Hungama Response:
TRAI Consultation Paper on Mobile Value Added services
Dated: 21st July 2011

Questionnaire:

4.1 Whether the current provisions under various licenses (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 licensing framework?

The current provisions broadly cover MVAS in their provisions. However, to widen the spectrum, the provisions may also include Peer to Application services that may be delivered through Packet Switch and Data Switch.

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

No, in our opinion there is no need for any licensing for Value Added Services.
Any Mobile Value Added Service comprises Content, Technology, Product architecture and Distribution out of which Content, Technology and Product architecture are creative domains. The Telecom provider owns the distribution part, which is already under regulations

The licensing regime would imply commoditization of the products that the VASPs are creating. This means commoditization of creative products and services, whichwill cripple the MVAS industry.

Licensing would also mean that the entrepreneurial talent that is allowed to come up naturally under the given market conditions will be subjected to scrutiny at an early stage. Thus a new creative thought that has probably not been introduced into the market will be forced to be categorized under the services or products classified under the License regime. This might lead to demise of a new range of products/services or poor return on investment for the new entrant deterring them from trying to enter the field at all.

One of the most advanced markets in the world for Value Added Services is Japan, which has over 10,000 VAS companies which are serving content, services, applications, games etc. to the 4 telecom companies and thereby accessing the 160 million + consumer market of Japan. There is no licensing that is undertaken there. A 3G, 4G, LTE market will lead to 1000s of new services to be introduced which essentially require the carrier to give connectivity and billing and for the service to reach consumers. TRAI will find it very difficult to issue and indeed monitor 1000s of licenses and this may only lead to consolidation of few players and true creativity will be affected. Look at the Application Economy, there are 100s of thousands of Developers who have now collectively developed and deployed over a million Applications across 140+ App Stores and are generating revenues from them. What is needed is a better ‘Off Deck’ market creation where the Telco’s offer their connectivity and billing in return for a good revenue share in favour of the Content provider and/or the Service/Application developer.-

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MVAS is still evolving all over the world and regulations should be imposed on any industry that has become mature enough to function under guidelines.
Today, any industry that thrives on Content and Creative Products is not regulated in India.
Since Mobile, from the perspective of MVAS functions more like a media screen, we should look at similar parallels from other sectors and these are:

1- Broadcasting:
While the broadcast industry has its set of regulations, the Content served by the industry to the end consumer is a function of market dynamics. If we look at General Entertainment Channels, GECs, especially, the pricing of its shows, the packaging of content, the programming etc. are completely a function of the end consumer's receptivity towards a particular programme. The premium value attached to a piece of content by a GEC is also subjective because Creative work cannot be commoditized. While the companies engaged in creating content for GEC work within the wider framework of Prasar Bharati's guidelines and Censor regulations, their creative horizon is not restrained by any regulations. They also impose Self Regulation, which is now monitored and has a consumer voice via IBF. Each channel also has a call to action by consumers if they find any content objectionable aiding them to complain and hence have the same removed if needed.

2- Advertising:
The Advertising industry thrives on creativity to the extent that their very product is called Creative. The Creative work done by any advertising agency follows broad guidelines set by DAVP and ASCI; an Advertising Agency is not under any regulations.

3- Cinema:
Amongst the three creative industriesMotion Picture, Broadcast and Advertising Industry, the Motion Picture industry is the oldest in India. The industry has been evolving since its inception and continues to do so. The pricing of a Movie has remained subjective over the years since the first Motion Picture in India came into being. Cinema is guided by rules of the land but not regulated. The return on investment on any movie is purely a function of market conditions and end consumer's receptivity. We cannot think of putting the development of a creative product like cinema under regulations because we instinctively realize that it will stifle the creative element of the product.

The aforementioned examples are to state that any industry that is dependent on creative talent and produces work that is primarily creative in nature should be expected to follow guidelines so as to respect the laws of the land and cultural sentiments of its people but not restrained by regulations.

Mobile VAS is the creative content that feeds mobile and is an amalgamation of content that comes from movies, radio, television, print media and Internet. The companies that create MVAS products for the mobile medium should be treated in the same manner a movie production house, an independent producer of radio content or a production house supplying shows to a TV Channel is treated and subjected to the same set of guidelines for its content not regulations.

For any creative product or service, its survival, acceptance, return on investment for a product, receptivity of the stakeholders towards a product or service is purely subject to market conditions of which one of the major contributors is the end consumer's reaction to a product or service offering. Under such circumstances, the MVAS industry should be allowed to evolve by itself and learn from the consumers' acceptance or rejection rather than being subjected to Licenses and Regulations at a stage when it is yet to discover it.

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

As stated in the earlier response, Hungama firmly believes that the MVAS industry is a creative domain and is still evolving. License regime would only hamper the growth and creativity of the industry. Also the number of entities that are expected to provide services in a 3G and 4G environment would run into thousands and any licensing would indeed inhibit creativity. However, as stated above and in the points given below we believe TRAI could play a major role in facilitating a more conducive environment for MVAS in India.

