Association of Competitive Telecom Operators

Presentation
to
Standing Committee

on

Issue of claiming deductions on account of charges paid by one TSP to the other TSP and desired modifications in the AGR format

Department of Telecommunications
11th Floor, Sanchar Bhawan, 20 Ashoka Road,
New Delhi
26th March 2018

Agenda

- Background
- Current Issue
- Aberration with the permissible deductions in the GR/AGR format of UL (VNO) license
- Impact on VNOs due to Double Taxation
- Double Taxation – Hurts the NSOs and VNOs
- VNOs not same as NSOs
- Precedence under the existing UL-VNO License
- Permitted charges as pass through for Deduction - VNO
- Issue of Multi-stage levy case for FBOs/NSOs
- Request for consideration
- Review/amendments of formats of statement of revenue

Background

- **National Telecom Policy - 2012** (NTP-2012) identified introduction of resale at service level through VNOs as one of its Strategies
- The prestigious **Digital India Program** in 2015 under its first pillar on "Broadband Highways" recognizes the role of VNOs for service delivery.
- **TRAI** recommends introduction of VNOs in May, 2015.
- Introduction of **Goods & Services Tax** regime with Input Tax Credit (ITC) feature to avoid cascading of taxes/levies in July 2017
- **TRAI** recommendations in September 2017 on UL-VNO for Access for Category B license in districts.
    - Recognizes the issue of double taxation in VNO license.
    - Recommends that charges paid by VNO to NSO for procurement of latter's services should be allowed as pass through deduction for computing AGR. In line with the Input Tax Credit (ITC) feature under GST regime.

Background.....contd.

- DoT in February 2018 constituted a **Standing Committee** to seek industry view on to arrive at AGR for license fee payment:
  - Allowing deductions of pass through charges paid by the VNO licensee to the NSO for procurement of services
  - Allowing deductions for lease line and bandwidth charges paid to other TSP
  - Amendment in the existing AGR formats under the VNO and NSO licenses.

Current Issue

- Current licenses predominantly written for **switched voice services / traffic**.
- Over the years, licenses have not been reformed (**amended**) to embrace the advent and continuance of data services.
- GR/ AGR **definition** too has not been aligned with the data services which the licenses permit.
- Definition does not permits deduction of charges for data / bandwidth services procured by TSP as pass through to arrive at AGR for license fee purposes.
- Deduction for charges as pass through permitted only for switched voice service and **not for data** which is the next phase of growth.
- This results into a cascading impact of cost passed on by licensee to licensee thereby increasing the cost to end consumers.
- The double taxation issue is not only negatively impacting the TSP (facility based) licensees but also the reseller licensees – **VNO's**.

Current Issue.....contd.

- The VNO license for resale has also incorporated the same definition of AGR.
- The deductions permitted are restricted to voice services and specific to **carriage, termination and roaming**.
- Further the above deductions are uniform across all the permitted authorization under VNO for resale – irrespective of its applicability or relevance.
- Example – ISP, NLD/ILD VNOs providing data services (VPN, MPLS) to enterprise customer have no relevance to origination, termination or roaming charges.
- **The opportunity is now** – to **correct the issue in the current definition of GR/AGR of VNO licensees to address multi-stage assessment of license fee** which leads to **double taxation**.
- The definition of GR/AGR under ISP license (2006) did addressed issue of Double Taxation in a limited way. The dispensation was later removed (2012).

Aberration with the permissible deductions in the GR/AGR format of UL (VNO) license

- The charges permitted to be deducted from Gross Revenue (GR) to arrive at Adjusted Gross Revenue (AGR) for license fee payment purposes, do not relate to the respective service authorizations.
- A standard clause uniformly applied to all telecom service authorizations irrespective of the nature of service provided.

3.2 (i) *"For the purpose of arriving at the "Adjusted Gross Revenue (AGR)", following shall be excluded from the Gross Revenue to arrive at the AGR:*

(i) Charges paid to its parent NSO(s). Charges paid to NSO(s) shall be limited to applicable access charges such as carriage charges, termination charges and roaming charges.

