TO BE PUBLISHED IN THE GAZETTE OF INDIA,
EXTRAORDINARY,
PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 20th November, 2009

TELECOMMUNICATION MOBILE NUMBER PORTABILITY PER PORT TRANSACTION CHARGE AND DIPPING CHARGE REGULATIONS, 2009

(9 of 2009)

IndiaCode

No. 116-5/2009-MN ---------- In exercise of the powers conferred by sub-section (1) of section 36, read with sub-clauses (ii), (iii), (iv) 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:-

1. **Short title and commencement.**----(1) These regulations may be called the Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge Regulations, 2009.

(a) Except as otherwise provided in clause (b), these regulations shall come into force on the 31st day of December, 2009.

(b) Regulation 5 of these regulations shall come into force from the date of publication of these regulations in the official Gazette.

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;

IndiaCode

(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) "Dipping charge" means the charge payable by an Access Provider or an International Long Distance Operator, to the Mobile Number Portability Service provider for each dipping;

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

(g) "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;

IndiaCode

(h) "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;

(i) "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;

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

(k) 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.

IndiaCode

3. Per Port Transaction charge.-- The Per Port Transaction charge shall be rupees Nineteen.

4. Dipping charge---(1) The Dipping charge shall be such as may be mutually agreed between the Mobile Number Portability Service provider and the Access Provider or International Long Distance Operator, as the case may be, who desires to utilise the query response system of the Mobile Number Portability Service provider.

(2) Each Mobile Number Portability Service provider shall, by an agreement with the Access Provider or International Long Distance Operator, as the case may be, arrive at the Dipping charge within thirty

days from the date of publication of these regulations in the official Gazette.

(3) In case the service providers are unable to arrive at a mutual agreement under sub-regulation (2) within thirty days of publication of these regulations in the official Gazette, the Authority shall on reference from such service providers or suo-motu fix the Dipping charge.

5. Reporting Requirement: (1) Each Mobile Number Portability Service provider shall report the Dipping charge to the Authority within seven days of entering into an agreement under sub-regulation (2) of regulation 4.

IndiaCode

(2) Any subsequent change in the Dipping charge shall be reported to the Authority by the Mobile Number Portability Service provider within seven days of coming into effect of such change.

6. **Intervention and Review:** (1) The Authority may, by order or direction in writing, from time to time, intervene, for the purpose of protecting the interest of the subscribers or the service providers or for monitoring and ensuring compliance of these regulations so as to promote and ensure orderly growth of the telecom sector.

(2) The Authority may review and modify the Per Port Transaction charge and Dipping charge at the end of one year from the date of these regulations coming into force.

(Sudhir Gupta)
Advisor (MN)

Note: The Explanatory Memorandum explains the objects and reasons of the Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge Regulations, 2009 (9 of 2009).

IndiaCode

Explanatory Memorandum to the Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge Regulations, 2009

Background

1. 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.

IndiaCode

2. Based on the recommendations of the Authority, Government issued guidelines for MNP service license on 1st August 2008. It also identified two MNP Service Providers (MNPSPs) 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, TRAI specifies the per port transaction charge payable by the Recipient Operator to the Mobile Number Portability Service Provider and Dipping charge for those service providers who may use the query response system of the MNPSP.

4. For determining the Per Port Transaction charge, Dipping charge specified in these Regulations, TRAI issued a consultation paper on Determination of Per Port Transaction charge, Dipping charge and

Porting charge for Mobile Number Portability dated 22nd July 2009. Comments of stakeholders were solicited by 5th August 2009. Written comments of stakeholders were posted on TRAI's website following which Open House Discussion (OHD) was held on 11th August, 2009

5. After the OHD, meetings were held with both the MNPSPs to discuss the cost details submitted by them during which they were requested to provide supporting documents. These documents/financial statements were examined/ analyzed and based thereon, the per port transaction charge has been determined.

IndiaCode

Key Issues and analysis

1. Compensation for network upgradation

The introduction of mobile number portability requires some modification in both hardware and software at the service providers' end, so as to make their telecom network compliant for mobile number portability. Some of the service providers argued that the expenditure thus incurred needs to be compensated. The Basic Service Operators and ILDO's pointed out that being intermediaries, they do not in any way benefit from MNP and that the cost incurred by them needs to be reimbursed.