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?

In the current arrangement, the VAS providers get there due revenue share from the Telecom Service Providers through individual commercial negotiations with various Telco's. It is true that in the recent 2-3 years as the overall telecom market has become hyper competitive the same pressure has come to VASPs and their revenue shares have been considerably reduced by the Telco's. However, we continue to believe that the Revenue Sharing model is an independent discussion between Telco's and VASPs and no party is forced to accept terms that they are not happy with. The need of the hour is to try and promote 'Off Deck' services, where in the Telcos must offer a significantly higher revenue share in favour of the VASPs, possibly as high as 70-80% in their favour and let the VASP be responsible for the creation, programming, promotion and managing of the service, within the guidelines as mutually agreed between the Telco and VASP.

The Indian market is almost 98% an 'On Deck' VAS market, i.e. the Telco takes the responsibility of promoting the service and hence tends to take a lions share. Demanding such high shares in a Voice and Text market is still understandable, given that Voice and Text rates had fallen a lot, however, in the new VAS, i.e. Data Services, Telcos should offer more favorable terms to their partners to encourage creativity and new services and hence the need to promote 'Off Deck' services. This will also help bring several media companies to promote VAS and indeed grow the business.

Internationally, VAS services are an over US$ 50 Billion market in which nearly 70% of the market is 'Off Deck' Whilst we believe that is unlikely to be the case in India as we do not have high credit card penetration or alternative payment mechanisms and hence to achieve scale we will need Telco billing,

Today, there is no Government nominated or independent body that regulates the pricing or the mechanism of pricing in any industry that produces creative services. For Mobile VAS, the mobile is a medium of content delivery to the end consumer. It needs to be treated like any other media especially with respect to pricing dynamics.

The revenue shares of various VASPs are linked to the price of the content and technology prevalent in the market. The revenue shares cannot be regulated unless the price of all the content and technology that goes into making MVAS is also regulated and it should not be.

Moreover, if we question the way in which the revenue share arrangement between a Telco and a VASP is affecting the end consumer the answer will be, 'not at all'. As it is, TRAI has regulatory mechanisms in place to control the pricing of the Telco services to the end consumer.

Hungama believes that MVAS is enabling the consumers to get the best deals through a convenient communication medium; giving an alternate revenue stream to the telcos thus helping them keep the prices of basic services very low for the end consumers; creating an industry that is attracting entrepreneurship and jobs for a whole host of talented individuals even while it is still evolving. Thus the price dynamics within the gamut of MVAS should be left to the influence of market forces only.

However, we once reiterate the need to promote 'Off Deck' services and have encourage Telcos to have a more favorable revenue share in this environment.

4.5 At the same time, how do we 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?

As per the earlier response, it is our firm belief that the current market forces which include the acceptance and demand for various Value Added Services amongst the end consumer is determining the acceptability, feasibility and sustenance of any revenue share arrangement between a VASP and a Telco. The best way to ensure that the innovation and utility of any Value Added Service gets its due return on investments or revenue share is by not influencing the free market forces and let the product/service undergo its natural product cycle.

Any product/service that gets positive response from the consumer is naturally encouraged to grow by all its stakeholders in the MVAS ecosystem. Any product/service that fails to attract users/subscribers is naturally weeded out of the system. And all this happens without distressing the end consumer. So far, there have been no instances in the MVAS industry where a product/service that was popular amongst the end consumer was discontinued for any reason.

Fixing up revenue shares for different categories of services in VAS would mean putting in regulatory mechanisms in the system. As illustrated in the response to the earlier query, there is no way in which the quality or value of a creative content/product/service can be fixed beforehand. If any Government nominated or independent body tries to categories various kind of VAS in order to determine the right kind of revenue share due to the category, it would be akin to commoditizing creative.

Currently, even without regulations, the right kind of revenue share due to any kind of VAS is determined by the innovation, utility, uniqueness and the kind of demand it is likely to generate (for new services) or the existing market demand (for old services) by the VASP and Telco.

Parallels from other sector:

- The advertising industry comprises big and small agencies, servicing companies/brands of a niche sector or servicing companies/brands from wide spectrum of industries. There is no pre-determined unilateral fee that an agency is supposed to charge a client depending on which industry sector the client belongs to or which kind of creative (print, TVC, outdoor etc.) the agency is doing.
- The IT sector develops products and gives services to different companies. The services given by an IT company can be classified into different categories of service. There is no regulatory body that fixes pricing for the different categories of services that IT companies give to various companies.
- There is no regulation in the Television industry that dictates price at which different categories of content/shows should be sold to a television channel by a production house
- There is no regulation in the Motion Picture Industry that categories the price at which a producer sells a movie to a distributor based on the category of the movie, action, social cause, drama, patriotic, children's film etc.
- Even a daily utility product like soap is not uniformly priced according to the category it belongs to, beauty, medicinal, children, men's soap, herbal etc.

