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15 January, 2015

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

Subject: Response to consultation paper on 'Delinking of the license for networks from delivery of services by way of Virtual Network Operators' (CP No. 15/2014)

Dear Sir,

Please find attached our response to the issues under consultation for Delinking of license for networks from delivery of services by way of Virtual Network Operators.

We hope that the Authority will find our response and model useful and consider our inputs while formulating the recommendations on the subject.

Thanking you,

Yours sincerely,
For **Telewings Communications Services Private Limited**

A handwritten signature in black ink, appearing to read 'P. K. Sharma'.

(Pankaj Sharma)
Sr Vice President and
Head of Regulatory

Encl : a/a

A large, light blue watermark of the Uninor logo is positioned in the bottom left corner of the page.

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Telewings (Uninor) Submissions
on
TRAI Consultation Paper – “Delinking of the license for networks from delivery of services by way of Virtual Network Operators”

Executive Summary

Globally in various countries like US, Korea, Japan, the number of players in the market has been restricted to maximum 3-4 players. In European countries, one has seen a deregulation of the market, rather than imposing new regulation and there is also a growing consolidation. As per recent GSMA study, MVNOs remain most prevalent in saturated markets - Europe is home to more than two thirds of global MVNOs and accounted 61% of the share of global MVNOs classified into eight separate categories of MVNOs, namely discount, telecom, media/entertainment, migrant, retail, business, roaming and M2M.

By contrast, in Asia and African market, MVNO sector remains in its infancy and their presence is limited, essentially due to regulatory decisions regarding MVNO licensing. The licencing of MVNOs is a phenomenon that mainly applies to saturated mobile markets, as operators seek innovative ways to attract new customers.

India is a highly competitive market with many service providers offering similar products & services in the access space. The market is served primarily by mobile networks and the percentage of wire line is declining. The competition in 2G voice and SMS is strong leading to lower average realisation per minute compared to the base tariffs. Moreover, MNP facility is also available for the customers as an option to switch from one telecom service provider to another. The ARPU in the Indian market is also amongst the lowest. This is clear evidence of competition in the market place.

While it must be acknowledged that the uptake of voice and mobile data is picking up at a much faster pace, current Indian TSPs are facing tremendous challenges as it is a fact that the most of Indian TSPs average spectrum assignment is approximately 10MHz per operator which is much lower than the global average of 50MHz per operator combining all access spectrum bands,. ***The existing spectrum holding per operator is in-sufficient for their own requirements hence there may not be spare capacity available for leasing to VNOs in the access space.***

This phenomenon and inclusive of the investments made in recent spectrum acquisition, and significant additional CAPEX required for rollout of these data centric networks in the coming years will continue to put pressure on these Indian TSPs. Today, many Indian operators are still struggling to provide a reasonable return of investment and this is not going to be easier in the near future. In India, the telecom market is still having only 45% rural penetration and further growth lies only in such areas and in data services which requires large investments and availability of sufficient spectrum.

Therefore, the primary focus for the Government should be to encourage investments in networks and strive to make available the resources (eg: access/microwave spectrum, policies that encourages passive/active infra sharing, etc) on an equitable basis to all service providers in a timely and transparent manner. It should be left to the TSPs to be voluntarily opened for service based competition and consolidation.

In this overall context, we think that a move into a service based competition will reduce the incentives for investments and rollout and not be appropriate to create socio economic value and benefit for the Indian consumers or businesses.

Issue wise response to the consultation paper

Q1. (a) Is there any need to introduce more competition in service delivery by the way of introduction of VNOs in the sector? If not, why not?
(b) If yes, is it the right time to introduce VNOs?

Response:

Traditionally, MVNOs are mostly introduced by voluntary commercial agreements with MNOs/TSPs or mandated on market player with SMP status by authorities in markets with few operators and/or to little competition.

India is a highly competitive market with many service providers offering similar products & services in the access space. The market is served primarily by mobile networks and the percentage of wire line is declining. The competition in 2G voice and SMS is strong leading to lower average realisation per minute compared to the base tariffs. The uptake of 3G and 4G data is picking up and the investments made in 3G spectrum acquisition and network rollout is yet to reach the cost realisation curve. Significant additional CAPEX is required for rollout of these data centric networks in the coming years. Today, many Indian operators are still struggling to provide a reasonable return of investment and this is not going to be easier in the near future.

