

Bharat Sanchar Nigam Ltd
(A Government of India Enterprise)
(Regulation Cell)
Bharat Sanchar Bhawan, Janpath, New Delhi-110001

File No: 317-1/2007-Regln

Dated: 05.08.2009

To

The Secretary,
TRAI, Mahanagar Doorsanchar Bhawan,
Old Minto Road,
New Delhi- 110 002.

{Kind Attention: Shri Sudhir Gupta, Advisor (MN)}

Subject: Comments on TRAI's consultation paper dated 22.07.2009 on "Determination of Port Transaction Charges, Dipping Charges and Porting Charge for Mobile Number Portability".

Sir,

Kindly refer to TRAI's consultation paper dated 22.07.2009 on "Determination of Port Transaction Charges, Dipping Charges and Porting Charge for Mobile Number Portability". TRAI has solicited the comments of all the stakeholders on this consultation paper.

2. At the outset it is submitted that in the present consultation paper the time period of only two weeks has been given for submission of written comments, which is too short for examination of issues involved and offering the comments. In the past, in almost all the consultation processes, this time period has been of 3-4 weeks. Based on the exercise that was possible in such a short time, the comments have been prepared and are being submitted in the subsequent paragraphs. It is, however, requested that in future a time period of at least three weeks may kindly be given to the operators for submission of their comments.

Preliminary Comments:

3. It is submitted that all the telecom service licensees namely Basic Service Operators (BSOs), Cellular Mobile Telecom Service Providers (CMSPs), National Long Distance Operators (NLDOs), International Long Distance Operators (ILDOS) and Mobile Number Portability (MNP) service providers are making certain amount of investments for MNP to happen in India as per the decision of the Government. As a matter of natural justice, these operators are not only entitled to recover all the investments being made by them but are also entitled for reasonable return on the same. Accordingly, a mechanism has to be worked out and put in place by TRAI in such a manner that the amounts being invested by the various operators get

recouped. In our respectful submission, this should be the guiding principle while calculating and fixing the charges to be recovered from the customers for porting of their mobile numbers and sharing of the same on the principle of work done among various operators who are making expenditures for implementation of Mobile Number Portability.

4. However, to the contrary, the whole consultation paper discusses only the investments to be made by MNP service providers for the calculation of charges to be recovered from the consumers for porting of their numbers. It is seen that prior to floating of consultation paper, TRAI has sent the questionnaire to MNP service providers only for seeking their costing data whereas no such questionnaire has been sent to any other telecom operators for seeking the details about the investment being made by them for implementation of the MNP.

5. From the plain reading of the consultation paper, it appears that TRAI has in advance decided to take into account the investments of the MNP service providers only for the purpose of calculating per port transaction charge and the porting fee. That means TRAI is putting in place a mechanism for recoupment of the investments being made by the MNP service providers only and is ignoring the expenditure being made by all other operators. It is further seen that for the MNP service providers, provisions for cost plus recovery of their investments are being proposed by TRAI and for other telecom operators, even the basic expenditures are not being considered for recoupment.

6. It is pertinent to mention that the investment of MNP service providers is miniscule in comparison to that of other telecom service providers. BSNL alone is required to make an initial capital expenditure (CAPEX) of about 1065 cores for making its basic and mobile networks MNP compliant in addition to annual OPEX of about Rs 185 crores for the purpose of MNP service. Details of major activities to be carried out and the expenditures to be incurred on them by BSNL are as under:

(a) **Major activities for upgrading network to make it MNP compliant:**

- Procurement of MNP gateway to connect with MCHA
- Procurement of Local Number Portability Databases
- Changes required in MSCs, basic service switches, TAXs and SSTP:
 - (i) Originating Switches (basic services switches and MSCs) to be enabled for querying the LPDB for call routing.
 - (ii) Switches, not having querying capabilities to be enabled for handing over calls to TAXs to do so.

