

Telenor (India) Response to TRAI Consultation Paper on Issues related to closure of Access Network (dated 30th November 2016)

Preamble

The consultation is appropriate as the licenses have expired/ due for expiry in a cyclic fashion. The timelines for notice period for closure of services is clearly defined in Unified License and the same should not be altered as it may have cascading effect elsewhere. Any delay in decision making should be compensated by increasing notice period to consumers. Rather the decision making process itself should be made time bound.

There are various scenarios and these can be categorized in the following fashion according to their **affect on consumers**:

A. Market Exit situations – Loss of service to subscriber

- Licensee opting not to renew its license (Loop in Mumbai)
- Licensee failing to re-acquire its spectrum holding in a spectrum band (RTL in Assam, NE, Bihar, WB, Orissa)
- Sale of entire spectrum holding through Spectrum Trading (Videocon, Agure, Aircel)
- Surrender of license
- Spectrum trading (full)

B. Business decisions – Subscriber needs to upgrade Handset

- Change of Technology deployed by Licensee in the same band (RCOM migrated from CDMA to LTE)
- Change in spectrum band or ending support for a spectrum band (900/1800 to 2100 Mhz)
- Upgradation to higher technology in the same band (2G/3G → 4G)
- Roaming arrangement coming to an end (Sistema ending CDMA roaming with RCOM due to closure of their CDMA network)
- Spectrum sharing coming to an end, thereby shrinkage of coverage

C. Ways to synergize and grow business - No change to subscribers

- M&A
- Spectrum trading (partial)

The above scenarios should be analyzed solely from the impact it has on the continuity of service to subscribers, whether it potentially disrupts the services rendered to them in the old network or the he/ she has to make costly investments in handset etc.

Service providers may choose not to renew its license or may win spectrum in another band. Some of the TSPs may trade its entire spectrum holding or may choose to surrender its License. All these conditions will lead to **discontinuity in service** to existing subscribers. The subscribers should be informed 30 days in advance as per the terms of the License and his/her migration should be facilitated to new network of his choice. (Scenario A above)

Service providers may migrate to higher technology (2G/3G → 4G) or change their technology (CDMA → LTE) in the same band. In case the subscriber's handset does not need an upgrade, then it is just an issue of adequate disclosure. In case the subscriber's **handset needs an upgrade** or his **existing handset becomes redundant** then he/she should be allowed to make a free choice. The service provider should inform 30 days in advance and also facilitate migration to new network as per subscriber's choice. (Scenario B above)

There may also be a business decision to enter into **intra-circle roaming** or **spectrum sharing** arrangement to increase the footprint in a LSA. As a natural corollary these partnerships (roaming and sharing) will also come to an end at some point in time, leading to **shrinkage in coverage**. The subscriber should be transparently informed of these developments so that he/she can make an informed choice. (Scenario B above)

There can be certain other business decisions like **merger or acquisition** of companies or **partial spectrum trading**. These will not result in any disruption to the consumer and hence no change is required. (Scenario C above)

The regulatory treatment of various scenarios arising due to change in license term, change in spectrum band, technology upgradation, surrender of license, spectrum trading, spectrum sharing, intra-circle roaming etc. can be in the following fashion:

- Those changes which lead to disruption in service or requires an investment in handset by the subscribers (involuntary) should be clubbed together for the purpose of regulatory guidelines.
- Those changes which do not affect the service of the subscribers in any way should be limited to transparent communication.

There should not be any case for forced choice on subscribers if the parent

network is unable to provide the service type for which the subscriber had originally subscribed. In other words the choice of new technology and resultant upgrade in handset should be the free will of subscriber and this should be facilitated by original service provider without any pre-conditions.

Issue wise response

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?

TI Response:

- Yes, for those UASL and CMTS licensees who have liberalized their administrative spectrum, the clause should be modified in line with clause 30.3 (b) of UL pertaining to discontinuation of the service.
- Closure of service should be treated at par with surrender of license, as the effect is the same on consumers; both these situations lead to disruption in service and affect them equally.
- In case the original network is unable to provide service to the subscriber, then he/she should be free to migrate to new network of his choice. This should be facilitated by the original network.
- In order to safeguard the interest of the consumers, advance notice of 30 days should be given to the subscribers and free option to choose the network of their choice.

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 Authorisation as per Clause 30.3(b) of UL? Please provide details along with justification.