In this overall context, we think that a move into a mandatory service based competition (eg. introduction of MVNOs) will reduce the incentives for investments and rollout and not be appropriate to create socioeconomic value and benefit for the Indian consumers or businesses.

We would also like to emphasise that we are still awaiting notification of important policies like spectrum sharing and spectrum trading. Merger and Acquisition policy also need significant amendments in order to spur the market. We would request that only after these policies are notified by government and their impact is observed on the Indian telecom market over next 12 to 24 months, a discussion on MVNO should be initiated.

Q2: Will VNOs pose a threat to NSOs or will they complement their operations? Justify your answer.

Response:

VNOs could mean both threats and opportunities to NSOs. It is known that the VNOs model does little or no investments and one should try to protect the investment done by integrated TSPs or NSOs. However, a VNO can complement one NSO or TSP if the VNO service and product offerings complement the overall product portfolio of the NSP/TSP. Sometimes, VNOs product and service offerings can be a threat to the NSO/TSP as similar it will cannibalise the market of the NSO/TSP which also offer the same product/service offerings.

Therefore this is market dependent and will depend upon state of market. At this instance, when industry is awaiting clear road map on spectrum and notification of important spectrum policies, the question of pose or threat will depend upon how market has responded to spectrum policies of Government.

Q3. How can effective utilization of existing infrastructure be improved? Can VNOs be a solution to achieve targets defined in NTP-2012 for rural density?

Response:

VNOs is NOT the solution to achieve the targets defined in NTP 2012 for rural density as it does not invest in the infrastructure needed (eg backhaul, network or spectrum) to build coverage at these rural areas.

Currently most of Indian TSPs average spectrum assignment is approximately 10MHz per operator which is much lower than the global average of 50MHz per operator combining all access spectrum bands. The existing spectrum holding per operator is just sufficient for their own requirements hence there may not be spare capacity available for leasing to VNOs in the access space. Furthermore, to ensure enough coverage, India must focus on fixing the basic infrastructures, eg to ensure the build-up of adequate backhaul capacity, encourage commercial driven passive-active infra-sharing concepts and finally promote an investment friendly policies/guidelines to attract further investment in these infrastructures.

We believe that reasonable spectrum reserve prices, availability of adequate spectrum for auctions, policies like spectrum trading and spectrum sharing can help in achieving of NTP-2012 targets for rural density.

Q4. Does there exist a business case for introduction of VNOs in all segments of Voice, Data and Videos?

Response:

Today, many Indian operators are still struggling to provide a reasonable return of investment and this is not going to be easier in the near future. Hence it is strongly believe that there is a tremendous challenge for any VNOs to establish a sound business case in either voice, data or videos.

Q5. Whether VNOs be introduced in all or some of the services notified in the UL? Please name the services and the justification.

Response:

We strongly believe that any introduction of VNOs should be left to voluntary commercial agreements between any potential VNOs and the relevant NSOs/TSPs.

Q6. Is there sufficient infrastructure (active and passive including access spectrum) available with a TSP to meet its own requirements? Can TSPs spare available infrastructure for VNOs?

Response:

There is a scarcity of spectrum in India and India severely lags behind global benchmarks in terms of availability of spectrum. Most of Indian TSPs average spectrum assignment is approximately 10MHz per operator which is much lower than the global average of 50MHz per operator combining all access spectrum bands. The existing spectrum holding per operator is just sufficient for their own requirements hence there may not be spare capacity available for leasing to VNOs in the access space

The effort should be made to create enough capacity. We believe that the market shall device its own mechanisms and automatically move towards sharing of infrastructure and create space to accommodate VNOs. India regulator is encourage to focus on fixing the basis infrastructures, eg to ensure the build-up of adequate backhaul capacity, allocate enough spectra band, encourage commercial driven passive-active infra-sharing concepts

and finally promote an investment friendly policies/guidelines to attract further investment in these infrastructures.

Q7. If any TSP is able to share its infrastructure with VNOs, what should be the broad terms and conditions for sharing the infrastructure?

Response:

All sharing terms within TSPs' are currently commercially driven and therefore the terms and conditions for VNOs should be commercially driven and agreed between the parties involved.

