



TCL/RA/TRAI-CP/2014/09

October 07, 2014

Advisor (MN)  
Telecom Regulatory Authority of India,  
Mahanagar Doorsanchar Bhawan,  
Jawahar Lal Nehru Marg,  
New Delhi – 110002

Sub: TCL Response to TRAI Pre-Consultation Paper on “Delinking of license for networks from delivery of services by way of virtual network operators”.

Dear Sir,

Kindly find attached herewith Tata Communications Ltd. comments on the TRAI Pre-Consultation Paper on the issue of “Delinking of license for networks from delivery of services by way of virtual network operators”.

It is requested that the same may kindly be taken on record.

With kind regards,

For Tata Communications Ltd.

A handwritten signature in black ink, appearing to read 'Praveen Sharma', with a long horizontal line extending to the right.

(Praveen Sharma)  
Authorized Signatory

Encl: a/a.

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## TCL Response to TRAI Pre-Consultation Paper

### 1. Background:

At the outset we would like to thank the Authority for initiating pre-consultation on this important issue concerning evolution of Telecom Services licensing regime which impacts all the licensed Telecom Service Providers and providing an opportunity to all the stakeholders to submit their views. The licensing regime in the country has come a long way from the licensing of GSM based mobile telephony services and fixed line telecom services in the year 1994-95 to the Unified Licensing regime which has come into being in August, 2013. While the Unified Access Service Licensing Regime which was introduced in November, 2003 unified the fixed line services and the mobile services under one license, the new UL regime of August, 2013 is merely an aggregation of various licenses into a single document christened as Unified License with a chapter each devoted to various services.

### 2. Scope of DoT reference – Statutory Issue

The scope of the present reference from DoT is to seek TRAI recommendations for delinking of licensing of networks from delivery of services by way of virtual network operators etc. including associated issues like AGR, terms of sharing of passive and active infrastructure etc. under Unified Licensing regime. The term “etc.” in the DoT reference makes the scope of consultation wide and provides leeway for considering all aspects in respect of delinking of licensing of networks from licensing of delivery of services which presently is integrated in the old service specific licensing regime and the new UL regime of August, 2013. The reference from DoT in our opinion does not envisage an entirely new licensing regime but would seek to add to the UL regime of August, 2013 by providing for the licensing of the VNOs which would be service based operators or service delivery operators or non-facility based operators.

The present reference from DoT is covered under the Section 11 (1) (a) (i) & (ii) reproduced below in respect of the above said delinking by introduction of VNOs etc.

11. [(1) Notwithstanding anything contained in the Indian Telegraph Act, 1885, the functions of the Authority shall be to –

(a) make recommendations, either suo motu or on a request from the licensor, on the following matters, namely: -

- (i) need and timing for introduction of new service provider;
- (ii) terms and conditions of licence to a service provider;

However the DoT reference does not seek the recommendations in respect of need and timing for introduction of VNO and has instead sought recommendations more so on terms and conditions of license new Service Provider. It is clear that the question in respect of need and timing for delinking of the licensing of networks from the licensing for delivery of services has been decided by the Government by way of National Telecom Policy 2012 which lays down the road map for the evolution of licensing regime in this direction vide Para 3.3 and 3.8 of the Policy. However, the National Telecom Policy 2012 is silent on the timing part for introduction of this new delinked licensing regime. The moot question therefore

from a statutory perspective would be that whether TRAI should raise questions on the timing aspect for introduction of VNOs in the Indian Telecom Services market before going forward with raising questions in respect of terms and conditions of license for VNO etc.

