

TELECOM REGULATORY AUTHORITY OF INDIA

April 14, 2004

PRESS RELEASE NO.27 /2004

TRAI Releases Consultation Paper on Licensing Issues Relating to 2nd Phase of Private FM Radio Broadcasting

The TRAI today released a Consultation Paper on Licensing Issues relating to 2nd phase of Private FM Radio Broadcasting.

1. **Background**

The Government of India had decided during the 9th Plan Period to permit private FM radio stations on a license fee basis. The decision to open up the frequencies to private participation was taken by the Government with the following objectives:

- (a) To open up FM broadcasting for entertainment, education and information dissemination by commercial broadcasters;
- (b) To make available quality programmes with a localized flavour in terms of content and relevance; to encourage new talent and generate employment opportunities directly and indirectly; and
- (c) To supplement the services of AIR and promote rapid expansion of the broadcast network in the country for the benefit of the Indian populace.

In May 2000, the Government auctioned 108 frequencies in the FM spectrum across 40 cities in the country through an Open Auction Bidding process. Multiple round auction mechanism was followed to award these licenses. The start-up was very slow. Out of 40 cities and 108 frequencies, services started in only 14 cities. A total of 37 licenses were issued out of which 24 are

operational (of which 2 have been granted deemed operational status, pending commencement of actual broadcast).

The result of the first phase of liberalization of FM radio broadcasting in India was not very encouraging. The private players in the FM industry reported heavy losses that are likely to continue for some time. A large number of cases are pending in courts and / or for arbitration.

Thus the first phase of licensing did not yield the desired result of proliferation of FM radio in the country. As such the Government decided to reformulate its policy for the second phase of licensing of the FM Radio and subsequently constituted a Committee on 24.7.2003 to make recommendations for radio broadcasting for phase – II. The Committee was headed by Dr. Amit Mitra, Secretary General, FICCI. The terms of reference, inter alia, included the following:

“Study the desirability and legal implications of making modifications in licensing regime of phase-I licensees should a different licensing regime be proposed for phase-II”.

The Committee found that the broadcast industry appears to be unviable under phase-I licensing regime and, therefore, recommended re-structuring of the FM broadcast industry and the phase-I licenses. It recommended revision of license fee structure and migration of the license terms from fixed license fee basis to a one time entry fee with an annual revenue sharing arrangement.

On 19th January, 2004, the Government notified broadcasting to be a telecommunication service under Section 2 (i) (k) of TRAI Act. Subsequently, on February 12, 2004, the Ministry of Information and Broadcasting, Government of India sent the report of the Radio Broadcast Policy Committee headed by Dr. Amit Mitra to TRAI for making appropriate recommendations.

Subsequently, on 11th February, 2004, five private FM broadcasters submitted a representation requesting for deferment of the Annual FM License

fee, till the Government takes a decision on implementation of the FM Radio Task Force recommendations. This representation was referred to TRAI, for its recommendations, by the Government on February 24, 2004. Since this issue was linked to the recommendation on phase II licensing and TRAI was in the process of preparing a consultation paper on the same, which was likely to take time, it issued an interim recommendation on 5th April 2004. It gave the option to the phase I licensees to defer their next installment of dues subject to the condition that they would pay this amount, after the issue is decided by the Government, with interest as may be decided finally.

Meanwhile, TRAI has begun examining the various issues involved in the phase II licensing of FM Radio. Dr. Amit Mitra, Chairman, Radio Broadcast Policy Committee, gave a presentation on its Report to the Authority on 8th March 2003. Inputs were also received from Ministry of Information and Broadcasting. TRAI also held meetings with various stakeholders. The accounts of the phase I licensees were called for and are being scrutinized. And, today TRAI has released a Consultation Paper on the matter.

2. Main Features of the Consultation Paper

The Consultation Paper raises a number of issues including:

- (a) Type of License- Whether there needs to be any stipulation on the type of content to be carried on each license or the choice is to be left to licensee.
- (b) Service Area – Whether the license should be city wise or regional/national basis.
- (c) Duration of Licenses – The need for change in the present license period, if any and also the need for license renewal.
- (d) Roll out obligation – Stipulating Roll out obligation for the service providers to expand coverage of radio services from the present 30 percent population coverage of FM to 60 per cent by the end of the Tenth Plan
- (e) Funds for rural roll out and niche programming – Examine the need for instituting a fund for improving roll out and promoting niche programs

- (f) Licensing Process - Adoption of an open and transparent licensing process that should meet the policy objectives of the Government.
- (g) Quantum of Entry & License Fees – How the entry fees should be set in case auction is not adopted or what should be the basis of reserve price, if auctions are held?
- (h) Multiple Licenses – Whether licensees be permitted to own multiple frequencies in the same city to provide flexibility to broadcast programmes in different languages or to provide diversity of content.
- (i) Programme Code : Whether there is need to have a separate Programme Code or to amend the existing AIR Programme Code
- (j) Technical Issues: Specifying maximum or minimum transmitter power and Height of the tower, specifying reasonable coverage requirements, permission to install antenna outside the premises.
- (k) Networking: Permission for networking between broadcasters in the same city, broadcast stations of the same entity in different cities, between broadcasters across the cities etc.
- (l) News and Current Affairs: Decisions regarding lifting of the restriction on airing of news and current affairs
- (m) Co-location – In view of the difficulties faced by licensees in co-location whether co-location be made mandatory.
- (n) Penalty for non-operationalisation of license- Penalty to be imposed on the licensees for non-operationalisation.
- (o) Migration: Whether license es of Phase-I should be allowed to migrate to Phase II and if so on what conditions?

The Consultation Paper released today addresses the above issues and raises certain points for discussion in this regard.

The Consultation Paper has been placed on TRAI's website (www.trai.gov.in) and comments of the stakeholders have been invited by 7th May, 2004.