



MNP INTERCONNECTION TELECOM SOLUTIONS INDIA PVT. LTD. (MITS)

Response to

Updated consultation Paper No. 02/2019 dated 01st April, 2019

on

Review of Per Port Transaction Charge and Other Related

Charges for Mobile Number Portability

Issues for Consultation

Q1. Whether the 'Per Port Transaction Charges' should continue to be calculated based on the methodology adopted by TRAI during the review done in the past? If not, please suggest methodology and supplement it with the detailed calculations indicating costs of hardware, software and other resources etc.

Q2. While calculating 'Per Port Transaction Charge', whether the total number of MNP requests received by MNPSP or successfully ported numbers be considered? Please justify your response.

Q3. Should the charges for 'Per Port Transaction' and 'ancillary services' be determined separately or consolidated charges. Please justify your response along with detailed calculations indicating cost of hardware, software, other resources and overhead etc. in addition to the rationale for adoption of the method suggested by you.

Q4. Whether the Dipping charge, which is presently under forbearance, needs to be reviewed? If yes, suggest the methodology to determine the rate of dipping charge. Support your response with justification.

Q5. Whether the porting charge payable by the subscriber to the recipient operator should continue to be prescribed as a ceiling charge as per the current practice. If no, please suggest methodology and various consideration for calculating porting charge payable by subscribers.

Q6. Any other relevant issue that you would like to highlight on the MNP related charges.

BACKGROUND

MNP Interconnection Telecom Solutions India Pvt. Ltd., hereinafter referred to as “MITS”, was granted a license to provide MNP services in Zone 2 (South and East of India) on March 19, 2009. While MITS was ready within the stipulated 6 months for the launch of service, the actual service launch was delayed by 16 months due to factors beyond the control of MITS. MITS has provided flawless service to Zone 2 to all stakeholders without a single outage in the last 10 years of service. Further, MITS has supported both the regulator, Telecom Regulatory Authority of India (“TRAI”), and the licensor, the Department of Telecommunications (“DOT”), at various stages including implementation of Corporate Bulk porting or National porting and most recently the implementation of new MNP process defined in the seventh amendment regulation by following international best practices based on immense experience and expertise of MITS’s parent, Telcordia Technologies Inc. doing business as iconectiv.

As MITS completes 10 years of its license term and about 8 years of service, this is an opportune time to review the MNP Per Port Transaction Charges (“Per Port Transaction Charges” or “Tariff”), the methodology for calculating the Tariff, and other ancillary items related to the Tariff so that a fair Tariff is provided to MITS to operate effectively and profitably.

As additional background, the Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge (Amendment) Regulation dated January 31, 2018 was quashed by the Honorable High Court of Delhi in its recent Judgement dated March 8, 2019 (the “Judgement”). As a result of this Judgement, the current Tariff has been restored from Rs. 4/- (Rupees Four) for each successful porting to Rs. 19/- (Rupees Nineteen) for each porting request. In connection with the current Tariff consultation, it is important for MITS that TRAI issues appropriate directions to Telecom Service Providers to pay the arrears to MITS pursuant to the Judgement as per the supplementary invoices raised by MITS based on the following: (A) the difference of Rs. 15 (Rupees Fifteen) for every port request received and successfully ported from the date of the January 31, 2018 Regulation to the date of the Judgement of March 8, 2019, and (B) Rs. 19 (Rupees Nineteen) for every port request which was received but remained unsuccessful from the date of the January 31, 2018 Regulation to the date of the Judgement of March 8, 2019.

MITS thanks TRAI for this opportunity to provide our comments to this important Tariff consultation and hopes for an objective and fair review keeping in mind the issues facing MITS today. The Tariff should be determined by keeping in mind that this Tariff is the lifeline of MITS’ MNP business because this Tariff is currently the only revenue source for this business under the current Tariff model.

RESPONSE FROM MITS

Q1. Whether the 'Per Port Transaction Charges' should continue to be calculated based on the methodology adopted by TRAI during the review done in the past? If not, please suggest methodology and supplement it with the detailed calculations indicating costs of hardware, software and other resources etc.

