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भारत संचार निगम लिमिटेड  
(भारत सरकार का उपक्रम)  
BHARAT SANCHAR NIGAM LIMITED  
(A Govt. of India Enterprise)

To,

Advisor (NSL), TRAI  
Telecom Regulatory Authority of India,  
Mahanagar Doorsanchar Bhawan,  
Jawahar Lal Nehru Marg,  
(Old Minto Road), New Delhi-110002

Kind attention: Shri Sanjeev Banzal, Advisor (NSL)

No. Regln/1-4/2011-13/2595

Dated: 30-01-2017

Sir,

Sub:- TRAI's Consultation Paper on "Issues relating to closure of Access Services".

Kindly refer to the TRAI consultation paper on "Issues relating to closure of Access Services" issued on dated 30-11-2016. In this context, the question-wise comments of BSNL is as follows.

**Q.1** Is there a need for modification of the UASL and CMTS licences in line with Clause 30.3(b) of UL, for those licensees who have liberalized their administratively allocated spectrum?

**BSNL's Comment:** Before the advent of UASL regime in 2006, there existed distinct Basic and CMTS license. UASL license basically was an extension of CMTS license which also allowed provision of Basic/ wireline services. Terms and conditions of UASL was largely that of CMTS license – as understood by BSNL. With UASL, both basic and CMTS services were clubbed together to Access Service. However, BSNL has Basic service authorization and CMTS license in its area of operation which includes all India sans Delhi and Mumbai service areas.

On the issue of continuity of Service – Clause 30.3 of **UASL** license states as,

**"30.3** The LICENSEE shall ensure continuity of services to its customers unless License is terminated or suspended by Licensor for any reason whatsoever".

Thus those TSPs who have UASL license and who have not migrated to UL cannot discontinue services to its customers without termination of license. This is the case even if the licensor allows sharing/ trading of spectrum. In case a TSP having UASL license discontinues any of the service, it is a clear violation of license condition.

*While deliberating upon the issue of continuity of service, the Authority mentions about the inconvenience being faced by customers due to discontinuance of service by TSPs; however, the consultation seeks comment and justification on amendment of CMTS/ UASL licences to be in line with Clause 30.3(b) of UL which allows the UL licensee discontinuation of any of the service under a Service Authorization, to its subscribers.*

Notwithstanding,

1. The issue of licensee opting not to renew its license has been in all types of licences whether it is CMTS, UASL or UL. It is for the TSP to decide whether it

1/6

wants to renew its license; however in case it does not want to renew its license it should be treated as equivalent to surrender of license, and accordingly the clause 10.3 of the CMTS/UL license and 10.3 (b) of UASL license needs to be applicable i.e. at least 60 Calendar days advance notice should have been applicable before the date of expiry of license.

2. The licensee failing to re-acquire its spectrum holding in a spectrum band should not be considered a case of discontinuance of service. If the Authority such feels, once a spectrum has been acquired by any licensee, the same should be allowed to continue till such time the TSP is continuing its services. The process of auction should not be allowed to affect the services to customers and a probable misuse by other TSPs.

If any particular spectrum is being used by a TSP say 'A' to provide a service is put to auction after expiry of its term, it gives other TSPs with sizable money at their disposal to affect the services and customer base of 'A'.

*BSNL is of the firm opinion that once a spectrum has been acquired by any TSP – whether administratively or through auction – the TSP should be allowed to continue with the spectrum as long it continues to provide service using that spectrum. Only those spectrums should be put to auction which has not been earlier allocated or those which have been surrendered.*

3. The Consultation paper mentions about technology upgradation by RCOM. BSNL is of the opinion that if the concerned TSP is a UASL licensee and has discontinued any **service**, it has violated the Clause 30.3 of the license condition.

However, if the TSP has only upgraded its technology while continuing to provide services, it may not be considered as discontinuation of service. BSNL is of the view that a TSP should be allowed technology upgradation, if the same is the need of their business; provided, it is not discriminating.

4. On the ICR issue BSNL is of the view that the onus of ICR – intra-circle roaming, if the license allows it, should always be on the parties entering into such agreement, more importantly the seeker TSP. Provision of ICR may not be inherent to license. Moreover, it should be the responsibility of the TSP to deploy its own infrastructure and acquire spectrum for provision of any service. If they are entering into any pact like ICR with other TSP, they ought to insert and ensure specific clauses in their ICR agreement for continuance of service till such time they have license, or, face the consequences. **The licensor/ regulator should not be involved in such issues.**

Sale of entire spectrum holding through spectrum trading – while a subscriber always has an option to port out to other TSP; BSNL is of the opinion that once the spectrum has been acquired through auction the same should not be allowed to be traded. If at all a TSP requires closing its services, it first has to ensure that it does not violate any licensing conditions (Clause 30.3 of UASL) and then **the spectrum held by TSP should be put to re-auction with all other TSPs getting equal opportunity to acquire the spectrum put on sale by the TSP.** Sometimes a TSP requires to close down some of its services due to obsolete technology or in the interest of business; however, in such scenarios a customer must be given at least 60 Calendar days to change to new technology/ port out to other TSP. The closure of service by TSP should be uniform and transparent. There should be equal opportunity, both, before the affected customer to get service/ TSP of its choice, and other TSPs to acquire affected customers.

