



Mr. SanjeevBanzal

Dated: 22ndJanuary, 2017

Advisor (Networks, Spectrum & Licensing)

Telecom Regulatory Authority of India

New Delhi.

Dear Mr. Banzal,

SUB: VNOF's Response to TRAI Consultation Paper

REF: CP on Issues Related to Closure of Access Services dated 30th November 2016

With respect to the Consultation Paper issued by TRAI, Virtual Network Operators Forum (VNOF) is happy to submit it's responses to the Issues raised for consultation. We are certain it'll help the Authority to formulate its final recommendations on the matter suitably.

The specific responses to the Questions are as below:

Q.1Is 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?

Ans.1*Yes, there is a need to insert suitable clauses in the UASL and CMTS licenses, as well as to modify Clause 30.3(b) of the UL License, to the extent that VNO operators with Access Service and/or Internet Services Authorizations specifically either in a circle or all over India will also*



need to be notified by the Licensed Service Provider (referred also as Network Service Operator/parent NSP) at the same time as the UASL/CMTS/NSP issues a notice of 90 days to the Licensor or to TRAI for closure of service. Notices to VNO's should, in fact be up to 120 days to enable VNO's to plan for delinking from their parent NSP/s and make alternate arrangements with other NSP/s for parenting, including but not limited to use of appropriate spectrum bands for continued services to their respective VNO subscribers.

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 Authorization as per Clause 30.3(b) of UL? Please provide details along with justification.

Ans.2*It is understood that CDMA is declining drastically with a limited future, it still has over 16 million subscribers and hence customer of CDMA or such technologies have to be treated in in a similar fashion as any other discontinuation of service, but also differently and with more sensitivity and special care, because many of the customers will have compelling financial issues such as costs of new technology supporting handsets or costs of subscriptions or even plain resistance to adoption, which will make it difficult for them to switch with a short notice, say 30-60 days and they may end up losing their connections/numbers which is undesirable.*

To prepare subscribers adequately in such as an imminent closure of CDMA (or any other technology) in the foreseen future, at least a 6-12 months awareness program needs to be undertaken by TSP's, Regulators and DoT, targeting end customers with the impending change and the need to plan the switch. This can be on similar lines as is being done in the



case of Set Top Boxes (switching from analogue cable to digital cable TV services), where a print and media campaign has been run by the Regulator for nearly two years. This example needs to be emulated here as well.

In no case, should any regulation burden the subscribers with short notices since it impacts their (at least a good majority of Indian subscribers) financial interests as well.

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

Ans.3As mentioned earlier, there are new players viz. Virtual Network Operators on the anvil and they will definitively be impacted when there is a service closure due to any reason. Hence, the license conditions have to be modified to include appropriate 90-120 days minimum notices to be given by parent Licensees to their attached VNO's, to enable the VNO's to make alternate arrangements. In fact, considering that alternate parenting arrangements including commercial and technical arrangements, may take more than 60 days (2 months) and VNO's should ideally be informed/given notices of at least 90 -120 days (3-4 months).

It may also be noted that, VNO's may put up all kinds of telecom infrastructure (except for disallowed elements), to augment the network reach, in consort with their parents NSP's network. The Regulator needs to take cognizance of such VNO's investment, which may be significantly impacted and provide for risk mitigation through appropriate regulations. In



the eventuality of the parent NSP closing down services, due to any reason (foreseen or even unforeseen), how will the impacted VNO guard against significant losses that it may incur. How will the VNO be compensated (where even an enhanced notice period of (90-120days) will never be sufficient to mitigate the impending losses in such situations and also cannot be wished away as business risk.

TRAI may like to consider that apart from expiry of UL License period, or migration to new technology and moving to liberalized spectrum mechanism, which are somewhat 'Foreseen' circumstances, there would be 'Unforeseen' or exceptional circumstances, such as Orders of Courts of Law to cancel Licenses/such similar judicial actions or NSP's inability to acquire spectrum in a bid, are situations that will have significant impact on the business continuity and functioning of attached VNO's. All such license conditions now have to be relooked into from the point of VNO's relationship with the parent NSPs and modified accordingly.

