UNINOR'S PRE-CONSULTATION SUBMISSIONS ON "ALLOCATION OF SPECTRUM IN 2G BAND IN 22 SERVICE AREAS BY AUCTION" TO TRAI

1. PREAMBLE

1.1 These submissions are being made by Unitech Wireless (Tamilnadu) Pvt. Ltd. ("**Uninor**") pursuant to press release no. 16 of 2012 dated February 3, 2012 issued by the Telecom Regulatory Authority of India ("**TRAI**") inviting pre-consultation comments from stakeholders in respect of "Allocation of Spectrum in 2G band in 22 Service Areas by auction". At the outset, it is submitted that these submissions are ***without prejudice*** to any rights and contentions that Uninor may have before any Court of law and/or authority in connection with the Hon'ble Supreme Court's judgment dated February 2, 2012 in writ petitions no. 432/2010 and 10/2010 ("**SC Judgment**").

1.2 The SC Judgment cancelling all licenses issued after 2007 and directing Government of India ("**GoI**") to issue fresh licenses and conduct new auctions for spectrum has put significant time pressure both on the holders of such cancelled licenses, the GoI and indeed possible eligible applicants for such fresh licenses. In addition, TRAI and GoI should ensure that during the interim period of 4 months from the date of the SC Judgment:

(a) a *status quo* is maintained in the extant regulatory regime in order to focus fully on complying with the SC Judgment; and

(b) operations of Uninor are not disrupted by any regulatory and/or administrative processes and the same are carried on in normal course as was prior to the SC Judgment.

1.3 As the cancelled licenses have been permitted to operate for a period of 4 months from the date of the SC Judgment, it is imperative that the existing service provisions of such operators are maintained, competition continued and long term solutions to this issue are found urgently. While the SC Judgment focused primarily on the limitations of the policy of first-come first-served and the potential fiscal loss to the Government of such policy, it, in no way changed the need for competition on a level playing field basis which has been espoused by the TRAI as well. In this regard, we would urge TRAI and the GoI to issue policy guidelines for the upcoming process on an urgent basis and not to leave any policy vacuum during this interim period. An orderly transition from the cancelled licenses to the fresh licenses is highly advisable both from a consumer and operator perspective, thus preserving the level of competition which will ultimately benefit the Indian customer and society. This will also ensure that bona fide investments made by serious players like Uninor in creating infrastructure, rolling out networks, distribution arrangements the last few years are not wasted or otherwise impaired.

1.4 We would like to stress that such risk of reduced competition, if not addressed urgently through the processes undertaken by the TRAI, including, during the coming four months period, could be a permanent feature to the extreme detriment of the public and subscribers, and must be avoided by TRAI and the GoI. The Indian market has changed considerably since 2008, mainly through the activities of the new entrants, and it will be very difficult to re-gain the competitive market momentum if current operations are adversely impacted.

1.5 We would highlight that it is imperative to arrive at healthy balance between up front fiscal returns to the GoI and a vibrant and healthy competitive market. Ensuring a level playing field among operators will ultimately benefit the Indian consumer. Conversely, a continued lack of a level competitive playing field combined with very high upfront costs for spectrum driven by well entrenched incumbent operators or otherwise will ultimately have an adverse impact on the competitive landscape.

1.6 Although the recent forbearance consultation highlight that new entrants has only taken around 7% of the market (representing over 50 million subscribers), they have made significant impacts in the circles where they are present, and taking due account of that the time since issuance of these licenses has been very short, such impacts have already given major benefits to consumers and Indian society, including creation of employment and entrepreneurial opportunities.

1.7 The following is an extract from the draft National Telecom Policy, 2011 ("**NTP-2011**") which will be difficult to deliver unless we can ensure a stable and predictable transition period for those operators who have long term ambitions in the Indian market:

> "*Telecommunication has emerged as a key driver of economic and social development in an increasingly knowledge intensive global scenario, in which India needs to play a leadership role. National Telecom Policy-2011 is designed to ensure that India plays this role effectively and transforms the socio-economic scenario through accelerated equitable and inclusive economic growth by laying special emphasis on providing affordable and quality telecommunication services in rural and remote areas. (…) By formulating a clear policy regime, NTP-2011 endeavors to <u>create an investor friendly environment</u> for attracting additional investments in the sector apart from generating manifold employment opportunities in various segments of the sector.*"

1.8 As outlined above, the purpose of the 2008 licensing process was to facilitate increased competition and to grow mobile penetration. Uninor has answered this call and been successful in broadening the playing field, lowering the tariffs and growing the mobile penetration significantly with more than 37 million customers since services were launched in December 2009, on top of which significant employment opportunities have been generated directly and indirectly through service partners. Till December 2011 Uninor has contributed approximately Rs. 4000 crores to the public exchequer by way of taxes, license fee, spectrum charges etc. However, with the cancellation of the 122 licenses granted in 2008 the main objective now is to urgently formulate the required policy directions relating to the forthcoming 2G auction. We believe that the 2G auction needs to maintain a balance between ensuring a healthy competitive market combined with fair up front fiscal returns for the GoI.

