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**Sub: ABTO Response to TRAI Consultation Paper No 6/2004 on
Unified Licensing Regime.**

Dear Sir,

We refer to the TRAI Consultation Paper on Unified Licensing Regime.

ABTO is pleased to provide its response on the various issues raised in this Consultation Paper by TRAI. These are detailed out in our response which is enclosed herewith for your kind perusal.

We look forward to participation in the Open House Sessions and TRAI's favourable consideration of our views while finalizing its recommendations. We would be pleased to provide any clarifications if necessary.

Thanking you,

Yours faithfully,

**S C Khanna
Secretary General**

Encl: a/a

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ABTO Response to TRAI Consultation Paper No. 6/2004 on Unified Licensing Regime

Framework of Unified Licensing Regime

1. Based on the key objectives of Unified Licensing, International practices in this regard, the proposed models of Unified license in this paper and the current status of Indian Telecom sector, please give your views on the Unified Licensing Model which should be followed in India? You may also suggest any extra Unified licensing model, if not covered in the proposed models. Please also comment whether IP-I, IP-II, VSAT and GMPCS services should be part of Unified Licensing Model or they should be licensed separately? Should IP-I and IP-II services be licensed at all?

The Unified Licensing Regime seeks to bring the various service specific licenses in our country on to a single technology neutral platform. Its effort is to encourage and enhance free growth of new applications and services incorporating the latest technological developments.

TRAI has suggested several models in all of which operators are free to offer any telecom service in their licensed area subject to notifying the TRAI and complying with published guidelines.

We feel that Model – I under Category - III as suggested by TRAI would be a fairly workable model. ABTO would only like to propose a slightly modified version of this which we feel is best suited for our country. The proposed model is of only two categories:

A Unified License

- **Basic, Cellular, Unified Access, National Long Distance, International Long Distance, Internet, Cable TV & DTH, VSAT based voice, data and all new services as they emerge.**

A Class License

- **Radio Paging, PMRTS, ISPs and GMPCS with existing terms and conditions – a subset of Unified Licensing.**
- **New services which require low infrastructure can also be considered under the Class License category.**
- **IP – I and IP – II should remain outside the ambit of Unified Licensing, as these are not services provided to end customers. These need not be licensed.**

We also feel that the concept of Niche Operators would be adequately covered under the Class license category and as such there is no need to create this additional sub-section under the Unified Licensing Regime.

However, niche operators should be clearly defined and there should be set rules for interconnection, scope of services, entry fee etc.

2. **In case concept of Class License is followed, then what should be the criterion for classifying the services under this category of license?**

Class licenses, as the name suggests, define a set of rules that will qualify any given “class” of people/entities the right to set up and operate a specific type of service.

For example, in Hong Kong there are the following types of class licenses:

- **For In-building telecom services**
- **For Public wireless local area networks**

In the UK there are dozens of class licenses including:

- **International simple voice resale**
- **Cable and other network services**

Generally class licenses aim at light handed regulation, aiming at reducing the barriers to entry.

In our case, class licenses should therefore focus on easy entry of operators under a regime with minimum set of

requirements for providing such services like Radio Paging, PMRTS, Internet access, database services etc.

The general criteria for issuing class licenses should be:

- **Requirement of low infrastructure**
- **Nominal entry fee with relatively easy terms and conditions.**
- **Non-facility based services**

Unified Licensee will be free to offer all services under class license. If class licensee wants to offer any services under Unified License Regime then they have to take Unified License.

3. **What should be the simplified procedure for granting the licenses based upon the recommended licensing model?**

The process of granting licenses should be simple and rule based.

Our suggestion is that the TRAI should frame a checklist which the licensor should use as a reference point to issue comprehensive guidelines specifying the registration fees/ entry fees, eligibility & roll out conditions etc.

Once prospective operators fully meet the eligibility criteria and comply with other requirements, including payment of relevant entry fees, submission of documents etc, the license should be issued immediately.

4. **Should we consider implementation of Unified Licensing framework through a multi stage process or a single stage process? What are the pros and cons of each suggestion? If the process is envisaged to be completed in phases, what should be the milestones and time frames for each step?**

Unified Licensing framework should be implemented through a single stage process. Just as the Universal Access Regime (UAS) was implemented in a one stage process the comprehensive Unified Licensing Regime should be implemented in a single step and preferably within a time frame of six months.

