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भारत संचार निगम लिमिटेड
(भारत सरकार का उपक्रम)
BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)

To,

Advisor (F&EA)

Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg,
(Old Minto Road), New Delhi-110002

(Kind attention: Shri Amit Sharma)

No. Regln/317-1/2018/8266

Dated: 1st April; 2019

Sub: Comments on Consultation Paper on “Review of Per Port Transaction Charge and Other Related Charges for Mobile Number Portability”.

In reference to TRAI’s Press Release no. 15/2019 dated 22.02.2019 regarding Consultation Paper on “Review of Per Port Transaction Charge and Other Related Charges for Mobile Number Portability”, the comments from BSNL on Consultation Paper are as below:

Q1. Whether the ‘Per Port Transaction Charges’ should continue to be calculated based on the methodology adopted by TRAI during the review done in the past? If not, please suggest methodology and supplement it with the detailed calculations indicating costs of hardware, software and other resources etc.

Q2. While calculating ‘Per Port Transaction Charge’, whether the total number of MNP requests received by MNPS or successfully ported numbers be considered? Please justify your response.

BSNL Response on Q1 and Q2:

The Authority’s kind attention is invited to Sub regulation (2) of Regulation (6) of “Telecommunication Mobile Number Portability per Port Transaction Charge and Dipping Charge Regulations, 2009 dated 20th November 2009”, wherein the Authority has notified that:

“The Authority may review and modify the Per Port Transaction charge and Dipping charge at the end of one year from the date of these regulations coming into force.”

However, the Authority could not review the same even after more than eight years of implementation of aforesaid regulations. As per Regulation (3) of above said Regulations, the Authority had notified the Per Port Transaction charge to be **rupees Nineteen.**

Estimation of Per Port Transaction Charge:

In November 2009, the Authority worked out the 'Per Port Transaction Charge' of Rs. 19/- based on the estimated financial data and other information submitted by the two MNPSs. The Authority considered the lower of the cost of the two MNPSs i.e Zone-2 MNPS. The Per Port Transaction Charge was computed by dividing the total estimated cost for 5 years to the MNPS by the estimated number of porting subscribers over a period of 5 years. Authority has used the cost plus methodology.

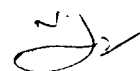
In order to review the 'Per Port Transaction Charge', the Authority may follow the same principles to calculate Capital and Operational cost as were followed during previous estimation in November 2009. To review the PPTC, the Authority has considered the data for the year 2016-17 (i.e. audited accounts and MNP requests). However, it can be argued that there is huge spike in MNP requests in the year 2017-18. This spike is because of Forced Porting due to closure of the Services by several TSPs during this period. Further, it may also be noticed that there is significant decline in porting requests in the year 2018-19. Hence, it is appropriate that the computation may be done on the basis of data for the year 2016-17 and thereafter it may be reviewed on yearly basis.

Many TSPs had to shut down their services in past, as a result the subscribers of such TSPs were forced to opt for MNP facility. In this situation a large number of subscribers had to forcibly opt for the porting option and liable to pay Porting Charge to recipient operator (RO). Since the Per Port Transaction Charge (PPTC) is the amount which the recipient operator (RO) is allowed to collect from the subscriber, considering the forced porting of the bulk subscribers due to the closure of the services, the charge in such cases should be waived off in the interest of the consumers. It is unwanted burden on consumers. However, in current scenario of fierce competition, to lure customers, the RO bears this cost from its revenue. Hence, the Authority may consider to suitably compensate the TSPs for paying PPTC to MNPS for the forced porting of ports.

Here, it is worth mentioning that MNPSs has earned extra ordinary profit in the year 2017-18 for increased MNP cases without making significant extra expenses into the MNP system. Also, as the Authority could not review the PPTC on yearly basis, MNPSs had again earned extra profit for the entire period of eight years. The Authority should necessarily consider to suitably compensate the TSPs for paying extra PPTC to MNPS for not reviewing the PPTC in time. This extra amount paid to MNPSs by TSPs may be adjusted in the total costs of MNPS for computing the PPTC now.

Hon'ble High Court of Delhi in its judgement dated 08.03.2019 on W.P. (C) 1507 & 1508 of 2018, in the case of M/s Syniverse Technologies (India) Pvt. Ltd and M/s MNP Interconnection Telecom Solutions India Private Limited V/s TRAI and others has observed that-

"If TRAI was inclined to compensate MNP service providers only for successful porting requests, then the number of successful porting



requests should have been utilized to determine the PPTC. It is wholly arbitrary and unreasonable to arrive at a figure by incorporating a particular factor and then employ that very same figure to a completely different variable.”

Hence, it is obvious while computing PPTC, only successful porting requests should be considered as the MNPS should be paid for successful port outs only.

Q3. Should the charges for ‘Per Port Transaction’ and ‘ancillary services’ be determined separately or consolidated charges. Please justify your response along with detailed calculations indicating cost of hardware, software, other resources and overhead etc. in addition to the rationale for adoption of the method suggested by you.

BSNL Response:

Compensation for network up gradation by MNPS:

With the implementation of “Telecommunication Mobile Number Portability (Seventh Amendment) Regulations, 2018 (9 Of 2018) dated 13th December 2018, the mobile number portability requires some modification in both hardware and software at the MNP service provider’s end, so as to make their system compliant to new seventh amendment regulations. The MNP SP may argue that the expenditure thus incurred needs to be compensated.

