



Suruhanjaya Komunikasi dan Multimedia Malaysia

Malaysian Communications and Multimedia Commission

PUBLIC CONSULTATION PAPER

**PUBLIC CONSULTATION ON THE INFORMATION PACKAGE FOR
MOBILE VIRTUAL NETWORK (MVN) SERVICE PROVIDERS**

13 JULY 2015

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**INFORMATION PACKAGE ON MOBILE VIRTUAL NETWORK BUSINESS
SEGMENT IN MALAYSIA**

JULY 2015

(SKMM/G/01/15)

This document is issued as a source of information to interested parties and the general public. The information in this document are intended 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 general public should still refer to the legislative provisions contained in the law. MCMC reserves the right to revise, change and/or amend this document without prior notice.

PREFACE

The objective of this Public Consultation (“PC paper”) is to seek views from the industry, other interested parties and members of the public on the proposed Information Package on Mobile Virtual Network Business Environment in Malaysia (“MVN Infopack”). This MVN Infopack will replace the existing 2005 ‘Guideline on Regulatory Framework For 3G Mobile Virtual Network Operators’ (“2005 Guideline”).

In the interest of fostering an informed and robust consultation process, MCMC reserves the right to publish extracts or entire submissions received. Any commercially sensitive information should be provided under a separate cover clearly marked ‘**CONFIDENTIAL**’. However, for any party who wishes to make a confidential submission, it would be of assistance if a “public” version of the submission were also provided (if possible). Written submissions should be provided by **12.00pm, 1 September 2015**. Submissions should be provided in either hard copy **or** electronic form to:

Chairman

Malaysian Communications and Multimedia Commission

MCMC Tower 1

Jalan Impact, Cyber 6

63000 Cyberjaya

Selangor Darul Ehsan

Attention to: Strategy and Policy Division
(PC for MVN Infopack)

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GLOSSARY

MCMC	Malaysian Communications and Multimedia Commission
CMA	Communication and Multimedia Act 1998 (Act 588)
MVN	Mobile Virtual Network
M2M	Machine to Machine
OTT	Over the Top
IP	Internet Protocol
IMT	International Mobile Telecommunications
QoS	Quality of Service
PCBS	Public Cellular Blocking Service
MNP	Mobile Number Portability
NEAP	Numbering and Electronic Addressing Plan
MNO	Mobile Network Operator
MVNO	Mobile Virtual Network Operator
ASP	Application Service Provider
PCS	Public Cellular Service
GCC	General Consumer Code
CFM	Communications and Multimedia Consumer Forum Malaysia

1. INTRODUCTION

The Malaysian Communications and Multimedia Commission (“MCMC”) issued the in2005 Guideline February 2005 to facilitate the introduction of new service providers via the Mobile Virtual Network (“MVN”).

The MVN Business Model was facilitated with the issuance of the four (4) blocks of Spectrum Assignment available in the IMT spectrum bands. 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 the potential MVN operators in order to facilitate market entry, relevant to the requirement at that point of time.

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 MVN business model is based on these principles which aim to lower barriers to entry, promote competition and provide service choices to the consumer.

Technological advances in the communications and multimedia industry will see the introduction of new services. Developments in M2M, OTT Communications, digital broadcast and other IP based communications would be some of the factors that would impact investment in the this particular market segment. The allocation of 2600 MHz spectrum for IMT services will also open up new opportunities within this market segment, with even more service offerings to consumers.

2. OBJECTIVES OF THE INFORMATION PACKAGE

In order to cater to changes in technology, business models and also the manner in which service provisioning is undertaken within the MVN market segment, there is a need to develop an information package (“MVN Infopack”) to assist prospective and existing MVN service providers towards the current requirements provided under the Communications and Multimedia Act 1998

("CMA98"). This MVN Infopack may assist the MVN service providers in planning their business accordingly.

This MVN Infopack updates the information provided in the 2005 Guideline and replaces the said document. This MVN Infopack also should be read together with the Communications and Multimedia Act 1998 ("CMA98"), the relevant subsidiary legislations, instruments, guidelines and/or information papers that have been issued by MCMC pursuant to CMA98.

This MVN Infopack provides relevant information to facilitate market entry, negotiation and the roll-out of services related to the MVN business model and will be divided into the following parts:



3. PART A – MARKET ENTRANCE 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 licenses 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").

The licenses required by an MVN service provider are dependent on the scope of activities that the MVN service provider intends to undertake. It is to be noted that potential MVN service providers may not require all four (4) types of licenses to provide their services in Malaysia. In this case it is unlikely that an MVN service provider requires a CASP type license.