1.9 In the backdrop of the SC judgement, there is a need to run a transparent auction process within the next four months. At the same time it is extremely important that the TRAI – and ultimately the GoI – take the utmost account of the interests of those stakeholders who are directly affected by the cancellation of licences, in particular operators which in good faith have made huge investments in network rollout and providing competitive services to their subscribers. It is therefore of paramount importance that these interests are carefully balanced and that the process is decided upon as early as possible to ensure clarity, predictability and sufficient time to prepare for the auction(s) and not write off the huge investments already made.

1.10 Furthermore, there are a number of processes running in parallel, e.g. the overall consultation on NTP-2011, including more specific issues like Unified licensing, Exit policy and M&A regulations. All parties will benefit from clarity and predictability on these issues to the extent possible, and we call upon TRAI and the GoI to provide guidance on the key elements relevant for the upcoming auction(s).

1.11 As outlined above, any potential bidder for the proposed 2G auction will need clarity on structure and availability of spectrum in order to prepare the required business plans, finance and bid vehicles. Accordingly, we urge TRAI and GoI to place in public domain the information pertaining to the full availability of 2G spectrum, including the spectrum that would be released post cancellation of licenses pursuant to the SC Judgment, and also additional 3G lots and spectrum in the 700 MHz band.

1.12 We will in the following sections give our preliminary submissions to TRAI and the GoI on the overall process and how to ensure a fair and equitable process to the benefit of customers, the GoI and other relevant stakeholders.

2. ANALYSIS OF THE SC JUDGMENT

2.1 The SC Judgment has directed in para 81, *inter alia*, as follows:

(i) The licenses granted to the private respondents on or after 10.1.2008 pursuant to two press releases issued on 10.1.2008 and subsequent allocation of spectrum to the licensees are declared illegal and are quashed.

(ii) The above direction shall become operative after four months.

(iii) Keeping in view the decision taken by the Central Government in 2011, TRAI shall make fresh recommendations for grant of license and allocation of spectrum in 2G band in 22 Service Areas by auction, as was done for allocation of spectrum in 3G band.

(iv) The Central Government shall consider recommendations of TRAI and take appropriate decision within next one month and fresh licenses be granted by auction.

2.2 As evident from the SC Judgment:

2.2.1 (i) The Hon'ble Supreme Court ("**SC**") has quashed the licenses granted and spectrum allocated to the private respondents in writ petitions no. 432/2010 and 10/2010 ("**Private Respondents**"). At the same time, SC has directed TRAI to make recommendations for "*grant of license and allocation of spectrum*" and the GoI to grant "*fresh licenses by auction*". Thus, SC Judgment requires auction of "licenses and spectrum" and not of only spectrum dehors the license.

(ii) In addition, in para 78 of the SC Judgment, the SC has categorically rejected a plea to cancel licenses granted between 2001 and 24.9.2007 on the ground that they were not parties to the writ petitions no. 432/2010 and 10/2010 and legality of the licenses granted to them was not questioned before the SC.

(iii) In view of the above, the SC Judgment supports the proposition that existing players who already hold licenses granted to them between 2001 and 24.9.2007 ("**Incumbents**") should not be entitled to participate in the auction of licenses pursuant to the SC Judgment. If at all incumbents are allowed to participate in the auction process, then such participation may be beyond the scope of the SC Judgment, which focuses its attention on licenses and not on spectrum. In addition, as on the date of the auction, since the Incumbents would already be holding valid licenses, they would not be eligible to participate in the auction due to the 10% cross holding restriction. However, at the same time, the SC Judgment does not, either expressly or impliedly, bar: (a) new players to participate in the auction for license and spectrum; and (b) TRAI from recommending auction of additional spectrum (beyond the spectrum freed as a result of SC Judgment) involving even the Incumbents.

(iv) Hence, the eligibility for the auction proposed to be conducted pursuant to the SC Judgment, in our view, should only include following 2 categories of applicants:

(a) Fresh applicants (well funded entities with no link to Incumbents); and

(b) The Private Respondents whose licenses have been quashed by the SC Judgment, with the condition that the licenses held by them at the time of participation in the auction process shall be cancelled on: (i) expiry of 4 months from the date of the SC Judgment; or (ii) grant of new license, whichever is earlier.

2.2.2 Since the SC Judgment has directed auction of "licenses **and** spectrum", we believe that the spectrum in relation to these licenses would need to be auctioned in blocks comparable to the contracted amount of the cancelled licenses.

2.2.3 As per the SC Judgment, the licenses held by Private Respondents would continue to be valid till expiry of 4 months from the date of the SC Judgment. Therefore, in the event the auction is conducted within such period, technically, the Private Respondents would continue to be licensees and hence, may be disqualified due to the 10% cross holding condition. Hence, to comply with the letter and spirit of the SC Judgment, an express waiver from the 10% cross holding condition should be provided to the Private Respondents.

