

**Reliance Communications Limited's (RCOM) Response to TRAI Consultation Paper on
Issues related to Closure of Access Service**

Executive Summary

A. Discontinuation of services being provided through a particular technology or Upgrade to any new technology for providing services should not be treated as discontinuation of services by a service provider if services are continued to be provided using any different technology.

B. The existing provisions of UASL/CMTS licenses are adequate to take care of situations arising on license surrender and/or and discontinuation of service. Hence we don't see any requirement to modify any of the existing provisions of the said licenses.

C. The presently applicable 30 days notice period is sufficient for the subscriber to consume talk time balance in case of closure of the service due to any reason including surrender of license/ complete discontinuation of services by a TSP.

D. The advance notice period to TRAI, Licensor & subscribers in case of closure of service due to trading of spectrum should be made co-terminus with the date of spectrum trading.

E. Trading of administratively allocated spectrum should be allowed.

F. Lock-in of two years for selling spectrum acquired through Trading or Auction should be reduced to one (01) year. This will be in line with recent NIA (Auction 2016) condition regarding Spectrum sharing which allows sharing of spectrum acquired through auction after one year of its acquisition.

G. Spectrum Trading should be seen as a sale of capital assets and should be treated in line with the treatment of capital gains as laid down in AS-9 & AS-10 and as given in the TDSAT judgment on AGR definition dated 23rd April 2015. Therefore, we recommend that only the capital gains i.e. sale proceeds from spectrum trading less the cost of acquisition (including cost of liberalization of administrative spectrum) should be considered for purposes of Computation of License Fee and SUC.

H. Trading Guidelines should clearly prescribe that Government will undertake harmonization exercise to make the spectrum holdings contiguous post Trading.

I. Current mechanism of informing the subscribers is sufficient and there is no requirement of mandating any particular mode of communication in this regard.

J. The responsibility of verification of time-period elapsed since the last porting (i.e. 90 days period) be completely shifted from MNPSP to the Donor Operator.

K. Any kind of mandate or regulatory provisions are not required in this competitive scenario wherein it is in the interest of TSPs themselves to protect the interest of its customers by offering equivalent benefits so that the subscribers remain in its network instead of choosing other operators through MNP.

L. The fundamental concept of MNP is to ensure that the subscribers are able to choose the services of the TSPs of their CHOICE while continuing with their mobile numbers. Thus, we don't suggest the creation of any mechanism to facilitate or encourage the bulk porting or bulk transfer of subscribers from one TSP to another in any situation including discontinuation of the services.

M. Any upgrade from one service to another (2G/3G to 3G/4G) or downgrade (4G/3G to 3G/2G) should not come under the purview of MNP. However, the change in service from 2G to 2G (through different technology) for the existing services of any TSP should remain under the definition of the MNP.

N. The check of correct donor operator code (and hence the LRN) should be removed from the MNPPS and the request should be passed on to the operator having multiple LRN. This will ensure that the port out request should not get rejected merely because of wrong operator code for the cases where one operator has multiple LRNs.

Our comments on the issues raised in the consultation paper are as below

Q.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?

Q.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.

Q.3 What other conditions in these licenses be modified so as to keep pace with the developments? Please justify your answer.

RCOM Response:

1. UL license requires separate authorizations for different services therefore the Clause 30.3(b) of UL mandates that if any TSP wants to discontinue any of the services under a service Authorization, then the TSP is required to give at least 60 days notice to TRAI/DoT in advance and 30 days notice to the subscribers.
2. On the other hand, UASL and CMTS licenses by themselves allow operators to provide services without having any further requirement of taking a separate specific Authorization and hence discontinuance/ closure of service is already covered under the provisions w.r.t. surrendering of license and the requirement of advance notification to both subscribers and TRAI/DoT is covered under clause 10.3(b) **Thus, we don't see any requirement of modification in the UASL and CMTS license.**
3. We would further like to submit that as long as an Access service provider continues to provide services using any access technology, closure/discontinuation of any one/existing technology cannot be treated as surrender of license or discontinuation of services under the respective clauses of UASL and UL. The UASL/CMTS/UL licenses/authorization allows the operator to choose any technology to provide the licensed services. It is the preference of the operators to opt for any technology at any given point based on their business plans, technological advances and current market dynamics.

