



Suruhanjaya Komunikasi Dan Multimedia Malaysia
Malaysian Communications and Multimedia Commission

**GUIDELINE ON MOBILE VIRTUAL NETWORK BUSINESS SEGMENT
IN MALAYSIA**

15 APRIL 2016

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This document is issued as a source of information to interested parties and the general public. The information in this document is intended to serve as a guide only. For this reason, it should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases. Interested parties and the general public should refer to the legislative provisions contained in the law for clarification. MCMC reserves the right to revise, change and/or amend this document without prior notice.

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1. INTRODUCTION

The regulatory environment for the communications and multimedia industry in Malaysia is facilitated by a robust framework which promotes regulatory transparency, self-regulation and consumer protection. In this regard, the provisioning of the Mobile Virtual Network (“MVN”) business model is based on these principles, which aim to lower barriers to entry, promote competition and provide service choices to the consumer.

The Malaysian Communications and Multimedia Commission (“MCMC”) issued a Guideline on Regulatory Framework for 3G Mobile Virtual Network Operator (“MVNO”) in 2005 (“2005 Guideline”) to provide an overview of the regulatory framework for interested parties who wanted to provide 3G MVNO service. The 3G MVNO service was introduced after the assignment of four (4) blocks of spectrum available in the International Mobile Telecommunications (“IMT”) spectrum bands in 2004.

The 2005 Guideline was based on the proposals by two (2) of the Spectrum Assignment holders, which outlined the technical and service level aspects, as well as the requirements for MVN operators based on the business model adopted. The 2005 Guideline also outlined the basic requirements for licensing and numbering for potential MVN operators in order to facilitate market entry, relevant to the requirement at that point of time.

This document replaces the 2005 Guideline to cater to changes in technology, business models, service provisioning and other regulatory requirements under the Communications and Multimedia Act 1998 (“CMA98”).

2. OVERVIEW OF THE MVN GUIDELINE

The Guideline on Mobile Virtual Network Business Segment in Malaysia (“MVN Guideline”) provides relevant information to both existing and prospective service providers in the various areas of market entry, negotiation and the roll-out of services related to MVN, and is divided into the following parts:

Part A	Part B	Part C
<p><u>Market Entry Phase</u></p> <ul style="list-style-type: none"> i. Licensing Requirements ii. Numbering Requirements 	<p><u>Negotiation Phase</u></p> <ul style="list-style-type: none"> i. Access Negotiations ii. International Connectivity and Roaming 	<p><u>Roll out Phase</u></p> <p>Compliance to the:</p> <ul style="list-style-type: none"> i. MS for the provision of Services through a MVN ii. Consumer Protection requirements iii. Mobile Content Service (“MCS”) requirements iv. Quality of Service (“QoS”) requirements v. Registration of End Users of Prepaid Public Cellular Services (“PCS”) requirements vi. Mobile Number Portability (“MNP”) requirements vii. Public Cellular Blocking Services (“PCBS”) requirements viii. Other legal requirements

3. PART A – MARKET ENTRY PHASE

LICENSING REQUIREMENTS

CMA98 provides a comprehensive licensing framework for the different requirements of potential MVN service providers. In this regard, the horizontal

licensing framework allows potential MVN service providers to enter into the relevant markets and provide the relevant services based on their investment criteria.

In general, there are four (4) types of licences provided under CMA98 as listed below:

- a. Content Applications Service Providers ("CASP");
- b. Applications Service Providers ("ASP");
- c. Network Service Providers ("NSP"); and
- d. Network Facilities Providers ("NFP").

It is to be noted that potential MVN service providers may not require all four (4) types of licences to provide their services in Malaysia. The licences required by an MVN service provider would be based on the scope of activities that the potential MVN service provider intends to undertake. In this regard, the licensing requirement may differ from one MVN business model to another. The business models may include MVN Enablers (MVNE), MVN Aggregators (MVNA), "thick" MVN service provider, "thin" MVN service provider, or other models which may develop in the future.

Based on the above, interested parties should be mindful that the actual licensing requirements may only be ascertained on a case-by-case basis by MCMC upon assessment of the relevant licence application. In this regard, potential MVN service providers are advised to contact the Licensing Department of MCMC for further clarification and assistance.