- Q.2 Should discontinuation of services being provided through a particular technology, say CDMA, be treated same as discontinuation of any of the service under a Service Authorization as per Clause 30.3(b) of UL? Please provide details along with justification.

**BSNL's Comment:** If technology upgradation results in better service to customers, it is not discontinuation of any of the service under a Service Authorization. However a distinction has to be made between technology upgradation and change of technology. Distinction also needs to be made between closing a technology and closing a service. CDMA and GSM are two different technologies and cannot be considered as technology upgradation. Rather it is a change of technology. When we speak of technology upgradation, it may be such as 2G -> 3G -> 4G. However, closing of technology, say CDMA, may not be treated same as discontinuation of any service under a Service Authorization, as long as the TSP is providing the same services using other technologies.

BSNL understands that there are two distinct types of services which can be provided under Access Service Authorization i.e. Wireline service and Wireless service. Wireline services can be provided through copper cable as well as on optical fiber. Similarly, wireless services can be provided using GSM and also CDMA technology.

if a TSP discontinues one of the access service under access service authorization while continuing to provide the other access services, BSNL understands that clause 30.3(b) of UL allows it without explicitly linking it to the technology being used.

**Q.3** What other conditions in these licenses be modified so as to keep pace with the developments? Please justify your answer.

**BSNL's Comment:** Amendments in licenses/ regulations may be regarded as the backbone of the License/ Regulation to keep pace with the developments. However, BSNL has observed that more often these license amendments/ regulation amendments have been used by Private TSPs to 'cherry pick' customers and area of operation, at the cost of Central PSU – BSNL.

Some of these important license conditions which have been modified and impacted BSNL are given below:

1. BSNL has suffered and is still suffering due to TRAI recommendation to DoT for Unified Access Service License – merging Basic license with CMTS license. In the same recommendation, dated Jan 13, 2005, TRAI also recommended to do away with roll out obligation of NLD Licensee. The effects is – while BSNL continues to run huge expenditure on maintaining exchanges in uneconomic and remote areas, private operators is no longer mandatorily obliged for such investments/ expenditures. It is important to note here that the roll-out obligations were intended to prevent 'cherry picking' by new entrants to the competitive disadvantage of the incumbent BSNL which has an implicit mandate for universal coverage. These changes in license/ regulation, however, allowed private TSPs to 'cherry pick' and customize their investments at the cost of BSNL.
2. TRAI IUC Regulation 2006 put a ceiling on national long distance carriage to **65p**; however, what might have been perceived as an effort to bring down tariffs to customers, private operators gradually started disconnecting their NLD POIs with BSNL at SDCA levels and put their the long distance traffic to BSNL wireline through BSNL NLD network. BSNL which was not in favour of reduction of NLD carriage charges; instead now have to bear the financial loss due to disconnection of NLD POIs as well as on account of carriage of long distance calls at a reduced tariff. TRAI IUC Regulation 2015 which further which reduced the ceiling on national long distance carriage further to **35p**, has hit BSNL more negatively, with private TSPs proposing disconnection of/ disconnecting their CMTS POIs at LDCA Level-II TAX of BSNL.

3. Recommendations for allowing calling card service by ILDOs and then Regulations for the same is also a very recent example of misuse and 'cherry picking' by Private TSPs at the cost of BSNL, which BSNL has already protested.

BSNL has made maximum investment in operation and maintenance of its Basic and NLD networks which is practically unmatched with all other private TSPs put together. BSNL requests the Authority that if licenses are required to be modified so as to keep pace with the developments, there should be some safeguard mechanism in TRAI's recommendations for license amendments so that Private TSPs are not able to use these amendments to their tactical advantage at the cost of BSNL.

**Q.4** Regarding spectrum trading process, the Stakeholders are requested to comment upon the following:

- (a) Is there a need to define a time-limit for DoT to take into its records the prior intimation given by TSPs regarding the spectrum trading? Please suggest time-limits for different activities within the Spectrum Trading Process.
- (b) Should the advance notice period to subscribers' be enhanced from 30 days period to say, 60 days, in case of closure of services so that a subscriber has sufficient time to consume his talk time balance? Please provide justification to your response.
- (c) If a TSP is selling its entire spectrum in the LSA and intends to discontinue its access services being provided to its subscribers, should the TSP give the 60 days' advance notice to Licensor, TRAI and its subscribers, only after the spectrum trading is acknowledged by DoT/WPC as suggested in Para 23?
- (d) Give any other suggestion to improve the existing Spectrum Trading Process.

