



# **Telecom Regulatory Authority of India**

## **Stakeholders Responses**

**on**

**Consultation Paper 12/2007**

**Dated 28<sup>th</sup> May, 2008**

**Growth of Value Added Services and  
Regulatory Issues**

**Telecom Regulatory Authority of India**

Mahanagar Door Sanchar Bhawan,

J.L. Nehru Marg, (old Minto Road)

New Delhi – 110 002

# INDEX

Sl.no.	Stakeholder's name	Abv.
<b>Service Providers Associations (4 Nos)</b>		
1	Association of Unified Telecom Service Providers of India	AUSPI
2.	Cellular Operators Association of India	COAI
3.	Internet Service Provider Association of India	ISPAI
4.	Internet & Mobile Association of India	IAMAI
<b>CAGs/Consumer Groups (2 Nos)</b>		
5	Consumer Care Society, Bangalore	CCS
6.	Voluntary Organization in Interest of Consumer Education	VOICE
<b>Service Providers (6 Nos)</b>		
7.	Bharti Airtel Ltd.	Bharti
8.	BPL Mobile Communications Ltd.	BPL
9.	Bharat Sanchar Nigam Ltd.	BSNL
10	Mahanagar Telephone Nigam Ltd.	MTNL
11	Reliance Communications Ltd.	Reliance
12	Tata Teleservices Ltd.	Tata
<b>Others (13 Nos)</b>		
13.	Dialnet Communications Ltd.,	DCL
14.	Sasken Communication Technologies & Founder Trustee and President, Mobile Monday Bangalore Trust	SCT & FTPM
15	Indian Institute of Management, Ahmedabad Dr.Rekha Jain	IIM, Ahmedabad
16.	Phonographic Performance Limited (a Music Content Licensing body on behalf of 140 Music companies in	PPL

	India )	
17.	Google	
18.	Net Core	
19	Aneesh Reddy Boddu, B Tech, IIT Kharagpur, 2006 Currently working with ITC Ltd.	ITC Ltd
20	Times Internet	
21	World Phone	
22.	Webaroo Technology India (Pvt) Ltd	WTI
23	i2i Telesource Pvt Ltd.	
24.	Director, Com First (India) Pvt. Ltd. (Mahesh Uppal)	DCF
25.	Star India Pvt Ltd.,	

Contd...

## **ISSUES FOR CONSULTATION**

<b>Q.No.</b>	<b>Title</b>	<b>Page</b>
6.1	Does the existing definition of Value Added Services given in various licenses as mentioned in para 1.3 need any modification or same can be incorporated for the Value Added Service provided through cellular mobile telephone networks, including 3G, IP Multimedia System (IMS) and Next Generation Networks (NGN)?	<b>6-12</b>
6.2	Whether there is a need to bring uniformity or clarity in the licensing conditions of mobile telecom operators/access service providers with regard to provision of value added services?	<b>13-20</b>
6.3	Apart from the licensing obligation of intimation before introduction of any new value added services and the measures to facilitate monitoring by security agencies of such new value added service, is there a need to put any other obligation on telecom operators?	<b>21-27</b>
6.4	Whether companies providing Mobile Value Added Services who mainly act as content providers or content aggregators and operate value added services technology platform called Value Added Service Providers (VASPs) need to be brought under the licensing regime or not?	<b>28-32</b>
6.5	If licensing system is to be resorted to for licensing of mobile value added service (VAS) under the Indian Telegraph Act, 1885, what should be the scope of licence and other terms and conditions for such licensing?	<b>33-38</b>
6.6	What should be the licensing obligation for protecting copy rights, including digital rights management, and infringement of other laws of the country on value added Service licensees?	<b>39-43</b>
6.7	What should be the regulatory framework for content regulation? Please give your suggestions with reasons thereof.	<b>44-47</b>
6.8	Who should allocate short codes for value added services, in order to have uniformity amongst all the telecom	<b>48-53</b>

	operators and also to enable branding of value added services? Please give your suggestions with reasons thereof.	
6.9	Is there a need to regulate revenue sharing model or should it be left to commercial negotiations? Please give your suggestions with reasons thereof.	<b>54-65</b>
6.10	Any other suggestions with reasons thereof for orderly growth of mobile value added services including such services to be provided in 3G, next generation network (NGN) environment?	<b>66-70</b>

# RESPONSE OF STAKEHOLDERS ON ISSUES FOR CONSULTATION

## 6.1 Does the existing definition of Value Added Services given in various licenses as mentioned in para 1.3 need any modification or same can be incorporated for the Value Added Service provided through cellular mobile telephone networks, including 3G, IP Multimedia System (IMS) and Next Generation Networks (NGN)?

1. **AUSPI :-** The existing definition of Value Added Services given in the UASL is broad and adequate to cover Value Added Services provided/to be provided by 2G, 3G, IMS and Next Generation Networks. The definition is flexible and allows the service providers to innovate and launch new services which are covered under the definition. The definition has also stood test of the time and does not require change with the launch of new technology and services.
2. **COAI:-**
  1. We believe that the existing definition of Value Added Services as given in UAS License is adequate to allow for provision of all types of Value Added Services provided in 2G, 3G, IMS and Next Generation Networks.
  2. It may be noted that while UASL/CMTS are allowed to provide all types of VAS as part of their license, any other entity wishing to provide VAS services is required to take a separate license.
  3. Currently the Government of India issues separate licenses (to entities other than UASL/CMTS) for the following services: Public mobile trunking service, Voice mail service ,Videotex service, GMPCS , Internet, Audiotex, Unified messaging, Closed users group domestic 64 kbps data network via INSAT satellites system.
  4. However, if the Authority decides to recommend bringing more value added services under the licensing regime, there may be need to revise & enhance the list of value added services for which licenses are issued for operators **other than UASL/CMTS**.
3. **ISPAI:-** Scope of Value Added Services should be broadened as beside UASL & Mobile Telecom Operators, ISPs are also providing value added services. Accordingly, scope of VAS should not be restricted to USAL and Cellular Operators.
4. **IAMAI:-** Yes. It is our understanding that the development of new third party services in the last six years, especially what is known as off-deck services provided to consumers by independent third party service providers has become much more popular and widespread than it was anticipated. This is now a fledgling industry providing useful services to consumers as well as

contributing significantly to the growth of the mobile telephony business in India.

By all reckoning, this industry is expected to play a major utilitarian and commercial role in India and by all reckoning it is agreed that this industry must be provided an enabling environment to grow and develop.

It is therefore our suggestion that with the development of off deck services in the last 6 years as well as many more services expected to be offered in the future, and keeping in view the structural factors that would help the industry grow, it may be necessary to have a re-look at existing definition.

However, if such an exercise is carried out, the definition ought to be flexible and inclusive so as to include as many categories of service providers as possible the connecting link between them being "off deck" or third party independent service which they provide.

5. **Consumer Care Society:-** There seems to be no need for any modification as the words "give Value Added Services are enhanced services which add value to----- are issued" give sufficient scope and flexibility.
6. **VOICE** - Existing definition is quite comprehensive and may be adopted. AS VASP is a separate entity and likely to hold license, this need be modified.
7. **Bharti:**
  - a. As per our understanding, the existing definition of Value Added Services, as given in the UAS Licence Agreement is adequate to meet the existing as well as future VAS growth and hence, the same may be maintained.
  - b. Presently, the Government of India issues separate licenses (to entities other than UASL / CMTS) for various services namely Public mobile trunking service, Voice mail service, Videotex service, GMPCS, Audiotex, Unified messaging etc.
  - c. However, if the Hon'ble Authority decides to recommend bringing more value added services under the licensing regime, they may revise & enhance the list of value added services for which licenses are issued for operators other than UASL / CMTS.
8. **BPL:** The existing definition of Value Added Services given in the Licence Agreement for provision of UAS is very broad based and should be adequate to cover all types of Value Added Services provided by 2G, 3G, IMS and Next Generation Networks. However, the list of Value Added Services mentioned in the definition for which licenses are issued by the Government, is not comprehensive. This list should be revised so as to include all types of content services, M-Commerce and entertainment service like video gaming etc.

9. **BSNL:** The existing definition given in UAS License for Value Added Services and mentioned in para 1.3 of this consultation paper is at variance with the provisions of the UASL itself. This definition needs to be revisited. The definition given in para 1.2 of this consultation paper seems to be more appropriate and may be adopted for Value Added Services provided through basic services networks, cellular mobile telephone networks, including 3G, IP Multimedia System (IMS) and Next Generation Networks (NGN).
10. **MTNL:** It is really difficult to contain the meaning of Value Added Services under some definition. With 3G services knocking on the door, the Value Added Services basket would further become more enriched and complicated. Against this background, we would suggest that Value Added Services should be defined as broadly as possible to cover more & more services so as to benefit the telecom consumers. We suggest a following definition of value added services:

***“Value Added Services are services which do not form of core or basic service but adds value in total service offering.”***

11. **Reliance:-** The existing definition of Value Added Services given in the UASL is broad based and is adequate to cover all types of Value Added Services provided/to be provided by 2G, 3G, IMS and Next Generation Networks. The definition is flexible and allows the service providers to innovate and launch new services which are covered under the definition. The definition has also stood test of the time and does not require change with the launch of new technology and services. In view of the above, we do not suggest any change in the existing definition of Value Added Services given in the UASL. The same definition will cover services to be offered using 3G, IMS and NGN technologies.
12. **TATA:** Indian Telecom Sector has witnessed steep growth in terms of mobile subscribers. India has already joined elite club of 100 million wireless subscribers in May 2006. Approximately 8.5 million wireless subscribers are being added every month. While such growths are welcomed, it is associated with reducing Average Revenue Per Unit (ARPU) for service providers. Service providers want fast growth in ARPU. This requires provision of new value added services and contents to subscribers. Networks need to be flexible to provide value added services and contents easily.

In view of the above, and the provisioning of VAS under the existing UASL agreement, TTL would like to suggest a slight change in the definition of Value added services as mentioned in 1.3 :

***“Value Added Services are enhanced **non-core** services that add value to the basic or core services such as voice calls and fax transmission including bearer services of the access provider; and which are a part of the UASL”***

Accordingly, it is suggested that the definition appearing in the UASL agreement should be replaced by the above definition which removes the restriction in definition to specifically named services only.

- 13. DCL:-** Classification of different VAS offerings can be done according to the following criteria:
- Not a core network service but utilizes existing services to add value to the total service offering.
  - Operationally independent from other services but can be used alone, like SMS, MMS.
  - Independent in generating revenue and/or stimulates an increasing demand for core network services.
  - As an add-on to a basic service and possible sold at a premium tariff.

VAS can be applications, services, products, information or various hybrids. They can, in many case, be distinguished from the platforms on which they are delivered.

Success of VAS depends on three key elements:

Interaction to attract users

A unique attribute that traditional services has not provided

Some objective value or benefit to users

- 14. SCT & FTPM:-** Though licensing for VAS is in place, it is restricted to services as defined in para 1.3. The definition of VAS license should be augmented to include services such as content selling, content aggregation, and VAS technology platform provisioning. To make it simpler, only service providers (content owners, VAS platform provider, content aggregator) who directly interact with the Mobile Network Operators to provide their offerings need be recognized through VAS licensing.
- 15. IIM, Ahmedabad:-** There is a need to change the existing definition as the existing definition does not distinguish between infrastructure and value added services.
- 16. PPL:-** No Comments
- 17. Net Core:-** The current definition of VAS in paragraph 1.3 does not include most of the services and activities that go by the name of Mobile VAS today, such as p2p and a2p SMS services, content download services etc. The definition of VAS needs to be extended to include the listing and licensing of all services other than p2p voice calls using mobile phones. The key issue is to make licenses available not just to telecom operators but also to independent third party VAS providers who must be encouraged to create direct-to-consumer services themselves.
- 18. ITC Ltd:- (It is the club/combined answer for question no. 1 to Question no. 5) :-** We would like to draw a parallel to the internet revolution. The

Internet boom led to its revolution the world over primarily because of the low entry barriers for new firms, and the ease with which individuals with entrepreneurial vigor could shape and implement their ideas into successful startups. Most of the successful internet age companies (Google, Yahoo, Facebook and many more) started small typically out of a college campus. We see similar paradigms here -- the network operate the pipes (the bandwidth, SMS, voice calls etc.), but the real innovation would happen if smaller companies can experiment using the platform. As such, having a strong licensing and regulation framework will make it difficult to foster entrepreneurs. We believe that if the Mobile VAS space would provide a similar environment of low regulation and low entry barriers, the number of startups entering this space would be manifold. This would probably help give birth to a new VAS revolution like the one caused by the internet and add as much value to economy and productivity as the internet revolution has been able to add.

However, having said that, we believe that there is need to regulate things at the level of the network operator. Currently, the bane for the mobile VAS industry is that the negotiations with the operator are completely one sided (as has been rightly pointed out in the paper). Also, everybody has to tie-up with each network operator individually, which is a very difficult and time consuming operation (and costly as well). To model the platform once again similar to the internet, the network operators provide the basic pipes that manages the traffic, the VASPs should be the people who provide content aggregation (web hosting and DNS services and other middleware services in the internet paradigm) such that the content providers can use both the infrastructures to provide their services to the consumer. The short-code numbers should be registered centrally (an organization like TRAI) so that one short-code number is active across all network operators and there should be standard protocols to enable these short-code numbers on all networks instead of the content provider having to deal with each (in fact, this can be done by the VASP). The short-codes can either be five digit (starting with 5) or longer. A large enough content provider can become a VASP as well (through necessary license).

An important but subtle point is that the short-code ownership and service agreements with network operators should be decoupled. As a result, a content provider should be able to take its own short-code directly from TRAI, and then choose the VASP that provides its the best service and rates (for hosting). That will also ensure that the branding of short codes is not controlled by VASPs but rather by content providers. In this process, the agreements between network operators and VASPs can be open to negotiation, but the VASPs should be made to provide a roster of prices that will ensure competition and best services in the marketplace. The communication between network operators and VASPs can happen through web services to ensure a smooth technical interface as well.

To illustrate, a magazine directed towards rock music, could publish alerts for rock music events, and also provide rock songs for download and to set as Caller Tune. This would be impossible if there are large network operators or

VASPs running the show since they would not address such a niche market, however, small content developers might be interested in such a market. Another similar market could be folk music of a particular region (such as north-east), or alerts and tips for sugarcane farmers -- very highly relevant to small niche groups in rural areas, but no large player will address this market. By ensuring that innovative and creative people have access to the right platform for quickly building up a service, we will ensure a better ecosystem for MVAS.

- 19. Times Internet:-** Yes. The definition should be broadened to include services like m-commerce, location services, mobile marketing services and mobile search, among others.

Consumers will benefit from the availability of more utility services which will help them avail and pull information at any time or place.

- 20. World Phone:-** VAS is an ever evolving subject. The definition of VAS given under 1.3 for VAS is outdated. Many of these have become obsolete (videotext) or a part of the basic services and are no longer a subset of VAS. e.g. Internet, Voicemail etc. Services like Voice Mail and IVRs (Audiotex) are being used in the day to day life so much that they need not even be under the preview of licensing under VAS. In fact VAS is anything other than the plain voice telephony and needs to be left open ended.

- 21. WTI:-** No, the existing definition needs some modification.

Suggested new definitions: “Value Added Services are enhanced services which add value to the Basic Service. basic teleservices and bearer services for which separate license are issued. *Any mobile service apart from person-to-person voice-calling shall be considered a Value Added Service*”.

For further clarity, perhaps you could include a definition for Basic Services, for example: “Basic Services shall mean person-to-person voice-calling teleservices”.

**Reason:**

The phrase “basic teleservices and bearer services” needs further clarification and should not be open to different interpretations. Our suggested modification clarifies that only person-to-person voice-calling service shall be considered a basic-service, and other services shall be considered Value Added Services. This clear separation between Basic Services and Value Added Services will help define the scope of the proposed regulations.

- 22. i2i Telesource Pvt Ltd:-** There is no need for any modifications and the definition of value added services as mentioned in para 1.3 of the

consultation paper covers all services presently being offered and may be offered in the future.

It may kindly be also noted that to avoid any doubts arising on the definition, provision of content and services through SMS, IVR, GPRS or any other carriage technology should be declared possible freely without obtaining any license or any registration or taking any permit from any organization.

23. **Director, Com First (India) Pvt. Ltd. (Mahesh Uppal):-** The proposed definition is “Value Added Services are enhanced services, which add value to the physical infrastructure created by the holders of CMTS and UASL licences.”
24. **Star India Pvt Ltd:-** No., The existing definition suffices for provision of services as defined in Para 1.3 of the Unified Access Services needs no modification.

However for the avoidance of doubt, as defined in para 25 of Annexure I, provision of content and services through SMS, IVR as well as GPRS or any other bearer technology should be possible freely without need for obtaining any license or taking any permission.

## 6.2 Whether there is a need to bring uniformity or clarity in the licensing conditions of mobile telecom operators/access service providers with regard to provision of value added services?

