



RCOM Response to the TRAI Consultation Paper

on

Mobile Value Added Services

August 23, 2011

RCOM RESPONSE: TRAI CONSULTATION PAPER

Executive Summary

1. TRAI by initiating the consultation paper has laid the platform for all stakeholders to comment and place their views in order to take the development and enhancement of this evolving vertical with respect to devising a framework of guidelines, commercial arrangements and operational efficiency that would be catalysts in increasing the scope and expansion of VAS.
2. For the Indian VAS Market to grow rapidly to meet expected demands of the 3G technology, all stakeholders will have to work together to create a self sustaining ecosystem for this growth to sustain. The Competitive edge on MVAS delivery and, not licensing, will be the key and would take the joint efforts of the VAS eco-system as well as the Operator to address significant roadblocks and thus unlock the true potential of mobile VAS.
3. The synergy and commercial understandings between the service providers and the VASP's will provide the differentiators for the Consumer to opt between Operators for Content. Hence, it is not appropriate that there be any stringent conditions like licensing, guideline on Revenue share model between the VASPs and the Service Providers. Such regulations would stop innovations and may retard growth of VAS services.
4. Globally Mobile VAS industry has worked under Free Market Practices, very much like FMCG companies. There are enough laws and regulations as Law of the Land to govern VASPs. Any further regulation would only hamper creativity, innovation and its growth. ***Licensing may not be a favourable proposition the VAS industry simply for the fact that while we are trying to deregulate most sectors of Business and largely the entire economy, it may not be appropriate***

to contain this segment which is largely Web-oriented and which does not entail obtaining a License for launching a Portal. The activity does not squarely fall under the category to be licensed under Section 4 of the Indian Telegraph Act, 1985.

5. Further, Authority is requested **not to intervene and regulate revenue share** arrangement between service providers and VAS providers. There are complexities in deciding the revenue share as costing of content like music, video clips, and games, mobile application etc is a herculean task and cannot be uniformly decided as it is not a standard commodity. Further revenue share depends on demand and acceptability of a particular service. The competitive market forces are most appropriate mechanism for revenue share arrangements. The TRAI intervention may distort the market and may not be in the interest of the growth of VAS services. Further **such regulations may lead to innumerable litigations.**

6. TRAI has sought comments on **disputes between VAS providers and service providers on Billing issues.** It is not possible to eliminate such differences considering the two entities work on different platforms of Database. The **existing agreements cover how such differences are to be addressed and the same are normally adequate to handle such situations.** There is no need of regulatory intervention for resolution billing disputes.

7. With regard to short codes it is submitted that there are number of content providers who have been able to brand their content and offer services directly to the subscribers across all service providers. The existing arrangement has stood test of the time and we do not consider there is any need to change the existing practice. However, the licensor may maintain few short codes which can be centrally allocated to various government departments or utilities for delivery of government services. **In view of this it is suggested that the existing practice of allocating short codes by service providers should continue.**

RCOM comments on specific issues raised in the consultation paper are given below:

RCOM Comments on Specific Questions

1) Whether the current provisions under various licences (UASL, CMTS, Basic and ISP) are adequate to grow the MVAS market to the desired level? If not, what are the additional provisions that need to be addressed under the current licencing framework?

&

2) Is there a need to bring the Value Added Service Providers (VASPs) providing Mobile Value Added Services under the licensing regime?

&

3) If yes, do you agree that it should be in the category of the Unified Licence as recommended by this Authority in May 2010? In case of disagreement, please indicate the type of licence along-with the rationale there of.

Globally Mobile VAS industry has worked under Free Market Practices, very much like FMCG companies. There are enough laws and regulations as Law of the Land to govern VASPs. Any further regulation would only hamper creativity, innovation and its growth.

To a great extent, marketing VAS is like marketing cheese and chocolates. User preference determines sales. The dynamics of this content and trend based output is likely to evolve with such pace that with already changing business models, it may not be possible to contain them within licensing.

Licensing may not be a favourable proposition the VAS industry simply for the fact that while we are trying to deregulate most sectors of Business and largely the entire economy, it may not be appropriate to contain this segment which is largely Web-oriented and which does not entail obtaining a License for launching a Portal.

To maximize the advantage that 3g technology presents, Operators will have to develop and deploy innovative services that will appeal to subscribers. Mobile phones have gone beyond their fundamental role of communications and have graduated to become the extension of the personality of the subscribers. Phones are no longer only to get in touch but to express themselves, their attitudes, feelings and interest and for these reason, subscribers always want more from their phones.

