Bharti Airtel's Response to the Draft Telecommunication MNP Per Port Transaction Charge (PPTC) and Dipping Charge (Amendment) Regulations, 2017

We are thankful to the Authority for providing us an opportunity to comment on the draft MNP per port transaction charge and dipping charge (amendment) regulations, 2017. Our submissions are as follows:

I. Reduction in per port transaction fee from Rs 19 to Rs 4.

The principal regulations were issued in 2009 and it was envisaged that the PPTC would be reviewed on a yearly basis. The current amendment proposed by TRAI is fairly in line with the provisions made under the main regulation, however, it is noted that the review of the per port transaction charge was not undertaken yearly as per the regulatory norms set by the Authority.

As per the proposed amendment, the PPTC would be revised to Rs 4. To arrive at this figure, the Authority has adopted the Fully Allocated Cost model, which is similar to the model that was adopted in 2009, when the PPTC was fixed at Rs 19. It is noticed that the revised charge has been determined based on the annual audited accounts of MNP Service Providers (SPs) for the financial year 2016-17. Also, for porting requests, the number of requests received in FY 2016-17 has been considered. Thus, while the earlier charges were derived on the basis of estimation of porting requests and costs for 5 years, the current charges have been calculated on the basis of actual data.

Both the MNP service providers are rendering their services in a monopoly market as there is no other supplier of MNP services in their respective zones. In a monopolistic market, it is important to determine the pricing strictly on the basis of cost.

Regarding the cost and the methodology to determine PPTC, we have the following observations:

1. **<u>The present cost as per extant regulation is very high :</u>**

An analysis of cost vs. revenue earned by MNP service providers during the last 7 years reveals that each MNP SP would have earned about Rs 260 Cr over and above the cost used by TRAI for determining the PPTC. A year-wise revenue and cost analysis is shown in the following table:

Year	MNP counts-cumulative	Number of porting per Financial year	MNPSP's Revenue @Rs 19 (in Cr)	Cost* (in Cr)	Revenue per MNPSP (in Cr)	Excess Recovery (Revenue-cost) (in Cr)
			A	B	C	D=C-B
2010-11	6,422,599	6,422,599	12.2	3.1**	6.1	3.0
2011-12	41,876,005	35,453,406	67.4	12.3	33.7	21.4
2012-13	89,696,580	47,820,575	90.9	12.3	45.4	33.1
2013-14	117,013,400	27,316,820	51.9	12.3	26.0	13.7
2014-15	153,845,322	36,831,922	70.0	12.3	35.0	22.7
2015-16	209,129,813	55,284,491	105.0	12.3	52.5	40.2
2016-17	272,762,887	63,633,074	120.9	12.3	60.5	48.2
2017-18 (till Oct 17)	314,993,707	42,230,820	80.2	12.3	40.1	27.8
2017-18	403,734,533	88,740,826	168.6	12.3	84.3	72.0
Total			**686.9**		**343.4**	**254.3**

*Cost per annum has been considered as Rs 12.3 Cr per annum in line with the draft regulation.

**For FY 11-12, cost proportioned for 3 months as MNP was implemented on 25th Jan, 2011.

2. **<u>Cost items included by MNPSP need to be reviewed</u>**

An analysis of one of the MNP SP's cost sheet from its annual audited report, filed with the Registrar of Companies (ROC), shows that Royalty has been shown under a separate head. The definition of Royalty is "*a sum paid to a patentee for the use of a patent or to an author or composer for each copy of a book sold or for each public performance of a work*."

The parent company is providing software support and maintenance, which is charged separately. We believe that once the software support and maintenance cost is considered, the royalty amount of Rs 3.09 Cr should not be considered as an additional cost item.

We are concerned about high royalty charges by the parent company, which will lead to increase in total cost. The Authority should carefully review the royalty charges to see if these are being unnecessarily forced upon the TSPs.

From the above, it is clear that MNP SPs have earned abnormally high profits during the last 7 years because the PPTC was not reduced despite much higher number of portings as compared to the projected porting requests. As a result, MNP SPs have earned profits up to 75% even as per their records.

3. **<u>Approach towards fixing the Per Port Transaction Charges</u>**

Since the MNP SPs have already earned an excess amount after covering all the costs, it is desirable that going forward, the PPTC should be strictly cost-based. Also, in order to accord fair treatment to all telecom service providers, the excess amount of Rs 250 Cr ought to be recovered from each MNP SP and should be passed on to the TSPs. Hence, **<u>the MNP SPs should be directed to provide porting transactions free of cost till this amount gets recovered. The excess recovery made by them for the current year i.e.</u>**

recovery of Rs 72 Cr per MNP SP should be passed on to the telecom service providers on immediate basis in this year's billing.