This should of course include migration of operators from UASL to ULR. UASL operators should not be required to pay any additional charge/fees for migration to Unified Licensing regime.

Entry of eligible players in the sector should be permitted freely. There should be no single or multi-stage bidding to acquire licenses. The procedure involved should be to simply pay the registration charges or entry fees for the respective service area and fulfill the other eligibility criteria.

5. Should migration to Unified Licensing Regime be optional or compulsory?

Migration to Unified Licensing Regime should be optional. Existing service providers should be free to provide the licensed services on the existing terms and conditions till the validity of their licenses - if they chose not to migrate to the ULR.

But those who chose to migrate to unified license should be free to offer any combination of services proposed under unified license.

However all new licenses should mandatorily be under the Unified Licensing Regime.

6. How should Internet telephony be treated in Unified Licensing Regime? Should Internet telephony without any restriction, be permitted under Unified License regime? If yes, how should it be permitted?

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7. How the migration from service specific license to Unified Licensing Regime including surrender of any in-fructuous license, if any, should be handled?

Migration from service specific license to Unified Licensing Regime should be handled as follows.

- a) **Unified Access Service Providers : The existing Unified Access Service Providers desiring migration to Unified License under Unified Licensing Regime should not**

pay any additional fees for the services they wish to provide in their existing licensed area (as envisaged in our model proposed in our response to Q 1).

- b) Any service provider other than unified access service providers wishing to migrate to Unified License should pay additional entry fee matching the entry fee paid for by UASLs for provision of the services.**
- c) NLDOs/ ILDOs: Any NLDO/ ILDO migrating to ULR should pay additional charge as per UASL for specific service area.**

For the surrender of infructuous licenses as a result of Unified Licensing, suitable guidelines be framed by TRAI for the adjustment of excess entry fee, if any, paid by such licensees.

Registration Charges/ Entry Fee/ Authorisation Charges

8. Should the Registration Charge be one time charge or recurring annual Charge?

Registration charges or entry fee should be a one time charge at the time of entry to the Unified Licensing regime.

9. What should be the basis of deciding the Registration Charges?

The primary objective of fixing the registration charges or entry fee for Unified License should be to ensure that existing operators who have paid certain amounts are no worse off than the new entrants. The principles for entry should be uniform.

As such, the first approach suggested by TRAI in point 6 of Chapter 3 is most suited for determination of entry fee. That is:

Registration Charges = (Entry Fee paid by Existing UASLs – Spectrum Charges) + (apportioned NLD and ILD entry Fee for the service area selected)

In case of nationwide NLD services, registration charges / entry fee should not be less than the license fee paid by the existing NLDOs. However, if the registration charges / entry fees paid by existing NLDOs is more, then suitable mechanism should be there to compensate the existing NLDOs.

10. Whether Registration Charges should be dependent on the extent of Geographical coverage?

The registration charges or entry fee should be dependent on the extent of geographical coverage/ service area. For all services under ULR, service area should be on telecom circle basis.

11. Whether Registration Charge should be dependent on the number and type of services being proposed to be provided by the service provider?

No. The registration charges or entry fee should not be dependent on the number and type of services to be provided by the service provider in his service area. It should be only for acquiring the license.

In order to ensure no-worse off situation to existing players and a level playing field, it is proposed that the registration charges should be equal to the amount paid by the Unified Access Service licensees for the respective service area.

As such there should be no additional payment by UASLs for migration to ULR.

12. Whether the Registration Charges should be a function of entry fees paid by the existing operators. If yes, then how should these charges be calculated?

The registration charges or entry fees for Unified License should be at the level of entry fee paid by the existing UAS operators.

a) **New unified licensees:** In order to ensure no-worse off, level playing field, it is proposed that the registration charges or entry fees for Unified License should not be based on cumulative charges of the existing services and be fixed at the level of 4th cellular operator's entry fee for the respective service area and wherever fourth cellular operator was not there, the entry fee paid by the existing basic service operator should form the basis. However, the Unified Licensee should be free to offer any service(s) of his choice in the service area.

b) **Migrating UASLs:** BSOs have paid enormous amounts of fees for migration to UAS regime. As such UASLs should not be subjected to any further payment for migration to Unified License.

c) **Class licensees:** These service providers should pay nominal/token registration charges to provide the respective service as existing today.