For details on licensing information and other requirements, kindly refer to MCMC's Licensing Guidebook dated 1 January 2015¹.

NUMBERING REQUIREMENTS

MCMC is the body vested with the control, planning, administration, management and assignment of the numbering and electronic addressing in Malaysia. As MVN service is provided via the provisioning of Public Cellular Service ("PCS"), the potential MVN service provider may require allocation of "Mobile Numbers"², a numbering category under the Numbering and Electronic Addressing Plan ("NEAP").

¹ <http://www.skmm.gov.my/skmmgovmy/media/General/pdf/LicensingGuideBook.pdf>

² Note: Categorized as "Non-Geographic Numbers" as per the NEAP

If the potential MVN service provider intends to invest and provide network service activity, such as providing its own Home Location Register (“HLR”) and billing, they may apply to MCMC for the allocation and use of the relevant block of numbers which allows them to provide the relevant services, subject to the requirements of the NEAP.

Interested parties should be mindful that the actual numbering requirements may only be ascertained by MCMC upon assessment of the application on a case-by-case basis. Potential MVN service providers are also advised to contact the Numbering Department of MCMC for further clarification and assistance.

4. PART B – NEGOTIATION PHASE

ACCESS NEGOTIATIONS

MCMC has established a framework on access to facilitate access and interconnection among service providers. Through instruments issued such as Access List, Mandatory Standard on Access and Mandatory Standard on Access Pricing, MCMC has set out all requirements including commercial and technical requirements to facilitate access negotiations and agreement between service providers.

Since 1 September 2015, MVNO Access is regulated in the Access List³. As such, potential MVN service providers should refer to the Access List on the nature of the regulated service. Further, the processes, requirements to commence negotiations, the timelines as well as other terms and conditions are detailed out in the Mandatory Standard on Access. Once the MVN service provider has entered into an access agreement with the Host Operator, the access agreement has to be submitted to MCMC for registration.

In the event of disputes, MVN service providers should also refer to the dispute resolution procedures in the Mandatory Standard on Access, before seeking resolution of the dispute with MCMC.

MVN service providers are advised to contact the Competition and Access Department of MCMC for further clarification and assistance.

³ <http://www.mcmc.gov.my/skmmgovmy/media/General/pdf/Access-List-2015.pdf>

INTERNATIONAL CONNECTIVITY AND ROAMING

Potential MVN service providers may want to build a business model based on their potential international connectivity and roaming capability to attract the relevant market segment.

Potential MVN service providers should be aware that the appropriate licence is required for the provisioning of gateway services. In this regard, international connectivity and roaming capability may be provided by the Host Operator on commercial basis.

5. PART C - POST NEGOTIATION PHASE (ROLL OUT PHASE)

The post negotiation phase in this context would mean that the period where an agreement between Host Operator and MVN service provider has been reached with regards to the provisioning of service. In this phase, the roll out of the service would require both parties to comply with specific compliance requirements as set-out by MCMC.

The following information are for guidance only as there may be other requirements of which either both the potential Host Operator and/or the MVN service providers would have to comply with. In this regard, the following requirements are also relevant and necessary for both the potential Host Operator and MVN service provider to consider during their negotiation phase to ensure compliance.

COMPLIANCE TO THE MANDATORY STANDARD FOR THE PROVISION OF SERVICES THROUGH A MOBILE VIRTUAL NETWORK

One of the important requirements of the Mandatory Standard for the Provision of Services through a Mobile Virtual Network⁴ ("MS for MVN") is for the potential and existing MVN service providers to submit two (2) Notices namely:

- i. The Commencement of Service Notice (Stage 1 Notice);
To be submitted by MVN service providers, three (3) months before the service commencement date or within seven (7) days of any material changes to the information submitted in the Stage 1 Notice

⁴ <http://www.mcmc.gov.my/skmmgovmy/media/General/pdf/Commission-Determination-No-3-2015.pdf>

- ii. The Service Termination Notice (Stage 2 Notice)
To be submitted by MVN service providers three (3) months before the service termination date.