A full-fledged MVN service provider may require all of the following licenses: NFP (I), NSP (I) and ASP(C). However, very few service providers fall under this category. Some MVN service providers may require a NSP (I) license and an ASP(C) license. The majority of the MVN service providers would require only an ASP (C) license for the provisioning of "public cellular services".

The NFP (I) license allows any service provider to deploy its own network facilities or infrastructure. Most MVN service providers prefer to use the network facilities or infrastructure of the host MNO together with the access to the spectrum, as this may be a more cost-effective solution. As MVN service providers rely on the host MNOs in terms of network facilities and infrastructure, rolling out the network facilities that require use of spectrum may not be relevant in this case. Therefore, most MVN service providers will not require an NFP (I) license.

The NSP (I) license allows any service provider to undertake switching and bandwidth management activities. Should the MVN service provider wishes to manage its own home location register and undertake switching service, it will require this license.

An ASP(C) license is required for the provisioning of public cellular services at the retail end (directly to end users). This activity typically involves the "re-selling" of public cellular services of a cellular communications service provider under a different brand name.

Interested parties should be mindful that the actual licensing requirements can only be ascertained by MCMC upon assessment of the application vis-à-vis the CMA98 and the Communications and Multimedia (Licensing) Regulations 2000 (as amended) on a case by case basis, and are advised to

contact the Licensing Department of MCMC for further clarification and assistance.

For details on licensing information, kindly refer to MCMC documents on license applications and criteria dated 17 January 2011.¹

NUMBERING REQUIREMENTS

MCMC is the body vested with the control, planning, administration, management and assignment of the numbering and electronic addressing of network services and applications services. In this regard, the provisioning of the PCS as required by MVN service providers will require "Mobile Numbers"², a numbering category under the NEAP issued by MCMC. Potential MVN service providers are advised to familiarize themselves on the requirements and obligations elucidated in the NEAP.

Not all models adopted would require numbering allocation from MCMC. In certain instances, potential MVN service providers may obtain these Mobile Numbers from the relevant NSP (I) licensee who can arrange for the allocation and use of the numbers on a commercial basis and in a fair and non-discriminatory manner. As an example MVN service providers who provide retail services only can obtain numbers from the relevant NSP (I) licensee.

On the other hand, if a 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.

Interested parties should be mindful that the actual numbering requirements can only be ascertained by MCMC upon assessment of the application vis-à-vis the CMA98 and the NEAP including its revision thereof. MVN service providers are also advised to contact the Numbering Department of MCMC for further clarification and assistance.

¹ <http://www.skmm.gov.my/skmmgovmy/media/general/pdf/licensing-guideline-13012011.pdf>

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

4. PART B – NEGOTIATION PHASE

INTERCONNECTION SERVICE

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

MVN service providers may explore the possibility of providing own interconnection based on their business plan but are not obliged to do so.

MVN service providers which opt to provide its own interconnection should be mindful on the requirements provided under CMA98 and are also advised to contact the Competition and Access Department of MCMC for further clarification and assistance.

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 ASP license does not provide for international communications network. In this regard, international connectivity and roaming capability may be provided by the host MNO which can provide these arrangements on a commercial basis.

THE NEGOTIATION PROCESS – BEST PRACTICES

MCMC believes that the consumer will benefit with the proliferation of services by different service providers, which leads to better service and at a lower cost to the consumer. In order to facilitate this, MCMC encourages timely conclusion of negotiations and agreement between the host MNO and MVN service providers.

In this regard, negotiations should be concluded not more than twelve (12) months from the date of the first negotiation. This timeframe should encourage both host MNO and MVN service providers to prioritize the issues so as not to unnecessarily delay the introduction of new MVN service providers to the market.

In order to facilitate negotiations, potential host MNOs are encouraged to set out in detail and provide their requirements to the potential MVN service providers prior to the negotiation. This would enable potential MVN service providers to have a clear understanding of what is expected of them even prior to starting the negotiation process. As far as possible, host MNOs should ensure that the requirements imposed on potential MVN service providers are consistent and applicable equally to different service providers.

Potential MVN service providers are not limited in their negotiation and provisioning of services from their potential host MNO. In this regard, subject to observing commercial confidentiality and other requirements, potential MVN service providers may negotiate with more than one potential host MNO in looking at the best arrangement.