13. Should the Registration Charges be cumulative charges of the existing services and service area and be reduced to a nominal value say after a period of 3-5 years? If yes, what should be the level/basis of calculating this nominal fee and what should be the time period after which the Registration Charges reduces to nominal fee?

The registration charges or entry fee for Unified License should not be based on cumulative charges but as suggested earlier.

These registration charges should continue to apply and not be reduced to a nominal value after a period of 3 – 5 years.

14. If Class Licensing is adopted what should be the level of Registration Charges for these Licensees?

The level of registration charges for class licensees should be nominal/ token as existing today for the services proposed to be under class license.

15. If niche operators especially for Rural, Remote and Less developed service areas are licensed say at LDCA/SDCA level, in that case what should be the registration charges for such operators. How should rural service area be defined? Whether niche operators should be allowed to roll out its services in LDCC's/SDCC's which are urban?

Niche operators as explained earlier would have to fall in the Class license category and the same service area criteria can apply. Since registration and license fee is proposed to be nominal / token for these types of services, it would not matter whether these were licensed in rural or urban areas.

However, the niche operators must be clearly defined and there should be set of rules for interconnection, scope of services, entry fee etc.

16. In Model II (Convergence bill Model) and Model III (FBO and SBO based Licenses), what should be the level of Registration Charges for different categories. Whether this Registration Charge should be dependent on the type and number of services offered by licensee?

The model proposed in our response at Q.1 is felt most befitting and should be implemented.

Service Area in Unified Licensing Regime

17. Whether the choice of service area should be left to the operator as envisaged in our recommendations or choice should be limited to the existing licensed service areas, viz. circle, nationwide?

Service area for all services under unified license should be on circle basis. For NLD/ILD services under ULR it should be as per existing terms.

However, the choice of service area as well as services to be provided should be left to the service provider. Though Unified License entails him to provide NLD/ILD service, he may be allowed to provide these services in the circle(s) for which he has unified license(s).

Service area for class licensees viz, Radio Paging, PMRTS, ISPs, GMPCS etc. may remain the same as existing now for these services.

18. What should be the service area for Class licenses? Should SDCA level license be granted for Class Categories?

Service area definition for class licenses should continue as existing today – or as prevalent in the ISP licenses today.

19. How to prevent 'Cherry Picking' while leaving the choice of service areas to the service providers.

Choice of service area and roll out should be left to the service provider.

20. Whether we may define service area below circle level say LDCA/SDCA for Niche operators in Unified License?

Service area definition for class licenses should continue as existing today – or as prevalent in the ISP licenses today.

License Fee

21. What should be the level of license fee for different services in the suggested licensing model?

The level of revenue share license fee for different services should continue to be based on a percentage of Adjusted Gross Revenue (AGR) and the percentage should be same for all categories of licenses/ service area. There is no need to have different license fee on the basis of metro, category A, B and C circles.

The revenue share license fee should be 6% of the AGR to cover the contribution to Universal Service Fund of 5% and administrative charges of 1% as comparable to international levels. Lower burden in the form of revenue share in the ULR will go a long way in providing affordable services to masses and provide impetus to achieve and surpass the target of tele density as set in NTP 99 for the year 2010. License fee should not be used as a revenue generating mechanism. With the current services and its impact on the economy, the Government will earn much higher returns including service tax than what it extracts from enforced license fee

The definition of AGR should also be reviewed so that

- **AGR is based on service related revenues & all non-service related revenue streams are excluded.**
- **AGR is also adjusted for such expenses, viz, bad debts, subscriber discounts etc. incurred by the licensees to earn such incomes/ revenues.**
- **The definition should be comprehensive/ exhaustive so as to give no scope for disputes.**

22. Should minimum amount of the license fee be specified irrespective of the Adjusted Gross Revenue (AGR)?

No minimum amount of the license fee be specified. The revenue share license fee should be 6% of the AGR to cover the contribution to Universal Service Fund of 5% and administrative charges of 1% as comparable to International levels.

23. Should there be uniform annual license fee say 6% (5% USO+1% administrative cost) of AGR for all telecom services in all service areas or should license fee vary from service to service and service area to service area?

There should be a uniform annual license fee of 6 % (5 % USO and 1 % administrative cost) of AGR for all telecom services including class licensed services in all service areas.

