

**Nelco Response to TRAI Consultation paper on the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023**

**PREAMBLE**

Nelco would like to thank TRAI for the opportunity to respond to the Consultation Paper ('CP') on the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023. In the following paragraphs, we discuss our understanding of the subject of consultation paper under discussion.

The licensing & authorisation framework is used to manage on following parameters for respective services:

- i) Promote competition
- ii) Promote Innovation
- iii) Ensure that mainly the serious players enter the market
- iv) Protect Customers interest
- v) Compliance to national security

Scope of respective services is defined as part of respective license/authorisation and basis the nature, scope of services and considering objectives of the licensing & authorisation framework, the other important terms are defined, which covers:

- i) Nature of the services – Public/Private
- ii) Inclusions & exclusions
- iii) Interconnectivity with Private/Public networks
- iv) Roll out & performance obligation
- v) Security compliance requirements
- vi) Reporting requirements
- vii) Financial parameters as Entry fee, Financial & performance bank guarantee, revenue share etc.

Different kind of Services are covered under different license/authorization to ensure that only necessary terms are there in the respective license/authorization, based on the nature & scope of each Service. A Service provider may be offering multiple of such services and thus may need to take different authorisations under the Unified License. While need to enter into agreement for multiple authorisations by same service provider with the Government is a concern, as it also increases filing multiple reporting as per respective authorisation requirements, the larger concern is related to scope & obligations of the respective authorisations. It is important to ensure to that the compliance and reporting requirement of respective authorisation/Service are kept to only essential items. Merging the authorisation of different scope & nature of the Services may also have adverse impact w.r.t. requirement of various terms (regulatory, compliance, reporting etc), which will be either combination of both the erstwhile authorisations or higher of the two. While it may be workable/suitable for large telecom service providers, it may not be good for smaller/niche service providers who are providing

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only specific Service and may lead to lowering of competition, increase in cost & complexity and associated cost etc.

In section below, we provide answers to the specific questions stated in consultation paper:

**Q1. For the purpose of granting authorisations under Section 3(1) of the Telecommunications Act, 2023, whether the Central Government should issue an authorisation to the applicant entity, as is the international practice in several countries, in place of the extant practice of the Central Government entering into a license agreement with the applicant entity?**

**In such a case, whether any safeguards are required to protect the reasonable interests of authorized entities? Kindly provide a detailed response with justifications.**

**Nelco's Response:**

In accordance with the provisions of the new Telecommunications Act 2023 specifically Section 3 provides that any person, intending to provide telecommunication services, shall obtain an authorisation from the Government subject to such terms and conditions including fees or charges, as may be prescribed. From aforesaid provision of the new Act, Central Government should continue to provide telecom services by way of issuance of authorization irrespective of the global practice.

Safeguards are required to protect the reasonable interests of the proposed Authorized Entities. In the earlier Act, the services are being licensed by Licensor ie DoT by entering into license agreement with Licensees who wish to provide the services. The terms and conditions of such license agreement are, as recommended by TRAI under Section 11 of the TRAI Act and as approved by the Government. If any change in terms and conditions of the license agreement is required to be done the same requires consultation with TRAI and TRAI recommends on the changes after consulting all the stakeholders. Thus, there is a system of check & balance and reasonable regulatory certainty when a licensee signs a license agreement for a service. It is for this reason only of Section 11 TRAI Act requirement that the Central Government has sent a reference to TRAI to recommend terms and conditions of the Rules to be prescribed under the new Act for provision of telecom services. To safeguard the interest of the proposed Authorized Entities, it should be clearly mentioned in the draft terms and conditions of the Authorization that any change in the draft terms of the Authorization will be done only after following the process required under Section 11 of the TRAI Act of consulting TRAI. This will bring in regulatory certainty as well as transparency in the licensing process and will remove probability of any unilateral change in the terms of authorization and will go a long way in protecting interest of the proposed Authorized Entities.

