

**PRESS CONFERENCE ON**

**3G INTRA-CIRCLE ROAMING  
ARRANGEMENTS**



**TRAI and DoT have questioned the legality of the 3G Intra-Circle Roaming (ICR) Arrangements between Bharti Airtel Ltd., Idea Cellular Ltd. & Vodafone Essar Ltd.**

# ICR ARRANGEMENTS

- The ICR arrangements of the telecom operators are in the Public Interest
- The ICR arrangements have helped the Government in meeting its tele-density targets and promoting broadband penetration to citizens.
- It has helped to meet the objectives of encouraging efficient utilization of spectrum.
- It is also in conformity with the objectives of the NTP – 2011.

## Legal Basis of ICR Arrangements between operators

- The Licensees are permitted to enter into agreements with other Licensees to allow their subscribers to avail national and international roaming services. Section 2.2(a)(i) of the UAS License (“**UAS License**”) states as follows:

*The Licensee shall be free to enter an agreement with other service provider(s) in India or abroad for providing roaming facility to its subscriber under full mobility service unless advised/directed by Licensor otherwise.*

- In 2008, the DoT amended the UAS License to specifically allow Intra-Circle Roaming. The relevant text from the letter is:

*A Licensee may enter into mutual commercial agreements for intra service area roaming facilities with other licensed Cellular Mobile Telephone Service Licensees/Unified Access Service Licensees. Further, TRAI can also prescribe tariffs/charges for such facilities within the provisions of TRAI Act, 1997 as amended from time to time.*

# COAI POSITION – LEGAL BASIS

- Prior to the 2100 MHz spectrum auction, the DoT had provided responses to queries in relation to the auction of the 3G and BWA spectrum. In summary, questions 11, 12, 48, 230 and 371

11.	<b>Please clarify 3G roaming is mandated or whether it will be a bilateral decision between operators?</b>	<b>At present, mandatory roaming is not part of the Government's telecoms policy. Roaming arrangements are based on bilateral decision between operators.</b>
12.	<b>Will intra circle roaming be allowed in areas where an operator does not have a 3G network?</b>	<b>Intra-circle roaming will be governed by the UAS/ CMTS licence provisions and applicable Government regulations.</b>



48. DoT order No. 842-725/2005-VAS/269 dated 12th June 2008 allows intra-circle roaming amongst UASL licensees. After 3G auctions not all existing UASL licensees will hold 3G spectrum in any licensed areas due to the limited 3G blocks on offer. Will customers of UASL licenses who do not hold 3G spectrum be allowed to roam on the 3G networks of other UASLs in the same licensed area?

Furthermore, till such time as more 3G blocks are released into the market, will it not be customer friendly for the government to mandate that 3G spectrum holders allow the customers of operators not holding 3G spectrum in the same licensed area to roam on their networks under an administered pricing mechanism?

The roaming policy is applicable to the licenses and not to specific spectrum bands. Hence, roaming will be permitted.

However, at present, mandatory roaming or MVNO is not part of the government's telecoms policy.

# COAI POSITION – LEGAL BASIS

230.	<b>Will intra-circle roaming be allowed for 3G &amp; BWA?</b>	<b>The provision for intra-circle roaming is as applicable to the service license, and is not different for/ specific to the spectrum being currently auctioned.</b>
371.	<b>When an UAS license is obtained by a winner of a 3G spectrum, is it mandatory for the existing 2G service providers to mandatorily provide roaming?</b>	<b>There is no mandatory roaming as on date. Roaming arrangements are as per terms of applicable license, TRAI recommendations and bilateral arrangements between operators.</b>



# COAI POSITION – LEGAL BASIS

- In summary, questions 11, 12, 48, 230 and 371 make it clear that:
  - a) Licensees can enter into bilateral roaming arrangements with other Licensees for 3G Services but are not obliged to provide mandatory 3G roaming services to other Licensees;
  - b) intra-circle roaming is governed by the UAS License provisions and applicable Government regulations; and
  - c) the roaming policy/right is applicable to the UAS Licenses and not to specific spectrum bands that have been allocated under the UAS License.



# COAI POSITION – LEGAL BASIS

- Licensees are permitted to provide “collection, carriage, transmission and delivery of voice and/or non-voice messages in the Licensee’s network in the designated service area and includes provision of all types of access services.”
- UAS License expressly allows Licensees to enter into roaming agreements with other Licensees and to provide national and international roaming services to their customers.
- The UAS License applies equally to Licensees who provide access services using any technology and there is no distinction under the UAS License between CDMA and GSM technologies or between 2G and 3G Services.