The purpose of the MS for MVN is to provide relevant information about the MVN service provider to MCMC as well as to outline the responsibilities of the Host Operator and the MVN service provider in the event that the service between these two parties is terminated. This includes the requirement to provide the relevant notices and information on the termination of service, actions and options to be undertaken and provided by both Host Operator and the MVN service provider for the continuity of service (including facilitating portability options), as well as the timeline within which service to the consumers is to be terminated.

COMPLIANCE TO THE CONSUMER PROTECTION REQUIREMENTS

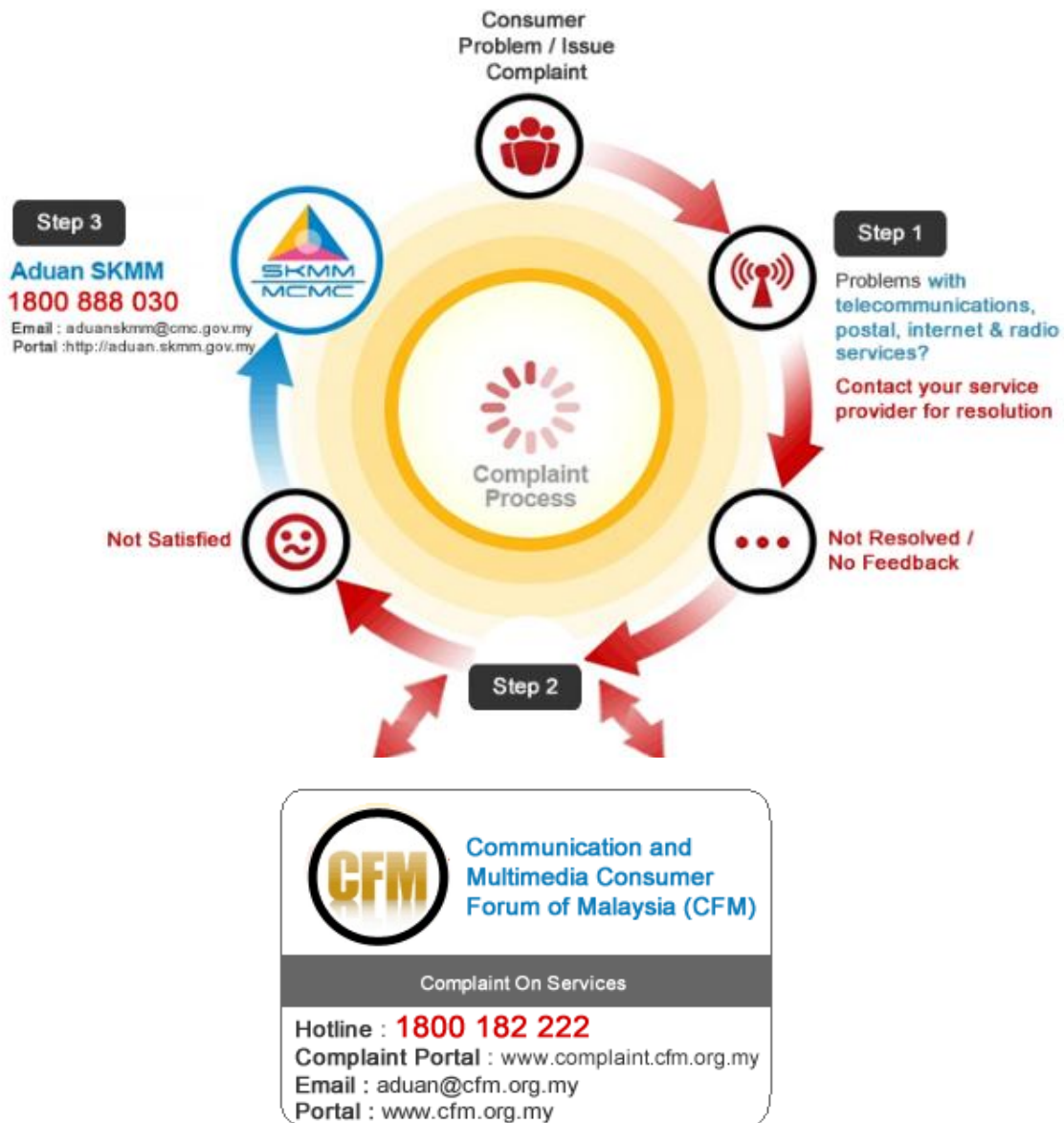
Protecting the consumer is one of the key principles in promoting high level of consumer confidence in service delivery from the industry. In this regard, Part VIII of CMA98 provides the relevant provisions on consumer protection by ensuring Quality of Service ("QoS"), as well as by providing the framework for the resolution of consumer disputes, among others.

