

Ref: VNOAI/REG/TRAI-CP/E.FEE.BG**Date:05.09.2022****To****The Advisor (F&EA)****Telecom Regulatory Authority of India****Mahanagar Doorsanchar Bhawan,****Jawaharlal Nehru Marg,****New Delhi- 110 002.****Sub: Consultation Paper No. 12/2022 dated 26.07.2022 on "Rationalization of Entry Fee and Bank guarantees".****Sir,**

This is with reference to the above-mentioned consultation Paper dated 26.07.2022. In this regard, VNOAI is submitting its pointwise reply. The same may be kindly considered.

Best Regards,**For Virtual Network Operators Association of India****(Rakesh Kumar Mehta)****Secretary General****Mobile# 9899006599****E-mail:- secretary. general @vnoai.com/rk.mehta2051@gmail.com**

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VNOAI's Response to the Paper on "Rationalization of Entry Fee and Bank guarantees".

Introduction and Background of how UL-VNO Licensees Urgently in need of Financial reforms.

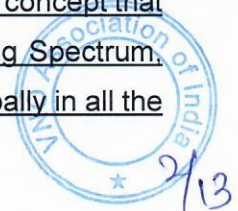
VNOAI on behalf of all the member VNOs will give details of the back ground what are the issues pertaining to which that VNO in mobile sector has not picked up in India in spite of the fact that TRAI recommendations were issued on 1st May 2015 and DOT issued UL-VNO Guidelines on 31st May '2016.

National Telecom Policy – 2012 (NTP 2012) recognized that the evolution from analog to digital technology had facilitated the conversion of voice, data, and video to the digital form. Increasingly, these were being rendered through single networks bringing about a convergence in networks, services and also devices. Hence, it was imperative to move towards convergence among various services, networks, platforms, and technologies and overcome the then existing segregation of licensing, registration and regulatory mechanisms in these areas to enhance affordability, increase access, delivery of multiple services, and reduce cost. Further, it envisaged providing secure, reliable, and affordable and high- quality converged telecommunication services anytime, anywhere for an accelerated inclusive socio-economic development.

In the context of NTP 2012, DoT, through its reference dated 7th July 2014 had sought recommendations of the Authority on 'Delinking of licenses for networks from the delivery of services by way of Virtual Network Operators'. The TRAI, after detailed consultations, gave the recommendations on "Introducing Virtual Network Operators in the telecom sector", on 1st May 2015. Thereafter, DoT issued guidelines and a license agreement for the grant of Unified License (VNO) on 31st May 2016.

UL-VNO MODEL IN INDIA

TRAI did consultation on UL-VNO in 2015 and DOT issued the UL-VNO guidelines in 2016. However while prescribing the Licensing and Financial conditions for UL-VNO licensee it was assumed as replicating 50% of all the UL Financial Terms and Conditions on assumption that UL-VNO is the extension of NSO (UL-License). Whereas UL is full-fledged TSP having spectrum and Core Network for provisioning of all the wireless services and selling to the end consumer. But actually the UL-VNO business model is based upon the concept that it will be a reseller and deliver the services to the end consumer without owning Spectrum, and Core Network equipment. The UL-VNO is a reseller model as prevailing globally in all the geographies.



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It is a fact that in spite of the issue of UL-VNO Guidelines in 2016 there is there are only two UL-VNOs in Mobile Access Service Sector taken license and are still not able to launch the services in India. The high entry Fee and High Bank Guarantee is the barrier for the entry of more VNOs in India. The current Licensing and Financial Terms and conditions prescribed to the UL-VNO business is not viable and to sustain the viability for any UL-VNO to do business in Mobile sector is very difficult.

Besides Financial Barriers for VNOs there are licensing barriers also In India the licensing impediments are such that no MNO is ready to provide access in Mobile to UL- VNOs as in India. MNOs are themselves delivering to end consumers its own services and it is believed that MNO consider VNOs as their competitors. It is sort of blocking the competition and try to sustain supernormal oligopoly profits, reduce consumer choice to keep their customers, and hinder consumers to access competing mobile services to be provided by VNOs.