In this context relevant clauses of Basic, ILD and UAS licences governing the service providers read as follows:

Clause 17.7 of Basic licence :

"The LICENSEE shall, for the purpose of providing the SERVICE, install own equipment so as to be compatible with other service/access providers'

equipment to which the LICENSEE's applicable systems are intended for interconnection." (emphasis supplied)

Clause 17.6 of ILD licence:

"The ILD Service Licensee shall for the purpose of providing the service install its own equipment so as to be compatible with other service providers' equipment to which the ILD Service licensee's Applicable Systems are intended for interconnection." (emphasis supplied)

Clause 2.6 of UAS licence:

"LICENSEE *shall make its own arrangements for all infrastructure involved in providing the service and shall be solely responsible for installation, networking and operation of necessary equipment and systems, treatment of subscriber complaints, issue of bills to its subscribers, collection of revenue, attending to claims and damages arising out of his operations."* *(emphasis supplied)*

IndiaCode

In addition, the Department of Telecom through its letter No.201-20/2008-AS-I dated 6th May2009 addressed to all the Basic Service, CMTS, UAS, NLD and ILD Licenses, amended the respective license agreements and made it mandatory for service providers to facilitate implementation of MNP through upgradation etc. of the network at their own cost. Relevant portion of the above said letter reads as follows:

"*It is mandatory to facilitate timely implementation of Mobile Number Portability (MNP) Service in the respective Licensed Service Area by up-gradation, operation and maintenance of his networks/ systems to support MNP service operation at his own cost. MNP is to be implemented in each intra Licensed Service Area (LSA) as per the schedule notified by the Licensor from time to time."*

Accordingly the contractual and legal requirement in the license agreements would render compensation to service providers on this account inadmissible.

2. Compensation for Donor operator.

A few service providers argued that MNP will result in Donor Operators incurring extra burden by way of administrative costs involved in processing the porting request as well as loss of recurring revenue due to switch over of the subscriber to a competing service provider. These service providers submitted that some compensation for these costs was in order.

IndiaCode

The Authority has duly examined the matter. In so far as administrative costs are concerned, the procedure laid down by the Authority vide the Telecommunications Mobile Number Portability Regulations, 2009 (8 of 2009) of dated 23rd Sep 2009 do not require the Donor operator to carry out any significant work.

In so far as switch over of a subscriber is concerned, the Authority is aware that currently a subscriber is free to terminate his connection with a service provider at any time and the only requirement of the service provider is that the subscriber pays up the outstanding dues, if any. Besides, an overwhelming majority of the subscribers belong to the 'prepaid' category wherein in case of termination of service, the subscriber forfeits the balance available, if any, in the prepaid amount and migrates away. In either case, no extra charges are levied by the service provider. Mobile Number Portability does not bring in any material change to this situation.

As far as acquisition costs are concerned, the 'Telecommunication Mobile Number Portability Regulations, 2009' provide that the subscriber must have stayed with the service provider for at least 90 days before he can port his number to another service provider. Besides, every service provider is likely to be both a Donor and a Recipient operator. The Authority accordingly does not see any reason for compensation to the concerned service providers on this count.

3. Dipping Charge

During the consultation process, both the MNPSPs informed that till date they have not received any confirmation of demand for dipping service from the service providers. In the absence of information regarding the number of service providers who require to use the query response system of MNPSPs, it would not be possible to estimate the number of dippings and therefore, the calculation of Dipping charge may not be realistic. Besides, the general consensus that emerged among the stakeholders was to leave the service providers to mutually negotiate the dipping charge with the respective MNPSPs. Considering these factors, the Authority is of the view that Dipping charge may be left, for the present, to mutual commercial agreements between MNPSPs and service providers. This may be considered for review after one year based on the experience.

IndiaCode

4. Estimation of Per Port Transaction Charge

Cost Data & Analysis

Both the MNPSPs had submitted the cost data for estimation of per port transaction charge. The Authority examined these costs and deliberated with the MNPSPs on several points before adopting it with certain modifications (as discussed in succeeding paras) as the basis for working out the per port transaction charge.

