

COUNTER COMMENTS
ON THE
CONSULTATION PAPER
ON ISSUES RELATED TO CLOSURE OF ACCESS SERVICES

1. *Introduction*

This paper provides the counter-comments on the Consultation Paper on issues related to Closure of Access Services dated November 30, 2016 issued by the Telecom Regulatory Authority of India ("TRAI"). Due to the change in the regulatory landscape for telecom regulations from 1994 until 2017, coupled with changes in technology, it has become imperative to discuss and debate on the circumstances under which a telecom service provider ("TSP") may be constrained to make a decision for closure of access services.

In the ever-changing environment of technological developments, a distinction needs to be made for discontinuation of services provided through a particular technology or upgrade to any new technology for providing services vis-à-vis discontinuation of services by a service provider if services are continued to be provided using any different technology. The two circumstances cannot be treated at par.

Having said that the interest of the consumer, service to the consumer and commitment to consumer, too, has to be respected, without causing undue discontinuity of service and financial loss.

2. *Counter Comments on the Queries*

2.1 *Is there a need for modification of the UASL and CMTS licences in line with Clause 30.3(b) of UL, for those licensees who have liberalized their administratively allocated spectrum?*

Stakeholders such as Reliance Communications have taken a view that there should be no requirement for modification in the UASL and CMTS License. On the other hand however, stakeholders such as COAI, Idea, Vodafone, Aircel and Airtel have taken a view that there should be modification in the UASL & CMTS license to bring it in line with Clause 30.3 (b) of the Unified License.

While the UASL and the CMTS license, in its present form, contain provisions for surrendering the license, the said licenses do not contain provisions for discontinuation of services. However, the UL contains provisions for allowing a licensee to discontinue any of its services under a Service Authorisation with due intimation to the DoT, TRAI and its subscribers. It appears that the provisions under the UASL and CMTS have been modified in the UL, to include circumstances where the licensor is given the right to discontinue its services, if it so deems fit after following the due procedure laid out in the said license agreement.

In our view, while it could be argued that the UL adequately covers provisions relating to closure, there is need for modification of the UASL or CMTS, specifically in those circumstances where the UASL and CMTS licensees have liberalised their administrative



spectrum and the clauses under the UASL and CMTS should be modified to bring it in line with Clause 30.3 (b) of the UL relating to discontinuation of services.

- 2.2 *Should discontinuation of services being provided through a particular technology, say CDMA, be treated same as discontinuation of any of the service under a Service Authorisation as per Clause 30.3(b) of UL? Please provide details along with justification.*

Most of the Stakeholders have given their response to this question in the affirmative. We are also of the view that from the consumer's point of view, discontinuation of services being provided through a particular technology in the service area should be treated at par with the discontinuation of any service as per Clause 30.3(b) of the UL, as both would have the same effect on the customer.

If a particular technology is being discontinued, there should be freedom of choice available to the subscriber to choose a new service, tariff plan, maybe a new handset to be able to make a choice of the network. It would be imprudent to restrict the freedom of choice by the original service provider.

- 2.3 *What other conditions in these licenses be modified so as to keep pace with the developments? Please justify your answer.*

The Stakeholders have taken a view that since the existing provisions of UASL/CMTS licenses are adequate to take care of situations arising on surrendering of license and discontinuation of service, no requirement to modify any of the provisions of the licenses. In our view, in case an operator wants to discontinue its services in a service area, it may be considered to clarify the steps to be taken by DoT, TRAI and the Subscriber for effecting the surrender.

- 2.4 *Stakeholders are requested to comment upon:*

- (a) *Is there a need to define a time-limit for DoT to take into its records the prior intimation given by TSPs regarding the spectrum trading? Please suggest time-lines for different activities within the Spectrum Trading Process.*
- (b) *Should the advance notice period to subscribers' be enhanced from 30 days period to say, 60 days, in case of closure of services so that a subscriber has sufficient time to consume his talk time balance? Please provide justification to your response.*
- (c) *If a TSP is selling its entire spectrum in the LSA and intends to discontinue its access services being provided to its subscribers, should the TSP give the 60 days' advance notice to Licensor, TRAI and its subscribers, only after the spectrum trading is acknowledged by DoT/WPC as suggested in Para 23?*
- (d) *Give any other suggestion to improve the existing Spectrum Trading Process.*

We have reviewed the comments of the various stakeholders on this question and seem to agree with the view taken that it is not necessary to define any time-limit for the DoT to take on record the prior intimation given by TSP's on the spectrum trading.

Further, the advance notice period to subscribers should be retained as 30 days and should not be enhanced to 60 days. This is on account of the fact the 30 days corresponds to a period of



one bill cycle and TSPs should take various initiatives to ensure that affected customers are intimated through multiple channels such as SMS, email, website, press release. Etc. The present timelines for spectrum trading should be retained and the date of joint intimation may be treated as start day of advance notice. The intimation may be concurrently be sent to TRAI and a copy may also be published of the same in order to ensure transparency.