RESPONSE 1.

MITS's position is that the current Tariff calculation methodology should continue with some changes to account for the current ground practical realities based on MITS' 10 years of operations. The proposed changes are:

- a. Tariff review should happen on a 5 year basis instead of an annual basis. This would coincide with the hardware refresh and software upgradation conducted by MITS. This would also provide stability and continuity to the business and help in business planning.
- b. The costs for any changes to the number portability functionality should be implemented as incremental Tariff to the existing Tariff in place at the time. There were no changes to MNP tariff introduced in the past when corporate porting and full number portability was implemented. MITS would request TRAI to consider both the one time implementation and future ongoing operations cost that will be incurred by MITS to implement the new MNP process as per seventh amendment
- c. In addition, TRAI should consider factoring in 10% of additional revenue to reflect the cost of late payers and non-payers. For example, last year because of closure of operations by Aircel, Reliance Communication, Videocon, MITS lost Rs. 2.45 Crores in the form of bad debts. It is difficult to survive in an environment where legitimate outstanding dues are not paid despite the fact that the Tariff is significantly below the cost incurred by MITS.
- d. The MNP volume used for Tariff calculation should be based on the most recent 5 year period adjusted for non-recurring porting volume changes due to operator closings or other unforeseen one-time spikes in porting volumes.
- e. Change Working capital requirement to 3 months from 1 month, as most operators do not pay before 60 -90 days and few operators don't even pay after one year. We have in our books Rs. 70 Lakhs not recovered from BSNL which is due for more than one year despite several follow ups and complaint to TRAI for non-compliance with

- TRAI regulation that states the payment be cleared within 15 days from the date of Invoice.
- f. MITS should be allowed to stop Port-In and Broadcasts for those operators who do not clear MITS' invoices for more than 60 days and are continuous defaulters.
 - g. Increase return on capital employed from 15% to 35%, keeping in mind the tax rates, inflation and currency fluctuations. Also as TRAI assumes Cost plus model where there are unknown factors that may lead to legal costs on account of tax and other litigations that are common for corporates so there should be ample scope to cover such eventualities as well. We recommend that a 35% return on capital employed should be allowed. The Cost plus 15% method is flawed because any incremental cost will put the entire business in jeopardy.
 - h. TRAI should factor in all costs incurred by MITS and should not disallow costs that are being incurred as part of regular business practice. Genuine business cost for which evidence is on record should not be disallowed.
 - i. TRAI should consider the Average of both MNPSPs' (operations & business) costs instead of lower of two because both the MNPSPs under different environment and average of two would be best and appropriate method to adopt.
 - j. MITS firmly believes that it must be paid for all the services (includes additional responsibilities like UPC generation & validation applicable on implementation of seventh amendment regulation) it is rendering to its customers who benefits because of the MNP service. This principle is based on the work done concept on which the tariff was determined in 2009. The recent Judgement in the Honorable High Court of Delhi has also stressed that it is work done principle that should be applied because the original tariff order also outlines the same.

Q2. While calculating 'Per Port Transaction Charge', whether the total number of MNP requests received by MNPSP or successfully ported numbers be considered? Please justify your response.

RESPONSE 2.

While calculating the per port transaction charge, the total number of MNP request received by MITS should be considered. This is how the tariff was calculated by TRAI initially and till January 2018 and it is the fair way of compensating MITS for the work done by it. Those who use the MNP infrastructure should pay for it.

As per the definition of the term in Regulation 2(n) of the MNP Regulations, the charge payable to the MNP service provider for processing the porting request. Even where a porting request is ultimately unsuccessful, the MNP service provider would necessarily have expended resources in

processing it. There is, therefore, neither a statutory basis, nor any other reasonable explanation, for making the porting payable on successful completion basis.