IndiaCode

On comparison of the details provided by the two MNPSPs, it was noted that there were a few structural differences between them. One of these is related to the life of the hardware. Whereas one MNPSP had provided a life of 3 years for its hardware, the other MNPSP had considered the life of hardware as 5 years. Since the license is for 10 years, it would mean that the first MNPSP has to replace its hardware twice i.e. in the 4th and 7th year while the other MNPSP has to replace its hardware once in the 6th year. The software life has been indicated as 10 years by both MNPSPs.

In accordance with the accounting principles, the Authority has considered the one time license fee paid to the software licensor by MNPSP under capital expenditure while the usage based variable software license fee has been treated as operating expenditure. Similarly, one time entry license fee paid to Department of Telecom has been treated as capital expenditure. These regroupings have been carried out to the cost data provided by MNPSPs before estimating the per port transaction cost.

The operating expenditure as submitted by the MNPSPs has been considered except license fees, interest and taxes. The license fee has been divided into two parts with the onetime payment to DoT (entry fee) classified as capital expenditure and the recurring licence fee at 1% being added to the estimated Per Port Transaction charge.

While the Authority has noted the total capital expenditure for both the operators for a period of 10 years, only a 5 year period has been considered for determining the per port transaction charge, since as per the MNP service license condition, the MNPSP has an exclusive right to provide MNP solution in the licensed MNP zone only for a period of five (5) years from the effective date of licence. Besides the Authority proposes to review the per port transaction charge at the end of one year, by which time the pattern of porting will be evident.

IndiaCode

The total cost to the MNPSP is the sum of computed depreciation & amortization, operating expenditure and Return on Capital Employed @ 15%. The depreciation on hardware and set up (implementation) cost and amortization of the software, one time license fee to DoT, lease improvement and others have been calculated on straight-line method.

As indicated in the consultation paper, the Authority has used the cost plus methodology which considers the return on capital employed as a factor to be added to the capital and operating expenditure to compute the total cost. It is observed that one of the MNPSPs has used a discounting factor of 14% for computation of NPV (Net Present Value) of the project. The Authority has therefore considered 15% as Return on Capital Employed which includes interest and taxes. The rate of 15% has been used on capital employed which is the sum of Net block and working capital. The Net block has been arrived at after deduction of

accumulated depreciation and amortization for five years. The working capital has been estimated as two months operating expenditure.

Assumption of Annual rate of porting

The consultation paper has given the summary of Annual rate of porting around the world at table 4, which ranges from 0.1% to 31.9%. As explained in the consultation- paper, the porting rate in any country depends on a number of factors like mobile subscriber base, churn rate, number of operators in the market, market dynamics etc. In their written submission various stakeholders had given additional factors which affect porting. These are procedure for porting, porting time, porting costs/fee, lock-in period, customer awareness, exit barriers, launch of services by new operators, attractive/aggressive tariff plans, innovative services, VAS offerings**,** quality of service, time to resolve disputes & porting process complexity etc. The porting rate as projected by the service providers ranges from 0.5% (for year 2009-10) to 20%. The Authority also took note of the results of the two surveys conducted by reputed marketing research organisations wherein it was predicted that the porting rate will be from 10-20% for pre-paid subscription, and upto 50% for post paid subscription.

Considering all these factors, the Authority has estimated 10% porting rate for the first 15 months and 7%, 6% and 5% for the successive three years for the calculation of per port transaction charge due to following reasons:-

- As seen internationally, the porting rate is high in the initial period of introduction of MNP and then reaches a plateau.
- Unlike other countries where at the time of introduction of MNP, the telecom sector had matured, in India, several new

operators are entering the market and the monthly addition of new subscriber is still very high.

- As the churn rate is quite high, it is expected that once MNP is available, subscribers may use this facility as an alternative to switch over to other operators.

Per Port Transaction Charge

The per port transaction charge has been computed by dividing the total cost to the MNPSP by the estimated number of porting subscribers, over a period of 5 years. In so far as the cost is concerned, the Authority has considered the lower of the cost of the two MNPSPs.

IndiaCode

Accordingly, the Per Port Transaction charge works out as follows:-

Particulars	Unit	Amount
Total cost	**Rs in Mn**	**2320.47**
Average porting	In Mn	123.26
Per Port Transaction Charge	**in Rs**	**18.83**
License fee @1%	**in Rs**	0.19
Total Per Port Transaction Charge	**in Rs**	**19.02**
rounded off	**in Rs**	**19.00**

5. Porting Charge:

The subscriber making a request for porting his mobile number may be required by the Recipient Operator to pay a fee as 'Porting Charge'. The 'Porting charge' as may be collected by the Recipient Operator from a mobile subscriber, is separately being notified by TRAI vide Telecommunication Tariff (49th Amendment) Order 2009.

