

Q.1

Do you agree with the definition of MVNO given in section 2.1.6? If not please suggest alternate definition with justification.

Bharti's Response:

In the context of Indian telecom Industry, the following definition may be adopted of MVNO:-

"MVNO licensee is an entity who has no frequency assignments, but who can provide mobile services to users by means of entering into an agreement with a licensed access service provider."

The above definition achieves the following objective:-

1. The definition proposed by the Hon'ble Authority talks about sharing of spectrum between MVNO and MNO. These words convey a sense of ownership / co-ownership, which is not true in the case of MVNO.
2. The definition adopted by the international organizations / regulators does not talk about sharing of spectrum and clearly indicates that the MVNO does not have allocation of spectrum / does not have its own radio frequency assignment. Thus, the above definition are in line with the international practices
3. The above definition also indicates the commercial arrangement between MVNO and MNO for providing the telecom services to end user, which is the essence of any MVNO's business.

Thus, we request the Hon'ble Authority to consider the above definition of MVNO for Indian Telecom Industry favorably.

Q.2

Do you think there is a need to introduce MVNO in the Indian Telecom Market? If yes, is it the right time to introduce MVNO as a distinct service provider with its own licensing and regulatory framework? Please elaborate the comments with appropriate reasoning.

Bharti's Response:

1. The concept of MVNO has been successful in those markets where (i) the number of service providers are limited (ii) adequate spectrum is available with MNO to lease-out the spare spectrum to MVNO (iii) ARPU levels are on higher side, which enables MVNO and MNO to co-exist (iv) the market is mature and highly penetrated
2. On the other hand, the Indian telecom market is extremely competitive with the presence of 12-14 telecom operators in each service area where 5-6 telecom operators are likely to launch their telecom services in near future (ii) the existing operators are facing the huge scarcity of spectrum to provide QoS to its own subscribers and there is hardly any spectrum to be spared out (iii) the

tariffs are amongst the lowest in the world and ARPU are consistently coming down (iv) the market penetration is only 25% and all the service providers are aggressively rolling out their networks to enhance penetration in rural areas. Under these circumstances, the concept of MVNO seems to be premature at this point of time.

3. Bharti has always welcomed the competition and thus, if the Hon'ble Authority feels that the Indian telecom market has a place for MVNO in current scenario; the same can be introduced under a distinct regulatory regime.
4. However, it would be appropriate that market forces decide the relationship between MNO and MVNO and there is no compulsion on MNO to enter into any commercial arrangement with any MVNO. MNO and MVNO should be free to decide the terms of its agreement.

Q3

To what extent should the MVNO be permitted to set up their own infrastructure?

Bharti's Response:

1. As the Hon'ble Authority is aware that in each service area, 12-14 telecom operators have the Access Licences, out of which 5-6 telecom operators will commence their services in neat future.
2. Thus, we believe that it would be appropriate that in the phase of opening of telecom sector for MVNO, only thin MVNO is considered. Once the market matures, other forms of MVNO shall gradually be considered.
3. In order to meet its service obligations, there should not any requirement on MVNO to create its own infrastructure. MVNO should be allowed to use the infrastructure of its parent MNO on mutually agreed terms and conditions.

Q4

(i) What Regulatory Model should be followed for MVNO in the Indian context?

Bharti's Response:

1. As stated above, only thin-MVNO can be considered. Once the market matures for MVNO, other types of MVNO model can be considered.
2. The relationship between MVNO and MNO should be left to the commercial arrangement and there should not be any pressure on MNO to provide any access to MVNOs.

(ii) What kind of obligations may be imposed on MNOs so that Mobile Virtual Network Operations are implemented effectively in India benefiting the customers? Please elaborate the comments with appropriate reasoning.

Bharti's Response:

We strongly emphasize that there should not be any regulatory / licensing obligation on MNO to enter into any commercial relationship with any MVNO. The arrangement between MNO and MVNO should be left to the market forces and be allowed to flourish on mutual terms and conditions rather than guided by licensing / regulatory regime.

Q5

What should be the eligibility criteria for MVNO?

Q6

Do you suggest different eligibility criteria for different MVNO models and regulatory frameworks? If Yes, Please suggest with justification thereof.

Bharti's Response:

As per our view, the eligibility criteria may be prescribed in terms of paid-up equity and net worth. The criteria could be a proportion of the existing criteria prescribed for Access Licence for different categories of service areas.

Q7

Should there be any restriction on the number of MVNOs attached to an MNO? Please elaborate the comments with appropriate reasoning.

Bharti's Response:

1. MNO should be allowed to enter into a commercial arrangement with 1 or more MVNOs based on the availability of its unutilized infrastructure and capacity.
 2. Only 1 MVNO may be allowed to enter into a commercial arrangement with 1 MNO. It will be a win-win proposition for both the parties as it will develop confidence level between MVNO and MNO, avoid anti-competitive behaviour and will promote long term business relationship. This will encourage the MNO and MVNO to grow together rather than at each other cost.
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Q8

What should be the commercial model/framework for spectrum sharing by MVNO; w.r.t. (i) Department of Telecom and (ii) MNO?

