

Vodafone Idea's Counter Comments to TRAI Consultation Paper dated February 22, 2019 and updated Consultation Paper dated April 1, 2019 on 'Review of Per Port Transaction Charge and Other Related Charges for Mobile Number Portability'

We wish to submit the following counter-comments for consideration by the Authority :

1. **Consideration to MNPSPs** : The MNPSPs have submitted that they should be reasonably compensated for their operations and have sought (i) separate charges for UPC handling (ii) PPTC on per port request with future estimate of port volumes (iii) PPTC computation with inclusion of ancillary services' cost, ROCE @ 35%, working capital @ 3 months, inclusion of debts/accounts receivables and royalty & consulting costs, and (iv) review of MNP charges once every 3/5 years. While we agree with PPTC on per port request, we disagree with other submissions and reiterate that there should not be a situation that due to monopoly/exclusivity of MNP service, subscribers or MNOs are made captive to higher than due charges or to non-relevant costs. We reiterate that the PPTC costs should be nominal and in case MNPSPs submit that there are significant costs that will have to be borne by them to perform the functions stipulated under the TRAI's MNP regulations (incl. the 7th amendment which is yet to be implemented), then options like a tender process needs to be put in place, for selection of MNPSP and issuance of MNPSP license on non-exclusive basis to such entity/entities, to avoid any unreasonable costs being claimed by the MNPSPs.

2. **Separate charge for UPC handling** : The MNPSPs have contended that they must be compensated by the DOs for all UPC requests handled by them upon requests raised by DOs (post implementation of 7th amendment) as a separate component while calculating MNP tariff. However, we submit that all costs should be subsumed under the PPTC, for ease of billing and settlements and that in any case, the cost of handling UPC requests will be nominal since they will be marginally procuring servers and software for the intended purpose while querying the MNOs' database for determining subscriber porting eligibility and at the same time, utilizing the network infrastructure of the MNOs for handling all UPC communications with the subscribers. Moreover, PPTC computation will be on porting requests (incl. unsuccessful portings) thereby compensating the MNPSPs for all UPC requests (ie. any increase in UPC requests will correspond to increase in porting transactions). If the Authority were to consider the above request of the MNPSPs, it would imply that the DOs will need to charge the subscribers for UPC generation activity in order to make payments to the MNPSPs, which will be detrimental to the interests of subscribers. We also disagree with the submission of one MNPSP w.r.t varying validity periods of UPC across circles potentially leading to greater no: of UPC requests – barring 3 circles of Assam, J&K & North East, the validity period of UPC will be same for all circles. Also, since MNPSPs will utilize the SMSCs of respective MNOs for delivery of SMS to respective MNOs' subscribers, MNPSPs should not account for any delivery cost to this activity.

3. **Cost of debts/receivables included in PPTC** : The MNPSPs have submitted that the Authority should include the cost of debt and accounts receivables (w.r.t non-paying/late paying MNOs) in the computation of PPTC. However, we disagree with this submission as it imposes a penalty on the MNOs who make timely payments to MNPSPs. Such issues of non-paying/late paying MNOs should be resolved between MNPSPs and MNOs and under the legal framework.
4. **Denominator for PPTC** : One of the MNPSPs has submitted that PPTC computation should be based on future estimate of no. of porting transactions and not on historical no. of porting transactions. However, we submit that given the dynamic state of the mobile industry where MNO operations/performance and retail offer/tariff hardening changes lead to significant changes in porting trends, forecasting the no. of porting transactions on assumed future estimates will not be reflective of the actual performance and hence, historic performance related data of porting transactions should be used. The Authority can consider FY 2018-19 and April-May 2019 months for computation purposes.
5. **Cost of royalty/consultancy in PPTC** : One of the MNPSPs has submitted that TRAI should not ignore consulting and/or royalty costs even if such costs are paid to an affiliate of MNPSP. However, it is submitted that MNPSPs have gained substantial expertise in last 8-9 years and these costs cannot be recovered from the MNOs for perpetuity. On a long term basis, expertise to India based MNPSP is a step that is likely to be more in tune with the evolving needs of the country and subscriber base. This will allow the MNPSP to charter a path more in tune with the Indian regulatory environment and create a better skill base in the country.
6. **Average of both MNPSPs' costs for PPTC computation** : The MNPSPs have contended that costs of the respective MNPSP may be different and therefore TRAI should not base the PPTC on 'lower of the two' MNPSPs' costs, and instead base the PPTC on the average of the both MNPSPs' costs. However, resources/infrastructure of both MNPSPs would not be significantly different from each other as the MNP activity performed by each MNPSP is the same – while one MNPSP may have deployed capex-intensive opex-light solution, and other may have deployed capex-light and opex-intensive solution, the total costs of each MNPSP should be roughly same for the same MNP activity. Further, averaging both the MNPSPs' costs would not reflect the cost of an efficient MNPSP thereby penalizing the MNOs for supporting inefficient MNPSP.
7. **ROCE to be increased from 15% to 35% for PPTC computation** : The MNPSPs have submitted that their ROCE should be increased for computation of PPTC to factor in the tax rates, inflation and rupee fluctuations. However, the Authority should use same ROCE as taken for all other regulated costing activities.
8. **MNP tariffs/PPTC review once every 3/5 years** : The MNPSPs have submitted that MNP tariffs/PPTC review should be undertaken once every 3/5 years with future price changes to be considered only if no. of ports or costs vary significantly (>10%) from date of fixation of MNP tariff. However, we disagree with this submission and request for an annual/biennial review (at best) so that the

historic performance vis-à-vis the cost of operations of MNPSPs is factually accounted for determination of cost-based price of MNP tariffs. Capex of MNPSPs should reduce over the years owing to longer life-span of IT assets and fewer capex intensive investments.

9. **Payability from 31st January 2018** : The MNPSPs have submitted that MNOs need to pay Rs. differential porting charges ie. Rs. 15 per porting request from 31.01.2018 till 08.03.2019 on account of Hon'ble Delhi Court's judgment of 08.03.2019 and Rs. 19 from this date onwards until the issuance of amendment in the PPTC which will only be applicable from a prospective date when the Authority's new Regulations/tariff order will come into force. However, we disagree with these submissions as the Hon'ble High Court's judgment does not provide for/uphold the payment of Rs. 15 per porting request from 31.01.2018 till 08.03.2019. The PPTC of Rs. 19 per porting request is only payable w.e.f 08.03.2019 until implementation of 7th amendment on which too, we request that the Authority should rework the PPTC in accordance with Hon'ble Delhi High Court's judgment and issue the same at the earliest so that MNOs and MNPSPs can settle payments on cost basis in the interim period till the implementation date of the 7th amendment. For the period post implementation of the 7th amendment, we request the Authority to also rework the PPTC in accordance with Hon'ble Delhi High Court's judgment and issue the PPTC on cost basis.

19th April 2019
New Delhi