TI Response:

- Yes, the effect of change in technology is the same as discontinuation of service under UL in so far as the consumer is concerned.
- The existing handset of consumers become redundant and requires a costly upgrade. This investment on the part of subscriber is involuntary.
- The discontinuation of service also means that the existing tariff plan cease to exist (say for CDMA) and is not anymore available on the services offered under the newer technology.

- Since, the subscriber has to choose a new service, new tariff plan and possibly a new handset; he should have a free choice to re-align his/her network. This free choice cannot be restricted by Original service provider rather it should be facilitated without any pre-conditions.

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

TI Response:

- In case an operator exits a service area, due to reasons of surrender, spectrum trading (full), expiry etc. there should be clarity on the steps to be taken Consequent to surrender.
- There is no clarity regarding storage of CAF & Customer data post complete closure/ shutdown of services in a service area. There should be clear guidelines on this. In our opinion the digital copy of this data could be submitted to DOT-TERM within 60 days of closure of service and the physical copies/ other data could be purged by the TSP.
- There should be clear timelines for closure of financial liabilities by DOT, so that the bank guarantees held under the erstwhile license can be released within a prescribed time of say 90 days.

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-lines for different activities within the Spectrum Trading Process.

TI Response:

- There should be finality as far as the timelines are concerned; the Authority should reiterate its earlier recommendations on Spectrum Trading reproduced below.

*“ 2.7 The seller and the buyer shall be required to inform the Licensor regarding the spectrum trade, **6 weeks prior** to the effective date of trade. However, **no permission will be required from the Licensor/Government** for Spectrum Trading.”*

- WPC should take on record the date of submission of joint application and publish to maintain transparency, this was part of Authority's

earlier recommendations. This public notice shall be utilized by other TSPs to check for interference etc.

- Objection (if any) should be communicated **within 2 weeks**.
- Flexibility should be provided so that either the buyer or seller should securitize the past dues through a bank guarantee. The past dues which are under litigation and a stay has been obtained from the court should be securitized through an Undertaking, subject to the final outcome of the legal process.
- It should be left for the buyer and seller to mutually negotiate and then communicate to WPC as to who will provide the bank guarantee and undertaking. This should be completed in the **next 4 weeks**.

(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 talktime balance? Please provide justification to your response.

TI Response:

- The issue noted in Para 22 regarding delay in decision making by Licensor, any amount of extension does not help the consumers. Hence, it is recommended to bring **finality in timelines for approvals** through regulatory reforms.
- Enhancement of notice period will serve the purpose only for a few subscribers as once the news about closure/ withdrawal of service is out in the market then majority of subscribers will port out immediately. This point has been acknowledged by the Authority in the CP that majority of subscribers will port out as soon as possible because nowadays mobile number has become very important and is being used as an identifier.
- Increase in 60 days notice period does not serve any purpose, as the past data in case of closure of networks would show the remaining subscribers and unutilized balance left at the end of 30 days.
- Hence, we recommend that there should not be any change in Unified License conditions and we should continue with the 30 days Notice period to be given to the subscribers before closure of services.
- The talktime recharge in pre-paid is generally of small denomination and the un-utilised balance can easily be consumed in the 30 days notice period.

- **Special condition to facilitate Port Out** – In case there are a few subscribers that are left out at the end of 30 days notice period, special facility can be created to facilitate their Port Out.
- Once the access spectrum is traded/ expire/ surrendered the access network cannot be switched ON due to licensing issues. This may also attract penalties in future, hence a solution is suggested below.
- The Authority may allow another 15 days to facilitate Port Out from the closed network. This can be done through the company owned stores and facilitated through calls to the call centre. For this facility to be extended there is no need of spectrum or radio network to be switched ON, rather it is done by backend IT systems.

(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?

TI Response:

- There should not be change in timelines provided in under UL and spectrum trading guidelines, since they have been recently notified after consultation.
- The approval process should be timebound and completed within 6 weeks/ 45 days (refer our response to Q4 a). Finality in decision making should be done through regulatory reforms rather than introducing delays.
- As mentioned above, the Authority should reiterate its earlier recommendations on the subject and finality in decision making with regards to timelines should be brought in.
- In our opinion a 30 days advance notice prior to the 'date of closure of service' should be provided, irrespective of clearances received from the various agencies.
- The subscribers will follow the dates mentioned in Public notice; they should not be burdened with regulatory approval timelines.

(d) Give any other suggestion to improve the existing Spectrum Trading Process.

