

**TELECOMMUNICATION MOBILE NUMBER PORTABILITY REGULATIONS, 2009 (8 of 2009)****Dated:** 23.09.2009

**No.116-4/2009-MN(Vol.II)**- In exercise of the powers conferred by sub-section (1) of section 36, read with sub-clauses (i), (iii) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely: -

**CHAPTER I****Preliminary****1. Short title and commencement.--**

(1) These regulations may be called the Telecommunication Mobile Number Portability Regulations, 2009.

(2) (a) Except as otherwise provided in clause (b), these regulations shall come into force from the date of their publication in the Official Gazette.

(b) Regulations 6, 7, 8, 9,10,11,12 and 13 of these regulations shall come into force on-

(i) the 31st December, 2009 in respect of Metro and Category 'A' licensed service areas; and

(ii) the 20th March, 2010 in respect of other licensed service areas.

**2. Definitions.--**

In these regulations, unless the context otherwise requires,-

(a) "Access Provider" means the holder of a Cellular Mobile Telephone Service licence or Unified Access Service licence and includes a service provider providing fixed wireline or fixed wireless service in addition to Cellular Mobile Telephone Service;

(b) "Act" means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(c) "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Act;

(d) "dipping" means use of query response system of the Mobile Number Portability service provider for obtaining Location Routing Number for routing a message to the

called number;

(e) "Donor Operator" means a Cellular Mobile Telecom Service provider or Unified Access Service provider, to whose network the mobile number belongs at the time the subscriber makes a request for porting;

(f) "Local Number Portability Database" means the database of all ported mobile numbers maintained by an Access Provider and an International Long Distance Operator;

(g) "Location Routing Number" means the code assigned to every Access Provider for the purpose of implementing Mobile Number Portability;

(h) "message" shall have the meaning assigned to it in clause (3) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885);

(i) "Mobile Number Portability" means the facility which allows a subscriber to retain his mobile telephone number when he moves from one Access Provider to another irrespective of the mobile technology or from one cellular mobile technology to another of the same Access Provider;

(j) "Mobile Number Portability Service provider" means an entity who has been granted a licence under Section 4 of the Indian Telegraph Act, 1885 (13 of 1885) for providing Mobile Number Portability Service;

(k) "No Service Period" means the period of time between the disconnection of the mobile telephone service to the porting subscriber by the Donor Operator and the activation of mobile telephone service, on porting, by the Recipient Operator;

(l) "Number Portability Database" means the database maintained by each Mobile Number Portability Service provider in electronic form, holding the details of all ported mobile numbers in its zone, along with the complete history of all transactions relating to the porting of such numbers;

(m) "Number Range Holder" means an Access Provider who was originally allotted, by the licensor, that number range to which the ported number belongs;

(n) "Per Port Transaction charge" means the charge payable by the Recipient Operator to the Mobile Number Portability Service provider for processing the porting request in respect of a mobile number;

(o) "porting" means the process of moving, by a subscriber, of his mobile number or numbers, as the case may be, from one Access Provider to another Access Provider

or from one mobile technology to another of the same or any other Access Provider;

(p) "porting charge" means such charge as may be levied by a Recipient Operator from a subscriber for porting his mobile number;

(q) "Recipient Operator" means an Access Provider who will be providing mobile telecommunication service to the subscriber after porting and includes his authorised agent;

(r) "regulations" means the Telecommunication Mobile Number Portability Regulations, 2009;

(s) "subscriber" means any person or legal entity that avails the mobile telecommunication service from a licensed telecom Access Provider;

(t) "unique porting code" means an alphanumeric code allocated, upon request, by an Access Provider to its subscriber for the purpose of facilitation of porting of his mobile number;

(u) all other words and expressions used in these regulations but not defined, and defined in the Indian Telegraph Act, 1885 (13 of 1885) and the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) and the rules and other regulations made thereunder, shall have the meanings respectively assigned to them in those Acts or the rules or such other regulations, as the case may be.

### **3. Limits on Portability.--**

(1) The Mobile Number Portability shall be limited to within a given licensed service area;

(2) Mobile Number Portability will be applicable only to cellular mobile telephone numbers which incorporate a Public Land Mobile Network (PLMN) Access Code.

## **CHAPTER- II**

### **Mobile Number Portability**

#### **4. Obligation to provide Mobile Number Portability.--**

Every Access Provider shall facilitate in its entire network, Mobile Number Portability to all subscribers, both pre-paid and post-paid and shall, upon request, provide the same on a non-discriminatory basis.

