



Association of Unified Telecom Service Providers of India

AUSPI/12/2017/006

6th February, 2017

Shri Sanjeev Banzal,
Advisor (NSL),
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
JawaharLal Nehru Marg,
New Delhi - 110002.

Subject: AUSPI's Response to the TRAI's Consultation Paper on 'Issues related to Closure of Access Services'.

Dear Sir,

Please find enclosed AUSPI's Response to the TRAI's Consultation Paper on 'Issues related to Closure of Access Services' for your consideration.

Thanking you,

Yours sincerely,

Ashok Sud
Secretary General
Mob: 9312941515

Encl: As above

Copy to :

1. Shri R S Sharma, Chairman, TRAI
2. Shri Anil Kaushal, Member, TRAI
3. Shri Sudhir Gupta, Secretary, TRAI



**AUSPI's Response to TRAI Consultation Paper on
Issues related to Closure of Access Service**

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

AUSPI's Response

UL license requires separate authorizations for different services therefore the Clause 30.3(b) of UL mandates that if any TSP wants to discontinue any of the service, under a service Authorization, then the TSP is required to give at least 60 days notice to TRAI/DoT in advance and 30 days notice to the subscribers.

On the other hand, UASL and CMTS licenses allow operators to provide services without having any further requirement of taking a separate specific Authorization and hence discontinuance/ closure of service is already covered under the provisions w.r.t. surrendering of license and clause 10.3(b) is adequately taking care of the requirement to inform the subscribers and TRAI/DoT in advance. Thus, we don't see any requirement of modification in the UASL and CMTS license.

We would further like to submit that as long as an Access service provider continues to provide service using any access technology, closure/discontinuation of any one/existing technology should not be treated as surrender of license or discontinuation of services under the respective clauses of UASL and UL. The UASL/CMTS/UL licenses/authorization allows the operator to choose any technology to provide the services. It is the preference of the operator to opt for any technology at any given point depends on its business requirement and the prevalent market dynamics.

The telecom sector is moving from technology specific to technology agnostic service regime. At this point of time mandating any license or regulatory provisions on the basis of choice of technology or change in technology by the TSP to render its services is unwarranted.

The discontinuation of services being provided through a particular technology or Upgradation to any new technology for providing services should not be treated as complete discontinuation of services by a service provider if services are continued to be provided using any different technology.

Since the existing provisions of UASL/CMTS licenses are adequate to take care of situations arising on surrendering of license and discontinuation of service, we don't see any requirement to modify any of the provisions of the licenses.



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.

AUSPI's Response

We feel that present requirement of joint prior intimation by both the licensees at least 45 days before the proposed effective date of trading is sufficient & working fine and there is no need to define a time-limit for DoT to take into its record the proposed spectrum trading. However, to further facilitate the trading process and provide some certainty and flexibility to the TSPs and the DoT, we recommend the following:

- i. Any clarification/ demand of due should be raised by WPC/DoT within 30 days of receiving joint intimation filed by the licensees.
- ii. Trading should be allowed to be made effective from even an earlier date than 45 days of intimation in case all demands and clarifications are cleared to the satisfaction of WPC/DoT at an early date.
- iii. In case final decision is not conveyed by WPC/DoT within the prescribed timeline, the Spectrum Trading proposal should be deemed as approved.

(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.

AUSPI's Response

We feel that the 30 days notice period is sufficient for the subscriber to consume the talk time balance in case of closure of the service due to any reason such as surrender of license/ complete discontinuation of services by a TSP.

Our member TSPs have found that the notice period is sufficient for consumption of remaining talk time by the customers. The subscriber has the option to continue with the service with the same talktime with the same TSP wherein the balance talk time can be carry forwarded by the TSP to the new service account of the subscriber.

(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?

AUSPI's Response

Allowing a TSP to continue to use a spectrum and the service after trading is taken on record by WPC/DoT may not be practically possible due to other associated issues such as payment of SUC for this extended period etc. To deal with the situation, we



recommend that the advance notice period to TRAI, Licensor & subscribers should be made co-terminus with the period prescribed for spectrum trading process i.e. 45 days. This would mean that the notice period to the Licensor, TRAI & subscribers also expires on the date the spectrum stands transferred to the buyer TSP.