2.2.4 As per the SC Judgment, while making recommendations for auction of license and spectrum, TRAI is required to *inter alia* keep in mind the following 2 aspects:

(a) The decision taken by the GoI in 2011[1]; and

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1 The SC Judgment, in para 61, refers to the decision taken by the GoI and extracts press statement dated 29.1.2011 issued by the Minister of C&IT:

> "*In future, <u>the spectrum will not be bundled with license</u>. The license to be issued to telecom operators will be in the nature of 'unified license' and the license holder will be free to offer any of the multifarious telecom services. In the event the license holder would like to offer wireless services, it will have to obtain spectrum through a market driven process. In future, <u>there will be no concept of contracted spectrum and, therefore, no concept of initial or start-up spectrum. Spectrum will be made available only through market driven process</u>.*
>
> *<u>While moving towards a new policy dispensation, it is necessary to ensure a level playing field between all players. Hence going forward, any new policy of pricing would need to be applied to equally to all players</u>. Additionally, assignment of balance of contracted spectrum may need to be ensured for the existing licensees who have so far been allocated only the start up spectrum of 4.4 MHz. It may be recalled that showcause notices have been issued to certain licensees for cancellation. Only in respect of the licences that will be found valid after the process is completed, <u>the additional 1.8 MHz will be assigned on their becoming eligible, but the spectrum will be assigned to them at a price determined under the new policy</u>.*
>
> *<u>We need to seriously consider the adoption of an auction process for allocation and pricing of spectrum beyond 6.2 MHz while ensuring that there is adequate competition in the auction process</u>.*
>
> *TRAI had made recommendations in May 2010 and indicated that it would apprise the Government of the findings of a study on the question of pricing of 2G spectrum in future. This is expected shortly. We would examine their recommendations speedily as soon as they are received, keeping the perspectives that I have outlined, while finalizing our new policy. I am confident that we will be able to design a policy that ensures*

(b) The recommendations made by TRAI in connection with auction of 3G spectrum.

2.2.5 Apart from the above, there are no restrictions under the SC Judgment on TRAI and/or the GoI while determination of the auction process for the licenses and spectrum so long as such process is "*just, non-arbitrary and transparent and does not discriminate between similarly placed private parties*" as observed in para 69 of the SC Judgment.

3. COMPETITION

3.1 While designing the auction process for new licenses, one needs to ensure that competition, one of the pillars of the New Telecom Policy, 1999 ("**NTP-99**"), is not compromised in any fashion. In clause 2.0, the NTP-99 lays out, as one of its objectives:

> *"Transform in a time bound manner, the telecommunications sector to a **greater competitive environment** in both urban and rural areas providing equal opportunities and level playing field for all players"*

In clause 3.1.1, on Cellular Mobile Service Providers, NTP-99 emphasizes the need for regular spectrum reviews and more operators in light of, interalia, competition:

> *"It is proposed to review the spectrum utilisation from time to time keeping in view the emerging scenario of spectrum availability, optimal use of spectrum, requirements of market, **competition** and other interest of public. The **entry of more operators** in a service area shall be based on the recommendation of the TRAI who will review this as required and no later than every two years."*

The same focus on competition is in fact replicated under every category of service conceived in NTP-99, like Fixed Service Providers, Radio Paging Service Providers et al, indicating thereby that competition was considered an important aspect of NTP-99.

3.2 Over the years, the faith bestowed by the Government policy on the merits of competition in meeting the interests of subscribers has been reinforced again and again, as every time new licencees were introduced, the industry reacted with renewed vigour to woo its customers with more choice, and attractive offerings.

3.3 A milestone worth mentioning is the introduction of the Unified Access Services Licence regime in November 2003. In its recommendations of October 2003, TRAI recognized in para 2.1 that:

> *"Tariffs dropped by more than 50% with the entry of WLL(M) players in early 2003."*

and in para 2.8 of the same recommendations, clause 11(1)(a)(iv) of the TRAI Act was quoted which requires TRAI to make recommendations on:

> "*measures to facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services."*

In the same document in para 3, TRAI further acknowledged that:

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that existing licence holders get the spectrum they need and are entitled to, while simultaneously, ensuring that the Government also receives revenues commensurate with the current market value of spectrum."

"*Technological developments over the past few years have made the mobile wireless phone, the phone for the common man from the earlier image of a phone for the elite. Of course,* ***increasing and intense competition leading to reduced tariffs and falling capital costs have also contributed to this phenomenon****.*"

and in para 6.3, TRAI stated that:

"(subscriber) growth has multiplied manifold only after intense competition started between cellular and WLL and also the 3rd Mobile Operator and the consequent fall in tariffs."

