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TRAI SEEKS STAKEHOLDER VIEWS ON SERVICE AUTHORISATIONS UNDER TELECOMMUNICATION ACT

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Introduction

The Telecom Regulatory Authority of India (TRAI) has kickstarted a comprehensive consultation paper seeking stakeholder comments on the '*Framework for Service Authorisations to be granted under the Telecommunications Act, 2023*' (TRAI CP).

Background

In December 2023, the Government enacted the Telecommunications Act, 2023 (Telecom Act) and has recently issued notifications bringing into effect limited provisions of the Telecom Act. The TRAI CP comes at a pivotal juncture, when the Government is looking to transform the telecom landscape in India. In terms of Section 3(1)(a) of the Telecom Act, an 'authorisation' (i.e., a permission by whatever name called) is required to: (a) provide telecom services; (b) establish, operate, maintain or expand a telecom network; or (c) possess a radio equipment. In this light the Department of Telecommunication (DoT) made a reference to TRAI on 21 June 2024 seeking its recommendations for such service authorisations as per the Telecom Act.

Key highlights of the TRAI CP

TRAI has raised the following issues with respect to granting 'authorisations' under the Telecom Act for stakeholder consultation process:

- a) **Contours of 'authorisation'**: TRAI has sought comments on essential aspects of the authorisation (e.g., service area, period of validity, scope of service, etc.), form and structure of the authorisation, safeguards to be put in place to ensure long-term regulatory stability and business continuity of service providers, enhancement of the scope of existing authorisations, financial conditions like bank guarantees and licensing fees, etc.
- b) **Enhancing the scope of 'Internet Service' authorisation**: TRAI noted that at present, while 'Internet Service' authorisation holders can deploy transmission links, they cannot sell domestic leased circuits / domestic VPNs to third parties. In light of this, TRAI sought views on the need to enhance the scope of 'Internet Service' authorisation by allowing provision of leased circuits / VPNs within its service area, along with the technical, operational and security related conditions that should be made applicable in such a case. Such enhancement may enable internet service providers to explore new service offerings, which have thus far faced challenges on account of restrictions on interconnection of public and private networks.

- c) **Clubbing and consolidation of existing authorisations:** The TRAI CP discusses the possibility of merging flagship service authorisations such as: (i) 'National Long Distance' with 'International Long Distance' service authorisation, as most ILD licensees have also obtained NLD licenses; (ii) Global Mobile Personal Communication by Satellite (GMPCS) with commercial Very Small Aperture Terminal Closed User Group (VSAT CUG) service authorisation, so that a single authorisation permits provision of access to public telecom networks as well as data connectivity to enterprises; (iii) Infrastructure Provider – Category I (IP-I) with Digital Connectivity Infrastructure Provider (DCIP) (as recommended by TRAI in an earlier paper) etc. According to TRAI it is likely to bring more efficiency in the operations and further simplify the framework. Similarly, TRAI has also sought views on removing some of the service authorisations that are redundant and obsolete.
- d) **Introduction and integration of new authorisations:** TRAI reiterated its past recommendations regarding the inclusion of new authorisations within the framework, such as: DCIP, Internet Exchange Points (IXP) for allowing exchange of internet traffic, registration for Content Delivery Networks (CDNs) for delivering content from cloud to the edge of the network, and license for satellite earth station gateway. Additionally, TRAI sought comments on terms and conditions of the new authorisation, financial conditions like bank guarantees and other fees, etc.
- e) **Migration of existing licensees to the new authorisation regime:** Under the Telecom Act, existing licensees shall be entitled to continue to operate under the terms and conditions of the license / registration currently held by them for the period for which it was granted. In case a definite validity period is not provided under the existing license / registration, such license / registration can operate for a period of five years from the appointed date of the Telecom Act. In both cases, however, there is an option to migrate to the relevant authorisation as may be prescribed under the Telecom Act. This flexibility with regard to migration may allow existing licensees to assess which terms are likely to be more suitable to them.
- f) **Parenting of VNOs by multiple network service operators (NSOs):** TRAI noted that for wireline access services through Electronic Private Automatic Branch Exchange (EPABX), the connectivity of more than one NSO at a particular EPABX is not allowed. In this regard, TRAI sought feedback on whether 'Access Service' Virtual Network Operators (VNOs) should be permitted to be parented with multiple NSOs holding 'Access Service' authorisation for providing wireless access service. TRAI also expressed the desirability to permit service-specific parenting of VNOs instead of authorisation-specific parenting and sought comments in this regard. In parallel, TRAI is also examining this issue as a part of a separate consultation process and is yet to issue its recommendations in this regard.
- g) **Captive authorisation:** TRAI emphasised that there may be a need to create a separate authorisation in case of captive networks (i.e., telecommunication service provided by an entity to meet its internal communication needs), based on a light touch framework. If a service authorisation exclusively catering to captive purposes is introduced, it would significantly benefit players that are looking to deploy their own networks and reduce reliance on third party service providers.

At present, the deadline for submitting comments against the TRAI CP is **1 August 2024**.

Comments

The TRAI CP is significant as it is the first attempt by the Government to overhaul the telecom licensing framework in India. The base drafts for the current license conditions were drawn up almost two decades ago and are in a dire need of an upgrade.

It appears that the underlying aim is to simplify the form and structure of authorisations, and more importantly, align it with present day requirements. This also resonates with the

Government's intent to foster ease of doing business in India and to further liberalise the telecom sector.

The review and rejig of the various authorisations under the UL regime and standalone licenses, has the potential to transform the sector, remove redundant authorisations / licenses and address the current use-cases. In particular, basis the TRAI CP there is scope for a separate authorisation with lighter regulation to be introduced for entities that obtain telecom licenses for their own telecom needs (i.e., captive use).

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