

Department of Telecommunications
(Other Service Provider Cell)

No.10-1074/2005

Dated: 31st May 2007

Subject: - Revised “Terms and Conditions- Other Service Provider Category”.

It has been decided to further liberalize the existing Terms and Conditions for Other Service Provider (OSP) Category by permitting Foreign Companies permitted by RBI under the Foreign Exchange Management Regulations and registered under Part-XI (Section 591 to 608) of the Indian Companies Act, 1956 for setting up a place of business in India, for registration under the OSP Category. The revised Terms and Conditions for the Other Service Provider (OSP) Category are enclosed herewith as Annexure.

-Sd/-
(Rajvir Sharma)
Director (CS-I)

To
DDG(C&A) with request to replace the existing terms and conditions with the revised terms and conditions of OSP on DOT website www.dot.gov.in

ANNEXURE

TERMS AND CONDITIONS – Other Service Provider Category

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Preliminary

1. Definitions: - In this part, unless the context otherwise requires:-

- (a) 'Applications Services' means services like tele-banking, tele-medicine, tele-education, tele-trading, e-commerce, call centre, network operation center by using Telecom Resources provided by Authorised Telecom Service Providers.
- (b) 'Other Service Provider' (OSP) means a company providing Application Services.
- (c) 'OSP Centre' means the infrastructure at a location in India used by the OSP for providing the Application Services.
- (d) 'Telecom Resource' means telecom facilities used by the OSP such as Public Switched Telecom Network (PSTN), Integrated Services Data Network (ISDN), Domestic Lease Circuit, International Private Leased Circuit (IPLC) and / or the telecom bandwidth provided by authorised telecom service provider.
- (e) 'Company' means a company registered under Indian Companies Act including Foreign companies permitted by RBI under Foreign Exchange Management Regulations and registered under Part-XI (Section 591 to 608) of the Companies Act, 1956 for setting up a place of business in India.
- (f) 'Domestic OSP' means the OSP providing the Application Services using only the domestic Telecom Resources.
- (g) 'International OSP' means the OSP providing the Application Services using domestic and International Telecom Resources.
- (h) 'Point of Presence' (POP) is a location where OSP places equipment to act as an extension of OSP Centre for collecting and carrying the telecom traffic related to Application Services.
- (i) 'Hot sites' means a standby OSP Centre of OSP which is continuously updated and is ready to takeover the operations of the working OSP centers in case of any disaster or failure.

General Terms & Conditions **for OSP Registration for Domestic or** **International OSP Centre**

1. General Conditions

- (1) Registration may be granted to any company to provide Application Services. These service providers will not infringe on the jurisdiction of other Authorised Telecom Service Providers and they will not provide switched telephony.
- (2) Following shall apply to the OSP requiring registration:
 - (i) A Company may apply for registration to the Authority in the proforma prescribed by the Authority from time to time.
 - (i) A Company may have more than one registration.
 - (ii) As the registration is location specific, any change in the location of OSP Centre shall require amendment in the original registration.
 - (iii) The OSP shall take prior approval of the Authority in case the OSP proposes to change the POP or add another POP.
 - (iv) No license fee is payable.
 - (v) A processing fee of Rs. 1000 is payable alongwith the application for registration in the form of a demand draft from a scheduled bank in favour of Pay & Accounts Officer (HQ), Department of Telecommunications, New Delhi.
 - (vi) The validity of the registration shall be 20 years from the date of issue unless otherwise mentioned in the registration letter.
 - (vii) The validity of the registration may be extended, if deemed expedient, the period of registration by 10 years at one time, upon request of the OSP, if made during the 19th year of the registration period on the terms mutually agreed. The decision of the Authority shall be final in regard to the grant of extension.
 - (viii) The OSP shall inform the Authority of any change in the information stated in the proforma submitted at the time of registration or thereafter.

2. Modifications in the Terms and Conditions of Registration

The Authority reserves the right to modify at any time the terms and conditions of the Registration, if in the opinion of the Authority it is necessary or expedient to do so in public interest or in the interest of the security of the State or for the proper conduct of the telegraphs. The decision of the Authority shall be final and binding in this regard.

3. Restrictions on 'Transfer of Registration'

The OSP shall not, without the prior written consent as described below, of the Authority, either directly or indirectly, assign or transfer this Registration in any manner whatsoever to a third party or enter into any agreement for sub-Leasing and/or partnership relating to any subject matter of the Registration to any third party either in whole or in part i.e. no sub-leasing/partnership/third party interest shall be created. Provided that the OSP can always employ or appoint agents and employees for provision of the Service.