#### **5. Obligation to set up mechanism for allocation of unique porting code.--**

Every Access Provider shall, within sixty days from the date of these regulations coming into force, set up, in its mobile network, a mechanism for the purpose of --

- (a) receiving Short Message Service (SMS) messages from its subscribers requesting for a unique porting code;
- (b) allocating a unique porting code for each such request and communicating it to the subscriber forthwith through Short Message Service (SMS) message through an automated process; and
- (c) retaining such unique porting number on its records for the purpose of verification of the porting request of such subscriber to be received eventually by it from the Mobile Number Portability Service provider.

#### **6. Eligibility Criteria for making a porting request.--**

Every subscriber shall be eligible to make a request for porting his mobile number: Provided that--

- (a) a period of ninety days has expired from the date of activation of his mobile connection in the case of a mobile number not ported earlier; or from the date of activation of his mobile number after its last porting, in the case of a mobile number which has been ported earlier, as the case may be;
- (b) there are no outstanding payments due to the Donor Operator by way of pending bills or bills, as the case may be, issued as per the normal billing cycle but before the date of application for porting;
- (c) there is no pending request for change of ownership of the mobile number ;
- (d) the mobile number sought to be ported is not sub-judice;
- (e) porting of the concerned mobile number has not been prohibited by a Court of Law.

#### **7. Request for porting of mobile number.--**

(1) Every subscriber desirous of porting his mobile number shall make a request in writing to the concerned Recipient Operator in such format as may be specified by such Recipient Operator.

(2) The porting request form as specified by the Recipient Operator shall, inter alia, incorporate --

- (a) the eligibility criteria as specified in regulation 6;
- (b) the grounds for rejection as specified in regulation 12;
- (c) in the case of a post paid subscriber, an undertaking by the subscriber that he has already paid all dues as per the last bill to the Donor Operator and that he shall be bound to pay all dues to the Donor Operator pertaining to the mobile number sought to be ported till its eventual porting and that he understands and agrees that in the event of non-payment of any such dues to the Donor Operator, the ported mobile number shall, without prejudice to any other remedies available to the Donor Operator under law for recovery of such dues, be liable to be disconnected by the Recipient Operator;
- (d) in the case of a pre-paid subscriber, an undertaking by the subscriber to the effect that he understands and agrees that, upon porting of the mobile number, the balance amount of talk time, if any, at the time of porting shall lapse;
- (e) such details of the subscriber as mandated by the licensor or by the Authority from time to time.

(3) Each porting request shall be accompanied by --

- (a) a customer acquisition form as specified by the Recipient Operator accompanied by all documents as applicable to a new subscriber; and
- (b) a copy of the last bill, in the case of a postpaid subscriber.

(4) The subscriber shall, with his request for porting, pay the porting charge, if any.

#### **8. Action by Recipient Operator.--**

- (1) The Recipient Operator, upon receipt of the porting request from a subscriber, shall verify if the customer acquisition form is accompanied by all documents specified in regulation 7.
- (2) The Recipient operator shall record in the customer acquisition form that he has seen the subscriber and verified his documents with their respective originals and found them to be in order
- (3) The Recipient Operator shall thereupon ask the subscriber to send a message through SMS to a specified short code of the Donor Operator from the subscriber's mobile number which is sought to be ported.

(4) Upon receipt of the message from the subscriber, the Donor operator shall forthwith send back a reply message through an automated system generated SMS containing a unique porting code.

(5) Upon receipt of the unique porting code from the Donor Operator, the subscriber shall incorporate the same in the porting request form.

(6) The Recipient Operator shall, within a period of twenty four hours, forward the mobile number, the corresponding unique porting code and the date on which porting request is made by the subscriber, to the concerned Mobile Number Portability Service provider:

Provided that while calculating twenty four hours as specified in this sub-regulation, intervening Sundays and public holidays declared under the Negotiable Instrument Act, 1881 (No.26 of 1881) shall be excluded.

(7) The Recipient Operator shall be liable to pay Per Port Transaction charge in respect of each porting request forwarded by it to the Mobile Number Portability Service provider.

#### **9. Action by Mobile Number Portability Service provider.--**

(1) On receipt of the details of the porting request under sub-regulation (6) of regulation 8, the Mobile Number Portability Service provider shall verify from its Number Portability Database whether the mobile number has been ported earlier and, if so, whether a period of ninety days has elapsed from the date of its last porting.

(2) Where a period of ninety days from the date of last porting has not elapsed, the Mobile Number Portability Service provider shall not take any action on the request and shall inform the Recipient Operator accordingly and the Recipient Operator shall communicate the same to the concerned subscriber.

(3) In all other cases, the Mobile Number Portability Service provider shall verify whether any porting request in respect of the same mobile number is already pending and, if so, it shall reject the current request for porting and communicate such rejection to the Recipient Operator who forwarded such request, who shall, thereupon, communicate the same to the concerned subscriber.

