



30 August'2004

COAI Comments on TRAI's Draft Recommendations on Unified Licensing

I. INTRODUCTION

1. The Authority's draft recommendations on Unified Licensing form the second part of a two-step process for migration of the Indian Telecom operators to a holistic telecom-licensing regime.
2. The **first interim step** which was undertaken / implemented in October 2003 involved the **unification of fixed and mobile services** under a common access license.
3. The **second step** in the Unified licensing process i.e. the present draft recommendations **essentially involve the inclusion of long distance services** under the ambit of the unified license. A Unified License will also allow the service provider to offer other services such as ISP, VSAT, IP-I & IP-II, etc which will form part of the Authorization / Class License.
4. The competition landscape in telecom sector is presently as below:

Step 1 (completed)	Step 2 (Underway)	
Access (Fixed + Mobile)	NLD	ILD
1. BSNL 2. Tata 3. Bharti 4. Reliance 5. MTNL 6. Hutch 7. Idea 8. BPL 9. Spice 10. Aircel 11. Shyam 12. HFCL 13. Dishnet Wireless	1. BSNL 2. VSNL 3. Bharti 4. Reliance	1. BSNL 2. VSNL 3. Bharti 4. Reliance 5. Data Access

5. It is evident from the above table that implementation of Step 1 and the **introduction of a unified access license resulted in intense competition in this segment** with as many as 5-8 service providers in every service area. This has **resulted in lower prices for mobile services**, increased coverage and availability, strong subscriber growth, thus clearly **demonstrating** that there is **a direct linkage between the extent and degree of competition and the value of benefits flowing to the consumers.**
6. However, at present, there is a major imbalance between the extent of competition in the long distance segment compared to the competition in the access segment. Even after three years of opening up of the **long distance segment** in India, this sector **continues to have ineffective competition with only 4 NLD & 5 ILD operators.** Except for BSNL, no other operator has so far all India coverage. BSNL has virtual monopoly for carriage of NLD traffic from/to PSTN to/from other networks.

7. This is also **in stark contrast** to the intense competition in the long distance segments in **other international markets** as is evident from the table below

Country	NLD	ILD
USA	621	360
Australia	20	20
Chile	>10	>10
Philippines	>11	>5
France	10	14

Source: TRAI Consultation Paper on Opening up of Domestic Long Distance, July 1999

8. To **ensure** that the full **benefits** of competition in long distance will flow **to the consumers in terms of lower STD & ISD tariffs**, it is **important** for the Authority to **encourage & facilitate healthy competition in the long distance segment**.
9. For this it is important that **implementation of Step 2** and the inclusion of long distance services under a unified license **should have a similar significant impact on the long distance tariffs** and the **consumers** will be able to benefit from healthy & intense competition in this segment and be able to **avail of far more affordable STD & ISD services**. However, we believe that the Authority's draft **recommendations with respect to long distance will not encourage effective competition in this segment**.
10. The Authority's **recommendation of a bundled, high Registration Charges for Long Distance services applied on an All India basis** will only **raise entry barrier** thus **preventing the entry of ample and effective competition** which will **not be in consumer interest**.
12. In fact above **Registration Charges represent an exorbitant entry barrier** especially if one takes into account the fact that these **high charges are, in effect, only for a period of 5 years**, after which the Authority proposes to bring the charges down to Rs. 30 lakhs. It is submitted that in the absence of a unified licensing regime, the charges of Rs. 100 + 25 crores were to be amortized over a period of 20 years, whereas the present charges of Rs. 107 crores would have to be amortized over a period of 5 years.
13. The **principles & objectives** which have been **enunciated by the Authority** for considering/recommending a unified licensing regime inter alia include the following:
- **Simplification of licensing procedure;**
 - **Ensure easy entry - Nominal Entry Fee;**
 - **Encourage efficient, small operators;**
 - **Ensure Level playing field & 'no worse off'** for existing operators;
 - **Ensure flexibility & efficient use of resources** keeping in mind technological developments;
 - **Encourage free growth of new applications & services leveraging on technological developments, etc.**

It may be noted that the **Government has also accepted the above-mentioned principles & objectives**.