### **3. Other Issues**

#### **3.1 Issue of Regulatory Certainty :**

It has been mentioned in the pre-consultation paper that the new UL regime has come into existence only about an year back and for the Telecom Sector which capital intensive and returns take a long time it is necessary that regulatory policies are predictable and stable in nature. In response we would like to submit that the new UL regime introduced in August, 2013 is merely an aggregation of various service specific licenses and the significant feature of the UL regime was delinking of spectrum from licensing of services. The issue in respect of introduction of resellers has been under discussion since 2008-09 in respect of mobile services by way of TRAI recommendations on MVNO. Resellers have been introduced in the earlier service specific regime in respect of IPLC services in the year, 2008 . We do not believe that the issue of regulatory certainty should come in the way in introduction of VNOs in the Indian Telecom Services Sector or that such a change in respect of introduction of VNOs would be considered as a change at short interval since the introduction of new UL regime.

#### **3.2 Proposed Licensing Framework need for two Licenses for existing TSPs**

In our view, in the proposed licensing framework based on VNO model, existing integrated TSP licenses should be treated as Facility Based Operators (FBOs) already having authorization to provide networks and service delivery whereas VNOs would be required to be licensed for service delivery in the new proposed licensing regime. In this way the transition to the VNO model can be achieved in a smooth manner.

#### **3.3 Business case for Standalone VNOs – Other Services**

Indian Telecom service sector is highly competitive with multiple operators having acquired various service licenses in the old service specific regime since 1995 which has proliferated the tele-density to more than 75 as on date. In the Access Services there are seven Operators who have licenses to provide services in all the Licensed Service Areas (22 in number) along with one Operator who is yet to launch its services and two Operators who provide services on a regional select LSA basis. Access service license also includes the license for providing internet services as well. There are 34 licensed National Long Distance Operators (NLDOs) and 24 International Long Distance Operators (ILDOS) providing domestic/international carriage services to the Access Providers apart from providing data services to their end-customers. The Long Distance licenses are pan-Indian basis. In case of Internet service licenses are being on pan-India basis (Cat A), LSA basis (Cat B) and Secondary Switching Area (Cat C) basis. There are about 350 Operators who have taken license to provide internet services which includes all the categories of ISPs.

All the above operators are Facility based Operators providing services under their respective licenses for various services. The pre-Consultation paper raises the issue of the need for introduction of more competition in the form of VNOs for Access Services. The question in respect of business case of standalone VNO has been raised for services other than Access Services.

In answer, we would like to submit that the need for introduction of more competition has already been settled by the policy formulation of the Government vide NTP 2012 and the only question which remains to be answered is in respect of the timing for introduction of VNOs and the manner in which VNOs should be licensed.

In respect of business case/revenue potential for standalone VNO for services other than Access Services the answer is already there for VNO based ILD service which in the form of Resellers for IPLC services was licensed in the year 2008 but was met with a dismal response by the market. Reason for the same was onerous entry condition of Rs 1 Crore entry fee, LF AGR of 6%, tough compliance conditions, competition from 19 facility based ILDOs, small revenue base for IPLC services as compared to Access Services etc. Post the introduction of the reseller for IPLC services, 9 Operators have taken the ILD license for providing facility based ILD services by paying entry fee of Rs. 2.5 crores. In our opinion VNOs for niche services like V-SAT, PMRTS/CMRTS would face a similar fate in the market if the licensing opportunity is opened for these services.

In respect of GMPCS service we do not have a facility based GMPCS licensed operator in the country and one of the operator is expected to launch the service in partnership with one of the international satellite operators and in our opinion thereafter there would be ample scope for introduction of VNOs for GMPCS services. This would cover the lack of competition in the GMPCS services. I

In respect of internet services although there is ample competition in the facility based operators, a need is there for introduction of VNOs for internet services which would cover the smaller cable operators and other smaller locality based/high rise apartment based last mile providers. These can be covered under the franchisee clause in the new Unified License regime which states as under:

“6.1 ..... For provision of the service by the Licensee, the Licensee may appoint or employ franchisee, agents, distributors and employees.”

Additionally Clause 2.3 & 2.4 of Chapter VIII in respect of Access Services should be extended and made applicable for internet services under Chapter IX.

Alternatively a low cost VNO model can be suggested for provision of internet services with minimal entry fee, no license fee and no compliance obligations with ability to co-brand the internet services with its parent ISP(s).

