

WITHOUT PREJUDICE

Bharti Airtel's response to TRAI on the Draft Telecommunication Mobile Number Portability (MNP) (Fourth Amendment) Regulations, 2012

The scale and complexity associated with implementation of Mobile Number Portability (MNP) in India is unprecedented. In spite of the enormous challenges associated with MNP, the industry along with the DoT and TRAI has successfully launched MNP and ensured that customers get the benefit of seamless mobile number portability between operators. MNP has been in force since Jan 2011 and is now available to customers, at a pan-India level.

The industry has gone through a learning curve to understand the complex process of porting numbers from one operator to another operator. During this period, it is quite but natural that there would have been shortcomings and failures resulting in not achieving the desired levels of customer satisfaction. **However, these issues are now fairly well understood, system and process have stabilized, resulting in a steep reduction in customer complaints and a steady improvement in customer satisfaction levels.**

There are few opportunity areas of improvement to make the porting process faster and closer to the time line envisaged in the regulation. We seek TRAI's support to facilitate some changes with the MNPO's like sending porting requests in 4-5 batches at specified interval and using the 7 hours window in the night efficiently.

We further believe that service providers should be assessed on the basis of overall services provided to the customers and should not be penalised for individual customer complaint considering the large number of subscribers. While financial disincentives may be a deterrent, unreasonable and unjustified levies could result in unwanted litigation. We propose that MNP should be made as one of the parameters to measure the performance of the operators with some margins and if any operator fails to meet the specified benchmark, they should be required to explain the reasons for failure and also submit an action plan to meet the same in next month's cycle. If any operator fails to meet the specified benchmark repeatedly and TRAI is not satisfied with the explanations provided by the service provider then under exceptional circumstances a reasonable amount of penalty may be imposed on the service provider. Further, MNP regulations were notified in the Official Gazette of India under the powers conferred upon TRAI under subsection (2) of Section 11 of the TRAI Act 1997. All amendments thereof may be considered under the same sections of the TRAI Act 1997 (amended 2000). The recent draft 4th amendment to the MNP Regulations, 2012 has included along with sub clauses (i), (iii) and (v) of sub-section 1 (b) of section 11.

Vide this amendment; financial dis-incentives proposed to be levied on operators for 'failing to comply...' is in the nature of a penalty. The provisions of the TRAI Act 1997 (amended 2000) does not include power to impose penalties directly.

It is submitted that the Authority may through an Amendment in the TRAI Act seek to include necessary powers to levy financial disincentive / penalty on service providers for any violation under the license.

The DRAFT Amendment proposes to establish a mechanism whereby service providers would be levied financial disincentives for contravention of the some of the provisions of

the Regulation. Without prejudice to the above our response to the specific draft amendment points are below for your kind consideration:

Proposed Amendment-1: Imposition of penalty of Rs 5,000 (maximum) per violation for delay in activation or deactivation of porting request. The proposed clause from TRAI amendment is quoted below for reference;

"(1) If any service provider contravenes the provisions of sub-regulation (6) of regulation 8 or regulation 10 or sub-regulation (4) of regulation 11 or sub-regulation (6) of regulation 11, it shall, without prejudice to the terms and conditions of its licence or the provisions of the Act or rules or regulations or orders made, or, directions issued, thereunder, be liable to pay an amount, by way of financial disincentive, not exceeding five thousand rupees for each contravention, as the Authority may, by order direct: Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the service provider has been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority."

Bharti Airtel's Response:

In order to complete the porting activations and deactivations within the prescribed timelines as specified in the MNP Regulations, it is submitted that the service providers are able to meet the time line in case of two parameters i.e. 'Recipient Operator sending customer details to MNPO within 24 Hours' and 'Donor Operator communicating clearance or rejection to MNPO within 4 days of receiving the porting request from MNPO'. There are some issues in meeting the timeline of 'Operators doing porting activation or deactivation within one hour of the request from MNPO'. In this regard it's important that the following points be appreciated:

- i) It has been observed that while operators porting systems have been designed to meet the one hour window, there are various external factors due to which there may be delay in the clearance of porting requests due to interdependency of different systems for various critical activities of provisioning, billing and customer care - all these systems need to give clearance for activation or deactivation of any number only after which the porting in or porting out can be completed.
- ii) There is huge dependence on MNPOs for various technical and process related issues. MNPOs tend to push most of the porting requests i.e. approximately 80-85% of porting requests within the first 2-3 hours of the total daily transaction timeframe of 7 hrs thereby choking the system capacities while for the rest of the period there are very few requests. As a result, the capacity which has been dimensioned for handling the entire porting requests over 7 hrs period is inefficiently utilized which results in activation / deactivation delays. It is recommended that the load is evenly balanced wherein not more than 20% of the porting requests are sent to the operators by MNPOs on a per hour basis. Remaining two hours can be utilized for clearing the outstanding porting requests so that all numbers get ported in / out in a timely manner.
- iii) Another reason is the complexity of MNP systems and its dependency on various internal network & IT systems such as HLR, IN, etc. Owing to the continuous updation in technical systems to improve performance or due to network latency issues, etc.,

occasionally downtime of such systems is taken which results in delay in activation in that time period.