- Changes required in Billing Systems of Mobile network, Fixed network and interconnection billing systems.
- New Mobile Provisioning systems
- Change in IN Systems of Mobile and Fixed networks
- Changes in Other network elements such as SMSCs, MMSCs etc.
- Additional requirement of resources for CAF scanning, storage and retrieval
- Changes in ILD Gateways for correct routing of messages (SMS) in accordance with the LRN

(b) Estimated Costs involved:

(i) MNP Gateway and LSMS

Activity	Estimated Cost
MNP Gateway & LSMS Gateway	Rs. 40 crore

(ii) GSM

Activity	Estimated Cost
Changes in MSC, GMSC, IN, SMSC, MMSC	Rs. 300 crore
Changes in Billing and Provisioning systems	Rs. 200 Crore

(iii) CDMA

Activity	Estimated Cost
67 + 7 MSCs (With integrated HLRs) with 85 Lakh line capacity are to be upgraded to support MNP.	Rs. 85 crore

(iv) Fixed Network

Activity	Estimated Cost
About 400 Level-1 and Level-2 TAX switches of different technologies (OCB, EWSD, 5-ESS AXE-10 and others) are to be upgraded to cater to 50 % increase in the signalling Traffic due to MNP	Rs. 150 Crore
Up-gradation of Mediation and Billing Software at IOBAS datacenters is required to accept the new CDR format which includes LRN field	Rs. 50 Crore

(v) Transmission (Core) network Upgradation

Activity	Estimated Cost
Upgradation of SSTP network to install MNP capability and NPDB	Rs. 118 Crores.

About 1800 E1s of MPLS core network required to be augmented for MNP purposes	Rs. 122 Crore
---	---------------

(vi) **Operational Expenditures**

Activity	Estimated Cost (per annum)
Additional Manpower in 24 SSTP Locations	Rs. 15 crore
Additional Manpower in MNP gateway, Mobile CCS etc	Rs. 10 Crore
AMC & service of equipments(15% of CAPEX)	Rs. 159.75 cr.

7. As per the provisions of TRAI Act, the Authority has to protect the interests of all the telecom operators and not only that of any particular operator. In fact, one of the important functions of TRAI prescribed under section 11(1)(b)(iv) is to regulate arrangement amongst service providers of sharing their revenues derived from providing of telecommunication services. This revenue share has to be on the basis of costs involved and principles of work done.

8. Further, as a matter of transparency, even the data/information submitted by these MNP service providers has not been provided to the stakeholders for examination and submission of comments on the same. The very reason of competitive sensitiveness given by TRAI for not sharing the detailed cost sheets of MNP service providers in the consultation paper is without any basis and factually incorrect, as these operators have monopoly in their zone of operation and there in no threat of competition at all. Further, licenses to these operators have been given on exclusive basis and no additional MNP service provider is going to be introduced by the licensor for a period of five years. Therefore, sharing of their costing data will cause no competitive disadvantage to these MNP service providers and these details must be transparently shared with all the stakeholders.

9. It has further been stated in the consultation paper that the MNP service providers have furnished the incomplete costing information to TRAI and have not submitted the CAPEX as required by the Authority. Further, some irrelevant costs have also been shown by the MNP service providers which may be for the purpose of seeking higher per port transaction charge. It is also noted that the data submitted by two MNP service providers has not been found consistent by TRAI. Under these circumstances, it is neither feasible nor desirable for any of the stakeholder including BSNL to make any assessment and comment on the per port transaction charge and dipping charge calculated in the consultation paper.

10. In the consultation paper dated 22.07.2009, although TRAI has admitted that other telecom operators will also have to upgrade their networks for implementation of MNP but no provision for the recovery of the same has been made. By referring to the instructions of DoT which say that the access service providers and long distance service providers will have to upgrade their respective networks, TRAI is trying to construe that these operators are required to make investment for MNP

implementation without recovery of the same. This conclusion of the TRAI can not be assumed to be correct by any stretch of imagination as none of the operator including recipient and donor can be forced to make the huge expenditures without recovering the same from the consumers for the benefit of whom the expenditure is being made. Accordingly, the meaning being derived by TRAI is factually incorrect as it can never be the intention of DoT to not allow the operators to recover the expenditure being made by them from the customers for the benefit of whom the MNP is being implemented.