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

AUSPI's Response

1. Permit Trading of administratively allocated spectrum.
2. DoT should not seek any payment or security by way of Bank Guarantee against demands which are stayed due to legal process.
3. Lock-in of two years for selling a spectrum acquired through Trading or Auction should be reduced to one (01) year. This will be in line with recent NIA (Auction 2016) condition regarding Spectrum sharing which allows sharing of spectrum acquired through auction only after one year of its acquisition.
4. Processing fee of Rs 50,000/- only be charged for Trading to be consistent with spectrum sharing, M&A & liberalization guidelines and Levy of Transfer fee (1% of transaction amount) from trading of Access Spectrum should be done away with.
5. The transaction amount i.e. the amount received by seller from the buyer should not form a part of AGR for the purpose of levying License Fee & SUC. Alternatively, on a worst case basis, only the capital gains i.e. sale proceeds from spectrum trading less the cost of acquisition (including cost of liberalization of administrative spectrum) may be considered for purposes of License Fee and SUC.
6. Trading Guidelines should include that Government will undertake harmonization exercise to make the spectrum holdings contiguous, if the situation pursuant to spectrum trading warrants the same. Harmonization may not be required on trading of administrative spectrum.

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?*

AUSPI's Response

At the outset, we would like to submit that the change/upgradation of technology should not be treated similar to the closure of service. Any TSP continuing to provide services either by change or upgradation of existing technology would like to retain its subscribers and take all possible measures to inform the subscribers of the options available along with the process required to be followed. Hence there is no requirement of prescribing any particular mode of communication for informing or communicating with the subscribers in such cases.



We feel that the provisions under the license(s) are adequate to ensure that the subscribers are informed in advance regarding closure of service. Operators have adopted various means to communicate the information to the subscribers through digital media which are known to the customers as well. Therefore, we don't agree that a particular mode specifically the paper based publication should be mandated. We recommend that TRAI should not mandate TSPs to choose print media or paper based communication for any kind of information and digital means should be promoted which would be in line with the vision of Digital India of the Government.

Thus, we suggest that the current mechanism and willingness of the TSP to retain its subscriber are sufficient towards communication to the subscribers and there is no requirement of mandating any particular mode of communication in this regard. TRAI should encourage the digital means of communications instead of mandating any conventional paper based publication method.

- 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?*

AUSPI's Response

Yes. We firmly believe that the responsibility of verification of time-period elapsed since the last porting (i.e. 90 days period) be completely shifted from MNPSP to the Donor Operator. This will allow the donor operator to ensure successful port out of the subscribers who haven't completed 90 days in its network and willing to port to any other service provider due to the closure of services by the donor operator.

It is pertinent to mention that any subscriber with a porting history has two different 90 days period. One with the MNPSP where his 90 days period start from the last date of porting and another with the donor operator where the 90 days period starts from the date of activation of the service (Positive T'VP). Hence, to remove this anomaly it is required that the responsibility to verify AON<90 days should be given only to the donor operator and not to the MNPSPs.

- 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?*

AUSPI's Response

When a TSP changes the access service technology, then it is in the interest of that TSP to retain all of its subscribers for providing service using the newer technology. In order to achieve the same, the TSP itself offers similar or even better benefits to the subscribers so that they migrate to the new technology instead of opting out MNP and churn to other TSP. Some of the measures the service provider takes in order to ensure that the subscriber remain in its network and migrate to the newer or some other technology services are as follows:



- a) The talk time value of the subscriber gets carry forwarded if the subscriber migrates to new technology.
- b) If extension of the same tariff benefits is not feasible, then the service providers on their own offer equivalent/ similar benefits to avoid churn of the subscriber.
- c) In case of contracted offers, the service provider either offer other equivalent tariff plans in new technology and migrate the subscriber in this plan with his consent or return the amount charged to the subscriber on pro rata basis for the remaining contract period.

We would like to submit that the cost of offering the same benefit depends on the chosen technology. **A specific service offering in one technology cannot be compared with offering of the same service in a different technology.** However, service provider ensures that the subscriber gets equivalent benefit under the new technology regime for the value which the subscriber had for his benefits in the earlier technology. It is in the interest of the TSP to offer such benefit in the new technology to encourage a high proportion of existing subscribers to migrate into this new service.

In case of any contracted offer wherein an advance rental or one-time payment is charged, TSPs should either be allowed to migrate the subscriber to other plans with his/her consent offering similar/equivalent benefits under new service/technology or alternatively, the TSP should be allowed to return the amount on pro rata basis.

We would also like to submit that there would be cases where the operator starts offering service using a new technology while continuing to offer services with its existing one. In such cases, the operator should not be required to continue the subscribers' existing tariff if subscriber chooses to opt for the new service.

