



25th April 2017

Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg
(Old Minto Road)
New Delhi – 110002

Kind Attn.: Shri Sanjeev Banzal
Advisor (Network Spectrum & Licensing)

Subject: Consultation Paper on "Ease of doing Telecom Business in India"

Dear Sir,

This is in reference to the Consultation Paper issued by the Authority dated 14th March 2017 on "Ease of doing Telecom Business In India".

As desired, we hereby enclose our response to the questions raised in your above mentioned Consultation Paper. We hope our response will be given due consideration. We shall be obliged to address any further queries from your good office in this regard.

Thanking you and assuring you of our best attention always.

Yours sincerely,


Satya Yadav
Add. Vice President – Corporate Regulatory Affairs
Tata Teleservices Limited
And
Authorized Signatory
For Tata Teleservices (Maharashtra) Limited

Encl: As above

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**TTL response to Consultation Paper on
"Ease of doing Telecom Business in India"**

A. Unified License:

- **Migrating to Unified License**

Today, it is clear from the UL guidelines that an operator has to be networth positive in order to acquire a UL, however, there is no clarity whether same principle of positive networth is required to migrate to a UL from an existing license like a UASL.

Licenses and spectrum have been delinked and the bulk of the cost of running a mobile operation in a circle is not in the license but in the spectrum. Since all spectrum is now being auctioned, if a party has the ability to win in an auction and secure the spectrum, then creating barriers to their getting a license to operate is counter productive.

It is existing operators who face difficulties due to ambiguity in UL guidelines on requirement of positive networth for migration from UASL to UL as they have built up accumulated losses over the previous 20 years of operations in many of their circles. For them to migrate to UL or secure new ULs becomes an issue because of their built-up negative networth. DoT has allowed migration from UASL to UL in cases of negative networth but it takes time. Therefore, there should be a specific mention in the guidelines for migration from UASL to UL that the networth need not be positive.

It puts existing service providers at a disadvantage vis-a-vis new entrants who have no historical losses to set off. It is also not fair that an operator who has been in existence for 20 years and is willing to continue should be shut out. In the current environment, it may not be possible to maintain a positive networth circle-by-circle during the life of the existing licence.

Hence, we recommend that for an existing service provider (say a UASL holder), it should be clearly mentioned in the UL guidelines that the condition of a minimum net-worth should not be applicable for migration to UL.

- **Compliance of various general /commercial /technical /financial /operating / commercial conditions**



- **Microwave:** Currently, Microwave carriers are licensed as backhaul in only mobile networks. There are synergies in having a common transmission network supporting both fixed and mobile. Microwave carriers should be allowed to be used for transmission (both backhaul and last mile connectivity) in wireline networks as well.

AGR:

- **Definition:** The current definition of AGR in the licence is ambiguous and has resulted in prolonged litigation. It is suggested that there should be some closure brought to this long pending issue.

It may be clarified that sale proceeds or gains from sale of whole/part of the business or spectrum is excluded from AGR.

Adoption of Ind AS accounting is likely to create some notional gains (which were not arising under previous accounting standards). Some examples being gain on periodical fair valuation of investments/derivative instruments/financial assets. These should not be included in AGR. In order to provide clarity on computation of AGR from accounts maintained on the basis of Ind AS, consultation with the service providers is requested.

- **Deduction Verification:** The current process of deduction verification is very cumbersome and subject to interpretation. It is suggested that since DoT accepts 80% of the revenue based on statutory auditor's certificate, the rest of the 20% which are pass-through should also be accepted by providing statutory auditor's certificate. This will leave no scope for interpretation and eliminate huge waste of paper and manpower. In addition, DoT may adopt on-line deduction verification (Licence Fee Deduction at Source - LFDS) process as recommended by TRAI for verification of deduction claim.
- **Audits:** There are multiple audits by agencies like statutory auditors, special auditors appointed by DoT, CAG auditor, CCA auditor for deductions. These should be combined.
- **Assessments:** There is no time-limit prescribed for LF/SUC assessment. Even assessments of FY 1999-2000 are provisional. There is limit of 4 years under Income Tax Act, 1961. Similar limit may be stipulated for LF/SUC assessments as well.



- **Returns:** Each telecom circle is required to file separate quarterly returns of AGR and that too separately for LF and SUC. Facility should be provided to file online consolidated return for all service areas.

- **Adding New Authorisation in the UL**

Currently, the process of adding new service authorization in UL is same as obtaining new UL. This process should be simplified by prescribing a simpler one page application.