Similarly, both potential MVN service providers and host MNO should observe the competition framework under Part VI of CMA98 which prohibits any anti-competitive conduct within the Communications and Multimedia sector. Parties should also be mindful of any other legal framework when agreeing upon the terms and conditions of the agreement to be entered into.

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 MNO 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 the specific compliance requirements as required by MCMC.

The following information are for guidance only as there may be other requirements of which either both the potential MNOs and/or the MVN service providers would have to comply. In this regard, the following requirements are also relevant and necessary for both the potential host MNO and MVN

service providers to consider during their negotiation phase to ensure compliance.

COMPLIANCE TO THE CONSUMER PROTECTION REQUIREMENTS

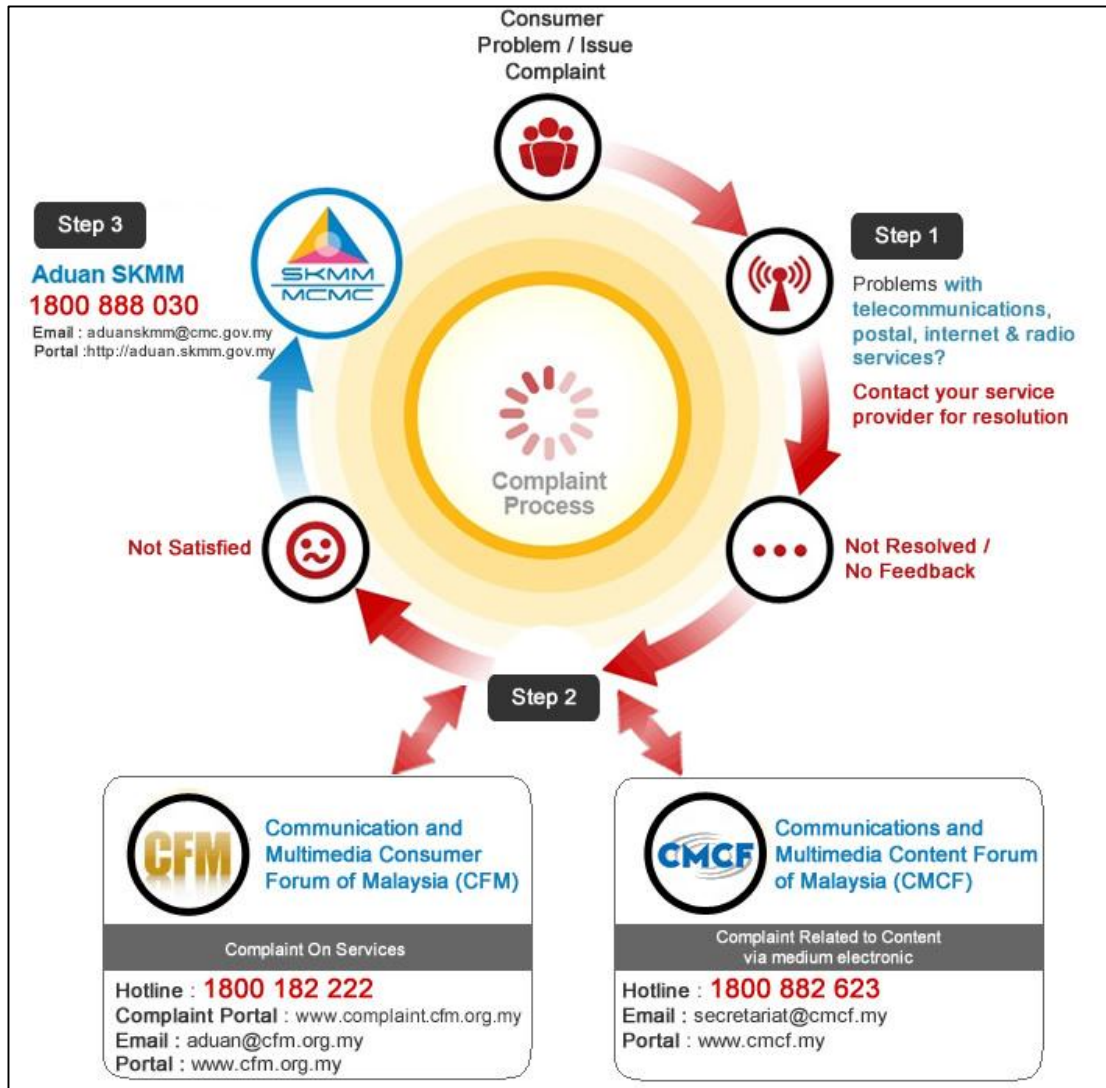
Protecting the consumer is one of the key principles adhered to by MCMC in promoting high level of consumer confidence in service delivery from the industry. In this regard, Part VIII CMA98 provides the relevant provisions on consumer protection, by ensuring QoS, as well as providing the framework for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

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. In this regard, Part VIII of CMA98 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, CFM was registered in 2003 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 the CFM.