Q8. Should VNOs be allowed to create their own infrastructure to reach out to niche markets? If yes, to what extent?

Response:

To ensure same level playing field and transparent competition, if VNOs wants to establish same or parallel type of infrastructure as NSOs/TSPs they should face the same terms and conditions (obligations) including requirements to obtain necessary licenses etc. as applicable to NSOs/TSPs and in case VNOs would like to create their own infrastructure, they should be allowed to do so.

Q9. Should Local Cable Operators (LCOs) or Multi System Operators(MSOs) with cable networks be permitted to share infrastructure with VNOs to provide last mile connectivity?

Response:

LCOs and MSOs should be allowed to share their infrastructure with TSPs as well as MVNOs for the last mile connectivity.

Q10. Does the adoption of the VNO model requires an entirely new licensing regime or will a chapter or a separate section for VNOs added to the existing UL suffice?

Response:

The Unified License regime has just been introduced in August 2014 and we believe that there is no need for a introduction of new regime in such a short period of time. All new type of service providers like VNO as may be decided in future should fulfil the eligibility conditions of the UL. Future VNOs must secure UL prior to offering services.

The present licensees have been granted license (UL in our case) for both building network infrastructure and offering telecom services. The current UL is granted for 20 years with rollout obligations for the first 5 years, this demands continuous and huge investments (eg. purchasing spectrum, CAPEX for rollout, etc) over the next 5 to 8 years before there may be any return on investment.

In view of above, it is recommended that there is no need to change the definition of service provider and scope of telecom services defined under the UL for existing licensees.

The VNOs in future should meet the eligibility criteria for UL and should be granted service area wise or pan-India UL. The facility of VNO should be an additional chapter in part – II of UL, as the part-I is applicable to all service providers.

Q11. Comment on what measures are required to ensure that the existing or new licensing regime takes care of future requirements of technological development and innovation and provides a clear roadmap for migration to existing service providers.

Response:

Migration should be voluntary through a scheme of incentives.

Q12. In view of the complexity in the existing licensing regime as explained in Para 3.16 to 3.18, Should India move towards NSO and VNO based licensing?

Response:

The present licensees have been granted license (UL in our case) for both building network infrastructure and offering telecom services. The current UL is granted for 20 years with rollout obligations for the first 5 years, this demands continuous and huge investments (eg. purchasing spectrum, CAPEX for rollout, etc) over the next 5 to 8 years before there may be any return on investment.

In view of above, and for ensuring predictability and stability of the regulatory/licensing framework in India, it is recommended that there is no need to change the definition of service provider and scope of telecom services defined under the UL for existing licensees

Q13. If yes, whether existing licensees may be mandated to migrate to NSO & VNO based new licensing regime? What challenges will arise in the migration to the two types of licensing framework?

Response:

Not applicable, the scope of the existing license covers both NSO and VNO hence any migration in future should be voluntary.

Q14. Should a VNO be issued a license at the National Level, or for LSAs as in the case of UL or should it be based on the host NSO license areas?

Response:

The VNOs must meet the eligibility criteria for UL and should be granted service area wise or pan-India UL. The facility of VNO should be an additional chapter in part – II of UL, as the part-I is applicable to all service providers

Q15. What should be the duration of a VNO's license? Should it be linked with the license of the NSO or should it be for 20 years, as in the case of UL?

Response:

Future VNOs must secure UL prior to offering services. Hence VNOs must be obligated to follow licensing terms and conditions as specified in UL.

Q16. Should there be any cap on the number of VNOs in a service area for a particular service? If yes, what should be the number? Please provide (a) service wise and (b) service area-wise numbers with justification.

Response:

It is recommended that any number of VNOs should be based on market-driven needs. If a VNO decide to enter the market, any agreements or terms should be based on commercial driven agreements between all parties (eg VNOs with NSOs/TSPs).

Q17. Should there be restriction on number of VNOs parented to a NSO? Justify your answer.

Response:

No, the NSOs is best suited to decide on what number of VNOs they can deal with on their network with respect to their ability and capacity.

Q18. Alternatively, should one VNO be permitted to parent more than one NSO per LSA?

