



Tenth Edition (July to September 2022)

## Amendment to the Telecom Licenses

The Department of Telecommunications (“DoT”) has introduced an amendment to the Unified License (“UL”) agreement through its notification dated July 6, 2022, mandating that all international long-distance operators (“ILDs”) should drop all calls with no calling line identification (“CLI”) or improper CLI at their gateways. The amendment also states that International Telecommunication Union (“ITU”) - Telecommunications recommendations on E.164 numbering scheme may be referred for identifying an improper CLI.

The DoT has also amended the UL, Unified License (Virtual Network Operator) (“VNO”), Unified Access Service license (“UASL”), International Long-Distance License (other than UL) (“ILD”), and National License Distance License (other than UL) (“NLD”) agreements to include the requirements for procurement of telecommunication equipment from trusted sources as a part of the security conditions. The Government of India through the designated authority will have the right to impose conditions for procurement of telecommunication equipment on the grounds of defence of India, for national security and connected matters.

Additionally, vide its notification dated August 2, 2022, the DoT introduced an amendment to the UL and the VNO agreements taking away the requirement of licensed telecom service providers (“TSPs”) to submit a foreign direct investment (“FDI”) norms compliance report (“FDI Compliance Report”) and paid-up capital compliance report (“Paid-up Capital Compliance Report”) twice a year, i.e. on January 1<sup>st</sup> and June 1<sup>st</sup> every year. Subsequent to the aforementioned amendment, TSPs are only required to submit both the above-mentioned FDI Compliance Report and Paid-up Capital Compliance Report once a year on the 1<sup>st</sup> of January every year. The amendment further requires TSPs to submit the FDI Compliance Report within 15 (fifteen) days from any change in the FDI in the licensee’s company.

The DoT amended the UL, VNO, UASL, mobile number portability, Indian National Satellite – Mobile Satellite System Reporting Service (“INSAT MSS-R Service License”), commercial very small aperture terminal closed user group (“VSAT CUG”) license and the Captive VSAT CUG license agreements. The amendments take away the requirement of the TSPs having to submit FDI norms compliance report twice a year, i.e., on January 1 and June 1 every year. Subsequent to the amendment, the TSPs are only required to submit the FDI compliance report once a year on January 1<sup>st</sup> every year.

Some of the other changes introduced by the amendments are:

1. the Captive VSAT CUG licensees are required to declare their compliance to license and security conditions and Indian equity and foreign equity holdings on the January 1<sup>st</sup> every year to the licensor by January 7<sup>th</sup>;
2. TSPs must submit the FDI compliance report within 15 (fifteen) days from any change in the FDI in the licensee’s company;

3. UL and VNO TSPs are only required to submit the paid-up capital compliance report only once a year on January 1<sup>st</sup> instead of twice a year on January 1<sup>st</sup> and June 1<sup>st</sup> every year.

Further, vide notification dated August 23, 2022, the DoT introduced additional amendments to the UL, VNO and UASL agreements permitting TSPs to offer services to residents of regions bordering India. The amendments also permit TSPs to install base stations, cell sites, radio transmitters or any concerned equipment and execution of the concerned project taken up by TSPs falling within 10 (ten) kms of line of control, line of actual control and international border between Akhnoor in Jammu and Kashmir and Pathankot and other areas, without obtaining prior approval from local army authorities and concerned licensed service area field unit of DoT. The requirement for the periodic surprise checks to be carried out by the DoT, its authorized representatives, and the army authorities, has also been done away with.

## **Consultation Paper on Need for a new legal framework governing Telecommunication in India**

In order to realize the potential of telecommunication and to keep up with the emergence of new technologies in the telecom sector, DoT had issued a consultation paper on '*Need for a New Legal Framework Governing Telecommunication in India*' dated July 23, 2022 seeking comments to draft a new law which is clear, precise, and attuned to the realities of the sector.

