



**COAI Response
to
TRAI Consultation Paper
On
‘Delinking of license for networks
from delivery of services by way
of virtual network operators’**

January 15, 2015

I. Preliminary Submissions

- 1) While DoT has referred to NTP 2012 at the time of seeking the recommendations of TRAI on Delinking of license for networks from delivery of services by way of virtual network operators, we need to clearly understand the meaning and the objectives that NTP 2012 sets out to achieve. These have neither been stated in the NTP12 nor in the Pre-Consultation Paper nor in the Consultation Paper. It is respectfully submitted that in absence of provision of any such clarity, it more or less becomes an exercise in uncertainty which is not good for the industry. At this stage too there are many questions in the mind of stakeholder which require clarity. The Authority has rightly put this is an issue of grave importance from the licensing framework point of view and will impact all stakeholders.
- 2) NTP 2012 seeks to ensure optimal and efficient utilization of network and spectrum by sharing active and passive infrastructure. These are very clearly stated objectives and it is regrettably stated that even despite the best efforts of TRAI some of these objectives like spectrum sharing and trading have not been implemented by DoT.
- 3) In view of the above and in a scenario where measures for optimal utilization of existing infrastructure within the existing licensing framework have not been implemented despite TRAI's recommendations, the delinking of networks and services by way of VNOs is too premature and will not help in achievement of the desired objectives. All the TSPs are already utilizing their networks most optimally in order to achieve all possible cost efficiencies and are offering the most affordable tariffs. Given the overarching requirement of predictability and stability in the policy, licensing and regulatory regime, as has also been recognized by the Authority, we believe that any further measures, if required, should be within the existing framework.
- 4) There is a sudden shift envisaged in the framework and in the business cases of the operators. The telecom operators have been addressed through last 20 years as service providers, TSPs, CMSPs, UASLs, ULs, ILDs, NLDOs, ISPs etc and all of a sudden they may be classified as NSOs. This term NSO (Network Service Provider) and its form needs some explanation and its implications on the industry and sector have to be enunciated by the Authority first and only then one can provide relevant and proper inputs on this huge structural shift. As industry association, we submit that we thought post the Pre-Consultation, the Authority will provide more substantive scenario so that stakeholders can take better informed decision. We, therefore, request that this exercise requires more inputs and impact analysis from Authority.
- 5) **In the present licensing regime, the resellers of telecom services are not allowed. In fact at several occasions DoT has stated that MVNO is not part of the Government Policy and is prohibited. One of the such recent instance is December 2012 when DoT issued Show Cause Notices on 3G ICR to some operators. Thus, we fail to understand that if MVNO was admittedly not part of Government Policy in December 2012 (applicable policy was NTP12) and is prohibited then how this issue can now be referred by DoT itself and what is the reason for the same. Further, this shows that in DoT's own view MVNO is not a measure to facilitate competition and promote efficiency in the operation of telecommunication services.**

- 6) We would also like to express our concern on the a purported decision taken by DoT in 2013 that Unified license may be introduced in two phases with the delinking of licensing of networks from delivery of service being taken up in the subsequent phase. No such recommendation was made by TRAI and it is not clear on what basis and material such a decision has been taken.
- 7) Further, there are many indications in TRAI's CP itself doubting requirement of VNOs. Some of the examples are quoted below:

"1.8 For the telecom sector, which is highly capital intensive and where pay-offs are realized over a long time period, it is necessary that regulatory policies are predictable and stable. This reference from the DoT has the potential to change the entire licensing framework in India. Since the UL has been introduced only recently, it was not very clear as to why such a reference has been made so soon after the UL was introduced. The rationale for changing the licensing regime was not apparent. Further, in the changed regime, would existing Telecom Service Providers (TSPs), who own their network and provide services to customers, have to obtain separate licenses for provisioning of network and delivery of services or would their existing license be treated as network and service delivery license etc?

We submit that all these questions remain unanswered even after issue of CP.

1.12 Research shows that MVNOs remain most prevalent in mature markets where penetration (based on connections) has surpassed 100%. Europe is home to more than two thirds of global MVNOs (579), followed by the Americas (128) and Asia (79). In contrast, the MVNO sector is in its infancy in African markets with just eight MVNOs across the continent.

2.6 It can be argued that there are a sufficient number of TSPs in various Licensed Service Areas (LSAs) and in various services segments; hence, it would be contended that there is no need for introduction of further competition by way of VNOs in service delivery. Equally, however, there is no denying the fact that there is still a wide 'Digital Divide' between urban and rural India. Urban teledensity has reached 147% (July'14), Rural teledensity has been lagging at around 45% (July'14) primarily because of the non-viable business case for providing services in rural areas. Access spectrum available with the Cellular Mobile Service Providers (CMSPs) is far less compared to operators in other countries. As a result, congestion is observed in urban areas while in rural areas, particularly in large LSAs, the telecom infrastructure remains under-utilised.

We submit that any indication that VNOs will serve niche market in rural areas and thus help in growth of rural markets is against the evidence itself provided by the Authority para 1.12 of CP.

- 8) The delinking of networks and services will only lead to an overemphasis on services with reduced incentive to invest in infrastructure creation. VNOs/SDOs will focus on cherry picking the creamy layer in already developed areas, thus reducing the sustainability and the business case to roll out infrastructure in rural and remote areas. There is also the possibility of the entry of non-serious players or fly by night operators. This will further

severely hamper the achievement of the connectivity and broadband objectives of the Government and the Digital India dream.

- 9) The delinking of networks and services will defeat many other objectives as laid out by NTP-2012. The NTP-2012 aims to simplify the licensing framework to further extend converged high quality services across the nation, including rural and remote areas. NTP-2012 aims to frame appropriate policies for the new licensing framework, migration of existing licensees to the new framework, exit policy and measures for ensuring adequate competition in consultation with TRAI. We fail to understand as to how VNO policy would lead to long term sustainability for telecom operators and enhance competition in the sector. We believe that the proposal to delink networks from services and introduction of VNOs are at variance with the objectives of NTP-2012.
- 10) There is a need for the Government/Regulator to undertake a comprehensive cost benefit analysis keeping in mind the current issues facing the sector, which include financial health of the sector, competition in the sector, need for introducing new regime, the need and objective of regulatory policy changes and spectrum scarcity before actually making any recommendations or decisions in this regard. Globally, Regulators follow the practice of a regulatory impact analysis before making and decision/recommendation – we strongly suggest that such a practice should be introduced in India as well.
- 11) The introduction of UL and delinking of networks and services are two contrasting/divergent regulatory policies with the former aiding the sector towards consolidation while the latter leading to fragmentation.
- 12) **Thus, in light of the submissions above, we are of the view that delinking of license for networks from delivery of services by way of VNO is neither necessary nor desirable.**

PREAMBLE

A. Background:

- 1) DoT has referred to NTP 2012 while seeking the recommendations of TRAI on Delinking of license for networks from delivery of services by way of virtual network operators.
- 2) Following are the main objectives highlighted by DoT for delinking of the license for networks from delivery of services in UL regime:
 - Optimal and efficient utilization of network and spectrum by sharing active and passive infrastructure.
 - Ensure adequate competition.

B. Predictability & Stability of the Licensing Regime

- 1) At the outset, we would like to submit that it is of utmost importance for the long term growth of the Telecom sector that the policies formulated by the Government are predictable and stable in nature. A clear, stable, predictable policy regime which recognizes the long term nature of the investments made in the telecom sector is the need of the hour.