3.4 In November 2003, DoT accepted TRAI's recommendations, which meant that the hitherto WLL(M) operators would thence expand the list of full mobility operators. In its guidelines for the new UASL licences, DoT opened the document by reiterating the objectives of NTP-99, and cited the steep reduction in tariffs due to competition:

"*Given the central aim of NTP-99 to ensure rapid expansion of teledensity; given the* ***unprecedented expansion of telecom services that competition has brought about****; given the* ***steep reductions in tariffs that competition has ensured****; …. given the recommendations of TRAI in this regard; Government, in the public interest in general and consumer interest ….has decided to move towards a Unified Access Services Licensing regime."*

3.5 The monumental impact of introduction of new mobile operators on reduction in tariffs, and the impact it had on the affordability of telecommunication services for the masses (which included the common man such as carpenters, plumbers, fruit and vegetable sellers, housewives, students et al) is now etched in history.

3.6 The next important milestone, vis-à-vis the beneficial impact of enhanced competition occurred in 2007. In its recommendations of August 2007 on the "Review of licence terms and conditions and capping the number of access providers", **TRAI reinforced the merits of not curbing competition while recommending that the number of access providers should not be capped**. In para 2.1, it opined that:

"…The increase in the number of service providers has brought with it specific benefits……Additionally, the subscriber base and coverage have increased dramatically due to increased competition and the effort by service providers to capture the largest market share.

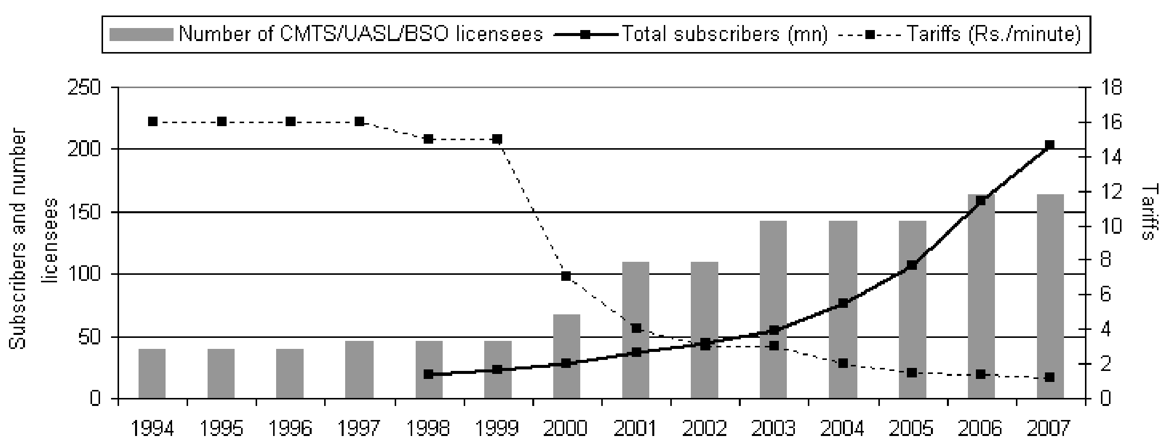


Figure 1: The market has benefited from competition"

The 2007 recommendations of TRAI reiterated the relevance of NTP-99 in arriving at its conclusions, and in para 2.13, it was stated that:

> *"It is evident from the policy that there is* ***no intention of placing any artificial cap on the number of access service providers****. Clearly, the underlying theme is to ensure optimality for existing operators so as to provide good quality service but at the same time* ***it has not barred entry of new operators****."*

The 2007 recommendations of TRAI included a special section on "Principles of fair competition.…", certain relevant paragraphs of which are quoted below:

Para 2.17:

> *"From the perspective of competition in the market, it is important to ensure that existence of potential competition ensures that competition is sustained. The existence of potential competition is negated when barriers to entry are erected by way of policy. Threat of entry is an important stimulant for competition in the market."*

Para 2.18:

> "*Threat of potential entry may prevent incumbent firms from raising prices above competitive levels. However, if there are significant barriers to entry this threat may be weak or absent. Incumbent operators in such situations are then likely to raise prices and make persistent excess profits without attracting additional competition."*

Para 2.19:

> *"It is clear from the above that ensuring a potential competition in the market would mean no barrier to entry.* ***Needless to say, competitive market provides the greatest benefits to consumers****. Low or nil barriers to entry facilitate a high degree of innovation."*

Para 2.27:

> *"…..Empirical evidence suggests that interests of consumers are best served by the forces of market and thus the Authority is convinced that to sustain competition in the market in the long run, it is necessary to ensure that barriers to entry into the market are reduced/removed."*

3.7 The emphasis placed by TRAI on ensuring competition in the telecommunications sector was validated once again, when DoT accepted TRAI's recommendation against capping the number of UAS licensees in a service area. As a result, while new telecom operators were awarded UAS licenses in 2008, the very same that have been quashed by the SC Judgment.

3.8 The significant beneficial impact on the Indian mobile users' community made by these new operators is borne out by the detailed statistics provided in the following section on this paper.