14. However, we believe that the **recommendations of the Authority** on the value as well as scope of long distance rights **are contrary to the principles of Unified Licensing** because they: -

- Are **not nominal** as promised;
- **Do not facilitate easy entry** as the entry barrier continues to be significantly high for a period of 5 years;
- **Do not ensure level playing field**, as a single service area operator will have to pay the same fees as payable by a pan India operator with multiple service areas;
- **Do not encourage flexibility & efficient use of resources** – as the access provider is prevented from following an optimal routing of calls using his own network resources or resources arranged through independent third party.

14. It is submitted that the **pure play GSM cellular operators will be significantly disadvantaged under the proposed regime**. These operators **form a significant category** in the telecom services segment accounting nearly 50% of the subscribers and investments in GSM cellular. (See Table)

Service Provider	Subscribers (July 2004) Millions	Investments (March 2004) Rs. Crores (approx)
BPL	2.21	4000
Hutch	6.00	6200
Idea	4.22	6500
Spice	1.35	1700
Aircel	1.27	950
Total (of above)	15.05	19350

15. It is submitted that the **authority while finalising its recommendations on Unified Licensing should, kindly, keep the interests of these operators and the contribution that they have made and can continue to make to the competitive landscape in mind**.

In the light of the above, our submissions on the draft recommendations of the Authority are as below:

II. VALUE & SCOPE OF LONG DISTANCE RIGHTS

A. High Value for Long Distance Rights

1. In its draft recommendations on Unified Licensing, the Authority has recommended that long distance rights (NLD + ILD) be awarded at a high fixed price of Rs. 107 crores.
2. It is submitted that **benchmark proposed by the Authority is at variance with its own principles as it is not “nominal”** as was enunciated in the UASL recommendations, which were also accepted by the Government.
3. As already stated above, the high Registration Charges are **an exorbitant entry barrier** especially as they need to be amortized over a brief period of 5 years.
4. The Authority has justified its recommendations for high Registration Charges on the basis of “no-worse-off” and level playing field for existing operators.
5. It is submitted that the **NLD/ILD operators are being given significant benefits** under the draft recommendations as they are being allowed:
 - **A 60% reduction in revenue share license fee** - from 15% to 6%;
 - **Complete waiver of all Rollout Obligations;**

- Drastic reduction in level of **Performance Bank Guarantees (to UASL levels)**.
6. In contrast to the above significant benefits being extended to the long distance operators, the **entry fee** level / Registration Charge for long distance has been **lowered only by 15%** (from Rs. 125 crores to Rs. 107 crores).
 7. The above-recommended levels of Registration Charges are heavily tilted in favour of the long distance/ integrated operators and significantly disadvantage the pure-play operators.
 8. It is our submission that **the Authority needs to review the high level of registration charges** for long distance services and **recommend a suitable reduction** in the same, which is **in consonance with its own principles and objectives** enunciated for unified licensing, which have **also been accepted by the Government**.
 9. We believe that **unless the entry barrier is significantly lowered adequate and effective competition will not be attracted** into this sector, thus **leading to a protected and high priced market, which will not be in consumer interest**.
 10. Any level playing issues between the existing NLDO/ILDs and new licensees due to lower entry fee of Rs 30 lakhs for NLD + ILD segment to be implemented IN 2005 itself instead of in 2010 could be addressed by giving suitable reduction in revenue share licence fee as was down for 1st and 2nd CMSP's at the time of implementation of UASL.

B. Unbundling of NLD & ILD Charges

1. In its draft recommendations on Unified Licensing, the Authority has recommended a **bundled Registration Charge for long distance rights (NLD + ILD)** be awarded at a fixed price of Rs. 107 crores.
2. Under the current regime, NLD & ILD entry fee are prescribed at Rs., 100 crores and Rs. 25 crores respectively. By **bundling the two charges, the Authority would be disadvantaging operators who are say, interested only in providing NLD or ILD services**.
3. It may also be noted that the **Authority's recommendations on Unified Access Licensing, were actioned by the Government through an Addendum to NTP-99 dated 11th November 2003**, which inter alia stated that

“Government, in the public interest, **has decided that there shall also be the following categories of licenses** for telecommunication services:

- i. **Unified License** for Telecommunication Services permitting Licensee to offer all telecommunication /telegraph services covering various geographical areas using any technology
- ii. **License for Unified Access** (Basic and Cellular) Services permitting Licensee to provide Basic and / or Cellular Services using any technology in a defined service area”

A copy of the Addendum is enclosed as Annexure-1.