Potential MVN service providers should 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, potential 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 the potential MVN service providers to establish best practice in empowering the consumers in making their decision. With the availability of sufficient information, the consumers should be able to choose service providers which provide reliable and high quality service.

In the event where the services between the network operator and MVN service providers are terminated pre-maturely (i.e. prior to the conclusion of their service agreement), both parties should undertake all the necessary actions to ensure service continuity to their customers. These may include providing the relevant notices and information on the termination of service, actions and options to be undertaken and provided by both network operator and the MVN operator for the continuity of service (including facilitating

portability options), as well as the timeline of which the service is to be terminated.

COMPLIANCE TO THE QUALITY OF SERVICE REQUIREMENTS

MCMC regulates and monitors the performance of Network Service Providers and Application Service Providers by setting the QoS Standards. The QoS Standards has been developed to ensure that the consumers are provided with satisfactory level of services that meet minimum and acceptable standards. The QoS Standards provides specific criteria through which the quality of services received or used can be gauged.

In relation to the services provided with the MVN business model, all ASPs providing PCS are required to comply with the Mandatory Standards on QoS for Public Cellular Service. 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 Mandatory Standard can be met.

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

A significant majority of cellular mobile phone subscribers in Malaysia are pre-paid subscribers. In this regard, MVN service providers are reminded to ensure that their subscribers are registered in accordance with the relevant regulatory requirements (including implementation Guidelines) issued by MCMC. The obligation to comply with this lies with the service providers.

COMPLIANCE TO THE MOBILE NUMBER PORTABILITY REQUIREMENTS

MVN service providers should take note that the relevant framework to enable MNP was introduced in 2008, and this would enable consumers make a choice in relation to 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 MNOs 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 potential MVN service providers to include any relevant technical and regulatory requirements in their commercial agreements between host MNOs, in order to enable them to comply with the MNP requirements.

Potential host MNOs are also encouraged to enable portability of subscribers of respective MVN service providers to its own network in the situation where any termination of service by the MVN service providers occur in order to ensure continuity of service to its subscribers. Host MNOs are to take all reasonable measures to ensure that this process can be undertaken without any difficulty if the circumstances so dictate.

COMPLIANCE TO THE PUBLIC CELLULAR BLOCKING SERVICE REQUIREMENTS (PCBS)

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

In this regard, it is the responsibility of the relevant network service providers and applications service providers to undertake the relevant action to protect the consumers and their devices via a PCBS system.

In carrying out the above, potential network operator 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.

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

This Mandatory Standard is to protect the consumers in the event of the failure by the MVN service provider. Relevant Network Service Providers and Applications Service Providers are required to comply with the requirement to

issue the relevant Notices to MCMC, and to undertake the relevant steps to ensure refund and service continuity to the subscribers. This Mandatory Standard also requires MVN service providers to provide reports and ensures both the host operators and the MVN service providers have the sufficient monies to refund the affected subscribers.

Note: The Public Inquiry on the proposed Mandatory Standard is published with this Public Consultation Paper. Feedback to the draft Mandatory Standard must be submitted separately to MCMC, as per the details outlined in the Public Inquiry Paper. A detailed report will be published in MCMC's website one month after the conclusion of the Public Inquiry. For further information, please visit <http://bit.ly/1RePx0M> or MCMC website at www.mcmc.gov.my

6. DISPUTE RESOLUTION

CMA98 provides for a dispute resolution framework which seeks to facilitate the resolution of any disputes regarding any matter under CMA98. In this regard, parties to the dispute would have to attempt to resolve their disputes prior to escalating the same to MCMC for resolution. 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 MVN Infopack. Additionally, potential MVN service providers are also advised to seek legal advice on the requirements to comply with other applicable laws.

8. 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. Further information pertaining to licensing aspects of MVN business model can also be obtained by writing to the following address:-

Chief
Communications, Infrastructure and Access
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

Potential MVN service providers may also contact the relevant Industry Forum should they are interested to participate in the development of the relevant self-regulatory initiatives:

Communications & Multimedia Consumer Forum of Malaysia

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
Website: www.cfm.my
Email: enquiries@cfm.my

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