(4) In case there is no pending porting request in respect of the same mobile number, the Mobile Number Portability Service provider shall forthwith forward the details of such request to the Donor Operator for seeking his clearance for such porting.

#### **10. Action by Donor Operator.--**

Upon receipt of the details of porting request under sub-regulation (4) of regulation 9 , the Donor Operator shall, within twenty-four hours, verify such details and communicate to the Mobile Number Portability Service provider --

(a) where it finds that the porting request is covered under any of the grounds of rejection of porting requests as specified in regulation 12, the details of the specific ground or grounds, as the case may be, on which it has any objection to the porting of the number from its network; or

(b) where it finds that the porting request is not covered under any of the grounds of rejection of porting requests as specified in regulation 12, its clearance for the porting of the mobile number:

Provided that while calculating twenty four hours as specified in this sub-regulation, intervening Sundays and public holidays declared under the Negotiable Instrument Act, 1881 (No.26 of 1881) shall be excluded.

#### **11. Porting of mobile number.--**

(1) Upon receipt of the communication from the Donor Operator under regulation 10, the Mobile Number Portability Service provider shall --

(a) where the Donor Operator has indicated the grounds for rejection of the porting request under clause (a) of regulation 10, forthwith communicate the same to the Recipient Operator; or

(b) where the Donor Operator has indicated his clearance to the porting request under clause (b) of regulation 10, or has failed to communicate either its clearance or its objection for the porting of the mobile number, as the case may be within the time specified under regulation 10, forthwith fix the date and time of porting of such mobile number and communicate it, along with details of anticipated No Service Period, simultaneously to the Donor Operator and the Recipient Operator.

(c) The Mobile Number Portability Service provider shall fix the date and time of porting under clause (b) in such manner that the porting shall be within thirty six hours from the time of receipt of the clearance from the Donor Operator under clause (b) of regulation 10 or the expiry of the time limit specified in regulation 10, as the case may be.

Provided that in Jammu and Kashmir, Assam and North East licensed service areas, the date and time for porting to be fixed under clause (c) by the Mobile

Number Portability Service provider shall be within ten days from the date of receipt of the clearance from the Donor Operator under clause (b) of regulation 10 or the expiry of the time limit specified in regulation 10, as the case may be.

(2) Where the Mobile Number Portability Service provider has communicated the grounds for rejection as indicated by the Donor Operator to the Recipient Operator under clause (a) of sub-regulation (1), the Recipient Operator shall communicate the same, in writing or through SMS, to the concerned subscriber.

(3) Where the Mobile Number Portability Service provider has communicated the date and time of porting of such mobile number and the anticipated No Service Period under clause (b) of sub-regulation (1) to the Donor Operator and to the Recipient Operator, the Recipient Operator shall communicate the same to the subscriber telephonically or through SMS or through an automated voice message.

(4) At the date and time of porting fixed by the Mobile Number Portability Service provider, the Mobile Number Portability Service provider shall communicate to the Donor Operator its instructions for disconnection of the mobile number and the Donor Operator shall, immediately and in any case within one hour of receipt of such instructions, --

(a) comply with such instructions; and

(b) report compliance of such instructions to the Mobile Number Portability Service provider.

(5) Upon receipt of the report of compliance under sub-regulation (4) from the Donor Operator or the expiry of one hour as specified in sub regulation (4), which ever is earlier the Mobile Number Portability Service provider shall communicate to the Recipient Operator its instructions for activation of the mobile number;

(6) Upon receipt of the instructions for activation of the mobile number the Recipient Operator shall, immediately and in any case within one hour of receipt of such instructions, --

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(a) comply with such instructions; and

(b) report compliance of such instructions to the Mobile Number Portability Service provider;

(7) Upon receipt of the report of compliance under sub-regulation (6) from the Recipient Operator, the Mobile Number Portability Service provider shall allocate the corresponding

Location Routing Number to the ported number in the Number Portability Database and broadcast the updated Location Routing Number along with the ported mobile number to all Access Providers and International Long Distance Operators who shall update their respective Local Number Portability Database.

## **12. Grounds for rejection of porting request by Donor Operator.--**

A request for porting of a mobile number shall not be rejected by a Donor Operator on any ground other than the following grounds, namely: -

- (a) there are outstanding payments due from the subscriber by way of pending bill or bills, as the case may be, issued as per the normal billing cycle but before the date of application for porting;
- (b) the porting request has been made before the expiry of a period of ninety days from the date of activation of a new connection;
- (c) a request for change of ownership of the mobile number is under process;
- (d) the mobile number sought to be ported is sub-judice;
- (e) porting of the mobile number has been prohibited by a Court of Law;
- (f) subscriber has applied for inter-service area porting;
- (g) the unique porting code mentioned in the porting request does not match with the unique porting code allocated by the Donor Operator for the mobile number sought to be ported;
- (h) there are subsisting contractual obligations in respect of which an exit clause has been provided in the subscriber agreement but the subscriber has not complied with such exit clause: Provided that where the Donor operator rejects a porting request on the ground of subsisting contractual obligations, he shall indicate the full details of such contractual obligations.

