



**Vodafone Counter Response to TRAI Consultation Paper
On Network Testing before Commercial Launch of Services dated 1st May, 2017**

We have gone through the submissions of various stakeholders on the TRAI's consultation and have the following counter comments to offer:

- A. We have in our response to the said consultation submitted that the Consultation paper is at variance with the context in which the reference has been made by the DoT. It is our view that due to the incorrect context of the Consultation, most stakeholders have commented on the future guidelines for network testing, whereas we believe that the context of the DoT reference was to examine the so called test services of RJIL, which issues have not even been framed in the present consultation.
- B. We do however note that even the stakeholders who have made submissions on such future guidelines, for Network testing, have pointed out that :
 - a) Providing full blown services during the test phase may have implications on the IUC, Pricing, Reporting, QoS and other regulatory aspects.
 - b) Number of users should be limited
 - c) Period of testing should be limited /defined
 - d) The Test SIMs should not be allowed to convert into regular subscribers
 - e) There should be a temporary numbers allotted for Test Services,
 - f) MNP cannot be given to Test Users, etc
- C. It is submitted that the above submissions are a clear and stark evidence of the multiple violations that were carried out by RJIL, which are now sought to be prohibited by various stakeholders.
- D. The TRAI is aware that over 14 operators over 22 service areas have tested their networks for 2G, 3G and even 4G services and not one of them before RJIL, has misunderstood the existing rules and therefore did not allow enrolment of subscribers, etc in test phase.
- E. In respect of the submissions made by RJIL, we have the following counter comments to offer:
 1. We note that the submissions seek to dismiss its enrolment of so-called test users as a non-issue and has alleged that the representations against its test services were only with the objective of delaying technological progress in India. In this regard, it is submitted that **the legitimacy of these so called test services has been questioned by:**
 - a) **TRAI on 08.06.2016** when it wrote to DoT as to whether the 5 lakh SIMs issued by RJIL were in compliance of its licensing terms & conditions.



- b) **By DoT**, which asked TRAI to examine the issue on 10.08.2016 and subsequently also clarified in its reference back on the TRAI recommendations dated 21.10.2016 that during pre-launch, a TSP is not expected to acquire customers and testing with other operators is supposed to be for ensuring call flow;
 - c) **Without prejudice to our rights, by the two dissenting members of CCI** who noted that:
 - o it can be inferred that a **TSP making an entry** into the market for providing telecommunication services is not **expected to create any subscriber base during the test period**. The test cards are to be issued to business associates, employees, relations *etc.* only for the purpose of checking the quality of service.
 - o it is evident that a TSP is not entitled to create a subscriber base during its testing phase. Further, only a reasonable number of test cards can be issued during the test phase.
 - o **Even before the commercial launch** of its services, **RJIL issued a large number of connections** which **according to the letter dated 08.08.2016**, were more than **1.5 million** at the time of the last media report. **As per TRAI press releases** on Telecom Subscription Data, **RJIL had *nil* subscribers as on 31.08.2016**
 - o **Although the Commission asked for the number of subscribers of RJIL as on 05.09.2016 and 06.09.2016 from RJIL, but that information was not provided....**
 - d) **By various stakeholders**
2. It is submitted that all the clauses of license pertaining to testing quoted in the response, provide for testing of systems, installations, networks and there is no reference to any user or subscriber in these clauses. Contrary to assertions, there is no document on record that permits test subscribers - only test cards are permitted. The effort to read enrolment of test subscribers into the license provisions is clearly belied by the facts.
3. We submit that the response is also incorrect in trying to justify its actions on the grounds that it was offering a 'new' or a 'developing technology'. Nothing could be further from the truth.
- a) The first LTE/4G network was launched in 2009!
 - b) Even in India, the first 4G launch took place in 2012!!
 - c) Testing of compatible devices certainly does not require that the device to be given in the open market or to millions of users. Testing of one device on the network is sufficient to check its compatibility.
4. The justification that users had to be enrolled because of its scale of proposed operations, that the requirements of a new technology are different from a 'legacy technology' have no basis in law or fact; if indeed the requirements of testing a new



technology were different, then the same would have been specified by either the Licensor or the Regulator; in any event, as pointed out above, 4G is not this 'new technology' that is sought to be made out in the response.

5. We do not understand the submission that testers are early adopters of technology and need to be assured that on commencement of services they are migrated as subscribers and do not face any roadblocks; we believe that this is an attempt to misread and modify the existing rules with the objective of retaining the illegally acquired customer base in the so-called test period. This also clearly shows the intent and objective of the so called testing was only to gain market share and a competitive advantage over the other service providers by operating on a non-level playing field – which is also evidenced by the submission is the response that the sole purpose of the testing was to assure seamless movement to paid subscription.
6. We strongly object to the contention that off-net functionalities need to be stress tested. It is strongly submitted that the so called test service had a degrading impact on our existing services and their quality and no TSP can be allowed to degrade the services of another TSP under the garb of test services.
7. As regards the submission that the current industry practice of 1 or 2E1s to a new operator is not correct or relevant in the current scenario, it is submitted that the present and prevalent practice is not followed in a vacuum, and cannot be overturned by any service provider at its whims and fancies. It may be noted that Clause 5.16 of our Interconnect agreement with RJIL provides that a "... minimum of 2 E1s shall be commissioned initially or as may be mutually agreed between the Parties." This agreement was signed in April 2014 and there is no record of any objections being raised to this [or any other] clause. Also contrary to the contention that 1 or 2 E1s was relevant 20 years ago, the agreements signed by us from 2008-2014 with various new entrants, carried the same clause – no operator has objected to this provision, till date.
8. We also note that whenever any regulation, order or rule does not suit the said service provider, it rejects the same on the grounds of it being outdated and proceeds with impunity to flout that rule. We submit that such blatant violation of the law of the land by any operator does not augur well if the regulatory framework is sought to be adjusted to legitimize the actions and demands of the new entrant. We believe that several recent consultations appear to have been initiated with this end objective.
9. It may also be noted that call flows are also checked whilst assessing compliance with rollout obligations. In respect of the justification that the testing by TERM was limited to few test users and a few parameters, we submit that there is no embargo on testing all devices and all parameters, but it surely cannot be justified that the devices and parameters needed to be tested by millions of subscribers.



