



## ERGO

*Analysing developments impacting business*

### DoT RELAXES WORK FROM HOME FOR CALL CENTRES, ITES SECTOR - BUT UNCERTAINTY LOOMS LARGE

21 March 2020

#### **Introduction**

The Department of Telecom (DoT) has issued a notification dated 13 March 2020 (Notification) which temporarily liberalises conditions stipulated under the '*Terms and Conditions - Other Service Provider (OSP) Category*' (OSP Guidelines) with respect to '*Work From Home*' (WFH) for a period up to 30 April 2020 (Exemption Period).

Importantly, the Notification has been issued in the wake of COVID-19 pandemic which has not only impacted the life and livelihood of people around the world, but has brought many business operations to a complete standstill. It is the culmination of persistent requests and representations made by key industry stakeholders and associations to the DoT to liberalise the prevailing WFH conditions, which have made it nearly impossible for any OSP to undertake WFH operations.

#### **Background**

Before outlining the provisions of the Notification, it is important to briefly delve into current WFH related provisions under the OSP Guidelines. The OSP Guidelines issued by DoT requires entities providing '*application services*' (i.e. services like call centres, BPOs, IT enabled services, network operations centre services, etc. using telecom resources) to obtain a registration, known as OSP registration, from DoT. The OSP registration is location specific and must be obtained from the relevant Licensed Service Area (LSA) unit of the DoT in respect of each location from where '*application services*' are provided.

With respect to WFH, the provisions of OSP Guidelines are quite stringent and also impractical to certain extent. Originally, the entity holding OSP registration needs to apply for DoT's prior permission in order to allow its employees/agents to WFH. The process for obtaining WFH permission requires execution of a standard-form agreement with DoT, submission of a bank guarantee of INR 1 crore (~USD 150,000) to DoT, and procuring secured connectivity (PPVPN) between home location of agents and OSP centre.

Notably, this permission is required to be obtained in respect of each OSP centre from where this facility is to be extended. These requirements are extremely prohibitive in terms of cost and technology, as much more efficient ways of connectivity are otherwise available. Further, WFH can only be undertaken from certain pre-defined

locations, which need to be intimated to DoT. Owing to these conditions, a negligible number of OSP entities have tread the path of obtaining WFH permissions.

## Exemptions granted pursuant to the Notification during Exemption Period

- No security deposit, execution of agreement: The Notification specifies that security deposit (furnished in the form of a bank guarantee) and execution of standard-form agreement with DoT can be done away with.
- Requirement of PPVPN is exempted: The Notification stipulates that requirement to seek secured VPN from telecom service provider i.e. PPVPN is exempted. Instead, the OSPs are permitted to use secured VPN configured using 'Static IP' address for interconnection between home of agents and OSP centre.
- No prior permission required: The Notification clarifies that no prior '*permission*' from DoT is required for WFH facility for employees of entity registered as an OSP with DoT. However, the OSPs are required to provide prior '*intimation*' to the relevant LSA field units of DoT before allowing WFH facility for its employees/agents. For this purpose, the OSP registration holder is required to submit details of agents/employees WFH including details such as name, address, Static IP address assigned. Further, the call detail records/call logs are required to be maintained by the OSP entity for a period of one year in line with the requirements under OSP Guidelines.

## Consequences of violation

The Notification prescribes that in case of a violation of the WFH facility by any agent/employee or OSP entity during the Exemption Period, the OSP holder shall be subject to a penalty up to INR 5 lakhs (approx. USD 6,700) per WFH location, without specifying any aggregate cap. To provide context, if an OSP centre has 1,000 WFH agent locations, the penalty would translate to INR 50 crores (approx. USD 6.7 million) in case of violation. Additionally, the DoT may also cancel the registration of the OSP entity.

## Comments

The issuance of the Notification by DoT is undoubtedly a welcome move, which is much needed in the prevailing situation. The exemptions granted pursuant to the Notification provide a sigh of relief to stakeholders in the OSP ecosystem, as undertaking of WFH has been significantly eased from a commercial and administrative standpoint.

However, the technical conditions set forth in the Notification, especially those relating to use of Static IP to configure the VPN, are a tough pill to swallow for OSPs. Despite nearly a week since the issuance of the Notification, ambiguity still prevails with regard to allocation and use of Static IP. For example, it is not clear whether Static IP has to be allocated from public or private pools.

The penalty scheme also seems unreasonable and excessive, especially in wake of the prevailing situation. In view of the emergent circumstances, undertaking of additional compliances certainly adds to the angst of OSPs. Further, DoT should lay more emphasis on the actual damage that may be suffered, rather than the possibility of its occurrence.

Nevertheless, the Notification provides a ray of hope and is very important considering the COVID-19 situation and its potential impact on the business operations. It will have to be seen if DoT extends the Exemption Period in light of the prevailing circumstances, which are deteriorating day by day.

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