- **Surrendering any Authorisation within the Scope of UL or Surrender of UL**

Clause 10.3 of UL states that a Licensee may surrender the License or any service authorization under this License, by giving notice of at least 60 Calendar days in advance. In that case it shall also notify all its subscribers by sending a 30 Calendar days notice to each subscriber. Clarity is required whether any conditions need to be complied with before switching off Service in a particular geography within the licensed service area (SDCA/Block/LDCA/DHQ) as per business requirement.

- **Compliance of Roll-out Obligations**

In view of the proliferation of telecom networks and the spectrum being obtained through auction, there should not be any prescribed roll-out obligation. However, it should be compulsory to launch the services within 1 year of allotment of spectrum.

- **Payment of Licence Fee, FBG/PBG and the Release of Bank Guarantee, whenever due**

- The payment of Spectrum Usage Charges (SUC) should be made at the end of the Quarter as is being done for License Fee.
- Licensee should also be allowed to adjust excess payment made in one financial year in the subsequent year and such adjustment should not be dependent on the finalisation of assessment by DoT.
- The Performance Bank Guarantees (PBG) should be returned on the fulfilment of the License conditions on Roll-out obligation.
- Financial Bank Guarantee (FBG) amount should be reviewed periodically and a downward/upward revision should be done by TSP as per the licence condition.



B. Spectrum Allotment and Use:

- **Charging of SUC.**
SUC is applicable from the date of issue of LOI. However, the spectrum is not allocated from the date of LOI. Sometime, there is delay of more than 6 - 12 months, because of non-availability of spectrum due to its expiry. It is suggested that SUC should be charged from the date of allotment of spectrum and not from the date of LOI.
- **Spectrum Sharing & Trading:** Currently, sharing is allowed for the spectrum which is liberalised and is in the same band. It is suggested that administratively allocated spectrum should also be allowed for sharing. Any restrictions on the spectrum in the hands of the seller should pass to the buyer eg. Technology restriction.
- **Spectrum Liberalisation:** Currently, entire spectrum allotted administratively can be liberalised by paying the last auction determined price for that band in a circle. Partial liberalization is not allowed. It is suggested that for optimum utilization of spectrum as per the business plan, liberalisation of even partial spectrum in any circle in any band should be permitted.
- Operators are coming under margin pressure with the steep fall in revenues and margins as competitive intensity increases in the sector. Spectrum is a big part of their cost. Being able to optimise its use and cost would be key to operators being competitive. Many operators end up having spectrum which they are not able to use gainfully. They should be allowed to surrender anytime the auction acquired spectrum in whole or in part. The future payment liability should be reduced on a pro-rata basis to the period for which such spectrum was held by the operator. To dissuade frivolous acquisition of spectrum, a minimum deduction/payment equivalent to say 5 years of right of usage may be stipulated. Post surrender, Government has an option to auction the spectrum. This will put the scarce national resource to use rather than have it lying unutilized with an operator. Also distress sales of spectrum would distort market pricing and only hurt the future sale of spectrum.
- Operators should be allowed to surrender their administratively allocated spectrum and may be allowed refund of One Time Entry Fee/Dual Technology fee on pro-rata basis for the remaining period of the licence.



C. Merger & Acquisition Policy Guidelines:

The industry is currently facing financial problems due to hyper competition in the market. Telecom operators have accumulated debt of around INR 4 lakh crores due to spiralling cost of spectrum acquisition and investment in infrastructure. High debts and falling revenues and margins are unsettling the Lenders and Investors.

In this environment, encouraging consolidation among players would be of benefit to government, industry and the consumer. Though the current M&A guidelines of the Government are progressive, we wish to suggest some additional measures so as to facilitate M&A:

- We suggest that a timeline of 90-120 days be fixed for DoT to decide on the M&A /restructuring applications. Currently, there is no such timeline. It may not be out of place to point out that the Competition Commission of India (CCI) is required to decide M&A applications within 210 days of getting a notice from parties. This longer time-line is fixed for CCI as the numbers of applications are in the region of 200 per year. In case of DoT, as the number of licensees are very few, DoT may get one or two M&A applications in a year and such applications can be decided on the basis of the data (i.e. market share, spectrum details etc.) which is readily available with DoT or TRAI. Therefore, a fixed time period of 90-120 days may be prescribed for DoT to decide upon the M&A applications.
- The current M&A guidelines envisage that if a transferor company holds administratively allocated spectrum against the entry fee paid then the acquiring company shall pay the Government the difference between the entry fee paid and the Market Determined Price on pro-rata basis for the remaining period of the licence. This clause is detrimental to M&A and should be waived. Instead any restrictions on usage of spectrum may continue post the M & A.
- In case of M&A, porting fee etc should not be charged on subscriber base of merging service provider.
- In case of M&A or sale of substantial business, lock-in of one year which applies for sharing the spectrum acquired in 2016 or minimum holding requirement of two years under Spectrum Trading Guidelines may be waived.