The consultation paper invites comments from the stakeholders broadly on the following:

1. What the new legal framework should address;
2. The need for the simplification of the regulatory framework;
3. The need for a consolidated legal framework for spectrum assignment, use, surrender etc.;
4. The necessity of a uniform, non-discriminatory manner for right of way;
5. Whether issues related to insolvency in telecom sector with a focus on continuity of service are to be addressed;

## **Consultation paper on rationalization of entry fee and bank guarantees**

Consultation paper dated July 26, 2022 has been issued pursuant to a reference made by the DoT, to provide recommendations on the reduction of entry fee to make it uniform across all authorizations under the telecom licenses and the possibility of requiring a single merged bank guarantee for each authorization. The consultation paper sought views of the stakeholders on the following issues:

1. whether the entry fee should be rationalised, if such rationalization should be done across all or some specific authorizations and the methodology to be adopted for arriving at the rationalized entry fee;
2. uniform entry fee to be charged for each of the authorizations under the UL and UL (VNO) and the amount of such uniform entry fee;
3. practice that is to be followed to secure the dues and performance of service providers, in the event there is no need of bank guarantees in various licenses/authorizations;
4. methodology to calculate the amount of merged bank guarantees, and the associated terms and conditions with reference to financial and performance parameters and whether the merged bank guarantees should be applicable for new entrants as well as existing TSPs other UL/UL(VNO).

## Amendment in the Indian Telegraph Right of Way Rules, 2016

The DoT vide its notification dated August 25, 2022, released an amendment in the Indian Telegraph Right of Way Rules, 2016. The amendments are introduced to facilitate faster and easier deployment of telecom infrastructure to enable faster 5G rollout in India.

For a detailed analysis, please refer to the [JSA Prism of August 29, 2022](#).

## Draft Mobile Security Guidelines

The Ministry of Electronics & Information Technology vide its notification dated August 30, 2022, has released the mobile security guidelines (“**Draft Guidelines**”) for public consultation. The purpose of the Draft Guidelines is to (a) provide guidelines to all mobile ecosystem entities to achieve mobile security goals of confidentiality, integrity, availability, authentication, authorization, non-repudiation, access control, traceability, accountability, trust, and reliability by the various entities involved in the mobile service ecosystem; and (b) ensure privacy, protect sensitive data and provide security of transactions of every mobile device user.

For a detailed analysis, please refer to the [JSA Prism of September 2, 2022](#).

## Online lifecycle management and submission of online reports by NLD and ILD licensees

All NLD and ILD applicants/ licensees are required to carry out various activities involved in lifecycle of the licenses such as sending online reports and compliances, in an online mode. The applicants are required to register and create a user ID and password as a new user on the Saral Sanchar portal (“**Portal**”). Licensees/TSPs already in possession of their user IDs and passwords may perform various post license activities such as application of surrender, name change, change in authorized signatory etc., by logging into the Portal.

The details of all existing licenses/ authorizations obtained by the TSPs before November 2018 are required to be confirmed/ migrated by September 15, 2022. However, TSPs who have been issued licenses through the Portal after November 2018, may use the report module of the upgraded Portal. Further, the DoT has requested TSPs to continue sending reports through the current procedure till the time the new system is stabilized. TSPs are further requested to fill the status of various reports for the current year w.e.f. April 1, 2022.

## Response by TRAI to the back-reference received from DoT on its recommendations

TRAI in its recommendations had observed that a separate authorization under unified license is to be created for access network provider (“**ANP**”) to provide network services on wholesale basis. However, DoT believed that there may not be a market demand for a separate ANP license.

In this regard, TRAI has stated in its response (“**Response**”) that if a separate category of license for ANP is created, the ANP could build core network, Radio Access Network (“**RAN**”) and team up with VNOs for provision of services. Further, it could create a win-win environment where it would be possible for the VNO licensee to support the regime by investing in RAN. Further, TRAI stated that the introduction of a separate license for ANP could attract investment and strengthen the service delivery segment, and that the creation of separate network-only layer in the form of ANP license could result in increased sharing of network resources, reduction of cost and enhanced investment in the sector and that it could also prove to be catalyst in proliferation of 5G services in a localized manner for the industrial users and enterprise users, amongst others.

TRAI concluded in its Response that the market demand for a separate authorization for ANP can be determined only after such an authorization is first created.

## Roadmap for implementing the integration of various web portals

The DoT released the roadmap for implementing the integration of various web portals such as Saral Sanchar, SARAS, TARANG Sanchar, MTCTE, CEIR, TAF COP, and RF coverage (“**Web Portals**”). Such an integration is required to ensure that the databases of these applications are linked/ updated and the real-time reports/ information for public or industry consumption are made available.

Key aspects of the roadmap are as follows:

1. it has been devised that a dashboard of dashboards (“**DoD**”) may be prepared with feeds from all the Web Portals, and that there will be 2 (two) versions of the DoD i.e., a public DoD for citizens including businesses, and a DoD for internal users only;
2. DoT has proposed the integration of the DoT website with the DoT Dashboard and integration of the DoT dashboard with the Web Portals; and
3. DoT has formulated certain guidelines and instructions for the smooth and early implementation of the proposed integration.

