

February 29, 2004, New Delhi

1. Intra-Circle Mergers & Acquisitions

As a part of its recommendations on unified access licenses in October 2003, TRAI had opined that intra-circle Merger and Acquisition should be permitted and that the Regulator would make separate recommendations to the Government in this matter. Accordingly, TRAI made its recommendations on the above subject to DoT on January 30, 2004. The highlights of the recommended guidelines are :

- a. Mergers will not be allowed if consequent to such merger the number of operators in a service area will fall below three.
- b. TRAI will examine the proposal in detail if :
 - The market share of the merged entity is greater than 50%
 - The concentration ratio of the top 2 firms is greater than or equal to 75%
- c. Spectrum of the merged entity will be capped at 15MHz for Metros and Category A Circles and at 12.4 MHz for Category B and C circles
- d. All mergers to be notified to TRAI
- e. Merged entity to obtain approval of Licensor - DoT

The DoT after considering the recommendations made by TRAI, notified the M&A guidelines on February 21, 2004, The highlights of the guidelines are as below:

- a. Merger of licenses would be restricted to the same service area
- b. Merger of license will be applicable only to fixed mobile and UASL licenses
- c. In case of a merger of a fixed licensee with a Unified Access Licensee, the FSP would have to pay, at the time of the application for the merger, the difference in entry fee if any, as per the UASL guidelines of November 11, 2003.
- d. The number of operators in a service area should not fall below three consequent upon any merger
- e. Prior approval of the DoT (Licensor) will be necessary for merger of licenses
- f. Any Merger or acquisition leading to a monopoly market (market share of 67% of subscriber base) will not be permitted

- g. Spectrum available to the merged entity will be capped at 15MHz per operator in Metros and category A service areas and 12.4 MHz per operator for Category B & C Service areas.
- h. Spectrum usage charges beyond 10 MHz for GSM and 5MHz for CDMA will be prescribed separately.

2. Establishment of the Office of Ombudsman in Telecom Sector

TRAI issued a Consultation paper on the subject on January 7, 2004 and the responses of all stakeholders were sought by January 30, 2004.

COAI wrote to the Authority on January 27, 2004 vide Letter No. TVR/COAI/007 seeking more details on

- a. **International practices** as well experience in the domestic markets where an Ombudsman has been established in the Banking and Insurance Sectors
- b. **Proposed structure** for resolution of consumer disputes – i.e. whether the Office of Ombudsman is going to be in place of or in addition to the current dispute redressal mechanisms already available in telecom.
- c. **Funding mechanism** – whether these funds will come from the license fees already being paid by the service providers or whether it will be an additional levy imposed on them.

COAI also submitted that any mechanism that was recommended by the Authority for redressal of consumer complaints should be :

- a. **Simple** – the mechanism should not increase the number of fora available to the consumers as this would lead to confusion as well as additional delays and expenditure, thus defeating the very purpose for which the Office of an Ombudsman is being created.
- b. **Accessible** – the dispute mechanism must be easily accessible to all consumers – whether the complaints are handled physically or through electronic filing
- c. **Affordable** - access must be balance with affordability. While the consumer should get redressal free of cost or at a nominal cost, the mechanism must not impose an unnecessary financial burden on the industry
- d. **Efficient** - the redressal mechanism should have a good success ratio. Efficiency will also be assured if the redressal mechanism comprises of independent personnel with both a legal as well as a technical background
- e. **Speedy** – there must be clear well defined timelines for redressal of various types of disputes
- f. **Transparent** - both the customer as well as the service provider should know exactly how the various types of complaints are going to be dealt with,

- g. **Neutral** - the office of Ombudsman should be autonomous and manned by independent experts chosen through a transparent selection process,
- h. Etc.

3. Mobile Phone Theft

TRAI issued a Preliminary Consultation Paper on the subject on January 8, 2004 and the responses of all stakeholders were sought by January industry's views on the matter are as below:

COAI wrote to the Authority on January 28, 2004 vide Letter No. TVR/COAI/009 seeking more time to examine international practices, etc. in this regard. TRAI granted an extension and sought the response to the Consultation paper by February 23, 2004.