1. **AUSPI:** Unified Access Service (UAS) licensing conditions regarding provisioning of value added services is appropriate and if required, the same definition can be used in other access service licenses.

Needs to be clarified to the extent that the content shall be governed under the respective Government Regulatory department while the carriage of content would be subject to the conditions under UASL agreement.

UASLs are only carriers and not responsible for any content going on their network to the end subscriber. UASL is the link between the subscriber and the content provider. Content is owned ONLY by the content provider. UASL's liability should be limited to identify and notify the source of content, if such content providers are registered. In case, access providers are carrying contents from sources not registered, then they will be fully responsible and answerable for carrying such contents.

### 2. **COAI**

1. The Authority has rightly noted in its Consultation Paper (Para 3.2) that there is no uniformity in the license conditions of CMTS/UASL with regard to the provision of value added services.
2. We are of the view that there is a need to bring uniformity in the licensing conditions for providing Value Added Services. It is suggested that the license provisions as prescribed in the UAS License should be applicable uniformly across all UASL/CMTS license for provision of value added services. It is reiterated that the UASL/CMTS are permitted to provide all types of value added services under their license.

### 3. **ISPAI:-** No Comments

4. **IAMAI:-** Yes. The issues that the mobile VAS industry would like resolved relate to the entire industry and the rules thereof so as to achieve a level playing field with the telecom operators. Only after this is achieved would the market and the normal commercial channels be sufficiently poised to tackle issues such as revenue share, quality of content, quality of services.

Some of the issues that would create a more equitable relationship between operators and mobile VAS companies relate to making the current system transparent and process driven. These are mentioned below:

**Shortcodes:** In order to make the process of obtaining a **short code** faster, easier and transparent with the view to allow a company or an entrepreneur start a business faster with realistic timelines:

The series of short codes available to be published online real time in order to allow services companies to “book” them online. Somewhat like booking a domain name. Once a number is shown to be available and booked it should hold true for all operators. The payments to be made and the contracts to be entered should be standardized and be the same across all operators. The payments to be made to operators to be kept low especially since the number of “operators” are likely to increase with new licenses and with MVNOs coming in and the services companies are much smaller companies.

**Access and Interconnection:** are the most critical issues that need to be resolved for an open and transparent availability of services. The subjectivity and commercial bargaining as parameters of allowing a service through should be clearly defined and also clear unambiguous guidelines established regarding parameters under which an operator can refuse to carry content. It is important that the end user/customer has clarity about product and services and the charges thereof. They should also be aware of how much the MVAS companies are charging as against the actual payment made by them (the end user/customer) to the telcos.

If a service provider has an arrangement with one of the national level operators, the said arrangement should automatically work with other operators without the need for separate arrangements with individual operators.

The operators’ charges for carriage and billing and any other interconnect charges should be standardized and made available openly, as is the norm in the industry for other interconnects charges. This would enable off-deck service providers to work on a fee system with operators rather than a revenue share model

An off deck service provider should be allowed to publish its own cost structure. Instead of the current negative approach there should be a positive list of criterion under which a MVAS provider cannot be denied carriage by an operator.

**MIS and reconciliation:** One certain way of discouraging serious investment in this industry is a one-sided **MIS and reconciliation system**, especially since the current structure of revenue share is already loaded in favor of operators. Some suggestions towards this:

A variation of not more than 2 per cent between the service providers and accepted as a standard and payments made within 60 days.

Or a standardized mechanism for MIS and reconciliation to be administered by an independent body set up by the TRAI or chosen for the purpose.

- 5. Consumer Care Society:** Seems not necessary.
6. **VOICE:-** As number of other agencies like content creator / aggregator, content provider are also involved , there is necessity to have uniformity and clarity in the licensing conditions of the access providers.
- 7. Bharti:**
- a. The Hon'ble Authority has rightly noted in its consultation paper that there is no uniformity in the license conditions of CMTS/UASL with regard to the provision of value added services.
  - b. In order to bring uniformity, it would be desired that the licence provisions prescribed in the UAS Licence may be applied for CMTS Licence as well.
- 8. BPL:** Yes, there is a need to bring uniformity and clarity in the licensing conditions for providing Value Added Services under Cellular Mobile Licenses/Basic Service Licenses/UAS Licenses issued from time to time. The terms and conditions mentioned in the UASL for providing Value Added Services by the telecom operators should be applicable to the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Cellular Mobile Service Licenses also.
9. **BSNL:-** Yes, as mentioned above, the definition of value added services should be such that it is uniformly applicable across all access services networks.
10. **MTNL:** We have observed that at present, the definition of value added services in all kind of telecom operator's license is not uniform. We suggest to keep uniformity of definition of value added services and the same can be kept as per our suggestion against issue 1 above.
- 11. Reliance:-**Prevalent Value Added Service definition in UASL is clear and does not require any modification. The definition for Value Added Services given in the UASL can be used in all access service license including 1st, 2nd and 4th Cellular Licenses
12. **TATA:** Yes, TTL feels that there is a need to bring clarity in the UAS License conditions with regard to provisioning of VAS in the access providers' network to the extent that the Content shall be governed under the respective Government regulatory department while the Carriage of content would be subject to the conditions under UASL agreement.

UASL are only carriers and not responsible for any content going on their network to the end subscriber. UASL is the link between the subscriber and the content provider. Content is owned ONLY by the content provider. UASL's liability should be limited to identify and notify the source of content, if such

content providers are registered. In case, access providers are carrying contents from sources not registered, then they will be fully responsible and answerable for carrying such contents.

In view of the above, any laws/regulations for issues such as infringement of copyright, intellectual property rights and compliance to advertising and programming code should not be applicable to UASL and should be the responsibility of the Content Provider only.

13. **DCL:-** Uniformity or clarity in licensing conditions of mobile telecom operators/access service providers

Since telecom operators are able to vertically control the VAS operators, they effectively have monopoly status. These telecom operators which take part in the VAS offerings, taking advantage of the use of their telecom resources for unfair competition, which permits them to engage in what is perceived to be a certain degree of abuse of market power. This directly impacts the normal market order of VAS.

The telecom operators have been acting in the de facto role of manager of VAS providers, and directly control their survival. Therefore, it is suggested that in order to realise fair competition between VAS enterprises and telecom operators, and to prevent telecom operators from squeezing out the VAS enterprises, it requires standardizing the market behavior of the basic operators.

Attention needs to be paid to the telecom operators' position of strength in the VAS chain and VAS providers' disadvantages.

14. **SCT & FTSM :-** Section 12 (b) (i) specifies that "Further, the LICENSEE can also provide Voice Mail, Audiotex services, Video Conferencing, Videotex, E-Mail , Closed User Group (CUG) facilities over its network to the subscribers falling within its SERVICE AREA on non-discriminatory basis. The Licensee cannot provide any service except as mentioned above, which require a separate license. However, an intimation before providing any other VALUE ADDED SERVICE has to be sent to the LICENSOR and TRAI."

- a. The above definition of services under the ambit of UAS, should also include content selling, content aggregation, and VAS technology platform provisioning. Hence it should not be required for a UAS licensee to obtain one more license VAS. This is practiced for IPTV, Internet Telephony services.

15. **IIM,Ahmedabad (Dr.Rekha Jain):-** The existing provision for not having to seek a separate license for value added service is good and should continue.

**16. PPL:-** Yes

1. The Mobile services should be equated on par with the other access services like Internet, IPTV etc where the content owner has the right to fix the end user price, demand a reasonable share of the end user price depending upon the role being performed by the service provider and the content owner. The role of access service provider is to provide access and he should charge solely based on the usage fees for the platform and not as a function of the value of the content.

Further the Operator should be asked to make transparent its fees/ share for the services rendered namely: access to the subscriber, Billing and collection

2. The Service Fees component shared with the Government by the Operator as we understand is his obligation of License, it should be based on only the earning of the Operator and not the Total earnings which includes the cost of IPR, however the current practice of the Operator to deduct the service fees form the enduser price needs rectification / modification.

Even if we accept this practice of Operators to share the value on On-Deck services meaning the Operator driven services, the sharing on Of Deck or the Non Operator services should only be restricted to the Operators share.

3. The subscriber details / the revenue generated data should be available to the content owners on a transparent basis.

**17. ITC Ltd:-** Refer answer no. 6.1

18. **Net Core:-** Clarity in licensing conditions is certainly required. New licensing laws must pave the way to create a level playing field for independent third-party VAS providers to coexist with telecom operators, very much like in the case of the Internet. Since telecom operators themselves provide VAS services, their obligations to enable other smaller players, to share infrastructure and revenue with them must be clearly spelt out and regulated. Also, guidelines and procedures for settling disputes must be put into place. VAS providers must not have their services cut off, or their access to telecom infrastructure and alternate revenue generation modes denied by telecom operators, due to perceived competition with their own services.

**19. Times Internet:-** Yes. There is a need to bring clarity on the following:

- a) Interconnection policy for VAS player with telecom network operator
- b) Cost of the interconnection
- c) Role of VAS players in pricing of the VAS services
- d) Setting up of dedicated network infrastructure like SMSC (Short Message Service Centre), MMSC (Multimedia Messaging Service Centre), etc., by VAS players

- e) Resolution mechanism for any dispute between VAS players and the telecom network operators

Consumers will benefit more as they will be able to avail a wider variety of VAS services.

- 20. **World Phone:-** There is certainly a need to bring **clarity** in regulatory (need not be licensing) conditions for mobile VAS. Uniformity may not be possible as each VAS is so different from the other in terms of the technology and content that it would not be practical to do this. The role of the Telco is that of an infrastructure provider and he should set the rules in a way that it encourages the VASPs to provide better services and grow the market.
- 21. **WTI:-** Yes, there is a need to bring uniformity or clarity in the licensing conditions.

**Reason:**

You have described many of the challenges facing the growth of the current VAS market. As a VASP, we have experienced many of these challenges and welcome the clarity in the regulatory framework. The clarity will undoubtedly benefit mobile subscribers, VASPs, and the network operators.

- 22. **i2i Telesource Pvt Ltd:-** Yes, there is need to bring uniformity/clarity in licensing conditions of mobile telecom operators/access service providers with regards to provision of VAS.

The MVAS industry requests to resolve all related issues of the entire industry for achieving a level playing field with the telecom operators. Only after this is achieved, the market and the normal commercial channels will be able to tackle the issues such as revenue share and its timely payments, quality of content, quality of services.

Some of the issues that will create a more equitable relationship between operators and MVAS companies relate to making the current system transparent and process driven. These are given below:

- i. **Shortcodes:** In order to make the process of obtaining a **short code** faster, easier and transparent with the view to allow a company or an entrepreneur to start a business faster with realistic timeframes:

The series of short codes available should be published online in real time so that the MVAS companies are allowed to “book” them online, similar to booking a domain name. Once a number is shown to be available and booked it should hold good for all.

The payments to be made and the contracts to be entered need to be standardized and be the same for all the operators.

The payments to be made to operators are to be kept low since the number of “operators” are likely to increase on issue of new licenses to the pending applicants and MVNOs coming in the field. The MVAS companies are much smaller in comparison to the telecom service providers.

**ii. Access and Interconnection:** These issues are most critical issues and need to be resolved for an open and transparent availability of value added services. Unambiguous guidelines regarding parameters under which an operator can refuse to carry content should be established. It is important that the end user/customer has clarity about product and services and the charges thereof.

If a value added service provider has an arrangement with one of the national level operators, the said arrangement should automatically work with other operators also without the need for separate arrangements with individual operators.

The operators’ charge for carriage and billing and if there is any other interconnect charge that should be standardized and made available openly, as is the norm in the industry for other interconnect charges. This can enable off-deck service providers to work on a fee system with operators rather than a revenue share model.

An off deck service provider should be allowed to publish its own cost structure instead of the current negative approach. There should be a positive list of criterion under which a MVAS provider cannot be denied carriage by an operator.

**iii. MIS and reconciliation:** The present system of **MIS and reconciliation** is a one-sided, especially, the current structure of revenue share is already loaded in favor of operators. It certainly discourages serious investment in MVAS industry. Following is suggested for consideration to improve the process.

“A variation of not more than 2 per cent between the service providers and MVAS providers be accepted as a standard and the payments made within 60 days.

Alternatively, a standardized mechanism for **MIS and reconciliation** is to be created and administered by an independent body set up by the TRAI or chosen by any other authority for the purpose.”

23. **Director, Com First (India) Pvt. Ltd. (Mahesh Uppal):-** Yes.

24. **Star India Pvt Ltd:-** Yes. It is felt that this segment of the industry requires some facilitation by the TRAI in terms of laying the guidelines or regulations for facilitating interconnection from the Telecom Service Provider

The TRAI must lay down the norms for interconnection in respect of the following matters

1. Mandate Open & equitable access to Telecom Networks to all VAS providers
2. Fixing of Carriage costs on Telecom Network - TRAI may either prescribe
  - (a) Maximum Carriage costs based on actual work done of carriage plus collection & billing from end customers
  - (b) Mandate publication of Reference Interconnect Offer by Telecom Service Providers based on volume of traffic
3. Quality of Services
4. MIS & Transparency in billing

The mobile telecom operators/access service providers provide access to content and services. As such, there is a need to bring about regulation to ensure transparency through published pricing for the provision of such access.

To illustrate by example, a mobile telecom operator/access service provider should charge published rates for access similar to say, a toll road operator. A toll operator publishes rates as below:

S.No	Type of Vehicle	Toll (Rs)
1	Two-wheelers	10
2	Car	25
3	Trucks	50
4	Container trucks	60

Similarly telecom operators must publish access rates for each of the access mechanisms as illustrated below:

S.No	Bearer	Unit	Access Fee (Rs)
1	SMS	1 MO-MT	0.50
2	Voice	Minutes of usage	0.30
3	Data	Per KB	10p

Beyond this, as an access provider or an enabling technology provider, the mobile operator must be obliged to provide access to any content or service provider who is willing to pay the published fees.

**6.3 Apart from the licensing obligation of intimation before introduction of any new value added services and the measures to facilitate monitoring by security agencies of such new value added service, is there a need to put any other obligation on telecom operators?**

1. **AUSPI:-** There is no need to place any other obligation on telecom operators apart from informing the licensor for introducing any new value added service on their mobile network as per the licence agreement. Once DOT has been intimated about a value added service by a service provider and service provider also informs about the availability of Logical Information Machine (LIM) with a self certification regarding compliance to UASL terms & conditions, then Service provider should be allowed to offer service without awaiting any additional /formal clearance.

**2. COAI**

1. We believe that the current licensing obligations for provisioning of value added services are appropriate and adequate and hence there is no need for imposing any further obligation on the telecom operators.
2. In this context, it may however be noted that on a practical implementation level the excessive and undue delays in obtaining **security clearance is a major bottleneck and hindrance** for the growth of VAS which quite often harms irretrievably the innovativeness of the services. There are instances where there have been delays of month's even years in granting the requisite security clearances which strike at the very core of creativity and innovation that is the USP of this segment. Furthermore the clearances, procedures are duplicated for each operator wanting to introduce the same value added services leading to further delays and also impacting adversely the market competitiveness of the operator.

So as to give a further impetus to value added services and to preserve the innovativeness of this segment it is desirable and in fact even necessary that the **security clearances be granted and service approved in a time bound manner.**

3. Furthermore, once the said service has been approved, then clear cut guidelines for compliance may be laid down which could be followed by other operators for launch of the same product /service. Once this has been done, introduction of same product /service by other **operators should be permitted on a self certification basis.**
4. In respect of **VAS which is tailored to meet consumer requirements and have no impact on either the Government exchequer or any security implications such as** Services like 2 in 1, PTT, it is submitted

that operators should only be required to intimate DoT for introduction of the same.

3. **ISPAI:-** No.
4. **IAMAI:-** Yes. It may be considered appropriate to impose some additional obligations on telecom operators, to ensure fair and reasonable market dynamics. This would bring about an atmosphere conducive for the growth of the MVAS industry and to realize its true potential. The issues concerning the relationships between telecom operators and MVAS providers stem from the superior bargaining positions of telecom operators in their dealings with MVAS providers. This imbalance can be addressed by imposing certain 'light touch' regulations/obligations/guidelines on both parties to ensure a level playing field between the telecom operators and the MVAS providers.

As indicated earlier, some of the areas where additional obligations can be put on operators could include

- a) Easy availability operation of short codes
  - b) Clear access and interconnect norms
  - c) Mutually acceptable, transparent and standard MIS and reconciliation process across board. On time payment based on mutual agreement.
5. **Consumer Care Society:-** Seems better for the security agencies to comment on this aspect and if they have felt any difficulty with present regime.
  6. **VOICE :-** As majority subscribers are PREPAID , transparency in TARIFF is most important. This calls for OBLIGATION on telecom operators to educate/ inform the subscribers on the subject to avoid and reduce grievance / dispute on this account.
  7. **Bharti:-** We are of the view that a joint committee of the Department, designated security agencies as well as operators should be constituted for the approval of the VAS. We are sure that the constitution of this committee will expedite the process of approval of VAS.
  8. **BPL:** As mentioned above, there should be minimal restrictions under the licenses and Regulatory regime for providing Value Added Services. Therefore, there is no need to put any other obligation on telecom operators over and above the obligations already prescribed under their access service licence.
  9. **BSNL:** The current licensing obligation of intimation before introduction of any new value added service and the measure to facilitate monitoring by

security agencies is adequate. There is no need for imposing any further obligation on the telecom operators.