Please refer to the TRAI recommendations issued on 19th August'2021 on **'Enabling Unbundling of Different Layers Through Differential Licensing'** where is TRAI had examined all the issues pertaining to the VNOs and duly recommended that VNO sector being a Service Delivery Sector is in need of many reforms to make the sector viable especially the Mobile sector where in there are many issues and financial barriers. It is making the existing players to struggle and new players or entities are finding no business case in the current Licensing and financial terms and conditions prescribed to UL-VNO Licensees in India especially in Access Service Authorization in Mobile sector.

The major issues in the UL-VNO are Licensing impediments and high Financial Costs. Some of the issues pertaining to the entry fee and Bank Guarantees reduction were partially addressed by the Govt in the reforms done in 2021 in order to improve the health of the whole telecom sector and make ease of doing business for telecom sector. However in the UL-VNO sector major issues are the financial terms and conditions which are just replication of the UL (TSP) licenses.

Whereas the VNO concept is the reseller service delivery model and it just reselling and delivering the services of parent NSO (UL Licensee) to end consumers as a VNO. The prescribed financial conditions are Entry Fee, Bank Guarantees, and Presumptive 10% License Fee to be paid after one year of License as minimum License Fee. Other components payments are License Fee 3%, USO Fund 5%, and Spectrum Usage Charges 4% which are just replication of the UL License holder. These charges which are replicated to UL-VNO are prepaid by the parent NSO and it is the revenue of parent NSO which pays all the components of License Fee 3%, USO Fund 5% and spectrum fee applicable and is part of sale to VNO.



All the License Fee, USO and Spectrum Usage charges prescribed for the UL-VNO Licensee shall not be repeated again and on the same service which is prepaid service bought by UL-VNO and further delivers the same service to end consumer. Although the pass through deductions are allowed in UL-VNO License for the charges paid by VNO to its parent NSO. But on the sale price which is the revenue of VNO again has to pay all the charges pertaining to LF, USO and SUC are payable by UL-VNO. The service delivered to end consumer with little margins a UL-VNO delivers the services to end consumer and charges GST on it at applicable rates. The VNO is buying the whole sale Bulk Capacity/Minutes from the parent MNO (UL Licensee) and repackaging and delivering to the end consumers. For delivering the services UL-VNOs UL-VNO are providing the marketing of the services, billing, and customer care support.

Therefore as UL-VNO Model is just the reseller and service delivery model and all the prescribed Licensing financial conditions needs to be withdrawn as it has been done in OSP and IP-1 licensee there are no financial Licensing Fee prescribed and only light touch regulations are prescribed to these licensees. In order to make the UL-VNO sector to grow and provide the required competitive environment in the limited 3+1 Mobile market when it is just limited competition consumers have limited choice and have to accept the services as is where is basis as there is lack of competition. TSPs does not have business case in remote and un accessible terrain where local entrepreneurs acting s VNOs are able to reach and provide services. Small villages and towns local entrepreneurs are being asked to pay the license fee and file AGR in Cat B and Cat C licenses. It has created a huge road Block for the growth of small entrepreneurs as VNOs in rural areas and small towns and villages.

How Global Regulatory Support is provided to MVNOs for its growth.

Historically, MVNOs have been originated from Europe and North America. With the launch of first MVNO "Virgin Mobile UK" in Europe in 1999, there has been significant growth in the number of MVNOs in Europe. Currently, over 600 MVNOs are in operation in Europe, serving a diverse set of customers and offering a range of voice and data services. Similarly, MVNO market in the U.S. also grew reasonably over time, and currently has over 113 MVNOs operating in US.

Europe has been providing conducive environment for the MVNO business through pro-competitive measures and potentially mandating wholesale access. Initially, most regulators maintained a "watchdog" position; that is, they carefully monitor the interactions between MNOs and MVNOs. Later on, regulatory interventions have been practiced, where required. Some of these practices are detailed below.



