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The Advisor

Networks, Spectrum and Licensing (NSL)

Telecom Authority of India

Doorsanchar Bhawan, Old Minto Road,

New Delhi-110001

Sub: Additional comments on Consultation paper on reforming the guidelines for transfer/ Merger of Telecom License dated 19th September'2019.

Dear Sir,

Please find herewith our additional comments for the said consultation paper for consideration.

Best Regards

For Virtual Network Operators Association

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Additional comments on the TRAI Consultation Paper dated 19th September'2019 on Reforming the Guidelines For Transfer and Merger of Telecom Licenses.

Please refer to our previous comments on the consultation paper and in view of the various comments received from all the stake holders in response to the consultation paper we are submitting herewith some additional comments for consideration.

It is fact the Telecom Market in India has grown in the last 24 years to the extent that it is one of the biggest telecom markets in the world today. Govt has supported the Telecom industry by prescribing suitable enabling policy guidelines and even issued suitable amendments whenever required from the period 1999 onwards.

However very recently the Indian telecom market has experienced great stress due to various unforeseen circumstances causing cancellation and surrender of licenses including mergers of many of the Telecomm players and reducing one of the very competitive market of about 11-12 players to just 3+1 market. In the new emerged scenario there is tremendous pressure on the incumbents from the new entrant who in order to capture the market share has totally disturbed and disrupted the market to the extent that the India market is heading towards duopoly monopolistic market where there are very high chances of exploitation of the market and the end customer will be the most sufferer. The customer is going to have a limited choice of service quality and the innovative tariffs.

Now it is the right time for the Licensor and Regulator to give a serious thought in order to protect the competition in the Telecom market in India so that the choice is available to the customer and intervention of the Regulator is needed to mandate certain things in the interest of the end customer so that market monopoly is not exploited by the limited players in the market.

In India Regulators and Licensors need to take cue from the Global experience in Europe and America where for the last 15 years the regulators have maintained the dynamics of competition available in the market by mandating the MNOs to provide capacities to MVNOs. All the bigger experienced Telecomm entities in US and Europe are doing a healthy business along with MVNOs and in India Regulator/Licensor need to think why

MVNO in India are not able to start the business it is not possible. Globally consolidations have happened and there is limited competition among bigger TSPs.

Along with bigger TSPs new technologies and products are being rolled over worldwide by the MVNOs and indirectly the MVNOs are contributing to the growth of the MNOs also as they are mostly the resellers of the MNOs only.

Current Status of MVNOs in India

In the current response most of the stake holders are stating that connectivity to the VNOs in India be left to the commercial requirements and market forces. But if we review the status of the MVNO market as on today after the issue of UL-VNO Guidelines by DOT in May'2016 when DOT envisage on the basis of the NTP-2012 that Indian Telecomm market needed the introduction of VNOs in India. It was a visionary step by TRAI and DOT and it was left to the market forces. However as per experience of some of the UL-VNO Licensees it has not worked at all as no TSP is interested to provide access to their Networks to new VNOs for Mobile services. Only one PSU offered the access to their network but it has got its own typical limitations in the routing of LRN for MNP and till date no roll out took place.

Intervention by the Govt. to translate into reality its vision and policy document

Therefore, TRAI and DOT need to intervene in the interest of the consumer and sustain enough competition in the market to avoid any cartelisation and monopolistic tendency which is bound to develop anytime in future thus the mandate for the MNOs to provide connectivity to MVNOs be made as a policy . Otherwise there is any scope for the MVNOs starting in India and the policy pronouncements and its vision statements can't be translated into the desired results. The introduction of MVNOs was enshrined in the NTP-2012 quote:

"To move unified License regime in order to exploit the attendant benefits of convergence, spectrum liberalization and facilitate delinking of the licensing of Networks from the delivery of services to the end users in order to enable operators to optimally and efficiently utilize their networks and spectrum by sharing active and passive infrastructure. This will enhance the quality of service, optimize investments and help address the issue of the digital divide. This new

licensing regime will address the requirements of level playing field, rollout obligations, policy on merger & acquisition, non-discriminatory interconnection at IP level etc. while ensuring adequate competition”.

“To facilitate resale at the service level under the proposed licensing regime- both wholesale and retail, for example, by introduction of virtual operators- in tune with the need for robust competition at consumer end while ensuring due compliance with security and other license related obligations.”