- 10. MTNL:** In addition to the existing licensing obligations w.r.t. value added services, the QOS parameters for value added services need to be defined to ensure that the consumers are getting good quality of service. The onus of maintaining the specified QOS should be on VASPs. The charges for each service must be communicated to the customer before the service is availed by him.
- 11. Reliance:** The existing licensing obligations with respect to value added services are comprehensive and there is no need to put any other additional obligation. However, value added services can have following two broad categories:
  - (i) Network based value added services- The services like P2P SMS, P2P MMS, PTT, Call forwarding, instant messaging etc are network based functionality.
  - (ii) Content based value added services: The content based value added services like, ringtones, mobile radio, astrology, games, chatting etc are only using existing network functionalities mentioned above and per se there is no security implication.

For the network based value added services, once DoT has been informed about a value added service by a service provider and along with it also informs about the availability of LIM, then they may be allowed to offer services without awaiting any additional clearance.

The content based value added services are offered on voice calls, SMS, MMS etc which are monitorable through available LIM and as such content based VAS may be allowed without any reporting requirement.

- 12. TATA:** TTL feels that for a healthy growth of the industry and with such stringent penalty clauses in the Access provider's Licenses, a self certification should suffice and the onus of complying with the Licensing conditions should be left on the concerned Service Providers.

Yes, there should be an obligation of prior intimation to the Licensor before providing any Value Added Services by any service Provider but there should not be a need of any formal approval for the same.

Since DoT has already come out with a quarterly status report of the VAS provided by the Service Providers, this should be the only requirement with a self certification regarding compliance to all UASL conditions including measures to facilitate monitoring by the security agencies should be mandated on the concerned operators.

However, the above would be applicable only to VAS provided by the Service Provider for which the Service Provider has full control on the content. For services not controlled by the Service Provider like Mobile Internet browsing, and downloads from off-portal sites which could be encrypted, the role of the Service Provider is limited to access alone, and hence should not be responsible for the monitoring obligations towards the same.

Besides, the above obligations it should be brought out clearly that the responsibility of meeting the content requirement issued by the appropriate content regulator or the applicable Act or Regulations/Guidelines issued under the Act such as the 'Cable Act' or the 'IT Act' or 'RBI Act' should be that of the owner/generator of content.

Also, the requirement of introducing measures to facilitate monitoring by the security agencies must also continue and if any Security agency feels that they require any kind of monitoring/testing, that should be provided/facilitated by the UASL. Therefore, the launch should not be linked to Licensor's approvals.

13. **DCL:-** Obligation to intimate before the introduction of new VAS & measure to facilitate monitoring by security agencies of such new VAS, any other obligation on telecom operators. Sharing of CDR for the purpose of reconciliation between the VAS provider and the telecom operator.
14. **SCT & FTPM:-**No Comments
15. **IIM, Ahmedabad (Dr.Rekha Jain):-** There is no need to put any additional constraints on telecom service providers for providing value added services
16. **PPL:-** No Comment ( Not applicable to us)
17. **Net Core :-** Yes there is definitely a need to impose obligations on Telecom operators to provide fair access to telecom infrastructure to independent VASPs. This includes 1) support for short codes and suffixes, at different price points including free-to-user model (incoming messages to some short codes can be charged to the owner of the short code), 2) support for toll-free numbers (free to caller from mobile, called party pays) across all operators for provision of voice based VAS services 3) better revenue share distribution across the VAS value chain 4) make available wholesale voice minutes and SMS capacity to be sold in retail and last but not least, 5) obligation to educate and inform the consuming public about products, pricing and availability. Support for independent mobile payment models and, with regard to GPRS services, access to all mobile portals without any selective blocking (currently many mobile sites are unavailable) are some of the other obligations that must be put on telecom operators.

- 18. ITC Ltd:-** Refer answer no. 6.1
- 19. Times Internet:-** Yes. Along with the above mentioned obligations, TRAI should push for transparency on MIS by mandating Mobile Operators to share data about downloads, usage etc., on VAS services. The same should be published as it is done in the case of number of customers for telecom operators.
- 20. World Phone:-** The current conditions of prior intimation and monitoring provisions are adequate and Telcos as well as VASPs should follow this.
- 21. WTI:-** Yes, the network operators should be obligated to provide the basic of services to all registered VASPs, for a fair compensation. The VASP should have open and equal access to the network at a fair, transparent price.

No other obligations are necessary.

**Reason:**

Open access to the mobile network will lead to a level playing field encouraging innovation and rapid execution. This dynamic will be similar to the growth of the internet ecosystem, where all new startups had unrestricted, open and quick access to the Internet (at a fair price), leading to the rich variety of web-based services.

This requirement is similar to requirements imposed on other infrastructure providers in different industries and regions: including open-access rules in fixed-line telephony in the US, open-access to toll-roads built on the build-operate-transfer model, open-access to the Windows operating system etc. In all these instances, open-access to infrastructure has led to greater innovation.

- 22. i2i Telesource Pvt Ltd:-** Yes, the present obligations are towards the licensor, but some obligations need to be put to facilitate the growth of industry and availability of modern value added services to the customers on affordable prices. Some of the areas where additional obligations need to be put on the operators are mentioned below.
- d) Easy availability of operation of short codes
  - e) Clear access and interconnect norms
  - f) Mutually acceptable, transparent and standard MIS and reconciliation process.
  - g) Timely payment based on mutual agreement.

It is considered that these additional obligations on telecom operators will ensure fair and reasonable market dynamics. This would bring about an

atmosphere conducive for the growth of the MVAS industry and to realize its true potential. The issues concerning the relationships between telecom operators and MVAS providers stem from the superior bargaining positions of telecom operators in their dealings with MVAS providers. This imbalance can be addressed by imposing 'light touch' regulations/obligations/guidelines on both parties to ensure a level playing field between the telecom operators and the MVAS providers.

In addition, under the current structure, operators decide the pricing of both off deck and on deck services. It is clear that in the "Off Deck" case, if the end consumer should benefit, the pricing must be left to the owner of the content or the provider of the service with published carriage fees from the operator. This will bring transparency. The customer will be aware of the component of the price being charged by the operator as a kind of "carriage/billing fee" and that accruing to the provider.

Therefore, with respect to specifying end-user charges, the responsibility must rest with Telecom Operators for "On Deck" services and with the content / service provider for "Off Deck" services.

We believe this will also increase the range of services available to the end consumer as well as bring down the cost currently being paid for these services.

23. **Director, Com First (India) Pvt. Ltd. (Mahesh Uppal):-** No. VAS must not be subject to any licensing.
24. **Star India Pvt Ltd.,** No. There is no requirement to put any extra obligation on the Telecom operators.

Value Added Service Providers can be distinguished under two categories – "Off Deck" and "On Deck".

"Off Deck" services are branded, direct to consumer services, such as STAR's 57827 Service, Indiatimes (58888 services), Yahoo Mail/ Messenger on Wap, Televoting on Media shortcodes. Here the information on the services is publicized by the provider of the content or service. The operator's role is limited to carriage of the content/interaction and billing and collection services where applicable.

"On Deck" services are operator branded services provided by the operator to their customer base. Voice Mail, Ring Back Tones are examples of these. The role of the operator in these cases extends to branding, development, promotion, content aggregation as well as access billing and collection.

In the current scenario, the telecom operator decides pricing in both “Off Deck” as well as “On Deck” cases.

It is clear that in the “Off Deck” case, if the end consumer should benefit, the pricing must be left to the owner of the content or the provider of the service with published carriage fees from the operator. This will bring transparency. The customer will be aware of the component of the price being charged by the operator as a kind of “carriage/billing fee” and that accruing to the provider.

Therefore, with respect to specifying end-user charges, the responsibility must rest with Telecom Operators for “On Deck” services and with the content / service provider for “Off Deck” services.

We believe this will increase the range of services available to the end consumer as well as bring down the cost consumers currently pay for these services.

**6.4 Whether companies providing Mobile Value Added Services who mainly act as content providers or content aggregators and operate value added services technology platform called Value Added Service Providers (VASPs) need to be brought under the licensing regime or not?**

1. **AUSPI:-** No Sir, Value Added Service Providers (VASPs) need not be licensed separately. We feel that licensing may hurt the content developers and associated industry. It may dampen their innovation, creativity and entrepreneurship. In fact with active co-operation of access service providers and VASPs a self sufficient eco-system has developed and will take care of the growth.

Since content providers do not own telecom infrastructure, it would not be appropriate to license them under the India Telegraph Act, 1885.

Further, there are various types of content and services providers and there is an entire supply chain for content and therefore it would be a difficult and humungous job to devise and cover each kind of a content provider by a suitable license.

2. **COAI:-** Please refer our response to Issue1.
3. **ISPAI:-** No. There is no need to create another license for “Value Added Service Providers” as these services are being offered by existing Operators including ISPs to the consumers. As such new license is not required.
4. **IAMAI:-** No.If the suggestions/recommendations put forth above [6.1 to 6.3] are taken into consideration and additional obligations put on operators along the lines indicated above, then there would be no further benefit of any kind by licensing of the mobile value added services industry.

In case it is not legally or technically possible to put additional obligations on the operators as indicated, a regulatory framework for mobile value added services may be considered.

However, before doing that, due consideration may be given to the option of treating the mobile value added services companies as “consumers” or “customers” of the operators’ services and the rules of dealing with this set of consumers may be defined for the operators. Mobile value added service companies may then be asked to register themselves with TRAI as legitimate and recognized consumers of operators.

5. **Consumer Care Society:-**No.

6. **VOICE:-** YES. The security environment DEMANDS MONITORING. As the access provider can not be held responsible for any breach , VASP must be regulated. This must be light touch regulation.
7. **Bharti:** Refer Answer no.1
8. **BPL:** Any Value Added Service Provider such as content providers or content aggregators who want to provide the Value Added Services on their own and under their own brand name should obtain registration from the competent authority as in the case of Other Service Providers (OSPs). There should be minimal restrictions/obligations under the registration. For the content based services Government may prescribe guidelines/content code which should be observed by all such service providers and as far as possible the industry should have self regulatory mechanism to ensure that the content code is observed by all service providers.
9. **BSNL:** No, it is not required to bring the content providers or content aggregators under the licensing regime. It will be too restrictive and stifle the growth and innovation in content creation and thus development of value added services.
10. **MTNL:** VASPs should be brought under licensing regime as this will make VASPs more responsible towards QoS, content provisioning and customers and will bring more transparency in functioning of VAS. Once VASPs are brought under licensing regime, they need to pay license fee as percentage of AGR as other telecom licensees are paying. This license fee initially may be kept at a reasonable level so as not to hamper the growth of VAS and put financial burden on the customers. Further, existing telecom operators may provide value added services by default under their existing telecom licenses for which no further entry fee should be charged.
11. **Reliance:** For applications like tele-banking, tele-medicine, tele-education, tele-trading, e-commerce etc Other Service Providers (OSPs) have been allowed to operate under the NTP'99 by using infrastructure of access providers. The mobile value added service providers which are using telecom infrastructure of other access providers to deliver content may also be allowed to operate as OSPs. Since content providers do not own telecom infrastructure, it would not be appropriate to license them under the India Telegraph Act, 1885. Further, there are various types of content and services providers and there is an entire supply chain for content and therefore it would be a difficult and humungous job to devise and cover each kind of a content provider by a suitable license. Therefore, it is suggested that: The content providers who are delivering services to subscribers using telecom infrastructure of access providers should be categorized under the OSP. These operators should be asked to register with the DoT before offering services to the subscribers. Pure content providers who are selling

content to access providers and not delivering services directly to the subscriber should not be covered under the OSP category.

- 12. TATA:-** Content providers and aggregators are a part of the value chain to deliver VAS to the Telecom Providers by virtue of the commercial understanding/agreement entered into with the UAS licensee. They, therefore, along with the platform and technology providers play the role of vendors and/or suppliers of technology and/or content to the Telecom Provider. And the Telecom Provider combines all the elements of Content, Technology, Platform and Network, to offer the VAS to their customers.

Furthermore, since content providers and aggregators do not own telecom infrastructure, it would not be appropriate to license them under the India Telegraph Act, 1885 and therefore, there is no need to impose any licensing regime for them. However, Content Aggregator and Content Provider need to be registered under the appropriate Government Body to provide their content/services in order to ensure entry of serious players only and to safeguard the rights & privileges of the end subscribers, besides compliance on security and nature of content/services.

In view of the above, the Content Aggregator and Content Provider need to be registered under the appropriate Government Body to provide their content services and can have commercial/revenue share agreements to provide services to the UASLs.

With this approach of registration of the Content Provider and aggregators, the onus of providing indemnity and correctness of content should continue with the registered Content Provider / Aggregator.

- 13. DCL :-** VASPs under licensing regime or not

The current VAS value chain is extremely fragile. Telecom operators, with control of the underlying distribution facilities, are able to control the entire chain, facilitated by the lack of a transparent regulatory regime and an open competitive environment. Telecom Operators are in a position to suppress the entry of VAS operators to avoid competition.

The introduction of new services is slowed by the lack of cooperation from the telecom operators. Because competition is not able to fully operate in this market, and driven by transition pressures, telecom operators have started expansion up the value chain, further strengthening their control of strategic services, which has diminished the enthusiasm of service providers for innovation, resulting in the functional decline of value chain. Therefore, the market space for VAS operators has become limited, and full of difficulties. Hence it is desirable that certain licensing procedure is

implemented for entry of more VASPs for the rapid growth, more competition and better services.

14. **SCT & FTPM:-** Yes. As indicated in response for 6.1
15. **Indian Institute of Management, Ahmedabad (Dr.Rekha Jain):-** Definitely not. (see points above).
16. **PPL:-** No Comment ( Not applicable to us)
17. **Net Core:-** Yes this is necessary in order to ensure that consumer interests as well as the interests of smaller VAS providers are safeguarded. Different types of VAS services need to be examined and licensing requirements for each worked out carefully. VAS provision is a complex exercise, involving many players in the value chain and regulation is necessary to monitor and protects the interests of all stakeholders.
18. **ITC Ltd:-** Refer answer no. 6.1
19. **Times Internet:-** Yes, the Government should consider a regulation with appropriate measures and policies which will bring clarity on the points discussed in issue 6.2.
20. **World Phone:-** I don't think there is a need to bring the content providers under any licensing regime. Some kind of registration (like for tele-marketing agencies) should be adequate.
21. **WTI:-** VASPs should require registration, but not licensing.

**Reason:**

It is a good idea to have a registration process where the VASP will register itself and its services with the TRAI governing body. However, licensing and any charges associated with the purchase of licenses could result in throttling the growth of VAS service providers. Licensing can hurt because:

1. Unlike the network operators, VASPs will typically not be providing mission-critical network infrastructure services.
2. Innovation typically starts with small, innovative entrepreneurs, often operating on small budgets. These people will not be able to sustain any complex or expensive licensing norms. To encourage entrepreneurship a simplistic one-window, automatic-clearance registration process is suggested.

22. **i2i Telesource Pvt Ltd:-** We are of considered view that there is no need to bring VASPs under the licensing regime if the suggestions/recommendations put forth above [6.1 to 6.3] are given due

consider and also the additional obligations put on operators along the lines indicated above.

**However, if it is not legally or technically possible to put additional obligations on the operators as indicated, a regulatory framework for mobile value added service providers may be considered.**

Before doing that, due consideration may be given to the option of treating the mobile value added service providers as “consumers” or “customers” of the operators’ and the rules of dealing with this set of consumers may be defined for the operators. Mobile value added service providers may then be asked to register themselves with TRAI as legitimate and recognized consumers of operators.

23. **Director, Com First (India) Pvt. Ltd. (Mahesh Uppal):-** No. Existing legislation is largely adequate to deal with the issues raised and may be amended if new issues arise. Open unlicensed entry- as is the case in most mature regulatory regimes- is crucial to ensure competition and maximising the accompanying welfare.
24. **Star India Pvt Ltd:-** No. As mentioned in response to 6.1 above, content services must be treated as as per para 25 of the guidelines for issue of license for voice mail/audiotex/unified messaging service, i.e. allow these to be provided freely without need for obtaining any license of taking any permission.

The Value Added services market is maturing and there are some commercial deployment utilizing different technologies world over. Therefore, we feel that there should be only soft touch regulation. Heavy regulation of this sector/industry will be against consumer interest and competitive policy followed by TRAI.

The rapid growth in this sector is due to the confidence in the Government’s forward looking policy and fair play for all players. In the telecom service sector, the market grew rapidly because of healthy & fair competition between the various service providers. The end consumers have been hugely benefited from the healthy competition in the market and the Authority must have the same approach towards this by having a minimal regulation of this sector.