10. We fail to understand how MNP can be advocated in a 'test scenario.' Submissions with regard to MNP in the response, clearly shows that the sole intent and objective was to acquire subscribers, without being constrained by any licensing or regulatory restrictions. It is evident that by advocating MNP in the testing phase that the so called testing was only a subscriber acquisition strategy.
11. We reiterate that the so called test service was only a camouflage to enrol subscribers and offer them a poorer grade of service and evading all rules and regulations.
12. It is reiterated that this is not the first launch of 4G services – either in India or abroad. These services were launched in India as well by other TSPs who managed to ensure compliance and quality services to their subscribers from Day 1.
13. As regards the contention that the DoT Circular of 09.08.2012 does not put a limit on test SIMs, it is submitted that reliance is being placed on the wrong document – the DoT Circular of 29.08.2005, clearly defines that the Test SIM can be issued only to business partners and roaming operators, puts a clear self-contained limitation on the number of Test Cards.
14. We are also a little amused by the contention that test users are for gearing up for the next phase of monetization – when it is a well-known fact that the service provider continued to offer free services both pre and post its launch on 5th September, 2016. The assertion that there is no need to define time limits for testing as it is in the TSPs interests to monetize the service at the earliest and that the TSP is the biggest loser in case of delayed monetization, is not credible, coming as it does, from a company that has chosen not to monetize its spectrum for over seven years!!,
15. We submit that elaborate explanations pertaining to technology, scale, devices, technical challenges etc. are only with the purpose of being allowed to operate a poorer grade network without being subject to the regulatory framework relating to quality of service, etc. It is also surprising whilst dwelling so much on technology, that the response does not even refer to the technical tools that are available for testing – simulations, loop back testing, etc. The TRAI may appreciate the absurdity of the contention that unfettered testing should be allowed – this would mean that an operator, can choose to keep its entire service outside the purview of license and regulation for howsoever long it desires – that it can spam other networks, degrade the QOS parameters of its competitors, it can offer poor QOS to its so called test users, it does not charge any fee, it does not earn any revenue, it does not pay its license fee and other dues to the Government.



16. TRAI may like to call for and examine the data pertaining to the so-called testing; the analysis, the remedial actions, etc; as far as we are aware, the only issue that has been raised during this entire period was POI augmentation – that was only related to increase its capacity.
 17. We note from the responses of other stakeholder that the so called test services of have been criticized even by various TSPs as also other respondents. Even the TSPs who have opined that enrolment of subscribers may be considered, have responded on future guidelines and that too suggesting strict controls to ensure that the facility is not misused, as has evidently been done, in the past.
 18. We think that this abundantly clarifies that the so called test services were a violation of the existing rules and regulations, which is now being sought to be camouflaged under various grounds such as technology, scale, devices, make in India, etc. These test services are the start point of all the issues and must be addressed at the outset.
 19. We thus reiterate that the first responsibility of TRAI is to examine the legality of these so called test services and only thereafter, if at all, look at prospective guidelines for network testing.
 20. We would also like to point out that by first running a so called test service and then a free service, the service provider has deliberately denied the Licensor its fair share of license fee and SUC, which is based on a revenue share. It is estimated that the free services of RJIL have caused financial distress and loss to exchequer. The TRAI, which is mandated under the Act to also protect the interests of service providers and ensure orderly growth of the sector, may like to examine our above submissions in the context of its mandate under the Act.
- F. We note that there is only one other respondent apart from RJIL, who has taken the view that if an operator wants to conduct trial on large scale, and also pays for the interconnection costs, it must be welcomed. The said opinion fails to appreciate the adverse impact that the test service has on the services and qualities of other networks who are commercial grade services and are required to meet all licensing and regulatory compliances. No TSP can or should be allowed to spam and degrade the quality of its competitors under the garb of running a test service.
- G. Submissions not related to the subject of the present consultation are not being commented upon. We are however surprised to note an NGO espousing the position and defending the actions of one particular operator.
- H. In conclusion, we reiterate that on 08.06.2016, TRAI admittedly had doubts over whether the 5 lakh SIMs issued by RJIL were in compliance of its licensing terms & conditions. It is



our submission that if this issue was known to TRAI way back in June 2016, then why was no action taken at that critical stage when irretrievable damage was being caused to us in the market. We further need to know as what is the trigger for such action being taken now.

- I. We have already sought from TRAI the exchange of correspondence that has taken place between TRAI and DoT on the issue of the test services of RJIL. We once again request that in the interests of ensuring transparency, TRAI may kindly share/put on its website, the following:
 - a) TRAI Letter to DoT dated 08.06.2016
 - b) DoT Letter to TRAI dated 10.08.2016
 - c) TRAI Letter dated 17.08.2016
 - d) Any other or related letter that was written or received by TRAI on the issue of test services of RJIL.

These may kindly be put on the website as a part of the present consultation process.

New Delhi
26 June 2017