- 2) This has also been recognized by the Authority in the Consultation paper where it has stated “***For the telecom sector, which is highly capital intensive and where pay-offs are realized over a long time period, it is necessary that regulatory policies are predictable and stable.***”
- 3) Further any change in the policy or licensing regime has to be based on a clear evidence of the failure of the existing regime to deliver on the end results. Such drastic changes cannot be undertaken lightly without any evidence or due consideration of the impact and implications of the new regime.
- 4) The Authority has also stated in its Consultation paper that “***This reference from the DoT has the potential to change the entire licensing framework in India. Since the UL has been introduced only recently, it was not very clear as to why such a reference has been made so soon after the UL was introduced. The rationale for changing the licensing regime was not apparent.***”
- 5) **Need of Stable policy for attracting investments for meeting government objectives of reaching the un-connected:**
- a) The Government is targeting to connect all village local bodies (Panchayats) by broadband internet and phones, promote e-governance, WiFi connectivity in 250K schools, universities; public hotspots for citizens. We understand that a budget of INR 70,000 crores till 2019 has also been approved for telecom & IT. where
 - Enhanced expenditure on broadband network of INR 320 bn to connect 250k Village Panchayats.
 - INR 160 bn to provide mobile connectivity by 2018 to ~ 42,300 villages that presently have no network coverage.
 - b) Further, as per Planning Commission’s 12th Five Year plan projections, the total investment in the Telecom sector, which is an infrastructure sector, is expected to be **Rs. 943,899 Cr** during the five year period and 93% of the total investment is expected to come from the private sector.

Figure: 1

Projected Investment (in INR crore) in Telecommunications under 12 th Five Year Plan							
	2012-13	2013-14	2014-15	2015-16	2016-17	Total	%
Centre	15203	14827	14446	14023	13611	72110	7.24
Private	90746	121263	162042	216535	281203	871789	92.76
Total	105949	136090	176489	230557	294814	943899	100

- c) However, for such investments to be made by the sector, it is of utmost importance that the policies formulated by the Government are predictable and stable in nature. The need to ensure security of investments and create a growth oriented environment has also been highlighted by the Hon'ble Prime Minister whilst launching the recent “Make in India” initiative.

- d) It is submitted that any disruptive approach to policy and licensing will have the effect of deterring investments and eroding investor confidence.
- e) Also, the delinking of networks and services will lead to an overemphasis on services with reduced incentive to invest in infrastructure creation. VNOs/SDOs will focus on cherry picking the creamy layer in already developed markets, thus reducing the sustainability and the business case to roll out infrastructure in rural and remote areas. There is also the possibility of the entry of non-serious players or fly by night operators. This will severely hamper the achievement of the connectivity and broadband objectives of the Government and the Digital India dream.

6) Need of holistic understanding of NTP 2012:

While the TRAI has highlighted the DoT reference which hinges on the strategies highlighted in NTP 2012, we wish to highlight various other provisions of the very same NTP 2012 as under:

- a) ***"Simplify the licensing framework to further extend converged high quality services across the nation, including rural and remote areas".***

The proposal for introduction of the VNO in no way would lead to simplification of the licensing regime. In fact, it would only lead to complexities in the licensing framework including in terms of roll-out, security obligations and even AGR assessments.

The proposal of delinking of networks from services is creating further fragmentation rather than unification. Convergence, by its very definition means joining together, not tearing apart. As also enunciated by ITU separate categories of networks and services are a pre-cursor to bring about unified licensing and not as a subsequent approach.

- b) ***"Evolve a policy framework for financing the sector consistent with long term sustainability".***

With the current financial health of the Industry being accentuated by abysmal RoCE figures the VNO proposition talks about additional competition. We fail to understand as to how VNO policy would lead to long term sustainability for telecom operators.

The Authority has also stated at various times that the Industry is in dire need of consolidation and that the level of competition is too intense. In this background, we fail to understand as how the introduction of VNO can justified to be a move for ensuring "adequate" competition.

7) Delinking of the licensing of Networks from the delivery of Services and facilitating resale at the service level by introduction of VNO are not inter-dependent:

- a) We would also like to respectfully submit that the delinking of the licensing of Networks from the delivery of Services and facilitating resale at the service level by introduction of virtual operators are not inter-dependent and should be dealt with separately.
- b) Delinking of the licensing of Networks from the delivery of Services is not a pre-requisite for introducing VNOs and the same, if required, can be introduced even with the existing licensing framework.

- c) The Authority, in its recommendations on Telecom infrastructure policy has recommended that "**A Unified licensee who does not possess spectrum should be allowed to work as an MVNO in any licenced service area.**"
- d) It is however our submission that there is no need to introduce VNOs into the Indian market, which is already hyper competitive – the pressing need of today is to facilitate consolidation rather than increase competition.
- e) The Authority too, has recorded in the consultation paper that "**Research shows that MVNOs remain most prevalent in mature markets where penetration (based on connections) has surpassed 100%." Europe, which as per the the consultation paper is home to more than two thirds of global MVNOs does not have more than 3-4 operators.**
- f) It is further submitted that the objectives sought to be achieved through delinking of the licensing of Networks from the delivery of the Services, viz. enable operators to optimally and efficiently utilize their networks and spectrum by sharing active and passive infrastructure, enhance the quality of service, optimize investments and help address the issue of the digital divide are better met under the existing framework and in fact, the proposed delinking will actually hinder rather than help meet the stated objectives.
- g) It is also not clear how the proposed new licensing regime will address the requirements of level playing field, rollout obligations, policy on merger and acquisition, non-discriminatory interconnection including interconnection at IP level etc. while ensuring adequate competition.

C. Comprehensive Review of all aspects

Further, there is a need for the Government/Regulator to undertake a comprehensive cost benefit analysis keeping in mind the current issues facing the sector, which include financial health of the sector, competition in the sector, need for introducing new regime, the need and objective of regulatory policy changes,etc., before actually making any licensing and policy recommendations or decisions.

We would urge that the approach of carrying out a regulatory impact analysis as followed by best practice regulators worldwide should be introduced in India as well.

Against the above backdrop, we would like to make the following submissions with regard to the various aspects that need to be examined and considered by the Authority:

1) Financial Health of the Industry:

- a) The financial condition of the sector poses several challenges. The cumulative debt burden of telecom companies has increased from INR 82,726 crores in FY09 to INR 2,39161 crores in FY14. The EBITDA margins of the telecom companies have fallen from 33.8% in CY08 to 15.5% in CY13. The decline in margins has led to the operators exiting the sector, scaling down their operations and curtailing future investments.
- b) Indian Telecom Industry is financially stressed, which is reflected in following data points on ROI and Net debt of the Indian telecom operators:

Figure: 2

Operator Category	Consolidated Figures		Consol. Gross Block Rs. Crores	ROI* %
	Annual EBIT Rs. Crores	Net Debt Rs. Crores		
COAI	15,383	153,559	376,637	6.6%
Others**	(11,186)	86,974	358,169	-6.4%
Total	4,197	240,533	734,805	1.0%