- The charges do not recognize the multiple arrangements which VNOs have with their NSOs worldwide. There are various payment models prevalent around the globe. However the definition of deduction of charges is specific to only 3 items (carriage charges, termination charges and roaming charges).
- Purchase of bulk minutes as against segregation of charges, revenue share payments, payment for resale of bandwidth or internet access charges are just few examples which the current license does not recognizes.
- Therefore not only the relevant charges not only need to be recognized but permissible under the list of deductions under the GR/AGR format for license fee payment.

Aberration with the permissible deductions in the GR/AGR format of UL (VNO) license..contd.

- VNO across major economies work on “bulk minutes” model, wherein the VNO buys in bulk from NSO and resells to its customers on retail basis.
- However, under the current licenses, there is no provision / language which somehow allows deduction of such charges paid for purchase of bulk minutes.
- Its unclear as to how will interconnection (with own network) and subsequent classification as carriage, roaming and termination will take place – network is one and how will VNO be able to claim such charges when buying of minutes are done in bulk as against (carriage, roaming or termination charges).

Impact on VNOs due to Double Taxation

- Creates a non level playing field for VNOs.
- This will make business financially unviable as VNO licensee pay license fee included in the price charged by parent VNO as well as will pay license fee to DoT on the revenue earned by selling the service without deducting the charges or the price paid for buying the service.
- Since VNO model works like a franchise, the current license should permit deduction of all charges paid by VNO licensee to its parent for acquiring latter's service for resale.
- Lead to increase in the cost of providing services, impacting customer affordability and business viability of the VNOs thereby impinging on their ability to compete effectively and provide services.
- This will impact the level of competition in the sector.

Double Taxation – Hurts the NSOs and VNOs

- Continuation of multistage assessment of license fee resulting in double taxation is not a good policy for long run.

- It leads to cascading financial impact on customers and industry.

- Double levy of License Fee may apparently lead to higher non tax revenue but it impedes the growth of the telecom sector in the long run.

- Higher growth of telecom sector by addressing the issue will bring more tax & non tax revenue with positive impact on job creation and competitiveness.

VNOs not same as NSOs

S.No.	Parameters	TSPs/NSOs	VNOs
1.	**Permissibility to set up core infrastructure**	Allowed	Not allowed
2.	**Direct interconnection with other operators**	Allowed	Not allowed
3.	**Services to be offered**	As permissible under the license	Dependent on NSO's Services
4.	**Pass Through charges for switched voice services**	Allowed	Not allowed as direct interconnection with other NSO not permitted

VNOs not same as TSPs….contd.

- VNOs are mere resellers - an extension of NSOs as recommended by TRAI and recognized by DoT in the license agreement.
- VNOs are not NSOs and need to be treated differently.
- VNOs are allowed to resell services of their parent NSO only.
- VNOs are fully dependent on NSOs.
- VNOs are prohibited to install core infrastructure and interconnection with other NSOs with whom they are not parented.

- *"3 (i) VNO are treated as extension of NSOs (Network Service Operator) or TSPs and they would* ***not be allowed to install equipment interconnecting with the network of other NSOs****.*
- *4 (xvi) VNOs shall be permitted to set up their own network equipment viz BTS, BSC, MSC, RSU, DSLAM, LAN switches. VNOs shall* ***not be allowed to own/install equipment of core infrastructure****, i.e. Gateway Mobile Switching Centre (GMSC), Soft Switches & Trunk Automatic Exchange (TAX) or equivalent. …"*

Precedence under the existing UL-VNO License

- One of the authorization under the VNO license – **Resale of IPLC** addresses the issue of Double Taxation by permitting charges paid to other TSPs for procurement of bandwidth charges.

"Charges actually paid to other telecom service providers for procurement of bandwidth, last mile connectivity used for provision of end to end IPLC; (Note: Any charges paid for multiplexing, de-multiplexing, billing system and related customer management are not to be deducted.) (Operator wise) (Copy of agreement to be provided in the first quarter.)"

- Same license cannot have differential treatement amongst the permitted authorization – Needs correction.

- Rest of the authorizations under the UL-VNO license should also be allowed deductions of charges paid on the same principle.