4. Requirement to furnish information:

The OSP shall furnish to the Authority, on demand in the manner and as per the time frames such documents, accounts, estimates, returns, reports or other information in accordance with the rules/ orders as may be prescribed from time to time.

5. Suspension, revocation or Termination of Registration

(i) The Authority reserves the right to suspend the operation of this Registration at any time, if, in the opinion of the Authority, it is necessary or expedient to do so in public interest or in the interest of the security of the State or for the proper conduct of the TELEGRAPH. If situation so warrant, it shall not be necessary for the Authority to issue a notice for seeking comments of the OSP for this purpose and the decision of the Authority shall be final and binding.

(ii) Provided that the Authority shall not be responsible for any damage or loss caused or arisen out of aforesaid action. Provided further that the suspension of the Registration will not be a cause or ground for extension of the period of the Registration and suspension period will be taken as period spent.

(iv) OSP may surrender the Registration, by giving notice to the Authority.

(vii) Breach of non-fulfillment of Registration conditions may come to the notice of the Authority through complaints or as a result of the regular monitoring. Wherever considered appropriate Authority may conduct an inquiry either suo-moto or on complaint to determine whether there has been any breach in compliance of the terms and conditions of the Registration by the OSP and upon such inquiry the OSP shall extend all reasonable facilities and shall endeavor to remove the hindrance of every type.

6. Actions pursuant to Termination of Registration :

(i) If under the Registration Agreement, material event occurs which entitle the Authority to terminate the Registration Agreement, the Authority shall proceed in accordance with the terms and conditions provided in the Agreement.

(ii) On termination or surrender or expiry of the Registration, the Bank Guarantee shall be released to the OSP only after ensuring clearance of all dues, which the OSP is liable to pay to the Authority. In case of failure of the OSP to pay the amounts due to the Authority, the outstanding amounts shall be realized through encashment of the Bank Guarantee without prejudice to any other action(s) for recovery of the amounts due to the Authority without any further communication to the OSP.

Technical Conditions for OSP Registration of Domestic or International OSP Centre

1. Terms & Conditions for OSP Operation

- (1) The OSP shall take the Telecom Resources from a Authorised Telecom Service Provider only.
- (2) The Authorised Telecom Service Providers shall provide resources to the OSP after examining the schematic diagram contained in the registration for OSP and as per the terms and condition of registration.
- (3) Both the Authorised Telecom Service Provider and the OSP shall be responsible for any violation of the terms & conditions for OSP in the use of the Telecom Resources.
- (4) OSP may have Internet connectivity from the Authorized Internet Service Provider.
- (5) OSP is permitted to share the Telecom bandwidth with other activities of the same Company or group of companies. However the OSP shall ensure that there will be a logical separation between the Telecom Resources for OSP and the Telecom Resources for their other activities. There shall be no voice / non voice traffic flow between them.
- (6) Interconnectivity of the International OSP with Domestic OSP is not permitted.
- (7) OSP shall furnish periodic statements about its operational parameters as prescribed by Authority from time to time.

2. Terms & Conditions for Disaster Management of OSP centre

- (1) The domestic OSP is permitted to connect to the dedicated servers provided at the 'Hot Sites' only at the time of disaster with due intimation to the Authority giving connectivity details. Similar arrangements are permitted to the International OSP also. However there shall not be any interconnection between the 'Hot Sites' of domestic OSP and International OSP.
- (2) Domestic OSP Centres of the same Company are permitted to cross map the seats for use during disaster and shall inform the same to the Authority.
- (3) Similar arrangements as 2(2) above are permitted among the International OSP centres of the same Company.

