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Analysing developments impacting business

TRAI OPENS DOOR FOR LICENSING REFORM

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The Telecom Regulatory Authority of India (TRAI) has issued a pre-consultation paper on '*Enabling unbundling of different layers through differential licensing*' on 9 December 2019 (PCP). The PCP has been issued pursuant to a reference received from the Department of Telecommunications (DoT) under which the DoT has sought TRAI's recommendations for achievement and implementation of specific objectives set forth under '*Connect India*' and '*Propel India*' missions of National Digital Communications Policy 2018 (NDCP).

Background

The NDPC encompasses broad level policy guidelines that the government contemplates to implement for the telecommunications sector going forward. One of the strategies envisaged in the NDPC relates to reforming the existing licensing and regulatory regime to catalyse investments and innovation as well as to promote ease of doing business. With this in mind, the PCP postulates unbundling of different layers (e.g. infrastructure, network, services and application layer) through differential licensing.

Current pre-consultation process

As far as telecommunication services are concerned, there are four important layers, viz. infrastructure, network, service and application. Currently, the legal and regulatory framework does not distinguish between these layers. The telecom licenses granted by the DoT comprise of terms and conditions that govern all these aspects.

In the current licensing regime, network, service and application layers are not segregated and only the infrastructure layer is segregated to some extent under the infrastructure provider category-I registration.

While the present telecom licensing regime contemplates the '*virtual network operator*' (VNO) model, wherein a VNO can resell the services of a full-fledged telecom service provider while using the latter's network the idea of completely segregating the network and service layers has been mooted so that the independent network service provider can establish a network and provide services to the delivery operator on a wholesale basis for retailing purposes.

Importantly, emphasis has also been laid on the role of application providers who provide applications to different verticals using underlying telecom resources. In this regard, reference has been drawn to various initiatives undertaken by TRAI in providing

recommendations in the realm of machine to machine communications, cloud services, other service providers etc.

Further, sharing of telecom resources should be incentivised in order to facilitate proliferation of next generation technologies like 5G. It has been noted that that application market has huge potential and it will be difficult to be managed by telecom service providers. Therefore, the licensing regime should allow application providers to provide application services, with light touch regulation. According to TRAI, similar practices have also been adopted by other countries in modifying their telecommunications regulations to support development of converged services, promoting new services and expansion of markets and competition.

The idea behind initiating the PCP is to evaluate the possibility that these four layers can be independently exploited by relevant players in the market. In view of this objective, comments of stakeholders on benefits and anticipated problems in having unbundled licensing regime, nature of changes in licensing framework, scope of different layers etc. have been sought by 6 January 2020.

Observations

The PCP issued by TRAI on the DoT's reference is a welcome step as far as the current telecom licensing regime is concerned. In today's day and age of convergence, there is an emergent necessity to draw distinctions between different layers so as to avoid cumbersome regulatory hindrances and for promoting investments in a sector, which has been in a constant state of distress for the past few years.

In order to earnestly attain the objectives set out in the NDCP, it is important that the regulatory regime is revised in order to make room for new players who are governed by a light tough regulatory framework and in this context, there is a need for unbundling of different layers of license. It is high time that essential steps are taken on an immediate basis so that the necessary respite is provided to the industry and archaic license conditions are done away with. In order to attract investments, required steps need to be taken and relevant clarity may be provided to those entities who aim to enter this sector. These entities are currently facing a dilemma owing to ambiguous and unclear policies.

The PCP process presents an opportunity to stakeholders to voice their concerns on these issues and therefore should be utilised effectively by players operating in the space.

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