4. The **addendum clearly brings out that the unified license and the unified access licenses are in addition to the separate categories of licenses already laid down under NTP-99.**
5. In light of the above, it is **submitted that the Authority may maintain separate charges for NLD & ILD so that operators, both existing as well as new are not compelled to pay a charge for a service that they are not interested in offering.**
6. This will **give the operators the freedom & flexibility to choose their bouquet of services**, which would be in **consonance with the principles of flexibility and efficient use of resources enunciated by the Authority** for the new regime.
7. It may also be noted that **by pricing spectrum separately**, the Authority has in fact again **unbundled fixed and mobile access**, which were bundled under UASL in November'2003 only, as operators interested in offering mobile services can acquire spectrum separately.
8. It is thus **submitted that the long distance charges also be unbundled and continue to be separately priced for NLD and ILD services**

C. Applicability on a Service Area Basis

1. Further, the Authority has only recommended a **single uniform charge for an all India long distance right**. This recommendation of the Authority **runs contrary to its own recommendation that the service area for a Unified License can be at the Circle Level or the National level.**
2. Thus, it is important that **NLD & ILD charges be prescribed separately on a Circle wise basis** as otherwise, there is **no rationale of recommending "Circle" based unified license.**
3. Further, it is axiomatic that the **value of a license**, and hence, the license fee chargeable, needs to be **commensurate with the business potential** derived there from.
4. In the telecom sector, it is well accepted that the **business potential is dependent upon the number of Circles held and type of Circles** (Metro / 'A' / 'B' / 'C').
5. This has been **the principle followed by the Government since inception of telecom liberalization**. When the telecom sector was opened up in India, licensing was done on a service wise & service area wise basis. The **Circle was defined as a business unit** and licenses were issued for various services on a Circle wise basis. Further the circles/service areas were **categorized as 'Metro', 'A', 'B' & 'C' depending upon their varying business potential.**
6. This **practice has continued through various changes in policy & in fact continues to be applicable even under the proposed Unified Licensing Regime** as the unified license can be taken on a nation wide basis or circle-wise basis depending upon the choice of the licensee. Further the **Registration Charges recommended by the Authority for 'other services' excluding long distance**, (Annexure II of the draft recommendations) are **prescribed on a service area wise basis and continue to be reflective of the business potential of the different service areas.**
7. If this principle is not applied for long distance services as well, it will result in inequitable treatment of single service areas operators' vis-à-vis the large/ pan India players. This

can be demonstrated by taking the example of some of the existing CMSPs who have a varying footprint across different service areas:

S.No.	Company	No of Circles	Type of Circles	Total Subscribers As of 31/7/04
1.	Hutch	13	4Metro / 4'A' / 5'B'	5,999,850
2.	Idea	8	1 Metro / 3'A' / 4'B'	4,214,571
3.	BPL	4	1Metro / 2'A' / 1'B'	2,209,232
4.	Spice	2	1'A' / 1'B'	1,349,925
5.	Aircel	2	1 Metro / 1'A'	1,269,164

8. It can be seen from the above that there are very large differences between the above service providers in respect of the key parameters with a nearly 5–fold variation in the total subscriber base. Consequently, one can expect a very large difference in the business potential and the consequent value that each of the above service providers will get from the right to offer long distance services.
9. By **recommending a uniform value for the long distance rights** for every service provider, **irrespective of the number and type of circles, will heavily disadvantage the single service area players vis-à-vis the larger / pan India players.** This would also not be in consonance with the Authority's objective of encouraging efficient small operators.
10. It is therefore submitted that the Authority **pro-rate the recommended long distance charges** (as may be finally recommended by the Authority) for NLD and ILD on a **service area-wise basis.** A **possible basis** could be **the ratio of the service area wise Registration Charges recommended by it in Annexure-II** of its draft recommendations. If this approach is adopted, then **the NLD and ILD charges may be prescribed as below:**