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EU Member States/NRAs have included **wholesale access obligations in radio spectrum assignment** proceedings, notably in Germany (historically only airtime resale), and Ireland (where the 2100 MHz spectrum assignment proceeding included offering a license which required MVNO access).

Regulator to assess the reasons for market failure for MVNO entry in India.

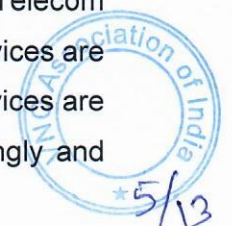
How can regulators assess whether MVNO-related regulation in their country is economically justified. In order to answer this question, one must examine indicators of the level of competition, potential competition, and entry conditions in the country's wireless market. Specifically, the regulator must examine the market for signs of market failure with respect to MVNO entry. Market failure prevents competitive forces from working properly. Therefore, if the economic analysis reveals sufficiently competitive market conditions to alleviate concerns of market failure in the face of entry by MVNOs, then regulation becomes at best superfluous and at worst counterproductive. If not, then regulation might be required.

In India mandatory access through regulatory intervention is necessary at this stage after 6 years of issue of UL-VNO Licensing Guidelines as MNOs do not allow access on commercial terms and merely try to sustain supernormal oligopoly profits, reduce consumer choice to keep their customers, and hinder consumers to access competing mobile portals. Also, mobile network operators are less likely to provide MVNO access unless it is a regulatory requirement. Proponents of regulatory intervention stress that an increase in competition between networks will lead to improvements in service quality.

In the back ground of the issues being faced by the UL-VNO licensees in India as explained above VNOAI on behalf of all its member companies will trying to answer all the questions in the consultation paper in order to make UL-VNO Business viable in India and consumers are benefited.

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.

Ans: In view of the fact that the entry Fee concept in the Indian Telecom sector was initiated in New Telecom Policy in 1999(NTP 99).The concept of Entry Fee was envisaged at that time when it was offered as a migration package to the Cellular Mobile Service Providers and Fixed Service Providers. However the Indian Telecom Sector has leaped forward in every context and Mobile services and other services are all Digital Services now and Technology has seen a sea change and new services are evolved. Regulations and technology made Govt of India to move accordingly and



issue suitable Unified Licenses Guidelines for UL-VNO licenses with various authorizations according to the technology and service requirements.

In view of the vision of the Govt of India in the NDCP-2018 under the mission 'Propel India', inter alia, mentions that 'the recent past has witnessed an unprecedented transformation in the Digital Communications Infrastructure and Services sector with the emergence of new technologies, services, business models, and players. There is, hence, an imperative need to review the existing licensing, regulatory, and resource allocation frameworks to incentivize investments and innovation to optimize new technology deployments and harness their benefits.' It envisages 'Enabling unbundling of different layers (e.g., infrastructure, network, services, and applications layer) through differential licensing' as one of the strategies for catalyzing investments for Digital Communications sector. The above mentioned details are the vision of TRAI which issued its recommendations on 19th August 2021 in this regard and duly recognized the concept and need of VNOs in the Service Delivery in Indian Telecom Market.

Therefore, VNOs are in dire needs to be incentivized to play a prominent role in the Indian Telecom Sector. At the moment all the legacy Licensing Terms and Conditions are being carried forward and prescribed to new services which are evolving Globally due to digitization and huge advancement in the telecom Technology which has become totally digital and data centric. Therefore delivery of service to the end consumer is the real necessity of the day. Presently there are barriers in the form of **Entry Fee and Bank Guarantees** etc. which are hampering the growth of UL-VNO License in India. In spite of issue of UL-VNO Licensing Guidelines in 2016 the wireless mobile UL-VNO has not picked up in India due to high Entry Fee and many Licensing short coming which are not aligned to the VNO Business model. As on date globally there is proliferation of MVNO across each Telecom MVNO business. A list of 50 top countries where MVNO are playing a prominent role in the delivery of competitive services to end consumers enabling the growth of Digitization across the Telecom Industry. In India there is huge scope for the growth of UL-VNO industry if more reforms are introduced by removing the entry barriers which is **the Entry Fee.**



