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VODAFONE RESPONSE TO ISSUES FOR MVAS CONSULTATION – 2011

INTRODUCTION

The Indian telecom market is characterized by large volumes and low margins across the spectrum of services and products on offer. Indian telecom service providers have the lowest average revenue per user (ARPU) in the world – a fact that is acknowledged globally. It is therefore logical that this trend would also replicate itself across the value chain of services – high volumes, low margins but immense growth potential – including for the nascent value added services (VAS) and mobile MVAS segments.

Adoption of VAS would be the driver of new revenue streams for operators and content creators alike. And spurring the adoption of data and VAS by customers would be innovation and creativity not regulatory intervention.

While we proceed to submit our inputs on the key issues raised for discussion, it is necessary to reiterate that the TRAI’s recommendations on VAS in February 2009 are relevant and should be the basis for moving forward in this arena. To quote, TRAI had mentioned “Authority prefersthe least intrusive and minimal regulatory framework” approach for VAS services. This is in effect the most efficient approach in the current context – as a policy framework to regulate an area that is essentially driven by initiative and creativity would not be conducive to the growth of VAS and MVAS in our country.

We are pleased to provide our responses to the specific queries below:

4.1 Whether the current provisions under various licenses (UASL, CMTS, Basic and ISP) are adequate to grow the MVAS market to the desired level? If not, what are the additional provisions that need to be addressed under the current licensing framework?

It is necessary to mention at the very outset that growth of MVAS in this country will not depend on a specific licensing or regulatory regime. It will depend on the utility factor and acceptance by users. In fact the history of Indian telecom proves that market driven reforms rather than stringent regulatory requirements have been the fillip for growth. A light touch regulatory approach, including forbearance in tariffs were some of the key factors that drove growth.

It is unlikely to be any different in the context of VAS/MVAS services. Especially so because these are free and unlicensed services today – shackling them with a licensing requirement would be to the detriment of the VAS sector.

The UASL and CMTS licenses allow operators to provide any and all types of voice and non-voice services, including Internet telephony and Broadband services. Thus there is no limitation to the types of services that can be provided under the licenses.

Content, which is what a majority of the VAS market is about, does not require a regulated environment to grow – except for broad requirements of IPR and copyrights etc, laws for which in any case already exist.

Growth of VAS services have been slow but steady. In 2004VAS/MVAS revenueswere barely RS 201 crores and this reached Rs 21, 300 crores in 2010. This is about **CAGR of 117% achieved without any regulatory intervention**. And the graph will only continue to grow upwards as higher capacity data networks, mobile broadband services and 3G enabled handsets become widely available.

Various estimates of growth of the VAS/MVAS segments are available. According to a study by Deloitte-Assocham in their recentlypegged this number at around Rs 48,200 crores by 2015.Other estimates peg this number at Rs 67000 crores.
A recent study by PWC on mobile broadband makes the following observations: 3G based mobile broadband Services in India will be driven by introduction of new innovativeapplications, enhanced user experience, decreasing prices of 3G enabledhandsets.3G subscriber numbers are projected to cross 107 Mn by 2015.

The growth of VAS services is therefore more a function of market factors and customer demand. The biggest stimulant for a sector like this would be to continue the present light touch regulation.

4.2 Is there a need to bring the Value Added Service Providers (VASPs) providing Mobile Value Added Services under the licensing regime?

We would like to submit that in essence, there is no requirement to bring VASPs under any kind of regulatory or licensing regime and in this we quote the TRAI's recommendations of February 2009:

> *The Authority is not in favor of creating a separate category of licence for value added services. The Authority is also not in favor of registration of Value Added Service Provider under the "Other Service Provider" category. The Authority, accordingly recommends that value added service may continue to be provided through mutual agreement between the telecom service provider and value added service provider/content provider.*
>
> *Since the Authority is neither in favour of a separate category of licence for value added service nor registration of value added service providers, under the OSP category, there is no need to formulate any terms and conditions for licence/ registration of value added service providers*

It is necessary to understand that the driver of VAS would be value that operators are able to deliver to their customers through innovation. Handset vendors and content creators will partner with each other and content aggregators will partner with telecom service providers – depending on the value created and the bundling arrangements that make commercial sense and most of all that are acceptable to consumers.