# COAI POSITION – LEGAL BASIS

- Winning bidders under the 3G auction earned the right to use specific bands of 2100 MHz spectrum. It was clearly specified in the Notice Inviting Applications (NIA) to participate in the 3G auction that the existing Licensees would be granted the right to use the 2100 MHz band under their current UAS License while new entrants who had won the right to use the 2100 MHz band under the auction would be granted a fresh UAS License.
- In keeping with the “technology neutral” structure of the UAS License, it was determined that there was no requirement to have any separate “3G License” in order to offer 3G Services since the UAS License already permitted all types of access services regardless of whether they were 2G or 3G services.



## OTHER SPECIFIC QUERIES

## QUERY – Is 3G a separate service ?

- The definition of “SERVICE” given in UAS License Agreement states  
*“Service covers collection, carriage, transmission and delivery of voice or non-voice messages over LICENSEE's network in licensed service area and includes provision of all types of services except for those requiring a separate License”;*
- In NIA, the definition of 3G / BWA service has been given as under:-  
  
*In case of Successful Bidders, services offered under the scope of respective service licenses using 3G / BWA spectrum assigned through the auction process.*
- No amendment was done in the license agreement of the operators who were allocated 3G spectrum in regard to the definition of “SERVICE” so definition given in UAS License Agreement prevails.
- **During the auction of 3G and BWA, the Government had auctioned only the new spectrum and not a new license or service.**



## QUERY – Is Roaming Technology Dependent?

- The UAS License expressly allows Licensees to enter into roaming agreements with other Licensees and to provide national and international roaming services to their customers. Section 2.2(a)(i) of the UAS License states:

*“However, the licensee shall be free to enter an agreement with other service provider(s) in India or abroad for providing roaming facility to its subscriber under full mobility service unless advised / directed by Licensor otherwise”*

- DoT vide an amendment to the UAS and the CMTS license on 12<sup>th</sup> of June 2008 extended the permission of roaming to the Intra-circle scenario. This amendment thus is a part of the UASL/CMTS license terms and permits operators to enter into **“mutual commercial agreements for intra-service area roaming facilities”** in addition to the International and National Inter-circle roaming facility.
- It is clear from the above that a telecom service provider (UAS/CMTS licensee) is therefore permitted to enter into intra-circle and inter-circle roaming arrangements with any other Licensees to allow its subscribers to avail services in the network of another Licensee. **Hence, roaming services allowed in the license are technology neutral.**



## QUERY – Can ICR be termed as Spectrum Sharing?

- Sharing spectrum through pooling is a concept wherein operators pool their respective spectrum for usage in one or more areas.
- The commercial terms of a contract cannot change the underlying transaction from a roaming arrangement to a spectrum sharing arrangement. Once it is determined that the bilateral agreements between the parties do not amount to spectrum sharing in terms of applicable regulations, the manner in which the parties agree to compensate each other cannot form the basis for determining whether the agreement is for roaming or spectrum sharing.
- In its reference dated 10<sup>th</sup> October 2011 to TRAI on its recommendations “Spectrum Management and Licensing Framework”, DoT itself has clarified that **“Intra Service Area in 3G network where one of the operators does not have 3G spectrum shall not be treated as spectrum sharing”**. [para no. 4.118 (6.61) (v), page no. 36].
- **Thus, the 3G roaming arrangement cannot be termed as a spectrum sharing.**



## QUERY – Can ICR arrangement be termed as MVNO?

- MVNO is an entity that provides mobile phone service but does not have its own radio spectrum nor does it necessarily have all the infrastructure required to provide mobile telephone service. MVNOs also brand the services and sell it as its own and does not reveal the underlying arrangement with MNO.
- An entity that has the radio spectrum and all the required infrastructure to provide the mobile service is Mobile Network Operator (**MNO**).
- In an MVNO-MNO arrangement, the customer acquisition is undertaken by the MVNO and the customer remains on the MNO network for access services.
- However, a 3G Roaming arrangement, is mainly an arrangement between an MNO-MNO, as the customer remains on his home network for voice and some VAS services. The customer is only roaming on a 3G network for high speed data applications. Therefore, the operators can acquire new customers to provide voice and some VAS services and can have an ICR to provide them high speed data applications.