Content & Service companies which will use mobile networks for delivery will be many and as with the internet where ISP’s are licensed but not internet companies, mobile internet is an extension of the internet and as such any attempt to license this space will be difficult, meaningless and not achieve any of the stated goals of the TRAI.

**6.5 If licensing system is to be resorted to for licensing of mobile value added service (VAS) under the Indian Telegraph Act, 1885, what should be the scope of licence and other terms and conditions for such licensing?**

1. **AUSPI:-**Content shall be subject to relevant content regulation. There should be stringent penalties for the content providers for non-compliance of Copyright Act, including digital rights management and infringement of other laws of the country.
2. **COAI:-** The Authority may recommend suitable terms and conditions ensuring equitable treatment and level playing field amongst all licensees offering equivalent products / services.
3. **ISPAI:-** As mentioned above there is absolutely no need for a new license.
4. **IAMAI:-** If a licensing system is to be resorted to for licensing mobile value added services, it should be formulated with the aim of resolving the growth impediments that the industry currently suffers from. To reiterate, these include issues of:
  - a) Obtaining and operating short codes smoothly and in a standardized manner as mentioned earlier in this submission
  - b) Setting up norms for access and interconnection and interoperability such that it helps new and more innovative services to be offer and in general the growth of the industry is accelerated.
  - c) Norms for MIS and reconciliation which would lead to a better payment regime.

Overall a “light touch” regime with minimal obligations and terms and conditions is required, to ensure that the industry is able to achieve its full potential. These minimal obligations and terms and conditions should be published and easily available.

In order to facilitate the long-term growth and development, and increased investment in the industry, the following principles should be adopted: There should be No restrictions on FDI. Nominal or nil fee. No requirement to contribute any Access Deficit Contribution.

In line with the “light touch” approach, matters and issues already regulated under other regulatory regimes or statutes should not be addressed by the MVAS regulatory regime. Content regulation should continue to be addressed under the IT Act and the Cable Television Networks (Regulation) Act.

5. **Consumer Care Society:-** Not necessary in view of answer to Question no. 6.4.
6. **VOICE:-** It must define
  - a) services which can be provided
  - b] Area covered
  - c] License fee
  - d] monitoring equipment
  - e] Content regulation.
7. **Bharti:** Refer Answer no.1
8. **BPL:** Any Value Added Service Provider such as content providers or content aggregators who want to provide the Value Added Services on their own and under their own brand name should obtain registration from the competent authority as in the case of Other Service Providers (OSPs). There should be minimal restrictions/obligations under the registration. For the content based services Government may prescribe guidelines/content code which should be observed by all such service providers and as far as possible the industry should have self regulatory mechanism to ensure that the content code is observed by all service providers.
9. **BSNL:** As explained above, the licensing system should not be resorted to for licensing of mobile value added service.
10. **MTNL:** Licensee should be an Indian registered company. License for VASP should cover license fee as percentage of AGR, along with suitable benchmark parameters for QoS, guidelines regarding content provisioning registration & regulation, obligations regarding security & monitoring conditions etc.
11. **Reliance:** For applications like tele-banking, tele-medicine, tele-education, tele-trading, e-commerce etc Other Service Providers (OSPs) have been allowed to operate under the NTP'99 by using infrastructure of access providers. The mobile value added service providers which are using telecom infrastructure of other access providers to deliver content may also be allowed to operate as OSPs. Since content providers do not own telecom infrastructure, it would not be appropriate to license them under the India Telegraph Act, 1885. Further, there are various types of content and services providers and there is an entire supply chain for content and therefore it would be a difficult and humungous job to devise and cover each kind of a content provider by a suitable license. Therefore, it is suggested that: *The content providers who are delivering services to subscribers using telecom infrastructure of access providers should be categorized under the OSP. These operators should be asked to register with the DoT before offering services to the subscribers. Pure content providers who are selling content to access providers and not delivering services directly to the subscriber should not be covered under the OSP category.*

- 12. TATA:-** As mentioned in our reply to Issue 4, these content providers should be registered with the appropriate Government Body and need to adhere to all the rules and regulations as stipulated from time to time; such as content not being obscene/anti-social/anti-religion.

Content regulation shall be subject to Information Technology Act, 2000, Cable TV Act, RBI guidelines or any other relevant content regulating Act including Programming Code for broadcast purposes and various provisions made by Ministry of Information and Broadcasting and other laws such as Indian Copyright Act etc.

There should be stringent penalties for the content providers for non-compliance of Copyright Act, including digital rights management, and infringement of other laws of the country.

**13. DCL:- Scope of such license**

This should include the service area, service type (multiple services may be allowed), period of the agreement, license fee, if any, PBG, eligibility criteria, access, numbering scheme, tariff or forbearance, CDR sharing between the operator and the VASP, content delivery mechanism, if required, and other regular terms and conditions of the such license agreement.

The license as issued for Voicemail/Audiotex/Unified Messaging can be suitable modified to include other VAS or can be basis for the formulation of such licenses. All VASPs should be brought within the scope of such license so as to minimize the ambiguity, unlawful operation or dominance of the telecom operator.

Our suggestion:

**Service Area**

License may be issued for the following service areas:

Category A: All India

Category B: Circle wise

**License fees & PBG**

There should be no license fee as the call charges payable by the caller to the telecom operator is already inclusive of the same. However, Authorities may ask the VAS Provider to furnish PBG, say Rs. 25 lacs for all

India and Rs. 3 lacs for each circle (some smaller circles may be clustered with larger one).

**License period**

15 years with extension of 5 years at one time

**Applicant**

Should be an Indian Company. Minimum eligibility criteria should be applicable so that more and more VASPs get the chance to contribute within the VAS chain

**Connectivity**

Access price is an important cost of the project for many VAS providers. VASP shall make his own arrangements with the Operator for the required telecom resources. However the guidance is required as to the cost to be levied for such resources. In our opinion the same should be at commercial terms which shall not be detrimental than the one which the Operator may be offering to his enterprise customers for the same or similar services and then that should be split in the revenue sharing ratio. Also the telecom operator shall not differentiate between the VASPs and offer the same terms to all of them. This is required to create a level playing field.

**Numbering**

Authorities shall offer a proper numbering scheme to the VASPs and the same shall be binding on all telecom operators for the purpose of allowing their subscribers to access the VASP's network.

14. **SCT & FTPM :-** Nil entry fee as lobbied by VAS providers will lead to non-serious players getting license and not providing any service, much the same as what was witnessed in the Internet Service Provider (ISP) market. The other possibility is no levy but with riders such as performance bank guarantee and net worth requirements. Though this was practiced in the ISP market, it was difficult to monitor and enforce as there were many licensees much the same as what we will witness in the VAS market. An entry fee of about Rs. 10 lakhs as is being currently levied on ISPs will encourage the licensees to provide services actively. The above two measures will prevent any fly-by-night operation and fraud and provide proper checks and balances for the orderly growth of this sector.

As indicated in the consultation paper there is non-transparency in payment settlement, selling prices, and sharing of management information between MNOs and VAS providers. The revenue sharing between MNOs and VAS providers are not conducive for the growth of VAS industry. While in India MNOs keep 60% or more of the VAS revenue, in countries such as China the revenue sharing is 30:70 in favour of VAS providers.

The MNOs are currently charged 10/8/6% of Adjusted Gross Revenue (AGR) as annual license fee for both voice and VAS services. To enforce transparency, accounting separation for VAS services shall be implemented at MNOs along with a reduced flat 2-3% annual fee on VAS revenue. Since MNOs are sharing revenue with the VAS providers, this shall be treated as an expense and deducted from the VAS revenue for license fee calculations. This will encourage MNOs to publish VAS revenue and increase the revenue share with the VAS providers. The VAS providers, especially content aggregators also should have revenue sharing arrangements with the content authors, content owners and application developers who are at the end of the VAS value chain. To bring in transparency in the entire chain the same principle of annual fee on revenue excluding expense shall be applicable to VAS licensees as well. This, we believe shall augur well for growth of VAS in the country by fostering healthy and fair competition.

- 15. IIM, Ahmedabad (Dr.Rekha Jain):-** Please refer to Question no. 6.4.
- 16. PPL:-** No Comment ( Not applicable to us).
- 17. Net Core :-** Scope of license must cover the following:
  - Rights and obligations of VASPs vis-à-vis sharing of infrastructure with telecom operators including conditions governing SLAs and redressal disputes.
  - Revenue share guidelines
  - Obligations with respect to safeguarding consumer interests (no spam, privacy, etc.), including giving them control of which services they choose to consume and pay for and from whom.
- 18. ITC Ltd:-** Refer answer no. 6.1
- 19. Times Internet:-** In order to define the licensing of the Value Added Services (VAS) services, access VAS. All VAS should be routed through VAS players and the operator should act as the interconnect between the VAS players and the consumer.

**20. World Phone:-** Answered in 6.4. There should be no separate licensing system for VAS.

**21. WTI:-** In our opinion licensing for VAS service providers is not recommended. The standard terms and conditions of the registration process can cover the recommended guidelines of operations.

**Reason:** same as in 6.4

**22. i2i Telesource Pvt Ltd:-** In our view there is no need to bring VASPs under licensing regime. However, if it is absolutely necessary that a licensing system is to be resorted to for licensing mobile value added service providers, it should be formulated with the aim of resolving the growth impediments that the industry currently suffers from. To reiterate, these include issues of:

- a) Obtaining and operating short codes smoothly and in a standardized manner as mentioned earlier in this submission
- b) Setting up norms for access and interconnection and interoperability such that it helps new and more innovative services to be offer and in general the growth of the industry is accelerated.
- c) Norms for MIS and reconciliation which would lead to a better payment regime.

A “light touch” regime with minimal obligations and terms & conditions may be considered to ensure that the industry is able to achieve its full potential.

In order to facilitate the long-term growth and development, and increased investment in the industry, the following principles should be adopted:

- ❖ There should be No restrictions on FDI.
- ❖ Nominal or nil fees.

**23. Director, Com First (India) Pvt. Ltd. (Mahesh Uppal):-** Not applicable

**24. Star India Pvt Ltd:-** Licensing system should not be resorted to as reasoned in response to 6.4 above.

## 6.6 What should be the licensing obligation for protecting copy rights, including digital rights management, and infringement of other laws of the country on value added Service licensees?

1. **AUSPI:** Content shall be subject to relevant content regulation. There should be stringent penalties for the content providers for non-compliance of Copyright Act, including digital rights management and infringement of other laws of the country.
2. **COAI:-** It is submitted that any individual or service provider whether licensed or not is required to abide by the copy rights and other laws of the country as are in-force at any given point in time. We believe that there is no requirement to prescribe any separate and specific obligations under license for Value Added Service Providers to observe the various laws of the country as they are obliged to do so even without any specific mention in the license.
3. **ISPAI:-** As mentioned above there is no need for a new license for value added services. As far as copy rights including digital rights and infringement of other laws are concerned it should be treated as per respective prevailing laws. We are sure all the service providers are and will be taking care of copy rights issues etc before offering any value added services on their networks. Any infringement should be dealt in accordance with prevailing land of law.
4. **IAMAI:-** Intellectual property (including copyrights) should be and are adequately addressed under the existing legal framework on such rights. An infringement of IPR should be addressed by way of an infringement claim, and not as a telecom regulatory/licensing issue. This would ensure consistency in the treatment of IPRs across all kinds of media, including printed, digital and video, and avoid discrimination against the mobile space.
5. **Consumer Care Society:-** Is not the responsibility of the copy right holder to protect his copy right? Is it necessary for TRAI or licensor to get involved?
6. **VOICE:-** Service providers [ access , content and VASPs ] and the regulator may deliberate.
7. **Bharti:-** It is submitted that any individual or service provider whether licensed or not is required to abide by the copy rights and other laws of the country as are in-force at any given point in time. We believe that there is no requirement to prescribe any separate and specific obligations under license

for Value Added Service Providers to observe the various laws of the country as they are obliged to do so even without any specific mention in the license.

8. **BPL:** Any individual or service provider whether licensed or not is required to abide by the copy rights and other laws of the country as in-force at any given time. In our opinion, there should be no need to prescribe any specific obligations under the licence/registration for Value Added Service Providers to observe the various laws of the country as they are obliged to do so even without any specific mention in the registration/licence.
9. **BSNL:** Prevailing laws relating to protection of copy rights including digital rights management, and infringement of other laws of the country on value added Service are sufficient.
10. **MTNL:** As has already been mentioned at various places in the consultation paper, there are already existing laws to deal with the mentioned issues and hence, no separate provisions are required to be made in this regard. However, VASPs should be made responsible for the contents they are producing/managing/arranging.
11. **Reliance:** These are already protected by various laws like Copy Right Act, 1957, Indian Information Technology Act, 2000, The Patent Act, 1977 etc and there is no need to define additional licensing obligations.
12. **TATA:** - As mentioned in our reply to Issue 4, these content providers should be registered with the appropriate Government Body and need to adhere to all the rules and regulations as stipulated from time to time; such as content not being obscene/anti-social/anti-religion.

Content regulation shall be subject to Information Technology Act, 2000, Cable TV Act, RBI guidelines or any other relevant content regulating Act including Programming Code for broadcast purposes and various provisions made by Ministry of Information and Broadcasting and other laws such as Indian Copyright Act etc.

There should be stringent penalties for the content providers for non-compliance of Copyright Act, including digital rights management, and infringement of other laws of the country.

13. **DCL:-** VASP may be content provider, content aggregator and/or service provider and it is obvious that VASP shall be entering into arrangements/contracts with the third parties for the provision of the contents/services. VASP shall take measures that prevent objectionable,

obscene, unauthorized, harmful, unlawful content or communication infringing copyrights, intellectual property etc. being carried on his network consistent with the legal framework. He shall prevent the carriage of such content on his network immediately after the same is reported to him by the authorized agencies or lawful owners of such property. He shall have binding and back-to-back similar contracts with the Content Providers/Information Providers to hold them responsible. But the primary responsibility shall be borne by the VASP/licensee.

Content regulation should be outside the scope of the license and should be left to other agencies and legal framework to take care of the same.

14. **SCT &FTPM :-** No Comments
15. **IIM, Ahmedabad (Dr.Rekha Jain):-** As referred above, these should come under the purview of general and sector-specific laws.
16. **PPL :-** The Licensing obligation should be as per the copyright law of India, as per which the Operator (Carrier) is fully responsible for the content ( both On Deck & Off Deck) and has to fulfill its obligation accordingly.
17. **Net Core:-** Protection of copyright and DRM on mobile phones is not different from that on the Internet, so existing laws on the Internet can be used to cover these.
18. **ITC Ltd:-** The Mobile VAS industry would have a very striking resemblance to the Internet industry in terms of service providers (ISP's), content providers (websites) and users. Hence similar licensing obligations should serve the purpose. The content provider shall be liable (jointly with the VASP) for the content and copyright and DRM and the VASP can block the content in case of anything objectionable. Filters such as age based access etc, can easily be applied in the mobile VAS sector, given the depth of information collected from an individual when he applies for a mobile phone. The mobile network operator can contain information about the age group (below 18 or above 18) of the consumer and communicate to the VASP who can block objectionable content.
19. **Times Internet:-** Yes. Copyright protection is essential to encourage content producers and creators and the need is to have a regulatory framework beyond which the industry should be left to self regulate and should create its own norms.
20. **World Phone:-** There are enough laws (IT Act, Copy rights act etc) already to protect the copy rights and infringements. There is no need to create new interpretations for the same for VAS. VAS is just another medium to

communicate and the existing laws as applicable to Press, Broadcast, Telecom etc. could be modified to include VAS.

- 21. WTI:-** Most existing laws probably cover these issues. VASPs should be responsible for content published by them. However, VASPs should not be responsible for content carried by them, but published by others, including mobile subscribers so long as they follow certain preventive actions (see “Safe Harbor” below).

**Reason:**

VASPs typically would be of 2 types:

- Content directly published by them. For eg, VASPs may have editors publishing content to mobile subscribers. In this instance, the VASP should be responsible for content published by them.
- Content transmitted by VASPs, but published by others. For eg, a VAS player may provide a platform for dissemination of user generated content. In this instance, the VASP should not be liable for any infringing content published on its service so long as it takes certain preventive actions (see below).

The Internet faced many of the same challenges around content right violations. The US regulators passed the Digital Millennium Copyright Act (DMCA), which indemnified service providers (companies such as AOL, Youtube, Yahoo Groups, web hosting sites etc.) from content published by their users, so long as they followed the “Safe Harbor” provisions:

- The content is originated by the user, not the service provider
- The service provider does not censor or modify the content
- The service provider provides a mechanism for right owners to submit complaints, have those complaints reviewed, and take-down the infringing content
- The service provider will identify and provide, on request, the identity of the errant user for any violations.

More information about the DMCA can be found at [www.copyright.gov/legislation/dmca.pdf](http://www.copyright.gov/legislation/dmca.pdf) and <http://en.wikipedia.org/wiki/DMCA>

- 22. i2i Telesource Pvt Ltd:-** Intellectual property (including copyrights) are adequately addressed under the existing legal framework on such rights. An infringement of IPR should be addressed by way of an infringement claim, and not as a telecom regulatory/licensing issue. This would ensure consistency in the treatment of IPRs across all kinds of media, including

printed, digital and video, and avoid discrimination against the mobile space.