The manner of making a request for porting of a mobile number and the action required by the recipient TSP, the MNP service provider and the donor TSP prior to a successful porting are set out in Regulations 7 to 10 of the MNP Regulations. Regulations 12 and 13 provide for the grounds of rejection by a donor operator and the withdrawal of a porting request by the subscriber. The rights and obligations of an MNP service provider are enumerated in Regulation 16. It is clear from the scheme of the MNP Regulations, that the success of a porting request depends upon various factors, many of which are not attributable to the MNP service provider at all. For example, the subscriber may have outstanding payments due to the donor operator or may be in violation of some other contractual requirement. The MNP service provider's role and obligations are clearly and expressly delineated in the MNP Regulations. Therefore it is requested that the MITS be paid basis the port request received and not port completed.

We have also seen that since the per port transaction charge was calculated on successful ports, the rejection of porting requests have also gone up.

Once the seventh amendment regulation is implemented, MITS will be responsible to additionally handle UPC requests. The number of UPC requests are approximately 2-3 times the number of port requests. MITSs will be required to work upon each UPC request by doing internal validation first followed by executing a query to the respective donor operator to whom the subscriber belongs. It is also to be highlighted that the per port transaction charge cannot cover the UPC generation cost because when a UPC request is received, there could be UPC rejections and also, it is not necessary that all successfully generated UPC will be used by the subscribers to raise the port request. It is therefore suggested to consider all the UPC requests handled by the MITS as a separate component while calculating the tariff.

Q3. Should the charges for 'Per Port Transaction' and 'ancillary services' be determined separately or consolidated charges. Please justify your response along with detailed calculations indicating cost of hardware, software, other resources etc. in addition to the rationale for adoption of the method suggested by you.

RESPONSE 3.

In general, ancillary services should be an incremental charge to the Tariff. However, as a result of the Telecommunications Mobile Number Portability (7th Amendment) Regulations issued on

December 13, 2018, the ancillary services contained in the 7th Amendment can be consolidated with the “Per Port Transaction”/Tariff.

Q4. Whether the Dipping charge, which is presently under forbearance, needs to be reviewed? If yes, suggest the methodology to determine the rate of dipping charge. Support your response with justification.

RESPONSE 4.

Dipping service was envisaged by TRAI for the benefit of mobile operators who would not like to set up their own MNP infrastructure and would use MITS’ dipping infrastructure through the Query Response System. While MITS installed, tested and maintained a full QRS, till date no operator has used this service.

MITS would like TRAI to allow MITS to remove the QRS as there is no need for this infrastructure that adds to additional cost. With no infrastructure, there would be no need for any tariff for service.

Q5. Whether the porting charge payable by the subscriber to the recipient operator should continue to be prescribed as a ceiling charge as per the current practice. If no, please suggest methodology and various consideration for calculating porting charge payable by subscribers.

RESPONSE 5.

We take no position.

Q6. Any other relevant issue that you would like to highlight on the MNP related charges.

RESPONSE 6.

We would like to request TRAI to consider the following points as well for Tariff calculation.

- i. Those operators who receive only broadcasts should also pay to MITS as they use these broadcasts to eventually earn revenue. There could be a monthly fixed fee or a per broadcast charge.

- ii. MITS should be allowed to stop Port in and/ or for those operators who fail to pay their dues as per invoices raised by MITS for more than 60 days in a row.
- iii. There should be a penalty on operators who pay late in violation of TRAI Regulations. Such penalty should be fixed as Interest for delayed payments calculated at the rate of SBI PLR at the beginning of the year plus 200 basis points. This is similar to what is being followed in the industry as standard practice.
- iv. In future, MITS is expected to send SMS to the subscriber at various stage of the MNP process as defined in the seventh amendment regulation. It is assumed that no termination charges will be applicable on the MITSs by the operators.
- v. We would urge TRAI to ensure that MITS is compensated for the difference between Rs 19 for each requested ports versus Rs 4 for each successful port dating back to January 31, 2018 by issuing appropriate directions to the Telecom Service Providers, mandating the operators to pay invoiced amounts for the differential since January 31, 2018 to present.