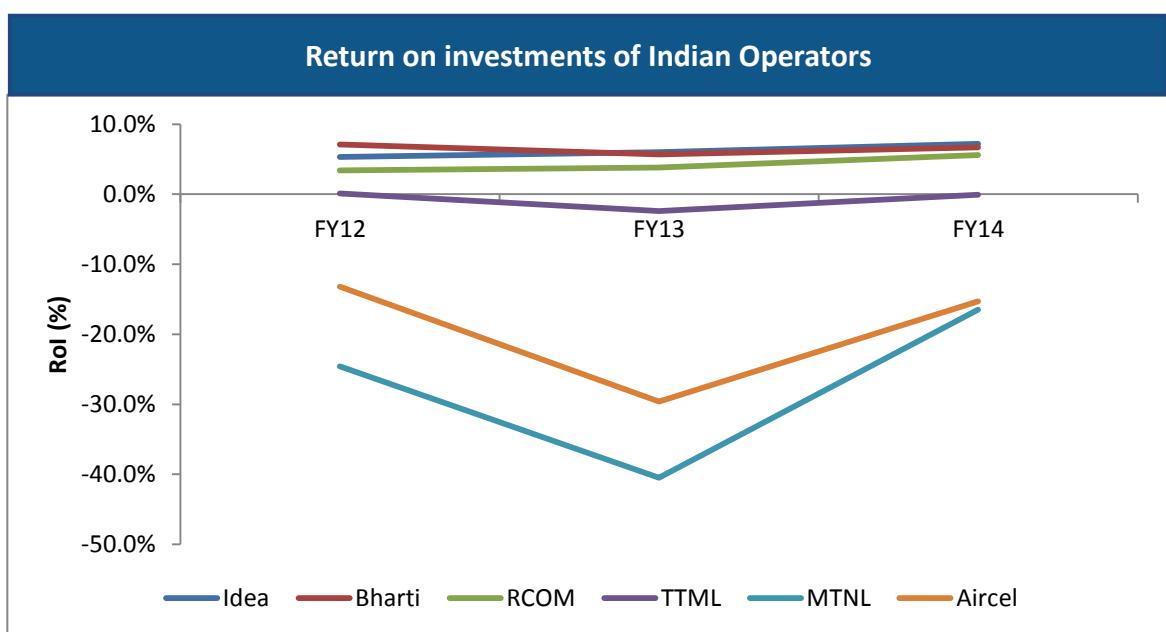
* $ROI = EBIT/Net\ Block$

Calculated only for those operators for whom both EBIT and Net Block is available.

** Others include public sector operators

Source: Based on latest annual financial information filed by listed operators on the stock exchange and other operators with RoC

Figure 3:

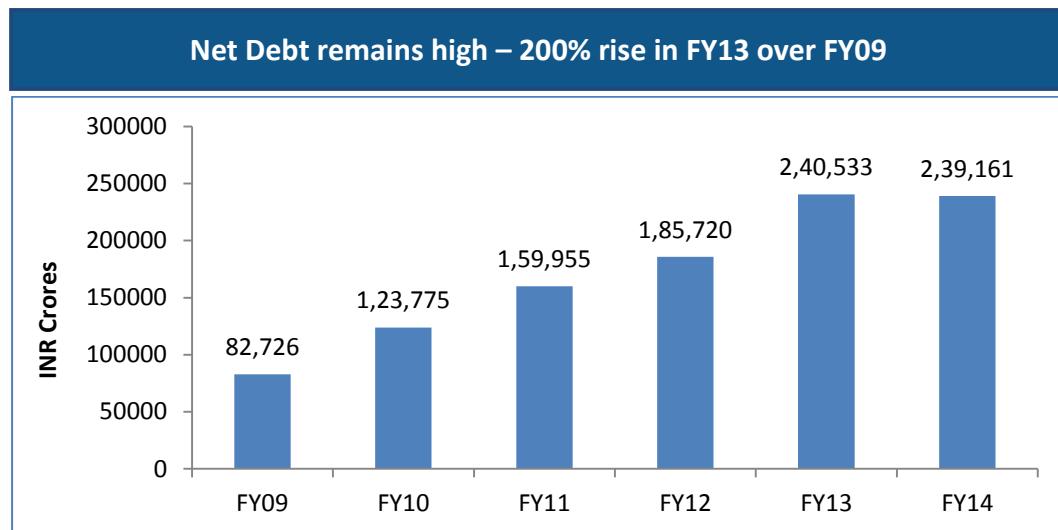


Source: Annual Report/Calculated based on financial results filed with RoC

- c) It can be seen from the above that there are only 3 operators out of those listed above who are making any positive ROCE. Although, even these 3 operators are not able to recover their cost of capital, with the best ROCE for FY14 being at 7.2%.
- d) Further, the operators whose returns are below cost of capital are not new start-ups, but are incumbent operators who have operated for 20 years with their licenses coming up for extension. The ROCE levels would decline further from FY14 levels once the investment is made for extension of licenses and spectrum, which would result in a significant increase in capital employed to continue the existing business.
- e) Hence, If this is the situation of the most efficient players in the industry after 20 years of operation, then this industry can ill afford any further increase in competition through VNOs.

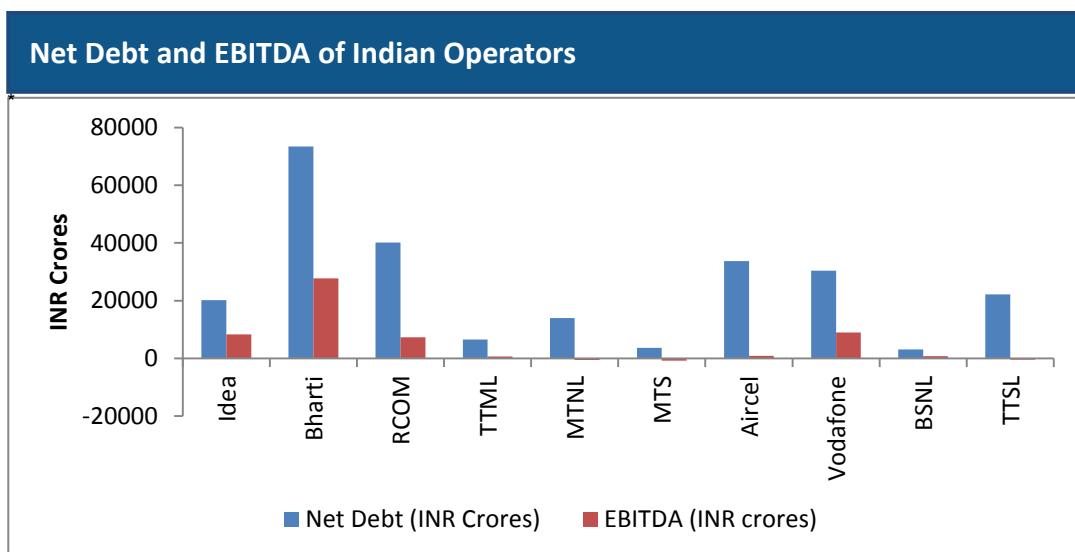
- f) Moreover, the absolute level of leverage in the industry is very high. This will increase further when operators borrow for payment of spectrum to extend their licenses. Given this background the operators will have severe constraints on capital to make investments in networks to fulfill national policy objectives of rural coverage and digital India.

Figure 4:



Source: Based on latest annual financial information filed by listed operators on the stock exchange and other operators with RoC

Figure 5:



Source: Figures for Idea, Bharti, RCOM, TTML, MTNL, MTS and Aircel pertain to FY14 while figures for Vodafone, BSNL and TTSL pertain to FY13, the same is based on the Financial Results filed with RoC and Quarterly disclosures.

