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The Chairman
Telecom Regulatory Authority of India
MTNL Telephone Exchange Building
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New Delhi 110 002.

Sub : Consultation Paper on Mobile Virtual Network Operator (MVNO)

Kind Attn.: Mr N Parameswaran

Dear Sir,

We firmly believe that in a free economy, there should be no restriction on re-sale of telecom services or sharing of networks between MNOs and MVNOs. The MVNOs are already operating in a large number of countries having much fewer and smaller mobile networks compared to India. MVNOs create value for the customers by way of increased competition, meeting the requirements of certain niche markets as well as offering innovative value added services. However, MVNOs are generally successful in markets having limited number of MNOs and insufficient competition resulting in high tariff for the customers. In India with 5-7 service providers already providing services in each service area and another 5-6 networks likely to be set up in each service area in the near future by the new licensees who have been awarded UAS licenses in various service areas during March 2008, the mobile market is already intensely competitive. The tariffs for mobile services in India are already amongst the lowest in the world. In this scenario, it is highly unlikely that the entry of MVNOs in the 2G segment will result in further lowering of tariff to a great extent. Since the MVNOs will be sharing the infrastructure and spectrum with the existing MNOs with whom they will be entering into commercial agreements, the quality of service offered by the MVNOs may be the same or lower than the quality of service by the respective MNOs to

their customers. The MVNOs will, therefore, primarily add value in branding and to some extent in providing new value added services. Hence, it is unlikely that the MVNOs in India will be able to acquire a very large share of the total subscriber base.

In all the countries where the MVNOs have been introduced, the spectrum is auctioned and there is no restriction on the amount of spectrum an MNO can acquire, subject to availability. The MNOs entering into commercial agreements with MVNOs have adequate spare spectrum to share with the MVNO. On the contrary, in India the allotment of spectrum to an Access Provider (MNO) is linked to the number of subscribers it has and the total traffic generated by them. Moreover, the spectrum allocation norms have been recently tightened by 3-5 times at the behest of TRAI. Except at the time of initial start up of service by a new licensee who is allotted initial spectrum of 4.4. MHz without being linked to the number of subscribers/traffic, no MNO will be in a position to share the spectrum with another operator (MVNO). Under these circumstances it is doubtful if a significant number of MVNOs will be attracted to the Indian market.

From the information available in the consultation paper it is seen that in some countries the Regulators have made it mandatory for the MNOs for 3G services to reserve a part of their network capacity for the MVNOs on non discriminatory basis. We feel that a similar regulatory provision should be made in India for 3G services in view of the fact that initially only 3-4 3G MNOs may be licensed on account of limited spectrum of 25-30 MHz becoming available. This will be helpful in providing better competition and more choice for the customers as well as enable the existing 2G operators who are not successful in acquiring 3G spectrum in the open auction (which the Government is contemplating), to provide 3G services to their customers by acquiring a MVNO license. Initially the demand for 3G services is going to be limited and, therefore, 3G MNOs will have sufficient spare capacity/spectrum to share with other operators.

In our view there should be minimal entry barriers for the MVNOs and there should be no restriction for any type of MVNO to enter the market i.e. both Facility Based and non Facility Based MVNOs should be permitted. It should be left to the MVNO to decide whether he would share the entire infrastructure with the MNO or provide some of his own like HLR, MSC, IN and billing platforms etc..

In the light of the above general comments we are giving below our inputs for the various issues raised for consultation in Chapter V of the Consultation Paper.

Q1. Do you agree with the definition of MVNO given in section 2.1.6? If not please suggest alternate definition with justification.

Ans : We broadly agree with the definition of MVNO suggested in para 2.1.6. However, we are suggesting a minor modification; the suggested definition is as follows :-

“MVNO licensee is an entity that does not have assignment of spectrum for Access Services (2G/3G/BWA) but can provide wireless (mobile) Access Services to customers by sharing the spectrum/infrastructure of the Access Provider (UAS/CMTS licensee)” MVNO may be Facility Based or non Facility Based.

Q2. 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.

Ans : With 5-7 mobile networks already set up in all the urban and most of the sub urban areas in the country and also a number of infrastructure providers setting up passive/active infrastructure for leasing to mobile network operators, adequate mobile infrastructure is already available in most parts of the country except the rural areas. With teledensity in major cities reaching towards saturation, the mobile network operators are already expanding their networks to

the rural areas. Soon another 5-7 networks may be set up by the new licensees who have been issued UASL recently.

In a free economy and fully competitive market there should be no restriction on resale of telecom services or sharing of infrastructure between MNOs and MVNOs. The MVNOs are primarily the resellers who buy wholesale minutes of usage (MOUs) from MNOs and sell them to retail customers under their own brand name. We, therefore, feel that a time has come when MVNOs should be permitted in the Indian telecom market. Both Facility Based and non Facility Based MVNOs should be permitted to provide services under their own licence and specified regulatory framework.