**Q2. Whether it will be appropriate to grant authorisations under Section 3(1) of the Telecommunications Act, 2023 in the form of an authorisation document containing the essential aspects of the authorisation, such as service area, period of validity, scope of service, list of applicable rules, authorisation fee etc., and the terms and conditions to be included in the form of rules to be made under the Telecommunications Act, 2023 with suitable safeguards to protect the reasonable interests of the authorised entities in case of any amendment in the rules? Kindly provide a detailed response with justifications.**

**Nelco's Response:**

In our opinion, Authorization document under the new Act, which is equivalent to license agreement under the old Act, should contain all the terms and conditions of such authorization for the reason of transparency and business /regulatory certainty. Provision of telecom service is an infra intensive business, and it is desirable to have regulatory certainty in the terms of Authorization for these services. Referring to any applicable Rules will make the Authorization document vague and uncertain. Applicable Rules which are made for the purpose of grant of such Authorization, or which include terms of such authorization should be governed by extant provisions of the new Telecom Act as well as Section 11 of the TRAI Act to safeguard the interests of the proposed Authorized Entities and Rules should be promulgated only after consulting TRAI as per Section 11 of the Act . Any change in the applicable Rules prescribing terms and conditions of the Authorization should be done after following process under Section 11 of the TRAI Act and same needs to be specifically mentioned in the terms and conditions of Authorizations for services as well as in the Rules.

Irrespective, all the applicable Rules which form part of or impact terms and conditions under which Authorization will work and service will be provided by the Authorized Entities, such applicable Rules should be framed post due consultation with TRAI under Section 11 of the TRAI Act and any changes in the terms and conditions of such Applicable Rules should also follow the same process.

**Q3. In case it is decided to implement the authorisation structure as proposed in the Q2 above**

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**(a) Which essential aspects of authorisation should be included in authorisation documents?**

**(b) What should be the broad category of rules, under which, terms and conditions of various authorisations could be prescribed?**

**(c) Whether it would be appropriate to incorporate the information currently provided through the extant Guidelines for Grant of Unified License and Unified License for VNO, which included, inter-alia, the information on the application process for the license, eligibility conditions for obtaining the license, conditions for transfer/ Merger of the license etc., in the General Rules under the Telecommunications Act, 2023?**

**(d) What could be the broad topics for which the conditions may be required to be prescribed in the form of guidelines under the respective rules?**

**Kindly provide a detailed response with justifications.**

**Nelco's Response:**

In our opinion, Authorization document should be as comprehensive as the present-day applicable license agreement as no visible benefit is seen from the same.

Without prejudice to above, such Authorization document should contain scope of service ,service area, period of validity, Renewal of authorization, modification in terms and conditions of Authorization, Applicable Entry / Authorization Fees & Applicable list of Rules.

Broad Category of Rules can be General Conditions of Authorization, Financial Conditions of the Authorization including tariff, Technical Conditions of Authorization, Operating Conditions of Authorization, Security related conditions of Authorization and Rules for Spectrum Allocation & Usage. All these Rules should be framed in consultation with TRAI under provisions of Section 11 of the TRAI Act and no changes to such Rules be made by the Central Government without following the due process of consulting TRAI. This will ensure transparency and a system of check and balances , as envisaged in the statutory scheme.

It would be appropriate that separate Guidelines are issued for Grant of Authorization which include, inter-alia, the information on the application process for the authorization , eligibility conditions for obtaining the authorization, conditions for transfer/ Merger of the authorization etc. as is being done for license regime under the old Act.

Not applicable in view of response to c) above.

**Q4. In view of the provisions of the Telecommunications Act, 2023, what safeguards are required to be put in place to ensure the long-term regulatory stability and business continuity of the service providers, while at the same time making the authorisations and associated rules a live document dynamically aligned with the contemporary developments from time to time? Kindly provide a detailed response with justifications.**

**Nelco's Response:**

Previous License Regime was introduced in 2013 for Unified License and UL VNO License in the year 2016. Comprehensive changes were done in the year 2021 as part of telecom reforms wherein contentious license fee related issues were simplified in accordance with TRAI recommendations of 2015. Since a new Authorization regime is being promulgated under the new Telecom Act 2023 in place of existing unified license regime under the old Act, it gives us an opportunity to make changes in the regime wherever required . However, despite the importance of the issues involved and their long-term ramifications, time provided for responding to this very important Consultation is very inadequate and it is our submission that any hurried consultation is an incomplete consultation and may not fulfil the mandate of Section 11 of the TRAI Act. Having said that it vis our submission that any changes from the terms and conditions in the existing license regime while devising new Authorization regime should be such that it should better than existing terms in the old regime and new Regime should provide for an almost automatic path for migration to the new regime depending upon willingness of the licensee.

Frequent changes in the Authorization regime should be avoided in the interest of regulatory certainty and stability once the terms are decided. Any change in the terms of the Authorization including changes in the Applicable Rules for the Authorization should be done in consultation with TRAI as per provisions of Section 11 of TRAI Act and that this would be done, should form part of the Authorization document to be issued by the Central Government to the Authorized Entity .