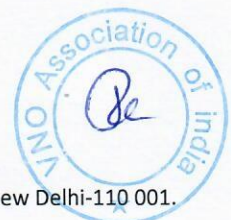
The above policy pronouncement document of the Government of India are not getting translated into the desired results by the market forces therefore Government needs to intervene to fulfil its vision of NTP-2012.

Some of the Best Practices being followed Globally when Regulators had to intervene are described below: -

Historically, MVNOs have been originated from Europe and North America. With the launch of first MVNO “Virgin Mobile UK” in Europe in 1999, there has been significant growth in the number of MVNOs in Europe. Currently, over 600 MVNOs are in operation in Europe, serving a diverse set of customers and offering a range of voice and data services. Similarly, MVNO market in the U.S. also grew reasonably over time, and currently has over 113 MVNOs operating in US.

Europe has been providing conducive environment for the MVNO business through pro-competitive measures and potentially mandating wholesale access. Initially, most regulators maintained a “watchdog” position; that is, they carefully monitor the interactions between MNOs and MVNOs. Later on, regulatory interventions have been practiced, where required. Some of these practices are detailed below:-

EU Member States/NRAs have included wholesale access obligations in radio spectrum assignment proceedings, notably in Germany (historically only airtime resale), and Ireland (where the 2100 MHz spectrum assignment proceeding included offering a license which required MVNO access).



Those in favour of regulation argue that mandatory access through regulatory intervention is necessary because MNOs do not allow access on commercial terms and merely try to sustain supernormal oligopoly profits, reduce consumer choice to keep their customers, and hinder consumers to access competing mobile portals. Also, mobile network operators are less likely to provide MVNO access unless it is a regulatory requirement. According to GSMA, as of the end of 2015, the world's mobile network operators (MNOs) host 1,038 mobile virtual network operators (MVNOs) and 277 MNO sub-brands. This represents a total of more than 1,300 mobile service providers worldwide hosted by MNOs, in addition to their own core brands. Sub-brands differ from MVNOs in that they are wholly-owned and operated by their MNO parent, despite being marketed independently of that MNO

Globally, MVNOs are active in various segments. 'Discount' and 'telecom' (i.e. an MVNO that forms part of a range of telecom services such as fixed phone and broadband) are the most prominent types of operation, accounting for 47% of the global MVNO market.

Source: GSMA Intelligence, 2016

Globally, MVNOs together account for around 10% of the total mobile users. In Europe, virtual operators have over a hundred million subscribers. One-quarter of MVNOs in Europe work as discounters offering low-cost services. According to the forecasts of Pyramid Research for 2015-2020, data-MVNOs and M2M. MVNOs will be the most promising segments for MVNOs in Europe. The emergence of M2M, cloud, and mobile money, coupled with increased data usage rates, are expected to increase the demand for MVNOs.

MVNO Challenges

Over the past 15 years, MVNOs have helped stimulate competition in the mobile market mainly in Europe and America, launching innovative tariffs and services and attracting niche consumer segments at a lower cost than MNOs. However, the landscape has changed;



MVNOs' survival in saturated developed markets now depends on their ability to adapt to industry trends, leverage innovation (in technology, billing solutions and tariffs) and target niche or underserved consumer segments. That an increase in competition between networks will lead to improvements in service quality

Regulators needs to be more pro-active

Carefully elected regulatory interventions are required on MNOs to provide access to MVNOs. If Significant Market Power (SMP) operator's regime is in place, then SMP operators may be mandated to give access to MVNO. Merger approvals may include conditions for the merged entity to provide access to MVNOs. Europe, which is home to 2/3 of MVNOs is already applying such conditions.

Consolidation in the telecom markets in the SATRC region is already in place. In Pakistan, merger between the largest operator (Mobilink) and Warid (smallest operator) in 2016 has reduced MNOs in Pakistan to four only. There is need to assess viability of new MVNOs to deter the potential anti-competitive effects of the merger. Competition Commission of Pakistan in its NOC for Mobilink-Warid merger concluded that "an MVNO entry, even it was to occur, would not be sufficient to negate the adverse effects of merger, unless there is a mandatory and robust regulatory regime." It may be noted that a key responsibility of regulators is to facilitate innovative service providers.

Status Around the world

As of June 2014, 943 MVNOs and 255 MNO sub-brands were active worldwide. This represents a total of almost 1,200 mobile service providers worldwide hosted by MNOs, up from 1,036 in 2012,

According to GSMA Intelligence, between June 2010 and June 2015, the number of MVNOs worldwide increased by 70 percent, reaching 1,017 in June 2015.