The same has also been independently recognized by TRAI itself in para 1.20 of its consultation paper on "Review of Policy of Forbearance in Telecom Tariff" released recently on 6th February, 2012:

> *"After entry of new operators, in the year 2008, the market witnessed competition in the form of reduced tariff, including introduction of innovative tariff plans such as per second billing….."*

3.9 It would be unfortunate for the consumers if the benefits of the enhanced competition and the resultant consumer affordability, choice and rapid increase in tele-density across remotest areas, were to be permanently reversed by making the new telecom operators, whose licenses have been quashed by the SC Judgment, to exit. Hence, it is urged that TRAI should evolve an appropriate, fair and transparent policy framework in compliance with the SC Judgment, which provides a fair opportunity to the licensees whose licenses were quashed by the SC Judgment to continue, in order to sustain the extant vibrant competitive atmosphere.

4. AN STATISTICAL OVERVIEW OF THE POSITIVE MARKET IMPLICATIONS RESULTING FROM ENTRY OF NEW OPERATORS

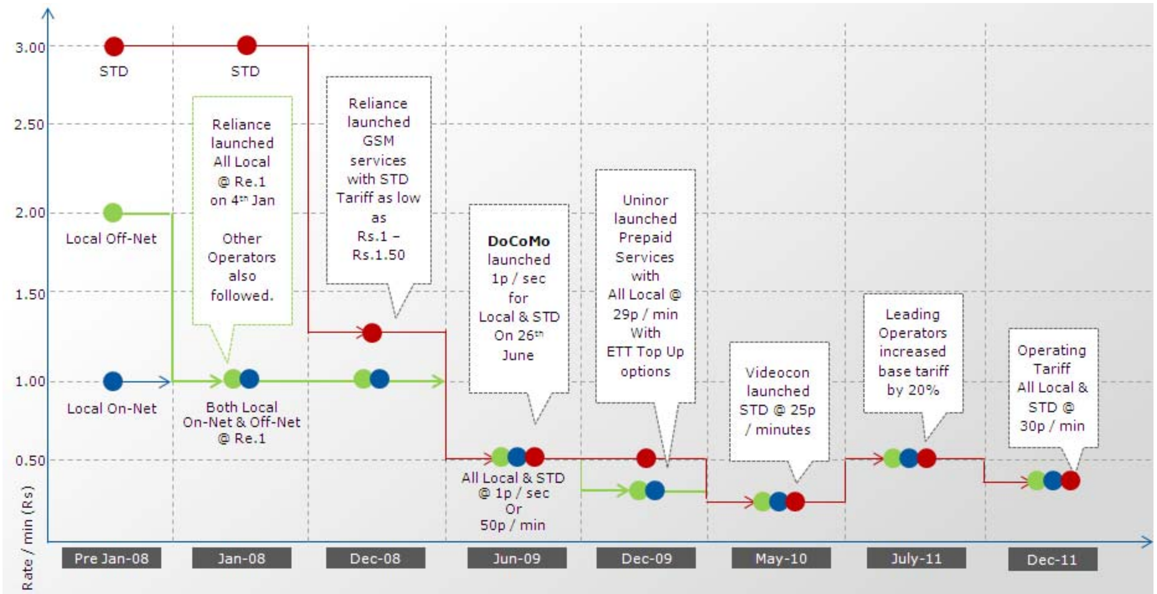
4.1 The Indian telecom industry has witnessed a major tariff shift in last 3 years, led by new operators to gain customer and revenue market share. Ultimately it has benefited the customer by affordability and availability.

4.1.1 Till January 2008: 7 service providers with all India presence, operating at tariff of Rs. 1 / minute for Local On-Net, Rs. 2 / minute for Local Off-Net and Rs. 3 / minute for STD. Indian mobile tele-density was 22 % in December 2007.

4.1.2 January 2008: A new competitor dropped the local tariff by 50 % - offered all local calls at Rs. 1 / minute, keeping the STD tariff same at Rs. 3 / minute. Other operators followed and industry stabilized at Rs.1 / minute as local tariff.

4.1.3 December 2008: Again, a new competitor slashed the STD tariff by 50 % and offered full talk-time vouchers, which resulted into an effective STD tariff of Rs. 1.25 / minute. Other operators followed and the Industry stabilized at Rs. 1 / minute as local tariff and Rs. 1.50 as STD tariff. Mobile tele-density was 32 % by the end of 2008 – an increase of 10 % since 2007.

4.1.4 June 2009: Paradigm shift in call rates in Indian telecom market, with the launch of per second billing. A new competitor launched its services with 1 paisa / second tariff for local & STD calls. Local tariff reduced by 40 % and STD by 60 %. Also, an average granularity effect of 15 % - 20 % passed on to customers, resulted into savings of 65 % for customers (50 % on tariff & 15 % of granularity). With huge customer acceptance of per second billing, all other operators followed the move within 4 to 6 months.



4.1.5 December 2009: Uninor launched operations in 8 circles with local tariff of 29 paise / minute and also introduced lower denomination extra talk-time vouchers, offering 20 % more talk-time than the existing operators. This resulted in an effective drop of 50 % in local tariff. Uninor pioneered innovation in distribution process by using handheld devices for real-time & effective trade management. Mobile tele-density in 2009 increased from 16 % to 48 % in 2009.