Q3. To what extent should the MVNO be permitted to set up their own infrastructure?

Ans : As mentioned above, both Facility Based and non Facility Based MVNOs should be licensed. Except that the MVNOs will not have their own allotment of spectrum, they should have full flexibility to either share the complete infrastructure with the MNO or set up its own infrastructure like HLR, MSC, IN Platform and Billing System. In such a situation the MVNO will be sharing only the Radio Access Network (RAN) with the MNO.

Q4(i) What Regulatory Model should be followed for MVNO in the Indian context?

(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.

Ans : The MVNO should provide service under his own licence and should be fully responsible for providing all services to his customers i.e. customer care, billing, QOS etc. He should also be responsible for subscriber verification, providing monitoring facility to the security agencies (in case of facility based MVNO) and security clearance for the value added services provided by it to its customers. He should pay the prescribed entry fee for the MVNO licence and the annual licence

fee (including contribution to USO Fund) at the same rate as an MNO i.e. 10%, 8% & 6% of AGR for metros and category "A" service areas, category "B" and category "C" service areas respectively. Since he will be providing services under his own brand name he should be fully responsible for resolving the customer complaints and meet the QOS norms laid down by the TRAI from time to time. For this purpose he may enter into SLAs with the MNO while entering into commercial agreement.

Q5. What should be the eligibility criteria for MVNO?

Ans : There should be minimal entry barriers for the MVNO. The eligibility criteria for the MVNO should be the same as far the MNO except that the networth and paid up equity criteria for a service area may be fixed at the level of 10%-12% of the corresponding amounts prescribed for UASL for the same service area.

Q6. Do you suggest different eligibility criteria for different MVNO models and regulatory frameworks? If yes, Please suggest with justification thereof.

Ans : No, the same eligibility criteria and regulatory framework should be prescribed for different MVNO models. It will be difficult to regulate and monitor the performance, if licenses with different terms and conditions are issued for different MVNO models.

Q7. Should there be any restriction on the number of MVNOs attached to an MNO? Please elaborate the comments with appropriate reasoning.

Ans : In a free and fully competitive market there should be no restriction on the number of MVNOs attached to a MNO so long as the MNO has adequate infrastructure/spectrum to share with one or more MVNOs and meet the QOS requirements for its own subscribers and the SLAs entered into with MVNO(s).

Q8. What should be the commercial model/framework for spectrum sharing by MVNO; w.r.t. (i) Department of Telecom and (ii) MNO?

Ans : In our opinion there is no need to modify the commercial model for spectrum sharing by MVNO with reference to the Department of Telecom. As far as DoT is concerned the MNO should continue to be responsible for payment of spectrum usage charges/one time entry fee for spectrum, if applicable. Since MVNO will be buying bulk minutes of airtime from MNO and paying him the charges thereof, there should normally be no spectrum charges payable by the MVNO. Moreover, the specific quantum of spectrum will not be earmarked by the MNO to be used by the MVNO only. Therefore, the primary accountability for any payments to the DoT for the spectrum allotted to the MNO should continue to be that of MNO. However, in order to avoid any arbitrage due to sale of bulk minutes by the MNO at a lower rate, and the MVNO selling the same to the retail customers at higher rate, notional spectrum usage charges may be charged from the MVNO on MVNO's AGR at the same rate at which the spectrum charges are levied on his associated MNO.

As far as the commercial arrangement between MNO and MVNO is concerned for spectrum sharing, the MVNO will normally be buying the wholesale minutes of usage (MOU) of airtime from the MNO. The commercial arrangements between the MNO and MVNO should be arrived at by mutual negotiation.

Q9. What should be the service obligations of MVNO? Please list them with justification thereof.

Ans : As far as customer is concerned there is no difference between MNO and MVNO. The MVNO should be responsible for providing all the services to its customers just like an MNO i.e. he may be responsible for customer acquisition, verification and activation. He will also be responsible for providing SIM cards, customer care and billing services. He will be responsible to the customer for the quality of service, registration of complaints and resolving the same within the time frame stipulated by TRAI's Regulations on the subject from time to time.

Q10. What should be the method and consideration for determining the entry fee for MVNO?

Ans : The entry fee for the MVNOs should be related to the likely revenues of the MVNOs for category A, B & C service areas. TRAI had earlier recommended certain registration charges for UASL without spectrum. The entry fee for MVNO could be determined on the same principles. In our opinion, an entry fee of 10% - 12% of the present entry fee for UASL for a specific circle should be adequate.

Q11. What should be the definition of AGR for MVNOs?

