

TVR/VEL/018
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Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg (Old Minto Road)
Next to Zakir Hussain College
New Delhi – 110 002

Re: counter comments on some of the issues raised in the TRAI Consultation Paper on “Telecommunications Infrastructure Policy”

Dear Sir,

This is with reference to the TRAI stakeholders comments on the Consultation Paper on “Telecommunications Infrastructure policy”. We would like to submit some additional comments and counter comments which are given below.

Mobile Virtual Network Operator (MVNO)

MVNOs have tended to have a limited impact in most markets, and have tended to be a phenomenon which has been maintained on a sustainable basis only in high ARPU, profitable markets with 5 or less network operators. However, it is possible that MVNOs can bring some incremental benefits in the Indian market and there is no reason to maintain a prohibition on their entry. However, if MVNOs were introduced, we believe the following three issues are necessary preconditions to their success, and ensuring no competitive distortions are introduced into the market:

- MNOs should have the option of entering into arrangements with MVNOs rather than be subjected to a mandatory access requirement. Mandatory access is not justified given the level of competition in the Indian market.
- MNOs and MVNOs should have the freedom to enter into mutual commercial access arrangements – MVNO deals are complex and can take many forms and depends upon the relative assets brought by the MVNO and MNO (retail and distribution networks, brand, willingness to invest in advertising and promotion etc). It is therefore not possible to pre-determine a “one-size fits all” set of terms and conditions for access. Terms of access for Intra Circle Roaming (ICR) have been left to commercial negotiation and numerous ICR deals have been concluded between operators. This shows that commercial negotiations can work. It also means that if mandated access and access prices were given to MVNOs that MNOs entering into ICR deals would be placed at a relative commercial disadvantage compared to MVNOs. It would be a curious outcome if operators who invest in licenses and spectrum and network build-out were placed at a relative disadvantage compared to MVNOs who do not. If either mandatory access or a mandated pricing model is adopted, it would jeopardise ICR agreements that have been entered into.
- MVNO licenses should be pure operating licenses (with no spectrum bundled). The Authority is well aware of the immense shortage and fragmentation of spectrum. Also, we believe that this is axiomatic – if MVNOs were given spectrum as well as the right to build and operate access networks, then there is nothing whatsoever to distinguish MVNOs from MNOs.

We thus submit that introduction of MVNOs should broadly adopt the above approach to ensure its success in the market.

SEPARATE AND RESERVED BAND OF SPECTRUM FOR NEW CATEGORY OF UNLICENSED OPERATORS

We fundamentally do not understand the proposal to reserve spectrum for unlicensed operators as this would amount to allowing entities which do not hold access services licenses (whether private businesses or IP1s which merely hold registrations to provide passive infrastructure) to not only have rights over spectrum and provide access services, but in fact have stronger rights over spectrum than holders of access services licenses (since spectrum would be *reserved* for them in a manner in which spectrum is not reserved for access service licensees). This would substantially undermine the basis of the licensing structure in India and therefore is a curious suggestion indeed. We believe that access spectrum in any circumstances only be available to holders of appropriate access licenses.

Further, reservation of spectrum is a highly inefficient way to allocate spectrum and raises all sorts of issues of which the Authority is very familiar regarding discovery/determination of the price of spectrum. It is completely out of context in the present telecom scenario where it has been clearly established that the only right way to discover the price of spectrum is through auctions.

Necessary licensing to use that spectrum can be separately issued and is one of the issues being discussed for the new telecom policy.

We would thus request that such concepts of reserving spectrum should not be adopted.

OVERVIEW OF TELECOM INFRASTRUCTURE:

We would like to submit certain concerns around the issue of setting up of separate cable landing stations (CLS) in the country.

TRAI has raised a very pertinent issue of increasing competition in the International bandwidth segment by increasing the number of Cable Landing Stations in India. However it is humbly submitted that Setting up of CLSs is not a realistic option for ISPs or ILDs, since there are high barriers to entry into this market. ILDs and ISPs set up Cable Landing stations only when new Submarine Cables land in India and they get the right to become CLS owner from the respective Cable consortium/private cables.

So setting up a new CLS does not depend entirely depend on the Indian operator, but on the number of cables landing into India and the commercial arrangements of ISPs and ILDs with the Cable consortium.

In principle we do not suggest regulatory intervention for mandating access obligations. We believe however that they should be imposed where there is a clear and demonstrable lack of effective competition.

This is the case in relation to the market for CLS services since there are only 3 providers in the market for CLS services, there are high barriers to entry (since entry is only possible with substantial investments alongside infrequent entry of new cables into India), pricing levels appear to be high when compared to cost, and price levels do not appear to be subject to competitive forces since they have not substantially changed for a significant period of time.

Though we remain a votary of lower regulatory controls in a competitive market, we nevertheless emphasize the need for regulatory intervention in an oligopolistic market with so few firms providing services and where competition is therefore not effective.

This is an issue which should be taken seriously because of its importance as an input into international voice and particularly data services. The existing CLS owners charge very high RIO and other access charges as a result of which new cables actually become uncompetitive for India.

Many cables don't touch India and bypass it in order to avoid the substantial transit charges which are paid to CLS operators. Increasing competition in this segment will take a long time. The RIO and other CLS charges paid to the CLS owners domestically in India are almost 2x or 3x the charges paid to the Cable partner for the wet international segment. These high RIO and CLS charges substantially increase the cost of International Bandwidth and it is the end user who suffers in the end. It increases the cost of accessing internet in India, thus hampering the affordability, penetration and growth of broadband in India. It also makes the Indian ITES sector uncompetitive globally.

We strongly suggest that TRAI should look into the current market structure, analyse the cost models of CLSs, review the current charges and mandate a cost based RIO and related charges. This will encourage other Cables to also land in India and thus may eventually increase the number of CLSs in India, at which point effective competition may emerge and it would then be appropriate to withdraw regulation. We also suggest that TRAI should facilitate setting up of neutral "Carrier hotels" in India where all the international cables land along with the domestic connectivity infrastructure. This will ensure there is no duplicity of links and charges to the ILDOs and ISPs and thus will go a long way in encouraging the global competitiveness of the Indian ITES sector and catalyze the growth of Broadband in India.

Kind regards,

Sincerely yours,

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