23. **Director, Com First (India) Pvt. Ltd. (Mahesh Uppal):-** No new obligations must apply- beyond the existing rules which must be enforced strictly
24. **Star India Pvt Ltd:-** None. Copyright protection laws as applicable in the country for other content such as music and films are easily extended to the mobile space. Further licensing does not provide any incremental value.

**6.7 What should be the regulatory framework for content regulation? Please give your suggestions with reasons thereof.**

1. **AUSPI:** Content providers should be governed by the content regulation guidelines of I&B Ministry. Service providers being only carrier, they have no role to play for content regulations.
2. **COAI:-** It is submitted that this issue is very vast and cuts across sectors such as broadcasting, telecom, media, and entertainment etc. and should be addressed in a comprehensive and holistic manner. It is suggested that the Authority may like to address this through a separate consultation process.
3. **ISPAI:** - Contents are very crucial for any services especially for the Broadband. Contents in local/regional languages can do wonder in spreading the reach of broadband in the every hook and corner of the country. There is no need to regulate contents as it is not practically possible. There are agencies such as CERT-In which are advising service providers to block particular site in case it is showing objectionable materials. Accordingly, there is no need to have another body to regulate content.
4. **IAMAI:-** Any prohibitive legislative regime will encounter enforcement difficulties. Content regulation should be governed by existing laws, and not as a regulatory/licensing issue. This would ensure consistency in the treatment of content across all kinds of media, including printed, digital and video medium, and avoid discrimination against the mobile space.
5. **Consumer Care Society:-** Para 5.10 of TRAI CP spells out the current position which seems. Satisfactory and remain so.
6. **VOICE:-** Besides licensing and operating conditions , it must cover issues CONSUMER PROTECTION, like TRANSPARENCY , INFORMATION , TARIFF , BILLING and COMPLAINT REDRESSAL.
7. **Bharti:** It is submitted that this issue is very vast and cuts across sectors such as broadcasting, telecom, media, and entertainment etc. and should be addressed in a comprehensive and holistic manner. It is suggested that the Hon'ble Authority may like to address this through a separate consultation process.
8. **BPL:** The content regulation comes under the purview of Ministry of I & B. As mentioned above the Government may prescribe code of conduct for the content providers and it should be left to the industry to do self regulation.

9. **BSNL:** The regulatory frame work for content regulation should be as per existing rules set by Ministry of I & B and other laws of the land.
10. **MTNL:** We feel that the regulatory framework may be in the form of guidelines or code of conduct and penalty for violations.
11. **Reliance:-** These are already covered by various regulations and there is no need of any fresh regulations. However, it may be additionally provided in the registration that the registered OSP shall:
  - (i) adhere to the Programme Code (PC) and Advertisement Code (AC), laid down by the Ministry of Information & Broadcasting from time to time;
  - (ii) shall follow guidelines issued by the Authority with respect to value added services.
12. **TATA:-** The content should be regulated by the concerned Government department regulating the content. In the content regulations the objectives are (a) freedom of expression and pluralism, (b) cultural and linguistic diversity within the framework of Constitution and Indian laws, (c) protection of minors and public order and (d) consumer protection issues. In the present regulatory framework the provisions of content regulation exist in the Information Technology Act, 2000 and Cable Television Networks (Regulation) Act, 1995.

The content regulation issues should be primarily dealt by Department of IT and Ministry of Information & Broadcasting and should address the issues such as infringement of copyright, intellectual property rights and compliance to advertising and programming code.

Branded Content is a product of creative copyright and is an emergent right for creators in the space of music, films, sports, cricket etc. There is a need to define copyright that is hosted through Mobile services separately in each of the copyright protection / creation. Currently, content for specific types like sports and music etc, are being provided especially for mobile under the term “mobile rights”, by the content owners directly. In this context the role of the Service Provider is limited only to a means of delivering content to the end user and is hence not liable for copyright violation.

On the other hand, in emerging content models like user generated content and social networking sites being accessed through mobile devices, via mobile internet, the rights should be governed by principles of publicly shared content or private content, which is defined by the user. For content in the Public domain, the rights are lost. In this context the role of the Service Provider is again limited to purely access.

**13. DCL:-** VASP may be content provider, content aggregator and/or service provider and it is obvious that VASP shall be entering into arrangements/contracts with the third parties for the provision of the contents/services. VASP shall take measures that prevent objectionable, obscene, unauthorized, harmful, unlawful content or communication infringing copyrights, intellectual property etc. being carried on his network consistent with the legal framework. He shall prevent the carriage of such content on his network immediately after the same is reported to him by the authorized agencies or lawful owners of such property. He shall have binding and back-to-back similar contracts with the Content Providers/Information Providers to hold them responsible. But the primary responsibility shall be borne by the VASP/licensee.

Content regulation should be outside the scope of the license and should be left to other agencies and legal framework to take care of the same.

**14. SCT & FTPM :-**No Comments

**15. IIM, Ahmedabad (Dr.Rekha Jain):-** It is n to within TRAI's mandate to regulate content. In case content regulation is to be provided, it should follow the established codes and laws.

**16. PPL :-** It should be self regulatory.

**17. Net Core :-** Content can be regulated by the Information Act. Mobile content is not different from content on the Internet or content distributed in physical form, CDs, DVDs etc., and as such the same conditions that apply to digital media must be enforced. The important thing is to keep the role of the content creator/owner separate from that of the technology or platform provider.

**18. ITC Ltd:-** Refer answer no 6.6

**19. Times Internet:-**Content should be left to self regulation and industry should create its own norms for the same.

**20. World Phone:-** This issue is already addressed in the existing laws. Any content that is not violating any existing laws – objectionable, obscene, unauthorised, harmful, unlawful, infringing upon copy rights, Intellectual property etc. should be OK.

**21. WTI:-**The regulatory framework must clarify where the responsibility lies for any infringing content. As discussed above in 6.6, the liability should lie with the originator of the content.

22. **i2i Telesource Pvt Ltd:-** Any prohibitive legislative regime will encounter enforcement difficulties. Content regulation should be governed by existing laws, and not as a regulatory/licensing issue. This would ensure consistency in the treatment of content across all kinds of media, including printed, digital and video medium, and avoid discrimination against the mobile space.
23. **Director, Com First (India) Pvt. Ltd. (Mahesh Uppal) :-** See answer No. 6.6
24. **Star India Pvt Ltd:-** There should only self-regulation of content as is currently practiced by the broadcast, print & advertising Industries. A code of content can be published by a joint body to be adhered to by all players in the content space.

**6.8 Who should allocate short codes for value added services, in order to have uniformity amongst all the telecom operators and also to enable branding of value added services? Please give your suggestions with reasons thereof.**

1. **AUSPI:-** DOT has issued guidelines as per National Numbering Plan regarding usage of Short Codes under which all UASL/ CMTS providers must use level "5" for allocation of Short Codes to the content providers including SMS based services within their network. In view of that it is recommended that the system of allocation of Short Codes as directed by DOT is satisfactory and no change is required.
2. **COAI:-** We believe that the existing regime wherein the short code is allocated by telecom operators as authorized by DoT within the framework of National Numbering Plan is working well and should be continued with.
3. **ISPAI:-** DoT should allocate the short codes as per National Numbering Plan.
4. **IAMAI:-** A short-code assignment system needs to be put in place that is integrated across all operators. That is a single number should be assigned to every content provider, and this code should work across all Mobile telephone service Providers. This would be an important shift from the current system – the short code needs to be content provider specific. TRAI may choose one nodal agency or a single window disbursement system for short codes. This would be accepted by all telecom operators (GSM and CDMA). This could be along the lines of booking an internet domain name and should cover both voice and data short codes.
5. **Consumer Care Society:-** It seems better for the Licensor to allocate codes to ensure uniformity.
6. **VOICE:-** It should be allocated by the access provider as per laid down numbering plan issued by DoT
7. **Bharti:-** We believe that the existing regime wherein the short code is allocated by telecom operators as authorized by DoT within the framework of National Numbering Plan is working well and should be continued with.
8. **BPL:** Unique short codes should be allocated for Value Added Services provided by various service providers so that the services can be branded as well as are accessible to the subscribers of all networks by dialing the same unique code. Though the Numbering Plan is being controlled by the DoT, it may be inconvenient and time consuming for the Value Added Service Providers to approach DoT every time they want to launch a new Value

Added Service for which a separate short code is required. In our opinion, a set of short codes (1000 at a time) should be assigned by the DoT to each telecom access service provider. The telecom operators may then allocate these short codes to the various Value Added Services/service providers utilizing their networks for providing these services. Additional short codes may be assigned to a telecom service provider after he has allocated 75% of the codes initially assigned to him.

Since there are a large number of telecom access service providers in the country, it may not be possible to have adequate number of short codes if 5 digit codes on one level (level 5) are to be used. Additional numbering resources for short codes can be had by either increasing the number length to 6 digits instead of 5 digits or by allotting additional level (s) as 1<sup>st</sup> digit.

9. **BSNL:** Short codes for all value added services should be allocated by the respective licensed telecom access providers as at present.
10. **MTNL:** It is a good idea to have uniform short codes for similar value added services among the operators. This will facilitate convenient access to various value added services by the customers. These short codes should be allotted by DoT.
11. **Reliance:** At present short codes are allocated by the service providers. There are number of content providers who have been able to brand their content and offer services directly to the subscribers. The existing arrangement has stood test of the time and we do not consider there is any need to change the existing practice. However, the licensor may specify that the short code should not be allocated to the content provider/content aggregator unless it registers as an OSP.

In view of the above, we suggest that the existing practice of allocating short codes by service providers should continue.

12. **TATA:-** Access Licenses are governed by the DoT and all the content provided by the Content Providers rides on such access provider's networks.

Therefore, the arrangement of allocating short code of VAS should continue to be with DoT (assisted by regulator) for all content providers who possess a valid registration certificate from the appropriate Government Body.

13. **DCL:-** Presently a monopoly type situation has been created by the telecom operators who are controlling the allocation of the numbering scheme and

short codes for the VAS. This allows them to pick and chose a VASP and leaves lot of prospective and new entrants outside the value chain of VAS hindering growth and competition. Some operators are also seeking charges for allocating the numbers/codes.

Further there is no uniformity in allocating the codes, particularly for the voice based services. This causes almost an impossible situation to promote the services and create chaos and clutter in the mind of the users.

- DoT numbering scheme as codified in the National Numbering Plan (NNP) or a modified numbering scheme should be adopted uniformly by all operators.
- DoT may be asked to allocate the numbering scheme or short codes depending on the type of services offered by the VASP.
- The numbering scheme should be flexible and able to take care of the growth as anticipated for at least next 10 years.

**14. SCT & FTPM : No Comments-**

**15. IIM, Ahmedabad (Dr.Rekha Jain):-** I guess the DoT/TRAI do it now and they should continue to do it.

**16. PPL :-** It could be a trough a centrally appointed body on the same lines as operating in the Internet.

**17. Net Core:-** Short codes can continue to be allocated as they are done now, but it will be useful to introduce the concept of a 'short code registry' and 'pre-integrated short codes'. Once a short code is allocated then it should be obligatory for all operators to configure it on their networks at the agreed upon price point. It is absolutely imperative for the growth of VAS that the act of getting a short code allocated and operationalized in the telecom network becomes a single-window experience for VAS providers.

1) Short codes should be easy to get. Many VAS providers and businesses would like to get their own short codes, but the barrier is much too high currently.

2) Once allocated, it should be obligatory for all telecom operators to make that short code operational on their networks otherwise VAS providers end up spending a lot of time and resources approaching individual operators one-byone to get it configured.

3) Pricing of the incoming messages should be flexible. It should be possible for VAS providers to get one or more short codes (at different price points). The short code is the only way to enable two-way communication between

the VAS provider and the consumer and therefore it is not advisable to keep the cost of sending a message to a short code at Rs.3 per SMS.

4) In particular, short codes which are 'free' to consumer (paid for by short code owner) should also be available so that consumers are encouraged to communicate and expresses their opinions

5) Suffixes: It should be possible for all short code owners to automatically allocate suffixes on their short codes to other businesses. This will ensure the proliferation of two-way communication and overall better services to consumers.

6) It should also be possible to provide VAS services on long code (virtual number) when necessary to leverage the cost differential to the user. If short codes can be made available at different price points then this may not be necessary. The present arrangement of TRAI allocating short codes can continue. It is more important to ensure that the above listed requirements are met. Allocation and pricing of a short code can even be made part of the license acquisition phase since it is such a key piece of the VAS service.

**18. ITC Ltd.:-** We would like to elaborate on the short-code allocation process. As correctly pointed all across the consultation paper (Page 12), getting a short code in the current industry environment is extremely costly and difficult, thereby placing a high entry barrier in mobile VAS. The short-code allocation is a very tedious process, with negotiation with individual operators. This would typically effect new startups in the following ways:

- High initial requirement of cash resources
- High involvement in terms of time and effort, to negotiate with all the mobile operators

Further something as a short-code would be extremely critical to build a brand image value for any mobile VAS service, the sheer complexity and effort involved in getting a shortcode, has ensured that most startup's using common shortcode numbers like 56767 or 56868 etc. This in the long run would lead to a threat of monopoly in the Mobile VAS industry, with the mobile operators and content aggregators having the largest say. Hence it is strongly recommended that TRAI itself or another official body take the responsibility of issuing short-codes. Once a short-code is issued, it will need to be same across all mobile network providers (very similar in concept to a domain name or web address). The VASPs can provide the middleware for connecting with all network operators and also provide billing and payment gateway services to the content providers (which will be the primary revenue stream). To draw a parallel with the internet once again, the VASPs provide hosting services with DNS management, and also features to design the site easily (like shopping carts) and payment options

(either through Premium SMS or other means). The VASPs can also provide their own content like astrology, cricket and bollywood alerts and hence be present in both the parts of the value chain.

Further in order to support small companies, who cannot afford huge entry/registration fees, the short codes should be available at a low entry cost. The best model would be if short-codes can be graded (perhaps on the basis of number of digits) and different pricing be applied to each.

- 19. Times Internet:-** The Government should look into the internationally accepted best practices and follow the same in the Indian scenario as well, if feasible. For example, in the US, the short codes are provided by an independent agency Neustar (CSCA), which allows players to pick single short codes available across operators. Refer to: [www.usshortcodes.com](http://www.usshortcodes.com)
- 20. World Phone:-** The number allocation is an important issue. The current system involves multiple agencies to be contacted. This should be possible thru a single window. It would be good if a regulatory body like TRAI or industry association like Cellular Operators Association of India (COAI), Indian Cellular Association (ICA) can coordinate this. Currently it is very difficult to get a short code configured across multiple operators. This process should be transparent and have representation from the Telcos.
- 21. WTI:-** A centralized body should be responsible for short code allocation. The centralized body should have the rights for assigning short codes on a national basis, across all carriers.

**Reason:** This will streamline a process that is currently very cumbersome and inefficient. The Internet provides a great model with the International Corporation for Assigned Names and Numbers (aka ICANN, <http://www.icann.org/>) which is responsible for assigning web domain names around the world. ICANN has been very critical to Internet's growth in a well-managed manner.

- 22. i2i Telesource Pvt Ltd:-** A short-code assignment system needs to be put in place and to be integrated across all the operators. That is, a single number may be assigned to every content provider, and this code should work across all Mobile telephone service Providers. This would be an important shift from the current system – the short code needs to be content provider specific. There should be one nodal agency or a single window disbursement system to allot the short codes. This has to be accepted by all the telecom operators (GSM and CDMA). This can be similar to booking an internet domain name and will have to cover both voice and data short codes.

23. **Director, Com First (India) Pvt. Ltd. (Mahesh Uppal):-** Regulator or an industry body must be entrusted with this task.
24. **Star India Pvt Ltd:-** Short codes for value added services should be administered by a body(ies) similar to Domain Name Registrars in the internet arena.

Such an authorized body should have clear norms on the basis of which a short-code should be issued to a potential service provider.

- These norms can relate to / draw from the DOTs numbering plan.
- The body should provide a single-point for the service provider to fill out details of the services to be offered by the provider from the short code
- The body should provide details of one time fees for the provision of the short-code and specify per message fees payable across operators as defined in the illustration table shown in response to 6.2
- The body should maintain a list of all existing short-codes with all operators and publish this so that the service providers only apply for available codes.

The body should be an independent body not a service provider or a telecom operator.

**6.9 Is there a need to regulate revenue sharing model or should it be left to commercial negotiations? Please give your suggestions with reasons thereof.**

1. **AUSPI:-** There is no regulation required regarding revenue sharing model. The revenue sharing model for value added services be left to commercial negotiations and agreement between telecom operators, content providers and aggregators. Regulatory framework in this case is not at all required.