3. Terms & Conditions specific to the Domestic OSP

- (1) Domestic OSP is permitted to have both way PSTN connectivity for the Stand alone OSP centre where there is no other connectivity e.g. lease circuit and virtual private network (VPN).
- (2) Domestic OSP is permitted to have PSTN connectivity with only incoming facility from the Authorised Telecom Service Provider unless otherwise stated in the registration letter where there are other connectivity e.g. lease circuit and virtual private network (VPN).
- (3) Interconnectivity of two or more Domestic OSP Centres of the same Company or group of companies is permitted.
- (4) Domestic OSP is permitted to use Integrated Services Digital Network (ISDN) connections only for the purpose of back up of domestic leased circuits.
- (5) For making outgoing calls, Domestic OSP, with prior written approval of Authority, may terminate the local PSTN lines to their OSP Centres subjected to the following conditions.
 - (a) The Company shall ensure complete separation between such PSTN lines with out-going facility & the other Telecom Resources and there shall not be any call flow between them. Such PSTN lines shall be used for making calls through normal PSTN network only and in no way directly or indirectly cause bypass of licenced National Long Distance Operator (NLDO) jurisdiction. The Company shall be responsible for any violation of this condition by anyone including but not limited to it's employees.
 - (b) The ratio of outgoing PSTN lines to total PSTN lines shall be restricted to 10%. Authority may permit the use of more outgoing PSTN lines on merits.
 - (c) The Company shall submit a security deposit in the form of a Bank Guarantee in the specified format for Rs. 10 Lakhs in favour of the Authority for the period of such permission. In addition the Company shall submit an Affidavit in the prescribed format.
 - (d) Registration for such facility shall be for a period of 3 years. This may be extended for a further period of maximum 3 years after expiry.
 - (e) For extension of registration period beyond 3 years, the OSP shall submit such request for extension alongwith extended validity period of Bank Guarantee, 60 days prior to the expiry date, failing which the registration will lapse without notice.
 - (f) The Authority reserves the right to carry out the audit periodically.
 - (g) If the Authority is satisfied that there has been a violation of any of the conditions, it reserves the right to take punitive action including forfeiture of the security deposit and / or the cancellation of the registration.

4. Terms & Conditions specific to the International OSP

- (1) No PSTN connectivity shall be permitted to the International OSP at the Indian end. PSTN connectivity on foreign end is permitted having facility of both inbound and outbound calls.
- (2) Interconnection of two or more International OSP of the same Company or the group companies may be permitted, with prior written approval of the Authority.

Terms & Conditions for OSP registration for sharing the Infrastructure between International OSP & Domestic OSP

1. General Conditions:

Sharing of the infrastructure by the Domestic OSP and the International OSP shall require prior written approval of the Authority. Such Registration may be granted on fulfillment of the following conditions:-

- a) The domestic OSP Centre and International OSP Centre shall belong to the same Company.
- b) The OSP shall set up call centre having atleast 50 seats.
- c) The OSP shall be responsible for any violation of the terms & conditions of OSP registration by anyone including but not limited to its employees.
- d) The Authority reserves the right to carry out the audit periodically.
- e) If the Authority is satisfied that there has been a violation of the conditions, it reserves the right to take punitive action including forfeiture of the security deposit and / or the cancellation of the registration held by OSP and the company shall be debarred from taking OSP registration for 3 years from the date of cancellation of such registration.
- f) The Directors of the board of a company violating OSP terms and conditions shall be debarred for 3 years from taking, directly or indirectly, OSP registration.

2. Duration of Registration for Sharing the Infrastructure & Bank Guarantee

- (a) This registration shall be valid for a period of 3 years from the effective date unless revoked earlier for reasons as specified elsewhere in the document.
- (b) The Company shall submit a security deposit in the form of a Bank Guarantee in the specified format for Rs. 2.5 Crore for option 1 under term 4(A) of this chapter or Rs. 5 crore for option 2 under term 4(B) of this chapter in favour of the Authority for the period of such Registration. In addition the Company will sign an agreement with the Authority in the prescribed format.
- (c) Any failure to abide by the terms & conditions of Registration shall entitle the Authority to encash the Bank Guarantees and to convert into a cash security without any reference to the OSP at his risk and cost. No interest or compensation whatsoever shall be payable by the Authority on such encashment.
- (d) Without prejudice to its rights of any other remedy, Authority may encash Bank Guarantee and forfeit the security deposit in case of any breach in terms & conditions of the Registration by the OSP.

3. Extension of Registration for Sharing the Infrastructure

- (a) Registration for such facility shall be for a period of 3 years. This may be extended for a further periods of maximum 3 years after expiry.
- (b) For extension of registration period beyond 3 years, the OSP shall submit such request for extension alongwith extended validity period of Bank Guarantee, 60 days prior to the expiry date, failing which the registration will lapse without notice.
- (c) The decision of the Authority shall be final in regard to the grant of extension.

