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No. RP/ FY 14-15/ 081/ 037

Dated: 7th October, 2014

Shri Sanjeev Banzal,
Advisor (NSL)
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
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New Delhi – 110 002

Sub: Pre-consultation paper on 'Delinking of license for networks from delivery of services by way of virtual network operators'

Ref: TRAI Pre-consultation Paper No. 10/2014, dated 3rd September, 2014

Dear Sir,

This is with reference to your above mentioned Pre-consultation Paper. In this regard, please find enclosed our response for your kind consideration.

Thanking you.
Yours Sincerely
For Bharti Airtel Limited

Ravi P. Gandhi
Chief Regulatory Officer (Policy)

Encl : As Above

Airtel's Response to the Pre-Consultation paper on 'Delinking of license for networks from delivery of services by way of virtual network operators'

The Government has set bold policy objectives of building 'Broadband Highways' and a 'Digital India', both of which require long-term and extensive investments in telecom infrastructure. Long-term policy stability and sufficient availability of critical resources such as spectrum are key enablers for attracting such investments.

At present, the Indian telecom sector is characterized by excessive competition due to the presence of multiple TSPs, resulting in fragmented spectrum holdings that contrast strikingly with its international counterparts. The Industry is facing challenges of increasing debts, hyper-competition, eroding margins, high duties/levies, etc.

This has resulted into a situation where despite the telecom sector being liberalized for the last 19 years, most of TSPs have not yet made their return on capital. Therefore, there is an urgent need to improve the prevailing financial and market conditions, which will be a precursor for attracting future investments.

Without addressing the above, the entry of MVNOs, will only lead to further deterioration of the prevailing industry's financial health and its ability to attract future investments. We believe that before deliberating on and attempting to develop a policy framework for MVNO/VNOs, there is a pressing need to address the challenges related to the Industry structure by way of promoting consolidation and other enabling policies. This will not only help in improving the financial viability and sustainability of the sector, but also attract much needed investments for meeting national objectives.

Accordingly, the current pre-consultation paper on MVNO/VNOs is premature and the discussions on the same should be deferred till an enabling industry structure is in place in line with other developed markets and the maturity has been achieved. Some supporting arguments are articulated in detail below:

1. **Industry needs consolidation and not resellers:**

   The presence of high number of TSPs has led to excessive fragmentation of spectrum and the Indian TSPs are holding abysmally low quantum of spectrum, approx. 13MHz on average, as compared to its international counterparts e.g. {(EU allocation (92.6MHz), UK (82.2MHz), France (138.5MHz), Spain (100.6MHz) and US (96MHz)}.

   Due to constrained spectrum availability, some large and efficient TSPs are already running their network at almost full utilization and facing huge congestion and capacity constraints to provide the much needed data/internet connectivity. In contrast, some TSPs, who are struggling financially, are sub-optimally using their spectrum resources. Such skewed utilization of resources is clearly visible from the fact that the top three TSPs with 70.3 % RMS hold only 33.8% of the total spectrum. While each of the top 3 TSPs have rolled out 1 Lakh to 1.5 Lakhs towers and cover a large part of the country, the bottom 3-4 TSPs have rolled out very few towers and rely heavily on intra-circle roaming and keeping their assigned spectrum underutilized.

In view of the aforesaid, the Industry is in dire need of consolidation, as it cannot carry on with so many TSPs. Recognizing this, TRAI[1] has not only acknowledged the need for lesser TSPs in India, but also the need for promoting consolidation. In this context, TRAI has already recommended that the government allows spectrum trading and sharing. Such consolidation would be in line with global best practices where policymakers recognize that the competitive health of a market cannot be measured by the number of competitors – but rather the extent to which competition delivers sustainable long-term socio-economic benefits. Globally, emphasis has always been on discouraging a high number of TSPs to avoid fragmentation of spectrum and ineffective utilization of resources.

Therefore, in order to achieve the national objectives of 'Broadband Highways' and a 'Digital India' the Industry first need policies that facilitate consolidation and creation of critical infrastructure instead of resellers such as MVNO/VNOs.

Further, the presence of MVNOs is justified and relevant only in those markets where the number of MNOs is no more than 3-4[2] {(Australia – 3, France– 4, Germany – 4, UK – 4, Denmark – 4, Norway – 4)}. In such markets, the government attempts to improve the competitive environment and give more choice to retail customers by allowing virtual operators rather than introducing additional MNOs, which would constrain spectrum resources. In contrast, the Indian telecom market is already intensely competitive with the presence of 7-13 MNOs across service areas, which is quite high by any global standards.

2. Virtual Operators dis-incentivize investments in telecommunications networks:

The rollout of telecom networks is a capital-intensive exercise that requires significant investments. To meet national objectives, the sector needs enormous investments. E&Y[3] estimates indicate that Indian TSPs need to commit cumulative capex of ~INR 2,50,000 Crs. over the years 2013-20 to meet NTP 2012 targets of 100% tele density & 600mn Broadband connections. This figure does not reflect acquisition of spectrum via auctions. In another

[1] http://www.bgr.in/news/telecom-merger-and-acquisition-guidelines-need-to-be-reworked-trai-chairman/
[2] GSMA Intelligence Report
[3] E&Y ASSOCHAM Report on "Telecom Sector : Harbinger of inclusive growth" dated 20th March 2013

analysis, as per Planning Commission's 12th plan projections – Telecom sector is expected to invest Rs. 943,899 Cr during this 5 year plan – and 92% of that is expected to come from the private sector. Given the current situation, it is impossible to attract such huge investments unless there is an enabling industry structure.