There are innumerable content services like gaming, video and audio streaming, stock quotes, news and cricket quotes, tele-voting, chatting, astrology etc. Each service differs in content, cost, demand and aimed for different segment of consumers. Therefore, there cannot be a standard revenue arrangement for all content based services.

Considering the complexities in deciding the revenue share, content based services being premium services, the market being competitive and there being innumerable value added services, we strongly suggest that there should not be any regulated revenue share model and it should be left to the commercial negotiations.

**2. COAI:-**

1. No, we believe that it would be extremely undesirable for the Authority to regulate revenue sharing between the various stakeholders involved in the Value Added Service chain. This should be left to the commercial negotiations and mutual agreement between the various stakeholders involved as is the current practice.

The current system is working well and as the Authority itself has noted the revenue share varies across different types of products and services and in some cases as much as 75% of the revenue is given to the VAS providers.

2. **Eventually** it is the **attractiveness of the VAS service and customer pull which will result in the growth of VAS market in India.** And hence a light touch Regulatory approach, as it exists now, should continue. An apt example for this case would be the reality shows run by the TV channels, which **generate a lot of pull as a result of which** much higher revenue share is paid to the media houses.

There are other VASPs also like Indiatimes who manage the SMS short code 58888, who are paid higher revenue shares as compared to

the others due to the higher customer pull they generate by providing content which is more attractive and provides more value to the consumers.

3.

Further the **access provider also has to incur costs involved in network up gradation, brand building, marketing, customer care, billing arrangements, etc for end to end provision of a value added service to the customers.**

4.

Any attempts to regulate revenue share arrangements would lead to micro regulation as it would mean that each new service would have to be examined separately. This would not only interfere with the free play of market forces but would also result in delays that would kill the USP of the service.

5.

Further the current market environment also ensures the interest of the VAS providers. In the highly competitive telecom market with 5-7 operators in each service area and another 5-7 operators shortly launching their networks, the Value Added Service providers will have adequate choice and negotiating power to get reasonable terms for revenue sharing with the chosen telecom operators. Therefore, the concern of the Authority about inequitable revenue share arrangements between the various stakeholders involved in the mobile Value Added service chain is misplaced as the same is fully ensured through the free play of market forces.

As already pointed out the revenue share arrangements differ across various applications, products, services. This itself is a evidence of the vibrant play of market forces.

3. **ISPAI:-** There is no need to regulate revenue sharing model and it should be left to commercial negotiations. There are number of service providers and content providers in the market. Both have ample choices to select the best which suits their requirement and enter to the commercial negotiation. We think that TRAI should not intervene in the commercial negotiations.
4. **IAMAI:-** It is felt that once a more equitable relationship is established between the operators and the mobile value added services companies, the issue of revenue share should be left to bilateral negotiations between mobile values added services companies and operators. In any case, before any mandatory regulatory framework is formulated on pricing and revenue sharing, the regulator should consider the release of principles/guidelines for fixed operators/mobile operators to have proper and fair commercial

negotiations with MVAS providers. Once a proper framework is in place, the market conditions will determine the commercial negotiations.

5. **Consumer Care Society):-** No need for TRAI to get involved. Best left to commercial negotiations.
6. **VOICE:-** YES. As brought out in the consultation paper, presently VASP are at the mercy of service providers . Unlike CHINA , they get peanuts for their ingenuity and effort. For rapid and desired growth , regulation of revenue sharing model is need. As market grows and matures , this can be liberated.
7. **Bharti:-** Before answer the above question, we would like to draw the attention of the Hon'ble Authority on the following;

**1. Whether any VAS provider has adequate choice to sell its product / service?**

- a. **Yes!** Today, the Indian access market is extremely competitive with the presence of 5-6 operators in each service area. After signing of the Licence Agreement recently, another 5-6 operators are likely to launch their services.
- b. With the presence of so many operators, the example of which is not available in any international market, each operator is making all sincere efforts to serve the market through innovative tariffs and other products / services. To make their service distinctive, the operator's requirement for a good content / VAS is very high.
- c. Thus, the Value Added Service providers have adequate choice and negotiating power to get reasonable terms for revenue sharing with the chosen telecom operators. Therefore, the concern of the Hon'ble Authority about inequitable revenue share arrangements between the various stakeholders involved in the mobile Value Added service chain is misplaced as the same is fully ensured through the free play of market forces.
- d. Moreover, the Hon'ble Authority has also issued a Consultation Paper on the entry of MVNO and in case, the same is allowed, it will further intense the competition for VAS.

**2. Whether there is a need to regulate the revenue share model**

- a. No! Keeping in view the regulator's policy of forbearance where the regulator restrains from interfering or meddling with the market forces,

bring any revenue share model under a regulatory regime would amount to interfering with the market forces.

- b. Thus, we are strongly of the view that there is absolutely no need to regulate revenue sharing between the various stakeholders involved in the Value Added Service Chain. This should be left to market forces and commercial negotiations among the service providers and VAS content providers.
- c. If we regulate the commercial agreements, it might hamper the overall growth of the telecom industry. Today also the agreements for revenue share are driven purely by market forces. If a service/ product has enough market pull, service providers actually pay higher revenue shares which could be in the range of 40-60 %. Services which require a lot of push and hence a lot of marketing expenditure is required from service providers end, lower rates of revenue share are passed on to the VASPs.
- d. It would be prudent to look in to the various heads of costs which an operator incurs for managing/ running the VAS infrastructure:
  - 1. Spends on Pan India Marketing campaigns are purely undertaken by the service provider which involving crores of rupees
  - 2. Service provider incurs the cost of Highly skilled manpower to manage the VAS operations
  - 3. The activities of Billing and collection are performed by the service provider and adds up to a significant costs as it involves bad debts also.
  - 4. The cost of building/ upgrading IT and network infrastructure to support VAS services involves capex expenditures which are undertaken by the service provider.
  - 5. Customer service support for the VAS services is provided by the service providers

### **3. Whether all VAS are successful or profitable for service provider**

- a. No! to support innovation, service provider promote numerous VAS services amongst their customers and it is natural that not all services meet the expectations of the customers and result into the desired profitability.
- b. Moreover, one also needs to account for the cost which an operator incurs on VAS services, keeping in mind that only 2 out of 10 services

launched actually succeed. The service provider actually utilizes equal amount of energy and resources on all the launched services, whereas the returns are achieved only through the 20% of the services.

**4. Whether regulating revenue sharing arrangement would not be a micro regulation**

- a. Yes! any attempt to regulate revenue share arrangements would lead to micro regulation as it would mean that each new service would have to be examined separately. This would not only interfere with the free play of market forces but would also result in delays that would kill the USP of the service.
  - b. As already pointed out the revenue share arrangements differ across various applications, products, and services. The Hon'ble Authority has itself admitted that on certain VAS, the VASP is allowed to have 75% revenue. This itself is a positive proof of the vibrant play of market forces, which decides the market and demand of the content.
- 8. BPL:** No, there is absolutely no need to regulate revenue sharing between the various stakeholders involved in the Value Added Service chain. This should be left to the commercial negotiations between the various stakeholders involved. The revenue sharing will depend upon the cost, the efforts and the contribution of different stakeholders in end to end provision of a Value Added Service to the customers.
- 9. BSNL:** No, there is no need to regulate revenue sharing between the content provider/content aggregator and the access providers. It should be left to bilateral commercial negotiations/agreements between the two.
- 10. MTNL:** From the consultation paper, we observe the main issue behind the thought of licensing of VASPs is so called unfair revenue sharing arrangement for content providers/ aggregators.

At present, Indian telecom market is, perhaps, the most competitive & happening. ARPUs from voice segment are declining rapidly. Now, the operators are more dependent on data & value added services for maintaining their ARPUs. Value added services are mostly content based and hence, the operators are much dependent on the content providers/aggregators for this segment of their revenue stream. Now, with issuance of large number of telecom licenses by DoT, the competition has become even stiffer. The content providers/ aggregators will now have more choice of operators to deal with. In such a scenario, it is unfair to say that content providers/aggregators are not getting their due revenue share. We

are of the opinion that in such a competitive environment, the operators are equally dependent on content providers/aggregators as the vice versa.

In view of above, we feel that revenue sharing in case of value added services should be left to the commercial negotiations and market conditions. As such, revenue sharing arrangement in case of content based value added services is a very complex matter & will vary from service to service & content to content as the cost of the content varies widely.

- 11. Reliance:** There is no need to regulate revenue share as the revenue share is determined by commercial agreements and these are driven by market dynamics. The revenue share models depend on acceptability/demand of the product and the regulatory intervention is going to distort the market dynamics. Generally, the government intervention is needed when the markets are failing and there is not enough competition. However, the Indian telecom sector is one of most competitive sector in the world with the presence of 11-13 facility based operators in each service area. The competition will further enhance with the implementation of 3G services operators. The government is also contemplating introduction of MVNOs which will further enhance competition, especially in the value added services sector. In these circumstances, it would not be appropriate to intervene and decide the revenue share arrangements between service providers and content providers.

The Authority has also used the term “Premium Rate Service” in its directions for content based value added services. These services by name are premium and not basic or utility services. Across the world Governments typically intervene and regulate prices, if industry is providing utility service. Rarely intervention is seen in commercial issues relating to the premium rate services and generally regulators focus only on consumer related issues. The content based value added services, being premium services, the Authority’s intervention would not help in the growth of these services.

Further, there are innumerable content services like online and offline gaming, video and audio streaming, stock quotes, news and cricket quotes, tele-voting, chatting, astrology etc. Each service differs in content, cost, demand and is aimed at different segment of consumers. Therefore, there cannot be a standard revenue arrangement for all content based services. Considering the complexities in deciding the revenue share, content based services being premium services, the market being competitive and there being innumerable value added services, we strongly suggest that there should not be any regulated revenue share model and it should be left to the commercial negotiations.

- 12. TATA:-** No, there is no need to regulate the revenue share model and should be left to the commercial negotiations between the parties and the market forces since under the present regulatory structure the tariff is under forbearance and the same should apply to VAS. Additionally, given that VAS are still in the growing stage, a highly regulated environment may dampen the spirit with which innovation is set to proceed in the segment. The registered VAS Provider has the freedom to offer content to as many UAS licensees as he wishes and since there is a large number of UAS licensees in each area, the fears often mentioned regarding UAS licensees using their control over delivery to prevent fair and equitable commercial negotiations, are quite unfounded.

We believe the governance of revenue share terms will mar opportunities for creative differentiation, co-branded deals etc, and will limit the ability to tap exclusive and differentiated opportunities for each operator.

Currently revenue share arrangements are prevalent in areas of Content Downloads, Subscriptions, Advertising, and Transactions. The areas of Social Networking, and User Generated content, or Sponsored Content, are emergent areas which would have no means to be regulated.

It has been assumed through this paper, that there are only 2 stakeholders in the value chain for VAS, where as in reality there are as many as 4-5 stakeholders which include the Operator, content provider/aggregator/platform provider, application developer, and the government. All these entities have a stake in the VAS revenues, leaving the operator with margins of barely 18-20%. From this amount the challenge faced by the operator is to cover costs of network, acquisition, retention, collections, billing, bad debts and yet show profitability. Thus the comparison of content providers revenue share with that of the Operator is not a correct comparison and should be viewed in the above perspective.

- 13. DCL:-** Most of the telecom operators seem to be determined to capture the emergence of VAS as their primary source of revenue and profitability. This manifests itself in the struggle over their dominance over third party VAS providers. Since the operator is controlling the access, numbering/short code, billing etc., it gives no importance to the VASP who has no choice and is dictated by his terms. Thus the revenue sharing has over the period of last several years has been declining for the VASP in favour of the telecom operator. Declining revenue share for the VASPs and content owners is a blocking factor for lot of information and expert services to contribute to the overall VAS market and growth.

Operator's ability to control and monopolize the VAS chain has created a scenario where they are biased towards one or two favored VASPs and significant volumes are created for these VASPs who along with the operator are reaping super profits.

The need to regulate revenue sharing or at least a guidance from the Authorities is envisaged since the operator presently is in the position to cannibalize its core service or any other VAS provided by itself putting 3<sup>rd</sup> party VASP in a disadvantageous position.

**Our suggestion:**

Operator shall be allowed to retain his call cost plus % out of the revenue generated by the VASP. The call cost shall not be more than the calls charged to their enterprise customers under the most economic plan. The charge for the billing and the collection shall be not more than 10% of the revenue generated by VASP (call charged to the subscriber less call cost).

Example: If the call is charged at Rs.5/- per minute by the Service Provider to his subscriber and the Operator's tariff to the Service Provider is 50p per minute, then

VASP's share : Rs.5-Re.0.50-(10% of Rs.5-Re.0.50) i.e Rs. 4.05  
Operator's share : Re.0.50 + (10% of Rs.5-Re.0.50) i.e. Re.0.95

The % as suggested above can be suitably modified for price bands, may be in 3 tier like

For services less than Rs.5/- : 8%  
For services at Rs.5/- : 10%  
For services above Rs.5 ; : 15%

14. **SCT & FTPM :-** As indicated under response to 6.5, no separate regulation is required for revenue sharing. It should be self-regulatory in nature.
15. **IIM, Ahmedabad (Dr.Rekha Jain):-** There should not be any regulation of revenue share model. It should be left to commercial regulation as there is enough competition. Valued added services are not impinging on national resources that need to be regulated.
16. **PPL:-** We don't agree that the revenue sharing needs to be regulated by any third party, it should be best left to market forces, a fact which has been acknowledged by TRAI in their recommendation to I & B ministry in an earlier Consultation Paper on 'Issues Relating to 3rd Phase of Private FM Radio Broadcasting'.

However for any revenue sharing model to survive it depends on transparent sharing of usage data, the current practice of the Operators does not give confidence on the system, may be TRAI could look at measures to increase transparency.

- 17. Net Core :-** It is imperative to regulate the revenue share model. There is no scope for the use of market forces to bring down revenue shares. Each VAS provider requires the support of ALL telecom providers for a pan-India footprint so there is no incentive for telecom providers to compete among themselves. Also, the MIS related to VAS services is currently a very thorny issue and needs to be addressed. Operators must be encouraged to provide a transparent mechanism for MIS of service usage and its verification by both sides.
- 18. ITC Ltd.:-** Pricing for Content Developers: Keeping a small company providing content in mind, the commercial negotiations with large mobile network providers would put them absolutely against the wall. This would only further increase the entry barrier, and force larger times for return on investment. Further, if the revenue sharing model is left to the operators, due to skewed revenue sharing the content providers would have little option but to overprice the service being offered, to keep the venture profitable, as is the case currently. This will ensure the cost of value added service would remain exorbitantly high. This would mean that the large masses of India will never be able to utilize these services and innovative VAS ideas would remain only on paper. Another added advantage for mobile services in India, is the late arrival of the internet, and the ease of use of the mobile. Hence if mobile VAS were allowed to be spread to the masses, rural India and its masses can get the power of the internet at a very reasonable cost, as that of a mobile handset.

Hence to prevent monopoly in revenue sharing by the network operators, and keeping the information revolution mobile VAS can bring to the Indian masses, it is recommended that the revenue sharing model be regulated. In terms of the revenue sharing, we believe that the best model is if the network operator and VASP work out their prices through negotiations based on volumes. However, the VASPs should be made to declare the prices they would charge for various services (short code hosting, payment services, etc.) publicly so that there is enough competition that lets the content provider choose the best service as per their requirement. Some examples of charges for content developers (services by VASPs) can be:

Registration of short code	Rs. 1000 pe
Network Aggregation	Rs. 1000 pe
Per incoming SMS (regular)	Rs. 0.25
Per outgoing SMS (regular)	Rs. 0.50
Revenue share per incoming SMS (p	50%

If all the VASPs have to publish their prices in a manner similar to this, it will greatly unlock the MVAS industry by ensuring competition and great content creation.

#### Pricing for Consumers:

As rightly pointed out in the paper, the pricing for consumers is highly confusing, and in many cases the consumer also doesn't know how much she is charged. We believe that current generation MVAS offerings using premium SMS club together the price for two things together: a) Charges for using the network, and b) Charges for the service (ring tone, cricket updates etc.). We believe that there is need to decouple them so that the charges are clear. The network operator should levy regular SMS pricing for the part (a) above. For the part (b), in case the content provider wants to use the network operator's payment infrastructure for billing his service, it should be done separately. The network operator can claim a revenue share (as per their agreement with the VASP) from this charge, and the VASP can also take a cut. A simple mechanism of making the price of the premium service explicit could be to affix the cost to the number to which the SMS has to be sent. For instance, if the consumer is asked has to pay Rs. 15 for a service to the content provider which the shortcode 6655 (+ the preceding 5), he can be asked to send the SMS to 5#15#6655. This would ensure that all Mobile VAS providers will need to ensure that the customer knows the price of the service. The network operator would earn (say) 20% or Rs. 3.00, the VASP (say) Rs. 4.50 or 30% and the content provider Rs. 7.50. The network operator can also earn the usual SMS charge on top of this based on the consumers' plan. (Please note that this is just an example -- real networks would not allow # or \* in the phone number perhaps -- our idea is to make the price implicit so that the consumer is aware how much she is paying. This could be worked out by an intelligent use of digits perhaps -- the premium SMS could start with a 6, with the first 2 digits being the price). If the MVAS industry grows according to potential, the traffic will grow immensely, which will mean that the network operator can gain a lot through just the regular SMS charges. Given that SMS charges are almost Rs. 71 lakh per GB, even if the regular SMS charges are allowed, the network operator will benefit a lot.

