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Sub: Consultation Paper on “Mobile Value Added Services” (CP 05/ 2011)

Dear Sir,

We are pleased to present our views on the Consultation Paper on Mobile VAS.

We would be glad to share and explain our suggestions in person as well.

Thanking you,

Yours faithfully,

Kapil Dev Kumar
Senior Vice President

INFOTEL BROADBAND SERVICES LTD'S VIEWS ON ISSUES IN CONSULTATION PAPER ON MOBILE VALUE ADDED SERVICES (CP 05/ 2011)

4.1 Whether the current provisions under various licences (UASL, CMTS, Basic and ISP) are adequate to grow the MVAS market to the desired level? If not, what are the additional provisions that need to be addressed under the current licencing framework?

Response:

We believe that the UAS and other access Licences permit a broad spread of access services that can be provided under Scope of Services of the respective Licence, with prior intimation on new services to DOT & TRAI and adherence to security & monitoring requirements.

We believe that the current provisions in the Licence are adequate and do not require a change.

However, there is a need to clarify the requirements before launch of new services. Para 2.4 in the Consultation Paper cites two letters/ instructions issued by DOT regarding intimation to DOT & TRAI 15 days to prior to introduction of service. However, DOT letter No.800-62/2008-VAS dated 8th November 2010 modified the 'intimation' condition to a 'prior approval' requirement.

We believe that 'prior approval' needs to be restored to 'prior intimation'.

4.2 Is there a need to bring the Value Added Service Providers (VASPs) providing Mobile Value Added Services under the licensing regime?

4.3 If yes, do you agree that it should be in the category of the Unified Licence as recommended by this Authority in May 2010? In case of disagreement, please indicate the type of licence alongwith the rationale thereof.

Response:

Though the objective of bringing faster robust growth to VAS is appreciable, the drivers for considering regulatory/ licencing intervention are not so clear. The central driver seems to be felt-need for effective revenue share regulation so as to give fair share to VAS Operator, which in turn would enable faster growth and innovation.

We believe that VASPs should not be brought under the licencing regime. Following aspects and implications should be considered in this respect:

1. Not a Core Service

VAS is discretionary add-on service and not a core telecommunication service. As VAS Providers do not own telecom infrastructure or provide core services, it would not be appropriate to license them under Indian Telegraph Act.

2. Content & Applications need unrestricted environment for Innovation

As aptly observed by TRAI:

- In India, SMS, Ringtone and Caller Ring Back Tones (CRBT) constitute bulk of the VAS delivered through SMS, IVR, GPRS and WAP portals platforms. Plus, there are innumerable other VAS like gaming, video and audio streaming, stock quotes, news and cricket quotes, tele-voting, chatting, astrology.
- Each service differs in content, cost and demand and is customized for different segment of consumers.

Value Added Services, by its very nature, denotes to 'value addition' and are very distinct from core telecommunication services. World-wide, this has become successful only through the concept of an Independent Software Vendor (ISV), who creates solutions and/or services to add value to the core service of the telecom service provider. This market innovation has resulted into introduction of new and new value added services and it is practically impossible to envisage the types of services that will get introduced in coming years.

The very basis of any successful Content Provider is continuous innovation, creativity and entrepreneurship. Most of today's successful internet age companies started small but thrived on account of low entry barriers and continued entrepreneurial vigor. Entertainment content, Internet Applications, & VAS in general has grow globally in an unhindered environment. Licence requirement carries the risk of stifling, rather than fostering, innovation.

VAS should be dealt with a "hands-off" approach.

3. Internet/ Data Applications do not depend on Telecom Operator, and are not licenced in open mature countries

The need to exercise restraint on regulation is stronger in the case of data/ internet services. In the case of VAS on data/ internet services, VASPs have no technical dependence on Telecom/ Internet Service Provider for providing the service, as the data connection is generally a dumb pipe. For some services, VASPs choose to partner Telecom Operators for billing convenience (as in the case with currently provided Games-on-Demand service and Anti-virus services over Broadband). Globally, Internet Application Companies and Regulators mostly operate on a net neutrality approach, wherein a broadband application is accessible across Telecom/ Internet Service Providers. **Thus, especially in the case of data services, there is no case to govern a relationship/ arrangement that has no technical necessity.**

Licencing Regime for Internet Content and Application providers, like portals, e-commerce, etc is not in practice in any of the open countries and should not be introduced in India too.

4. Content Pricing Regulations not a practice in India

As acknowledged in the Consultation Paper, each service differs in content, cost and demand and is customized for different segment of consumers. Besides content type, revenue sharing between operators and VASPs is also a function of level of equipment and operations/ maintenance support provided by VASPs.

Micro-management of such diverse cases would neither be desirable nor practical. TRAI has generally refrained from getting into pricing issues pertaining to content. This policy approach should continue.