11. Admittedly, the MNP is meant for few customers who want to save the cost of informing their friends and business partners about new number, missing calls from uninformed people and updating company web pages, brochures and business cards. However, ordinary consumer is not going to be much benefitted by the MNP as even today he can easily switch his number to another operator by payment of insignificant or no cost, as he does not have to update his company web pages, brochures and business cards etc.

12. In the proposed arrangements, the Authority is envisaging that the cost of implementing MNP for facilitating these few elite customers (of the order of 2%) shall be borne by the ordinary customers who are not going to get any benefit from the same. This will make the telecom services unaffordable for many of them as the tariff will have to be increased by the operators for recovery of the investments being made by them for the implementation of MNP.

13. As has been stated in the consultation paper, the cost of dipping only is going to be about 5 paisa per dipping. It means, assuming average call duration of one minute, every call in India is going to be costlier by 5 paisa per minute due to dipping alone. Even the calls of fixed line customers will get costlier. Assuming similar costs due to other expenditures, every call will be costlier by at least 10 paisa per minute which is around 33% of the prevailing tariffs. This will be totally anti-consumer and is against the policies of Government.

14. Accordingly, it is submitted that only those customers, for the benefit of whom the MNP is being implemented, should be made to bear the cost of the same and not the ordinary customers who are not going to get any benefit from the implementation of MNP. All these customers who will utilize the MNP are big entrepreneurs, professionals, businessmen who will save huge switching costs which otherwise they will have to invest on informing friends and business partners about new number, missing calls from uninformed people and updating company web pages, brochures and business cards etc. These customers can afford and must pay for availing this facility. This is also tune with the well established principles of causality which states that whosoever is the cause of change in the system has to bear the costs of the same. In this case, if some class of customers wants to retain their numbers while changing their operator, then only those customers have to bear the cost and not the other ordinary mobile and fixed line customers who are not going to be benefitted in any manner from MNP.

15. Therefore, all the investments being made by the operators for the implementation of MNP needs to be recovered only from the consumers who want to port their numbers and ordinary customers should not be penalized by increased tariffs and call charges to them. Further, these porting charges need to be shared among all the operators on the basis of their investments. This is also in tune with international practices whereby donor operators are also entitled to receive the charges from the recipient operators like in Denmark, Finland, Italy, Sweden, Norway etc.

16. Further, it is recognised in the consultation paper that MNP will be an attractive tool for the new operators to acquire the subscribers from the incumbent operators. It is also a fact that the networks being rolled out by the new operators are MNP compliant and no additional investment is required to be made by them for this purpose. On the contrary, the incumbent operators including fixed line operators are required to make huge investments to upgrade their networks for implementation of the MNP. As envisaged in the consultation paper, the incumbent operators will be acting as donor operators for most of the time. If the incumbent operators are not compensated for the investments being made by them, it will amount to extending undue favours to the new operators which is anti-competitive and will disturb the level playing field.

17. It is, therefore, humbly submitted that it would be just & fair to call for the costing data/information of all the operators including the MNP service providers and the same should be transparently shared with all the stakeholders for seeking their comments. After that, taking into consideration the costing data of all the operators who are making investment for MNP implementation, the porting charges to be recovered from the consumers for porting of their numbers should be fixed and arrangement should be worked out for sharing of this charge between all the operators on the basis of their investments. Similarly, dipping charge should be calculated and fixed on the basis of the costing data of MNP service providers.

18. Accordingly, it is submitted that provision should be made in the porting process for the charges to be paid to the donor operator and the fixed line operators also in addition to recipient operator and the MNP service provider from the porting charges to be recovered from the consumers who intend to port their numbers.