The creation of a separate licensing regime for mobile VASPs would be analogous to doing the same for the innumerable companies providing innovative Internet-based services. Like their Internet-based counterparts, mobile VASPs rely on an ability to innovate quickly and promote their products swiftly. An entirely new and VASP-focused licensing regime would be antithetical to the objective of creating an environment in which VASPs can perform at their true potential.

For applications like tele-banking, tele-medicine, tele-education, tele-trading, e-commerce etc have been allowed to operate under the NTP'99 by using infrastructure of access providers. The mobile value added service providers which are using telecom infrastructure of other access providers to deliver content may also continue to be allowed under the same non-licensed regime. Since content providers do not own telecom infrastructure, it would not be appropriate to license them under the India Telegraph Act, 1885.

Further, there are various types of content and services providers and there is an entire supply chain for content, therefore it would be a difficult and humungous task to devise and cover each kind of a content provider by a suitable license. Therefore, it is suggested that the content providers who are delivering services to subscribers using telecom infrastructure of access providers should continue to operator in a non-licensing regime.

Bringing small entities under the licensing regime will unnecessary prolong the process of any such entity getting started.

4) **How do we ensure that the VAS providers get the due revenue share from the Telecom Service providers, so that the development of VAS takes place to its full**

potential? Is there a need to regulate revenue sharing model or should it be left to commercial negotiations between VAS providers and telecom service providers?

There are various business models prevailing between VAS providers and Service Providers. Different types of arrangements possible for production, delivery and marketing of VAS. It is not a simple thumb rule.

Different Business Models

One option is where-in, a large VASP may only be looking at the Service Provider as an access channel to the customer, where-in entire marketing, service management and customer charging (through Banking channels) would be handled by him.

Second option would be where a small/ medium creative content provider would look to Service provider for technology, billing, access, brand and marketing and promotions. The dependency of this VASP on Service Provider for Infrastructure may be entirely different.

With the above two extreme cases of VASP-Service Provider business arrangements, there are various bands/ categories that may exist hence it may not be possible to have any fixed regulations/ business models.

Moreover, the quality of content and the pace of changes in End-user pricing are large determinants of changing the Revenue-share, hence this should be left to market dynamics, rather than regulating it.

Additionally, mobile operators are as keen to market VAS as VASP's as it brings additional component of monetization to their investments. End User process and Revenue share depends on demand of the service and its sale. Demand is further a factor of service benefits and its affordability.

There is no need to regulate revenue share as the revenue share is determined by commercial agreements and these are driven by market dynamics. The revenue share models depend on acceptability/demand of the product and the regulatory intervention

is going to distort the market dynamics. Generally, the government intervention is needed when the markets are failing and there is not enough competition.

Quality of Content

If we regulate the commercial agreements, it might hamper the overall growth of the telecom industry. Today also the agreements for revenue share are driven purely by market forces. If a service/product has enough market pull, VAS providers would get higher revenue shares. A low quality, low demand service cannot be provided same compensation as high quality and high demand services.

The Indian telecom sector is enough competitive and it would not be appropriate to intervene and decide the revenue share arrangements between service providers and content providers.

The Authority has also used the term “Premium Rate Service” in its directions for content based value added services. These services by name are premium and not basic or utility services. Across the world Governments typically intervene and regulate prices, if industry is providing utility service. Rarely intervention is seen in commercial issues relating to the premium rate services and generally regulators focus only on consumer related issues. The content based value added services, being premium services, the Authority’s intervention would not help in the growth of these services.

Cost of Content Creation

Further, there are innumerable content services like online and offline gaming, video and audio streaming, stock quotes, news and cricket quotes, tele-voting, chatting, astrology etc. Each service differs in content, cost and demand and is aimed at different segment of consumers. Therefore, there cannot be a standard revenue arrangement for all content based services.

Considering the complexities in deciding the revenue share, content based services being premium services, the market being competitive and there being innumerable value added services, we strongly suggest that there should not be any regulated revenue share model and it should be left to the commercial negotiations.

5) At the same time, how do we also ensure that the revenue share is a function of the innovation and utility involved in the concerned VAS? Should the revenue share be different for different categories of MVAS?

&

6) Do you agree that the differences come up between the MIS figures of the operator and VAS provider? If yes, what measures are required to ensure reconciliation in MIS in a transparent manner?

The flexibility to handle the operations with respect to managing transactions on Customer accounts, the Service provider has the following scenarios that are possible to emerge :

- VAS Billing is offline/non real time
- There are waivers posted on customer request
- In case of post-paid customers, billing errors are encountered.
- Some other operational issues which may come up from time to time
- Contractual penalty application on VASP on account of violations or customer complaints

From the VASP perspective, issues likely to emerge

- Wrong billing configurations
- Wrong MIS
- Not including penalty and other contractual deductions
- Operational issues at VASP end.