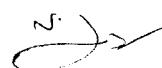
In this context relevant clauses of MNP licences governing the MNP service providers read as follows:

“5. The Licensee shall incur all the capital expenditure and operational expenditures. It may be noted that the system will need to cater to mobile number portability requirement for whole of the licensed MNP zone in a phased manner.

6. LICENSEE shall be solely responsible for installation, networking and operation of necessary equipment and systems for provision of SERVICE, treatment of telecom operators complaints, issue of bills to the UAS/CMTS licensees of its MNP zone, collection of its component of revenue, attending to claims and damages arising out of his operations.

7. LICENSEE shall be solely responsible for successful implementation/ operation of MNP services and to resolve the issues of interconnections/ interfaces in respect of present networks/ services as well as future networks/ services of the Basic, CMTS, UAS, NLD and ILD operators at its own cost. However, the costs of upgradation, operation and maintenance of network of Telecom Service Providers to support MNP in its network shall be borne by the respective telecom service providers.”

Similarly, all TSPs have to bear the cost of modification of their systems (Hardware, software, AMCs etc).



The Authority has made provision of ancillary service charges payable to MNPS in the Telecommunication Mobile Number Portability (Seventh Amendment) Regulations, 2018, for some activities to be performed. However, the provision for ancillary service charges is subject to consultation through this paper.

The Authority has mentioned some activities, such as Number Return, Database download, Port cancellation, Subscriber reconnection and NPD etc. Broadly, above mentioned activities are part of complete MNP system function. These should not be named as separate services. For example, TSPs are never supposed to charge subscribers for missed calls, service calls, complaint handling, database handling, and billing activities etc-etc., TSPs have also invested heavily and aligned adequate resource to perform and complete such activities to function a telecom systems usefully. Investments made towards all such activities are subsumed in call charges only.

Hence, the activities which are being named as ancillary services may be considered part and parcel of entire MNP system. While computing PPTC, the entire cost for MNP system has been taken into consideration, there should be no room for separate ancillary charges. It will make the process very complex to break the cost for different-different activities, compute separate charges, keep separate accounting and bill them. Hence, only one charge i.e. 'Per Port Transaction Charge' may be made applicable and cost of all other charges termed as 'ancillary charges' may be subsumed in the 'Per Port Transaction Charge'.

Q4. Whether the Dipping charge, which is presently under forbearance, needs to be reviewed? If yes, suggest the methodology to determine the rate of dipping charge. Support your response with justification.

BSNL Response:

No review is required.

Q5. Whether the porting charge payable by the subscriber to the recipient operator should continue to be prescribed as a ceiling charge as per the current practice. If no, please suggest methodology and various considerations for calculating porting charge payable by subscribers.

BSNL Response:

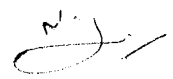
Yes, the current practice may be continued. As due to fierce competition in telecom sector, customers are not being charged for PORT IN by TSPs.

Q6. Any other relevant issue that you would like to highlight on the MNP related charges?

BSNL Response:

BSNL recommend the following issues for consideration of the Authority.

1. No "Per Port Transaction Charge" in case of Forced Porting due to Closure of the Services:



Recently the tough financial conditions due to fierce competition in Indian telecom industry has forced several TSPs to close their services. Due to the closure of the services, the subscribers of such TSPs are forced to do porting to other service providers of their choice. As per Regulation, such subscribers are liable to pay "Porting charge" to Recipient Operator (RO) subject to ceiling of PPTC. However, in current market conditions TSPs are not charging to PORT-IN customers but TSPs have to bear this cost and pays PPTC to MNPSP.

Considering the forced porting of the bulk subscribers due to the closure of the services, the charge in such cases should be waived off in the interest of the consumers. It is unwanted burden on consumers. The Authority may consider to suitably compensate the TSPs for paying PPTC to MNPSP for the forced porting of ports. It is suggested that Authority should bear such amount of compensation from the collection of various financial disincentives or TCPF etc.

2. Review of PPTC on yearly basis:

While issuing the Principal Regulations in 2009, TRAI had stated that they may review and modify the PPTC at the end of one year from the date of regulations coming into force, however, the review of the same has been initiated after eight years of implementation of the MNP. This has forced TSPs to pay extra money to MNPSPs over this period.

Hence, the "Per Port Transaction Charges" should be reviewed on a yearly basis.

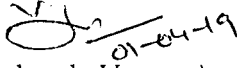
3. The Authority had notified the PPTC as Rs 4/- through "Telecommunication Mobile Number Portability per Port Transaction Charge and Dipping Charge [Amendment] Regulations, 2018, on 31.01.2018. These Regulations were quashed by Hon'ble High Court of Delhi on 08.03.2019.

Now the Authority has started consultation process to review the PPTC. In this connection we recommend that the new PPTC shall come into force from the 31.01.2018. (i.e. the date when PPTC @ Rs 4/- was made effective.)

4. Deduction of PPTC from Gross Revenue:

The recipient operator (RO) collects "Per Port Transaction Charge" from subscriber in the name of "Porting Charges" and pays it to MNPSP, since nothing is retained by RO. Hence, it is not justifiable to levy license fee on the same by DoT. We request the Authority to recommend DoT to allow the Per Port Transaction charge paid by the RO to MNPSP may be deducted from the Gross Revenue for calculating the AGR for the purpose of the payment of license fee.

Yours sincerely


(Ved Prakash Verma)
AGM (Regln-II)