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	Country	No of TSP	No of MVNOs
1	United States of America	8	206
2	Germany	3	161
3	Japan	3	127
4	United Kingdom	4	100
5	Australia	3	74
6	France	4	72
7	Spain	4	64
8	Sweden	6	55
9	Denmark	6	54
10	Netherlands	4	43
11	Korea, South	4	42
12	Russian Federation	7	41
13	Poland	4	37
14	Belgium	3	35
15	Austria	3	34
16	Czech Republic	4	27
17	Norway	4	27
18	Switzerland	3	24
19	Canada	16	23
20	South Africa	5	23
21	China	3	21
22	Italy	3	20
23	Mexico	3	17
24	New Zealand	3	13
25	Malaysia	9	12
26	Ireland	3	9
27	Thailand	6	9
28	Turkey	3	9
29	Brazil	7	8
30	Hong Kong	5	8
31	Slovenia	4	8
32	Bosnia and Herzegovina	3	7
33	Chile	5	7
34	Hungary	3	7
35	Israel	5	7
36	Portugal	3	7
37	Singapore	4	7
38	Finland	5	6
39	Philippines	3	5
40	Saudi Arabia	3	5
41	Taiwan	5	5
42	Colombia	5	4
43	Latvia	4	4
44	Lithuania	4	4
45	Oman	2	4
46	Costa Rica	3	3
47	Greece	3	3

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48	Malta	3	3
49	Serbia	3	3
50	Slovakia	4	3

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.

Ans: Yes as the UL-VNOs are playing and going to play major role in the delivery of services due to the advent of 5G, M2M and IOT services. There is huge infrastructure requirements and is very capital intensive. Therefore But as the NSO have to work on the provisioning of the network deployment so the UL-VNOs are needed to supplement their efforts in the delivery of services efficiently and provide affordable services to the end consumers.

Therefore it is strongly recommended that across all the UL-VNO License authorizations the Entry Fee be withdrawn and instead a One Time Processing Fee or Registration fee of nominal amount be prescribed.

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.

Ans: As explained in the answers in the preceding questions the Entry Fee Concept needs to be reformed for the UL-VNOs and it needs to be substituted by the one-time Processing/Registration Fee of Nominal Amount across authorizations in UL-VNO Licenses.

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.

Ans: It is reiterated that Entry Fee be abolished across all the authorizations in the UL-VNO Licenses it is the delivering the services to the end consumers only .There is no rationale to prescribe any entry Fee to any of the authorization and build the barriers .Need of the day is to do



more reforms so that the service delivery is done in a cost effective and efficient manner to the satisfaction of the end consumers.

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

Ans: In view of the fact that UL-VNOs are service delivery and it is recommended by VNOAI in the preceding answers that the one time Processing Fee/Registration Fee of Rs.10,000/- be levied across all UL-VNO authorizations.

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.

Ans: As Govt wants to do more reforms in the telecom sector so that the benefits of the reforms are far reaching and Digitization Vision of the Govt Of India as visualized reaches all the population across the geography of India where in the UL-VNOs are in dire need of more incentives not barriers of Entry Fee.

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

Ans: The Bank Guarantees are the legacy concept being carried forward by the successive Govts in India since 1994 in order to safeguard its revenues. But since last 28 years or so the Indian Telecom Sector in all the domains has moved leaps forward and trying to keep with the pace of developments of technology across the world by deploying and investing in the similar infrastructure in Indian Telecom. Recently conclusion of the 5G spectrum auction is reiterating the focus of the industry to provide upto date technology and services to Indian consumers also. In the NIA issued for the recent 5G Auction DOT has not prescribed any Bank Guarantees for the Spectrum purchased by the telecom companies as a step forward in the telecom reforms.

Moreover across all the industry the taxation laws whether Income Tax Act or in GST- Act there are self-regulating provisions and checks and balances which take care of the revenues and dues of the Govt.