Importantly, TRAI should now recommend that any agreements between NSP's and the VNO's should be co-terminous with the period of spectrum held by the parent NSP (the number of years it has obtained that right to use the particular spectrum band) and any agreement/s to the contrary should be considered as invalid part of such agreements.

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



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prior intimation given by TSPs regarding the spectrum trading? Please suggest time-lines for different activities within the Spectrum Trading Process.

Ans.4(a) The Access Spectrum Trading Guidelines of 12th October, 2015 state that (among other things):

(i) Only outright transfer to use shall be allowed from seller to buyer and leasing is not allowed.

(ii) 45 days notice prior to the effective date of trading shall be provided by buyer and seller of spectrum

(iii) Trading is allowed only after 2 years of allocation or purchase of spectrum.

a) TRAI must note that when these guidelines were made, VNO's Licensing regime did not exist, but now however, VNO Guidelines inter alia state that:

"An operator after taking the license for VNO shall be able to use the underlying network/access spectrum to provide telecom services".

"Further the Access Spectrum Sharing Guideline of 24th September 2015 clearly applies in a situation where 2 Licensees have paid market prices for the spectrum bands allocated to them. In addition other conditions prescribed do not clearly cover the VNO's and under what guidelines and conditions will they be able to use/share the parent NSO's spectrum band. More importantly the guidelines specifically state that LEASING IS NOT PERMITTED."



Given the above TRAI needs to provide clarifying clauses which state that NSP/TSP providing part of their spectrum to their underlying VNO shall not be outside the ambit of access spectrum 'buyer' and 'seller' relationship and that VNO's shall be considered as an effected/likely to be effected party in the TSP's intimation to trade spectrum, and hence will be kept informed with copies of all notices/prior intimation by the parent TSP's.

b) Secondly, since, parent NSP will allow VNOs to use part of spectrum only on the basis of some costs to be paid by VNO's, 'a leasing relationship will therefore be implicit between parent NSP and their attached VNO, but will not be in the nature of sale or outright transfer of rights from NSP to VNO.' This leasing relationship needs to be now formally recognized and Spectrum trading guidelines modified accordingly.

Third, when parent NSP allocates part of its spectrum to be used by VNO, it needs to be clarified if any intimation is to be served by NSP and VNO to the Wireless Advisor pertaining to the portion of NSP's spectrum being used by the VNO. We think that it would be only appropriate that parent NSP/with its VNO provide such intimation and is taken on record.

Fourth, allocation of spectrum to VNO should not be governed by the 2 year limitation, and VNO should be allowed to seek access spectrum from the NSP, even if the parent NSP has held that spectrum for less than one year.

Finally, in view of the foregoing development with VNOs being added as stakeholders, regarding the issue of DoT's treatment of the TSP's intimation of trade of spectrum, it



is important for DoT/WPC to have a time bound response, in terms of either taking the notice on record/recording a clearance, or provide any objection, which should be in writing within 30 days maximum, beyond which, if nothing is heard from DoT/WPC to the contrary, TSPs can consider their intimation to trade spectrum as having been taken on record and cleared.

4 (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.

Ans.4(b) As suggested by us, with the advent of VNO's the notice period overall needs to be enhanced to at least 90-120 days, in order to ensure that VNO's can complete all alternate arrangements with another NSP, which is substantially a more complex process.

Moreover this 90-120 days notice period needs to be, as we have mentioned in our response to Question 2, preceded by adequate advance awareness of subscribers which is the responsibility of the industry, government and regulators, especially in case of Foreseen circumstances where closure of services or migration is imminent in the foreseeable future.

In any case, a subscriber should be allowed to carryover any balance to the new TSP/VNO, for which a nominal administrative fee can be deducted by the donee TSP/VNO.



4. (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?

