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Ref: ACTO Response to TRAI's pre Consultation Paper issued vide Press Release No. 58/2014 on 'Delinking license for networks from delivery of services by the way of Virtual Network Operators (VNOs)'.

Dear Sir,

We express our sincere thanks to the Hon'ble Authority for bringing this pre consultation paper on delinking license for networks from delivery of services by the way of Virtual Network Operators(VNOs).

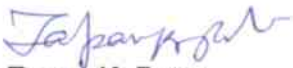
ACTO is pleased to provide its responses to the questions and issues posed in the captioned pre Consultation Paper including other issues which are also relevant under phase two of unified license regime deliberated through the current consultation exercise.

We hope that our comments (enclosed as Annexure - I) will merit the kind consideration of the Hon'ble Authority and will be included in the main consultation paper which will follow this exercise.

Respectfully submitted,

Yours sincerely,

for Association of Competitive Telecom Operator



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Encl: As above

Annexure-I

ACTO's response on TRAI pre consultation paper on 'Delinking of license for networks from delivery of services by way of Virtual Network Operators (VNOs)'

Introduction

When telecom markets got saturated and matured in the advanced countries, we have seen a new concept of Virtual Network Operator emerging which help push further growth, competition in the market, facilitate roll out of new technology through innovation, increased customer satisfaction and affordability. With 950 millions of mobile connections in India, it's right time to introduce resale of bandwidth services in retail wholesale with or without value addition through the introduction of VNOs to push for further growth/investment in the telecom sector.

In its pre Consultation Paper, TRAI has asked for inputs from the industry on the related issues which may arise and need to be addressed in case the proposed licensing framework is implemented.

It would be relevant to quote from the recently announced National telecom Policy (NTP) 2012 which inter-alia stipulates the strategies of the NTP-2012 to facilitate resale and the role of new technologies in furthering public welfare.

"3.3. To move towards Unified Licence regime in order to exploit the attendant benefits of convergence, spectrum liberalisation and facilitate delinking of the licensing of Networks from the delivery of Services to the end users in order to enable operators to optimally and efficiently utilise their networks and spectrum by sharing active and passive infrastructure. This will enhance the quality of service, optimize investments and help address the issue of the digital divide. This new licensing regime will address the requirements of level playing field, rollout obligations, policy on merger & acquisition, non-discriminatory interconnection including interconnection at IP level etc. while ensuring adequate competition"

"3.8 To facilitate resale at the service level under the proposed licensing regime – both wholesale and retail, for example, by introduction of virtual operators – in tune with the need for robust competition at consumer end while ensuring due compliance with security and other license related obligations"

International Best Practice

International experience aptly demonstrates that the competition in the Telecom space is gradually shifting away from traditional competitor's i.e pure vanilla network operators to resellers, Virtual Network Operators (VNOs). The new breed of companies/operators are not competing with the traditional telecom companies on price or superior network but on enhanced customer experience and moving away from traditional to innovative business offerings tailor made to suit the business requirements of enterprise as well as small and medium businesses.

Removal of restrictions on resale facilitates more efficient use of infrastructure, increases competition, availability of innovative services and stimulates affordability in the sector. The current license regime needs to be amended to permit resale of all fixed or mobile telecommunications services both at wholesale and retail level including through VNOs. This will

help allow customers and operators to benefits, including faster roll out of services having less tele density.

The role of VNOs in such a scenario is very critical especially for the proliferation of emerging technology formats like cloud and Machine-to-Machine (M2M) services which are expected to usher in the next wave of telecom revolution in India and represents the next big opportunity in the industry.

Given the tremendous opportunity that lies untapped there is a urgent need for the introduction of VNO's to tap the opportunity in this space, given the fact that the current estimates are a fraction of what lies in the future which represents huge growth for sector.

The focus of the government policy as reflected in the NTP-2012 has been to provide affordable access and efficient service delivery to the end users. The role of VNOs for facilitating such services thus becomes very relevant and becomes an important part of a operator's business model.

Globally it is seen that many VNOs are partnering with MNO's to be a part of the service delivery value chain. VNO's can really play a significant role in partnering with the MNO's to provide a bouquet of services in a more scalable and innovative fashion.

The VNO model can either expand the distribution strategy of the MNO's and potential areas of innovation in the infrastructure sharing space. Alternatively the VNOs can also have their own strategy as well in terms of having control of various service elements to provide service to the end customer.

Pursuant to the opening up of the telecom sector for private participation in 1994-95', telecom service providers in India have invested significantly in building the networks as part of their roll out obligations under the license. Through the VNO, there is an opportunity for the integrated and facilities based network operators to leverage their already established networks & associated infrastructure and create innovative services and pricing plans and expand distribution channels for their services.