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

Yes, we agree that there are differences.

It is chiefly because the records of transaction for any MVAS are stored in three different locations, the server of the technical services (platform) partner, the Operator SLR and the Operator's core server. There might be differences in the records stored in the servers because of network issues linking the servers or the customer not charged properly due to low balance or final content not delivered because of glitches in the Telco network etc. Hungama agrees that the final figures will be different after various reconciliations. However, large differences between the reports of number of customers activating a service and the billing reports cannot be ignored.

The Operators with the VASPs should share a daily MIS from the Telco's, which might not be used for billing purposes. This would at least keep a regular tab on the number of activation requests coming from the subscribers.

In majority a third party handles cases the promotions of an Operator's On-deck VAS products. Discrepancies creep up when the third party responsible for dispassionately promoting various On-deck services of the operators has its own products/services in the same catalogue along with other services. In such cases the third party does biased promotions.

A daily MIS from the Telco's would be essential in weeding out practices that ultimately create a bad customer experience and nipping them from the bud. The daily MIS will also help VASPs in understanding the consumer acceptance of their services and rectify or make those services better in case required, in lesser Turn Around Time.

The Billing data from the Operator should also be received within 30 days and more than 50% paid within the month with or without reconciliation. The reconciled payment should be settled within 60 days.

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.

The current model of Operators allocating short-codes to various applicants works well for the industry as a whole. Allocation of short codes happens at the level of individual Telco's because each Telco has its own set of parameters for allocating short codes. Also, every Telco has a set of short codes set aside for their On Deck VAS and other customer support services and these short codes differ from Telco to Telco. However, the timeline for approval of short codes is completely determined by each Telco and this tends to create a delay. Any standardization in this area would greatly benefit the MVAS industry.

The allocation of short codes by a Telco to any VASP is also based on the evaluation of the VASP's business proposal and the kind of services they are planning to put forth to the end consumer. Since every Telco invests its time, manpower, resources and infrastructure in supporting and maintaining short codes for any VASP, it is natural that they would be choosy about distribution of the short codes because of the risks involved in blocking a short code that might not generate enough subscribers and consequently optimum return on investment.

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

Currently, various operators have their own charging model for allocating a short-code to any third-party. This commercial arrangement has a different set of logic for each operator which stems from the kind of infrastructure, resources, manpower etc. they have to dedicate to maintain a short-code from their end.
If there is a timely process of allocating short codes then there can be a nominal fee charged for the same.

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?

An open access MVAS platform will definitely encourage innovations and entrepreneurship in VAS sector. The approach provided in Para 2.46 of the Consultation Paper on Mobile Value Added Services released by TRAI on 21st July 2011, loosely defines the way it can be executed but the same needs to be fine-tuned. We will submit our proposal for the same in a separate paper.

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 the government agencies through MVAS platform be regulated?

M-commerce is already regulated by RBI norms. M-governance would involve government approvals and hence would evolve within a regulated framework naturally.

M-health & m-education would require assistance rather than regulation to grow in the country. The Content Providers, Technology service providers and Telecom companies, all need to be incentivized to invest in growing these services. It is due to the fact that on a macro level, the services have vast potential but the very nature of these services needs them to be low cost and customized as per the grass-root requirement of various locations with-in the country. Thus the Content Provider needs to be especially incentivized because it has to invest heavily in time, infrastructure and resources to prepare the right raw material that is the backbone of such services.

The tariff for such services depends on the nature of the services and the consumers it aims to address. For instance, In case a service is meant for low-income families or for facilitating education amongst kids from BPL families, the service tariff may be very low or offered for free depending on the amount of spending the Government allocates towards the service.

4.10 Any other suggestions with reasons thereof for orderly growth of mobile value added services?

It is the content that makes any MVAS exciting and has been responsible for attracting customers for consuming and growing VAS in the mobile domain.

Today, MVAS is poised for becoming the growth driver of the mobile economy that will not only help Telco's keep the rates of basic telephony services within the reach of Indian masses but also encourage a communication revolution like that of USA or Europe without the aid of PCs.

MVAS has changed the nature of a mobile device from being a mode of communication to becoming a media screen. The content consumption within MVAS is increasingly shaping up the way other media content like TV, Internet etc. is consumed. TRAI through its learnings from the television industry should encourage flow of creative content into the mobile VAS ecosystem as well thereby increasing the choices for a consumer on the mobile screen at an affordable pricing.For this it is also important that the MVAS content aggregators are encouraged to invest in content procurement and innovative developments within the content space to be able to offer interesting, useful content along with a hassle-free experience to the end users.

TRAI has also taken a commendable initiative of inviting response from the players in the MVAS industry and Hungama is thankful to TRAI for being given an opportunity for putting forth its views on various issues raised in the consultation paper.

In case TRAI feels that it is important to take such discussions a step further and expect in-person participation from various VASPs for an open-discussion, Hungama will be more than willing to extend its full cooperation to TRAI to make the interactive session fruitful.