COAI submitted its response vide Letter No. TVR/COAI/019 dated February 23, 2004. The highlights of the response are as below:

- a. TRAI must first assess the extent of the problem before putting in place a mechanism to address the same.
- b. Although several measures exist to secure mobile handsets, to the best of our knowledge none of them are entirely foolproof.
- c. TRAI must examine international precedents and practices in this regard.
- d. While in European markets, the service provider normally provides the handset, in India, the customer buys the handset and the service provider has no control in the matter. This aspect must be kept in mind by TRAI
- e. A large part of the market comprises of gray market handsets, a large chunk of which could well have duplicate IMEIs. Stringent measures by TRAI could adversely affect the low end and marginal consumers who invariably buy their handsets from the gray market.
- f. For data exchange between relevant entities, the manner in which the European operators use their CEIR, should also be the manner in which the Indian operators use their CEIR. The CEIR should be linked to ensure that India does not become a market for handsets that cannot be used in Europe.
- g. Although this issue comes under the purview of the law enforcement agencies, the Regulator should assist in the drafting of the legislation. Legislation must be adopted once the implication of the same is assessed in terms of
 - Ease of implementation,
 - Effectiveness of the mechanism,
 - Cost-effectiveness,
 - Commercial feasibility both for manufacturers and operators,

- Applicability to both GSM as well as CDMA handsets, etc.
- h. Legislation making reprogramming of handsets an offence is a pre-requisite. More stringent legislation should apply to vendors supplying the handsets.

4. Exit Policy for Licensees under UASL

A submission was made to DoT on the subject vide Letter No. TVR/COAI/014 dated February 9, 2004. The submission pointed out to the DoT that the UASL guidelines had inadvertently overlooked a scenario whereunder a service provider has both a fixed as well as a cellular license for a particular service area. It was pointed out that under the UASL guidelines it was stipulated that if a service provider had both fixed as well as mobile licenses, it could convert only one license into a UAS license, thus rendering one license redundant. It was submitted that as a result of the above oversight in the guidelines, such service providers who have actually invested in two separate licenses are placed at a disadvantage vis-à-vis single fixed / mobile license holders.

DoT was requested to review the above inconsistency and appropriately amend the guidelines so that such service providers with two separate licenses were permitted to surrender one license and accordingly be entitled to a refund in the entry fee paid, return of all performance and financial bank guarantees and extinguishing of all rollout obligations associated with such additional license.

5. Interference from CDMA Networks

A submission was made by COAI to TEC vide Letter No. SN/COAI/033 dated February 9, 2004 drawing the attention of the TEC to the fact that some of the filters installed were of inferior quality which was resulting in emission of spurious signals thus adversely affecting quality of service for the GSM operators due to continued spectrum interference. The submission requested TEC to issue specifications on the filters to be installed by CDMA and GSM operators to tackle spectrum interference problems.

6. Discussions on RIO of BSNL / MTNL

The industry continued to interact with the Regulator in the matter of the RIO of BSNL / MTNL. The concerns of the industry which have been conveyed to TRAI vide letter no. SN/COAI/031 dated February 5, 2004, include:

- a. The objective of the RIO was to ensure that the incumbent BSNL provided uniform, transparent and fair interconnection to new entrants. This objective has not been met. While the CMSPs were forced to publish their RIOs, BSNL has challenged the RIO of TRAI.
- b. Further, by virtue of its dominant status, BSNL has been able to get the CMSPs to sign interconnect agreements which are completely one-sided and give undue benefits to BSNL.
- c. The BSNL RIO finalized after discussions with TRAI must be applicable with retrospective effect.
- d. CMSPs cannot remain interconnection seekers forever. TRAI has mandated that after the first two years of operation, each party must bear the cost of junctions for their outgoing calls. This clause must be enforced.
- e. BSNL cannot unilaterally change clauses in the RIO when all the CMSPs have agreed to the RIO issued by TRAI,
- f. Etc.

7. Subscriber Numbers for January 2004

The all India GSM cellular subscriber base rose by 1.37 million in January 2004 to touch 23.66 million by end-January 2004, up from 21.99 million as of December end 2003 - a growth of 6.2% in the month under consideration.

Of this, the metros accounted for 31% of the subscriber base at 7.36 million subscribers while Category A Circles accounted for 36% of the total subscriber base at 8.55 million subscribers. Category B Circles were not too far behind with 6.52 million subscribers accounting for nearly 28% of the total subscribers.