- iv) Port out transactions will take longer to deactivate since the active customer must be de-provisioned from existing services that are currently being used before the number is finally deactivated. On the other hand, in case of port in customers, the SIM is kept in ready state for activation which is triggered the moment the customer applies for porting in.
- v) The TRAI must also specify whether the porting confirmation is given to the MNPOs in a synchronous / asynchronous mode so that the method of time measurement is standardized across the industry.
- vi) As explained above authority should measure the performance at aggregated level. Since, the porting activity is scheduled during the night; customers will not face any difficulties despite the porting timelines increasing to 4 hours (2 hours for disconnection and another 2 hours for activation).
- vii) While TRAI would be considering amendment in the MNP regulation, it is imperative that MNPO being an important stakeholder, their performance should also be measured through suitable parameters and benchmarks for the same are defined which will enable smoothening of the process as well as maintenance of SLAs which will lead to overall improvement in customer experience.

In view of above submissions, we propose the following criteria for the data averaged over one month;

- RO to send customer details to MNPO within 24 Hours: 98% of the cases.
- DO to communicate clearance or rejection to MNPO within 4 days of receiving the porting request from MNPO: 98% of the cases.
- Porting activation or deactivation time: 95% of the porting requests within 2 hours.

Proposed Amendment-2: Imposition of penalty of Rs 10,000 (maximum) per violation for invalid rejections of porting request using rejection reasons specified in the regulation (Contractual Obligation, UPC mismatch, Outstanding Dues, Age on Network < 90 days). The proposed clause from TRAI amendment is quoted below for reference;

“(2) If any service provider contravenes the provisions of regulation 12, it shall, without prejudice to the terms and conditions of its licence or the provisions of the Act or rules or regulations or orders made, or, direction issued, thereunder, be liable to pay amount, by way of financial disincentive not exceeding ten thousand rupees for each wrongful rejection of the request for porting, as the Authority may, by order direct: Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the service provider has been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority.”

Bharti Airtel's Response:

- Most of the rejection reasons are controlled through automated systems and the customer's mobile number is accepted or rejected for porting by the Donor Operator basis the logic that has been programmed (defined) to comply with the Regulations.
- In the initial months, service providers in their right earnest to retain the porting out customers offered additional benefits. Customers who had submitted porting requests and wanted to avail the revised offer would opt for canceling the request but the process as specified in the regulation was so cumbersome that it's almost impossible to implement as mandated resulting in process failures.
- However, these process failures have been corrected and rejection categories like UPC mismatch, Age on network, Outstanding dues are all being handled automatically so the chance of any wrong rejection is very remote. It's only 'contractual obligation' category which is primarily 'corporate / company connections' where porting request is being handled manually.
- There is significant improvement over the period of time especially after March, 2012.

Given this background and as explained in the preamble, we believe it's not advisable to start levying penalty on service providers for individual cases of invalid / wrong rejections.

It is proposed that MNP should be made as one of the parameters to measure the performance of the operators with some margins and if any operator fails to meet the specified benchmark, they should be required to explain the reasons for failure and also submit an action plan to meet the same in next month's cycle. If any operator fails to meet the specified benchmark repeatedly, and TRAI is not satisfied with the explanations provided by the service provider then under exceptional circumstances a reasonable amount of penalty may be imposed on the service provider.

In view of above submissions, **we propose the following criteria for the data averaged over one month;**

Invalid rejection of porting request: < 0.5 % of the porting requests.

The proposed structure needs to be further fine tuned and validated with the actual position of all the operators. **We are proposing that TRAI may chose to decide the assessment based on periodic audit by independent auditors similar to the audits conducted for QoS parameters. Before finalization of the parameters and benchmarks, it is recommended that TRAI should conduct a mock audit across all operators to assess the present position and thereafter decide the methodology and benchmarks.**

We would also like to submit that in light of the critical change being proposed in the MNP regulation, TRAI should come out with a detailed consultation process prior to making any amendments in the regulation.