A licensing regime on VASPs would definitely reduce innovation or creativity in the sector. In fact it would be a shackle on the VASPs because once licensed, there would have to be a complete set of requirements imposed as in other licenses.

A licensing regime would necessarily entail payment of entry fee and license fee by the VASP to the government. It would be incumbent on separately licensed VAS providers to ensure security related compliances – like all other licensees – including lawful interception of systems used for hosting and transacting content;monitoring of those systems if required to ensure adequate tracing capabilities etc.

In an increasingly competitive market, content /application brands are in any case going to create customer stickinessand mobile operators will have to partner with content creators to ensure value to their customers.

It is also relevant to mention that the explosion in data usage within the country is being driven by innovation and applications. To try and bring the thousands of programmers who create VAS products under a licensing framework would be a huge disincentive to the sector.The administrative cost of issuing and managing licenses for this world of MVAS creators would be a big burden on the government itself. The administrative burden would be loaded on both the licensor and licensee.

4.3 If yes, do you agree that it should be in the category of the Unified License as recommended by this Authority in May 2010? In case of disagreement, please indicate the type of license along with the rationale thereof.

Any kind of licensing would be a huge impediment to the growth of the sector.We strongly submit that creating a new category of licenses would only be an administrative nightmare and not in the interests of the VAS sector.

The growth of data-enabled, smart phones has been fuelled by millions of applications created by hundreds of thousands of VAS/content providers. Licensing this huge universe and keeping track of compliances would be a nightmare – and very unlikely to succeed in achieving the objectives of creating such a framework.

4.4 How do we ensure that the VAS providers get the due revenue share from the Telecom Service providers, so that the development of VAS takes place to its full potential? Is there a need to regulate revenue sharing model or should it be left to commercial negotiations between VAS providers and telecom service providers?

The TRAI had in its recommendations of 2009 defined VAS as follows: “Value added services are enhanced services, in the nature of non-core services, which add value to the basic teleservices and bearer services, the core services being standard voice calls, voice/non-voice messages, fax transmission and data transmission.”

Thus, any service that is not a part of the core services offered by operators should be left to market forces, as was clearly mentioned by TRAI in its recommendations of 2009.

Further, as acknowledged by the Authority in its consultation paper (Para 2.31) revenue share depends on a number of factors such as:

- The utility of content
- Availability of content in vernacular language
- demand from customer
- Pricing of content
- innovation involved

This means the revenue share depends on the **market dynamics**.

The Indian MVAS market at present is dominated by generic productslow in innovation, as has been observed by the TRAI in its paper too. Entertainment and music are the key drivers with products like Ringtones, CRBT, Reverse CRBT etc. comprising a vast majority of the market share.

There is little or no innovation in these VAS services.

On the other hand applications that engage customers, deliver value and create pull would generally involve a higher level of creativity and intellectual capital.Such products/ applicationswould command a premium.

Thus there would be a variety of graded products and applications available in the VAS domain. It would not just be counter-productive but extremely unscientific to determine a defined revenue percentage share on content – because value of such applications is IPR driven and not on dry cost basis. Value is discovered in the market based on adoption and interest.

4.5 At the same time, how do we also ensure that the revenue share is a function of the innovation and utility involved in the concerned VAS? Should the revenue share be different for different categories of MVAS?

There are different categories of content. For example, a host of me-too VAS products – like news packs, cricket alerts, beauty tips, entertainment and CRBT downloads etc – are common and available at very low price points as they have no differentiators. These are driven by market dynamics. There is no premium or IPR attached to such products.

There are also a set of VAS players who are redefining the market and command a premium for their special brand of products. It is necessary to understand here that the value of a piece of literature or art or an entertainment application cannot be arrived at through a fixed cost methodology. These are products or services whose value and utility are understood by its users and determined by the market.

Thus, VAS is not a market where it would be practically possible to affix a grade for revenue share on products and if this is attempted it would be a very inefficient pricing system that would distort rather than reward the market players.

There is no minimum threshold or maximum ceiling for such products. A regulatory mechanism would be interventionist and not able to extract the true value of the service. In fact regulatory intervention in this segment would be a huge disincentive for the VAS industry as a whole and users in particular.