## Draft Indian Telecommunication Bill, 2022

DoT vide its notification dated September 21, 2022, has released the draft Indian Telecommunication Bill, 2022 (“**Draft Bill**”). The Draft Bill now replaces outdated concepts under the existing framework. The Draft Bill seeks to replace 3 (three) laws:

1. Indian Telegraph Act, 1885;
2. Indian Wireless Telegraphy Act, 1933; and
3. Telegraph Wires (Unlawful Possession) Act, 1950.

For a detailed analysis, please refer to the [JSA Prism of September 23, 2022](#).

## Prevention of Tampering of the Mobile Device Equipment Identification Number (Amendment) Rules, 2022

DoT through its notification dated September 26, 2022, released the Prevention of Tampering of the Mobile Device Equipment Identification Number (Amendment) Rules, 2022 (“**Rules**”).

The Rules require manufacturers to register the international mobile equipment identity (“**IMEI**”) number of every mobile phone manufactured in India with the Indian counterfeited device restriction portal (“**Portal**”) prior to the first sale of the mobile phone.

Additionally, the IMEI number of a mobile phone imported in India for sale, testing, research, or any other purpose is also required to be registered by the importer with the Portal prior to the import of such mobile phone.

## Telecommunications & Broadcasting Practice

Our Communications practice is handled by a team with specific domain-expertise, and we advise various stakeholders in both Telecom & Broadcasting sectors on a wide range of transactions and assignments that involve constitutional, legal, contractual, commercial, regulatory and policy advice. The practice is led by an expert who has over 35 years of experience, and with the team having expertise in handling diverse aspects of the Telecom sector (financial reform, spectrum management, legal and strategic change). We advise broadcasters, BPOs, internet service providers (ISP), operators and investors in the Global System for Mobile Communications (GSM) and the Code Division Multiple Access (CDMA) technologies, and new investors on diverse licensing issues, entry strategies, structuring, national security challenges, and other regulatory issues. We represent the interests of licensees and other stakeholders in interacting with the licensor and regulators with respect to reforms in the regulatory and policy framework to facilitate business growth drawing upon international best practices. We advise and represent investors, broadcasters, and telecom licensees on commercial transactions in this sector, including mergers, acquisitions, restructuring, divestment, licensing, and project financing. We advise telecom service providers and other corporate houses on all aspects of spectrum licensing and allocation, including fundamental issues relating to the scope of spectrum bands, the regulatory framework governing their allocation in India, and planning, strategising and following up on their application to the Government.

This Newsletter has been prepared by:



**Tony Verghese**  
Partner



**Radhika Gupta**  
Principal Associate



**Rhea Sydney**  
Associate



**Shruthi Shekar**  
Junior Associate



14 Practices and  
23 Ranked Lawyers



15 Practices and  
18 Ranked Lawyers



7 Practices and  
2 Ranked Lawyers



11 Practices and  
39 Ranked Partners  
IFLR1000 APAC Rankings 2022

-----  
Banking & Finance Team  
of the Year

-----  
Fintech Team of the Year

-----  
Restructuring & Insolvency  
Team of the Year



Among Top 7 Best Overall  
Law Firms in India and  
10 Ranked Practices

-----  
13 winning Deals in  
IBLJ Deals of the Year

-----  
6 A List Lawyers in  
IBLJ Top 100 Lawyer List



Banking & Financial Services  
Law Firm of the Year 2022

-----  
Dispute Resolution Law  
Firm of the Year 2022

-----  
Equity Market Deal of the  
Year (Premium) 2022

-----  
Energy Law Firm of the Year 2021



Ranked #1  
The Vahura Best Law Firms to Work  
Report, 2022

-----  
Top 10 Best Law Firms for  
Women in 2022

For more details, please contact [km@jsalaw.com](mailto:km@jsalaw.com)

---

[www.jsalaw.com](http://www.jsalaw.com)



Ahmedabad | Bengaluru | Chennai | Gurugram | Hyderabad | Mumbai | New Delhi

This newsletter is not an advertisement or any form of solicitation and should not be construed as such. This newsletter has been prepared for general information purposes only. Nothing in this newsletter constitutes professional advice or a legal opinion. You should obtain appropriate professional advice before making any business, legal or other decisions. JSA and the authors of this newsletter disclaim all and any liability to any person who takes any decision based on this publication.