- 2.5 *What mechanism should be put in place to ensure that subscribers are informed about the closure of services/change of access technology transparently and effectively by the TSPs? Should TSPs be directed to follow a specified mode of communication(s) as detailed in para 30 for informing subscribers or what could be other mode of communications?*

We agree with the view taken by the various stakeholders that the steps to inform the subscribers about the closure of services/change of access technology should be left to the TSPs and no formal direction should be taken in this regard. TSPs should choose one or multiple mode of communication such as Digital, SMS, E-mailers, Communication through Account manager in case of Enterprise customers and Print Media. It could be considered to lay down guiding principles to be followed by a TSP on information to consumers, which should be informed to TRAI/DoT as well and these could act as a guidance to the TSP to formulate the guidelines for closure of service.

- 2.6 *Will it be appropriate that the responsibility of verification of time-period elapsed since the last porting (i.e. 90 days period) be shifted from MNPSP to the Donor Operator so that subscribers' port-out requests are accepted irrespective of his age on network in case of closure of services?*

We agree with the view taken by the stakeholders that the responsibility of verification of time-period being elapsed since the last porting (i.e. 90 days period) be shifted from MNPSP to the Donor Operator, since it will ease out the porting of the customer to the other operators.

- 2.7 *In case a TSP changes the access services technology and asks his subscribers to migrate to newer technology, should the tariff protection, carry-over of unused talk-time balance and benefits be extended to such subscribers upon migration to new technology for the contracted period?*

The majority of stakeholders have taken a view that In the event of change in any access service technology, if a subscriber chooses to stay with the same TSP and migrate to a newer technology, the subscriber should be given tariff protection and allowed to carry forward unused talk time. The Service closure and technology change should be treated at par. The protection of talk time balance should be assured and provided to the subscriber upon migration to new technology. In addition, any benefits must accrue to consumer.

- 2.8 *How much time period should be given to the subscribers to port-out after closure of commercial services i.e. for how long the system should remain active to facilitate porting? Should the validity of the UPC in such cases coincide with such time period?*

We agree with the view taken by the various stakeholders that subscribers should be allowed 30 days to port out to a new service provider. Validity of UPC should not be extended beyond 30 days.



Service provider should be required to keep its systems up to facilitate porting, post notification of closure of service. Post 30 days, all reasons of rejection should be suspended and MNPSPs should facilitate porting on receiving a request, without following the processes pertaining to the donor operator. It would be ok in an ideal world, but some flexibility should be left for amicable closure.

- 2.9 *What other changes should be made in the MNP Regulation to ensure smooth bulk porting-out of the subscribers in the event of closure of access services or change of access technology by any TSP?*

We agree with the views taken by the stakeholders that the current MNP process should be followed and there is no need for any separate process. However, it may be considered to include checks and balances for permitting faster porting, so as to minimise discontinuity in service.

- 2.10 *Will it be appropriate that the change of technology within a licensee (TSP in a given LSA) be removed from the definition of MNP?*

We tend to agree with the view taken by the various stakeholders that if a mobile number can be retained through change in technology (2G to 3G and now LTE) offered by the same TSP, it would be appropriate to exclude change in technology within a licensee from the definition of MNP

- 2.11 *Is there a need for an alternative mechanism for bulk transfer of all the subscribers from one TSP to other TSP(s)?*

Some of the stakeholders have taken a view that the Choice of recipient operator is always with the subscriber and hence port out to specific operator is not recommended. Some have stated that it should only be allowed at the level of the donor operator. The donor operator should be allowed to generate UPC from the system for all such subscriber who neither generated the UPC on their own nor opted for the new technology and the date of such UPC code should be valid for 1 more month from the date of closure of the service to ensure smooth port out of the remaining subscribers.

We however are of the view that an alternative mechanism should be drawn out for bulk transfer of all subscribers from one TSP to other TSPs for an efficient method of finding and validating the numbers to be ported, generating the port requests and sending the broadcast notification to all operators of the port, without the need for regular message flows and timers.

Bulk porting could be anti-competitive, depends upon the situation.

- 2.13 *Should a TSP be allowed to transfer its subscribers, who have not been able to port-out to other TSPs before closure of service, to another TSP whenever the services being rendered by that TSP are going to be discontinued? What can be associated issues and challenges? Please provide details.*

It has been argued by some stakeholders that the TSP being allowed to transfer its subscribers who have not been able to port-out to other TSP's before closure of services to another TSP should not be allowed since this would raise competition issues, as to which network will be preferred porting out network The decision will be that of TSP closing its network rather than the subscribers' own free will.



However, in our view, in order to ensure seamless telecommunication services to subscribers of the network who is closing down its operations, the decision should be taken by the TSP closing its operations on the subscribers unable to port out before the closure of services, bulk transfers etc. After expiry of that extra 1 month period, the remaining subscribers should get disconnected. In the case of such disconnection, if there are any ported in MDNs, the same should be allowed to return immediately to the original number range holder.

- 2.14 *If there are any other issues relevant to the subject, stakeholders may submit the same, with proper explanation and justification.*

No Comments, except that continuity of service should be ensured unless chosen by the consumer to the contrary. .