- 19. Times Internet:-**Yes, there is a need to regulate the revenue sharing model, because telecom operators have monopolized control over access to networks. As they have control over VAS distribution, pricing and billing processes, the revenue share arrangements are in their favor. In some cases the Mobile Network Operators pay VAS players as little as 8%-10% as revenue share

So, to correct this situation the VAS industry needs a regulation that separates access from VAS content / applications, and all VAS services should be routed through VAS players. There should be an interconnect pricing between VAS players and telecom operators for any voice / data packets sent. VAS players should be allowed to define pricing for all the services they offer. The revenues from content / applications should be reserved for VAS players and there should be a standard interconnect charge for carrying the content.

Unlike global norms where the content creator or the innovator enjoys a larger revenue share, the reverse holds good in India. Clearly, this hurts the Indian consumer as he / she loses out on choice of products as well as the VAS content creator and provider lose on the revenues.

**20. World Phone:-** The revenue share model currently is controlled by the telecom operators, who are always much bigger than the small VAS providers. As most of the VAS over a period of time becomes available from multiple VASPs, the Telco's are able to get better revenue shares for themselves. This discourages innovation in VAS and people are not willing to provide better quality of services as the Telco's are not willing to either charge more or share a bigger part of the revenue. In fact for Data/SMS services, the revenue share is so low that any truly interactive or personalised service is not possible. The only services that work in such a situation are the voting kind of applications. However we can learn from some of the international markets that have evolved over a period of time. UK, USA, Japan, Australia are some of matured markets. The points raised in the paper on page 17, VII of 2.8 addresses many of such points. In the end it may get decided by commercial negotiations, but some guidelines to provide a level playing field should be attempted. After meeting the call carrying cost, the additional revenue should be shared between the Telco and VASP in a fair ratio.

**21. WTI:-** Some guidance, leaving room for commercial negotiations, will be a reasonable middle-of-the-road approach.

**Reason:**

The regulators could define suggested ranges of acceptable prices and revenue-shares. Within those ranges, the private parties should be free to negotiate a market price.

The benefit of the ranges is that VASPs can have a reasonable expectation of fair pricing before building or launching innovative services.

The benefit of negotiation within those ranges is that it allows flexibility for the variety of circumstances that will inevitably emerge. For example, providing volume discounts is a common practice.

- 22. i2i Telesource Pvt Ltd:-** It is felt that once a more equitable relationship is established between the operators and the mobile value added service companies, the issue of revenue share should be left to bilateral negotiations between MVASPs and Telecom Operators.

In any case, before any mandatory regulatory framework is formulated on pricing and revenue sharing, the regulator may please consider the release of principles/guidelines for fixed operators/mobile operators to have proper and fair commercial negotiations with MVAS providers. Once a proper framework is in place, the market conditions will determine the commercial negotiations.

- 23 Director, Com First (India) Pvt. Ltd. (Mahesh Uppal):-** No. This must be left for commercial negotiations between infrastructure providers and VAS providers.

- 25. Star India Pvt Ltd:-** As long as the operators publish a clear and transparent price for “access” and where applicable “billing” services, there is no need to regulate the revenue sharing model.

The provider of the content & services will then automatically arrive at a price which is determined based on free-market principles. The value of the service will be determined by the uniqueness of the content or service and hence the willingness of the customers to pay.

The current model of revenue-sharing is disadvantageous to the consumer since the content & service provider price their product based on the net-price arising out of a revenue-share from the operator rather than a published access/ billing fee.

**6.10 Any other suggestions with reasons thereof for orderly growth of mobile value added services including such services to be provided in 3G, next generation network (NGN) environment?**

1. **AUSPI:-** Any restriction with licensing and regulations will dampen the innovation of the industry. The content industry should be allowed the freedom for orderly growth. Market initiatives are sufficient for orderly growth. The Authority's main consideration should be to encourage and support. No intervention is required by the Authority between service providers, content providers and aggregators.

The Authority may consider to specify interoperable standards for network based services like Person to Person MMS so that services are available across networks. Subscribers expect that the network based value added services like person to person MMS are delivered to networks other than the originating network. Customers and end-users are disappointed when such MMS do not cross the network boundary.

2. **COAI:-** We believe that there should be light touch licensing and regulatory approach for the VAS segment facilitating free play of market forces. The rapid expansion of unique and innovative value added services should not be shifted through over prescriptive licensing and regulatory provisions. This will also be in the best interest of consumers and of the rapid growth of mobile Value Added Services and innovations for development and evolution of new Value Added Services.
3. **ISPAI:-**No Comments.
4. **IAMAI:-** Given that many MVAS providers already have substantial business operations in India, we propose that existing MVAS providers be given a grace period (say, 1 year) to bring their operations in line with regulatory requirements, and to allow for the transition of existing contracts to new contracts that comply with the new licensing regime.

Greater entry needs to be enabled by removing short code constraints; transactions need to be enabled by enabling transparencies; content providers need to be incentivised by providing them with adequate flexibility in pricing and earning from their content; all of this requires that there be adequate infrastructure and coordination between different players in the market; and a few other issues related to IPR and consumer orientation.

The sharing of information in a free and fair manner is one of the most important aspects of a vibrant industry. Such information will enable

greater investment, better and more appropriate design, and better targeting of content. Since the credibility of information is a key issue, auditing of this information sharing process by external entities can create such an environment.

5. **Consumer Care Society:-** Can the VAS's be overlaid on MVNOs which are also probably round the corner.
6. **VOICE** :- NO. Prepared by Working Group set up by VOICE in April 08 for submission to TRAI in response to its Consultation paper. It has been provided for use of TRAI and may not be used by anyone else without permission of the authors. © April 2008 : Comments are welcome to VOICE, 441, Jungpura, Mathura Road, New Delhi 110024 Email: [cvoice@vsnl.net](mailto:cvoice@vsnl.net) Web: [www.consumer-voice.org](http://www.consumer-voice.org)
7. **Bharti:-** We believe that there should be light touch licensing and regulatory approach for the VAS segment facilitating free play of market forces. The rapid expansion of unique and innovative value added services should not be shifted through over prescriptive licensing and regulatory provisions. This will also be in the best interest of consumers and of the rapid growth of mobile Value Added Services and innovations for development and evolution of new Value Added Services.
8. **BPL:** There should be minimal regulation and licensing requirements/restrictions. The industry and the market forces should have a free play. This will be in the best interest of rapid growth of mobile Value Added Services and innovations for development and evolution of new Value Added Services.
9. **BSNL:** The growth and development of value added services should be left to the market forces with least interference/ interventions.
10. **MTNL:**
  1. At present each VASP need to have connectivity and Agreement with each Telecom Operator for providing VAS. The present arrangement is complex, costly and time consuming. In long run, there is a need to have a common platform (in line with NIXI for Internet services) for interconnecting multiple operators with multiple VASPs to save the cost on multi point infrastructure. Any new or existing VASP just need to seek interconnectivity with National Interconnecting Node.
  2. From consultation paper, it appears that guidelines are being framed for VAS in Mobile service. VAS guidelines framed through this consultation papers need to be equally applicable for Fixedline service. More over, when we are moving towards convergence of services, this becomes more imperative.

- 11. Reliance:-** We have following suggestions:
- (i) Specify interoperable standards for network based services like P2P MMS so that services are available across networks. Subscribers expect that the network based value added services like P2P MMS are delivered to networks other than the originating network. Customers and end-users are disappointed when such MMS do not cross the network boundary;
  - (ii) Once DoT has been intimated about VAS by a service provider and service provider also informs about the availability of LIM, then they may be allowed to offer services without awaiting any additional clearance;
  - (iii) The content based services like video and audio streaming, online gaming, tele-voting etc. are offered using voice calls, SMS , MMS are monitorable through LIM and as such there should not be any additional reporting requirement for content based VAS;
  - (iv) Mobile Values added service providers should register as OSPs.

**12. TATA:-** Responsibility of UASL/Access provider relating to content carried on the network be limited to identify the source of the content generation as long as it is licensed content provider. Content providers shall be responsible to ensure compliance on various aspects like type of content, non-infringement of copyright, intellectual property rights etc. UASL should be obliged to carry the contents of only such licensed Content Providers.

**13. DCL:-** It should be made mandatory for the operator to provide access, codes, and other resources on equitable basis to the VASPs seeking resources from them. Reasons for the delay or decline should be provided by them. Only then a competitive VAS scenario shall emerge.

Telecom operator providing VAS by itself or through its associate/group companies should also inform the authorities of its status. Service charges/ Revenue sharing and other terms in such cases should not be such so as to give a competitive edge to them.

Traffic reconciliation process currently dictated by the telecom operators should be regulated and be allowed to make it transparent.

**14. SCT & FTPM :-** No Comments

**15. IIM, Ahmedabad (Dr.Rekha Jain):** No Comments

**16. PPL:-** No Comments

- 17. Net Core:-** As mentioned in our earlier responses, the creation of a licensed entity, the VAS provider is the most important requirement for encouraging the growth of VAS. As such the interaction between this new entity and the existing players such as the telecom operators, the regulatory authority and the consumers needs to be spelt out. VAS providers can be of different types: Content owners, content aggregators, technology/platform providers etc. and as such the licensing will need to be different for each type. VAS providers must be encouraged to create direct-to-consumer models supported by alternate payment mechanisms in order to seed explosive growth of VAS in the country. In short the concept of a VAS operator, like the MVNO must be encouraged and nurtured.
- 18. ITC Ltd:-** We don't have any comments on this at the moment since we don't have an understanding of the industry. However, the comments of people who operate in this space will be invaluable. The regulation can also be made later once the industry has started developing -- it might be a little premature to pass regulation on an industry that hasn't really evolved into a nascent state.
- 19. Times Internet :-** Government should further look into some of the VAS services for the future which will act as the growth drivers:
- a) Mobile TV
  - b) Bluecasting
  - c) User Generated Content
  - d) Videos on Demand
  - e) Mobile Wallet
- There should be incentives for the VAS companies to help innovate and introduce newer products and services for the benefit of the consumers.
- 20. World Phone:-** This can be done through a consultative process, as already started by you. I would be happy to participate in any meetings that you plan to hold in future.
- 21. WTI:-** Not at the moment.
- 22. i2i Telesource Pvt Ltd:-** In case MVASPs are brought in regulatory frame work, we propose that existing MVASPs be given a grace period (say, 1 year) to bring their operations in line with regulatory requirements as many MVASPs have already substantial business operations in India, and to allow them for the transition of existing contracts to new contracts to comply with the new regulatory requirements.

For orderly growth of MVAS the entry of new MVASPs needs to be enabled by removing short constraints already mentioned; transactions between Access Providers and MVASPs need to be transparent; content providers need to be encouraged by providing them with adequate flexibility in pricing and earning from their content. This requires that there be adequate infrastructure and coordination between all the concerned players in the market.

23. **Director, Com First (India) Pvt. Ltd. (Mahesh Uppal):-** As experience elsewhere has shown, complete deregulation of this market is best way forward. The market is already very competitive. Further deregulation will ensure maximum innovation and deliver the widest range of services at the most attractive prices.

24. **Star India Pvt Ltd:-** Mobile Value added services can help bridge the digital divide in the India by delivering unique and differentiated content and services to the masses using various platforms of voice, text & data. However, for this to happen, services will need to be cheap and easy to use.

The internet has been a hot bed of innovation and have created tremendous value globally. India must attempt to apply similar principles to mobile networks, ensuring that pipes are open and consumers free to decide where to go and what to do. India could become a global leader in creation of innovative mobile services thus taking large parts of India across the digital divide but also creating huge value in the process.

Today, while there is adequate competition between operators, each operator acts as a gatekeeper to his own base and thus has monopolistic control on 3<sup>rd</sup> parties accessing their base to offer products and services.

Operators decide where, what and how their subscribers access & consume entertainment and services, limit competition and thus keep prices high.

The TRAI must, using their ability to modify license conditions, insist that Mobile Operators are utilities and thus must necessarily allow open and free access to their consumer base through standard agreements and published tariffs.

## **Additional Notes**

### **I. Indian Institute of Management, Ahmedabad (Dr.Rekha Jain):-**

1. The provision of value added service over mobile networks is creating regulation challenges. Adding to this complexity is the provision of internet over mobile hand sets.
2. While there is a tremendous increase in the mobile subscriptions, the ARPUS of most operators are falling. The MoU is increasing (please refer to the latest data on performance indicators from TRAI). This shows an extremely competitive scenario where mobile operators will seek to enhance the revenues through value added services.
3. Proliferation of mobile services has given an opportunity to a variety of VAS to develop applications and generate new revenue streams.
4. The principle in licensing is that the licensee seeks critical national or a bottleneck resource (spectrum, Row, land, etc). The license ensures that the resources are used in a specified manner.
5. Since valued added service are optional for a licensed telecom operator, the kind of services (content), their pricing and how the operator wishes to bill for this should depend on the strategy of each individual operator. Moreover, VAS do not required any additional spectrum, so it should not be required for them to come under a licensing frame.
6. Many third party service providers also provide content services (e.g., railways, banks, etc.). If mobile operators are required to inform TRAI in advance regarding new services, then so should the other service providers.
7. It would be unfair to regulate the revenue share regime of value added service providers with cellular service providers. This is based on the market, especially in view of (points 2 / 3). [The requirements of regulating value added services should be to the extent of non-infringement of copyright, not supplying obscene or indecent material, protecting privacy of the citizens, etc. For these issues, there are general laws which are

applicable to value added service providers. So there is no need of subjecting them to additional regulation.

8. As far as the mobile payments are concerned, the relevant institutions such as RBI, Banking Acts and Regulations, IT Act 2000 should provide the framework for regulating value added service providers.
9. Regarding the payments made to value added service providers by mobile operators, should fall under the ambit of the contract law and the applicable laws.
10. Value added service providers, as per the definition under point 1.3 (i, iii, iv, vi) are infrastructure based services. This should not be termed as VAS but rather additional infrastructure provides. However, services which ride on this or infrastructure, for example, voice mail services, audiotex, videotex and unified messaging should not require any special license.

**(II). IAMAI:-** It is requested that the IAMAI response to the questions raised in the consultation paper may be read in conjunction with the following other document that the association is submitting along with this document. These are:

1. "What Ails Mobile VAS Market in India, latent Markets and Market Failures": Sumita Kale and Laveesh Bhandari 2008
2. "Location Based Services on Mobile in India" Indicus Analyticus and IAMAI, 2008
3. IAMAI position paper on Mobile Value Added Services

### **(III) RCOM's Comments on Issues for Growth of Value Added Services and Regulatory Issues**

#### **Preliminary Comments**

1. The content based value added services are commonly telephone calls/messages containing information and entertainment. These services range from cricket and voting lines to competition, news and business information. The charges for the telephone calls and messages are shared between access service providers carrying the service and the organization responsible for the service.

2. The Authority has raised issues relating to licensing of content providers and regulating revenue share arrangement between access providers and content

providers. Content providers do not own telecom infrastructure and deliver their services using infrastructure of access providers. Since these operators do not own telecom networks, it may not be appropriate to license these entities under Section 4 of the Indian Telegraph Act, 1885. These operators have been classified under the OSP category in the NTP'99.

3. The main purpose of regulating these entities is to secure adequate protection for the consumers. Under the existing arrangement, there is co-regulatory approach i.e. content providers are being regulated through access providers. The registration would make them directly responsible for upholding consumer interest and provide only those contents which are in line with the code specified by the government from time to time. Similarly they can be asked to follow TRAI guidelines on VAS offerings.

4. We believe that there is no need to regulate revenue share arrangement between access providers and content providers as it is determined by commercial agreements and driven by the market dynamics. The revenue share models depend on acceptability/demand of the product. The regulatory intervention is going to distort the market dynamics and may also impact the growth of value added services. The market is already competitive with the presence of 11 to 13 facility based service providers and over 5000 content providers.

5. The registration of content providers as OSPs will bring in some kind of certainty in the business which would also encourage these operators for content branding and command higher revenue share in the market. The regulator should focus on primary issues of creating an environment for growth of services rather than direct intervention like revenue share arrangements which may impact the growth of service itself.

6. We also suggest that the Authority should focus on interoperability issues of some of the services like the network based services e.g. person to person(P2P) MMS are available to the subscribers across the networks. The services like P2P MMS, instant messaging can grow only if these are interoperable. Customers and end-users are disappointed when such MMS do not cross the network boundary. The SMS service could pickup only because it is available across the networks. Therefore, the Authority may like to decide standards for interoperable network based services like P2P MMS, instant messaging etc. However, there is no need of any standardization of content based value added services.