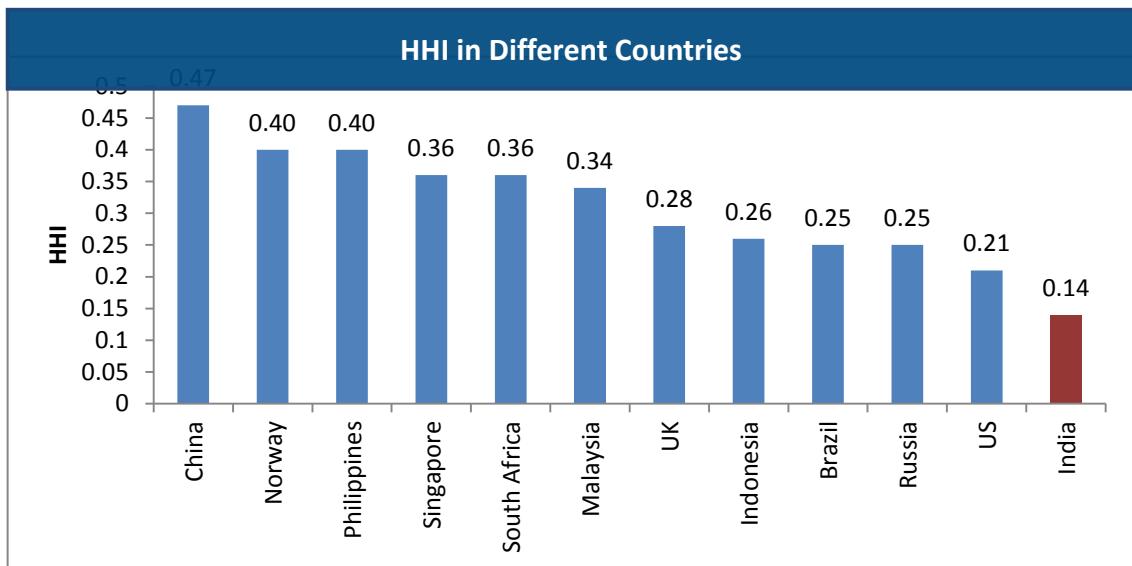
- g) The extreme financial distress being faced by the industry has also been recognized by the Authority. Chairman, TRAI is on record stating “The industry is bleeding...” “The industry is in dire need of consolidation, it simply just cannot carry on like this with 10-12 operators, some of them bleeding to death and it has to stop”.

- h) The Authority's Annual report for FY 2012-13 shows that the debt equity ratio of the telecom service sector increased from 1.51 (in 2011-12) to 1.83, which is an outcome of the sector's low profitability in a hyper- competitive and uncertain policy environment.
- i) Further, the Authority's study paper dated 19.11.2013 on Shareholding and financing pattern and capital structure of Indian private telecom access providers, shows that long term loans increased by ~32% since 2007-08 on account of significant investment for acquisition of 3G/BWA spectrum and for expansion/rollout of 2G & 3G networks.
- j) Consumer interest can hardly be served by increasing competition to a level where the prices are low, but industry players are either loss making or making meager profits not enough to cover even the cost of capital. Thus, in an environment wherein the telecom operators are in high financial stress and are burdened with huge payouts on account of acquiring the spectrum and stringent network rollout obligations, we respectfully submit that it would be most undesirable for the government to introduce any regime which further derails the financial health of the sector.
- k) It may also not be out of place to submit that the huge investments have been made to set up world class networks and huge monies that have been bid for acquiring spectrum, which have all been on the basis of the existing /underlying licensing regime as notified by the Government and the same cannot be unilaterally and arbitrarily changed to the detriment of the service providers.

2) Competition in the Telecom sector:

- a) The level of competition is determined by the number of independent service providers who make independent decisions on service offerings and prices in the market. The Indian telecom market is a highly competitive with as many as **7 to 13 licensees** in each service area, as compared to a global average of 3-4.
- b) The competition in the market is intense and subscribers also enjoy the facility of MNP, which further adds to increased competition and customer choice. Given this level of competition, adding any more TSPs would only worsen the industry economics and health.
- c) The HHI index of Indian access (mobile) market is one of the lowest in the world, signifying a very fragmented yet excessively competitive market.

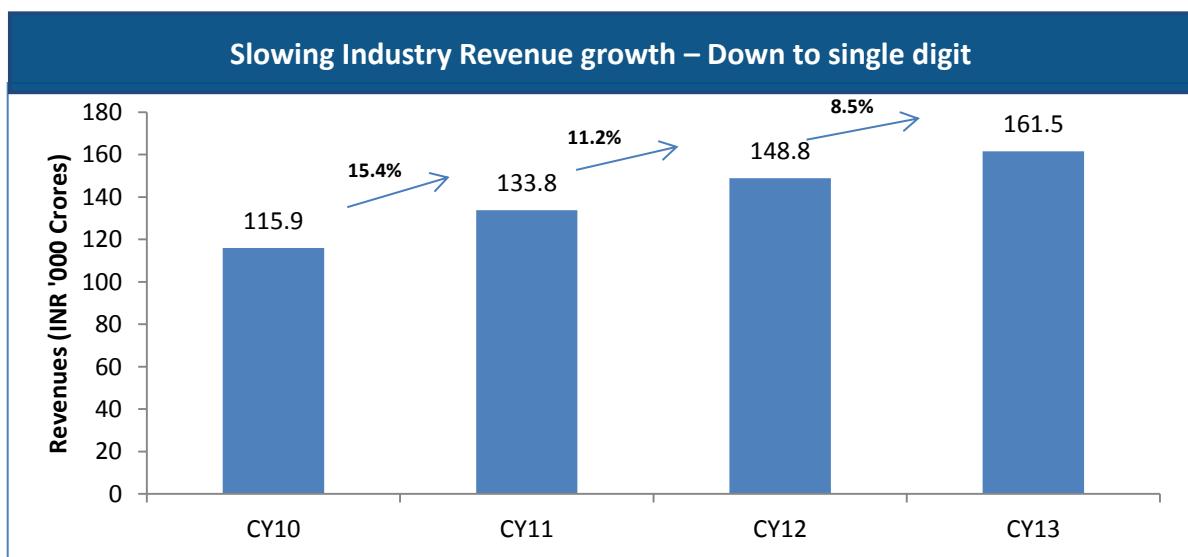
Figure 6:



Sources: BMI country telecommunications reports, 1Q14:EY analysis

- d) In view of the above, we most respectfully submit that the objective of the DoT to ensure adequate competition has already been met.
- e) Further, as a result of the high level of competition, the average realized rate per minute in India is much lower than the base tariffs and the rate of revenue growth has also reduced to a single digit.

Figure 7:



- f) Given the above, we are also of the view that a business case does not exist for introduction of VNOs/MVNOs in the Indian market.

- g) Further, MVNOs have been introduced and are successful in the countries which had at most 3 or 4 operators and hence limited competition. **With the Indian market already being over-competitive, we are NOT able to understand the purpose which shall be achieved by introduction of VNOs.**
- h) Thus, we are of view that neither the requirement nor the business case for VNO/MVNO exists in the Indian environment.

3) Scarcity of Spectrum:

- a) Service providers have acquired spectrum in the auctions held in 2010, 2012, 2013 and 2014 at high cost. This spectrum has been acquired with the understanding that the requirements to rollout the network as also deliver the service rests only with the TSPs. The license of the TSPs cannot be bifurcated to separate networks from service delivery as this will undermine the entire substratum based on which investments have been made and spectrum has been acquired.
- b) Notwithstanding the above, it is submitted that even otherwise, the spectrum available with the existing TSPs is barely sufficient for their own requirements; hence there is no spare capacity available for leasing to VNOs.
- c) It is a well-recognized fact that as per international standards, TSPs in India have the lowest spectrum holding.