## **13. Withdrawal of porting request.--**

(1) A subscriber may, within twenty four hours of making a request for porting, withdraw such request by informing the Recipient Operator in writing:

Provided that a subscriber withdrawing his porting request shall not be entitled to any refund of the porting charge paid by him to the Recipient Operator.

(2) Where the Recipient Operator has not forwarded the porting request to the Mobile

Number Portability Service provider till receipt of the information regarding withdrawal of the request, it shall not take any further action on such porting request.

(3) In case the Recipient Operator has already forwarded the porting request to the Mobile Number Portability Service provider, before receipt of the information regarding withdrawal of the request, it shall forthwith inform the Mobile Number Portability Service provider about the withdrawal of the porting request and the Mobile Number Portability Service provider shall forthwith inform the Donor Operator about the withdrawal of the porting request.

(4) In cases covered under sub regulation (3), the Recipient Operator shall be liable to pay the applicable Per Port Transaction charge to the Mobile Number Portability Service provider.

### **CHAPTER- III**

#### **Rights and Obligations of Service Providers**

##### **14. Rights and obligations of Donor Operator.--**

(1) The Donor Operator shall continue to provide all subscribed telecommunication services to the subscriber who has sought porting of his mobile number till the disconnection of the mobile number in accordance with the provisions of sub-regulation (4) of regulation 11.

(2) Upon disconnection of a mobile number, the Donor Operator shall refund to the subscriber, within such time frame and in such manner as specified in the Standards of Quality of Service of Basic Telephone Service (wireline) and Cellular Mobile Telephone Service Regulations, 2009 (7 of 2009) as may be amended from time to time, all amounts due to such subscriber on account of refundable payments or deposits made by such subscriber to the Donor Operator.

(3) The Donor Operator shall maintain records of all mobile numbers ported out by it and all mobile numbers for which porting requests have been rejected by it for a minimum period of twelve months from the date of porting or the date of rejection of request, as the case may be.

(4) In case of non-payment of any outstanding bill issued to the subscriber after the porting request, for the services availed till the disconnection of the mobile number from the network of the Donor Operator, within such time as specified in such bill, the Donor Operator shall give a notice of not less than seven days to the subscriber, notifying him that in case of non-payment within the said notice period, the Donor Operator shall request the Recipient Operator to disconnect the ported number.

(5) In case after expiry of such period such subscriber fails to make payments as specified in the notice, the Donor Operator shall communicate the details of such outstanding bills to the Recipient Operator through the Mobile Number Portability Service provider with an advice to take action for disconnecting the ported number.

#### **15. Rights and obligations of Recipient Operator.--**

(1) The Recipient Operator shall pay to the Mobile Number Portability Service provider, the Per Port Transaction charge at the rate as specified by the Authority from time to time, within fifteen days of receipt of the bill from the Mobile Number Portability Service provider or within such other time limit as may be mutually agreed upon.

(2) The Recipient Operator shall maintain records in respect of all mobile numbers for which porting requests have been rejected, for a minimum period of twelve months from the date of rejection of such requests.

(3) Where a request is made by the Donor Operator under sub-regulation (5) of regulation 14 for disconnecting the ported number, the Recipient Operator shall issue a notice to the concerned subscriber, the period of which shall be not less than seven days and not more than fifteen days, about the request received from the Donor Operator and calling upon such subscriber to produce evidence of having settled such outstanding dues with the Donor Operator within such notice period and in case the subscriber produces such evidence of having settled such dues, the Recipient Operator shall not take any further action in pursuance of the notice and shall inform the Donor Operator accordingly through Mobile Number Portability Service provider.

(4) In case, before expiry of the period specified in the notice under sub-regulation (3), the subscriber fails to provide evidence of having settled such outstanding dues with the Donor Operator, the Recipient Operator shall disconnect the mobile number of such subscriber and inform the Mobile Number Portability Service provider forthwith about the disconnection of such mobile number and request for reversal of such mobile number to the Number Range Holder after expiry of ninety days.

(5) In case, after porting of a mobile number to the Recipient Operator's network, there is disconnection of the mobile number for any reason other than the reason specified in sub-regulation (4), the Recipient Operator shall, after ninety days of such disconnection, inform the Mobile Number Portability Service provider about such disconnection with a request for reversal of such mobile number to the Number Range Holder.