**BSNL's Comment:**

- (a) BSNL agrees that the TRAI guidelines on spectrum trading dated 28-01-2014 are self-explanatory and do not warrant any changes in present scenario.
- (b) Yes, being a customer friendly organization, BSNL agrees that advance notice period to subscribers be enhanced from 30 days period to 60 days in case of closure of services.
- (c) Yes, TSP should give the 60 days advance notice to licensors, TRAI and its subscriber only after the spectrum trading is acknowledged by DoT/ WPC.
- (d) No comments.

**Q.5** What mechanism should be put in place to ensure that subscribers are informed about the closure of services/change of access technology transparently and effectively by the TSPs? Should TSPs be directed to follow a specified mode of communication(s) as detailed in para 30 for informing subscribers or what could be other mode of communications?

**BSNL's Comment:** The following procedure may be followed to inform the subscribers before the closure of services by the TSPs:

1. 30 days advance notice to be given to subscribers before closure of services by any TSP.
2. Issuing of press release in 30 days advance in the newspaper.
3. Intimation to subscriber through SMS.
4. There is no need to extend the advance notice period from 30 days to 60 days for subscribers.

**Q.6** Will it be appropriate that the responsibility of verification of time-period elapsed since the last porting (i.e. 90 days period) be shifted from MNPSP to the Donor Operator so

that subscribers' port-out requests are accepted irrespective of his age on network in case of closure of services?

**BSNL's Comment:** MNPSP is a neutral agency which is independent of TSPs. Therefore, the responsibility of verification of time-period elapsed since the last period (i.e. 90 days period) should not be shifted from MNPSP to Donor Operator. It may be possible that Donor operator may misuse the facility. However, in case of closure of services by any TSPs, minimum condition of 90 days time period since last porting may be considered for relaxation through MNPSP.

**Q.7** In case a TSP changes the access services technology and asks his subscribers to migrate to newer technology, should the tariff protection, carry-over of unused talk-time balance and benefits be extended to such subscribers upon migration to new technology for the contracted period?

**BSNL's Comment:**

1. Sufficient time should be given to customer to use his unused talk time balance, as specified in reply of Q.N. 4(b).
2. It is not technically feasible to extend tariff protection, carry- one of unused talk time balance and benefits to subscribers upon migration to new technology.

**Q.8** How much time period should be given to the subscribers to port-out after closure of commercial services i.e. for how long the system should remain active to facilitate porting? Should the validity of the UPC in such cases coincide with such time period?

**BSNL's Comment:** TSP should be allowed to close the services after issuance of advance notice of 30 days to the subscribers.

**Q.9** What other changes should be made in the MNP Regulation to ensure smooth bulk porting-out of the subscribers in the event of closure of access services or change of access technology by any TSP?

**BSNL's Comment:** It may be possible that subscribers may not generate UPC code for port out even after the notice served by TSP for closure of service. Therefore, some facility should be given to MNPSP or TSP for generation of bulk UPC code for remaining subscribers before closing of services. Interested customers may utilize these UPC codes for Port-in purpose.

**Q.10** Will it be appropriate that the change of technology within a licensee (TSP in a given LSA) be removed from the definition of MNP?

**BSNL's Comment: No**

**Q.11** Is there a need for an alternative mechanism to MNP for bulk transfer of subscribers from one TSP to other TSP(s)? If yes, please give suggestions.

**BSNL's Comment:** MNP for bulk transfer of subscribers from one TSP to another TSP(s) should not be allowed.

**Q.12** Should a TSP be allowed to transfer its subscribers, who have not been able to port-out to other TSPs before closure of service, to another TSP whenever the services being rendered by that TSP are going to be discontinued? What can be associated issues and challenges? Please provide details

**BSNL's Comment:**

1. No, TSP should not be allowed to port-out its subscribers to other TSP in case of discontinue of services. It should be left to the subscriber's choice. A sufficient notice period should be given to customers for port-out.
2. TSP should be allowed to transfer its subscribers to its new technology, only in case of technology upgradation or migration from one technology to another technology, i.e. CDMA to GSM or vice versa etc.

**Q.13** If there are any other issues relevant to the subject, stakeholders may submit the same, with proper explanation and justification.

**BSNL's Comment:** No comments

  
30/11/17  
Raghuvir Singh  
AGM (RegIn-II)