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Shri S. T. Abbas
Advisor (Network, Spectrum & Licensing)
Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan,
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New Delhi-110002

Ref: **ACTO's Response to TRAI's Consultation Paper dated September 19, 2019 on Reforming the Guidelines for Transfer/Merger of Telecom Licenses**

Dear Sir,

With reference to the *Consultation Paper on Reforming the Guidelines for Transfer/Merger of Telecom Licenses* issued by Hon'ble Authority, Association of Competitive Telecom Operators (ACTO), is pleased to provide its comments.

We hope that our comments (enclosed as Annexure - I) will merit consideration of the Hon'ble Authority.

Thanking you,
Respectfully submitted

Yours sincerely,
for **Association of Competitive Telecom Operators**

Tapan K. Patra
Director

Encl: As above

Annexure-I

ACTO's comments on TRAI Consultation Paper on Reforming the Guidelines for Transfer/Merger of Telecom Licenses

Association of Competitive Telecom Operators (ACTO) is pleased to submit the following comments to the Telecom Regulatory Authority of India (TRAI) in response to Consultation Paper on "Reforming the Guidelines for Transfer/Merger of Telecom Licenses" dated 19th September 2019.

DoT had issued the guidelines for transfer/merger of various categories of telecommunication service licenses/authorization under UL on compromises, arrangements and amalgamation of the licenses on 20th February 2014. However these guidelines and the subsequent amendments dated 30th May 2018 & 24th September 2018 had not considered the impact on VNO business. Therefore, there is a need relook as the guidelines were made when Virtual Network Operators (VNO) was not introduced in India.

Moreover, number of access providers has been reduced from 12 to 4 now and in order to ensure completion in the market, there is an urgent need for the VNO to grow.VNO policy/regulatory frame work need to be relooked on transfer/merger aspects including other pending issues like allowing multi parenting for access services, interconnection and non discriminatory access by service providers to the VNOs.

ACTO's response to the specific questions raised in the consultation paper:

Q.1 What reforms are required to be made in the existing guidelines on Transfer/Merger of Licenses to enable simplification and fast tracking of approvals? Kindly provide clause-wise response along with detailed justification.

ACTO's response:

In general the guidelines on Transfer/Merger of Licenses should be kept simple and time bound clearances process should be ensured keeping in mind ease of doing business in India.

Q.2 Whether mandatory access to MVNOs should be provisioned in the DoT M&A Guidelines to address the competition concerns? If yes, in which cases the access should be mandated and what should be the guiding principles for provision of wholesale access to MVNOs? If no, kindly provide justification.

ACTO's response:

VNOs need to have mutual agreement with the TSPs in order to carry out the business. In case of merger/ acquisition/ transfer among TSPs, the existing agreement between TSPs with VNOs is required to be honored and continued by the acquirer or merged entity as appropriate. Similar clauses exist under the current telecom licenses wherein in case of termination, surrender or any such situation the services to customers need to be continued including the quality of

service. There is a need to have similar kind of verbiage as in the telecom license to protect business of VNOs. Transfer and Merger policy should not impact the existing VNOs business and continuity needs to be maintained.

Globally there is a general practice that regulator/policy maker to ensure that the customers continue to enjoy the benefits of competitive market despite the merger and acquisition among TSPs without impacting the capex expenditure for the industry. Worldwide TSPs are mandated to ensure non-discriminatory access to VNOs by regulators which will lead to the emergence of large VNO in short span of time and also help in succeeding of the VNO Policy.

Given the current maturity levels and dynamics of Indian telecom market and the general financial health of the telecom sector, due support to VNOs needs to be ensured. Any stakeholder who plans to contribute by becoming a part of the Telecom Sector is able to compete effectively from business sustainability and viability perspective. It therefore becomes imperative for the policy framework to recognize the unique requirements of emerging business models which will help create an ecosystem for achieving Government's objectives to spread the connectivity which will be key for the success of Digital India.

We request TRAI to ensure continuity of VNO business with the same terms and conditions in case of any merger/transfer of license of parent companies in this recommendation.

Additionally, we would like to mention one more issue related to VNO:

Multi parenting for VNOs to provide access service.

Presently VNO license does not allow multi parenting for access service. The Condition under UL-VNO license dated 1st June 2016 (Clause 1.3 (iii) Page 9)

"1.3

..(iii) There would not be any restriction on the number of VNO licensees per service area. VNOs are allowed to have agreements with more than one NSO for all services other than access services and such services which need numbering and unique identity of the customers."

Condition under UL-VNO License Guidelines dated May 31, 2016(Para XXII, Page 5)

*"VNOs will be allowed to have agreements with more than one NSO for all **services other than access services** and such services which need numbering and unique identity of the customers".*

This artificial restriction on VNOs with access services is a roadblock to provide a high quality services to its customers even if they are willing to pay even additional charges for customized and reliable services. The issues on call drops, quality have been a going concern amongst consumers. Therefore it is imperative that VNOs be provided the much needed flexibility to have agreements with more than one (multiple) NSOs so that customer does not suffers and gets a seamless and reliable service. In order to avoid such situations the VNOs should be allowed to multi-parenting with multiple NSOs for access services also.

However the NDCP-2018 states-

“1.1 (j) By encouraging innovative approaches to infrastructure creation and access including through resale and Virtual Network Operators (VNO)”

We would therefore request that the said **restrictive condition** be removed from the existing license terms and conditions, as it takes away the much needed flexibility from the hands of a reseller (VNO) to provide services to its customers. The restrictions are arbitrary and discourage a VNO to expand its business based on the customer choice and network availability. The clause in the current form restricts the VNO from offering innovative and efficient services as it ties down the VNO to only a single Access Service Provider (NSO). This will mean that the VNO and the customer has to accept whatever quality of service is being offered by a single access service provider (NSO) instead of getting benefitted by the offerings of VNO using multiple service providers. Such a restrictive condition is not there with respect to any other service authorized to be resold under the VNO license.

Q.3 In your view, what changes are required in the provisions of UL so as to make them unambiguous? Please provide justification.

ACTO's response:

We have no comment.

Q.4 If there are any other issues / suggestions relevant to the subject, stakeholders may submit the same with proper explanation and justification.

ACTO's response:

We have no comment.