	Circle	ULR Registration Charge (for Other Services) Rs. Crores	Prorata Charges (For NLD / ILD) %
Metro	Chennai	3.22	4.06%
Metro	Delhi	8	10.08%
Metro	Kolkata	3.57	4.50%
Metro	Mumbai	5.82	7.33%
A	AP	5.6	7.06%
A	Gujarat	6.4	8.06%
A	Karnataka	5.6	7.06%
A	Maharashtra	12.58	15.85%
A	Tamil Nadu	4.78	6.02%
B	Haryana	1.6	2.02%
B	Kerala	3.2	4.03%
B	MP	3.2	4.03%
B	Punjab	3.2	4.03%
B	Rajasthan	3.2	4.03%
B	UP (East)	2.4	3.02%
B	UP (West)	2.4	3.02%
B	West Bengal & A&N	0.43	0.54%

C	Assam	0.8	1.01%
C	Bihar	1.6	2.02%
C	Himachal	0.32	0.40%
C	J&K	0.32	0.40%
C	North East	0.32	0.40%
C	Orissa	0.8	1.01%
	Total	79.36	100%

11. Introduction of **service area based long distance rights will have the following benefits:**

- It will **facilitate easy entry** thus allowing more service providers to enter this segment **creating healthy & vibrant competition, lower tariffs, more customized offerings**, etc
- It will give operators the **flexibility to choose their service offering** (NLD or ILD or both)
- It will give the operators the **opportunity to use a variety of media** (optic fibre, wireless, internet, etc) to carry and route their calls thus **encouraging the utilization of various media** as well as the **most optimal call routing solution** for long distance calls.
- It will also result in **increased revenues** for the Government, as the service area wise breakup will facilitate **more players entering the segment**. The total charges collected on this account will be far greater, if more players enter in each and every service area rather than by restricting competition amongst a few operators by mandating an all India license.

12. The above will lead to a **plurality of NLD & ILD players** – which will not only help **expand the scale & availability of services**, it will **lower prices, make long distance calling more affordable & attractive for consumers, leading to the death of distance and ensuring that the ‘long distance’ revolution filters down to the common man in each and every corner of the country.**

13. **Any concern** that the Authority may have **that recommending service area based long distance charges will result in concentration on lucrative areas**, is fully **addressed by the fact** that:

- The **value of rights be prescribed depending upon the business potential** of the respective service areas;
- Markets find their own level - **Lucrative areas despite higher charges will attract more competition, while the lesser potential areas will be incentivised by lower charges.**

14. In fact, **with the proposed dilution of rollout obligations, operators can still choose to concentrate only on lucrative segments**. In fact, we believe that a **higher fee takes away from resources that would otherwise be invested in the network and consequently compels operators to concentrate on creamy layers, lucrative circles, etc.**

15. The Authority’s **concern that only select traffic routes will witness competition** if service area wise long distance is allowed **also may not be relevant** in the new scenario as **with the increased affordability** of long distance tariffs, **the calling traffic pattern is bound to change as more and more consumers will increasingly make STD & ISD calls**. Some insight into the future scenario can be had from the present

intra-service area cellular mobile traffic where calls within a service area are available at local call charges.

D. Long Distance Charges Based on Tenure of License

1. **The charges that have been prescribed the Authority are for long distance rights for the full period of license – i.e. 20 years.**
2. However, for existing Fixed / Mobile / Access providers who will be migrating to ULR, the **additional rights will only be available to them for the balance tenure** of their license period.
3. It is therefore suggested that the **Registration Charges for NLD, ILD segment should be charged / recovered pro rata to the remaining license period of license** for operators migrating to a unified license regime.
4. **Alternatively**, it is suggested that the period of the **unified license be uniformly fixed as 20 years for each company migrating to the new regime.**