4. Technical Terms & Conditions for sharing the Infrastructure between International OSP & Domestic OSP

(A). OPTION 1

(Separate & Independent EPABX to be used for International & Domestic OSP Centres with sharing of same operator position)

- 1 Interconnectivity of the International OSP with Domestic OSP is not permitted.
- 2 The Domestic OSP centre and international OSP centre shall have non-sharing separate and independent EPABX but may have the common operator position.
- 3 OSP shall ensure that only one call shall be offered to the operator position at a time, be it domestic or international, incoming or outgoing.
- 4 No voice traffic shall flow between the Domestic and international OSP centres and/or cause bypass of the network of the Authorised Telecom Service Providers.
- 5 OSP shall ensure that the system logs are tamper-proof and system logs are preserved atleast for six months. The Authority reserves the right to call for these system logs on demand and also inspect them at site.

(B). OPTION 2

(International & Domestic OSP Centres to share the common EPABX with logical partitioning)

1. Interconnectivity of the International OSP with Domestic OSP is not permitted.
2. The Company shall submit a certificate from the Vendors of the equipment that the software is capable of logically bifurcating the common infrastructure into two separate and independent environments for the Domestic OSP and International OSP Centres.
3. The Company shall ensure the complete logical separation between the activities of the domestic and International applications. No voice traffic shall flow between the Domestic and international OSP centres and/or cause bypass of the network of the Authorised Telecom Service Providers.
4. OSP shall ensure that the system logs are tamper-proof and system logs are preserved atleast for six months. The Authority reserves the right to call for these system logs on demand and also inspect them at site.

SECURITY CONDITIONS

1. Right to inspect.

(i) The Authority or its authorized representative shall have right to inspect the sites used for extending the Service and in particular but not limited to, have the right to have access to leased lines, junctions, terminating interfaces, hardware/software, memories of semiconductor, magnetic and optical varieties, wired or wireless options, distribution frames, and conduct the performance test including to enter into dialogue with the system through Input/output devices or terminals. The OSP will provide the necessary facilities for continuous monitoring of the system, as required by the Authority or its authorized representative(s). The Inspection will ordinarily be carried out after reasonable notice except in circumstances where giving such a notice will defeat the very purpose of the inspection.

(ii) Wherever considered appropriate Authority may conduct any inquiry either suo-moto or on complaint to determine whether there has been any breach in compliance of terms & conditions of the Registration by the OSP and upon such inquiry the OSP shall extend all reasonable facilities without any hindrance.

2. Prohibition of certain Activities by the OSP.

(i) The OSP shall not engage on the strength of this Registration in the provision of any other Service requiring separate Licence / permission.

(ii) The OSP shall take necessary measures to prevent objectionable, obscene, unauthorized or any other content, messages or communications infringing copyright, intellectual property etc., in any form, from being carried on the network, consistent with the established laws of the country. Once specific instances of such infringement are reported to the OSP by the enforcement agencies, the OSP shall ensure that the carriage of such material on the network is prevented immediately.

3. Security Conditions:

(i) The OSP shall make available on demand to the person authorized by the Authority, full access to their equipments for technical scrutiny and for inspection, which can be visual inspection or an operational inspection.

(ii) OSP will ensure that their equipment installations should not become a safety hazard and is not in contravention of any statute, rule or regulation and public policy.

(iii) The OSP shall be required to provide the call data records of all the specified calls handled by the system at specified periodicity, as and when required by the security agencies.

Miscellaneous

1. General

- (1) OSP shall abide by all the conditions that may be imposed by the Authority from time to time.
- (2) The OSP shall be responsible for any violation of the said rules by anyone including but not limited to its employees. OSP shall also be responsible for the correctness of the information furnished.
- (3) Authority reserves the right to take appropriate action for any violation including cancellation of registration.

2. Arbitration

- (1) In the event of any question, dispute or difference arising under this Registration, or in connection thereof, except as to the matter, the decision of which is specifically provided elsewhere under this Registration, the same shall be referred to the sole Arbitrator appointed and nominated by the Authority and may be called, hereinafter the "ARBITRAL TRIBUNAL" who shall pronounce a reasoned award to settle the said dispute.
- (2) The venue of Arbitration shall be New Delhi or as may be fixed by the ARBITRAL TRIBUNAL anywhere in India.
- (3) The arbitration proceedings shall be conducted in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 and rules framed thereunder or any modifications or re-enactment thereof made from time to time.