5. Licence and Spectrum Fee already being earned

As the VAS Revenues are charged to licence and spectrum fee in the hands of the Telecom Operator, the Government is already getting its due share of fees. Licencing Regime for VAS would not add to the Government Revenues. To the contrary, it could further complicate the issue of AGR computation and lead to potential leakage in Government Revenues as Telecom Companies would need a set-off of the payments made to VASPs from their AGR.

6. VAS Market Space is already competitive

This issue of bringing the VASPs under licensing regime was deliberated at length by the Authority during last recommendations in year 2009 and the Authority had ruled against creating a separate category of licence or registration for value added services. There have been no significant changes in the scenario which merits reconsideration of this matter. In fact this space has become more competitive with introduction of additional service providers and auction of spectrum for 3G and 4G services. In such fiercely competitive landscape, value added services have emerged as key differentiating factor for any telecom operator thereby providing necessary negotiating power to VASPs. This also addresses the primary concern of providing fair revenue share to VASPs and associated Quality of Service issues

4.4 How do we ensure that the VAS providers get the due revenue share from the Telecom Service providers, so that the development of VAS takes place to its full potential? Is there a need to regulate revenue sharing model or should it be left to commercial negotiations between VAS providers and telecom service providers?

4.5 At the same time, how do we also ensure that the revenue share is a function of the innovation and utility involved in the concerned VAS? Should the revenue share be different for different categories of MVAS?

Response:

It can be noted that there is no standard concept of 'Value Added Service' or standard procedure to categorize these services. Each service differs from the other in terms of content, value chain, cost, demand etc. and is customized for different segment of consumer. Some services need a relationship which is more in favor of the developer on account of various factors such as perceived value by customer, upfront investments and ongoing costs involved etc. At the same time, some services are in more favor of the telecom operator due to the higher value of customer reach and billing convenience which is provided to VASPs. Thus there will be no universal 'fair way' or a universal 'set of fair ways' to categorize Value Added Services and decide upon applicable 'fair' revenue share.

Further, competition (large number of operators) in the market gives the VASPs the space to negotiate better commercial terms in lieu of exclusive/ differential service offering. For example, certain premium handsets are only available with some operators, access to certain TV shows based VAS are available only with some operators, some new Bollywood content become available first with select operators.

Given the wide variety in type of customer services, type of contents, and type of inter-party roles, the revenue sharing model should be left to commercial negotiations, as is the practice currently.

4.6 Do you agree that the differences come up between the MIS figures of the operator and VAS provider? If yes, what measures are required to ensure reconciliation in MIS in a transparent manner?

Response:

No Comments

4.7 (i) Does existing framework for allocation of short codes for accessing MVAS require any modifications? Should short codes be allocated to telecom service providers and VAS providers independently? Will it be desirable to allot the short code centrally which is uniform across operators? If yes, suggest the changes required along with justification.

(ii) Should there be a fee to be paid for allotment of short code?

4.8 Is there a need to provide open access to subscribers for MVAS of their choice? If yes, then do you agree with the approach provided in para 2.46 to provide open access? What other measures need to be taken to promote open access for MVAS? Suggest a suitable framework with justifications?

Response:

The basic concept of Value Added Service implies that for a subscriber a 'base service' is already active and these services are add-on or top-up services provided by telecom operators for their subscribers, and therefore VAS, by its very basic nature, does not straddle across different service providers. For example, the applications offered on iPhone are VAS for Apple, but not for the operator. Similarly, an operator is free to create a specific application which is VAS for the operator, and will not run on other operators' services. In view of this, there is no need for any modification in the existing framework with respect to allocation of short codes or subscribers' access to Value Added Services. For subscriber convenience, telecom operators may be asked to allocate uniform codes for VASPs, even though all operators may not activate those short codes in the absence of a contract with VASP.

Irrespective of above, central allocation or independent allocation of short codes will be feasible only with licensing of VASPs and mere registration of VASPs may not be adequate. As detailed in our response to earlier questions, bringing VASPs under licensing regime is not recommended.

Single connectivity, as proposed in para 2.46, would throw up the challenge of tariffing and revenue share. It would be difficult to implement different tariffs for different services and different revenue shares with different operators. There would be challenge of complex inter-operator billing & settlement, especially for different services with different tariffs and long distance carriage element in some/all situations. In addition, this arrangement might require clearing house kind of arrangement to facilitate end to end reconciliation and settlements, infrastructure for which is not in place at this stage. In the absence of treating payments to other service provider for VAS as pass-through charges, the cost of services for an end user will also go up as multiple telecom service providers will be involved in the settlement process.

Overall, we believe open access with single integration would not be a practical solution.

4.9 What measures are required to boost the growth of utility MVAS like m-commerce, m-health, m-education & m-governance etc. in India? Should the tariff for utility services provided by government agencies through MVAS platform be regulated?

Response:

The tariffs for VAS should remain forborne for the same rationale applied for base communication service tariffs. Competition and awareness would ensure fair pricing.