

Other Service Provider Guidelines – Another Step Towards Liberalisation

written by Sadia Akhter | November 9, 2020



The New OSP Guidelines: Enhancing the Ease of Doing Business

India has emerged as one of the most attractive destinations not only for investments but also for doing business. India has jumped 79 positions from 142nd in 2014 to 63rd in 2019 in 'World Bank's Ease of Doing Business Ranking 2020'.^[1] Keeping up with the ambition, the Department of Telecommunications ("DOT"), the Government of India, on November 5, 2020, has further brought new guidelines to govern Other Service Providers ("OSP"), thereby further liberalising the IT/ ITeS/ BPO Industry.^[2]

An OSP is a company that is registered under the Companies Act, 2013 or Limited Liability Partnership Act, 2008; or a partnership firm or an organisation registered under the Shops and Establishment Act, or a legal person providing voice-based Business Process Outsourcing services. It includes services like tele-marketing, call centres, network operation centres, e-commerce, etc.

Since March, the government has been amending the terms and conditions of the Work from Home ("WFH") scenario with the aim of providing relief to the companies from the COVID-19 stricken world. The new guidelines permanently liberalises the WFH scenario.

The New Guidelines - New OSP Guidelines

Prior to the new guidelines, OSPs were required to get itself registered with the Telecom Enforcement, Resource and Monitoring ("TERM") Cells under the DOT. With a remarkable move, DOT has completely done away with the requirement of the registration certificate for OSP centres in India with the new guidelines. Further, the BPOs involved in data-related work have been taken outside the scope of the OSP guidelines.

The biggest relief apart from registration would be eliminating the need for a bank guarantee for facility or dispensations. Previously, a bank guarantee for WFH of one crore was required. This is going to provide a huge commercial relief to OSPs. Further, frequent reporting obligations have been removed. However, Bypass of Licensed International Long Distance Operator and National Long Distance Operator jurisdiction is not permitted.

Disciplinary Measure

It is noteworthy that the guidelines do not have penal provisions. However, the OSPs do have responsibilities and obligations that they have to abide by like:

- Ensure that the system logs are tamper-proof;
- CDRs / all logs of the activities carried out by the Extended Agent shall be maintained for one year;
- OSP shall be responsible for any violation related to toll-bypass;
- In case of infringements, OSP shall ensure that the carriage of such material is prevented immediately.

Electronic Private Automatic Branch Exchange ("EPABX")

OSP's can now have a distributed architecture of EPABX for their OSP centres across India, with the main EPABX at a centralised location and media gateways at individual OSP centres, where the EPABX is owned by OSP. The provisions of sharing the infrastructure would apply in that case. However, due to security concerns, the location of EPABX and the client's Data Centre of Domestic OSPs shall be within India.

Further Reliefs

Further, additional dispensations are provided in order to enhance flexibility for the IT/ ITeS/ BPO Industry. Requirements that were preventing companies from adopting 'Work from Home' and 'Work from Anywhere' have been removed. The OSPs have been permitted to operate from home and work from anywhere in India. They are also permitted to operate by infrastructure sharing and centralised EPABX. Additionally, some of the permissions granted under the new guidelines are:-

- Interconnectivity among different OSP Centres belonging to the same Company or group of companies or different companies;
- Interconnectivity among International OSP;
- Interconnection of Remote Agent to the OSP centre/resources;
- Shared infrastructure between Domestic OSP and International OSP;
- OSP having multiple centres may obtain internet connection at a centralised location and this internet can be accessed from other OSP centres using leased circuits/ MPLS VPN.

Further, the concept of work from home and work from anywhere will be treated as an Extended Agent Position/ Remote Agent of the OSP.

Conclusion

The move has garnered applaud from many industrialists and businessmen. This indeed will provide the much needed simplicity and convenience for the OSPs and further the objective of ease of doing business. It is amazing to observe how a single law will have a ripple effect on the economy in the long run. The elimination of the requirement to obtain registration and reducing the compliance requirement will significantly boost and expand access to talent, increase job creation, the advancement of technological sectors, in doing so making India a global tech hub.

Global companies have already started opting for the newer methods to run the business. Across the globe, companies have embraced work-from-home as a permanent solution for their employees. One of the benefits would be that the real estate expense would come down. Keeping this intention companies like Deloitte have decided to close down four of its British offices and retain all of the employees on permanent work-from-home contracts. Further, many companies such as Twitter, Facebook, BitPay, Hindustan Coca-Cola Beverages,

etc. have decided to allow the WFH scenario to last forever.

To be forthright, this move was anticipated and many more are expected to come, and it is to be seen what more changes come along the way.

[1][https://www.makeinindia.com/eodb#:~:text=INDIA%20%E2%80%93%20EASE%20OF%20DOING%20BUSINESS,Business%202020%3A%20World%20Bank%20Report.&text=India%20jumps%2079%20positions%20from,of%20Doing%20Business%20Ranking%202020'](https://www.makeinindia.com/eodb#:~:text=INDIA%20%E2%80%93%20EASE%20OF%20DOING%20BUSINESS,Business%202020%3A%20World%20Bank%20Report.&text=India%20jumps%2079%20positions%20from,of%20Doing%20Business%20Ranking%202020)

[2]<https://static.pib.gov.in/WriteReadData/userfiles/OSP%20Guidelines%2005.11.2020.pdf>

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