Any kind of mandate or regulatory provisions are not required in this competitive scenario wherein it is in the interest of TSPs themselves to protect the interest of their customers by offering equivalent benefits so that the subscribers remains in its network instead of choosing other operators through MNP.

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?

AUSPI's Response

It is suggested that the subscriber should be given one month time from the date of such closure of the service. In this duration, the subscriber can either opt for the new technology of that TSP as a new subscriber or he can port out to other service provider. To facilitate the port out till 1 month, the UPC of such subscriber should be valid till that period irrespective of the date of UPC generation.

We would also like to submit that before the final closure of the service, the TSP should be allowed to generate the UPC for all such subscribers who haven't opted for the upgraded services and also not generated the UPC so that once the service gets closed and such subscriber wants the UPC in order to port out, the same can be provided by the service provider to that subscriber after due validation of the subscriber.



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?*

&

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.*

&

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.*

AUSPI's Response

Bulk porting or bulk transfer of subscribers from one TSP to other TSP(s) is not a phenomenon envisaged in any of the provision of the MNP Regulations. The fundamental concept of MNP is to ensure that the subscribers are able to choose the services of the TSPs of their CHOICE while continuing with their mobile numbers. Thus, we don't suggest that there should be any mechanism to facilitate or encourage the bulk porting or bulk transfer of subscribers from one TSP to other TSP(s).

The transfer of a subscriber from one TSP to another TSP is being done as per the provisions of the MNP Regulations. It would not be appropriate to allow any TSP to transfer its subscribers in bulk to another TSP in any situation including closure of services. This will not only go against the choice of the subscriber(s) but also create non level playing field and discrimination amongst the other TSPs.

We strongly recommend that in any situation including discontinuation of the services, bulk porting of subscribers should not be allowed. We also recommend some changes as follows in the MNP Regulations to ensure the smooth porting out of the subscribers in the event of closure of the access services or change of access technology by any TSP:

- i. The rejection due to AON<90 days should be removed at the level of MNPS and it should only be allowed to the donor operator.
- ii. The donor operator should be allowed to generate UPC from the system for all such subscriber who neither generated the UPC on their own nor opted for the new technology.
- iii. The date of such UPC code should be valid for one more month from the date of closure of the service to ensure smooth port out of the remaining subscribers.

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?*

AUSPI's Response

The existing MNP Regulation defines MNP between two different TSPs or between two different technology services of a TSP. With the advent in technology and high data speed requirement of the subscribers, TSPs are upgrading their existing networks to



high speed data services e.g. 3G, 4G LTE. These upgrades are happening through tariff change and change of SIM (if required).

We suggest that any upgrade from one service to another (2G/3G to 3G/4G) or downgrade (4G/3G to 3G/2G) should not come under the purview of MNP.

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

AUSPI's Response

The acquisition of any TSP by another TSP or the merger of two TSPs cannot construe as the closure of the service. In these two scenarios, the subscriber of one TSP will be acquired by another TSP unlike the situation of spectrum trading.

In such scenario where subscribers of one TSP are acquired by another TSP, the issue of MNP doesn't arise, neither the requirement to follow the provisions related to closure of service. However, there would be some issues come post merger when the subscriber wants to port out.

As per the current process implemented by the MNPSPs, the recipient operators are required to choose the operator code of the donor operator at the time of making the MNP request. Such operator codes are linked with the respective LRN of that operator by the MNPSPs. In case the recipient operator chooses the wrong operator code, then the request gets rejected at the level of MNPSPs.

After merger and Acquisition of two TSPs, there will be a situation where the merged entity will have multiple LRN and hence multiple operator code. If subscriber of such merged entity approaches any other TSP (the recipient) for MNP and if that TSP chose the wrong operator code then the MNP process for that subscriber will never get initiated as it will keep getting rejected at the level of MNPSPs.

The logic of putting operator code and linking the same with the respective LRN is to ensure that at the time of make-break of the subscriber the break LRN and make LRN information should be available with the MNPSP.

In view of the above, we suggest that the check of correct donor operator code (and hence the LRN) should also be removed from the MNPSPs and the request should be pass on to the operator having multiple LRN. It will be the responsibility of that operator to check in its system the correct LRN against that MDN and if the port out request gets accepted, provide that LRN detail to the MNPSP so that it can be used during make-break process. This will ensure that the port out request would not get rejected merely because of wrong operator code for the cases where one operator has multiple LRNs.

Thus, we request TRAI to consider our above mentioned request and to amend the MNP guidelines accordingly.