4.1.6 May 2010: Another operator which was awarded a license in 2008, launched its GSM service by further dropping the STD rates by 50 %, at 25 paisa / minute. Industry reacted after holding on for 2 to 3 months. Industry tariff stabilized at 30 paisa / minute for local & STD Calls, in new operator circles. For the first time in Indian telecom industry, Uninor passed on the savings accrued on account of un-used network capacity to the subscribers, by launching a dynamic pricing platform (5 % - 60 % discount on all local calls). Lower the network utilization, higher the customer savings.

4.1.7 December 2010: Mobile tele-density grew by another 15 % in 2010 and reached 63 %.

4.1.8 July 2011: With stagnant revenues, the top 4 all India operators increased the base tariff by 20 %, bringing the local & STD tariff to Rs. 1.2 paisa / second and 60 paisa / minute.

4.1.9 December 2011: New operators further passed savings on to the customers by offering an operating tariff of 30 paisa / minute for local & STD Calls. The same was followed by other operators in the respective markets.

4.2 Operating Tariff Comparison between Delhi and Mumbai and Impact of New Operators

4.2.1 Launch of services by new operators in fast growing Indian telecom market, has resulted into a huge saving for the customers, both for obtaining a new connection & in terms of the running cost.

4.2.2 Comparison of two Metro Circles, Mumbai & Delhi:

(a) Number of Operators – 9 in Delhi vs. 12 in Mumbai – Uninor not operational in Delhi;

and

(b) In Mumbai, new operators like Uninor, Videocon & Tata DoCoMo are actively competing and acquiring new customers, whereas in Delhi, the effective competition is only between pre-2008 operators.

Delhi Vs Mumbai Product Benchmarking		Delhi		Mumbai	
		Incumbent 1	Incumbent 2	Incumbent 1	Incumbent 2
New Connection		Rs.80 (Talktime Rs.90)	Rs.80 (Talktime Rs.90)	Rs.5 (Talktime Rs.30)	Rs.50 (Talktime Rs.95)
Operating Tariff	On Net Tariff	60p/min 1.2p/sec	60p/min 1.2p/sec	10p/min	10p/min
	Off Net Tariff	60p/min 1.2p/Sec	60p/min 1.2p/sec	30p/min	30p/min
	STD Tariff	40p/min	60p/min 1.2p/sec	30p/min	30p/min
Talktime	Smallest FTT	Rs.51	Rs.351	Rs.10	Rs.33
TT in Rs.10	TT in Rs.10	Rs.7	Rs.6.07	Rs.10	Rs.6

4.2.3 As per available information, operating tariff in Mumbai is more than 50 % lower than Delhi on account of innovative and aggressive offering by new operators:

(a) Local On-Net: Old operators in Delhi offers 60 paise / minute versus 10 paise / minute in Mumbai;

(b) Local Off-Net: 60 paise/ minute for customers of Delhi versus 30 paise/ minute in Mumbai;

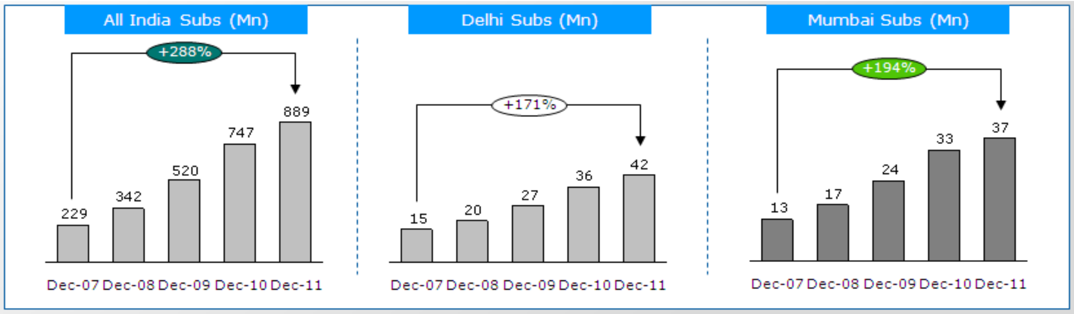
(c) STD: 40-60 paise/ minute in Delhi versus 30 paise/ minute in Mumbai;

(d) Talk-time Vouchers: Highest selling Rs. 10 talk-time voucher offers 40 % more talk-time to customers of Incumbent-1 in Mumbai as compared to customers of the same operator in Delhi (full talk-time of Rs.10 for a talk time voucher of Rs. 10 in Mumbai versus talk time of Rs.7 talk-time in Delhi);

(e) Full talk-time Vouchers: The smallest full talk time voucher available for a customer of Incumbent-2 in Mumbai is of Rs. 33 versus that of Rs. 351 for a customer of the same operator in Delhi. In case of Incumbent-1, smallest full talk time voucher available in Mumbai is of Rs. 10 versus Rs. 51 in Delhi;