Underpinning these provisions, Part V of CMA98 promotes a self-regulatory framework for the industry to prepare the relevant industry code via the industry forum. Part VIII of CMA98 further provides for the establishment of a consumer forum, which is tasked with developing relevant procedures for consumer protection, including:

- a. dealing reasonably with the consumers requirements;
- b. adequately handle customer complaints and disputes; and/or
- c. protecting the consumer information.

In undertaking the above, the Communications and Multimedia Consumer Forum of Malaysia ("CFM") which was designated in 2003 by MCMC was tasked to develop the General Consumer Code ("GCC"). Potential MVN service providers should note that compliance to GCC is compulsory, and in order to have a say in the development of the relevant consumer codes, service providers are encouraged to actively participate in CFM.

Potential MVN service providers should also establish the relevant process and procedures to handle the consumer complaints, including the measures to comply with the QoS requirements. In dealing with the consumers, MVN service providers should be the first point of contact to resolve the consumer's complaints. The proper escalation process should be followed at all time, as indicated in the following diagram:-



In addition to providing quality service and dealing reasonably with the consumers, MCMC encourages MVN service providers to follow best practices in empowering the consumers in making decision about the services and the service providers that they choose to subscribe with. With the availability of

sufficient information, consumers should be able to choose service providers which provide reliable and high quality service.

COMPLIANCE TO THE MOBILE CONTENT SERVICES REQUIREMENTS

MVN service providers who provide MCS to its customers through PCS would be subjected to the Mandatory Standards for the Provision of Mobile Content Services (“MS for MCS”)⁵.

The MS for MCS sets minimum standards on the service provisioning of MCS on mode of MCS subscription (for example, subscription-based or one-off purchase), renewal and termination of different types of services, provision of consent before charging the customer accounts, measures to prevent fraud and abuse and customer complaints procedure.

COMPLIANCE TO THE QUALITY OF SERVICE REQUIREMENTS

MCMC regulates and monitors the QoS performance of NSPs and ASPs through the relevant QoS standards. The QoS Standards have been developed to ensure that the consumers are provided with satisfactory level of services.

All ASP licensees providing PCS are required to comply with the Mandatory Standard on Quality of Service for Public Cellular Service⁶ (“MS on QoS for PCS”). In this regard, potential MVN service providers planning to provide PCS activities are advised to ensure that their relevant obligations as an ASP licensee under the MS on QoS for PCS can be met.

In relation to broadband service, MVN service providers are also required to comply with the standards outlined in the Mandatory Standards for the Quality of Service on Wireless Broadband Access Service⁷ which provides standards for QoS for delivery of data, video or voice over the internet protocol for wireless systems

⁵http://www.mcmc.gov.my/skmmgovmy/files/attachments/On_the_Mandatory_Stds_for_the_Provision_of_Mobile_Content_Services_Det_No_%204_of_2009.pdf

⁶ <http://www.mcmc.gov.my/skmmgovmy/media/General/pdf/MSQoS-for-Public-Cellular-Service01072015.pdf>

⁷ <http://www.mcmc.gov.my/skmmgovmy/media/General/pdf/Comm-Det-MS-QoS-Wireless-Bb-Access-Service-No-1-of-2016.pdf>

COMPLIANCE TO THE REGISTRATION OF END USERS OF PREPAID PUBLIC CELLULAR SERVICES REQUIREMENTS

A significant number of cellular mobile phone subscribers in Malaysia are pre-paid subscribers. In this regard, MVN service providers are required to ensure that their subscribers are registered in accordance with the relevant regulatory requirements (including Implementation Guidelines⁸) issued by MCMC.

COMPLIANCE TO THE MOBILE NUMBER PORTABILITY REQUIREMENTS

MCMC introduced Mobile Number Portability ("MNP") in 2008 to enable consumers in deciding their preferred service providers without having to change their mobile number.