#### **16. Rights and obligations of Mobile Number Portability Service provider.--**

(1) The Mobile Number Portability Service provider shall make all efforts to facilitate expeditious porting of mobile numbers through effective coordination with the Donor Operator and the Recipient Operator.

(2) The Mobile Number Portability Service provider shall use the Number Portability Database only for the purpose of porting and dipping and not for any other purpose.

(3) The Mobile Number Portability Service provider shall generate specific sets of statistics regarding the number of porting requests received, the number of portings carried out successfully and the number of failed porting requests with reasons for failures.

(4) Upon receipt of a communication under sub-regulation (4) of regulation 15 or under sub-regulation (5) of regulation 15, from the Recipient Operator about disconnection of a ported mobile number, the Mobile Number Portability Service provider shall forthwith -

(a) remove the number from its Number Portability Database;

(b) update the Local Number Portability Databases of all the Access providers and International Long Distance Operators; and

(c) restore the mobile number to the Number Range Holder.

(5) The Mobile Number Portability Service provider shall raise bills along with the relevant details in respect of Per Port Transaction charges to the concerned Recipient Operators on a monthly basis and shall deliver such bills to the concerned Recipient Operators for each month before the tenth day of the following month or at such periodic intervals and within such time limits as may be mutually agreed upon.

(6) In case a Recipient Operator fails to pay the bill for Per Port Transaction charges within the time limit specified in sub-regulation (1) of regulation 15, the Mobile Number Portability Service provider, before taking any action, shall issue a notice to such Recipient Operator, the period of which shall be not less than fifteen days, calling upon such Recipient Operator to make payment of the outstanding dues within such period.

(7) Notwithstanding the issue of notice to the Recipient Operator under sub-regulation (6), the Mobile Number Portability Service provider shall in no case discontinue the provision of Mobile Number Portability Service to such defaulting Recipient Operator.

## **17. Obligations of Access Providers, National Long Distance Operators and International Long Distance Operators.--**

(1) All existing interconnect agreements or arrangements between Access Providers,

National Long Distance Operators and International Long Distance Operators shall, upon the coming into force of these regulations, stand amended so as to conform to the provisions of these regulations as regards routing of calls to and from ported mobile numbers.

(2) Every Access Provider and every International Long Distance Operator providing carriage service to any Access Provider shall, within thirty days of coming into force of these regulations or before commencement of Access Service or carriage service as the case may be, shall establish fail-proof connectivity from its Mobile Number Portability gateway to the main and Disaster recovery sites of the Mobile Number Portability Service providers at its own cost;

Provided that –

(a) an Access Provider having licenses in more than one licensed service area may establish such fail-proof connectivity to the main and Disaster recovery sites of the Mobile Number Portability Service providers common for all its licensed service areas; and

(b) an Access Provider, who is also an International Long Distance Operator providing carriage service to any Access Provider, may establish such fail-proof connectivity to the main and Disaster recovery sites of the Mobile Number Portability Service providers common for all its licensed services and share its Local Number Portability Database across its various licensed activities for the purpose of implementing Mobile Number Portability Service:

Provided further that no Access Provider or International Long Distance Operator providing carriage service to any Access Provider shall share its Local Number Portability Database with another Access Provider or International Long Distance Operator:

Provided further that a service provider who is sharing its Local Number Portability Database across its licensed activities shall ensure that such sharing of Local Number Portability Database enables it to directly route messages to ported mobile numbers.

(3) Every Access Provider on whose network a message originates shall be responsible for the correct routing of such message.

(4) In case of international incoming messages, the International Long Distance Operator carrying such messages shall be responsible for correct routing of messages.

(5) Every Access Provider and International Long Distance Operator shall put in place suitable mechanism for safeguarding the data provided by porting subscribers from

unauthorized interception or unauthorized access and shall ensure that such data is used solely for the purpose of porting of mobile numbers and shall not use such data for any other purpose:

Provided that the provisions of this sub-regulation shall not prevent such Access Providers from providing such data or access to such data for monitoring purposes to the designated security agencies.

## **CHAPTER- IV**

### **Miscellaneous**

#### **18. Power of Authority to issue directions for specifying time limits for various activities for implementing number portability.--**

(1) Without prejudice to any of the provisions of the Act, or any other regulations made under the Act or directions issued there under, the Authority may, from time to time, issue such directions as it may deem fit to the service providers on any aspect of Mobile Number Portability for which provisions have been made in these regulations.

#### **19. Inspection and Auditing.--**

(1) The Authority may, if it considers it expedient so to do, and to ensure compliance of the provisions of these regulations, by order, in writing, direct any of its officers or employees or an independent agency appointed by the Authority, to inspect any records maintained by a service provider under these regulations or get such records audited.