Response:

The existing spectrum holding per operator (eg NSOs/TSPs) is just sufficient for their own requirements hence there may not be spare capacity available for leasing to VNOs in the access space. It is also known that the VNOs model does little or no investments and one should try to protect the investment done by integrated TSPs or NSOs.

Thus due to these constraints, VNOs should not be permitted to parent more than one NSO within each service offering (mobile, fixed line, satellite etc.).

Q19. What should be the eligibility conditions for becoming a VNO?

Response:

VNOs must secure UL prior to offering services. Hence VNOs must be obligated to follow licensing terms and conditions as specified in UL.

Q20. Whether an existing Unified Licensee with authorisation to provide all services shall be eligible to become a VNO of another Licensee in the same or other LSA? Or, will it need separate/additional authorisation to work as a VNO for delivering services for which it does not have access spectrum?

Response:

Unified Licensee should not be allowed to become a VNO of another Licensee in the same LSA for the same reasons as in Q18. However, VNO can be allowed in other LSAs. The UL should be required to have separate/additional authorisation.

Q21. Should there be any cross-holding restriction between a NSO and VNOs? If yes, please quantify the same with justification.

Response:

There should not be any artificial restrictions on cross holding.

Q22. What should be the financial obligations of VNOs in the form of a) Equity & Networth b)Entry Fee c)PBG and d)FBG etc.? Please quantify the same with justification.

Response:

VNO should full fill the terms and conditions of Unified Licenses if it wants to build infrastructure besides reselling of services.

Q23. Should a VNO utilise numbering resources, Network Codes and Locational Routing Number (LRN) of the NSO? Or, should the Licensor allocate separate numbering resource, Network Codes and Locational Routing Number(LRN) directly to a VNO?

Response:

The Licensor should allocate numbering resources, Network Codes and Location Routing Number to VNO.

Q24. What operational difficulties could arise in the above arrangements?

Response:

It is vital for the proper functioning of interconnect between operators that such information as stated in the above arrangement is shared in a structured way among the operators. The Licensor can in this way also have control of the usage of number resources for which there is a shortage on.

Q25. In case your reply is that the Licensor allocates numbering resource to the VNO, then how can it be ensured that the resources allocated to a VNO are efficiently utilised? Should any obligation be placed on VNOs for efficient utilisation of resources?

Response:

The Licensor should demand reports on the usage of the numbering series on a regular (quarterly, half-yearly, and annually) basis and when VNO requests for new number resources.

Q26. Should the LF and SUC applicable to the VNO be as per stipulated conditions of authorisation in UL? Or, should it be treated differently for VNO? Please quantify your answer with justification.

Response:

The VNO should pay fees as per the UL licensing terms and condition. However, the network sharing charges, LF and SUC paid as statutory deductions should be allowed under pass through charges.

Q27. Should an NSO be mandated to provide access to its network to a VNO in a time-bound manner or should it be left to their mutual agreement.

Response:

If VNO decide to enter the market, any agreements or terms should be based on commercial driven agreements between all parties (eg VNOs with NSOs/TSPs).

Q28. How can MNP be facilitated in the VNO/NSO model? Can the VNO be treated separately for MNP purposes? Or, should MNP be facilitated only through the network of the NSO?

Response:

VNOs should handle MNP in the same way as NSOs/TSPs.

Q29. Who is to be held responsible for CAF verification and number activation, the NSO, the VNO or both?

Response:

The VNO should be responsible for the CAF verification and number activation.

Q30. Should an NSO or VNO or both be responsible for maintaining QoS standards as per TRAI's regulations?

Response:

VNO should be responsible but terms and conditions should be agreed between TSPs/NSOs with VNO on a commercial driven basis.

Q31. How should Mergers & Acquisitions be dealt with in the VNO/NSO licensing model? Should the recently announced M&A guidelines issued by the Government for existing players be extended to cover VNOs? Or, should their M&A be treated separately?

Response:

Yes, the present M&A guidelines should apply to all licensees uniformly.

Q32. Should the VNO be treated equivalent to the NSO/ existing TSPs meeting obligations arising from Tariff orders/regulations /directions etc. issued by TRAI from time to time?

Response:

Yes, the VNO will set its own prices and terms towards end-users.

Q33. Please give your comments on any related matter not covered in this Consultation paper.

Response:

Not applicable