4. The telecom sector is moving from a technology specific to a technology agnostic service regime. Hence, At this point of time mandating any license or regulatory provisions on the basis of choice of technology or change of technology by the TSP to render its services is unwarranted.
5. **Hence, we would like to suggest that the discontinuation of services being provided through a particular technology or Upgrade to any new technology for providing services should not be treated as complete discontinuation of services by a service provider if services are continued to be provided using any different technology.**
6. **Further, as illustrated above, since the existing provisions of UASL/CMTS licenses are adequate to take care of situations arising on license surrender and discontinuation of service. Therefore, we don't see any requirement to modify any of the provisions of the licenses.**

Q.4 Regarding spectrum trading process, the Stakeholders are requested to comment upon the following:

(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.

RCOM Response:

1. We feel that there is no need to define a time-limit for DoT to take into its record the proposed spectrum trading. However, we would like recommend certain measures to further facilitate the trading process and provide some certainty and flexibility to the TSPs and the DoT as follows:
 - i. Any clarification/demand of dues should be raised by WPC/DoT within 30 days of receiving joint intimation filed by the licensees.
 - ii. Trading should be allowed to be made effective from a date even earlier than 45 Days from intimation in case all demands and clarifications are cleared to the satisfaction of WPC/DoT at an early date. Hence, the operators should be allowed to specify effective date of trading even prior to the 45 days from the date of intimation.
 - iii. In case final decision is not conveyed by WPC/DoT within the prescribed timeline, the Spectrum Trading proposal should be deemed as approved.

(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 talktime balance? Please provide justification to your response.

RCOM Response:

1. **We feel that the 30 days notice period is sufficient for subscribers to consume their talk time balance** in case of closure of the service due to any reason such as surrender of license/ complete discontinuation of services by a TSP. On the analysis of our pulsing prepaid subscriber base, we have found that on average the prepaid talk time balance of a subscriber is Rs.10 at a given time and notice period of 30 days is sufficient to consume the same by the subscriber.
2. In situations where a TSP has not closed the services completely and continues to provide service by means of Change/Upgrade of technology for providing services, the issue of

consumption of talk time balance within 30 days will not arise as the subscriber has the option to continue its service with the same talktime with the same TSP wherein the balance talk time can be carry forwarded by the TSP to the new service account of the subscriber.

(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?

RCOM Response:

1. Allowing a TSP to continue to use spectrum and provide the service once the trading is taken on record and clearance of all dues is given by WPC/DoT, may not be practically possible due to various associated issues such as payment of SUC, LF etc for this extended period.
2. To deal with the situation while also maintaining a regulatory environment of ease of doing business, **we recommend that the advance notice period to TRAI, Licensor & subscribers are made co-terminus with the date of trading of spectrum.** This will put minimum obligations on the operators wanting to exit while also taking care of the interest of the consumer & the licensor..

(d) Give any other suggestion to improve the existing Spectrum Trading Process.

RCOM Response:

1. Trading of administratively allocated spectrum should be allowed.
2. Further, there are various demands/ penalties which are disputed; stay has been granted and pending final adjudication from the court. The demands which are stayed by the Court(s) or TDSAT, DoT should not ask for any payment or security by way of Bank Guarantee against such demands.
3. Lock-in of two years for selling a spectrum acquired through Trading or Auction should be reduced to one (01) year. This will be in line with recent NIA (Auction 2016) condition regarding Spectrum sharing which allows sharing of spectrum acquired through auction only after one year of its acquisition.
4. Processing fee of Rs 50,000/- only should be charged so that the same is consistent with spectrum sharing, M&A & liberalization guidelines and Levy of Transfer fee (1% of transaction amount) should be done away with.
5. Trading Guidelines should clearly prescribe that Government will undertake harmonization exercise to make the spectrum holdings contiguous, if the situation pursuant to spectrum trading warrants the same. Harmonization may not be required on trading of administrative spectrum.
6. Imposing License Fee & SUC on the amount received from Trading amounts to double taxation. Spectrum Trading should be seen as a sale of capital assets and can be treated in line with the treatment of capital gains as laid down in AS-9 & AS-10 and as given in the TDSAT judgment on AGR definition dated 23rd April 2015. Therefore, we recommend that only the capital gains i.e. sale proceeds from spectrum trading less the cost of acquisition (including cost of liberalization

of administrative spectrum) should be considered for purposes of License Fee and SUC.. The salient features of TDSAT Judgment are:

- a) The TDSAT judgment on AGR definition records a discussion on *"gain on sale of capital assets and receipts from sale of scrap"*.
- b) The TDSAT has clearly stated that in view of recognition of revenue as per AS-9 gain on sale of capital assets cannot be included in gross revenue for computation of License Fee.
- c) As per AS-10 which deals with Accounting for Fixed Assets *"on disposal of a previously re-valued item of fixed assets, only the difference between the net disposable proceeds and the net book value should be charged or credited to the P&L statement"*.
- d) Even the position of DoT through the Ld. ASG has been that *the entire sale proceeds are not to be taken into account for computation of revenue but only the gain from sale from capital assets should be considered*.
- e) TDSAT ruling on the issue is *"as long as the sale value does not exceed the gross book value, the sale proceeds...cannot be taken into reckoning for computation of gross value as License fee has already been paid on this amount. The same revenue cannot be subjected to charge twice over"*.