24. What should be the level of license fee for Class licensees and niche service providers?

Though a lower level of license fee for class licensees may be considered it should be not be lower than the contribution to the USO fund (that is, 5 % of AGR) as proposed above for all other telecom services – 1% administrative charges may be waived if considered appropriate.

The concept of Niche service providers would be covered under the Class licenses.

Bank Guarantees

25. What should be the level of Bank Guarantees fee for different services in the suggested licensing model?

AND

26. Should the Bank Guarantees (PBG & FBG) be same for all the services in the Unified Licensing Regime or should the existing framework of Bank Guarantees be continued in the new licensing Regime?

There has to be Corporate Financial Guarantee instead of Bank Guarantee for different services in the suggested licensing model and the level of Financial Guarantee for Unified License and class license should be same.

The present requirement imposed on the service providers is to the extent of two quarters' revenue share and needs to be brought down to one quarter's revenue share as the service providers are required to pay their license fee at the end of every quarter.

In view of reduction of annual license fee by 2% with effect from April 1, 2004, the Financial Guarantee needs to be reviewed.

The objective of performance guarantee is to ensure fulfillment of roll out obligations and to maintain quality of service. Once roll out obligations have been met, there should be no requirement to impose a performance guarantee and the same should be released by the licensor. No additional conditions need to be imposed for release of PBGs of UASLs.

27. What should be the level of Bank Guarantees for Class Licensees and niche service providers, if such classes are considered?

We have recommended in our response to Q. 26 above that the level of financial guarantee for both unified licensee and class licensee should be same.

The need for niche operators is not there since they are covered under class licenses.

Roll Out Obligations

28. What should be the roll-out obligations for different services in the licensing model that you suggest? Should we continue with service specific roll out conditions?

AND

29. Should we consider imposing roll out conditions of UASLs on all Unified Licensees?

Roll out obligations for different services in the suggested Unified Licensing model should be same as for Unified Access Service Licensees. NLDOs/ ILDOs who do not desire to continue may be given option to surrender the license and opt for refund of the entry fee paid or deemed paid or this amount be adjusted in their revenue share license fee of ULR .

30. What type of roll out obligations be imposed on Class licensees and niche (for rural, remote and under developed areas) Service Providers?

Roll out obligations for class licensees (which will include niche operators) for providing respective services should be minimal and in line with what is existing today.

Interconnection

31. What should be the interconnection regime in the suggested Licensing model for ULR?

AND

32. Should service specific interconnection regime be continued in ULR?

Interconnection is the foundation of telecom services and must be mandated for all operators. It is also desirable to have some form of special provisions for interconnection obligations on the incumbent/ SMPs. For class licensees, viz, ISPs, PMRTS etc (as proposed), the existing interconnection regime should continue.

Interconnection policy should be such that existing POIs which have been set up at huge investments are not disturbed. Any change will cause huge losses.

- **It must be mandatory upon operators to provide interconnection when approached.**
- **Interconnection should not be service specific and offered at mutually agreed points as an obligation.**
- **With the advancement of technology the choice of network architecture should be left to the service providers.**
- **Both parties should pay set up costs for outgoing links**
- **Reference Interconnect Offer (RIO) should form the basis of commercial interconnect agreement between the incumbent/ dominant operator and licensed operators who should have a right to interconnect.**
- **Incumbent / dominant operator should publish Reference Interconnect Offer (RIO) as a means of ensuring open and non-discriminatory access to interconnection.**
- **RIO is required to be updated and re-approved on an annual basis.**
- **Co-location facilities on fair & non-discriminatory terms & co-location charges – part of RIO to be mandated by TRAI.**

Location of POIs should be mutually agreed upon. Since, under Unified Licensing, one operator may provide both fixed line and mobile services as well as NLD/ILD etc. using common infrastructure, uniform interconnection regime will have to be mandated for all types of services. Direct interconnection at all technically feasible points subject to network integrity being maintained, should be allowed. It should be up to the seeker to decide as to where to get his network interconnected to the provider's network.

33. Should the carrier pre-selection /call-by-call selection be implemented in Unified Licensing Regime for all types of calls other than local calls?

Carrier pre-selection/ call by call selection may be implemented in Unified Licensing Regime for all types of calls other than local calls simultaneously for all operators including incumbent.

34. What should be the approach to interconnection for niche operators?

Same as for Class Licenses.