III. OTHER SUBMISSIONS

A. Registration Charges

1. The Authority has stated in Para 11.4 “a new unified licensee will have to pay Registration charges which will have two components, i.e. one is Rs. 107 crores and the second component will depend upon the number of service areas in which he wants to offer access services.”
2. **It appears from the above Para, that the above Registration Charges are a bundled charge and the licensee will have to pay the long distance component irrespective of whether or not he wants to offer long distance services.**
3. It is submitted that the unified license being presently recommended by the Authority, includes a number of services besides long distance – GMPCS, Broadcasting, Internet Telephony, services under Class License, Authorization, etc. There may be a situation where a service provider is interested in acquiring a unified license without the provision to offer NLD & ILD services. As per the present draft recommendations, it appears that this is not possible. This would be illogical and impractical, as it would restrict the flexibility of the operator to offer his desired range of services. **The Authority may kindly clarify that**
 - **Such operators who do not want to offer long distance services**, but are interested in offering all other services under the unified license can **get a non-long distance based unified license by paying only the 2nd component of Registration Charges** prescribed by the Authority as per Annexure-II.
 - Similarly, the Authority should provide for a scenario where existing operators should have the freedom and flexibility to migrate to a non-long distance based unified license without paying this part of the registration charges.
4. As regards the **NLD and ILD component**, we have **already made our submissions** and given our reasoning in previous paragraphs that the **charges need to be brought down to a reasonable level, unbundled for NLD and ILD and to be applied on a service area wise basis.**

5. **If the Authority does not accept our above submissions**, then **several anomalies will arise** in respect of the above high bundled Registration Charges recommended by the Authority. These are enumerated below:

a. Increase in Access Services Footprint

The Authority has stated in Para 11.5 that “in case **a unified licensee wants to increase his service area for offering access services** to more number of circles under Unified Licensing Regime **then in addition to Rs.107 crores he will have to pay the extra registration charge** for these additional circles based on the calculations given in Annexure II...”

The above recommendation is **tantamount to requiring an operator to pay Rs. 107 crores every time he wants to increase his footprint and expand his access operations** to other service areas. This would be illogical & impractical and can be resolved simply by prescribing long distance charges on a circle basis.

b. Migration to Unified License for Group companies to ULR

The Authority is aware that due to the legacy of the licensing process as well as the recent spate of mergers and acquisitions, **services are being offered by the same Group under different licenses / group companies.**

In this case too, the recommendation of bundled Registration Charges would be **tantamount to requiring each and every one of these legal entities** (which in fact belong to the same Group) **to pay the full All India long distance license fee to migrate to a unified licensing regime.** We are sure that this is definitely not the intention or objective of the Authority. We believe that service area wise long distance registration charges would also resolve this anomaly and allow for seamless and satisfactory migration of all operators to the new regime.

c. Acquisition of a New License

The Authority has stated that in Para 14.1.1 that “all new Service Providers shall be licensed under new Unified Licensing Regime.”

By prescribing Registration Charges on a service area wise basis and then bundling the same with an All India NLD + ILD charge, would **tantamount to asking the new operator to pay the high charges of Rs. 107 crores irrespective of the fact whether or not he wants to offer long distance services or maybe offer services only in one or two service areas.** This would be inequitable and unfair and would discourage entry of new players into telecom. It is reiterated that a service area wise long distance Registration Charges would also resolve this issue.

B. Rollout Obligations

1. In Para 7.7 of the draft recommendations, the Authority has also recommended that “under Unified Licensing Regime, if a unified licensee/NLD operator is **not able to make an arrangement** with other operators to carry the long distance traffic then he has **to build up his own network or lease network** up to the location (s) where he wants to handover / pickup inter-service area long distance traffic as mentioned above.”

We **do not understand the rationale of the above** recommendation as the Authority has also very **clearly stated that “it shall be mandatory for Unified Licensee to provide interconnection** to all eligible Telecom service providers as well as other

Unified Licensees. Principle of non-discrimination shall be followed in the matter of Interconnection”

The Authority may kindly clarify the conditions and circumstances under which the above clause in Para 7.7 will become applicable.

2. While the Authority has reviewed the rollout obligations of the NLD operators, in the case of the ILD operators, it has recommended, **“For ILD services, existing roll-out conditions shall continue.”**

This is inequitable & unfair and it is submitted that the **Authority may also kindly review the ILD rollout obligations under a unified licensing regime.**

The review is especially relevant for ILD, as the volume of our outbound international traffic is very low and because active infrastructure sharing is permitted.