Analysis of PPTC at Rs 4 per transaction

As shown above, the MNP SPs have already recovered excess amount in addition to the recovery of capex. Therefore, no capex recovery should be made going forward. TRAI has estimated about 22.15% as capex cost while determining PPTC during 2009.

Cost break-up considered by TRAI in 2009[1] is as under:

Cost element	Period	Cost(mn)
Depreciation/ capex	5 Year	729
RCOCE@15%	5 years	239
OPEX	5 years	1638
Total Cost	5 years	2606
Ratio : Capex to Total cost		22.15%

In the draft regulation, TRAI has considered Rs 12.29 Cr as total cost for FY 2016-17. Since capex is already recovered, the capex amount of Rs 2.72 Cr (22.15% of total cost) needs to be deducted due to excess recovery. In addition, the royalty cost of Rs 3.09 Cr should not be charged since software support and maintenance cost has also been charged. Thus, a revised cost of Rs 6.48 Cr is arrived by deduction of these cost elements.

[1] TRAI's consultation Paper on Determination of Port Transaction Charge, Dipping Charge and Porting Charge for Mobile Number Portability dated 22/07/2009

This is shown in the table below:

Description	Derivation	Amount (in Cr)
Per annum cost FY 16-17	A	12.29
Less royalty cost, FY16-17	B	3.09
Less capex @22.15%	C	2.72
Revised cost	**D=A-B-C**	**6.48**

TRAI has considered the porting transaction numbers for FY 16-17, whereas we feel that the number of porting transactions for FY 17-18 should be considered.

The actual number of porting transactions from Apr till Oct 2017 is 4.22 Cr as per the monthly subscriber report published by TRAI. The number of porting transactions for Nov to Dec 2017 is 2.12 Cr as per data provided by MNP SPs. In addition, Aircel has announced the shutdown of its operations in 6 circles—HR, HP, GJ, MP, Maharashtra and UP W. This would lead to additional porting transactions of 41.46 Lakhs based on TRAI's monthly subscription report, Oct 2017. The estimated number for FY17-18 has thus been derived at 8.87 Cr, as shown below:

Description	Derivation	No. of porting requests (in Cr)
Porting requests till Oct 17*	A	4.22
Porting requests Nov &Dec17	B	2.12
Total till Dec. 17	C=A+B	6.34
Expected porting transactions, FY 17-18	D=C*12/9	8.46
Addition porting transactions due to Aircel	E	0.41
Total portings, FY17-18	F=D+E	8.87
Porting per MNPSP,FY17-18	**G=F/2**	**4.43**

With these revisions in cost and porting transaction numbers, the PPTC works out to be Rs 1.47 per transaction as shown in the table below:

Description	Unit	Draft regulation	Revised cost/ charges
Per year cost (A)	Cr	12.30	6.48
Porting transaction per year(B)	Cr	3.10	4.43
Per port transaction charges (PPTC) C=A+B	Rs	3.96	1.46
License fee D	Rs	0.04	0.01
Total PPTC E=C+D	**Rs**	**4.00**	**1.47**

To summarize, we have the following submissions:

i. Per Port Transaction charges should be revised to Rs 1.47 per transaction.

ii. No port charges should be recovered from the TSPs till the excess recovery of Rs 250 Cr per MNP SP is passed on to TSPs.

iii. The excess recovery of approx. Rs 72 Cr per MNP SP for the current financial year should be passed on to TSPs in the current bills.

iv. The Per Port transaction charges should be reviewed on a yearly basis.

II. No Per Port Transaction Charge in case of forced porting of subscribers due to closure of the services:

Many telecom service providers had to shut down their services on account of non-viability of their operations. As a result, the subscribers of such telecom service providers were forced to opt for MNP facility. However, the PPTC in such a situation, where a large number of subscribers had to forcibly opt for the porting option, has to be paid.

Since the PPTC is the amount which the recipient operator is allowed to collect from the subscriber, considering the forced porting of the bulk subscribers due to the

closure of the services, the charge in such cases should be waived off in the interest of the consumers.

III. **MNP per Port Transaction Charge as Pass through Charge:**

While MNP SPs have been allowed to make higher than normal profits, TSPs are not even allowed to claim deduction of PPTC paid to MNP service providers, from their Gross revenues, to arrive at AGR for payment of the license fee and Spectrum usage charges.

Per port transaction charges are paid by recipient TSP to an MNP SP. These charges should be allowed to be deducted from Gross revenue of the TSP, since the MNP SP pays the license fee on the per port transaction charge, which it receives from the Recipient Operator. The levy of license fee on per port transaction charge for both the service providers i.e. TSP and MNP SP, amounts to a dual levy of license fee and the same is not justified.

In light of the above, we request TRAI to consider our submission and issue recommendation to DoT to allow the deduction of Per Port Transaction charge paid by the Recipient Operator from its Gross Revenue for calculating AGR for the purpose of payment of license fee and SUC.

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