It is not possible to eliminate such differences considering the two entities work on different platforms of Database. Most agreements cover how such differences need to be addressed and the same are normally adequate to handle such situations. There is no need of regulatory intervention.

7) Does existing framework for allocation of short codes for accessing MVAS require any modifications?

i) Should short codes be allocated to telecom service providers and VAS providers independently? Will it be desirable to allot the short code centrally which is uniform across operators? If yes, suggest the changes required along with justification.

ii) Should there be a fee to be paid for allotment of short code?

At present short codes are allocated by the service providers.

There are number of content providers who have been able to brand their content and offer services directly to the subscribers. The existing arrangement has stood test of the time and we do not consider there is any need to change the existing practice.

It is recommended that the DOT may retain few short codes for common Utility Services across all Operator platforms or other m-gov services.

In view of the above, we suggest that the existing practice of allocating short codes by service providers should continue.

8) Is there a need to provide open access to subscribers for MVAS of their choice?

i) If yes, then do you agree with the approach provided in para 2.46 to provide open access?

ii) What other measures need to be taken to promote open access for MVAS? Suggest a suitable framework with justifications?

Open Access to VASP already exists as he can have his wap-site/mobile client, take a 10 digit short-code or toll-free no for Voice and SMS. Needless to say, in such cases, there can not be any revenue share with VASP and he needs to find a way to charge customers through banking and other non service provider channels. No further provisions on this account are recommended.

Unless the VASPs are venturing into large scale operations, it has not been found feasible for a small entrepreneurial VASP to engage into establishment of a complete Commercial customer level accounts and Billing infrastructure which requires interface with Banks and much preparedness other than just content to launch the service/application.

9) What measures are required to boost the growth of utility MVAS like m-commerce, m-health, m-education & m-governance etc. in India?

Various government agencies are today engaged in providing Socio-economic development through various initiatives in commerce, education, health through technological and procedural innovations. The government should take lead to provide MVAS services in the field of commerce, education, health, governance etc. For example, Information services for many departments, like weather alerts for farmers, important tips for farming, inputs of pricing for seed purchase etc are essential inputs beneficial to masses and have a wide acceptance as well as utility.

Information regarding departments should be made available to citizens via text on their mobile phones. The services are made available either on-demand, wherein the citizen can send in the query via text, to which the answer will be send, or through subscribed services.

Active integration of relevant Government bodies to dwell upon such opportunities to provide maximum online assistance to the public will ensure success of the Mobile VAS segment. The various areas that may be explored are :

m-Commerce

Stock Updates, Banking Updates, Banking transactions, Information on various investment portfolios. The Government and RBI have taken number of policy decisions which would facilitate and enhance adoption of m-banking services.

m-education

Results, Admission details, Exam schedules, general updates on career opportunities and vocational training, school and college interactive transactions, School-Parent engagement initiatives.

Law enforcement and Governance

Providing real time information, immediate reporting, reducing delayed access of complaints/ alerts from rural areas. The SMS-based information disbursement by law enforcement and governance authorities would reduce Turn around time for correctives and hence result in a better and more secure system.

Service Delivery & Complaint Redressal

Quality of Service and Customer Satisfaction being the key concerns of the Government coupled with transparency, the MVAS platform provides an excellent medium to showcase the transparency with respect to civil bodies also present in every geographical unit in the country. Few examples of assisting Citizens through MVAS would be Registration of Births and deaths, land, issuance of Ration card and Information disbursement on various Tax categories.

Over and above they are also an efficient source of communication Citizens to report to authorities for any service requests.

The above are just a few basic examples of applicability of VAS for the betterment of Society.

10) Should the tariff for utility services provided by government agencies through MVAS platform be regulated?

Development of utility services provided by government agencies through the VAS model in India will soon begin emerging as the need to integrate the rural segments and their socio-economic growth synergise with the technology available with the VASPs and Service providers. Service providers are pro-actively interconnecting with government agencies to provide these services.

The TRAI should only intervene in case there is an evidence of higher charges by service providers. We believe the market is functional and any charges if levied are reasonable.

In view of this we suggest there should be any regulation of tariff for utility services provided by the government.

Any other suggestions with reasons thereof for orderly growth of mobile value added services?

Specify inter-operable standards for network based services like P2P MMS so that services are available across networks. Subscribers expect that the network based value added services like P2P MMS are delivered to networks other than the originating network. Customers and end-users are disappointed when such MMS do not cross the network boundary;