

**COAI Response to the TRAI Consultation Paper No. 9/2008 on
Mobile Virtual Network Operator (MVNO)**

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

- (a) The definition of MVNO given by the Authority in Section 2.1.6 of its Consultation Paper states that the MVNO can provide wireless (mobile) access services to customers by “sharing” the spectrum of the Access Provider. It is respectfully submitted that MVNOs do not “share” spectrum with access providers /MNOs.
- (b) “Sharing spectrum” conveys a sense of ownership / co-ownership, which is not true in the case of an MVNO.
- (c) This is also borne out by the definition of MVNO adopted by various international authorities, reproduced by the Authority in its Consultation Paper. The said definitions clearly state that an MVNO
- “...does not have an allocation of spectrum...” (OFTEL);
 - “...does not own its own radio frequency...” (ITU);
 - “...does not have access to the spectrum...” (Pyramid Research);
 - “...does not have its own radio frequency allocation...” (Ovum);
 - “...does not have an allocation of spectrum...” (OFTA)
- (d) In light of the above we would like to submit that an MVNO may be defined as follows:

“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.”

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.

- (a) International experience shows that the MVNO concept is more relevant in case of markets where –
- there is excess capacity/ supply,
 - the market has high penetration and adequate maturity and
 - the ARPU levels are high enough so as to facilitate the entry of MVNOs.
- (b) However, a simple overview /examination of the Indian environment would demonstrate that in the case of India, the reverse holds true.
- There is no excess capacity / supply with the access providers in India. In fact the operators are struggling to meet the burgeoning demands of the market in

the face of continued severe paucity of spectrum. Given that the operators are facing several challenges even in meeting customer demand for their own services, it is improbable that they will have spare capacity in the networks to sell to the MVNOs.

- Further, there are already 12-14 licensed access providers in every service area, of which 5-6 are new networks which are shortly to be set up in each service area in the near future by the new licensees who have recently been awarded UAS licenses. These operators will be rolling out their networks shortly and will be adopting aggressive market strategies to capture market share. In such a scenario, MVNOs will be hard pressed to compete with the aggressive marketing strategies that will surely be adopted by the new licensees.
 - Market penetration at present is only about 25% and ARPU levels are fairly low, in fact, mobile tariffs in India are amongst the lowest in the world. In such a scenario, an MVNO whose model is based primarily on purchase of bulk minutes and selling them in the retail market under its own brand will find itself competing on the thinnest of margins which will undoubtedly put pressure on its business model.
- (c) In light of the above, we are of the view that the MVNO concept has little relevance in the Indian environment.
- (d) Nonetheless, if the Authority is of the view that MVNOs should be introduced, we would welcome the introduction of the same in an open and transparent manner with a clearly prescribed licensing and regulatory framework. This will ensure that if any entity that still sees a value proposition in the MVNO model despite the above challenges, is able to enter the Indian market through the front door as a proper licensee under prescribed terms and conditions. This will also ensure level playing field amongst all operators desirous of entering into an arrangement with an MVNO.
- (e) It is however emphasized that service providers should not be mandated to have MVNOs and the entry of the same into the market should be left to market forces.

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

- (a) We believe that both Facility Based as well as non Facility Based MVNOs may be permitted to provide services under their own licence and specified regulatory framework.
- (b) The MVNO should have the freedom to choose its business model based on its own understanding of the market.

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

- (a) It is submitted that depending on the business model, facility based or non-facility based, chosen by the MVNO, the regulatory compliance, as is applicable on MNO should be applicable in an equal manner to the MVNOs. This may cover aspects such as meeting the TRAI QOS parameters on billing, customer care, filing of tariffs and also technical parameters which may be relevant and as may be applicable/ prescribed by TRAI from time to time.
- (b) It may however be clarified that
- The MNO should not be mandated to open access to MVNOs
 - There is no sharing of spectrum between the MNO and the MVNO
 - Within a service area, a MVNO can be associated with or parented to only one MNO.

