the present Entry fee applicable for respective authorizations, is reasonable and adequate. It does not require any further reduction.

2. Keeping entry fee uniform across various authorizations will be counterproductive as it would not match up with the different aspects under different authorizations, and would also lead to having unreasonably high entry fees for smaller authorizations and result in entry barriers. Therefore, there should be distinct entry fee for each of the authorizations under UL and UL (VNO) licensees. The same is already reasonable and do not pose any restriction for serious players to enter into the respective markets.

3. The practice of bank guarantee in various Licensees/Authorizations should be done away with for existing TSPs, as they have already spent huge amount of money in acquiring the spectrum and rolling out services and any such bank guarantees do not serve any purpose other than being a burden for the TSPs.

4. However, if it is still believed that there is a need to have PBG and FBG, in such case, the amount for the same should be further reduced and a merged and consolidated single bank guarantee in line with cabinet reforms should be sought and existing separate bank guarantees currently taken license area wise should be returned.

5. There is no need to review the merged bank guarantee. The bank guarantee should be dispensed with for existing licensees and should be kept for three years for the new licensees.

In addition to above, we would like to submit our question-wise comments for Authority's kind consideration, as follows:

Question-wise Comments

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.

And

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.

And

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.

VIL Comments to Q. No. 1, 2 and 3

1. In the consultation paper at para no. 2.15, it has been mentioned that:

   "2.15 While entry fees are imposed to reckon for use of public resources as well as to inhibit non-serious players, they also increase the entry costs for the prospective entrants. This can have implications for the level of competition in the sector. Hence, it becomes essential that the entry fee must be set at an optimal level."

2. We agree with the views expressed in the above-mentioned para of TRAI consultation paper that entry fee is necessary to reckon use of public resources and for inhibiting non-serious players. It also provides for entry costs for prospective entrants, however, if the entry fee is kept at a reasonable level, it does not pose any inhibition for entry into the sector.

3. Further, at para no. 2.17 of the consultation paper, it has been mentioned that:

   "2.17 A reduction/ rationalization of the level of entry fee for different licenses is likely to send a positive signal to potential investors in terms of ease of doing business. However, any such reduction will also entail removing the floor of 10% of entry fee that is currently chargeable as license fee from the second year onwards for the authorizations under the Unified License. ***It is to be noted that the level of entry fee in India is not at a very high level at present, specially***

considering the capital expenditures involved in operationalizing the different licenses/ authorizations."

4. We agree with above-contention as well that the level of entry fee in India is at a reasonable level at present, especially considering the capital expenditure involved in operationalizing the different licenses/authorizations. The entry fee has already been reduced considerably by the Government to an optimum level.

5. Furthermore, it is submitted that the reduction of access service licensees from around 8 players in each license service area, to 5 by 2018 and further to 4 at present, was an outcome of deep financial stress emanating from unprecedented decline in revenues/ARPU due to unsustainable tariffs. Nonetheless, entry fee has not been a roadblock for taking access authorization, as in past 5 years (after 01.01.2017), 6 licensees (other than the main pan-India existing licensees) have taken access authorizations in different service areas.

   Details of these entities are given in table below:

Sr. No.	Entity Name	Access Authorization date	No. of licensed service areas
1	Bharti Digital Networks Pvt. Ltd. (OLD name – Tikona Digital Networks Pvt. Ltd)	25.04.2017	1
2	Reliance Communications Limited	30.09.2017	1
3	Quadrant Televentures Limited	30.09.2017	1
4	V-Con Mobile & Infra Private Ltd	22.01.2019	1
5	Inviolable Technology Pvt. Ltd.	24.08.2021	1
6	Ring Central India Pvt. LTD.	31.08.2021	2

   Source: List of Unified licensees effective as on 31.03.2022 and as available on DoT website.

6. Similarly, many licensees have taken authorizations in NLD, ILD and ISP-A category in past five years (after 01.01.2017) i.e. 9 entities have taken NLD authorization, 4 entities have taken ILD authorization and 6 entities have taken ISP-A category authorization. This clearly shows that entry fee has not been a roadblock for taking any authorization under Unified License.