TI Response:

- Finality in timelines for approval process.
- Flexibility to provide Undertaking and Bank guarantee either by buyer/ seller based on their mutual negotiation.
- Similarly placed policies like spectrum trading, M&A should be brought at par with each other to eliminate any possibility of regulatory arbitrage.

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?

TI Response:

- The following channels may be prescribed for informing the subscribers about the closure of service:
 - Banner Notice on the main web page of the TSP
 - **Pre call notifications** to subscribers
 - Posters in company owned retail stores for wide publicity
 - Communication through SMS/ USSD to subscribers
 - Written communication to all interconnect partners
 - Notice on TRAI & DOT's websites for external stakeholders
- We are not advocating the use of any print media as India is moving into the digital space. We also support the cause and have listed digital medium only.
- Our suggestion of including a **pre-recorded message** in every outbound call of subscribers will eliminate the possible grievance of any subscriber of not being informed well in advance.
- In the past the change of technology or band and closure of networks has not been communicated by interconnect partners and we have to follow the media reports. We recommend that once any notice is served on DoT/TRAI by any service provider, it should be published for the sake of transparency to external stakeholders.

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?

TI Response:

- Yes, we agree with this view that this responsibility should lie with the Donor Operator. As a process, we are of the view that even in the normal scenario the responsibility should lie with the Donor Operator.
- If the Donor is willing to forego a subscriber out of his/her own volition and the subscriber is also willing to port out, then there should not be any regulatory restrictions.
- In case of closure of access network, the Donor can remove this check for age on network at the start of 30 days notice period. No further modification would be required in the IT systems of MNPS and Recipient, thus eliminating the dependence on multiple partners.

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?

TI Response:

- This needs to be assessed from the consumer perspective first, whether the handset of the existing subscriber supports the newer technology or not.
- In case his/her handset supports the new technology (2G/LTE → LTE) and he has already subscribed to the services, then a transparent communication would suffice.
- In case his/her handset does not support new technology (2G → LTE) and requires a costly upgrade (CDMA → LTE). Then the free choice should be with the subscriber without. The question of tariff protection will not arise as the earlier service (2G or 3G or CDMA) is being discontinued and no longer offered.
- In response to the questions above, we have submitted that the service closure or technology change (technology cease to exist) should be treated at par. Both the conditions lead to service disruption for consumers.
- Since, the subscriber has to **choose a new service, new tariff plan and possibly a new handset**; he should have a free choice to re-align his network. This free choice cannot be restricted by Original service provider rather it should be facilitated without any pre-conditions.
- A 30 days prior notice should suffice.

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?

TI Response:

- Reference to our response to Q4.
- In special cases the Authority may allow another 15 days to facilitate port-out from the closing network. This can be done through the company owned stores and facilitated through calls to the call centre. For this facility to be extended there is no need of spectrum or radio network to be switched on, rather it is done by backend IT systems.
- The validity of all the UPCs generated post the announcement (closure of services) should be valid for 30 days with a further grace period of 15 days.

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?

TI Response:

- The check for age of network should be shifted from MNPSP to Donor, so that the dependence on multiple stakeholders is reduced.
- Validity of UPC in special case of network closure should be 30 days with additional 15 days (existing limit is 15 days).
- Facility to generate UPC en-masse and provide through call centre also.

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?

TI Response:

- Reference to our response to Q7 and also in the Preamble.
- This should be evaluated from the consumer perspective. If the change in technology requires an involuntary investment by the subscriber, then he/she should be provided with an option to re-align to the service provider of his choice.
- The definition of technology GSM, CDMA is limited to the old licenses, this is not an issue under UL.

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.

TI Response:

- The Authority has rightly noted that porting is a subscriber initiated process.
- Hence, no need for alternate process for bulk porting. This will curtail subscribers' free choice and fraught with chances of misuse.

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.

TI Response:

- No, this will raise competition issues, as to which network will be preferred porting out network. The decision will be that of TSP closing its network rather than the subscribers' own free will.

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

TI Response:

Following suggestion may also be considered:

- Option of receiving UPC through call centre during the notice period. Due to high volume of requests, there could be a possibility that the subscriber does not get the UPC. In such cases, the subscriber should be allowed to call up the call center and get the UPC code.
- Dispute settlement in case of fraudulent port out. There is a possibility where-in some fraudulent port outs could take place and the actual owner of the mobile number will suffer as the DO will no longer be able to help. For such scenario, it should be mandated to pass on the subscriber details of all the ported out subscribers to the RO, so that it could examine and resolve these cases.