Para -Wise Comments:

19. While reiterating our views as above, the para-wise comments of the BSNL on the issues for consultation in the consultation paper on “Determination of Port Transaction Charges, Dipping Charges and Porting Charge for Mobile Number Portability” are as follows: -

S.N.	Issue for Consultation	Comments of BSNL
1.	Whether the network elements, cost details	No sir, because the cost details and cost structure of various network elements of MNP service providers have

<p>and the cost structure considered for estimating the port transaction charges are appropriate? If not, give reasons.</p>	<p>not been provided in the consultation paper on the plea of being competitively sensitive in nature. TRAI in the consultation paper in para 4.5.2 has, inter-alia, stated that:</p> <p><i>"Since the MNP service Licensees have requested for not sharing their detailed cost-sheets and business plans, being proprietary and competitively sensitive in nature, the same is not being given in this consultation paper"</i></p> <p>It is, therefore, not feasible to offer comments on the appropriateness of cost details and cost structure of MNP service providers.</p> <p>Further, it is a matter of record that the requisite design and specifications of the MCHA and NPDB has not yet been finalized by these operators which was revealed by themselves in the meeting held in DOT on 24-06-2009. This has been recorded by DOT in para 4.4 of its letter dated 3-7-2009, stating that:</p> <p><i>".....Operators indicated that there is a huge amount of variance in MCH interface specifications. MNP licensees informed that variance is due to delay in finalization of business process by TRAI. AUSPI/COAI wanted the interface specifications similarity between two MNP licensees. This was supported by all service providers. MNP licensees assured that they would address and reconcile the issues once TRAI finalizes the MNP process and brings out its regulations on the same...."</i></p> <p>It is submitted that unless the specifications of the MCHA (the exact technical requirement) are decided, the cost of the same can not be determined by anyone including the MNP operators. It is not understood how these MNP service providers have prepared/calculated and provided their cost details to the Authority.</p> <p>It is also noted that TRAI itself has found that the cost details submitted by the MNP service providers are incomplete & inconsistent. Further, it has been stated by TRAI in the consultation paper that MNP service providers have not submitted the required CAPEX details and some irrelevant costs have been shown by them in their cost details. This may be the reason for such huge variations in the per port transaction charge and dipping charge arrived at by the TRAI by using the costing data and cost structure of two MNP service providers.</p>
---	---

		<p>Under these circumstances, it is neither feasible nor desirable for BSNL to make any comment on network elements, cost details and the cost structure considered for estimating the per port transaction charges and also on the per port transaction charge and dipping charge calculated in the consultation paper.</p> <p>It is the humble submission of BSNL that first the technical specifications may be finalized for MCHA and NPDB and then only TRAI should have an independent, efficient, unambiguous and transparent mechanism to determine costing details (CAPEX and OPEX) of MNP Licensees. Thereafter, after seeking the comments of all the stakeholders on such costing details, TRAI may calculate per port transaction charge and the dipping charge.</p>
2.	<p>Do you agree with the factors affecting the number of porting as discussed above?</p> <p>Please indicate if any additional factors are required to be taken into account.</p>	<p>The number of porting will mainly depend upon how much effective, transparent, equilateral, non-discriminatory process/mechanism is put in place for MNP. Further, it will also depend on to what extent the commercial interests of all the operators who are making investments for MNP are protected by the Authority.</p> <p>One of the main issue which will certainly affect porting is the effectiveness of the procedure prescribed for porting from CDMA to CDMA/GSM network, as at present about 25% of the mobile customers are being served by CDMA technology and their handsets are locked with the networks of their service providers</p> <p>In our submission, all the issues related to MNP need to be properly addressed before the implementation of MNP, as poorly designed, complex or easily-abused procedures for porting of mobile numbers are less likely to result in a successful implementation of portability or to produce the benefits that portability is intended to deliver.</p>
3.	<p>Whether the projection of the subscriber base and annual rate of Porting as explained in the paper for the next 5 years is reasonable?</p> <p>If not, give your estimation of annual porting rate along with</p>	<p>The projection of wireless subscriber base appears to be a bit of the higher side. Considering the current growth, the wireless subscriber base is expected to be of the order of 500 millions at the end of March'2010. Accordingly, the projections for subsequent years also seem to be on the higher side. As stated above, the rate of porting will mainly depend upon the effectiveness of the procedure/mechanism prescribed for MNP while protecting the commercial interests of all the stakeholders.</p>