   Details of these licensees are given in the table below:

Sr. No.	Entity Name	Authorization Name	Date of Authorization
1	Ishan Netsol Pvt Ltd.	NLD	14.02.2017
2	Bharti Digital Networks Pvt Ltd (OLD name- Tikona Digital Networks Pvt Ltd)	ISP-A	25.04.2017
3	Power Grid Corporation Of India Limited	NLD	02.05.2017
		ISP-A	02.05.2017
4	V-Con Mobile & Infra Private Ltd.	NLD	19.01.2021
5	Lightstorm Telecom Connectivity Pvt. Ltd	ISP-A	28.08.2020
		NLD	28.08.2020
		ILD	28.08.2020
6	Assam Electronics Development Corporation Ltd.	ISP-A	30.12.2017
		NLD	29.07.2021
		ILD	29.07.2021
7	Oneweb India Communications Pvt. Ltd	NLD	24.08.2021
8	Ring Central India Pvt. LTD.	NLD	31.08.2021
		ILD	31.08.2021
9	Yotta Network Services Pvt. Ltd.	NLD	29.11.2021
10	NTT Communications India Network Services Pvt. Ltd.	ISP-A	29.11.2021
11	Centurylink Communications India Pvt. Ltd.	ISP-A	28.01.2022
		ILD	28.01.2022
12	Jio Satellite Communications Ltd.	NLD	09.03.2022

Source: List of Unified licensees effective as on 31.03.2022 and as available on DoT website.

7. **Considering all above, in our view the present Entry fee applicable for respective authorization, is reasonable and adequate. It does not require reduction, any further.**

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.

And

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

And

Q6. Should the Entry Fee in licenses/registrations/authorizations/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/authorizations/permissions.

VIL Comments to Q. No. 4, 5 and 6

1. At para 2.21 of the consultation paper, it has been mentioned that:

   " i. Each authorization requires a distinct set of inputs to deliver a particular service to the customer, for example, access service providers can make use of spectrum, ILD service providers require cable landing stations etc., The variations in inputs required leads to difference in the technical requirements of various authorizations, and subsequently makes each authorizations different in terms of the manner in which it uses the public resources. Since the use of public resources is one rationale for imposing entry fee, this becomes relevant for setting the level of entry fee.

   ii. The authorizations for various services also differ in terms of market share and financial parameters. The subscriber base, revenue, level of capital investment, return on investment etc., are different for each authorization. The relative sizes of the access, ILD and NLD segments in terms of gross revenue for FY 21 are given in Table 2.3. In terms of revenue, the size of access service authorization is around 15 and 5 times that of that of ILD and NLD service authorizations respectively."

2. We agree with above-mentioned point of view that each authorization requires distinct set of inputs, costs/expenditures, revenue market and growth potential. The entry fee has to definitely correlate with these specific aspects emanating from the scope under specific license authorization(s).

3. To keep a balance between use of public resources, restricting entry of non-serious players and reasonable entry fee, we feel that the entry fee should be set separately for each of the different authorizations under Unified License (UL) and UL (VNO).

4. Keeping entry fee as uniform will be counterproductive as it would not match up with the different aspects under different authorizations, and would also lead to having unreasonably high entry fees for smaller authorizations and thus lead to entry barriers.

5. Therefore, there should be distinct entry fee for each of the authorizations under UL and UL (VNO) licensees.

6. Further, below table shows that the entry fee is insignificant as compared to the revenue potential of the industry under a specific authorization.

Sr. No.	Authorization Name	Entry Fee (in INR crs.)	Gross revenue (GR) of industry in this type of authorization for FY 2021-22 (in INR crs)	Entry fee as % of GR for 1 year	License fee (LF) for FY 2021-22 (in INR crs.)	Entry fee as % of LF for 1 year
1	Access	15	216907.25	0.006915 %	13812.55	0.1086 %
2	NLD	2.5	30110.41	0.00830 %	2220.79	0.113 %
3	ILD	2.5	12051.92	0.02074 %	478.69	0.522 %
4	ISP	0.30 (for ISP-A)	18430.52	0.0016 %	1073.75	0.028 %

Source: TRAI's 'The Indian Telecom Services Performance Indicators' report

7. Hence, in our view, the entry fee for different authorizations is already reasonable and do not pose any restriction for serious players to enter into the respective markets.

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

VIL Comments to Q. No. 7

1. There are two types of Bank Guarantees prevailing i.e. (a) Performance Bank Guarantee and (b) Financial Bank Guarantee. The Performance Bank Guarantee had been prescribed to cover violation of license conditions and to ensure the performance under the license agreement including compliance of instructions issued by the Licensor from time to time. The Financial Bank Guarantee had been prescribed to securitize the dues towards the Government.