Traditional business models are also giving way to newer service formats as business customers are becoming increasingly comfortable with service & pricing models that create maximum value for them. Internationally there are examples of TSP's embracing VNO business models to expand and drive growth.

In ASPAC region, Australia mobile market has four main telecom operators and 43 VNO's, similarly in Hong Kong mobile market there are six MNO's and 11 VNO's. Thus all the above Global trends indicate that VNO is considered one of the ideal options for a service provider's and VNOs expansion and growth strategy.

Issues for Pre-Consultation

The additional competition in India's telecom markets resulting from introduction of VNO measures will benefit Indian businesses and consumers and the economy as a whole by ensuring competitive prices, new and innovative products and services and expanded customer choice. In addition, it is vitally important that TRAI work towards ensuring clarity and transparency in the rules and regulations that relate to VNOs. Such clarity and transparency in India's regulatory framework provides new entrants the necessary assurance that they can

compete on a fair and equitable basis and fully enjoy the benefits of market opening reforms such as these.

Issue 1 as mentioned in S. No. 22

In the proposed licensing framework, based on the VNO model, one issue could be whether the existing TSPs, will have to obtain an (Network Service Operator) NSO license or both NSO & (Service Delivery Operator) SDO licenses on migration to the new licensing regime? A linked issue for deliberation will be about the necessity of changing the licensing regime at all, at such a short interval since UL was introduced.

ACTO Response:

The issue may be viewed from the following perspectives:

- a) Existing Telecom Licensees who already have networks on the ground and provide services to end users on the strength of the said networks, may wish to become VNOs may seek flexibility opt for a standalone & pure resell regime notwithstanding their existing network capabilities on the ground.
- b) New Entrants who may wish to enter the sector by becoming resellers VNOs.
- c) Separate Registration or License based framework regime for existing licensees as resellers VNOs.

The existing licensing regime did not distinguished operators based on creation of networks and provision of service. As a consequence the existing licensees already included everything necessary for the provision of services over a carrier's own infra-structure. So there is not really a need to change it. What is required is an enabling provisions to provide a push for resale of services at wholesale and retail level. One of the options could be through VNOs. Then there could be the possibility of issuing separate licenses to entities that provide services over another company's infra-structure.

Alternatively this may relate to allowing new entrants as well as existing operators in the sector who may wish to become a VNO for which an authorization registration based model may also be looked into.

So the matter needs to be discussed in light of the above options. The objective would be to ensure that resale VNOs regime is encouraged for competition, innovation and affordability in the sector.

In this regard, TRAI should be guided, for example, by the evolution of the pro-competitive national deregulatory framework for Commercial Mobile Radio Service (CMRS) prescribed by Congress and implemented by the Federal Communications Commission (FCC), which has enabled both facilities-based and resale wireless competition to flourish in United States, with substantial benefits to consumers and the U.S. economy.

Issue 2 as mentioned in S. No. 23

Presently there are 7-13 licensees in various service areas. Therefore, another issue for deliberation could be about the need for introduction of more competition in the form of VNOs. Apart from access services, for other services like V-SAT, PMRTS/CMRTS, GMPCS, it needs to

be deliberated whether any business case/revenue potential exists for a standalone Virtual Operator for these services.

ACTO Response:

In our view VNOs should be introduced in all the services including access services both for voice as well as data services. Unless the VNOs are provided access to all the available services, it may not be helpful for overall growth perspective. Resellers VNOs business should be encouraged as against restricting their ability to serve to limited services.

VNO model has mostly been about offering affordable, rebranded mobile network operator's services and controlling and reducing own overhead costs. Generally VNO business has been built on three advantages:

1. Customer acquisition is faster and less expensive than that of an MNO because of possible existence of established distribution channel. VNOs ability to focus on marketing activities instead of maintaining and controlling whole communication value chain should provide them with advantages as regards to creating differentiating services.
2. Customer churn should be lesser than that of an MNO because of VNOs ability to focus on its customer segment and develop services accordingly.
3. Unit cost of a customer should be smaller because of lower cost of day-to-day telecom operations.

Issue 3as mentioned in S. No. 24

In India, the TSPs have infrastructure, including spectrum, which is just about sufficient to cater to their own requirements. Would they really be able to spare their infrastructure for new SDCs?

ACTO response:

We therefore feel there is sufficient scope for infra-structure providers to provide access to their networks without having to diminish or degrade the services they offer to their customers.

Issue 4 as mentioned in S. No. 25

It can also be deliberated whether the reference of DoT envisaged an entirely new licensing regime or could be considered to mean that a chapter may be added to the existing UL for facilitating licenses to the VNO.