- All the authorizations under UL-VNO license (including ILD, NLD and ISP) should be aligned to permit deductions of the charges paid by VNO to its parent TSP as pass through for arriving at AGR.

Permitted charges as pass through for Deduction - VNO

- The charges to be paid to NSOs can be in the nature of amount paid for acquiring bulk minutes, bandwidth (internet, leased line etc) or even when the charges paid to NSO by VNO in the nature of revenue share.

- It is important that the GR and AGR definition should allow VNOs to deduct all types of charges (whether for call charges or for data) paid by them to their parent NSO.

  - Actual charges paid to the parent NSOs for procurement of its telecom services.

  - For the purpose of end to end connectivity, IUC charges/access charges/ carriage charges and roaming charges, origination charges, termination charges, data charges in the nature of lease line, DSL, Point to Point and Point to Multi-point charges for buying service provided by the NSO, charges paid for right of way to connect the service actually paid to other TSPs should be considered.

- The above components are easily verifiable and are paid pursuant to an agreement between NSO and VNO similar to practice followed in case of voice based pass through charges.

Permitted charges as pass through for Deduction – VNO…contd.

- The request for deduction of charges as pass through is not for the costs incurred by a VNO licensee to set up its non –core infrastructure wherever permitted.

- Such cost includes co-location charges, lease/rent charges, or other input costs incurred by a service provider in setting up its network / infrastructure which, in the case of VNO licensee, will be service delivery platform, billing system etc.

- Whatever charges are incurred in the nature of creating service delivery and billing platform are own cost of the VNO licensee and is not a charge incurred or paid to another NSO to buy a telecom service to sell.

- Only the payments made to the NSOs for buying their services by a VNO should be allowed as a deduction from Gross Revenue as a pass through charge.

Multi-stage assessment of license fee leading to Double Taxation – Case for FBOs/NSOs

- Double levy of LF is not a good policy for any business be it VNO or FBO.
- The licenses were amended to promote infrastructure sharing and resale between licensees by buying links from other TSPs on lease in the nature of bandwidth / data.
- License conditions allow a TSP to use lease line or bandwidth from other TSP to serve it's customer's requirement for end to end connectivity.
- However, inter operator payment for the services provided to each other should also be allowed as a deduction for arriving at AGR for payment of license fee.

Request for Consideration

- TRAI's specific recommendations (September 2017) in this regard be accepted.
- The existing definitions / format for arriving at AGR for license fee under the VNO license be amended to permit deductions on account of all charges paid by VNO (whether in the nature of voice (bulk minutes etc) or data (lease line, bandwidth charges, last mile etc) to parent NSOs.
- The amendment for admissibility of charges as relevant to the service permitted under the license – no one size fits all approach as currently it is.
- The amendment needed to bring uniformity amongst all the existing authorisations for deductions – not resale of IPLC alone.
- This will be one important step to give boost to the nascent and emerging VNO sector for growth and investment.

Request for Consideration…contd.

- Resolution of the issue on double taxation is critical for ensuring business viability of the VNOs as well as their ability to effectively compete in the market.

- This will help in achieving the goals of promoting competition, creating a level playing field among all service providers, and reducing the cost of services to consumers.

- Resolution of double taxation issue:
  - Important for the success of VNOs in India.
  - Critical for ensuring business viability of the VNOs
  - Impacts the ability to effectively compete in the market

Review/amendments of formats of statement of revenue

S.No	Name of License	Clause No	Format
1	NLD	31	AA, 1, BB, CC
2	ILD	36	1A (iii), 7, AA, B1, BB, CC
3	ISP	18.1, 18.2	AA, B1, B4, BB, CC
4	VNO NLD	3.1, 3.2	AA1, BB, CC
5	VNO ILD	3.1, 3.2	AA1, BB, CC
6	VNO ISP	3.1, 3.2	AA, B3, BB, CC
7	UL NLD	3.1	AA, 1, 1 (a), 1 (b), BB, CC
8	UL ILD	3.1, 3.2	AA, B 1, 1 (a), 1(b), BB, CC
9	UL ISP	3.1, 3.2	AA, B1, B4, BB, CC

Thank you !!

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