



From:

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To

Shri Nripendra Misra
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Respected Sh. Misra,

Sub: **Comments for consideration of TRAI on the issue of Mobile Virtual Network Operator (MVNO) Consultation Paper**

Summary

The TRAI Consultation Paper on Mobile Virtual Network Operator (MVNO) has sought stakeholder and industry comments in view of the issues related to introduction of MVNO in India. The concerned issues are that of

- Definition and concept of MVNO
- Licensing and regulatory framework
- Permissible infrastructure
- Service obligation
- Revenue sharing
- Cross-holding and Merger & Acquisition

Definition and Concept of MVNO

MVNO is an entity that does not own spectrum but buys airtime in bulk in advance from a licensed operator and then provides services to subscriber under its own brand name. MVNO provides specialized and focused services well-suited for a niche customer base. Target segment of MVNO subscriber base is usually small. MVNO maintains own billing cycle, customer care and provide customer with value added services well suited and specially designed for its niche segment. Sometimes, MVNO also maintains its switching centre. But, MVNO does not have direct and/or indirect access to spectrum. Any entity that can access spectrum has to be a licensed and authorized to do so by regulator. Hence, MVNO does not share spectrum with operator but buy/leases fixed amount of talk-time from its network operator.

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Licensing & Regulatory Framework

Presently, there is no license category covering MVNO concept. A separate licensing and regulatory framework is required to ensure that subscribers are not affected by any dispute between MVNO and MNO. In our view, since MVNO primarily work towards providing highly focused value added services, regulatory framework applicable to Value Added Service Providers to be applicable to MVNO. At the same time, since MVNO issues self-branded SIM and is responsible for billing thereby having direct interface with subscriber, additional caveats must be introduced ensuring continuity of service and national security aspects. Framework must also ensure that in case of dispute between MVNO and MNO, subscribers are not left stranded. Upon exit of MVNO from business, subscribers must become responsibility of MNO.

Infrastructure

Internationally, various models are being followed by MVNOs depending upon their business objective. MVNO usually sets-up its own infrastructure for billing, customer care, VAS and other user specific content. However, MVNO must not be allowed to set-up network infrastructure in any way. Spectrum access can only be done by licensed service providers and not by those utilizing spectrum.

Service Obligation

MVNO provides interface to subscribers while accessing network. As such all the QoS parameters are to be duly applicable to MVNO as to MNO. Also, MVNO does not access spectrum, hence roll-out obligations are not applicable to MVNO.

Revenue Sharing


Since MVNO is similar to a refined VAS provider, entry fee applicable to MVNO must be same as that applicable to VAS provider. At the same time, MVNO provides direct interface to subscriber, as such additional fee should also be charged to ensure only serious players enter market. Since MVNO buys air-time from MNO and then distribute to subscriber with additional services, spectrum usage charge is already taken into account of respective MNO. It must be ensured that no double taxation happens.

Cross-Holding and Merger & Acquisition

Regulatory framework must ensure that MNO-MVNO follow a parent-child relationship. MNO to be permitted to have multiple MVNOs, but MVNO can only be associated with a single MNO. Moreover, MNO must not be obligated to have MVNO. This will ensure cross-utilization of spectrum does not happen. Moreover, let MVNOs having same MNO be allowed to merge/acquire but in case MVNOs have different MNOs resulting entity be allowed to associate with a single MNO.



Comments on the issues are attached.

With best personal regards
Yours sincerely


Brijendra K. Syngal
Senior Principal



Comments on issues

Issue – 1: Do you agree with the definition of MVNO given in section 2.1.6? If not please suggest alternate definition with justification.

Presently TRAI defines MVNO as an entity that does not have assignment of spectrum for Access Services but can provide wireless Access Services to customers by sharing the spectrum of the Access Provider.

However, conceptually MVNO does not share spectrum with MNO but buy minutes from MNO and then retail them to end users by providing additional value added services. This must clearly come out in the definition. In our view MVNO must be defined as:

“MVNO is an entity that does not have assignment of spectrum for Access Services but can provide wireless Access Services to customers by buying/leasing minutes from Access Provider in advance and then providing Access Services to niche customer segments.”

Issue – 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.

The objective behind MVNO is to provide highly targeted services to niche customer base. Indian telecom market has evolved and matured in a short span of time. Regulator’s motive must be to provide competitive options to end-users. In our view, that’s what MVNOs do by providing highly focused services. Time is ripe to provide end-users with additional options. One step in this direction will be to open Indian telecom markets to MVNO concept. However, to ensure and protect customer rights strict entry and exit barriers must be in place for the MVNO.

Also, presently there is no license category covering the services and concept of MVNO. A separate licensing framework is to be drafted to cover services and concept of MVNO.

Issue – 3: To what extent should the MVNO be permitted to set up their own infrastructure?

Internationally, MVNOs follow various business and infrastructure models as elaborated by TRAI. In our view, it must be left to MVNO to decide the business model best suited to its objectives.