TO BE PUBLISHED IN THE GAZETTE OF INDIA,

EXTRAORDINARY,

PART III, SECTION 4

TELECOMMUNICATION MOBILE NUMBER PORTABILITY PER PORT TRANSACTION CHARGE AND DIPPING CHARGE (AMENDMENT) REGULATIONS, 2018

(03 OF 2018)

TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION

New Delhi, the 31st January 2018

File No. 15-01/2016-F&EA ---------- In exercise of the powers conferred upon it under section 36, read with sub-clauses(ii), (iii), (iv) 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 further to amend the Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge Regulations, 2009 (9 of 2009), namely:-

1. (1) These regulations may be called the Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge (Amendment) Regulations, 2018 (03 of 2018).
(2) They shall come into force from the date of its notification in the Official Gazette.
2. For regulation 3 of the Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge Regulations, 2009, the following regulation shall be substituted, namely: "3. **Per Port Transaction charge: -** The Per Port Transaction charge for each successful porting shall be rupees four."

(S. K. Gupta)
Secretary

Note 1. The principal regulations were published vide No. 116-5/2009-MN dated 20th November, 2009 (9 of 2009).

Note 2. The Explanatory Memorandum explains the objects and reasons of "The Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge (Amendment) Regulations, 2018 (03 of 2018)".

IndiaCode

EXPLANATORY MEMORANDUM

1.1 Under the extant Mobile Number Portability (MNP) regime, a subscriber can retain the existing mobile telephone number while switching from one service provider to another or from one technology to another technology of the same service provider. It allows subscribers to retain their mobile number not only within the same Licensed Service Area (LSA) but also Pan India in any LSA.

1.2 The Mobile Number Portability is operational in India since 2009, when MNP service licences were issued to two Mobile Number Portability Service Providers (hereinafter referred to as MNPSPs) by the Department of Telecom (DoT). DoT has mandated MNP service licensees to follow the regulations/ orders or directions issued by TRAI under TRAI Act, 1997 or any instructions issued by the DoT (licensor) from time to time.

IndiaCode

1.3 As per Telecommunication Mobile Number portability Per Port Transaction Charge and Dipping Charge Regulations, 2009 dated 20th November 2009, TRAI has fixed Rs. 19/- as 'Per Port Transaction Charge' to be paid by the recipient operator to the concerned MNPSP. Further, through notification of the Telecommunication Tariff (Forty-Ninth Amendment) Order, 2009, the Authority prescribed the Per Port Transaction charge of Rs. 19/- as ceiling for the tariff that could be charged from subscriber by the recipient operator.

1.4 The Per Port Transaction charge was determined based on the estimated financial data and other information submitted by the two MNPSPs in 2009.

1.5 Till 2015, for the purpose of MNP service, the entire country was divided in two zones with 11 LSAs in each zone and MNP service was allowed only within the LSA. The scope of MNP was expanded in the financial year 2015-16, when MNP

service was allowed across all licensed service areas on Pan India as the national rollout (Full-MNP) w.e.f. 3rd July 2015. This resulted in huge upsurge in the number of porting requests from 64 lakh in 2010-11 to 368 lakh in 2014-15. This has further gone up to 636 lakh in 2016-17. The Authority also reviewed/ analysed upsurge in the porting requests during the last two years when the MNP services were opened on PAN India basis on 3rd July 2015.

1.6 The 'Per Port Transaction Charge' of Rs. 19/- was determined by TRAI in November 2009[1] based on the estimated financial and other information/ data submitted by the two MNPSPs in 2009 (details given below). The per port transaction charge was computed by dividing the total cost to the MNPSP by the estimated number of porting subscribers, over a period of 5 years. In so far as the cost is concerned, the Authority considered the lower of the cost of the two MNPSPs.