Figure 8: Spectrum holding of some countries having large no. of MVNO's

Country	Total Spectrum (in MHz)	No. of Opcos	Average spectrum per Opcos (in MHz)	No. of MVNO's
Germany	631	4	153	122
UK	579	5	116	76
Australia	296	3	98.7	43
India	110	8	13.8	0

Source: GSMA Intelligence, Ofcom

- d) Due to constrained spectrum availability, some large and efficient TSPs are already running their network at almost full utilization and facing huge congestion and capacity constraints to provide the much needed data/internet connectivity.
- e) **Thus, with such low spectrum holding it will be very difficult for the Indian mobile operators to spare spectrum for any VNOs/MVNOs as their first priority would be to meet their own growing requirements.**
- f) **In fact, it is more desirable and necessary for the government to make available additional spectrum to meet the growing requirements of the existing TSPs. Further, it is most desirable that this scarce resource (Access and Microwave spectrum) is made available to the operators in a time bound manner. Attention is drawn in this regard to the undue and excessive delay in the allocation of both access as well as microwave spectrum by the DoT.**

4) Optimal and Efficient Utilization of Network:

- a) As per NTP-2012 and the DoT reference, the objectives sought to be achieved through delinking of the licensing of Networks from the delivery of Services include, inter alia, enabling operators to optimally and efficiently utilize their networks and spectrum by sharing active and passive infrastructure, enhance the quality of service, optimize investments and help address the issue of the digital divide, etc.
- b) In this regard, it may first be appreciated that the infrastructure of the TSPs, including spectrum, is barely sufficient to cater to their own growing requirements and it will be very difficult for them to spare their infrastructure with new service operators.
- c) Further, all the TSPs are already utilizing their networks most optimally in order to achieve all possible cost efficiencies and offer the most affordable tariffs. Both active and passive infrastructure sharing has been already permitted under the existing regime.
 - Operators are already sharing their passive infra, such as tower, dark fiber, duct space, Right of Way etc. with other Licensees. This is the rule rather than the exception.
- d) **There are other measures that are on the anvil, but need to be operationalized:**
 - Active infrastructure sharing [limited to antenna, feeder cable, Node B, Radio Access Network (RAN) and transmission system] was also permitted in 2008.
 - Further, spectrum sharing has also been permitted by DoT and TRAI has already given its recommendations on the guidelines for the spectrum sharing.
 - There is also an in-principle decision by DoT to permit spectrum trading. In this regard too, the recommendations have been made by the Authority and the guidelines on the same by DoT are awaited.
- e) Thus, there is already optimal and efficient utilization of passive infrastructure network of the TSPs and further optimal utilization measures to facilitate active infrastructure sharing, including the sharing of spectrum are already available /in the pipeline.
- f) It is therefore reiterated that the objective of optimal and efficient utilization of network and spectrum is being met even within the existing licensing framework and hence there is no requirement for delinking of license for networks from delivery of services by way of virtual network operators to achieve the same.

5) Recent Introduction of UL Regime:

- a) As highlighted by TRAI in its pre-consultation paper, the new UL regime has come into existence only about a year back. For the telecom sector, which is highly capital intensive and where the pay-offs take a long time, it is necessary that regulatory policies are predictable and stable in nature. An arbitrary or frequent change in the licensing regime and that too, for no perceivable or tangible benefits is not desirable.
- b) The introduction of UL and delinking of networks and services are two contrasting /divergent regulatory policies with the former aiding the sector towards unification while the latter creating fragmentation. Such inconsistent regulatory approach is also against the principles enunciated by ITU which considers separate categories of networks and

services as a pre-cursor to bring about unified licensing and not as a subsequent approach.

- c) In May 2010, TRAI recommended that all future licenses should be granted as Unified Licenses and spectrum should be delinked from the licence. Thereafter, while giving its views on draft National Telecom Policy 2012, the NSO/SDO licensing model was neither recommended by TRAI nor considered as a substitute for the Unified Licence.
- d) Subsequently, TRAI made its final recommendations on Unified Licence in May 2012. The recommendations were formulated after taking into consideration the licensing regime of other countries. Basis TRAI's recommendations, in August 2013, DoT announced the guidelines for grant of Unified Licenses.
- e) Further, during the last spectrum auctions, TSPs have acquired spectrum worth thousands of crores with a belief that TSPs would be granted a Unified Licence in its current form, valid for 20 years
- f) The proposed new licensing framework would not only be premature at this stage, but would also undermine the recently introduced Unified Licensing regime.
- g) It is also respectfully submitted that any proposed delinking of networks from services needs to be supported by cogent benefits and rationale for such delinking. It is not clear what benefits can be offered by such delinking that are not available in the present regime which has:
 - Delinked spectrum from license
 - Allowed passive and active infrastructure sharing
 - Permitted spectrum trading and sharing [detailed guidelines awaited]
 - Allowed MNP

6) Rationale of Introducing VNO/MVNO - International experience

- a) International experience shows that the MVNO concept is more relevant in the case of markets where –
 - There is inadequate competition
 - There is excess capacity/ supply available with the operator,
 - The market has high penetration and adequate maturity and
 - The ARPU levels are high enough so as to make a sustainable business case for the VNOs/ MVNOs.
- b) **Inadequate Competition:** As highlighted above, Indian market is excessively competitive compared to other regimes. VNO/MVNOs work in countries where there are a limited number of operators.
- c) **Capacity/supply:** There is no excess capacity / supply with the access providers in India. In fact the operators are struggling to meet the burgeoning demands of the market in the face of continued severe paucity of the spectrum. Given that the operators are facing several challenges even in meeting customer demand for their own services, it is improbable that they will have spare capacity in the networks to sell to the MVNOs.

- d) **Market Penetration and Maturity:** As per the recent research of GSMA on the global MVNO landscape MVNOs remain most prevalent in mature markets where penetration (based on connections) has surpassed 100%. As per the GSMA analysis MVNOs is a phenomenon that mainly applies to saturated mobile markets, as operators seek innovative ways to attract new customers. The average penetration rate among the 69 countries that host MVNOs stand at 129%, compared to the global average of 98%. We would like to submit that the current market penetration of India has been just 74%, which is well below global average; hence the introduction of MVNO has little relevance at this stage.
- e) **ARPU levels:** ARPU levels are fairly low in India. With ARPU of 115/- per month, the Indian telecom sector has one of the lowest tariffs in the world, which is on an average 1/4th of global average. In such a scenario, an MVNO whose model is based primarily on purchase of bulk minutes and selling them in the retail market under its own brand will find itself competing on the thinnest of margins which will undoubtedly put pressure on its business model.
- f) **In light of the above, we are of the view that neither the requirement nor the business case for VNO /MVNO exists in the Indian environment.**

COAI Submission Summary:

- 1) **We are of the view that delinking of license for networks from delivery of services by way of VNO is not required, especially for Indian telecom market, for the several reasons highlighted above. Rather, the need of the hour is that the Government should:**
 - a) **Ensure predictability and stability of the policy and licensing regime to maintain/restore investor confidence.**
 - b) **Encourage investments in networks by ensuring the security of investments.**
 - c) **Increase Spectrum Availability**
 - d) **Strive to make available the resources (Access Spectrum and Microwave spectrum) on an equitable basis to all service providers in a time bound manner**
 - e) **Review M&A guidelines to encourage and facilitate market based consolidation**
 - f) **Expeditedly notify guidelines for spectrum trading and spectrum sharing to facilitate the most optimal use of this resource.**

D) Probable issues with the new Regime:

- 1) The Authority has rightly highlighted that the decision to go with the existing approach to licensing was a conscious decision taken by the Government recognizing the importance of infrastructure creation. The existing framework cannot be unilaterally and arbitrarily disrupted.