The impact of MVNO entry on investments in networks has been studied extensively, and much evidence points unequivocally to the fact that the very presence of virtual operators reduces the incentives to invest in network infrastructure [4] [5] [6] [7]. MVNOs require very low investments for entering the market and Investors would consider it more prudent to invest in VNO/MVNO ventures over NSO/MNOs, as investments in VNO/MVNO would be higher yield compared to MNOs. Investments in the MNOs would be severally hampered and could risk meeting the national objectives of building broadband highways and Digital India.

While the Industry is still in the process of connecting the unconnected parts of India it cannot afford any policy that may have an adverse impact on investments in telecom infrastructure.

3. **Entry of VNO/MVNO will have a negative impact on the financial health of the sector:**

The financial condition of the sector poses several challenges. The cumulative debt burden of telecom companies increased by over 300% from INR 82,726 crores in 2008-09 to INR 2,50,000 crores in 2012-13. Over the same period EBITDA margins fell from 33.8% to 15.5%. The PAT of TSPs, which was in the range of 35% to (-) 53% in 2006-07 has further declined in the range of 14% to (-) 101% in 2011-12. Therefore, the existing TSPs are facing many challenges to attract investments to meet national objectives.

In such an environment, the entry of VNO/MVNO with minimal investment and commitment in the sector will only disrupt the market structure and deteriorate the financial health of the sector.

[4] G. A. Woroch, "Open Access Rules and equilibrium broadband deployment," Frontiers of Broadband, Electronic and Mobile Commerce. Physica-Verlag: Heidelberg, pp. 221-246, 2004.
[5] K. Kotakorpi, "Access Price Regulation, Investment and Entry in Telecommunications," International Journal of Industrial Organization, vol. 24, pp. 1013-1020, 2006.
[6] Kim et al, "Access Regulation, Competition, and the Investment of Network Operators in the Mobile Telecommunications Industry, globalization & development centre, Bond University, 2010.
[7] C. Cambini and Y. Jiang, "Bradband Investment and Regulation: A literature Review," Telecommunications Policy, vol. 33, pp. 559-574, 2009.

4. Existing tariffs are lowest in the world:

Globally, the MVNO model generally works for niches or areas where MNOs are unable to offer services at competitive prices[8]. Given that, a hyper competitive environment in India has already delivered the lowest tariffs in the world, and any further reduction due to the entry of MVNOs may not be viable and sustainable in the long term. This sector has already witnessed the negative effects of hyper-competition in recent past. In fact, TRAI[9] has also recognized that hyper-competition has adversely affected the financial health of TSPs/Industry and the current state of the Industry is unsustainable in the long run.

In our view, introduction of VNO/MVNOs will result in an irreversible adverse impact on the financial condition of the Industry.

5. Stable licensing regime is a precursor for attracting massive investments:

In May 2010, TRAI recommended that all future licenses should be granted as Unified Licenses and spectrum should be delinked from the licence. Thereafter, while giving its views on draft National Telecom Policy 2012, the NSO/SDO licensing model was neither recommended by TRAI nor considered as a substitute for the Unified Licence.

Subsequently, TRAI made its final recommendations on Unified Licence in May 2012. The recommendations were formulated after taking into consideration the licensing regime of other countries, which also finds mention in the current pre-consultation paper. Basis TRAI's recommendations, in August 2013, DoT announced the guidelines for grant of Unified Licenses.

During the last spectrum auctions, TSPs have acquired spectrum worth thousands of crores with a belief that TSPs would be granted a Unified Licence in its current form, valid for 20 years. Some TSPs have already signed the Unified Licence and some existing TSPs are in the process of migrating to the new licensing regime. Therefore, a consultation process on a new licensing framework would not only be premature at this stage, but would also undermine the recently introduced Unified Licensing regime.

Moreover, there is no visibility over the associated benefits of introducing a new licensing model for NSOs and SDOs which otherwise cannot be achieved with the existing licensing framework or by further reforming it.

[8] D. H. Shin, "MVNO Services: Policy implications for promoting MVNO diffusion," *Telecommunication Policy,* pp. 616-632, 2010.

To encourage massive investments, a stable and predictable licensing regime is critical. Therefore, an appropriate approach would be to continue with the existing Unified Licence regime to avoid risks to critical investments and to achieve the objective of 'One Nation One license'.

In addition to the above, the policy issues related to Industry structure should be resolved by way of allowing spectrum trading and spectrum sharing and liberalizing the prevailing merger & acquisition guidelines.

To summarize, the Indian telecom market is extremely competitive and fragmented. In such a scenario, the introduction of MVNOs will only lead to further disruption of the market structure and will not provide any additional benefit (such as new services or more affordable tariffs) to customers in a sustainable manner. Therefore, the deliberation of MVNO or VNO should be deferred till such time that the industry reaches a fair state of consolidation and maturity where network deployment achieves requisite scale to meet national targets of broadband penetration.

In light of the above, we are not making comments on the additional issues associated with the subject matter viz. the nature of agreements, numbering scheme, roll out obligations, lawful interception, etc.