IndiaCode

Particulars	Unit	Amount
Total estimated Cost for 5 years	Rs in Lacs	23204.69
Estimated porting for 5 years	in Lacs	1232.65
Porting Charges per subscriber for 5 years	in Rs	18.83
License fee @1%	in Rs	0.19
Total Per Port Transaction Charges per Subscriber	in Rs	19.02
Rounded off	**In Rs.**	**19.00**

1.7 However, when the Per Port Transaction cost (using Fully Allocated Cost methodology) based on the audited annual accounts of the MNPSPs has been

[1] "The Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge Regulations, 2009" dated 20th November 2009

compared in 2017 with the above figures, it shows a significant decline in the per port transaction cost. Based on the audited annual accounts submitted by MNPSPs for the year 2016-17, the calculation of 'per port transaction charge works out as follows: -

Particulars	Unit	Amount
Total Cost*	Rs. in Lacs	1,229.57
No. of porting requests received	in Lacs	310.47
Per Port Transaction Cost	in Rs.	3.96
Licence Fee @1%	in Rs.	0.04
Per Port Transaction Charge	**in Rs.**	**4.00**

IndiaCode

1.8 Total cost* in the above table includes the operating expenditure (after adjusting consultancy & royalty charges) and depreciation & amortization and 15% return on capital employed as per the audited annual accounts submitted by MNPSPs. While arriving at afore-mentioned cost and the per port transaction charge, the Authority has adopted the same methodology and the principle to consider the lower of the cost of two MNPSPs as it was followed at the time of initial fixation of Per Port Transaction Charge.

1.9 As per Regulation 6(2) of the Telecommunications MNP per Port Transaction Charge and Dipping Charge Regulations 2009, the Authority may review and modify the Per Port Transaction Charge and Dipping Charge.

1.10 After reviewing the financial results of both the MNPSPs and the upsurge in the volume of porting requests in the past two years, the Authority opined that the present charge of Rs. 19/- is quite high as compared to cost and volumes of transaction involved. The Authority, therefore, placed draft "The Telecommunication Mobile Number Portability Per Port Transaction Charge and

Dipping Charge (Amendment) Regulations, 2017" on 18th December, 2017 on TRAI's website for comments of stakeholders. The last date for receiving comments from stakeholders was 29th December, 2017, which was further extended upto 12th January, 2018, considering the requests of stakeholders. An Open House Discussion in this regard was also held on 16th January 2018.

1.11 Most of the stakeholders (comprising TSPs and COAI) commented that the proposed per port transaction charge of Rs. 4 are on higher side and should be brought down to Rs. 2.00 by the Authority, considering the surge in the MNP requests and reduction in the cost of serving such requests.

1.12 Majority of stakeholders have commented that the royalty and consultancy charges paid by MNPSPs to their parent companies are very high. Though the MNPSPs are not providing any such service which requires payment of royalty amounts. Thus, the Authority should not consider royalty fee under the item Total Cost while calculating the per port transaction charges. Moreover, only the Relevant Cost of the two MNPSPs may be taken into account for the purpose.

1.13 One of the stakeholder also commented that per port transaction charge should be nil in case of forced porting due to closure of the telecom company. Few stakeholders commented that MNP per port transaction charge to be allowed as pass through charges and excess recovery due to overcharging during the preceding years to be passed on to TSPs for facilitating the future porting requests without any cost.

1.14 On the other hand, MNPSPs commented that the current per port transaction charge of Rs.19/- is reasonable and should not be revised downward. Considering the market consolidation scenario, subscribers will be left with fewer choices in the future to port to different operators, which will in turn lead to decline in porting volumes.

IndiaCode

1.15 The written views/ comments received from stakeholders on the draft "The Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge (Amendment) Regulations, 2017" as well as during the open house discussion were analysed. After taking into consideration the views/ comments received from stakeholders and the other relevant facts, the Authority has decided that the per port transaction charge may be reduced as the costs of operations of MNPSPs have substantially gone down and at the same time the volume of MNP traffic has increased by leaps and bounds.

1.16 As a result of this amendment, there will be automatic reduction in ceiling of the charges leviable from subscribers for Mobile Number Portability from Rupees Nineteen to Rupees Four. It will be so because notification of Telecommunication Tariff (Forty-Ninth Amendment) Order, 2009 prescribed the following: -

"Porting charge payable by the subscriber to the Recipient Operator:- The Per Port Transaction charge specified in regulation 3 of the Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge Regulations, 2009(9 of 2009), as ceiling."

IndiaCode