- 2) We also do not see any need for a change in the licensing regime given that the UL regime has come into existence only a year back. As rightly highlighted by TRAI, in the telecom sector, which is highly capital intensive with long payback periods, it is necessary that regulatory policies are predictable and stable.
- 3) For the reasons submitted above, **we are of the firm view that delinking of networks from services is neither necessary nor desirable and that VNOs should not be introduced in the Indian telecom sector in current already hyper-competitive scenario.**
- 4) Without prejudice, if such a proposal were still to be considered by the Authority
 - a) It is submitted that delinking will not have any effect of existing TSPs who have both establishing networks and are offering services as per the conditions of the license agreement with DoT. Delinking of networks from services, can, if at all, only be for future licensees, who enter the sector de novo.
 - b) Migration if at all can only be at the choice of the licensee and cannot be mandated on existing TSPs. It may be highlighted that even today, there are operators who have CMTS licenses and have chosen not to migrate to UASL/UL.
 - c) **The arrangements between the TSPs /NSO and the SDO/VNO cannot be mandated and must be left to mutual agreement and market forces.** TRAI, in 2011, had recommended that commercial model between MVNO and MNO should be left to mutual agreement between the MVNO and MNO.
 - d) TRAI in 2011 had recommended that “For complying with its roll out obligations, the MNO can take into account the roll out achieved by its MVNOs.” However, in case of an NSO/SDO model, the NSO will have no control on the use of the spectrum and the fulfillment of rollout obligations.
 - e) The Authority has rightly highlighted that there could be SDOs who are fly-by-night operators. To safeguard against the same, an SDO/VNO should be required to take a Unified License. TRAI, in 2011 had recommended that a Unified licensee who does not possess spectrum should be allowed to work as an MVNO in any licenced service area.
 - f) The Authority has also rightly highlighted that there would also be issues related to sharing on infrastructure, if an SDO takes services from more than one NSO. **Within a service area, a SDO can be associated with or parented to only one MNO. The choice of number of SDO in the service area should be left to the MNO.**
 - g) As VNO will be responsible for providing all the services to its customers just like an TSP's and will have to comply with all the relevant guidelines and directions issued by TRAI /DoT from time to time, including reporting of tariff plans, etc. VNO will thus be responsible for customer acquisition, verification and activation. VNO should also be responsible for providing SIM cards, customer care and billing services, access to emergency services, etc. VNO will be responsible to the TRAI QOS parameters on billing, customer care, filing of tariffs and also technical parameters, registration of complaints and resolving the same within the time frame stipulated by TRAI's Regulations.

- h) The definition of AGR for the purpose of all government levies should be same for VNOs as for TSP's. The AGR for VNO should include all the revenues attributable directly to the access services provided by the VNO.
- i) Any dispute between the MNO and VNO should be resolved in the same manner as between the two service providers. If the parties are not able to resolve the dispute, either of them could approach TDSAT. However, in the intervening period, the services to the subscribers should not be disrupted.

II. ISSUE WISE RESPONSE:

As highlighted by us in the preamble, we are of the firm view that delinking of networks from services is neither necessary nor desirable and that VNOs should not be introduced in the Indian telecom sector in current already hyper-competitive scenario.

Our issue wise comments will be based on our submission highlighted in the preamble

- Q1. (a) Is there any need to introduce more competition in service delivery by the way of introduction of VNOs in the sector? If not, why not?**
(b) If yes, is it the right time to introduce VNOs?

COAI Comments:

- 1) It is a well recognized fact that intense competition already exists in the telecom sector currently in India. The pressing need of the hour is consolidation rather than further fragmentation.
- 2) It is admission by DoT as recent as in December 2012 that MVNO is not part of the Government Policy and is prohibited. One of the such recent instance is December 2012 Show Cause Notices on 3G ICR to some operators. Thus, we fail to understand that if is admittedly not part of Government Policy in December 2012 (applicable policy was NTP12) and is prohibited then how this issue can now be referred by DoT itself and what is the reason. Further, this shows that in DoT's own view MVNO is not a measure to facilitate competition and promote efficiency in the operation of telecommunication services.
- 3) TRAI has itself recognized in the consultation paper that the Indian telecom sector is highly competitive. Refer point 4.18, page 37 of the consultation paper

“...The telecom market in India is highly competitive with a low HHI. Consolidation in the industry has been the talk of industry experts for the last 2-3 years....”

- 4) Chairman, TRAI is also on record stating “***The industry is bleeding...***” “***The industry is in dire need of consolidation, it simply just cannot carry on like this with 10-12 operators, some of them bleeding to death and it has to stop.***”
- 5) TRAI has also recorded in the consultation paper [Ref point 1.12] that

“Research shows that MVNOs remain most prevalent in mature markets where penetration (based on connections) has surpassed 100%.”

- 6) Arguments given by stakeholders to support the introduction of VNOs is that they can serve niche segments, increase penetration of services particularly in rural areas to increase rural tele-density and to facilitate 'Digital India' programme which are without evidence and dependant on many actions on the ground which have not been taken.
- 7) Under these circumstances, we do not believe that there is a case for introduction of VNOs either for urban or rural areas.

Q2. Will VNOs pose a threat to NSOs or will they complement their operations? Justify your answer.

COAI Comments:

- 1) At first, it is submitted that there is at present, no NSO concept in India. Licenses have been issued consciously for network and services together, with a view to encouraging infrastructure creation.
- 2) This has also been noted by TRAI in its consultation paper that "**To ensure development and proliferation of telecom infrastructure across the country, the GoI, while opening up the telecom sector, took a conscious decision that all TSPs would have their own network for providing services to their subscribers.**"
- 3) We believe that even as of date, this task of infrastructure creation is not complete and the more pressing requirement /priority is infrastructure creation.
- 4) It is therefore submitted that the decision taken by Government that all TSPs would have their own network for providing services to their subscribers so as to ensure development and proliferation of telecom infrastructure across the country is equally, rather in fact, more valid today, as the creation of infrastructure is required in the deep rural and remote areas.
- 5) As highlighted by us in the preamble we believe that the introduction of VNO/MVNO will have negative impact on the telecom sector including the TSP's:
 - a) **Introduction of VNO/MVNO will have a negative impact on the financial health of the sector including the TSP's:**
 - i) The financial condition of the sector poses several challenges. As highlighted in the preamble the cumulative debt burden of telecom companies has increased from INR 82,726 crores in FY09 to INR 2,39161 crores in FY14. The existing TSPs are facing many challenges to attract investments to meet national objectives.
 - ii) In this environment, the entry of VNO/MVNO with minimal investment and commitment in the sector will only disrupt the market structure and lead to further deterioration in the financial health of the sector.
 - b) **Introduction of VNO/MVNO will dis-incentivize investments in telecommunications networks:**
 - i) To meet national objectives, the sector needs enormous investments. As per the estimates by E&Y Indian TSPs need to commit cumulative capex of ~INR 2,50,000 Crs. over the years 2013-20 to meet NTP 2012 targets of 100% tele density & 600mn

Broadband connections. This figure does not reflect acquisition of spectrum via auctions.