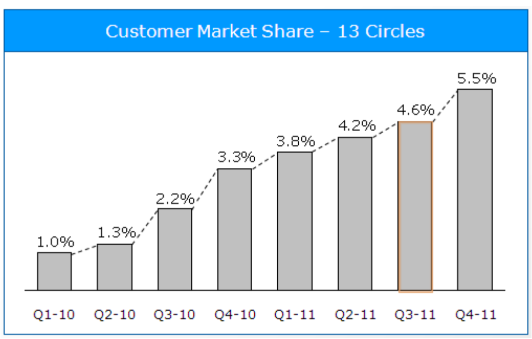
(f) Uninor started extra talk-time offers on lower denominations in Mumbai – Rs. 55 talk time on Rs. 50 recharge; and

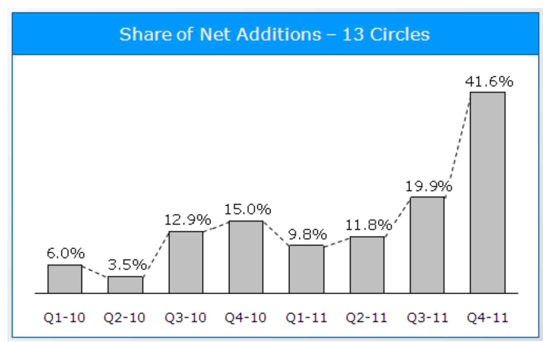
(g) Mumbai circle's rate of subscriber growth in the last 4 years is higher than the Delhi circle, i.e. 194% in Mumbai vs. 171% in Delhi - increase in customer affordability on acquiring a new connection / maintaining – because of value propositions launched by new operators.



4.3 Uninor - a serious mid-size operator

4.3.1 Despite being a new entrant in the telecom market, Uninor's customer market share, share of net additions, revenue market share and share of incremental aggregate gross revenue is growing even faster than the old operators. Uninor is now a mid-size operator with 4th position in markets like West Bengal and 6th to 7th position in other circles.





(a) Uninor in its 2nd year of operations has gained a substantial customer market share of 5.5 %;

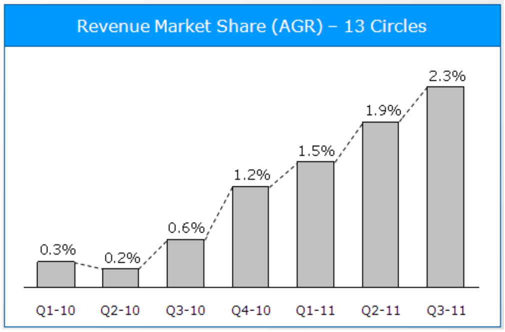
(b) In the last 2 quarters of 2011 (July to December), Uninor's share of net additions is 31 %. In the last quarter, Uninor's share of net additions is 42 %, way ahead of established incumbents. This consistent growth depicts the preference and confidence of the subscribers in Uninor;

(c) Uninor growth is driven by 'first time in the market voice propositions' - dynamic pricing, non-stop local & non-stop on-net portfolio;

(d) We believe that being best in industry trade engagement / settlement process and being first to introduce use of handheld mobile devices in sales tracking by field personnel has helped Uninor in gaining the confidence & trust of the telecom channel;

(e) Consistently growing revenues with 2.3 % share of the industry revenue (AGR Q3-2011 for 13 Circles); and

(f) 17 % share of incremental AGR for the last 4 Quarters (in 13 Circles).



Incremental AGR (Rs Cr)	Q4-10	Q1-11	Q2-11	Q3-11
Uninor - 13 Circles	103	53	96	70
All Operators - 13 Circles	629	402	894	0
Uninor Share of Incr AGR	16%	13%	11%	16595%

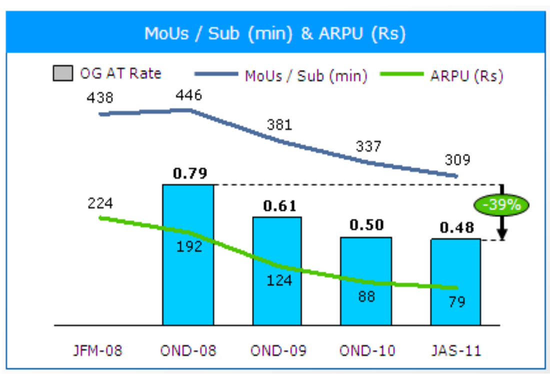
4.4 **<u>Uninor's contribution to end consumers</u>**

4.4.1 <u>Tariff benefit</u>

The lower tariff offered by Uninor as compared to other operators in the industry has benefitted the end consumer;

(a) Uninor out going rate is 23 paise compared to the industry out going rate of 48 paise. As a result, an estimated benefit of approximately Rs. 18,000 million per annum is passed on to the end consumers; and

(b) Intense competition by new operators has resulted in a consistent decline of outgoing air time rate, resulting in significant savings for customers – 79 paise / out going minute in Dec-08 to 48 paise / out going minute in Sep-11.