3. In Para 7.11, the Authority has recommended that **“if handover takes place at central location(s) or at LDCA level** then terminating operator will demand higher termination charges depending upon the distance between handover location to terminating SDCA. In the present IUC regime, **the maximum increase in termination charges on this account could be Rs 1.1 per minute.”**
 - The Authority may kindly confirm and clarify that **in the case of handover at a ‘central location’ the applicable charges will be as per the distance based charges stipulated by the Authority in its IUC Regulation of 29th October** (as amended from time to time).
 - Similarly, **in the case of handover at LDCA level**, the Authority may kindly confirm and clarify that **the transit charges of 20 paise per minute stipulated by the Authority in its IUC Regulation of 29th October (as amended from time to time) would be applicable.**
4. The Authority may also kindly clarify that for CMSPs or UASL who do not provide NLD/ILD services, the existing provisions will continue and the carriage charges for end to end carriage would be based on the distance between the calling station and the called station as per the current IUC.

C. 2% Waiver on License Fee for 1st & 2nd Circle GSM Operators

1. The Authority is aware that the 1st & 2nd Circle CMSPs were granted a 2% waiver in their annual revenue share license fee for a period of 4 years w.e.f. 1st April 2004 with a caveat that the revenue share license fee will not fall below the USO contribution (5%).
2. This waiver was done to aid the viability and competitiveness of the 1st and 2nd GSM Circle cellular operators who were disadvantaged and under more severe financial strain as a result of the introduction of Unified Access Licenses at the benchmark fee of the 4th CMSP Entry Fee
3. It may be noted that these GSM operators have paid an entry fee of around Rs. 3,000 crores for their set of all India licenses vis-à-vis the benchmark of Rs. 1633 crores stipulated for the UAS License.
4. Although this waiver is highly inadequate, **the Authority may kindly ensure that at least this level of relief must be ensured for these concerned operators.**

5. We note that the Authority has recommended that the license fee revenue share be reduced to 6% (5% USO + 1% for cost of administration, etc. In the context of this recommendation and the caveat of 5% mentioned in Para 1 above, we believe that it is vital for the **Authority to also recommend a suitable extension in the period of waiver for the 1st & 2nd GSM Circle CMSPs to say 8 years, to ensure that these operators are assured of at least the same level of relief that was committed to them.**

D. Migration of Existing Operators to the New Regime

1. The Authority has recommended that migration to a Unified License will be optional for a period of 5-years after which it shall become mandatory.
2. The Authority is aware that due to the legacy of the licensing process as well as the recent spate of mergers and acquisitions, **services are being offered by the same Group under different licenses / group companies.**
3. The **Authority may kindly clarify the migration process that will be applicable to such companies / licenses under the same Group.**
4. We have already suggested that the **Registration Charges unbundled for NLD, ILD & other services and be prescribed on a service–area wise basis. This will not only allow new entrants to have the freedom & flexibility to choose their services as well as service areas but will also facilitate easy migration of existing players to the new regime.**
5. We suggest that the Authority may also kindly recommend that **upon migration to ULR, the new unified license should be valid for a period of 20 years.”**

E. License Fee Revenue Share

1. We note that the Authority has opined **that license fee should not be a source of revenue for the Government** and has accordingly recommended that the annual license fee revenue share be reduced to USO (5%) + 1% and further recommended that the Government may consider reviewing the level of both the USO contribution as well as the administrative charges of 1%.
2. It is submitted that the **above recommendation is not linked to the new licensing framework** but rather is based on the principles and objectives that have been adopted by the Authority for the entire telecom sector.
3. It is thus submitted that the **Authority may kindly ensure that recommended revenue share license fee will be equally applicable to all telecom players irrespective of whether or not they choose to migrate to the new regime. This will ensure that existing players are ‘no-worse off’ in the new regime and that migration to unified licensing is truly an option** available to existing players.
4. Adoption of a differential approach towards unified & non-unified players would not only be against the principles of fair competition, but would also create an anomalous situation where under the licensees opting not to migrate to the new regime, would pay a far higher license fee thus continuing to be treated as a source of revenues contra to the principles enunciated by the Authority in its present draft recommendations.
5. In this context, we would like to draw the Authority’s attention to its own recommendations in Para 7.6, where it has stated that **“Even if a NLDO chooses not to**

become Unified License during the first five-year optional period, **his roll out obligations will get modified to be the same as that of the Unified Licensee.**”

Thus under the draft recommendation, the **NLDO operator gets the benefit** in respect of rollout **irrespective of whether or not he migrates to the new regime**. We believe that the same **principle** of equity and level playing field **must be equally and identically applied to all service providers** and the **benefit of the reduced license fee revenue share must be available to them whether or not they choose to migrate to the new regime**.