Ans 4(c) VNO's will now be an added layer in the loop and to re-iterate, if it's parent TSP/NSP were to sell it's entire or even part of it's spectrum in some LSA, where the VNO is parented by the seller TSP/NSP, it has legal, technical and financial repercussions for VNO's and their subscribers. Unlike other stakeholders, such as Licensor, TRAI and even it's (NSP's) own direct subscribers who can port to another TSP his/her choice within a very short span, VNO's will need considerable amount of time to make commercial and technical arrangements with alternate parent TSP, starting with negotiate terms for agreements, etc. whereas VNO's subscribers meanwhile will also have to catered to and their rights and interests will need to be protected as well through suitable clauses in the regulations.

Hence, a minimum 90-120 days notice should now be required. Logically this implies that since notices cannot be or should not be selective, a common 90-120 days notice should be mandated, post acknowledgment and acceptance of the trade by DoT/WPC, which will likely avoid any potential confusion with regards to fate of such notices/intimations.

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



Ans 4(d) As mentioned earlier, it is important that the anomalies related to bar on leasing in the spectrum trading guidelines which seem to conflict with the VNO guidelines where operators after obtaining UL (VNO) license can use the underlying network/access spectrum, should be removed, by harmonizing the terms to include the exceptions for VNO's.

Secondly, the Spectrum Usage Charges and payment terms by the Spectrum holders, buyers and sellers have been spelt out in the Spectrum Trading Guidelines explicitly.

This guideline now needs to include the role to be played by VNO's, who are likely to use the underlying network/access spectrum of the parent TSP. We maintain that since VNO's will only use the Spectrum of parent NSP to extend the services and subscribers base for which the Spectrum fee have been paid by the Buyers and Sellers (potential parent NSPs) in the Liberalized scheme of things and the NSPs would already factor in the spectrum costs, when charging fees and charges to VNO's, the Guidelines should specifically take into account the Clause 4 (1) (xxvii) of the VNO guidelines which states that VNO's shall not be assigned any spectrum, which is now stands contrary to VNO's policy guidelines.

In view of the above, clause 4 (2) (b) (i) of the UL(VNO) Guidelines, which talks of levying an SUC on VNO as per rates applicable on NSO's needs to be done away with. This is a contradiction, which enforces "a double levy" i.e same SUC levy twice, on the same spectrum, over which VNO's in any case have no rights (cannot be assigned,



leased to given any right) and therefore SUC on VNOs cannot be permitted to exist.

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?

Ans.5 First and very importantly, considering that a mobile number is now intrinsically linked to a person's identification in many statutory areas, such as banking, education, healthcare and other such critical records, we must consider a First option of doing away with depriving a customer of his primary mobile number which he/she is/would be using for such identification purposes.

However, a Second option should be set in motion where, a customer not willing to migrate, under any circumstances, is given option to return his mobile number to his TSP, with clear information of the implication that he/she will likely face issues such as with KYC/eKYC's, etc. in many areas. Again as per our response to Question 2, we repeat that a long period of awareness campaign needs to be put in place when a closure/migration is foreseen.

In other words, an option should be allowed to be exercised by the customer, where he/she explicitly consents in writing, that he is willingly giving up the mobile number and TSP/VNO shall not be responsible for any consequent repercussions.

This system will also, in a way ensure that TSPs/VNO's will actually make efforts



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through all available media, to intimate their customers about change of technology/closure, etc. well in advance and without the regulator or licensor having to keep tabs on whether appropriate information was provided and that all possible channels were used by TSPs/VNOs. Eventually, TSP/VNO will have confirmation from the customer, either for migrating/porting/or return of mobile number.

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?

Ans.6 *Telecom Mobile Number Portability Regulation of September, 2009, needs to be amended to include Virtual Network Operator amongst the Donor and Recipient operators category, using Location Routing numbers of their parent NSO's. Since, VNO's will be assigned number range from the existing TSPs, who are Number Range Holders, and so an appropriate classification such as Subordinate Number Range Holder could be considered for inclusion in the MNPSP database.*

Secondly, all the obligations meant for Access Providers to set up and provide MNP facilities and services to their subscribers must now be extended to include VNO's, both as Donor VNO's and Recipient VNO's. Rights and obligations of Access Providers, NLDOs and ILDO's with respect to VNO's to exercise Number portability for their respective subscribers needs to be put in place as well.