Numbering

35. Is there a direct linkage of Numbering Plan vis-a-vis implementation of Unified Licensing regime?

AND

36. If yes, what are the specific unavoidable changes required in the present Numbering Plan keeping in view the fact that frequent changes in the consumer numbers is highly undesirable?

There is no direct linkage of Numbering Plan vis-à-vis implementation of Unified licensing regime. Most of the numbering issues are taken care of in the Unified Access Service Regime.

37. Should inter circle connectivity be permitted to Access providers (Basic, Cellular and UASL)?

AND

38. Should direct interconnectivity be also permitted across non-contiguous service areas?

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39. In case migration to Unified Licensing Regime is optional, then should the inter-circle connectivity be permitted to those Access providers who do not migrate to Unified Licensing Regime.

Inter circle connectivity should not be permitted to those access providers who do not migrate to Unified Licensing Regime.

40. Should Infrastructure sharing amongst different service areas be permitted?

Infrastructure sharing among the operators should be allowed within the common / overlapping service areas. Shared use of masts, antennas, cables, and combiners etc may be permitted.

Co-location charges should be determined / mandated by TRAI.

For the same operator who operates in distinct and or distant regions, sharing of switch/ MSC for different service areas along with billing should be permitted.

41. Under Unified Licensing Regime, licensee may offer the services through out the country. In that situation the concept of NLD operator as such may be no more relevant. Under such circumstances, how would the requirement of national long distance carriage for standalone operators be met?

ABTO recommends choice of service area and services under Unified Licensing Regime to be left to the service providers. The service provider may offer services through out the country. Under the situation, though the concept of NLD operator as such may be no more relevant under ULR, the concept of national long distance service will exist and the requirement of national long distance carriage for stand alone operators could be met by the operators providing national long distance service as well. In this regard, TRAI should order mandatory interconnection on non discriminatory terms.

42. Whether there is a need to redefine national long distance traffic for the purposes of interconnection?

No. There is no need to redefine national long distance traffic for the purposes of interconnection under ULR.

43. Under the Unified License, a service provider may have whole country or some contiguous circles as his service area. Under this situation, it may not be necessary for him to route his inter-circle traffic through an NLD operator as he may carry the traffic on his own network in his service area which may be different for different service providers. In such a case, how should the traffic handover principles between different service providers (present in one/more circles or nationwide) be framed in the Unified License regime?

Please refer to our response at Q. 41.

44. Whether any change is required in the location of POI and level of interconnection?

Interconnection should be at mutually agreed points. Level and location of POI would, therefore, be mutually agreed; but POI should be provided once sought by the interconnection seeker. Flexibility should be there for POIs at both SDCA and LDCA levels. The choice of network architecture should be left to the service providers.

However, it would be essential to have RIO from incumbent with co-location charges and other charges mandated by TRAI.

Reselling

45. Should reselling be permitted? If yes, how? What are the implications of permitting resale in the industry at this stage?

AND

46. What are the implications of having additional players in form of resellers for various telecom services such as NLD, ILD etc. purely on the basis of commercial agreements?

- **Government's priority should be building of infrastructure and thereby creating national wealth and it is not the right time to permit reselling now.**
- **In any case, if reselling is to be permitted it should be subject to:**
 - **License for resellers**
 - **License fee to be paid by resellers**
 - **Non-discriminatory**
 - **Allowed but not mandatory**

Other Issues

47. Under the Unified Licensing Regime what changes, if any, are required to be made in the existing Merger & Acquisition Policy?

The existing Merger & Acquisition policy allows merger of basic, cellular and unified access service licenses within a circle.

Under the new regime it is important to define a uniform spectrum cap for all the merged entities irrespective of the category of service area/ technology deployed by the merging entities.

Additional spectrum should be allotted to CDMA operators to bring it at par with GSM operators.

48. In addition to the issues mentioned above, comments of stakeholders are invited on any other related matter that should be considered while finalizing Unified Licensing Regime.

- **A class licensee should have the option to apply for a unified license in addition to providing class licensed service.**
- **With the advancement of technology, the location of the switch may be permitted outside the service area.**
- **Call by call ADC should be discontinued.**
- **Niche operator should be defined appropriately by government to avoid any kind of misuse by operators.**
- **Call handover/switching principles should be clearly defined for niche operators.**
- **Intermediate handover of calls should also be allowed.**