Ans : The AGR for MVNO should include all the revenues attributable directly to the access services provided by him. The IUC charges payable to other operators including the charges payable to MNO for the bulk MOUs, should be allowed as deduction from the total revenues of the MVNO for arriving at the AGR.

Q12. What is the best way to protect the subscribers both in term 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.

Ans : Since the relationship between the MVNO and the subscribers will be the same as between the MNO and the subscribers, the same safeguards should be provided in the MNO licence as at presently applicable to UASL. The MVNO will have to give adequate notice to all the subscribers before he wants to exit the business. A suitable provision could also be made in the commercial agreement between the MNO and MVNO, that all the subscribers of the MVNO would become subscribers of the MNO if MVNO exits the business. However, the MNO should have the freedom to modify/discontinue the tariff plans of the MVNO after the stipulated period of say 3 months. This will give enough time to a subscriber to easily migrate to a new service provider if he so likes and also retain his mobile number after the MNP is implemented.

Any dispute between MNO & MVNO should be resolved in the same manner as between two service providers. If the parties are not able to come to an negotiated resolution of the dispute, either of them could approach TDSAT. However, in the intervening period the services to the subscribers should not be disrupted.

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.

Ans : No, there should be no roll out obligations specified for the MVNOs as it is not obligatory for the MVNO to establish its own infrastructure. MVNO will primarily be catering to niche segments/areas and may not roll out the services in the entire service area.

Q14. What shall be the specific guidelines on the Mergers and Acquisitions of MVNO? Please elaborate the comments with appropriate reasoning.

Ans : Mergers & Acquisitions (M&A) between MVNOs having commercial arrangement with different MNOs should not be permitted unless it is permissible for MVNO to share spectrum and have commercial arrangements with more than one MNO. Since MVNO would be depending upon the MNO for sharing spectrum/infrastructure, M&A between MVNOs would not be possible unless all the four parties involved i.e. the merging MVNOs and the two MNOs involved come to a common understanding post merger. This would be quite complex and difficult to achieve in actual practice.

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.

Ans : In an intensely competitive environment which exists today in Indian

Mobile Market with 10-12 Facility Based Service Providers (MNOs) being already licensed for each service area and the competition becoming further intense with the launching of the MVNOs, we feel there should be no restriction on cross holding between two MVNOs or between a MVNO and a MNO in a service area. On the contrary, cross holding between a MVNO and the concerned MNO with which it is sharing the spectrum, would result in better understanding and less disputes between the two, which would be in the overall interest of the subscribers of the MVNO.

Q16. What should be the FDI limit for MVNO?

Ans : FDI limit for the MVNOs should be the same as for MNOs i.e. 74%.

Q17. What should be the quantum of FBG and PBG for MVNO?

Ans : There should be no PBG if there is no specific roll out obligation for MVNO. However, if the Government in its wisdom prescribes any roll out for facility based MVNOs, PBG for the MVNO licence should bear the same ratio to the PBG for the UASL as the entry fee for the MVNO licence bears to the entry fee for the UASL for a specific service area. The amount of the initial FBG could also be determined in the same manner. However, after the services are launched by the MVNO, the amount of FBG could be reviewed from time to time and fixed based on the revenues and the licence fee payable by the MVNO for two quarters.

Q18. Any other relevant issue you would like to suggest/comment upon.

Ans : i) **Eligibility of MNOs for Allotment of Spectrum** :

Since the allotment of spectrum to the CMSPs/UAS Licenses is linked to total number of active subscribers (VLR) and an average traffic of 40 me per subscriber, the eligibility of a MNO for spectrum should be determined based on the

total Number of subscribers and the traffic generated by the subscribers of both the MNO and MVNO taken together. Otherwise, it will not be possible for a MNO to allow any MVNO to share its spectrum and the introduction of MVNOs in the Indian Telecom Market will be a failure abinitio.

ii) **Mandatory Provision of MVNOs for 3G Services :**

In some countries the Regulators have made it mandatory for the MNOs for 3G services to reserve a part of their network capacity for the MVNOs on non discriminatory basis. A similar regulatory provision should be made in India for 3G services as initially only 3-4 MNOs may be allotted 3G spectrum on account of limited quantum of spectrum of 25-30 MHz becoming available. This will be helpful in providing better competition and more choice for the customers as well as enable the existing 2G operators who are not successful in acquiring 3G spectrum in the open auction (which the Government is contemplating), to provide 3G services to their customers by acquiring a MVNO licence. Initially the demand for 3G services is likely to be limited and, therefore, 3G MNOs may have sufficient spare capacity/spectrum to share with other operators.

We hope the Authority will find the above inputs useful for arriving at its recommendations on the subject.

Thanking you,

Yours truly
For **BPL Mobile Communications Ltd.**

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