Q.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?

RCOM Response:

1. At the outset, we would like to submit that the change/ upgrade of technology should not be treated on par with service closure . Any TSP continuing to provide services either by change or upgrade of existing technology would like to retain its subscribers and as part of business prudence will take all possible measures to inform the subscribers of the options available along with the process required to be followed. Hence there is no requirement of prescribing any particular mode of communication for informing or communicating with the subscribers in such cases.
2. Further, regarding complete closure of service, we feel that the provisions under the license are adequate in order to ensure that the subscribers are informed in advance regarding closure of services by a TSP.
3. It is pertinent to mention that with the growing digital literacy and with the advancement of Digital India campaign of the Government, Operators have adopted and have at their disposal various channels to communicate with their customers. Subscribers too are aware of the various channels /modes of communication from their respective Service providers. In fact, availability of multiple consumer touch points with an emphasis on digital is a key area of focus of all operators owing to increasing digitalization and shifts in consumer preference. In the recent years, an increasing proportion of consumer – service provider communication has gone digital. Against this backdrop, mandating a specific channel/mode of communication (especially non digital ones like print media) is archaic and goes against the grain of current trends. Importantly,

information exchange should be promoted in line with the Digital India vision of the Government.

4. **Thus, we feel that the current mechanism for informing subscribers is sufficient and there is no requirement of mandating any particular mode of communication in this regard. Further, TRAI should encourage the digital means of communications instead of mandating any conventional paper based publication method.**

Q.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?

RCOM Response:

1. **Yes. We firmly believe that the responsibility of verification of time-period elapsed since the last porting (i.e. 90 days period) be completely shifted from MNPSP to the Donor Operator.** This will allow the donor operator to ensure successful port out of the subscribers who haven't completed 90 days in its network and willing to port to any other service provider due to the closure of services by the donor operator.
2. It is pertinent to mention that any subscriber with a porting history has two different 90 days periods. One with the MNPSP where his 90 days period start from the last date of porting and another with the donor operator where the 90 days period starts from the date of activation of the service (Positive TVP). Hence, to remove this anomaly it is required that the responsibility to verify AON<90 days should be given only to the donor operator and not to the MNPSPs.

Q.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?

RCOM Response:

1. When a TSP changes the access service technology, then it is in the interest of that TSP to retain all of its subscribers for providing service using the newer technology. In order to achieve the same, the TSP itself offers similar or even better benefits to the subscribers so that they migrate to the new technology instead of opting out MNP and churn to other TSP. Below are some of the measures the service provider takes in order to ensure that the subscriber remain in its network and migrate to the newer or some other technology services:
 - a) The talk time value of the subscriber gets carry forwarded if the subscriber migrates to new technology.
 - b) If extension of the same tariff benefits is not feasible, then the service providers on their own offer equivalent/ similar benefits to avoid churn of the subscriber.
 - c) In case of contracted offers, the service provider either offer other equivalent tariff plans in new technology and migrate the subscriber in this plan with his consent or return the amount charged to the subscriber on pro rata basis for the remaining contract period.

2. We would like to submit that the cost of offering the same benefit depends on the chosen technology. **A specific service offering in one technology cannot be compared with offering of the same service in a different technology. An unlimited 2G data benefit cannot be compared with an unlimited 3G data benefit if the TSP upgraded its access service to 3G from 2G. Similarly, an unlimited voice offering over 2G/3G cannot be compared with the unlimited voice offering over VoLTE due to technological differences which have a bearing on the cost of service.**

However, service provider ensures that the subscriber gets equivalent benefit under the new technology regime for the value which the subscriber had for his benefits in the earlier technology. It is in the interest of the TSP to offer such benefit in the new technology to encourage a high proportion of existing subscribers to migrate into this new service.

3. In case of any contracted offer wherein an advance rental or one-time payment is charged, TSPs should either be allowed to migrate the subscriber to other plans with his/her consent offering similar/equivalent benefits under new service/ technology or alternatively, the TSP should be allowed to return the amount on pro rata basis.
4. We would also like to submit that there would be cases where the operator starts offering service using a new technology while continuing to offer services with its existing one. In such cases, the operator should not be required to continue the subscriber's existing tariff if subscriber chooses to opt for the new service.
5. Hence, **any kind of mandate or regulatory provisions are not required in this competitive scenario wherein it is in the interest of TSPs themselves to protect the interest of their customers by offering equivalent benefits so that the subscribers remain in its network instead of choosing other operators through MNP.**

Q.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?