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Therefore VNOAI recommends that suitable checks and balances are required to be incorporated in the Telecom Sector to safe Guard Govt's dues. There will be no need of any Bank Guarantees or any other security instrument to safe Guard its dues. Telecom industry is forced to lock in huge amount of capital in the Bank Guarantees to securitize its dues with Govt and keep huge capital blocked as deposits in Banks. The locked in capital for furnishing the bank Guarantees are hampering the investments in the Network infrastructure for better services to end consumers. Thus Bank Guarantees are barriers for the Growth of the highly capital intensive Telecom sector.

In the case of UL-VNO licenses there is no need of keeping the any sort of Bank Guarantees and License Fee as across all the industries in all the services sectors there is no Financial or Performance Bank Guarantees .All the industry peers following up the normal GST and Income Tax Laws and comply with the payments of all the dues pertaining to the sale of services. Globally in the Telecom sector there is no provision of any Bank Guarantees in the telecom Sector anywhere in the world.



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Globally Entry Cost for VNO				
(in Crore INR)				
Country	Number of ACTIVE VNOs (Source: GSMA)	Capitalization Requirement (Internal Research)	License Entry Fee (Internal Research)	License Bank Guarantees (Internal Research)
India	-	10	7.5	22
Italy	20	na	0.49	na
France	72	na	0.15	na
Malaysia	12	0.8	0.13	na
Kenya	2	na	0.07	na
Brazil	8	na	0.02	na
Mexico	17	na	0.02	na
Singapore	7	na	0.02	na
Hong Kong	8	na	0.002	na
China	21	1	na	na
South Africa	23	na	na	na
Russia	41	na	na	na
Thailand	9	na	na	na
South Korea	42	na	na	na

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

Ans: As already explained in the answer of Q-7 above as the telecom industry is matured in India after more than 28 years of existence in India. Moreover across all the industries where GST and Income Tax revenues are duly assured to Govt Exchequer by means of in built checks and balances and the penal provisions in the laws that revenue and compliance is assured to Govt. Therefore similar provisions in the Telecom Act required to be made for the assurance of Govts dues from all the Telecom Licensees.

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

Ans: There is no need of continuing any type of Bank Guarantees in view of suggestions for creation similar provisions as of GST and Income Tax



Laws for the assurance of Govt's dues with all checks and balances to be built for recoveries under the Law be provisioned.

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?

Ans: As all the Licensees are required to file the Quarterly Licensee Fee return and all provisions and checks and balances will suitably take care of financial parameters also.

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

Ans: No Bank Guarantees in any of the License is needed as explained in the previous question's answers.

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?

Ans: There is no need to prescribe anything to measure the performance of the Telecomm Companies as all the financials are duly shared by all the companies under the Companies Act, GST Act and Income Tax Act and Laws. More over market forces and numbers duly reported to TRAI on performance are indicators of each company in the Telecom Market. Concept of Bank Guarantees required to be abolished altogether.

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.

Ans: No need of any Bank Guarantees as duly explained in previous questions answers.



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.

Ans: No need of any Bank Guarantees as duly explained in previous questions answers.

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

Ans: DOT has recently taken one of the best initiative for on line filling of AGR and License fee being filed by all the licensees on its SARAS PORTAL. All the License Fee and documentation is being filed on this portal and very efficiently and quickly being resolved by CCA through this portal. Therefore In line with the other similar checks and balances in the GST and Income Tax laws the similar provisions be made in the SARAS portal also for the Compliance and incorporate the required checks and balances and penal Provisions to securitize all the dues of Govt.

It will be one of the biggest reform for the Telecom industry as Bank Guarantees which locks huge Capital of Telcom service providers in providing the Bank Gurantees.

All the dues of Govt pertaining to the License Fee etc. can be recovered by building suitable recovery mechanism and penal provisions and checks and balances can be built in the SARAS system of DOT in line with the penal provisions in the Laws of GST and Income Tax wherein all industries are complying and Govt is getting good amount of collections from the whole country from all the industries and businesses.

It will be a biggest relief for the whole Telecom Industry if these reforms are undertaken as suggested above.