- ii) The impact of MVNO entry on investments in networks has been studied extensively, and much evidence points unequivocally to the fact that the introduction of VNO's reduces the incentives to invest in network infrastructure.
 - iii) MVNOs require very low investments for entering the market and Investors would consider it more prudent to invest in VNO/MVNO ventures over NSO/MNOs, as investments in VNO/MVNO would be higher yield compared to MNOs. Investments in the MNOs would be severely hampered and could risk meeting the national objectives of building broadband highways and Digital India.
- c) **Introduction of VNO/MVNO will hamper the roll-out and connectivity in rural areas:**
- i) While the Industry is still in the process of connecting the unconnected parts of India it cannot afford any policy that may have an adverse impact on investments in telecom infrastructure.
 - ii) The rollout of telecom networks is a capital-intensive exercise that requires significant investments.
 - iii) As highlighted by us in the preamble, VNOs/SDOs will focus on cherry picking the creamy layer in already developed markets, **thus reducing the sustainability and the business case to rollout infrastructure in rural and remote areas.** There is also the possibility of the entry of non-serious players or fly by night operators.

Q3. How can effective utilization of existing infrastructure be improved? Can VNOs be a solution to achieve targets defined in NTP-2012 for rural density?

COAI Comments:

- 1) We submit that already several measures have been taken in the existing licensing framework to increase efficient utilization of existing infrastructure.
- 2) This includes passive infrastructure sharing that has now become the norm, rather than the exception.
- 3) There are other measures that have been recommended/permited, but have not yet been operationalized. These include:
 - Active infrastructure sharing – this was permitted by DoT in 2008, but was to be operationalized by way of a license amendment, which has not been carried out
 - Spectrum trading and sharing norms have been recommended by TRAI and there is already an in principle decision that these will be permitted, however the guidelines in this regard are still to be issued by DoT
- 4) We believe that implementation of these above measures is required first prior to discussion on such delinking for VNOs and there are long pending decisions in DoT which if taken rightly will increase efficient utilization of existing infrastructure.
- 5) For the reasons highlighted by us in the preamble, we do not believe that VNO is the solution to achieve the targets defined in NTP -2012 for rural density.

- 6) Infact we are of the view that introduction of VNO/MVNO will dis-incentivize investments in telecommunications networks and hence will severely hamper in meeting the targets of NTP-2012 for rural density.

Q4. Does there exist a business case for introduction of VNOs in all segments of Voice, Data and Videos?

COAI Comments:

- 1) As highlighted in the preamble, we believe that there is no business case for VNO to be introduced in the Indian telecom sector in current already hyper competitive market scenario.
- 2) In case VNO is introduced they should required to take a Unified License with necessary authorizations and offer all services permitted under respective authorizations.
- 3) The arrangements at best between a TSP and VNO can be bilateral. Existing TSPs can provide services in the same manner as present without any further licensing change and no delinking should be mandated.

Q5. Whether VNOs be introduced in all or some of the services notified in the UL? Please name the services and the justification.

COAI Comments:

- 1) Please see our response above.

Q6. Is there sufficient infrastructure (active and passive including access spectrum) available with a TSP to meet its own requirements? Can TSPs spare available infrastructure for VNOs?

COAI Comments:

- 1) Firstly, with an average spectrum holding per operators around **13.8 MHz**, spectrum allocation in India are perhaps one of the most sub optimal allocations globally. **With such low spectrum holding it will be very difficult for the Indian mobile operators to spare spectrum for any VNOs/MVNOs as their first priority would be to meet their own growing requirements.**
- 2) A response to the above will require a detailed analysis of the utilization of existing infrastructure of the individual TSPs and cannot be answered in general terms. It is however our view that the infrastructure of the TSPs, including spectrum, is barely sufficient to cater to their own growing requirements and it will be very difficult for them to spare their infrastructure with new service operators.
- 3) Further, any spare capacity, if at all it exists, is likely to be only in the rural areas, where, we have pointed out that the case for introduction of a VNO is not likely to be very attractive. It is also likely that a VNO if introduced will also like to cherry pick on creamy urban layers rather than go to the rural and remote areas.



- 4) Measures to further enhance utilization of existing infrastructure within the existing license framework have also been highlighted by us. These may be kindly considered by the Authority.

Q7. If any TSP is able to share its infrastructure with VNOs, what should be the broad terms and conditions for sharing the infrastructure?

COAI Comments:

- 1) This should be permitted on mutually agreed commercial terms. TRAI, too, in its 2011 recommendations had stated that commercial model between MVNO and MNO should be left to mutual agreement between the MVNO and MNO.

Q8. Should VNOs be allowed to create their own infrastructure to reach out to niche markets? If yes, to what extent?

COAI Comments:

- 1) It is submitted that by definition, a VNO means that it does not have its own infrastructure. We believe that if a VNO is allowed to create infrastructure and also offer services, then there will be no difference between a TSP and a VNO.
- 2) Insofar a catering to niche markets is concerned, we believe that permitting the same would lead to extreme fragmentation of the licensing regime which is against the principle of one nation one license enunciated under NTP-2012 as also lead to enormous complexities in regulation, monitoring and enforcement.
- 3) In view of the above, we submit that VNO, if at all introduced should NOT be allowed to set up their own infrastructure.
- 4) We reiterate that VNO if introduced, should be required to take a Unified License with necessary authorizations and offer all services permitted under respective authorizations.

Q9. Should Local Cable Operators (LCOs) or Multi System Operators(MSOs) with cable networks be permitted to share infrastructure with VNOs to provide last mile connectivity?

COAI Comments:

Please see our response above.

Q10. Does the adoption of the VNO model requires an entirely new licensing regime or will a chapter or a separate section for VNOs added to the existing UL suffice?

COAI Comments:

- 1) We are of the view that in order to encourage massive investments that are required to meet government objectives, a stable and predictable licensing regime is critical. Therefore, an appropriate approach would be to continue with the existing Unified Licence regime, which has only been introduced less than a year back, to avoid risks to critical investments.

- 2) Thus, there is no need for a new licensing regime for VNOs.
- 3) VNOs if at all introduced, should be required to take a Unified License with necessary authorizations and offer all services permitted under respective authorizations.
- 4) Further, please refer point C.5 of the preamble.

Q11. Comment on what measures are required to ensure that the existing or new licensing regime takes care of future requirements of technological development and innovation and provides a clear roadmap for migration to existing service providers.

COAI Comments:

- 1) A converged license regime that covers under a single umbrella convergence of networks services and devices is the best method to enable operators to leverage and take care of future requirements of technological development and innovation.
- 2) Convergence, which is a key objective of NTP-2012, by its very definition means joining together, not tearing apart.

Q12. In view of the complexity in the existing licensing regime as explained in Para 3.16 to 3.18, Should India move towards NSO and VNO based licensing?

And

Q13. If yes, whether existing licensees may be mandated to migrate to NSO & VNO based new licensing regime? What challenges will arise in the migration to the two types of licensing framework?

COAI Comments:

- 1) The Unified licenses have been recently issued and it seems odd that a view has been formed that this regime is complex. In fact the UASL regime was best suited and there is very little which has been achieved by UL. Even the spectrum licenses have not been segregated in practical sense by DoT. The UL regime is retrograde and tries to illegally take back the rights available under UASL. We believe that UASL regime is most suitable.
- 2) NSO and VNO based license will not simplify, but will rather further fragment the licensing framework and make it more complex.
- 3) In view of the fact that it was a conscious decision by the Government that all TSPs would have their own network for providing services to their subscribers, to ensure development and proliferation of telecom infrastructure across the country which objective is relevant even today, we believe that there is no case for introduction of NSO and VNO based licensing regime.
- 4) Whether we require such a regime will first depend on the overall picture that is in mind TRAI and DoT, which is not clear to us. This can be answered only once there is some framework suggested with specific pros and cons and impact analysis.