To quote the Deloitte-Assocham study on MVAS: "*Experience has shown that regulation driven businesses rarely achieve the desired rapid growth and to stifle the stunning growth of the telecom industry by way of heavy regulations would not be advisable*"

Once again the suggested route is a hands-off light touch Regulatory approach.

4.6 Do you agree that the differences come up between the MIS figures of the operator and VAS provider? If yes, what measures are required to ensure reconciliation in MIS in a transparent manner?

Adequate precautions are built into the agreements between operators and VASPs. And there is always an in built mechanism for reconciliation of usage details between two entities. Systems, methodologies and technologies for measurement could vary across platforms and hence such disputes are routine.

However as mentioned, the standard agreements would take care of such issues through specific service level agreements, with responsibilities clearly fixed and pinned down. Such SLAs and agreements are market driven and there are clearly laid down reconciliation mechanisms defined.

4.7 (i) Does existing framework for allocation of short codes for accessing MVAS require any modifications? Should short codes be allocated to telecom service providers and VAS providers independently? Will it be desirable to allot the short code centrally which is uniform across operators? If yes, suggest the changes required along with justification.

1. The existing framework for allocation of short codes is adequate.
2. Short codes are allotted to VAS and content providers by the operators and this is a code that is generally uniformly opened across all operator networks
3. Presently it is up to the VASP to reach out to operators for allocation of short codes and negotiate separate agreements with each one of them. We believe this practice should continue as it allows:
    a. VASP to negotiate the commercials based on how much value it attaches to the code for a particular operator based on subscriber profile.
    b. Precious codes are not blocked on all operator networks unnecessarily.

4. We therefore believe that it isn’t desirable to allot short codes centrally which is uniform across all operators.

(ii) Should there be a fee to be paid for allotment of short code?

Since short codes are issued by operators directly to the VASP, the commercials should be left to market forces, as is the case today. The terms and prices should be mutually agreed upon between the VASP and the access service provider.

4.8 Is there a need to provide open access to subscribers for MVAS of their choice? If yes, then do you agree with the approach provided in Para 2.46 to provide open access? What other measures need to be taken to promote open access for MVAS? Suggest a suitable framework with justifications?

The methodology proposed in 2.46 would not just be extremely difficult to implement, but it would also be a source of conflicts and anti-competitive practices that can affect the VAS provider more than other operators. VAS providers can find themselves locked in once they approach a single access provider.Their options to enter into other contractswould be limited. For example the terminating operators could end up charging a premium or limiting the speed at which competing operators can access the VASP platform.

Further it is unlikely to lead to an efficient market because it is very likely that other operators would rather create their own competing set of products or tie up with another VAS provider. This would lead to duplicacy and will limit the market size of all VAS providers. Further, VAS providers would not have any flexibility of negotiating with multiple operatorsto extract an optimum value for their products. It would restrict their flexibility.

Since even today operators use a single, uniform short code for a VAS product, open access could be a difficult issue and may not deliver the expected results for VAS providers and consumers.

4.9 What measures are required to boost the growth of utility MVAS like m-commerce, m-health, m-education & m-governance etc. in India? Should the tariff for utility services provided by government agencies through MVAS platform be regulated?

The government has already created a robust technological platform for delivery of citizen centric mobile-governance services. Its scope and reach will only increase further in times ahead. Services like m-commerce, m-health, m-education & m-governance will all be a part of this m-governance platform that will slowly be deployed across the country. However the two key factors that will influence adoption most will be:local language support and price of the service.

Local language content is an area of focus for the government under the above mentioned m-governance framework. However, it would be our submission to leave tariffsto competitive market forces – experience will prove that this is the best mechanism forward. The market will always drive the best bargain for the customers.

4.10 Any other suggestions with reasons thereof for orderly growth of mobile value added services?

We would like to only reiterate that a light touch licensing and regulatory approach across all segments in the telecom sector including the VAS segment would be the most preferred way to facilitategrowth, rather than create another licensing structure that could be stifling.

The rapid expansion and adoption of unique and innovative VAS should not be stymied through prescriptive licensing and intrusive regulatory rules.

This would be in the best interest of consumers and the industry as a whole.