



RSM/COAI/2019/195

November 04, 2019

Shri. Syed Tausif Abbas,
Advisor (NSL),
Telecom Regulatory Authority of India (TRAI),
Mahanagar Door Sanchar Bhawan,
J.L. Nehru Marg, (Old Minto Road)
New Delhi – 110002.

Subject: COAI Response to the TRAI Consultation Paper on “Reforming the Guidelines for Transfer/Merger of Telecom Licenses”

Dear Sir,

This is with reference to the TRAI Consultation Paper on “**Reforming the Guidelines for Transfer/Merger of Telecom Licenses**” released on September 19, 2019.

In this regard, please find enclosed COAI response to the Consultation Paper.

We hope that our submission will merit your kind consideration and support.

With Regards,

Yours faithfully,

Rajan S. Mathews
Director General



Response to the TRAI Consultation Paper on Reforming the Guidelines for Transfer/Merger of Telecom Licenses on September 19, 2019

At the outset, COAI welcomes the opportunity to comment on the TRAI Consultation Paper on Reforming the Guidelines for Transfer/Merger of Telecom Licenses.

Please find below our response to the issues raised in the Consultation Paper. Kindly note that our comments are only with respect to the simplification and speeding up of the current process involved in the Transfer/Merger of Telecom Licenses.

Issue Wise Response:

- i). What reforms are required to be made in the existing guidelines on Transfer/Merger of Licenses to enable simplification and fast tracking of approvals? Kindly provide clause-wise response along with detailed justification.

COAI Response:

We would like to highlight the following points which need to be reviewed in the existing guidelines on Transfer/Merger of Licenses to enable simplification and fast-tracking of approvals:

1) No separate approval should be required from Licensor after the Transfer /Merger of the licenses is sanctioned by Tribunal/Company Judge:

- a) DoT vide its Amendment dated 24.09.2018 in the Guidelines for Transfer/Merger of various categories of Telecommunication service licenses/authorisation under Unified License (UL) on Compromises, arrangements and amalgamation of the companies dated 20.02.2014, added a point in Clause 3 (a) that

After the scheme is sanctioned by the Tribunal/Company Judge, the Licensor will provide its written approval within 30 days of receipt of request for approval to the transfer/merger of licenses/authorizations under Unified License.

- b) Further, when proposal for Transfer/Merger is filed before the Tribunal or the Company Judge, the licensor is notified and representation/ objection, if any, by the Licensor on such

a scheme on the merger/transfer of licenses/authorizations under Unified License, have to be made and informed to all concerned within 30 days of receipt of such notice.

- c) In this regard, we would like to submit that once the scheme is sanctioned by Tribunal/Company Judge, there should not be any requirement for further approval from the licensor.
 - d) We believe that the above-highlighted suggestion will enable simplification and fast track the approval process. Accordingly, we request that the procedure of getting approval from the licensor after the scheme is sanctioned by Tribunal/Company Judge should be reviewed.
- ii). Whether mandatory access to MVNOs should be provisioned in the DoT M&A Guidelines to address the competition concerns? If yes, in which cases the access should be mandated and what should be the guiding principles for provision of wholesale access to MVNOs? If no, kindly provide justification.

COAI Response:

- 1) As per the terms and Conditions of the DoT UL(VNO) Guidelines, "there would not be any mandate on the Network Service Operator (NSO), for providing the time-bound access to its VNO, rather it shall be left to the **mutual agreement** between NSO and VNO". We are of the view that the same conditions should be continued and there should not be any commitment imposed on the merged entity to set aside 20% of wholesale capacity for the MVNOs on Mobile Bitstream Access (MBA) basis.
- 2) Further, we agree to the following points highlighted in the TRAI Consultation Paper:
 - a) In the three international cases cited in the letter of VNOAI, the mandatory access to MVNOs was not a standalone remedy but a part of a broader remedy package which also included divestment of spectrum, etc.
 - b) The European remedy also defines key commercial principles & charges for the provision of wholesale access to MVNOs to avoid any dispute between the MVNO and the MNO/merged entity along with a detailed supervisory process through an independent monitoring agency.
 - c) A mere enabling provision in the guidelines may not be enough, and a detailed and elaborate procedure needs to be codified for matching harm with remedy and laying down key commercial principles & charges for the provision of wholesale access to MVNOs.

- 3) Also, it is clearly mentioned in the UL(VNO) Guidelines that DoT/TRAI have the right to intervene in the matter as and when required to protect the interest of consumers and the Telecom sector. Thus, there is already provision wherein DoT/TRAI can intervene on case to case basis.
 - 4) In light of above, we are of the view that there should not be any mandatory access to MVNOs that needs to be provisioned in the DoT M & A Guidelines. In case any change in the UL(VNO) Guidelines are envisaged, then there should be a separate detailed Consultation, as this issue has a major Policy/Regulatory impact on the Telecom Sector.
- iii). In your view, what changes are required in the provisions of UL so as to make them unambiguous? Please provide justification.

COAI Response:

- 1) No further Comments.
- iv). If there are any other issues / suggestions relevant to the subject, stakeholders may submit the same with proper explanation and justification.

COAI Response:

- 1) No further Comments.