	the reasons.	
4.	Based on the cost details, what is your estimation of per port transaction charge. Justify your estimation and supplement it with the worksheets.	<p>As stated in the preliminary comments and also in answer to Q1 above, in the absence of proper/correct cost details it is not possible to make any estimation of per port transaction charge and dipping charge. The costs of expenditure to be made by MNP service providers can only be determined after finalization of the technical specifications of MCHA.</p> <p>It is noted that costs of Database has been taken into consideration for the calculation of per port transaction charge as well as for the calculation of dipping charge, which is not correct. The cost of database should be suitably divided for the calculation of per port transaction charge and the dipping charge.</p>
5.	What should be the time period for review of per port transaction charge?	Initially, per port transaction charge should be prescribed by an independent, efficient, unambiguous and transparent mechanism for a period of one year. Thereafter, it may be reviewed and periodicity of further reviews can be decided subsequently depending upon the need & requirement of the same.
6.	What is your estimation about the number of voice/SMS/MMS dipping which may take place in the MNP service provider's Query Response System?	It is submitted that all the pan India and integrated operators will be using their own local portability database for dipping purposes. There will be only few regional and standalone operators who may use the Query Response System of MNP service provider for voice/SMS/MMS dipping purposes. All the operators may be consulted in advance to know the number of telecom licencees who will be using QRS. The expected amount of dipping can be estimated from the traffic pattern of such licensees.
7.	What should be the factors which may be considered for the estimation of the Dipping charge?	Expected number of dipping and the expenditure involved in setting up of QRS will determine the dipping charge. In addition, a part of NPDB cost should also be recovered from QRS users as the NPDB will also be utilised by QRS users for dipping purposes. Residual costs of NPDB should be considered for calculating the per port transaction charge.
8.	(a) Whether the recipient operator should be allowed to charge the porting charge from the	(a), (b) & (c) - While reiterating our detailed comments submitted in para 3-18 above, it is submitted that porting charge to be recovered from the subscribers who want to port their numbers should include the charges payable to all the operators i.e. the recipient operator, MNP service

	<p>porting subscriber?</p> <p>(b) If yes, should porting charge be equal to or less than or more than the per port transaction charge? Give reasons to justify your view?</p> <p>(c) If no, give reasons to justify your view.</p>	<p>provider, donor operator, basic service operator and the long distance operators, who are making investments for implementation of the Mobile Number Portability.</p> <p>These porting charge recovered from consumers should be shared among the recipient operator, MNP service provider, donor operator, basic service operator and long distance operators proportionately on the basis of expenditures being made by them for MNP implementation. This is so because every operator is making huge investment for the implementation of MNP and accordingly, each of them needs to be compensated from the porting charges on the principles of work done.</p> <p>In view of above, the porting charges to be collected from subscribers who want to port their number shall always be more than the per port transaction charge payable by the recipient operator to the MNP service provider.</p>
9.	<p>Whether the porting charge, if any, paid by the subscriber to the recipient operator, should be shared with the donor operator? Give reasons to justify your view.</p>	<p>As submitted above, every operator whosoever is making investments for the implementation of MNP needs to be compensated on the work done principle. Donor operator, who is making huge investments, is also not an exception. On the basis of actual costs involved, donor operators are paid from porting charges in many foreign countries like Finland, Denmark, Italy, Sweden, Norway etc.</p> <p>Further, it is submitted that not only the donor operator but also the basic service operators and the long distance operators, who are making huge investments for MNP implementation, need to be paid from the porting charges to be collected from the subscribers who want to port their numbers.</p>

(P C Sharma)
DGM (Regulation-I)
05.08.2009