Bharti's Response:

1. As stated earlier, an MVNO does not own /share the spectrum. This is also clearly evident from the definition of MVNO adopted internationally and proposed by us. Thus, the question of commercial model/framework for spectrum "sharing" by MVNO does not arise.
 2. We would like to once again reiterate that the ownership of the spectrum stays with MNO.
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Q9

What should be the service obligations of MVNO? Please list them with justification thereof.

Bharti's Response:

1. An MVNO should be responsible for providing all the services to its customers just like an MNO and will have to comply with all the relevant guidelines and directions issued by TRAI /DoT from time to time, including reporting of tariff plans, etc.
 2. The MVNO will thus be responsible for customer acquisition, verification and activation. He will also be responsible for providing SIM cards, customer care and billing services, access to emergency services, etc. He will be responsible to the customer for the quality of service, controlling unsolicited commercial communications, registration of complaints and resolving the same within the time frame stipulated by TRAI's Regulations on the subject from time to time.
 3. The onus will also be on the MVNO to comply with all guidelines relating to subscriber verification and National Security.
 4. **However, we would like to emphasize that there should not be any obligation on MVNO to create any infrastructure to meet its service obligations and he should be free to provide the above services by entering into commercial arrangement with its parent MNO.**
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Q10

What should be the method and consideration for determining the entry fee for MVNO?

Bharti's Response:

The entry fee may be prescribed for an MVNO on a service area wise basis and this may be pegged at around 25% of the existing UASL entry fee.

Q11

What should be the definition of AGR for MVNOs?

Bharti's Response:

1. The definition of AGR for the purpose of all government levies should be same for MVNOs as for Mobile Network Operators. The AGR for MVNO should include all the revenues

attributable directly to the access services provided by the MVNO. Based on the principle of deduction of pass through revenues followed for IUC charges for arriving at the AGR, similarly the charges payable to MNO by the MVNO for the bulk MOUs, should be allowed as deduction from the total revenues of the MVNO for arriving at the AGR for payment of all applicable government levies.

2. For this, suitable amendments may be required in the definition of AGR for MNO so as to ensure that there is no dual levy. A VAT type of concept may be adopted for payment of government levies by MVNOs.

Q12

What is the best way to protect the subscribers both in terms of continuity of service and applicability of tariff plan:

- i) in case of a dispute between MVNO and MNO?**
- ii) in case MVNO wants to exit the business.**

Bharti's Response:

1. Any dispute between MNO and MVNO should be resolved by the terms of commercial agreement.
2. If the parties are not able to resolve the dispute, either of them could approach TDSAT.
3. In case the MVNO wants to exit the business, the MVNO should be required to give adequate notice to all its subscribers before the exit. The subscriber should be given a choice to switch to the parent MNO OR switch to any other MNO/MVNO.
4. However, it is emphasized that in the event that the subscribers choose to switch to the parent MNO or the parent MNO takes the subscribers of its associated MVNO due to any reason, the parent MNO should not be bound by the tariff plans of the MVNO and should have the freedom to modify/discontinue the tariff plans of the MVNO/offer the migrated customers the choice of plans from the existing available market plans of the MNO.

Q13

Should there be any roll out obligations specified for MVNO? If yes, what should be the penal provisions for failure/ delay in fulfilling the obligations.

Bharti's Response:

There **should NOT be** any roll out obligations on MVNOs. There would be instances where MVNOs may like to cater to only target/specific customer segments or maybe in niche areas. Prescribing roll out obligations may discourage prospective MVNOs from entering the business.

Q14

What shall be the specific guidelines on the Mergers and Acquisitions of MVNO? Please elaborate the comments with appropriate reasoning.

Q15

Should there be any restriction on cross holdings between two MVNOs and between MVNO and an MNO in a service area? Please comment on the nature and scale of restructuring.

Bharti's Response:

1. We believe that it is too early to comment on the guidelines on Mergers & Acquisitions and Substantial Equity which should be applicable for MVNOs. We should see how the market evolves over a period of time after the entry of MVNOs in the mobile segment.
 2. Thus it may be more appropriate and prudent to discuss the issue of Mergers & Acquisitions and Substantial Equity guidelines for MVNOs through a separate Consultation Paper at an appropriate stage.
 3. It may be noted that even the present guidelines for Mergers & Acquisitions and Substantial Equity which are applicable to MNOs have evolved over a period of time as the market has matured.
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Q16

What should be the FDI limit for MVNO?

Bharti's Response:

In order to ensure uniformity the FDI limit for MVNOs should be the same as for MNO, which is at 74%.

Q17

What should be the quantum of FBG and PBG for MVNO?

Bharti's Response:

As there should not be any roll out obligations on the MVNO, the question of prescribing the PBGs does not arise. However, in line with the ongoing practice, the Government would like to securitize their payouts through the FBG.

Q18

Any other relevant issue you would like to suggest /comment upon.

Bharti's Response:

(a) Interconnection/ Roaming

MVNO may operate using the interconnection and roaming agreement of the parent MNO.

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