Pursuant to the Numbering and Electronic Addressing Plan (Amendment Notice No. 2 of 2008), relevant service providers are required to prepare and/or facilitate the implementation of MNP and to ensure that all calls and data are delivered to the recipient mobile network. Both Host Operators and MVN service providers are also required to observe the relevant processes, neutral and non-discriminatory processes and exchange of information, as well as to implement MNP in a timely manner.

Based on the above, MCMC requires MVN service providers to include any relevant technical requirements in their commercial agreements between Host Operators, in order to enable them to comply with the MNP requirements.

COMPLIANCE TO THE COMMISSION DIRECTION ON PUBLIC CELLULAR BLOCKING SERVICE FOR CELLULAR MOBILE ACCESS DEVICES UNDER REQUIRED APPLICATION SERVICES

Another consumer protection measure introduced by MCMC is the Public Cellular Blocking Service ("PCBS") requirement, which is designed to protect consumer devices from theft.

In this regard, it is the responsibility of the relevant NSP licensees and ASP licensees to undertake the relevant action to protect the consumers and their devices through the PCBS system.

⁸ http://www.skmm.gov.my/skmmgovmy/media/General/pdf/Guideline_SKMM_02_09.pdf

In carrying out the above, Host Operators and MVN service providers shall ensure that their commercial arrangements comply with the relevant technical and regulatory requirements to enable PCBS as set out by MCMC.

6. DISPUTE RESOLUTION

CMA98 provides for a dispute resolution framework which seeks to facilitate the resolution of any disputes regarding any matter under the Act. In this regard, parties to the dispute would have to attempt to resolve their disputes prior to escalating the same to MCMC for resolution. As mentioned above, for access disputes with the Host Operator, MVN service providers are advised to refer to the dispute resolution procedures in the Mandatory Standard on Access before seeking resolution of the dispute with MCMC.

MVN service providers are advised to familiarize themselves with the relevant provisions under the CMA98 in relation to this matter.

7. COMPLIANCE WITH OTHER LEGAL REQUIREMENTS

Apart from matters highlighted in the preceding paragraphs, all licensees are required to comply with other provisions of the CMA98, subsidiary legislations, instruments and guidelines not expressly referred to in this Guideline. Additionally, service providers are also advised to seek legal advice on the requirements to comply with other applicable laws.

8. REVOCATION OF THE 2005 GUIDELINE

The Guideline on Mobile Virtual Network Business Segment in Malaysia (SKMM/G/01/16) replaces the Guideline on Regulatory Framework for 3G Mobile Virtual Network Operators issued on 16 February 2005, which shall be revoked on 15 April 2016 and will no longer be used as a reference document.

9. CONTACTING MCMC AND THE INDUSTRY FORUM

MCMC may from time to time revise, change and/or amend this guideline to ensure its relevance, without giving prior notice. Interested parties may contact the relevant departments below should they have additional enquiries.

Licensing and Numbering

Head, Licensing and Assignment Division
Communication, Spectrum Management and Economic Regulation Sector
Malaysian Communications and Multimedia Commission

Competition and Access

Head, Competition and Access Division
Communication, Spectrum Management and Economic Regulation Sector
Malaysian Communications and Multimedia Commission

Consumer-related

Head, Consumer Protection and Complaints Bureau Department
Network Security, Enforcement and Advocacy Sector
Malaysian Communications and Multimedia Commission

Information on this MVN Guideline

Head, Strategy and Policy Initiatives Department
Corporate Strategy Sector
Malaysian Communications and Multimedia Commission

General MCMC Line

Malaysian Communications and Multimedia Commission
MCMC Tower 1
Jalan Impact, Cyber 6
63000 Cyberjaya
Selangor Darul Ehsan

Tel No: +60 3-8688 8000

Fax No: +60 3-8688 1001

Website: www.mcmc.gov.my

MVN service providers may also contact the Communications and Multimedia Consumer Forum of Malaysia should they are interested to participate in the development of the relevant self-regulatory initiatives:

Communications & Multimedia Consumer Forum of Malaysia (CFM)

6-02, 6th Floor, Straits Trading Building,
No. 2 Lebuhr Pasar Besar,
50050 Kuala Lumpur
Malaysia

Tel No: +60 3-2692 3800

Fax No: +60 3-2693 2288

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