(2) The Authority, if it considers it expedient so to do, may require the service provider referred to in sub-regulation (1) to get the records maintained by such service provider audited through an independent agency as may be specified by the Authority and submit the report in respect of such audit to the Authority and the cost of such audit shall be borne by the concerned service provider.

**(Sudhir Gupta)**

**Advisor (Mobile Network)**

**Note:** The Explanatory Memorandum explains the objects and reasons of the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009)

**Explanatory Memorandum to the Telecommunication Mobile Number Portability Regulations, 2009 (8 of 2009)**

## Background

1. Promotion of competition and efficiency in the telecom sector, particularly in the area of mobile telecommunication, requires, inter alia, the facilitation of easy movement of subscribers from one service provider to another or across mobile technologies. Mobile Number Portability (MNP) allows the subscribers to retain their existing mobile telephone number when they move from one Access Provider to another irrespective of the mobile technology or from one cellular mobile technology to another of the same Access Provider, in a licensed service area. The facility of retention of existing mobile telephone number despite moving to a new telecom service provider helps the subscriber maintain contact with his friends/clientele. Introduction of MNP also helps in increasing competition between the service providers and acts as a catalyst for the service providers to improve their quality of service.
2. Based on the recommendations of the Authority, Government issued guidelines for MNP service license on 1st August 2008. It also identified two MNP operators for two zones in the country and issued licenses to them. It has also since been decided that MNP shall be implemented w.e.f. 31st December 2009 in Metros & category 'A' service areas and by 20th March 2010 in rest of the country.
3. Through these regulations, the Authority is laying down the basic business process framework for implementation of MNP in the country. TRAI placed the draft regulations on the subject on its website on 27th June 2009 for consultation with the stakeholders. Comments of stakeholders on the draft regulations were solicited by 14th July 2009. Written comments of stakeholders were posted on TRAI's website, following which Open House Discussions were held with stakeholders in Delhi on 27th July 2009 and the stakeholders were requested to send further comments, if any, by 31st July, 2009. After careful analysis of the views of the stakeholders expressed both through their written comments and in the Open House, the Authority has framed the present regulations.
4. The regulations seek to provide a framework governing all relevant aspects of MNP by –
  - a. laying down clear eligibility conditions for porting of mobile telephone numbers;
  - b. defining rights and obligations of various stake holders, i.e., the Donor Operator, the Recipient Operator, the MNP Service

- provider;
- c. laying down the procedure to be followed by each player in the chain in processing number porting request;
  - specifying clear time limits for completion of various steps by
- d. each player in the chain i.e. the Donor Operator, Recipient Operator and the MNP service provider; and
- e. envisaging least disruption of service to the consumer.

**Salient features of the MNP under these regulations are as follows:**

- i MNP facility shall be available only within a given licensed service area.
- ii A subscriber holding a mobile number is eligible to make a porting request only after 90 days of the date of activation of his mobile connection. If a number is already ported once, the number can again be ported only after 90 days from the date of the previous porting.
- iii The Subscriber who wishes to port his mobile number should approach the Recipient operator (the operator to whom the subscriber wants to port his number). The Subscriber may be required to pay porting charges, if any, to the Recipient Operator.
- iv The subscriber making the porting request is required to have cleared all the bills issued prior to the date of porting request. He shall give an undertaking that he has already paid all billed dues to the Donor Operator as on the date of the request for porting and that he shall pay dues to the Donor Operator pertaining to the mobile number till its eventual porting and that he understands and agrees that in event of non-payment of any such dues to the Donor Operator, the ported mobile number shall be liable to be disconnected by the Recipient Operator.
- v A subscriber may withdraw his porting request within 24 hours of its submission to the Recipient Operator. However, the porting charges shall not be refundable.
- vi The regulation envisage a maximum time period of four days for the completion of porting process.
- vii Access Providers are required to implement All Call Query method.
- viii The Originating operator shall be responsible to route the call to correct terminating network.

**Stakeholders' comments on key issues and its analysis**

## **1. Definition of Donor operator and Recipient operator in the context of dual technology provider:-**

Some stakeholders suggested that the definition must clearly indicate the Donor & the Recipient Operator would be the same in case of porting of a number from one technology to other technology within the same service provider.

The definition clearly states that the Donor Operator is the one to whom the subscriber belongs before porting his number. Mobile Number Portability includes porting from one technology to another technology of the same service provider. It is immaterial whether the Donor and the Recipient Operator are same or different as the functions of Donor Operator and Recipient Operator are to be carried out independently. In view of the above, it is felt not necessary to state that the Donor & Recipient Operator will be same in case of same service provider providing Mobile Number Portability across the technologies.

## **2. Levying porting charge where requests cannot be considered**

Suggestions were made by some stakeholders that the porting charges should be levied only in case of a successful porting except in a case where the subscriber himself withdraws his porting request. There were others who felt that irrespective of whether the porting is carried out or not, porting charge should be payable, since for every processing of porting request, the service provider incurs certain cost.