F. Definition of Adjusted Gross Revenues

1. Similarly, the **definition of Adjusted Gross Revenues** is another recommendation of the Authority, which is **not linked to the unified licensing framework** but rather reiterates the principles that have already been enunciated by the Authority on several occasions. The Authority has reiterated in the draft recommendations that AGR shall include only the revenue accrued out of telecom services.
2. It is thus submitted that the **Authority may kindly confirm that new definition of AGR too, will be equally applicable to all telecom players irrespective of whether or not they choose to migrate** to the new regime.
3. If this were not done it would lead to discriminatory treatment between unified & non-unified operators as illustrated in previous paragraphs.

G. Spectrum Pricing

Entry Fee

1. The Authority has recognized in its Consultation Paper that **“the entry fees for cellular, basic including WLL (M) and UASL included the charges for right to spectrum...”**
2. **By arriving at a value for the Registration Charges on a Circle-wise basis (Annexure-II), the difference between the UASL entry fee and the above specified registration charges de facto becomes the fees paid by existing operators for frequency spectrum.**
3. **To ensure level playing field & no worse off** between existing and new operators, it is requested that the **Authority must maintain parity in the spectrum charges paid by the existing operators and the frequency spectrum, if any, allocated to new operators under ULR.**

Revenue Share

4. In Para 9.3 of the draft recommendations, the Authority has stated that **“under the Unified Licensing Regime, revenue share collected for spectrum charges should be based only on AGR from Access services”**
5. It is submitted that **access now includes both fixed and mobile services**. It would be **incorrect and unfair** for the Authority **to recover spectrum usage charges on any AGR that is accruing from the provision of non-spectrum based fixed services** and such provision would only serve to deter and discourage the rollout of fixed services.
6. It is thus submitted that the **above spectrum usage charges should only be recovered from the AGR from mobile /wireless services.**

H. Niche Operators

1. It is submitted that the Authority's recommendation on Niche Operators are contrary to its own views taken while allowing the FSPs to offer mobile services. Having first given the spectrum for "fixed wireless" and then holding that since technology permits mobility should be allowed, it is not understood how the Authority can now make recommendations for "Fixed Wireless" services once again. It may be recalled that the entire WLL (M) controversy started when the FSPs were first given spectrum, then they used MSC based architecture for providing "Fixed wireless" services. This situation opened a Pandora's Box leading to lot of issues such as misinterpretation of licence, definition of SDCA, impossible to police, the March of Technology, handset becoming smaller, customer benefits, poor man's mobile, service differentiation between WLL (M) and cellular mobile, etc. etc. It is apprehended that by again recommending "fixed wireless" services, the same problems could recur. It is therefore submitted that **Niche Operators be allowed to offer any service, but on fixed wire line only.**
2. We would also appreciate if the **Authority could kindly clarify the precise definition of the "multi-media" services** that Niche Operators will be permitted to provide.

H. Internet Telephony

1. As per the draft recommendations the Authority has recommended that "restricted internet telephony" can be offered by ISPs through an "authorization" under which the licensee pays no Registration Charges and no annual revenue share license fee.
2. For full-fledged Internet telephony, the Authority has recommended that "in the new licensing Regime there shall be no restriction on usage of Internet telephony or other IP enabled services provided they are offered by operators with Unified License who have duly paid registration charges of NLD and UASL and who will be subjected to license fees. In the interest of security, suitable monitoring equipment as may be prescribed will be provided by the licensee for monitoring as and when required by the licensor"
3. **Given the huge cost variation in the two licenses, it is apprehended that there could be large-scale violations** in this regard, if an ISP chooses to apply for a low cost access license for a single service area and violate the conditions to offer full-fledged Internet telephony. **Already there are concerns about the huge grey market** in ILD and we believe that the above recommendation will only serve to escalate this problem.
4. The **Authority may kindly clarify the measures that it proposes to recommend so as to ensure that there are no violations.**