- 5) Further, even if such a regime were to be considered, we believe that it can apply only to future licensees and migration can only be at the choice of the existing licensees and cannot be mandated.
- 6) We are of the view that in order to encourage massive investments that are required to meet government objectives, a stable and predictable licensing regime is critical. Therefore, an appropriate approach would be to continue with the existing Unified Licence regime, which has only been introduced less than a year back, to avoid risks to critical investments and to achieve the objective of 'One Nation One license'. Further, please refer point C.5 of the preamble.

Q14. Should a VNO be issued a license at the National Level, or for LSAs as in the case of UL or should it be based on the host NSO license areas?

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Q15. What should be the duration of a VNO's license? Should it be linked with the license of the NSO or should it be for 20 years, as in the case of UL?

COAI Comments:

- 1) VNOs if at all introduced, should be required to take a Unified License with necessary authorizations and offer all services permitted under respective authorizations.
- 2) The duration of the license of the VNO should be linked to its parent NSO's duration in particular service area.

Q16. Should there be any cap on the number of VNOs in a service area for a particular service? If yes, what should be the number? Please provide (a) service wise and (b) service area-wise numbers with justification.

COAI Comments:

- 1) While we believe that there is no business case for VNOs, we submit that if introduced, there should not be any restrictions on the number of VNO's in any service area and the number may be left to market forces.

Q17. Should there be restriction on number of VNOs parented to a NSO? Justify your answer.

COAI Comments:

- 1) There should not be any restriction on the number of VNO's parented to a NSO.

Q18. Alternatively, should one VNO be permitted to parent more than one NSO per LSA?

COAI Comments:

- 1) No, VNO should not be permitted to parent more than one NSO per LSA.
- 2) TRAI in 2011 had recommended that an MVNO cannot get attached to more than one MNO in the same service area. We believe that this was a considered view, and should be

continued with in the case of VNOs as well.

Q19. What should be the eligibility conditions for becoming a VNO?

Q20. Whether an existing Unified Licensee with authorisation to provide all services shall be eligible to become a VNO of another Licensee in the same or other LSA? Or, will it need separate/additional authorisation to work as a VNO for delivering services for which it does not have access spectrum?

COAI Comments:

- 1) VNOs if at all introduced, should be required to take a Unified License with necessary authorizations and offer all services permitted under respective authorizations.

Q21. Should there be any cross-holding restriction between a NSO and VNOs? If yes, please quantify the same with justification.

COAI Comments:

- a) We believe that a situation may arise wherein the VNOs may be able to provide multiple services using different technologies without any restriction, whereas the TSPs may be constrained to provide the same on grounds like cross holding restriction, restrictions because of spectrum holding, misuse of market power, cartelization, etc.
- b) Further, we are of the view that there cannot be a case where the scope of a VNO is larger than that of the TSP licensee. TRAI may like to provide clarity on the same.

Q22. What should be the financial obligations of VNOs in the form of a) Equity & Networth b)Entry Fee c)PBG and d)FBG etc.? Please quantify the same with justification

COAI Comments:

- 1) The eligibility criteria may be prescribed in terms of paid-up equity and net worth may be as per existing criteria for the UL.
- 2) Further, PBG and FBG should be as per the current UL guidelines.
- 3) The above will insure that only serious players as VNO enter the telecom market.

Q23. Should a VNO utilise numbering resources, Network Codes and Locational Routing Number (LRN) of the NSO? Or, should the Licensor allocate separate numbering resource, Network Codes and Locational Routing Number(LRN) directly to a VNO?

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Q24. What operational difficulties could arise in the above arrangements?

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Q25. In case your reply is that the Licensor allocates numbering resource to the VNO, then how can it be ensured that the resources allocated to a VNO are efficiently utilised? Should any obligation be placed on VNOs for efficient utilisation of resources?



COAI Comments:

- 1) We are of the view that VNO should only utilize numbering resources, Network Codes and Locational Routing Number (LRN) of the TSP and Licensee should not allocate separate numbering resource, Network Codes and LRN directly to a VNO.

Q26. Should the LF and SUC applicable to the VNO be as per stipulated conditions of authorisation in UL? Or, should it be treated differently for VNO? Please quantify your answer with justification.

COAI Comments:

- 1) Yes, the LF and SUC applicable to the VNO be as per stipulated conditions of authorisation in UL.

Q27. Should an NSO be mandated to provide access to its network to a VNO in a time-bound manner or should it be left to their mutual agreement.

COAI Comments:

- 1) No.
 - 2) As highlighted by us earlier, we are of the view that there is no business for the introduction of VNO in telecom sector in India. Further, the availability of spare capacity with the existing TSPs to accommodate such VNO is also doubtful.
 - 3) Therefore, even if TRAI still considers the introduction of VNO in India the TSP/NSO cannot be mandated to open access to VNOs.
- 2) Commercial model between VNO and TSP/NSO must be left to mutual agreement between the MVNO and MNO.

Q28. How can MNP be facilitated in the VNO/NSO model? Can the VNO be treated separately for MNP purposes? Or, should MNP be facilitated only through the network of the NSO?

COAI Comments:

- 1) Yes, we believe that both type of MNP i.e. from TSP/NSO to VNO and VNO to VNO should be permitted.
- 2) The MNP should be permitted only through the TSP's/NSO. VNO should be allowed to provide the facility of MNP only through its parent network operator.

Q29. Who is to be held responsible for CAF verification and number activation, the NSO, the VNO or both?

COAI Comments:

- 1) We believe that if the customer is acquired by the VNO then all the regulatory compliance, pertaining to CAF verification and number activation should be applicable to the VNOs. Thus



onus will be on the VNO to comply with all guidelines relating to subscriber verification and National Security.

Q30. Should an NSO or VNO or both be responsible for maintaining QoS standards as per TRAI's regulations?

COAI Comments:

- 1) The responsibility of the QoS to its subscribers should remain with the VNO. The Regulations/ Direction/ Orders of TRAI in this regard should be binding on VNO.

Q31. How should Mergers & Acquisitions be dealt with in the VNO/NSO licensing model? Should the recently announced M&A guidelines issued by the Government for existing players be extended to cover VNOs? Or, should their M&A be treated separately?

COAI Comments:

- a) We are of the view that it is premature to answer this question, since there is still no clarity on the NSO/VNO based framework & structure, as highlighted by us above.

Q32. Should the VNO be treated equivalent to the NSO/ existing TSPs meeting obligations arising from Tariff orders/regulations /directions etc. issued by TRAI from time to time?

COAI Comments:

- 1) Yes, VNO's should be treated equivalent to the NSO/ existing TSPs meeting obligations. VNOs should independently comply with the applicable Telecom Tariff Orders (TTOs) and tariff related requirements as prescribed by TRAI vide its regulations /Directions etc. issued from time to time.

Q33. Please give your comments on any related matter not covered in this Consultation paper.

COAI Comments:

- 1) We request that all the specific answers should be read alongwith the Preliminary submissions and all our answers are subject to the Preliminary Submissions. In our view most of the questions are secondary in nature and in absence of any indication by DoT and/or TRAI as to the outline of licensing regime that they have in mind it is very difficult and, honestly, not totally right to answer such questions.