Having considered the comments, the Authority is of the view that there is a merit in the argument that the customer is being informed in advance about the eligibility criteria. Examination of the request involves work on the part of the Recipient Operator/MNP service provider. Besides, refund of porting charge also involves additional expenditure for the service providers. It is therefore felt that there should be no provision for refund of porting charges paid to the Recipient Operator.

## **3. Sharing of Porting charge between Donor, Recipient and MNP Service provider**

Some service providers commented that as the MNPS, the Donor/ Recipient operators have to carry out additional work for porting the subscribers; the porting charge should be shared among all these operators. This issue will be dealt at the time of determining the Per-Port transaction charge, Dipping charge and Porting charge.

## **4. Defining Business Days and Hours**

Some service providers felt that the Business Day and hours / End of Business Day should be defined. They suggested that Business Days should be (Monday to Saturday) and working hours should be 9 am – 6 pm while some were of the opinion that as these terms are already defined under the Negotiable Instrument Act, there is no necessity of defining the same in these regulations.

Defining the business hours is not feasible as the operators presently have their own timings. Therefore, regulations have specified the timelines, wherever required, in terms of number of hours permitted for completion of specified process. Sundays and public holidays declared under the Negotiable Instrument Act, 1881 (No.26 of 1881) have been excluded wherever required.

### **5. Eligibility condition for applying for porting**

There were conflicting views on the regulation of 90 days as minimum eligibility for porting. Some stakeholders suggested a clarification that the 90 days period should be applicable for cross technology porting also. Some consumer representatives suggested that no timeframe be defined for porting. However, most of the Service providers were agreeable to the timeframe of 90 days.

This has been examined and Authority is of the view that a minimum period is required to be specified so as to enable the service provider to recover the customer acquisition cost. The Mobile Number Porting definition takes care of scenario of the cross technology porting within same operator too.

### **6. Recovery of dues by the Donor Operator from the ported subscriber**

In the draft Regulation on MNP, it was proposed that the subscriber shall be eligible for porting his number only if he has paid his last bill (in case of post-paid subscription) and provided he has given an undertaking that he shall continue to pay all future dues to the Donor Operator till its eventual porting . The stakeholders' comments were that-

- it needs to be clearly prescribed in the Regulation that even after disconnection of his mobile number; the subscriber will be liable to pay all the pending dues of the Donor Operator.
- an extra procedure was suggested wherein the Donor Operator was to raise the bill for the subscriber to pay before his porting requested was accepted.
- TRAI should prescribe the format of the undertaking to be furnished by MNP

customer to Recipient Operator.

The Regulations have adequate provision for recovery of these. The porting request can be valid only if the subscriber has paid his dues as per bills issued before the date of porting request. He will also be liable to pay all the bills issued after the porting request, failing which the Recipient Operator is entitled to disconnect his number, after following the due procedure. The Authority is of the opinion that any extra procedure for the Donor Operator to recover his dues before porting takes place will complicate the procedure for number portability. Porting from an Operator is similar to disconnection for the purpose of recovery of dues. Besides, suitable provisions have been made in the regulations for other legal remedies for recovering dues.

### **7. Verification of subscriber by Recipient Operator and Authentication by Donor Operator**

The draft regulation proposed that the Recipient Operator, upon receipt of the porting request of a subscriber, within five days of receipt of the porting request, shall carry out subscriber verification in the same manner as required for the acquisition of a new subscriber.

Some stakeholders suggested that Subscriber verification being a security issue, verification should be done before porting. The time period of 5 days may not be sufficient to carry out physical verification of post-paid subscribers particularly subscribers located in rural and remote areas and also in states like J&K and NE, and as such no time period should be prescribed. On the other hand, those who favoured speedy porting put forward an argument that unlike new subscriber, the porting subscriber has already been verified by the Donor Operator and also has been on the network for a minimum of 90 days. Therefore, it may be possible to do post verification after the completion of porting.

In its submission, that was also placed on the TRAI website and in the discussions, one of the stakeholders suggested that in order to ensure speedy porting and reduce the chances of rejection by the Donor Operator because of mismatch of the subscriber's details, the pre-paid subscriber applying for porting of his number should be asked by the Recipient Operator to send a SMS from his mobile handset to a designated short code. On receipt of SMS the subscriber will get authenticated and the Donor Operator will also be able to verify that the SMS has originated from a subscriber of his network. This was not opposed by others.