**Q5. In addition to the service-specific authorisations at service area level, whether there is a need for introducing a unified service authorisation at National level for the provision of end-to-end telecommunication services with pan-India service area under the Telecommunications Act, 2023? Kindly justify your response.**

**Q6. In case it is decided to introduce a unified service authorisation at National level for the provision of end-to-end telecommunication services-**

**(a) What should be the scope of service under such an authorisation?**

**(b) What terms and conditions (technical, operational, security related, etc.) should be made applicable to such an authorisation?**

- (c) Would there be a need to retain some of the conditions or obligations to be fulfilled at the telecom circle/ Metro area level for such an authorisation?**
- (d) Should assignment of terrestrial access and backhaul spectrum be continued at the telecom circle/ Metro area level for such an authorisation?**
- (e) Any other suggestion to protect the interest of other authorised entities/ smaller players upon the introduction of such an authorisation.**

**Kindly provide a detailed response with justification.**

**Nelco's Response:**

In our opinion, there is no need for introduction of a unified service authorisation at National level, as it will be anti-competitive, will not be good for smaller & niche service providers focussed on providing specific service and will result in additional level of reporting, increased cost and against the interest of consumers.

Service Authorisations are service specific and there are many Service/Authorisations specific service provider providing only that specific service currently. For example, if NLD Service provider is only providing NLD services, then having end to end service Authorisation will be counterproductive, as such service provider will have conditions which will be super-set to meet the various conditions related to Security, Reporting & Monitoring compliance, which are beyond the requirement for NLD service (in this specific example). Security compliances are different and will be of higher level as compared to only NLD services and thus Service provider who is only interested in providing NLD services, will unnecessarily require complying with higher level of security compliance required in such end-to-end service Authorisation. Similarly for reporting, monitoring compliance. In the above NLD was mentioned only as an example, and the same applies to many other services.

Network interconnection compliance is also different for different services depending on nature of service and whether the service is Public or non-Public (Private). Bringing all services under one end-end service authorisation will increase the complexities and will make it difficult for doing business for smaller service providers.

For large service providers which are providing all (or many) such services may be at better position to comply to such consolidated authorisation for services and thus will get competitive benefit over smaller niche service providers. This will also not be helpful to promote innovation in the industry, as niche and specialised service providers may be at a disadvantageous position as compared to larger service providers. There is need for encouraging smaller players, for which they need to be incentivised and enabled by removing bottleneck so that telecom Services needs are better met. The aims of authorisation should be to reduce the disadvantages that smaller service providers otherwise have and also to promote innovation, competition and enable ease of doing business.

Clause 3(2) of the Telecommunications Act states that the Central Government may while making rules under sub-section (1), provide for the different terms and conditions of authorisation for different types of telecommunication services, telecommunication networks, or radio equipment. This acknowledges the requirement for different services and thus need for different terms and conditions for each of the services.

In view of above, we are of the opinion that there is no need of introduction of a unified service authorisation at National level and extant practice of separate authorisation for separate Services should be continued.

**Q7. Within the scope of Internet Service authorisation under the Telecommunications Act, 2023, whether there is a need for including the provision of leased circuits/ Virtual Private Networks within its service area? Kindly provide a detailed response with justifications.**

**Q8. In case it is decided to enhance the scope of Internet Service authorisation as indicated in the Q7 above, -**

**(a) What should be terms and conditions (technical, operational, security related, etc.) that should be made applicable on Internet Service authorisation ?**

**(b) Any other suggestion to protect the reasonable interests of other authorised entities upon such an enhancement in the scope of service.**

**Kindly provide a detailed response with justifications.**

**Nelco's Response:**

As per the extant Internet Service Authorisation, it states that Licensee shall not offer VPN/CUG services to its subscribers, though it can provide lease line as an access to the customer location from its ISP PoP (point of presence).

If an ISP (Internet Service provider) wants to monetize its infrastructure, it should be allowed to provide VPN/lease line services by including provision of leased circuits/Virtual Private Networks within its service area.

It is to reiterate that we are not of the opinion of merging the service authorisation of NLD and Internet Services, as it will have its own complexity and disadvantages. We are of the opinion that the scope of lease circuit/VPN within its service area should be included in the ISP service Authorisation. The Public network should not be allowed to be connected with leased lines/CUG network.

This will open more competition and will be beneficial for the customers as well.

