



COMPOSITE LICENSING IN THE ERA OF CONVERGENCE

Presentation

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INTRODUCTION



- **Communications Convergence Bill 2001 currently awaiting approval of Parliament.**
- **Bill Seeks to repeal five long-standing & well established statutes.**
- **Bill is a bold step - no developed country has adopted Convergence.**
- **Malaysia - only country to introduce Convergent Licensing.**
 - **Has done so very recently &**
 - **Outcome of this initiative is not known.**
- **India thus has no role model to emulate.**
 - **Must proceed with extreme caution.**
 - **Communications is a critical infrastructure.**
 - **Success or failure of the experiment could have far reaching consequences.**

CONVERGENCE & COMPOSITE LICENSING



Convergence has been described by ITU as :

- **“the provision of new services over existing infrastructure, and the enhancement of existing services & technologies to provide new capabilities”**

- **It is thus assumed that composite licensing under the Convergence Bill would lead to :**
 - **Improved efficiencies,**
 - **Lower costs**
 - **Economies of scale**
 - **Better fundability / viability of telecom projects.**

- **But, even now, nothing prevents existing operators from offering additional services on their existing infrastructure.**

CONVERGENCE IS POSSIBLE UNDER NTP 99



- It is not clear what the Convergence Bill aims to achieve that is not possible under NTP 99.
- In fact, NTP 99 recognizes convergence & lays down a policy framework to achieve the same.
- NTP 99 provides that operators desirous of offering multiple services on their existing infrastructure may do so AFTER taking a license for each service.
- NTP 99 thus provides a suitable mechanism for facilitating possible convergence of services.

Implementation of the mandates of NTP 99 thus represents the first step towards convergence.

CONVERGENCE POLICY MUST PRECEDE CONVERGENCE LEGISLATION



- **Before Convergence is introduced, it is important for the Government to introduce a Convergence Policy.**
- **There must be clarity on what Convergence & composite licensing will achieve - for the consumer, for the country, for the industry.**
- **Further, the Convergence Policy must be formulated in an open transparent & consultative manner with inputs invited from all stakeholders.**
- **This was the process followed by the Government for the formulation of NTP 99 & the success of this experiment are visible to all.**

LICENSING – COMPOSITE OR COMPLEX ?



- **One of the fundamental changes proposed by the Convergence Bill is to drastically re-define license categories.**
- **From the current service specific licensing provided for under NTP 99, the Bill now seeks to issue licenses under the following categories :**
 - i. **Network infrastructure facilities**
 - ii. **Networking services**
 - iii. **Network application services**
 - iv. **Content application services &**
 - v. **Value-added network application services**
- **Further, even within these above categories, the applicant does not get an automatic license to provide all facilities / services in that category.**
- **CCI while issuing a license for any of the above categories can**
 - **Confine / limit scope of facility or service under each category.**
 - **Grant licenses singly or jointly.**

UNBUNDLING TELECOM – COULD LEAD TO OVER-REGULATION



- **The proposed re-classification of categories under the Convergence Bill is tantamount to a complete unbundling of the entire value chain of communication services, where each segment is priced separately.**
- **Unbundling would be an extremely complex task & it is absolutely critical that it is accomplished in an open & transparent manner.**
- **The Convergence Bill appears to have an over-prescriptive approach to regulation.**
- **As a result of this, there is a danger of the sector being over-regulated which may lead to under-investment & under-innovation.**

Licensing & regulation must be minimized to facilitate market growth.

OVER LICENSING – COULD STIFLE THE MARKET



- **Further, it appears that under the new Convergence Bill, ALL wireless equipment needs to be licensed.**
- **Licensing will be more detailed & complex – danger of over licensing & stifling the market.**

It would be more desirable if a negative list may be specified for wireless equipment.

NEED FOR CLARITY ON FATE OF EXISTING OPERATORS



- **Any move towards composite licensing must clearly address the fate of existing operators. There must be :**
 - **Clear Enunciation of Principles of Migration.**
 - **Firm Assurance that terms & conditions under the new license will not be varied to their disadvantage.**
 - **Clarity on scope & ambit of a composite license.**
 - **Clarity on Fate Operators who do not want a composite license.**

- **In fact one probable reason that composite licensing has not been universally adopted could be because of the enormous complexities of dealing with widely diverse legacies of existing operators.**

- **The Convergence Bill does not address any of these concerns.**

TREATMENT OF SCARCE RESOURCES



- **Spectrum, Numbering & Right of Way (ROW) are scarce resources which need to be thoughtfully allocated.**
- **The objective of open & free competition that is important factor in the growth & development of a sector needs to be carefully balanced against the limited availability of scarce resources.**
- **In fact this is one of the key considerations that need to be clarified before any move is made towards composite licensing.**

Role of the Regulatory Authority must be clearly stated & independence preserved in the allocation of & payment for these scarce resources.

NEED FOR A STRONG SAFEGUARDS AGAINST ANTI-COMPETITIVE PRACTICES



- **Composite licensing implies provision of multiple services on an existing infrastructure.**
- **This increases the danger of SMP operators indulging in anti-competitive practices.**
- **A live example would be BSNL / MTNL who, in the absence of clear accounting separation & strong safeguards against anti-competitive practices, could indulge in cross-subsidization & predatory pricing.**
- **Clear Accounting Separation & a strong Competition policy, must precede any attempts to allow composite licenses.**

FORMULATION OF RULES & REGULATIONS



- **Rules & regulations are vital for ensuring that the principles & objectives of the Act & Policy are achieved.**
- **Introduction of the proposed Convergence Bill will lead to the repealing of 5 long standing statutes & with it the entire structure of rules & regulations that had been formulated to carry out the purposes of these Acts.**
- **Introduction of Convergence Bill & composite licensing before having the necessary processes in place could put the entire industry in limbo & be seriously detrimental to both foreign investor interest & growth of the sector.**
- **These rules & regulations must be formulated in an open, transparent & consultative manner.**

SUMMARY RECOMMENDATIONS



PRE-CURSORS FOR INTRODUCTION OF CONVERGENCE

- 1. Implementation of the mandates of NTP 99**
 - as the first step towards Convergence.
- 2. Enunciation of a clear Convergence Policy**
 - Formulated in an open, transparent & consultative manner.
- 3. Constitution of a strong Competition Commission**
 - to address concerns regarding SMP operators.
- 3. Drafting of Detailed Rules & Regulations**
 - In a transparent & consultative manner.
- 4. Provision of a clear Migration path for existing licensees**
 - Spell out principles of migration.
 - Ensure fair treatment of existing operators.

THANK YOU