Delhi continued to be the leading cellular market with 3.09 million subscribers up from 2.93 million subscribers in End December 2003. Mumbai also maintained its position as a first runner up with 2.62 million subscribers, up from 2.5 million subscribers as of December end 2003.

8. Presentation for Ambassador David Gross & Mr. Michael Gallagher

Ambassador David Gross, United States Coordinator for International Communications & Information policy and Mr. Michael Gallagher, Acting Assistant Secretary- Communications & Information visited the COAI Office on February 3, 2004 for an interaction with some key representatives of the Indian Cellular industry.

A brief presentation was made covering the Role of COAI, present status and future prospects of the Indian Cellular Industry and focus on some subsisting Issues that need to be resolved

expeditiously for the cellular industry to perform to its full potential. Members also queried Ambassador Gross on how key issues such as number portability; spectrum allocation, availability & pricing were addressed by the US.

A copy of the presentation made to Ambassador Gross can be made available to Members on request

9. Seamless Communications in Lutyens Delhi

The ABTO & COAI members made a joint presentation to the Chief Architect of the New Delhi Municipal Corporation (NDMC) on February 16, 2004 on the subject of cell sites in the LBZ area. The presentation was well received by the Authorities who understood the need for a seamless, world-class mobile communication, in which cell sites play a crucial role. The Chief Architect requested the Delhi operators to provide details on the number of existing sites in the LBZ area and most importantly the proposed sites in the LBZ/NDMC area for the next five years, taking into account that sites will be shared by the operators, wherever possible. He has also given an assurance on speaking to the Commissioner NDMC, on the proposal of using the NDMC buildings for the cell sites. He also agreed to fix up an appointment with DUAC to discuss issues related to aesthetics of the cell sites.

10. Presentation on Number Portability

COAI organized a presentation by Mr. Mark D Foster, CTO, Neustar on the subject of Number Portability on February 16, 2004 at the COAI Office, New Delhi. Mr. Foster is the pioneer of number portability in the US telecom industry and Neustar's Number Portability Administration Centre oversees all wireline and wireless number portability efforts in the United States. The highlights of his presentation are as below :

- a. Number portability essentially changes a phone number into a virtual address
- b. Traditionally the subscriber number is also the routing number
- c. Number portability bifurcates the subscriber number and the routing number.
- d. There are several methods to implement number portability
 - **All Call Query** – in this case, all calls initiated by the originating network are first routed to the Centralized Database (a copy of which is maintained internally by all service providers) and then based on the information received from the database, routed to the called subscriber
 - **Query on Release** – in this case the originating service provider calls the Donor Network (that was assigned the number in the first place) and based on the reply received from the

Donor Network accesses the Centralized Database to reach the subscriber at his new routing number

- **Dropback** – in this case, the originating network calls the Donor Network which then accesses its own internal database to provide the originating network with the new routing number
 - **Onward Routing** – the originating network calls the Donor Network who after accessing its own database gets the new routing number and then forwards the call to the subscriber at the new routing number
- e. Of all the above options, the first i.e. the All Calls Query was considered to be the best because
- It involved the least number of steps,
 - There was no involvement of the Donor Network (which leads to revenue sharing issues),
 - Most effective use of network resources as it involved only one physical call segment
 - Use of a centralized database
- f. It was also pointed out by Mr. Foster that apart from the obvious benefit of subscriber convenience, number portability also resulted in several benefits for the service providers as it facilitated:
- Number pooling – efficient allocation of numbering resources
 - Cost effective growth optimization, technology evolution
 - Rapid adoption of new technologies, etc
- g. Mr. Foster also opined that there would always be a conflict of interests if the system was implemented by the regulator, the incumbent or a consortium and therefore it was best if it was implemented by a neutral third party.

A copy of the full presentation can be made available to interested Members on request.

11. Report on ITU Workshop on Radio Spectrum Management for a Converging World

ITU organized a workshop on the above subject on February 16-18, 2004 at Geneva. Mr. TV Ramachandran, Director General, COAI participated in the Workshop. The workshop was both useful and interesting and dealt with new approaches to spectrum management. Case studies of the spectrum management situation in Australia, Guatemala & UK were presented.

Full documents from the workshop can be made available to interested Members.