**Q9. Whether there is need for merging the scopes of the extant National Long Distance (NLD) Service authorization and International Long Distance (ILD) Service authorization into a single authorisation namely Long Distance Service authorisation under the Telecommunications Act, 2023?**

**Kindly provide a detailed response with justifications.**

**Q10. In case it is decided to merge the scopes of the extant NLD Service authorization and ILD Service authorization into a single authorisation namely Long Distance Service authorisation under the Telecommunications Act, 2023, -**



**(a) What should be the scope of service under the proposed Long Distance Service authorisation?**

**(b) What terms and conditions (technical, operational, security related, etc.) should be made applicable on the proposed Long Distance Service authorisation?**

**(c) Any other suggestions to protect the reasonable interests of other authorised entities upon the introduction of such an authorisation?**

**Kindly provide a detailed response with justifications.**

**Nelco's Response:**

NLD & ILD are different services with different scope, nature and thus different compliance, network interconnect & other terms. Out of 51 NLD service providers, 26 of them have also taken ILD Service authorisation, whereas 25 of them (approx. 50% of NLD service providers) have not taken ILD Service Authorisation. Similarly, there are 5 stand-alone ILD Service providers who have not taken NLD Service Authorisation.

As the services scope under NLD & ILD are entirely different, there will always be the need for separate mention of associated terms related to security, network interconnect, technical and other compliances.

Considering the above it is suggested to keep the two Service Authorisations separate, so that choice remains with the service providers to decide which service authorisation to take, and there is more competition in the respective Services.

**Q11. Whether there is need for merging the scopes of the extant GMPCS authorization and Commercial VSAT CUG Service authorization into a single authorisation namely Satellite-based Telecommunication Service authorisation under the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.**

**Q12. In case it is decided to merge the scopes of the extant GMPCS authorization and Commercial VSAT CUG Service authorization into a single authorisation namely Satellite-based Telecommunication Service authorisation under the Telecommunications Act, 2023, -**

**(a) What should be the scope of service under the proposed Satellite-based Telecommunication Service authorisation?**

**(b) What should be terms and conditions (technical, operational, security-related etc.) that should be made applicable on the proposed Satellite-based Telecommunication Service authorisation?**

**(c) Any other suggestion to protect the reasonable interests of other authorised entities upon the introduction of such an authorisation?**

**Kindly provide a detailed response with justifications.**

**Nelco's Response:**

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GMPCS and Commercial VSAT CUG services are completely different services as the scope, nature, purpose are entirely different and accordingly the requirement in terms of Security, Network Interconnect, Technical & operating conditions, reporting requirement are all different. While GMPCS is envisaged as Satcom based Public phone service, the Commercial VSAT CUG is specifically meant for providing data connectivity in CUG based services.

The below section provides few differences between the two Authorisations:

Sr. No.	Terms of Authorisation	GMPCS	Commercial VSAT CUG
1	Scope of Services	all types of 'mobile services including voice & non-voice messages, data services'	data connectivity
2	Type of Services	Public	CUG based
3	Network Interconnect	PSTN/PLMN interconnect allowed	PSTN/PLMN Interconnect not allowed
4	User Terminals	As per Condition No 31.3 of Unified License	As per TEC GR/IR
5	Security Conditions	Similar to terrestrial access (Public) services including voice call monitoring & control, details like CLI/CRI information etc	Interception of data communication

Considering the above scope of extant GMPCS authorization and Commercial VSAT CUG Service authorization are found to be quite different from each other. The two authorisations require different kind of Network interconnect, Security, technical & operation requirement.

Considering the above, we feel that there is no point in merging the two authorisations into one. Also, if the two authorisations are merged into one authorisation, it will result into much higher & unnecessary compliance, increased cost and complexity, especially for the Service Providers for Commercial VSAT CUG services.

As there is substantial difference in scope of services and terms of the two authorisations, there is hardly any scope of merging these two authorisations. Therefore, we believe that GMPCS and Commercial VSAT CUG service Authorisation should be kept as separate.

**Q17. Whether there is a need for introducing certain new authorisations or sub-categories of authorisations under the Telecommunications Act, 2023? If yes, -**

**(a) For which type of services, new authorisations or sub-categories of authorisations should be introduced?**

**(b) What should be the respective scopes of such authorisations?**

**(c) What should be the respective service areas for such authorisations?**

**Nelco's Response:**

With strategic objective of making India a Hub for Space eco-system, including Satcom Services, there is need for enabling framework to encourage satellite operators and service providers to install their regional gateways in India in respect of government approved satellite systems. This regional hub may





be used to provide services in India as well as regional markets outside India like South-Asia, South-East Asia, Middle-East etc.

TRAI in its recommendation date 29.11.2022 has already recommended for separate Satellite Earth Station Gateway (SESG) license and same may be added as one of the new authorisations.