As of December 2018, there were 1,300 active MVNOs operating in 79 countries, representing more than 220 million mobile connections – or approximately 2.46% of the total 8.9 billion mobile connections in the world. The eight countries with the largest number of active MVNOs in 2018 were: USA with 139 MVNOs (4.7% market share),

Germany with 135 (19.5% market share), Japan 83 (10.6%), UK 77 (15.9%), Australia 66 (13.1%), Spain 63 (11.5%), France 53 (11.2%) and Denmark 49 (34.6% market share).

MVNOs target both the consumer and enterprise markets. The majority of MVNOs are consumer-focused and most have a focus on price as their selling point; on average, customers of major carriers spend about 3.4 times as much money on their service as MVNO customers.

Regulators around the World agree to Mandating to MNOs

However, regulators in some countries and regions, such as Spain, Hong Kong, Japan, and Slovenia, do not believe the marketplace will allow MVNOs to succeed without their help and have opted to introduce regulation that forces MNOs to open their networks to MVNOs and that regulates at least some aspects of the wholesale agreement between MVNOs and MNOs. In support of their decisions, regulators have frequently cited welfare-enhancing objectives, such as increased competition, consumer choice, lower retail prices, innovation, service diversity, and the more efficient use of scarce spectrum resources.

Innovation by MVNOs

It is important that regulators recognise that if there are no or few active MVNOs in their market, innovation cycles are likely to be slower than they would otherwise be, as MNOs usually cannot innovate at the speed of MVNOs and often don't have the inclination to do so. Thus, it is in the national interest to encourage a healthy MVNO sector within a market and ensure that MNOs are treating these companies fairly – both to stimulate more efficiency and lower pricing but also to encourage faster technical, commercial and service innovation. One challenge in creating a healthy MVNO sector is that MVNOs are being negatively affected by rising use of data, since they must pay wholesale for this, which can affect their competitiveness against MNOs that have fixed cost structures and are more able to absorb rising data levels from consumers.



Regulators globally are also attempting to stimulate the MVNO sector. For example:

- Key to encouraging more and stronger MVNOs in the US market is introducing more network level competition. To this end, the FCC's auction of refarmed 600MHz spectrum, freed up from broadcasters is an important step.
- In Iran the regulator intends to issue 19 MVNO licences and has received applications from a mixture of fixed line Telcos, domestic banks and international operators, with around 50 companies applying
- In Indonesia the regulator has expressed its interest in implementing a legal framework to encourage the MVNO sector and plans to adopt revised rules
- In Macedonia the regulator is seeking to boost the MVNO sector to encourage competition after a round of network operator consolidation.
- Argentina has amended its MVNO licensing in order to remove barriers to market entry. MNOs now have 120 calendar days to submit reference offers and they must ensure that MVNOs are provided with the same quality of service (QoS) that the MNO delivers to its own customers
- Brazil's regulator has amended its MVNO regulation with a view to stimulating MVNO growth. The revisions concern geographical limitations, technical implementation and pricing
- The Czech regulator has ordered MNOs to lower wholesale prices to MVNOs in order to enable more competitive offers.
- Italy's competition authority has mandated that the country's post office must sell SIM cards of all mobile service providers rather than just those of its own MVNO unit to remove the distribution advantage that the company possesses.



TRAI and DOT had to mandate in the cable landing stations the access to ILDOs

- In the Cable Landing station similar issue had arisen that the incumbents were not giving access to new ILDOs so TRAI and DOT had to mandate to allow access to all the ILDOs and after this mandate the ILDO market grown in India positively and customers got good choice at cheaper ILD rates. Following is the ILD License clause which confirms the same.

“INTERNATIONAL LONG DISTANCE SERVICE (UL)

- *Scope of ILD Service:*
- *2.7 Equal access to bottleneck facilities at the Cable Landing Stations (CLS) including landing facilities for submarine cables for licensed operators on the basis of non-discrimination shall be mandatory. The terms and conditions for such access provision and the charges for such access provision shall be governed by the regulations/ orders as may be made by the Licensor/TRAI from time to time.”*

CONCLUSION

It can be very well concluded as per additional details provided above that now is the time for the Regulator and Licensor to intervene in the Indian Market in the interest of consumers by mandating the access to MVNOs by the MNOs.

For Virtual Operators Association of India

Rakesh Kumar Mehta

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