## **(IV) Google**

### **Response to TRAI Consultation Entitled “Growth of Value Added Services and Regulatory Issues” INTRODUCTION**

At the outset, Google again conveys its thanks and appreciation to the Telecom Regulatory Authority of India (TRAI) for its inclusive approach to public policy issues.

As TRAI may know, Google’s global mission is to organize the world’s information and to make it universally accessible and useful. In India, Google’s charge is to innovate, implement, and launch free technologies and products that serve Indian users, organizations, and indeed, all Indian citizens. In practice, Google delivers these services – web search, e-mail, maps, and online video, just to name a few – as free applications over the Internet platform.

Increasingly, the mobile phone is becoming a significant platform on which Google’s range of information-based services are valuable to end users. Whether it be SMS-based search or orkut, the mobile phone will without question remain a significant platform on which Indians express, entertain, and educate themselves. As a result, as TRAI notes in its consultation paper entitled “Growth of Value Added Services (VAS) and Regulatory Issues,” mobile value-added services will soon emerge as an important “centre of innovation” in India.

In the submission below, Google responds to TRAI’s aforementioned consultation paper. While Google’s focus is on many of the issues raised by TRAI to stakeholders, the company looks forward to further interactions with the regulatory body about the unique opportunities and challenges presented by mobile value-added services in particular and convergence in general. In many ways, Google offers this submission not simply on behalf of the aspirations of its own global organization but also on behalf of the countless other Indian innovators and entrepreneurs – those of the present and those that will comprise the future – who seek to deliver powerful value-added services to users over the mobile phone. These companies, of which Google is simply one, are poised to play an important role in the economic and social progress of India. Google looks forward to a long-lasting and productive relationship with TRAI, one in which both entities can work towards the common objective of ensuring India becomes a leading global information society.

#### **APPROACH AND VISION**

At the outset, Google would like to reiterate what TRAI states and implies in the consultation paper: that today, third-party Value Added Service Providers (VASPs) play a significant role in the functioning of the mobile VAS ecosystem. Google’s

view is that this role is sure to become even more strategic and central in the years to come.

As the development of the global Internet has demonstrated, entrepreneurs at the “edge” of the network - and not network access providers themselves - have developed the most ground-breaking technologies and have been the primary source of innovation that has changed the world.

The same is true for mobile VAS worldwide and in India. While operators do play an indispensable role in enabling and developing “non-core” VAS services, it is the countless VASPs that will become the focal point of mobile VAS innovation in India.

The above two statements are not meant to diminish the pioneering role of operators in the development of mobile VAS; instead, the points are meant to acknowledge the likely scenario that VASPs – small in size but large in number – will be the real drivers of innovation in mobile VAS.

It is with this balanced frame of mind, one which appreciates the role of the two most important stakeholders – operators and VASPs – that TRAI should continue to recommend public policy.

To be sure, with the ongoing convergence of the Internet and mobile phone, Google envisions the continued rapid growth of the mobile VAS industry.

The company, in particular, envisions an ecosystem marked by stakeholders that value openness, transparency, and interoperability. Smaller companies will drive innovation, SMS will be universal, WAP services and Internet browsing from the mobile device will become increasingly “core,” and social networking will remain a priority for Indian users.

Finally, Google anticipates a mobile VAS industry that is more squarely focused on developing services for rural users – an important constituency that requires thoughtful service and attention.

## **DEFINITION**

As it relates to the definition of VAS presented in paragraph 1.3 of TRAI’s consultation paper, Google’s initial view is that the definition appears too broad. The inclusion of GPRS as a value-added service does not, for instance, represent ground-level realities of what might constitute “core” and “value-added” services.

As more and more services become “core” and default to the mobile phone - especially as India moves from 2G to 3G - the notion of what is “Value Added” should shift accordingly.

Google hopes TRAI can incorporate this line of thinking into its upcoming public policy recommendations.

## **VALUE ADDED SERVICE PROVIDERS**

It would be inconsistent of Google - and any stakeholder - to point to the vital, central, and growing role played by VASPs in the overall mobile VAS ecosystem and simultaneously advocate against any formal recognition by the government. This is especially true given the significant business and revenue opportunities afforded by the mobile VAS system, which TRAI has summarized so effectively.

That said, Google would caution against the development of a formal, separate licensing regime for third-party VASPs. Already, the number of VASP companies in India is reaching 1,000 and - within years - it is expected that the number will be virtually countless. This is and should remain a welcome development as VASPs are, by their nature, meant to be small, nimble, and entrepreneurial – the hallmark of a technology innovator. It may not be possible to bring even 20 percent of these companies under a licensing regime.

The creation of a separate licensing regime for mobile VASPs would be analogous to doing the same for the innumerable companies providing innovative Internet-based services. Like their Internet-based counterparts, mobile VASPs rely on an ability to innovate quickly and promote their products swiftly. An entirely new and VASP-focused licensing regime would be antithetical to the objective of creating an environment in which VASPs can perform at their true potential.

### **Recommendation**

Keeping in mind the above – that is, both the need to formally recognize mobile VASPs and the difficulties that would be presented by a licensing regime – the objective of any formal public policy towards VASPs should be to define, recognize, organize, and sanction the role of VASPs.

To that end, TRAI might consider initiating a National VASP Recognition system for VASP companies. Under the rubric of this system, the government may also formally define mobile VASP and issue public policy “directives” to guide relations between VASPs and the various other stakeholders in the mobile VAS ecosystem. VASPs might be required to renew their registration on a timely basis.

The benefits of such a VASP Recognition scheme are many. First, the system would accomplish the goal of formalizing the role of third-party VASPs and would also provide accompanying definitions and criteria that could be clarifying for all stakeholders. Moreover, this system could provide a useful tool for TRAI as it would create a database and a means via which it could reach out to and report on developments in the mobile VAS industry.

Finally, such a system could lead to the creation of a government-hosted, consumer-facing “National Discovery Page” where all services and products in the mobile VAS ecosystem are listed and made available. Such a national portal could prove to be immensely useful to the end user as it can become a means via which customers can offer feedback regarding mobile VAS services to TRAI and other stakeholders.

## **SECURITY IMPLICATIONS**

TRAI raises an important security issue in its consultation paper, one which Google wishes to comment on.

In the paper, TRAI expresses its well-intentioned hope that “for security reasons it would be appropriate that the value added services provisioning platforms or servers are located within India.”

First and foremost, Google expresses its unequivocal commitment to security in India and belief that security should be the government’s paramount concern in its oversight of any industry, including mobile VAS.

### **Recommendation**

That said, Google believes that TRAI’s articulated hope for servers in India does not fully appreciate the reality of global network architecture and global organization structure.

For many global organizations, it is significantly more efficient and cost-effective to centralize services in larger data centers rather than creating data centers in each country of operation. Moreover, for many VASP companies, which as stated earlier tend to be small without an array of resources at their disposal, this would be a difficult proposition to guarantee.

Instead, Google assures TRAI that there are ways to meet the government’s important security objectives even taking into account the reality of global network architecture. It requires building effective channels of communication, standardized procedures, and clear expectations among all parties involved. Instead of presupposing that the only way to meet security objectives is for VASPs to locate servers in India, Google encourages TRAI to remain open to other ideas and initiate a dialogue with the VASP industry on this topic where specific ideas can be discussed.

## **LEGAL IMPLICATIONS**

As it relates to the regulation of content in the mobile VAS ecosystem, TRAI seems to suggest in the consultation paper that primary liability ought to wrest with VASP companies.

While Google would encourage a more balanced approach to discussions about legal liability, the company does not dispute the important need for all stakeholders to comply with Indian legal requirements in the mobile VAS ecosystem.

### **Recommendation**

At the same time, Google would kindly request that TRAI consider articulating the need for a “safe harbour” for both operators and VASPs in its upcoming public policy recommendations.

Analogous to trends visible on the Internet, mobile VAS are themselves increasingly centering on “user-generated content.” While such services of course present unique challenges, they also present unprecedented opportunities for users to create, express, connect, and educate like never before. Given the inordinate amount of data being carried on mobile networks, it would be nearly impossible for any stakeholder to proactively edit content before it is transmitted.

VASPs, instead, play the important and sensible role of a neutral technology platform, with an obligation to follow lawful procedure when made aware of illegal activity. Such a “safe harbour” - in line with international best practices - could articulate that operators and VASPs should be presumed immune from liability for unlawful activity taking place via their services unless it is demonstrated that they actively conspired, abetted, or had knowledge of the act. Put more simply, mobile VASPs should be presumed innocent unless proven guilty. Articulating this latter point would go a long way towards assuaging VASP fears that they may - without any criminal intention on their part - be held liable for the criminal activity of others. In an industry dominated by small players without significant resources, it is especially important for TRAI to articulate the hope for such a “safe harbour”; to be sure, such a position would encourage participation of mobile VASPs while the lack of such a “safe harbour” would discourage entrepreneurship and innovation. In making this point, TRAI could also add further credibility to its stated position that the growth of mobile VAS is a desirable outcome for all stakeholders.

TRAI may also of course consider other models of content regulation, including peer and self-regulation models pursued by many government organizations worldwide, including India’s Ministry of Information and Broadcasting. If so desired, Google is happy to elaborate further on the line of thinking proposed above regarding content regulation in the mobile VAS scenario.

### **SHORT CODES**

One of the prerequisites for successfully promulgating a mobile value-added service to consumers is the procurement of a “short code”; as TRAI knows, SMS serves as a distribution and promotion platform for many VAS services. As TRAI is well aware, VASPs must currently reach out to individual telecommunications operators and inquire, one-by-one, regarding the availability of a set of numbers.

In each case, individual operators must accept and allocate the chosen number to the VASP. Moreover, some operators also ask VASPs to pay a fee to obtain preferred short codes; matters are made even more difficult given that no set timeline exists in which operators are bound to approve or reject requests from VASPs for short codes.

### **Recommendation**

Undoubtedly, the process via which short codes are obtained needs to become standardized, transparent, and practical. While there are many ways in which this public policy objective may be met, one option might be to create an online system via which entrepreneurs and innovators can submit a request for available shortcodes, enter relevant contracts, and pay appropriate fees across all operators.

The Common Short Code Administration in the United States, which facilitates the ability of operators to agree on “inter-operator” common short codes, might be an example to follow. Regardless of the specific route chosen, it is clear that TRAI should recommend the creation of a new national system which can facilitate the coordination of Common Short Codes in India and the creation of a more standardized, transparent, and practical system via which they can be obtained. If so desired, Google is happy to elaborate further on this line of thinking.

### **REVENUE SHARING AND PRICING**

One of the recurring and most important topics of this TRAI consultation paper has to do with revenue sharing and whether third-party VASPs should receive revenue consistent with the value-added in the overall ecosystem. Like many other stakeholders, Google will submit that – to date – revenue-share agreements have been disproportionately and unfairly tilted in favour of operators.

If one approaches public policy and the working of the overall ecosystem with the balanced frame of mind articulated earlier and throughout this submission, it is clear that change is needed in this area.

## **Recommendation**

While some would contend that the existing telecommunications licensing regime be utilized to mandate a certain level of revenue sharing, Google submits that market forces should continue to determine revenue-share agreements.

That said, Google believes that it is of the utmost importance for the government to state in unequivocal terms - in the form of a directive or guideline and perhaps under the National VASP Recognition outlined earlier - its preference for more equitable revenue-sharing agreements that align properly with true value added to the consumer.

More specifically, TRAI might consider articulating a revenue-share band or a minimum floor price based on service type. Such thresholds, benchmarks, and point of reference - while perhaps not mandatory - can add enormous value as revenue-share agreements are finalized.

TRAI could even call for the need to reexamine the current operator billing system, whereby all billing takes place with the operator, which only facilitates the practice of lopsided revenue-shares. If another goal of TRAI is to properly brand mobile VAS, it may be valuable for VASPs to be able to bill consumers themselves, especially as they become central innovators in the mobile VAS ecosystem. Many might even argue that VASPs should lead the setting of prices that end users pay for their services, in addition to being allowed to bill the customer directly.

Google understands that such a system may not be feasible or scalable, given the facts of a fast-growing number of users and low credit-card penetration. That said, Google hopes TRAI considers the intention of this point by, as an example, considering the role third-party billing aggregators can play in India's mobile VAS ecosystem.

Finally, TRAI may also consider encouraging flat data rates from operators. It is proven in many countries that flat data rates encourage data usage and help growing VAS industries. TRAI could create proper incentives for the creation of flat data plans or, alternatively, give disincentives for the creation of plans that price per byte and type of data.

There may be no better way to slow growth and innovation in mobile VAS than by allowing current trends in pricing and revenue-share agreements to continue. TRAI should take a strong position in favour of greater equity and sensibility and take some steps - short of formal regulation - that would guide these agreements going forward. Doing so is the only way to create an incentive for innovators to innovate in the first place.

## **WALLED GARDENS**

Separately, Google seeks to remind TRAI that, as currently organized in today's licensing regime, it is the exclusive privilege of the operator to decide what consumers can and cannot access.

While this may seem sensible at first glance, operator decisions regarding what to allow and what to reject are not always motivated by issues such as legality and national security; instead, the decisions are often made subjectively and arbitrarily.

### **Recommendation**

To achieve the open and transparent availability of services, subjectivity and commercial bargaining should be reduced and certain guidelines regarding the conditions under which an operator can refuse to carry content should be established. Again, these guidelines can be issued under the rubric of the aforementioned National VASP Recognition system. The guidelines can take many forms.

As an example, they can include the line of thinking that, if a VASP has an arrangement with one of the national-level operators, the arrangement should automatically work with other operators without the need for separate arrangements with individual operators.

Another guideline for the government's consideration might be the articulation of a positive list of criterion which, upon being met, a VASP cannot be denied carriage by an operator; this would be a welcome development in light of the current negative approach taken by operators. For instance, TRAI might affirmatively state that operators, who should of course be able to charge VASPs for access to their networks, should not be able to charge VASPs based on the actual nature of the content or service being provided. Yet another approach might be for the government to encourage more transparency regarding the "Quality of Service" (QoS) of VAS on mobile networks. Google believes that such transparency - analogous to what is presently available regarding the transmission of voice data - would shed needed light on the current "Walled Garden" which disrupts the availability of some VAS and overall QoS.

If the goal of TRAI and other government agencies is to grow broadband in India, it is becoming increasingly clear that the mobile phone will be the vehicle via which to achieve this goal. Without an open mobile ecosystem in which consumers have unfettered access to valuable content and services, broadband will never reach its full potential in India.

This is a significant issue in which the TRAI and the government at large an opportunity to demonstrate leadership and a commitment to openness and accessibility.

## **INFORMATION SYSTEM MANAGEMENT AND RECONCILIATION**

As TRAI discusses in its consultation paper, the existing Management Information and Reconciliation Systems, respectively, result in final settlements and payments taking up to 120 days. Stakeholders often present divergent data on the actual use of various value-added services, which leads to conflict and delay.

This is a major impediment to the growth of the industry, and especially VASPs who are much smaller and experience more difficult cash-flow dynamics - in part due to current revenue-share trends. Leaving this issue unchecked will further slow the development of the industry.

### **Recommendation**

One way to streamline this existing Management Information and Reconciliation Systems challenge is for the government to issue a guideline or a directive, again perhaps under the new National VASP Recognition scheme. Such a directive or guideline could suggest, for example, that 2 percent variation from VASP data is acceptable and that payments should be made within 60 days.

## **MOBILE PAYMENTS**

Google thanks TRAI for including a forward-looking discussion of mobile payments in its consultation paper. In the paper, TRAI correctly states that mobile payments “may become the most convenient, secure and efficient payment method,” which would be especially “convenient . . . in rural and remote areas where there is easy accessibility of mobile phone services but banks are not in the closed vicinity.”

### **Recommendation**

Google has several points of view on this topic, one which is crucial to the development of India. First, analogous to the point made earlier in the paper regarding billing, operators should consider allowing VASPs to specify charges to end users in terms of mobile minutes. Second, the transfer of mobile minutes between carriers should be allowed. Implementation of the latter point would allow peer-to-peer and micropayments to flourish and is in line with the important principles of openness and accessibility. A user with one operator should have the ability to pay a user with another operator by transferring mobile minute credits.

Finally, Google would encourage TRAI to work towards a day when mobile currency can be converted to physical currency. TRAI should work towards the creation of a policy environment in which mobile wallets can be created and the stringent “Know Your Customer” (KYC) requirements of the Reserve Bank of India (RBI) are removed.

The approaches to mobile payments outlined above are merely some of the many ways in which mobile commerce in India - particularly in rural India - can reach its full potential. Google again thanks TRAI for its inclusion of this topic.

## **CONCLUSION**

Google again wishes to commend TRAI for raising many critical issues regarding mobile VAS in this consultation paper. While the company has not commented on all of the issues raised, it believes it has offered its views on the highest-priority topics.

Google looks forward to TRAI’s public policy recommendations on this topic and is confident that, aware of its ability to guide the industry by simply stating its position on issues, TRAI will take mobile VAS in India to new heights.

Google looks forward to further interactions with TRAI in which it elaborates further on its views on this and other subjects.