The Explanatory Memorandum in the extant MNP Regulation, containing the



processes for porting for various Service Providers needs to include the category of VNO's within the process.

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?

Ans.7 *Yes, a contractual obligation by any service providers needs to be honoured and no system or process should have the effect of depriving customers/subscribers of their services, which they have paid for. As we also mentioned, long period of awareness campaigns could help mitigate such issues as consumption/or unused talk time of subscribers.*

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?

Ans.8 *Awareness campaigns in case Foreseen imminent should start at least 6 months prior to likely time of Closure. Actual Notices intimating imminent closure of services by the TSP/VNO should start 90 days months prior to the planned closure of service date. The UPC once issued upon request (within 1 hour of request and max 6 hours in case of bulk numbers - say 10 numbers or more) by subscriber to TSP/VNO should be*



valid for at least 30 days at a time, which if unused should be extended upon request for next 30 days at a time or regenerated as may be feasible. Within last 30 days validity time, TSP/VNO may ask subscriber/s in writing if they do or do not intend to continue with service/retaining the mobile number and/or port to another TSP/VNO and to provide his/her consent in writing to surrender/give up the mobile number, if not willing to continue with any service.

Secondly, as regards the 90 day compulsory lock in period before a new porting request, in case where the TSP/VNO's are closing down their services or migrating to new technology, their subscribers should be exempted from such a lock in period. MNPSF can verify if the ported subscribers affected belong to a TSP/VNO who is closing/migrating its services.

In any case, if a 90 months notice period, recommended by us is accepted/brought into effect, 90 days regulations under MNP regulations will need to be amended accordingly.

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?

Ans.9*Additional Unique Porting Codes, with longer and extendable validity (as mentioned by us in Answer 8) may be allowed to be generated by the TSPs/VNO's concerned to ensure bulk porting.*



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?

Ans.10 *Porting should be referred to as ability of a subscriber to move his telephone number from one Access Service Provider to another. Moving the number within the same Access Service Provider network due to change in technology is no longer a valid reason to be termed as 'porting' and hence the definition of MNP may be amended/updated suitably.*

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.

Ans.11 *MNPSP's database needs to include VNO's numbering database as well, since they will be allocated number blocks from their respective parent service providers and will perform all the functions of a telecom access service provider, including porting services. Hence, as mentioned earlier, a sub number range holding database of VNO's may be needed.*

It may be noted that transfer and porting and even in bulk, may extend to include VNO to VNO, VNO to TSP, TSP to VNO and so on and hence regulations need to be updated accordingly.



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.

Ans.12 *As mentioned, in case of imminent closure of services (including migration of technology) by TSPs/VNO's, subscribers are under a No-choice situation, i.e. either they accept to port to another TSP/VNO and agree to subscribe to newly applicable tariff plans/invest in new handsets/instruments, or in extreme cases consent to surrender their mobile numbers. Hence, for whatever reasons that TSPs could not port earlier should not become a limiting factor for subscribers to be left in a limbo. An exception could be for cases where the matter relating to the particular number may be sub judice or under some restriction or debarment by law.*

Also, as mentioned by us earlier, in unforeseen circumstances such as Court ordered closures or failure in a bid to acquire/reacquire spectrum, TSP's and VNO's, in any case should be allowed to port out their subscribers.

To, this extent, Clause 12 of the TMNP Regulation of Sept 2009, needs to be modified suitably.

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

Ans.13 *We reiterate and re-emphasize that with the advent of Unified Licensing (Virtual*



Network Operators) for various services including for Telecom Access service both service area wise as well as nationally, all Rights, Obligations and Duties as applicable to Access Service Providers, will need to be suitably applied to the VNO's as well and particular Guidelines by DoT, Regulations by TRAI and Licensing conditions applicable to MNP, now needs to be reworked, modified and/or amended suitably.

Sincerely

For VIRTUAL NETWORK OPERATORS FORUM.

A handwritten signature in black ink, appearing to read 'Amitabh Singh', is written over a light pink rectangular background.

Amitabh Singhal

(PRESIDENT - DESIGNATE)