4.4.2 <u>Cost Advantage:</u>

Uninor has the lowest cost per minute in circles such as UP (East). Uninor has been able to pass on the benefit of low cost operations to the end customers

Operator	Spectrum	BTS	Total MOU (Mn)	MOU per BTS per day	ACPM (paise)
Vodafone	8.2 MHz (900 Band)	8800	5,005	18,958	25
Idea	6.2 MHz (1800 Band)	5400	2,414	14,901	33
Airtel	6.2 MHz (900 Band) + 1 MHz (1800 Band)	8400	4,485	17,798	26
Uninor	4.4 MHz (1800 Band)	3307	2,646	26,671	23

5. PROPOSED AUCTION STRUCTURE

In view of the above, we urge TRAI and the GoI to take into account the following broad principles while devising a fair and transparent mechanism for the proposed 2G auction pursuant to the SC Judgment:

5.1 The auction should be implemented as quickly as possible and we therefore propose the use of "tested and true" auction formats such as 'Simultaneous Multiple-Round Auction' (SMRA). A number of consultancies should be able to use existing software and to implement such an auction in a transparent manner with only a few weeks of preparation.

5.2 While both Private Respondents as well as new players should be allowed to bid, a 'right of first refusal' for allotment of spectrum at the price discovered through competitive auction process should be provided to a Private Respondent in a service area where such Private Respondent has already rolled out its services. This will the achieve all the objectives of the SC Judgment, whilst ensuring that existing subscribers are protected, the infrastructure including capex, contracts, distributions networks be preserved and huge investments in all these are not lost which will occur if a Private Respondent does not get spectrum in a service area it has been operating under a license that is proposed to be cancelled pursuant to the SC Judgment. The delay in a new operator (who gets spectrum in such service area) becoming operational will result in existing subscribers moving to Incumbents thereby reducing consumer choice and competition.

In fact, the SC Judgment, in para 66 and 76, recognizes the importance of ensuring competition in the following words:

> "66……*In the field of contracts, the State and its instrumentalities should design their activities in a manner which would ensure competition and not discrimination……*
>
> *……………*
>
> *76……..This Court has repeatedly held that wherever a contract is to be awarded or a license is to be given, the public authority must adopt a transparent and fair method for making selections so that all eligible persons get a fair opportunity of competition……..*"

5.3 Spectrum released due to the cancellation of licenses pursuant to the SC Judgment along with spectrum already available with the GoI in the 2G band should be added to the auction pool.

5.4 The available spectrum should be divided into blocks of 6.2 MHz each. The block size proposed is larger than "startup blocks" of 4.4 MHz allocated in 2008, since in 2008, such startup blocks were intended to be supplemented by further "contracted" spectrum. The upcoming auction should allow operators to acquire blocks that are large enough to support commercial operations.

5.5 In order to promote transparency and predictability, GoI should publish a detailed information about its spectrum inventory and its plans for further assignments e.g. in 700, 900, 1800, and 2100 MHz bands.

5.6 CDMA spectrum and GSM spectrum could be auctioned simultaneously or separately. A simultaneous auction could be preferable for the purpose of generating "correct" relative prices and ensuring timely assignment of spectrum in both categories.

5.7 A spectrum cap of one lot per circle should apply.

5.8 A realistic and pragmatic price discovery mechanism needs to be evolved having adequate safeguards against cartelization, bid rigging and/or artificial bidding.

5.9 The auction should generate prices which could form a basis for fees payable by those that have not paid "market prices" for their current spectrum, i.e., all licensees who received their licenses after the 4th cellular operators, when the "market prices" were last determined.

5.10 The last discovered price of the pan India 2G spectrum being Rs. 1,658 Crores, the same could be considered as the reserve price for the proposed 2G auction. A realistic reserve price would safeguard against unsold spectrum. The marginal value of spectrum will decrease as spectrum scarcity is gradually and successfully decreased and the sector becomes increasingly competitive. Extrapolating e.g. from 3G prices will inflate revenue expectations in the public domain and lead to unsold spectrum.

5.11 In order to ensure level playing field between the Incumbents and the new players (including the Private Respondents), the Incumbents should also be required to pay for the entire spectrum held by them and not just for spectrum held by them beyond the start up spectrum of 4.4 MHz.

5.12 In the event a Private Respondent wins the bid in a service area, the entry fee already paid by it along with interest should be adjustable against the bid amount.

Private Respondents, who are unsuccessful in the auction process, should be entitled to refund of the entry fee already paid by them along with interest.

5.13 In order to ensure a level playing field, the new license should not have more onerous roll out obligations than the existing licenses.

5.14 No eligibility criteria except possibly spectrum caps should apply in future auctions.

5.15 Spectrum unsold in the proposed 2G auction should be added to the spectrum pool in subsequent auctions.