**Q18. In view of the provisions of the Telecommunications Act, 2023 and technological/ market developments, -**

**(a) What changes (additions, deletions, and modifications) are required to be incorporated in the respective scopes of service for each service authorisation with respect to the corresponding authorizations under the extant Unified License?**

**(b) What changes (additions, deletions, and modifications) are to be incorporated in the terms and conditions (General, Technical, Operational, Security, etc.) associated with each service authorisation with respect to the corresponding authorizations under the extant Unified License?**

**Kindly provide a detailed response with justifications.**

**Q19. In view of the provisions of the Telecommunications Act, 2023 and technological/ market developments, -**

**(a) What changes (additions, deletions, and modifications) are required to be incorporated in the respective scopes of service for each service authorisation with respect to the corresponding authorizations under the extant Unified License for VNO?**

**(b) What changes (additions, deletions, and modifications) are required to be incorporated in the terms and conditions (General, Technical, Operational, Security, etc.) associated with each service authorisation with respect to the corresponding authorizations under the extant Unified License for VNO?**

**Kindly provide a detailed response with justifications.**

**Nelco's Response:**

With respect to Commercial VSAT CUG Authorisation, following should be considered:

- As the Satellite Connectivity is meant for connecting the remotest areas (un-connected & under connected), hence the USO levy of 5% of AGR paid as License Fee (LF) should be exempted for VSAT Service operators.
- Removal of Entry Fee in case of renewal of service authorization.
- SUC should be reduced from 4% to 1% of AGR, as also recommended by TRAI.

**Q25. Whether there is a need for introducing any changes in the authorisation framework to improve the ease of doing business?**

**If yes, kindly provide a detailed response with justifications.**

**Nelco's Response:**

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Following changes are suggested to be made to the authorisation frameworks from an ease of doing business perspective for Commercial VSAT CUG Authorisation:

1. Remove NOCC frequency plan approvals. NOCC frequency plan approvals were relevant when ISRO was providing satellite capacity through the GSAT program. For other satellite providers, the frequency plan and link budgets are well managed by the satellite operators themselves. DOT should have oversight on the compliance to the Telecom Engineering Centre (TEC) Interface Requirements document. It is not optimal for DOT to approve frequency plan and link budgets for each network prior to deployment and during the lifecycle of a network.
2. Today, spectrum is assigned for satellite services on a carrier-by-carrier basis. This methodology should be changed to allow for a block of spectrum to be assigned. Carrier by carrier assignment is cumbersome and does not allow for dynamic carriers that adapt to change needs of customers, thereby artificially limiting the flexibilities of the Service providers to use resources more productively.

**Q29. What amendments are required to be incorporated in the terms and conditions of authorisations for providing telecommunications services using satellite-based resources in light of the policy/ Act in the Space Sector?**

**Kindly provide a detailed response with justifications.**

**Q30. Whether the provisions of any other Policy/ Act in the related sectors need to be considered while framing terms and conditions for the new authorisation regime?**

**If yes, kindly provide a detailed response with justification.**

**Nelco's Response:**

Commercial VSAT CUG service providers in India should be allowed to use gateways in India to serve neighbouring countries. This would align with the Indian Space Policy 2023 and allow India to position itself as a leader in satellite communication services in the region.

**Q39. In case it is decided to merge the scopes of the extant GMPCS authorization and Commercial VSAT CUG Service authorization into a single authorization namely Satellite-based Telecommunication Service authorization under the Telecommunications Act, 2023, what should be the: -**

- (i) Amount of application processing fees
- (ii) Amount of entry fees
- (iii) Provisions of bank guarantees
- (iv) Definitions of GR, ApGR and AGR
- (v) Rate of authorisation fee
- (vi) Minimum equity and networth of the Authorised entity

**Please support your response with proper justification.**

**Q55. In case of merged extant GMPCS authorization and Commercial VSAT CUG Service authorization into a single authorization namely Satellite-based Telecommunication Service authorization, what should be the format of Statement of Revenue Share and License Fee for each of these authorisations? Please support your response with justification.**

**Nelco's Response:**

As given in our response to Q11, there is substantial difference in scope of services and terms of respective authorisations, there is hardly any scope of merging these two authorisations. Therefore, we believe that GMPCS and Commercial VSAT CUG service Authorisations should be kept separate.

**Q50. In the interest of ease of doing business, is there a need to replace the Affidavit to be submitted with quarterly payment of license fee and spectrum usage charges with a Self-Certificate {with similar content}? Please justify your response.**

**Nelco Response:**

Affidavit should be replaced with Self-certificate (With similar content) as service provider also submits the yearly / annual AGR reconciliation duly certified by Statutory Auditor, and they have power to do special audit of the company records.