The object of the Regulations is to make the MNP a simple affair. The Authority's

concern is that the request of the subscriber should not be rejected merely on account of change of address, difference in use of spelling in the name or address between the data given by the subscriber at the time of porting and that available with the Donor Operator, or non-availability of the original CAF details. In such cases, the probability of either rejection of subscriber's request or delay in grant of clearance by the Donor Operator is very high. Moreover, the subscriber is only getting disconnected from the Donor Operator. Therefore, the Donor Operator needs only to confirm that the mobile number applying for porting belongs to its network. Additionally In order to implement the MNP successfully, the key aspect is to make the process simple, easy and speedy for the subscriber. The Authority in its analysis found that the suggestion given above by one of the stakeholders with minor customization can make the porting process simple and speedy and will also take care of unnecessary rejections by the Donor Operator. Accordingly, the regulations have introduced a procedure wherein a unique porting code to be generated by Donor Operator for the authentication of the subscriber requested for porting of his mobile number. The subscriber will have to incorporate this code in the porting form while submitting it with the customer acquisition form to the Recipient Operator.

#### **8. Duration of No service period**

During the consultation, stakeholders were of the view that the time period of 2 hours specified for the 'No Service Period' is very short and that more time was required to carry out the disconnection/activation of the subscriber number. They wanted this time period to be increased to 4-5 hours each.

The Authority felt the window period of one hour each for the disconnection and activation by the Donor operator and the Recipient operator respectively is in accordance with the MNP Service license condition. Moreover, further increasing this time period will cause inconvenience to the subscriber. Therefore, the 'No Service Period' is proposed to be maintained as it is.

#### **9. Reasons for rejection due to contractual obligation**

Some of the stakeholders have suggested that any Contractual obligation between the Donor Operator and the subscriber should also be included as a reason for rejection by the Donor operator. After consideration, the Authority found merit in the argument that the subscriber, who is under a subsisting contractual obligation having an exit clause with the Donor operator and has not complied with the exit clause can not be allowed to port the number. Accordingly, provisions have been incorporated in the regulations.

## **10. Discretion of the Donor Operator to continue ISD and International roaming facilities of the subscriber during the process of porting**

Some stakeholders were of the view that continuation of high exposure services like ISD, International Roaming, and other Value Added facilities for subscribers applying for porting should not be mandated. While the contrary view was that all such services, or facilities, that the subscriber was receiving prior to his porting request, must be allowed to be continued on the subscriber number, while under porting period.

The Authority is of the view that the service providers normally maintain a credit limit beyond which the subscribers are not allowed to use such facilities. Secondly, in view of the revised porting procedure, the period for the entire process has been considerably reduced. Thirdly, subscribers having ISD/International roaming facility are few in number and they may need these facilities on a day to day basis. It is therefore felt that there is no need to make such provision available to the Donor Operator.

## **11. Notice Period by the Donor Operator and Recipient Operator for the defaulting subscriber who has ported his number to the Recipient Operator**

The draft Regulations provided that in case, a post-paid subscriber fails to pay the outstanding bills to the Donor Operator by the due date as per the bill, the Donor Operator shall issue a notice for such payment. If the subscriber still fails to pay the dues, the Recipient Operator, on intimation by the Donor Operator was required to disconnect the number after issuing a notice. A period of "Not less than 15 days" and "Not less than 7 days" was prescribed to the Donor Operator and Recipient Operator respectively.

Some of the stakeholders suggested that the notice period of 15 days was unduly long as already sufficient time is given to the subscriber to pay his dues, while others felt that the notice period of 7 days should be increased.

The Authority, based on the practical considerations, has decided that the notice period for the defaulter subscriber by the Donor operator be kept as 'Not less than 7 days' and by the Recipient Operator as 'Not less than 7 days, but not more than 15 days'.

## **12. Establishment of connectivity between the Access Providers/ILDOs and MNP Service providers:-**

The Access Providers were of the opinion that every new service provider (Seeker) irrespective of the type of service being provided by them e.g. CMTS/BSO/UASL/NLDO/ILDO has to seek interconnection from the existing operators (Provider). The interconnect arrangement between the MNP service provider and every Access Provider/ ILDO should be governed by present RIO provisions notified by TRAI. They may not be forced to establish the Interconnection at their own cost contrary to the provisions of license.

The Authority deliberated in detail on the submission of the stakeholders on this issue. The primary purpose to introduce MNP in the country is to provide freedom to the subscribers to change their service providers while retaining their mobile numbers. MNP service providers have been given licenses to facilitate and help the Access Providers in providing such a facility. Therefore, the issue of seeker/provider is not relevant in this case. Moreover, this Regulation is in accordance with the clause 31.13 of the Licence agreement of the MNP Service and the instructions of the Government to all the Basic service, CMTS, UAS, NLD and ILD licensees vide Department of Telecommunication's letter no.20-201/2008-AS-I, dated 6th May, 2009. Therefore, the Authority finds no merit in the stakeholders' submission.