RCOM Response:

1. In this regard, it is suggested that the subscriber should be given 1 month time from the date of such closure of the service. In this duration, the subscriber can either opt for the new technology of that TSP as a new subscriber or he can port out to other service provider. Further, to facilitate the port out till the end of the 1 month period, the UPC of such subscriber should be valid till that period irrespective of the date of UPC generation.
2. We would also like to submit that before the final closure of the service, the TSP should be allowed to generate the UPC for all such subscribers who haven't opted for the upgraded services and additionally have not generated the UPC. It will ensure that once the service gets closed and any subscriber wants the UPC in order to port out, the same can be provided by the service provider to that subscriber after due validation..

Q.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?

Q.11 Is there a need for an alternative mechanism to MNP for bulk transfer of subscribers from one TSP to other TSP(s)? If yes, please give suggestions.

Q.12 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.

RCOM Response:

1. Bulk porting or bulk transfer of subscribers from one TSP to other TSP(s) is not a phenomenon envisaged in any of the provision of the MNP Regulations. The fundamental concept of MNP is to ensure that the subscribers are able to choose the services of the TSPs of their CHOICE while continuing with their mobile numbers. Thus, we don't suggest that there should be any mechanism to facilitate or encourage the bulk porting or bulk transfer of subscribers from one TSP to other TSP(s).
2. The transfer of a subscriber from one TSP to another TSP is being done as per the provisions of the MNP Regulations. It would not be appropriate to allow any TSP to transfer its subscribers in bulk to another TSP in any situation including closure of services. This will not only go against the concept of choice for the subscriber(s) but also runs the danger of creating a non level playing field and discrimination against other TSPs.
3. Thus, we strongly recommend that in any situation including discontinuation of services, bulk porting of subscribers should not be allowed. However, below are some of the changes we recommend in the MNP Regulations to ensure the smooth porting out of the subscribers in the event of closure of the access services or change of access technology by any TSP:
 - a) The rejection due to AON<90 days should be removed at the level of MNPS and it should only be allowed at the level of the donor operator.
 - b) 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.
 - c) 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.
 - d) 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.

Q.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?

RCOM Response:

1. The existing MNP Regulation defines MNP between two different TSPs or between two different technology services of a TSP. With the advent in technology and high data speed requirement of

the subscribers, TSPs are upgrading their existing networks to high speed data services e.g. 3G, 4G LTE. These upgrades are happening through tariff change and change of SIM (if required).

2. Thus, we suggest that any upgrade from one service to another (2G/3G to 3G/4G) or downgrade (4G/3G to 3G/2G) should not come under the purview of MNP. However, the change in service from 2G to 2G (through different technology) for the existing services of any TSP should remain under the definition of the MNP.

Q.13 If there are any other issues relevant to the subject, stakeholders may submit the same, with proper explanation and justification.

RCOM Response:

1. As per the current process implemented by the MNPSs, the recipient operators are required to choose the operator code of the donor operator at the time of making the MNP request. Such operator codes are linked with the respective LRN of that operator by the MNPSs. In case the recipient operator chooses the wrong operator code, then the request gets rejected at the level of MNPSs.
2. The Telecom sector is presently going through a phase of consolidation with M&A activities currently underway or envisaged between existing After M&A, there would be situations where the merged entity will have multiple LRN and hence multiple operator codes. If subscriber of such merged entity approaches any other TSP (the recipient) for MNP and if that TSP chose the wrong operator code then the MNP process for that subscriber will never get initiated as it will keep getting rejected at the level of MNPSs. We understand that the logic of putting operator code and linking the same with the respective LRN is to ensure that at the time of make-break of the subscriber the break-LRN and make-LRN information should be available with the MNPS.
3. In view of the above, we suggest that the check of correct donor operator code (and hence the LRN) should also be removed from the MNPSs and the request should be passed on to the operator possessing multiple LRN. It will be the responsibility of that operator to check in its system the correct LRN against that MDN and if the port out request gets accepted, provide the applicable LRN details to the MNPS so that it can be used during the make-break process. This will ensure that the port out request does not get rejected merely because of input of the wrong operator code for the cases where one operator has multiple LRNs.
4. **Thus, we request TRAI to consider our above mentioned request and MNP guidelines should be amended accordingly.**
