



सत्यमेव जयते

सुधीर गुप्ता

SUDHIR GUPTA

सचिव/Secretary

D.O. No. : 7-1/2013-B&CS

भारतीय दूरसंचार विनियामक प्राधिकरण

महानगर दूरसंचार भवन, जवाहर लाल नेहरू मार्ग,

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Dated: 05 September, 2014

Dear *Sh. Julka,*

Please refer to MIB's D.O. letter No. N-38011/01/2013-FM dated 25 August 2014, in respect of the Authority's recommendations on "Migration of FM Radio Broadcasters from Phase-II to Phase-III". In your D.O. it is stated that while the Ministry is in agreement with the rest of the recommendations contained therein, the recommendations regarding reduction of minimum channel spacing within a licensed service area to 400 KHz and reconsideration of methodology for determining the reserve price for fresh cities in Phase-III auction are "not agreeable" due to reasons mentioned in the letter. The Ministry has requested the Authority to furnish further recommendations on these two issues in accordance with provisions of section 11(1) of the TRAI Act, 1997.

2. From the above referred letter, it appears that while agreeing with the remaining recommendations, the Government has referred back these two issues to the Authority for its reconsideration as per the 5th proviso to section 11(1) of the TRAI Act, 1997.

3. The objective of expansion of the FM radio broadcast services, by adding new cities to cover uncovered geographical areas as well as through additional channels in existing cities, is to make available a variety of content, information and educational services to general public. The primary purpose of the additional FM radio channels auction is to give a boost to the FM radio movement so that it can contribute to development of society, fulfill the needs of entertainment and information of the general public, and encourage socio-economic activities. The revenue generated from the FM radio spectrum auction process is incidental to this larger objective.

4. Before considering these issues, it is worthwhile to summarize the relevant facts pertaining to the first issue i.e. reduction of minimum channel spacing within a licensed service area to 400 KHz as below:

- i. On a reference dated 13 November 2007 from MIB, the Authority gave its recommendations on '3rd Phase of FM Radio Broadcasting' on 22 February 2008. Along with the reference, the Ministry forwarded the proposal dated 09 August 2007 from BECIL for augmentation of FM broadcasting frequency spots under Phase-III. The proposal contains a comprehensive technical analysis and details of the cities as well as the number of FM radio channels which can be offered to private broadcasters in each city.
- ii. Further, on a reference dated 08 August 2011 from MIB, the Authority gave its recommendations on 'Prescribing minimum channel spacing, within a license service area, in FM radio sector in India' on 19th April 2012, wherein the Authority, inter-alia, recommended that the frequencies for FM radio channels, within a licensed service

- area, may be released with a minimum spacing of 400 KHz. Presently minimum channel spacing within a licensed service area is 800 KHz.
- iii. Further EGoM in its meeting held on 06.03.2013, inter-alia, directed that auction of additional channels that may become available due to reduced channel spacing to 400 KHz could be considered after feasibility studies are completed.
 - iv. The Authority in its recommendations dated 20 February 2014, again recommended the acceptance and early implementation of its recommendations on 'Prescribing minimum channel spacing, within a license service area, in FM radio sector in India'.
 - v. The Ministry has now requested BECIL to carry out the feasibility studies for establishing the working of 400 KHz spaced channels within the same licensed area.
 - vi. Since Phase-II permissions will start expiring from 31 March 2015 onwards, at least in the existing Phase-II cities, it is important to complete the auction process for Phase-III of FM radio before 31 March 2015.

5. In the above perspective, after considering the first issue referred back to the Authority for its reconsideration, the recommendation of the Authority is as under:

- i. The rationale behind the reduction of minimum channel spacing within a licensed service area to 400 KHz is to ensure the efficient utilization of the scarce resource of spectrum and make available additional numbers of FM radio channels in areas where it is technically feasible and demand is more than the already identified number of channels.
- ii. Considerable time has elapsed since the Authority's recommendations dated 19th April 2012 and the subsequent direction by EGoM vide its decision dated 06.03.2013 for conducting the feasibility study. Since BECIL has already done considerable technical analysis in the year 2007 for Phase-III cities radio planning, it should be possible to complete it now quickly. BECIL should be asked to complete the feasibility study in a time bound manner so that the schedule for Phase-III auction is not disturbed.
- iii. In the exigency that BECIL is not able to complete the feasibility studies well in time, then the Government should accept, in principle, the Authority's recommendation for reduction of minimum channel spacing within a licensed service area to 400 KHz subject to technical feasibility and declare this in the NIA document for Phase-III auction so that prospective bidders can take informed decisions.

6. In respect of the second issue (i.e. reconsideration of methodology for determining the reserve price for new cities in Phase-III auction) referred back to the Authority for its reconsideration; the recommendation of the Authority is as under:

- i. The MIB vide its reference dated 9th April 2013, as per decision of EGOM dated 06.03.2013, sought the Authority recommendations on the amount of migration fee to be charged from FM radio broadcasters on their migration from phase II to Phase III. The Authority gave its recommendations on 20 February 2014 and the Ministry is reported to be in agreement with them. In this reference, the Ministry did not seek the Authority's recommendations on the reserve price for FM channels to be auctioned in new cities.
- ii. On the issue of the methodology for determining the reserve price for new cities in Phase-III, please refer to para 1.58 to 1.60 of the Authority's recommendations dated 20th February 2014, wherein we have already mentioned that while finalizing the above said recommendations, the Authority noted that the rules contained in the Phase III Guidelines do not give consistent and / or rational results for migration of

- operators in the existing Phase-II cities; therefore usability of these Rules for new cities is similarly beset with hazards.
- iii. While para 1.59 and the table 1.7 of the Authority recommendations dated 20 February 2014 highlight some of the cases where the reserve price determined based on the Phase-III rules look unreasonable, it may be further noted that as per Phase-III policy reserve price rules, the benchmark price for category D new cities of southern region would be the benchmark price worked out for category D cities of east region, as the same is not available for southern region cities from Phase-II. It is a fact that the bid prices received during FM Phase-II for existing southern region cities are much higher than the bid prices received for existing eastern region cities of similar categories. This further indicates the inconsistency of the existing Phase-III policy reserve price rules.
- iv. In its recommendations the Authority has said that, "the methodology for determining the reserve price for new cities in Phase-III should be reconsidered as the current methodology might jeopardize the auction." While making this recommendation, the Authority was aware of the fact that the Phase-III policy was announced in pursuance of the Union Cabinet decision dated 07 July 2011. The intention was to point out the anomalies and that the Government needs to take a view on that.
- v. However, while not agreeing to the recommendation regarding reconsideration of current methodology for determining reserve price for new cities in Phase-III, the Ministry has not indicated any new or specific reason based on merits, other than the fact that existing methodology was approved by the Cabinet. So, the Authority does not have any further comments to offer.
- vi. If the Authority's specific recommendations are required on the reserve price for FM channels to be auctioned in new cities, than it cannot be sought through this back reference under the 5th proviso to section 11(1) of the TRAI Act, 1997. A fresh reference is required to be made and the Authority would make its recommendations after following the due consultation process with stakeholders.

7. In keeping with the practice, a copy of this letter is being placed on the website of TRAI www.trai.gov.in.

With Regards.


(Sudhir Gupta)
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