ACTO Response:

The DoT reference dated July 7, 2014 to Authority under Point 3 clarifies that DoT in year 2013 had proposed to introduce Unified License (UL) in two phases. The first phase of UL was introduced in August 2013, we understand that the current reference by DoT is to address some of the additional and related aspects under UL phase two which will help move towards full convergence as well as facilitate delinking of networks from delivery of services.

DoT has requested Authority to submit its recommendations on VNOs including associated issues under unified licensing regime. Therefore it is apt and relevant to address the issue of allowing full convergence under the scope of pre-consultation.

Therefore as it relates to existing licenses, authority may consider adding a separate chapter to the existing licenses to facilitate resale VNOs. Alternatively a new authorization registration based regime needs to evolve to take care of New entrants entities who may wish to enter the sector.

Associated issues as mentioned in S. No. 26

- **Roll out obligations**

ACTO Response:

We do believe that Roll-out obligations are not appropriate in the case of resellers VNOs.

- **Nature of Agreement:**

ACTO Response:

MNO and VNOs reseller's agreements should be driven by market commercial negotiated terms without any need of regulatory intervention.

- **Sharing of Infrastructures:**

ACTO Response:

Sharing of infrastructure between the VNO and MNO should be a matter of commercial mutual agreement and settlement. The emerging regime should allow for sharing of both passive and active infrastructures. The reseller VNO should be able to provide services on the strength of complete infrastructure of MNO.

- **Issue of spectrum usage charges:**

ACTO Response:

No comments

- **Allotment for the Numbering Resources:**

ACTO Response:

The regime facilitating resale VNOs should have necessary provision for allotment of separate numbering arrangement for better administrative purpose in line with national numbering plan. The resellers VNOs should also have some capabilities to own some pieces of service delivery to be able to provide enhanced quality service to the end customers.

Lawful Interception:

ACTO Response:

In our view the assistance for lawful interception should be provided by MNO as the underlying network operator. This is an important area and needs more discussion in the consultation paper in light of CMS.

Issue 5 as mentioned in S. No. 27

One issue for consideration could be that instead of introduction of VNOs in all areas of Voice, data and Videos, should MVNOs be allowed to function under the present UL framework?

ACTO response:

VNO's should be introduced in all areas of Voice, Data& Videos under all licenses.

Issue 6 as mentioned in S. No. 28

Another point for deliberation could be that today there is no licensing regime for application providers Over-The-Top(OTT) operators. With the introduction of the proposed model, would those entities also need to take a license for providing these services.

ACTO Response:

OTT services cannot be compared fully with the proposed model of resale VNOs being deliberated. These are more type of application content based services. We note that TRAI is contemplating to issue a consultation paper on this issue, We await next steps from Hon'ble Authority in this regard to comment appropriately. We believe that all telecom services should be provided based on suitable authorization license under section 4 of Indian Telegraph Act 1885.

Additional Comments

We recommend that TRAI consider allowing resale both at wholesale and retail level including VNOs under the proposed phase two of unified licensing regime or suitable authorization mechanism similar to those in Europe and the US where a single, easily-obtained authorization allows operators to provide a broad range of data and voice services, fixed and mobile, facilities-based and resold, which has created the most dynamic telecom markets in the world with providers continuously able to offer new and innovative packages of services in response to customer demand and technological developments.

It is also equally important that TRAI ensures when opening up any reseller market that the license fee regime does not negates the very goal of promoting competition and creating a level playing field among all service providers. Specifically, the license fee should not operate as a multi-stage and cumulative levy. Facilities-based operators such as MNOs relying on their own networks need only pay the license fee once, while the services that operators such as VNOs buy from other operators are subject to the license fee twice – once when they are sold from the first network owner (MNO) to the second operator (VNO) and then again when the second operator sells them to the end user. Thus, a telecom operator who buys inputs from other licensed operators is placed at a competitive disadvantage with those who do not need to buy these inputs if the license fee is levied at every sales point in the supply chain. In addition to creating this inequity, the license fee may have the effect of impacting the Consultation Paper's goal of promoting competition and creating a level playing field.

ACTO is in favour for speedy implementation of Virtual Network Operator while ensuring a level playing field, removing all multi stage levy/license fees and providing equal treatment to voice, data & video for allowing pass through charges as deduction from AGR

While considering VNO, we also request to address the issue of Convergence of Service Networks Devices i.e CUG/VPN-PSTN/Public network interconnection in line with the objectives of NTP-2012 which has not been duly recognized in the phase one of Unified License This will be a key policy enabler for the BPOs/Enterprise Data services segment and fuel further growth of this very important sector. Convergence will enable a much Advanced and Open IP platform which will enhance the end-user experience and will efficiently address the growing business needs by leveraging on the best of both worlds (CUG & PSTN).

ACTO would be pleased to provide any further information clarification.