MVNO must be permitted to take care of billing, customer care, value-added service provision and infrastructure to the extent of having its own MSC. However, it must be ensured that MVNO does not access MNO’s spectrum – both directly or indirectly.

Issue – 4(i): What Regulatory Model should be followed for MVNO in the Indian context?

MVNO provide value added services to niche customer base. Accordingly, regulatory model applicable to Value Added Service Providers should be applicable to MVNO as well.



Issue – 4(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.

Customer must not be able to distinguish between the quality of service as provided by MVNO vis-à-vis MNO. MVNO must be responsible for fulfilling all the QoS parameters to provide seamless service to customer.

MVNO must ensure continuity of service and national security aspects while providing services to its subscribers.

Issue – 5: What should be the eligibility criteria for MVNO?

Any entity that is serious enough to service subscriber properly and fulfills regulatory requirements should be eligible to operate as MVNO.

Issue – 6: Do you suggest different eligibility criteria for different MVNO models and regulatory frameworks? If Yes, Please suggest with justification thereof.

Business model adopted by an entity depends upon its business objective and goal it wishes to achieve. Same is applicable to MVNOs as well. It is not prudent to discriminate on the basis of model adopted by an entity. Eligibility for one and all has to be the same to enter into MVNO business and similarly regulatory frameworks applicable to them has to be uniform.

Issue – 7: Should there be any restriction on the number of MVNOs attached to an MNO? Please elaborate the comments with appropriate reasoning.

MVNO concept is based on buying of minutes and then retailing with value added services to end-user. This concept does not call for restricting the number of players providing targeted services.

A MNO, as long as it has adequate infrastructure to share, must be allowed to associate with any number of MVNO. But a MVNO can be associated with only one MNO. This will ensure that MVNO does not undertake arbitrage.

Issue – 8: What should be the commercial model/framework for spectrum sharing by MVNO; w.r.t. (i) Department of Telecom and (ii) MNO?

MVNO does not share spectrum with MNO, as such the issue is not applicable.

Issue – 9: What should be the service obligations of MVNO? Please list them with justification thereof.

MVNO provide same services as provided by MNO. Hence, MVNO must also adhere to the same service obligations as applicable to MNO. Quality of Service (QoS) parameter applicable to MNO must be equally applicable to MVNO as well.



Issue – 10: What should be the method and consideration for determining the entry fee for MVNO?

Issue – 11: What should be the definition of AGR for MVNOs?

MVNO must be treated as a value added service provider. Hence, entry fees charged to MVNO must be same as that of Value Added Service provider. Moreover, an entry fee must also be applicable to MVNO providers to ensure that only serious players enter this line of business.

Since MVNO buys air-time from MNO and charges only for additional services provided by it, MVNO must not be charged for minutes. However, MVNO should only be charged for the net of services provided by it. Regulator must devise a suitable mechanism to ensure that double taxation is not levied on MVNO.

Issue – 12: 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.**

In case of exit, MVNO subscriber should directly become responsibility of MNO, as it was providing services indirectly to subscriber. However, regulator must implement strict exit clause for MVNO such as huge exit fee to Government and both MVNO and its parent company to be disqualified from entering into Indian telecom sector in future.

Regulator must ensure that in case of dispute or exit by MVNO, MNO must be responsible for its MVNO's subscriber base.

Issue – 13: 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.

MVNO does not provide mass services but focused services. Also, MVNO is not involved in setting-up of network infrastructure. As such, concept of roll-out obligations is not applicable to MVNO.

Issue – 14: What shall be the specific guidelines on the Mergers and Acquisitions of MVNO? Please elaborate the comments with appropriate reasoning.

In our view, a MNO can have as many MVNOs as it can adequately service, but MVNO can be associated with only one MNO. Accordingly, merger/acquisition of MVNO having common MNO should be allowed. However, in case MVNOs have different MNOs then choice must reside with MVNOs to give up other MNOs and associate with single MNO.

Issue – 15: 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.

Regulator must ensure that MVNO does not act as a proxy vehicle for those desirous of entering into Indian telecom sector but not being able to do so for some reason. Cross-holding between MNO and MVNO is to be allowed provided MVNO buy minutes from its own

MNO only. Such MVNO must be allowed to buy minutes from other MNO only in the case when parent MVNO does not have presence in a circle MVNO is desirous of providing service. Cross-holding could be allowed between two MVNOs.

Issue – 16: What should be the FDI limit for MVNO?

Similar to current framework adopted for MNOs i.e. 74% FDI limit.

Issue – 17: What should be the quantum of FBG and PBG for MVNO?

As MVNO is not responsible for spectrum, PBG should not be applicable to MVNO. However, to ensure a steady revenue stream to Government, FBG in multiples of entry fees should be levied on MVNO.

Issue – 18: Any other relevant issue you would like to suggest /comment upon.

We would like to suggest if the consultation process could take into account the evolution of technology and applications to have proactive regulation vis-à-vis reactive regulation.