2. These bank guarantees are intrinsically inefficient because they consume collateral and margin money and syphon working capital from the licensee. While bank guarantees may work in core infrastructure sector where contractual completion commitments are involved, it is not relevant for the technology driven telecommunication sector which, as such, is already categorized under essential services, where regular capital is needed to

adopt new and evolving technologies. Giving Bank Guarantees hinders the process of ease in doing business ending up blocking capital which otherwise could be used for expansion of networks and adopting new and efficient technologies.

3. The quantum of bank guarantee has been reduced considerably basis the telecom reforms announced by the Government on September 15, 2021, which led to freeing up of non-fund facilities and margin amounts that was blocked earlier due to high amount of bank guarantees.

4. In this regard, we would like to bring to your attention few points related to this subject:

    a. There are various options other than bank guarantees to ensure compliance of terms and conditions of license like interest, etc.

    b. With spectrum now delinked from license and obtained through auction mechanism, the telecom operators as such are committed to spend sizable sums of money to further deploy the networks and put the spectrum to use quickly. Hence, there is no case to seek Bank Guarantees from existing operators, who have already invested sizable amounts of money on spectrum and for deploying new technologies hoping to generate margins that make the business case more compelling from a viability perspective for all stakeholders including the licensor.

    c. The collection of GST also involves collection of dues but, does not entail any securitization of dues.

5. Considering the above, we recommend that bank guarantee based compliance or securitization is obsolete and is redundant for the telecommunication sector, at least for the licensees who have been providing services for years and also addressing dues to the Government. Therefore, there should not be any burden of bank guarantees on existing telecom service providers to the extent as follows:

    a. **Performance Bank Guarantee (PBG):** It should only apply to new entrants from date of signing of license for just the first 3 years. Post completion of this 3 year period, the PBG should be returned to the licensees.

    b. **Financial Bank Guarantee (FBG):** It should only apply to the new entrants till 3 years from date of signing of license or two years of continuous payment of license fee, whichever is earlier. Post completion of 3 years, FBG should be returned to the licensees.

6. We strongly recommend that the practice of bank guarantee in various Licensees/Authorizations should be done away with for existing TSPs, as they have already spent huge amount of money in acquiring the spectrum and rolling out services and any such bank guarantees do not serve any purpose other than being a burden for the TSPs.

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

VIL Comments to Q. No. 8

1. As mentioned in comments to question no. 7 above, there are various provisions in the license other than bank guarantees, which empowers the Government to ensure its dues are secured. In similar case of GST, the statutory dues are not securitized through bank guarantees, but, an interest is imposed for delayed payments.

2. From an ease of doing business perspective, self-assessment mechanism should be suitably designed thereby achieving minimal litigation and resulting in doing away the need to secure dues through bank guarantees.

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

And

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?

VIL Comments to Q. No. 9 and 10

1. We strongly recommend that the prevailing mode of securitizing dues through bank guarantees is obsolete and should be done away with, atleast for the existing TSPs. Kindly refer to our detailed comments to question no. 7 above.

2. However, if it is still believed that there is a need to have PBG and FBG, in such case, the amount for the same should be further reduced and a merged and consolidated single bank guarantee in line with cabinet reforms should be sought and existing separate bank guarantees currently taken license area wise should be returned.

3. However, in case, the regulator still believes that there is a need for some PBG and FBG, in that case, the amount for the same should be further reduced and a merged and consolidated single bank guarantee in line with cabinet reforms should be sought and existing separate bank guarantees currently taken license area wise should be returned.

4. Since, the merged bank guarantees provide more flexibility to the Government and theoretically increase the exposure risk for the TSPs, its amount should be reduced by 50% for both PBGs and FBG.

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

VIL Comments to Q. No. 11

The amount of merged bank guarantee applicable for new entrants should be 50% of the prevailing requirement as prescribed under Annexure II of the licensed agreement. The new entrants should furnish the merged bank guarantee, with the existing amount of PBG and FBG valid for a period not exceeding three years or to be renewed on annual basis for each of the three years from the date of signing of license agreement.

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?

VIL Comments to Q. No. 12

Considering our comments to the questions above, there is no need to review the merged bank guarantee. The bank guarantee should be dispensed with for existing licensees and should be kept for three years for the new licensees.

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.

And

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.

VIL Comments to Q. No. 13 and 14

Considering our comments to the questions above, the bank guarantees should be dispensed with for existing licensees and should be kept for three years for the new licensees.

Q15. Any other relevant issue that you would like to highlight in relation to the above issues?

VIL Comments to Q. No. 15

No comments.

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