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.

We would like to submit that there should NOT be any obligations imposed on MNOs for implementing MVNO model in India. The arrangement between the MNO and MVNO, including commercial agreements etc., should be left to MNO and MVNO.

Issue 5 What should be the eligibility criteria for MVNO?

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

- (a) Any company whether a telecom firm, an FMCG, a service organization such as railways, public sector banks, etc. could be eligible to become an MVNO.
- (b) 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 for MNO's in various service areas.

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

- (a) In a free and fully competitive market there should be no restriction on the number of MVNOs attached to an MNO so long as the MNO has adequate infrastructure and capacity to share.

- (b) The choice of number of MVNOs in the service area should be left to the MNO.
- (c) Within a service area, a MVNO can be associated with or parented to only one MNO.

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

- (a) As stated earlier, an MVNO does not own /share the spectrum. This is also clearly evident from the definition of MVNO adopted internationally. Thus, the question of commercial model/framework for spectrum “sharing” by MVNO does not arise.
- (b) We would like to once again reiterate that the ownership of the spectrum stays with MNO.

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

- (a) It is first submitted that the service obligations of the MVNO will depend upon the model chosen by the MVNO.
- (b) However insofar as the customer is concerned there is no difference between MNO and MVNO.
- (c) Accordingly, 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.

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.

- (d) The onus will also be on the MVNO to comply with all guidelines relating to subscriber verification and National Security.
- (e) There should not be any obligations on the 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.

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

- (a) It is submitted that entry fee may be prescribed for MVNO on a Service Area basis and this may be pegged at around 25% of the existing UASL entry fee.

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

- (a) 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.
- (b) For this, suitable amendments may be required in the definition of AGR for MVNO 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.
- (c) All Government levies should be paid by the MVNO directly to the Government.

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.**

- (a) The relationship between the MVNO and the subscribers will be the same as between the mobile operators (MNO) and the subscribers. Therefore the same safeguards as are presently applicable for protecting consumer interest in the case of CMTS/UASL Licensees should also be provided in the MVNO licence as well.
- (b) Any dispute between MNO and MVNO should be resolved in the same manner as between the two service providers. If the parties are not able to resolve the dispute, either of them could approach TDSAT. However, in the intervening period, the services to the subscribers should not be disrupted.
- (c) 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.
- (d) However, it is emphasized that in the event that the subscribers choose to switch to the parent MNO, 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.

- (e) It may also be made mandatory for the MVNO to give a notice to the Licensor as well as the Authority prior to exiting the business.

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.

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.

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

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.

- (a) 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.
- (b) 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.
- (c) 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.

Issue 16 What should be the FDI limit for MVNO?

- (a) So as to ensure uniformity, we are of the view that FDI limit for MVNOs should be the same as for MNO, which is at 74%.

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

- (a) Since we are suggesting that there should be no rollout obligations, consequently there should be no requirement to prescribe a Performance Bank Guarantee for MVNOs

- (b) Whilst COAI is of the view that Bank Guarantees do not serve any purpose and only impose an additional unnecessary financial burden on operators and should therefore be done away with.
- (c) However, to the extent that they continued to be applied on the MNOs, they must also be prescribed for the MVNOs so as to ensure level playing field.

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

- (a) Interconnection/ Roaming
MVNO may operate using the interconnection and roaming agreement of the parent MNO.
- (b) Technical Standards
The facility based MVNOs who setup their own infrastructure should ensure that the equipment that they use complies with the standards prescribed by TEC.
- (c) Regulatory Compliance
As has been stated above, we would like to reiterate that depending on the model chosen by the MVNO, the onus of regulatory compliance will be on the MVNO.
- (d) DOT Guidelines and National Security
The MVNO should comply with all the necessary guidelines issued by DoT and also meet the requirements of National Security as may be prescribed from time to time. The requirements, which may vary depending on the business model of the MVNO, must be complied by the MVNO.