#### **3.4 Business case for Standalone VNOs – Access Services - MVNO**

This issue has been under deliberation of the Authority since August, 2008 when it first sent its recommendation on Mobile Virtual Network Operator to DoT. There has been correspondence with DoT resulting in reconsidered recommendations of 12<sup>th</sup> March, 2009 and recommendations of MVNO under TRAI recommendations on the Telecom Infrastructure Policy in April, 2011. In April, 2011 Authority gave following recommendations in respect of MVNOs:

"3.53 A Unified licensee who does not possess spectrum should be allowed to work as an MVNO in any licenced service area. The Unified licensee ceases to be an MVNO if it is allocated spectrum for accessing the subscribers.

3.54 MVNO may be allowed to set up its own infrastructure including MSC, Radio Access Network (RAN)/Base Station Subsystem etc., if required.

3.55 Commercial model between MVNO and MNO should be left to mutual agreement between the MVNO and MNO subject, however, to the licence conditions of both MVNO and MNO.

3.56 The Authority recommends that an MVNO should fulfill all the service obligations of the Unified Licence. Allocation of numbers, number portability, interconnection with other service providers and roaming to be provided to MVNO by the parent MNO.

3.57 There should be no restriction on the number of MVNOs attached to a MNO subject, however, to their being only one MVNO in a revenue district.

3.58 An MVNO cannot get attached to more than one MNO in the same service area.

3.59 MVNO should pay spectrum charges on its revenue. The applicable slab to MNO will equally be applicable to the MVNO.

3.60 For counting the roll out obligations, the MNO can take into account the roll out done by the MVNOs attached to it.

3.61 The Licenced Service Area (circle) of MVNO should be same as that of parent MNO. However, the MVNO could offer service anywhere within the licenced service area (circle) of the parent MNO as specified in the mutual agreement between MNO and MVNO.

3.62 In case a MVNO attached to a MNO has licence in more than one service area then it will have to have separate agreement for each service area.

3.63 The scope of service of MVNO would be within the scope of service of MNO, i.e. the MVNO can offer any or all of the services that the MNO can offer subject to the agreement between MNO and MVNO."

In our opinion, the above recommendations are not in line with the concept of VNO as defined in the NTP 2012 as a non-facility based service delivery operator so the entire issue of permitting resale in the mobile services sector needs to be examined afresh including the timing of the same. Notwithstanding the aforesaid in respect of the UL-Access service license, there is a possibility of such Licensees appointing their franchisees who are essentially service delivery entities and as a first stage of introduction of VNO we can consider adding further provisions in the franchisee scheme like permitting the franchisees to co-brand the services with their respective parent MNOs. All the license obligations and compliance shall remain the part of parent Access Service Provider in such a case. This will minimize the changes which would be required in the licensing regime.

As stated in the Pre-Consultation Paper there are about 7 to 13 Access Service Licensees in various service areas and all have committed huge investments in their networks for provision of 2G/3G/4G services. In our view licensing of independent VNOs at this stage would definitely adversely impact the business case of the Access Service Licensees although there is enough revenue potential for supporting standalone VNOs for mobile services.

### **3.5 Other Associated Issues in proposed framework**

In our opinion NTP 2012 mandate is for licensing of networks separately from the licensing for the delivery of services to the end users which would facilitate resale at the service level by introduction of Virtual Operators. In such a case the Virtual Operators are operators without any network and they would be leasing the network from the Network Service Operators. Essentially it would be more leaning towards Singapore model of licensing. In such a model there will be no issue of roll out obligation as VNO will not have any network to be built. The agreement between the VNO and the facility based UL Licensee should be left to the market forces. It is also clear that the other obligations in respect of license compliance would vest with the integrated Unified Licensee. It is our view that the VNO model in the first phase should be through the modified franchisee scheme for the various service licenses as suggested above.

In respect of the OTT and application providers in our opinion at the present juncture they would need to take appropriate license for providing services under the present licensing regime or enter into commercial arrangement with the Unified Licensees for becoming their franchisees.

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