 Hence, such arrangements cannot be termed as MVNO

# QUERY – Are operators bypassing their rollout obligations through ICR?

- Under the UAS License, a telecom service provider is permitted to enter into intra-circle and inter-circle roaming arrangements with any other licensees to allow its subscribers to avail full mobility services in the network of another Licensee.
- DoT vide letter no.842-725/2005-VAS(Pt.)/291 on the “Impact of Amendment of Clause 2.2(a)(i) of UASL issued vide Ref. No. 842-725/2005-269 dated 12th June 2008 on Roll-Out Obligations has stated that:  
*“Roaming arrangement is a matter between two service providers and has no relation with Roll-Out obligations imposed on the Licensee.”*
- The original 3G operator is still responsible for network rollouts and in case of failure it stands to lose its 3G spectrum.
- **Hence, the concerned operators are responsible for their rollout obligations and there is no bypass.**



## QUERY – Is there a revenue loss to the Government?

- Since, the Government had only limited blocks (3-4), they earned auction amount only for those blocks. **Government could have earned more from auctions, only if more number of blocks were available.**
- Prior to auction, some stakeholders specifically asked whether an intra-circle roaming agreement can place between a 3G and non-3G operator and the DoT expressly permitted it. All operators participated in the auction with this knowledge only and the **revenue from auction surpassed everyone's expectations.**
- Government structured the auction process to specifically prevent collusion. It is a known fact that the auction was a resounding success in terms of preventing any irregularity and maximizing revenue to the Government.
- **The Government stands to gain from the roaming arrangements between telecom operators.** As a result of the ICR arrangements, there is an increase in the revenue of the non-3G operators, which in turn leads to a higher share of AGR to the Government.



## QUERY – Does it create a non-level playing field for BSNL/MTNL?

- It is to be noted that BSNL/MTNL were given an upper edge over all other operators as they were the only operators to get Pan-India 3G spectrum.
- BSNL/MTNL were given 3G spectrum in 2008, whereas the actual 3G auction took place in April 2010 and spectrum was allocated to the winners in September 2010.
  - This provided BSNL/MTNL the first mover advantage and they had a long lead over all the winners of the 3G auction.
- In such a scenario, a non-level playing field was created at the time when BSNL/MTNL were given 3G spectrum much before all other operators.
- **Thus, the ICR arrangements do not create any non-level playing field for BSNL/MTNL.**



## QUERY – Will ICR affect the security requirements?

- The modus operandi of monitoring / interception remains the same whether a subscriber is roaming on other operator's 2G network or 3G network (for both intra-circle and inter-circle).
- In the 2G intra circle roaming scenario, the security agencies have been giving interception request to both roaming seeker and provider. This is done to ensure a seamless interception of the communication in the event of a subscriber making a choice of using other operators' network.
- The same process is implemented for both intra-circle & inter-circle in case of 3G roaming also.
- **Hence, no additional efforts are required either from security agencies or from the operator for monitoring of a 3G roaming subscriber vis-à-vis 2G roaming subscriber.**



# BENEFITS OF ICR ARRANGEMENTS

# BENEFIT TO CONSUMERS

- Under the present ICR arrangement, more consumers can now avail 3G services than otherwise.
- In a market comprising of 13-15 telecom operators, an artificial scarcity was created when only 3-4 3G spectrum slots were auctioned. This spectrum scarcity would have hindered the Government from achieving its objective of extending the benefits of 3G services to maximum customers.
- Discouraging roaming arrangements between operators would result in the customers of non-3G operators of any licensed service area being deprived of 3G services. Therefore, the need of the hour is to make 3G services available to customers of even the non-3G operators by execution of intra-circle roaming agreements.
- In fact, **intra-circle roaming has advanced the consumer benefit to a great extent without putting any immediate pressure on the Government to increase the availability of 3G spectrum.**



# BENEFIT TO GOVERNMENT

- The ICR arrangements have helped the Government in meeting its tele-density targets and promoting broadband penetration to citizens.
- It has helped to meet the objectives of encouraging efficient utilization of spectrum.
- Reduced the immediate pressure on the Government to increase the availability of 3G spectrum.
- It is also in conformity with the objectives of the NTP – 2011.



Thank you!

