



Telecom Regulatory Authority of India



Recommendations

On

Ease of Doing Telecom Business

(Response to back-reference dated 6th June 2018 received from Department of Telecommunications on recommendations dated 30th November 2017)

20th July 2018

Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg, New Delhi-110002

TRAI's RESPONSE TO THE BACK REFERENCE OF DoT

1. Promoting “Ease of doing business” is essential for unhindered growth of the telecom sector and is amongst the priorities of the Government. A number of steps have already been taken for ease of doing telecom business by the Government, generally on the recommendations of TRAI.
2. To support and actively encourage “ease of doing business in telecom sector”, the Authority felt that various processes, that a telecom licensee is required to go through, should be reviewed and it should be explored whether these processes could be simplified and/or combined to the extent possible to economise on efforts on part of the Telecom Service Providers (TSPs) as well as the Government. The Authority *suo motu* initiated a consultation process to review the existing processes and identify the bottlenecks, obstacles or hindrances that are making it difficult to do telecom business in India and, thus, require regulatory intervention. Based on the inputs received from various stakeholders and its own analysis, the Authority sent its recommendations to the Department of Telecommunications (DoT) on 30th November 2017.
3. The Recommendations have been considered by the Government. On some of the issues, it was felt necessary by the Government to seek clarifications/reconsidered recommendation under Section 11 of the TRAI Act 1997. Therefore, through its letter dated 6th June 2018, some of the recommendations have been referred back to the Authority for clarifications/reconsideration. A copy of the DoT's back reference is enclosed at **Annexure**.
4. The Authority examined the observations of the DoT and noted that DoT has referred-back recommendations made at Para 2.16, 2.18

and 2.31(c). These recommendations, DoT's view and the Authority's response after reconsideration are given below:

5. **Para 2.16 of Authority's Recommendations dated 30th November 2017:**

The Authority recommends that the applications for Demonstration Licence and Experimental Licence should be processed and the licence should be granted within a maximum period of 15 days and 30 days respectively. This time period should be declared on the portal as well as in Citizen's Charter.

DoT View

Demonstration Licence is issued by RLOs in consultation with WPC HQRS for frequency clearance and period of 15 days may not be considered sufficient.

DoT is of the view that, 30 days is required to process and grant both Demonstration Licence and Experimental Licence.

Accordingly TRAI is requested to reconsider whether 30 days period can be considered for process and grant of Demonstration Licence.

Response of TRAI

The Authority in its recommendations dated 30th November 2017 has recommended that the entire process of grant of all licences/approvals, that are issued by WPC (including Demonstration Licence and Experimental Licence), should be made paper-less and executed end-to-end through online portal. This system would help in saving the effort, time and cost in the entire process.

DoT in its back-reference has mentioned that the Demonstration Licence is issued by Regional Licensing Offices (RLOs) of WPC in consultation with WPC Head Quarters (HQRS)

for frequency clearance and period of 15 days may not be considered sufficient.

In this regard, it is emphasized that avoiding such coordination delays was one of the rationales for recommending implementation of paperless end-to-end online system. With implementation of the online portal, it can be ensured that the application is accepted only after all the relevant information is provided by the licence seeker. As regards grant of licence, the process of consultation / coordination between WPC RLO and WPC HQRS can also be made part of paperless end-to-end online system. In any case, 15 days time for grant of short-duration non-extendable Demonstration licence appears to be sufficient.

In view of the above, the Authority reiterates its recommendations.

6. Para 2.18 of Authority's Recommendations dated 30th November 2017:

The Authority recommends that the validity period of the Experimental (radiating) Licence should initially be six months, extendable by another six months.

DoT View

Considering the limited carriers / frequency spots, Experimental (radiating) licences are being issued initially for a period of three months to prevent hoarding for longer period by non-serious applicants.

DoT is of the view that, Experimental (radiating) licence may initially be issued for three months and extendable by another six months.

Accordingly, TRAI is requested to reconsider, Experimental (radiating) licences can initially be issued for three months and extendable by another six months.

Response of TRAI

As brought out in the recommendations, one of the stakeholders had submitted that significant amount of work on development of new technologies such as 5G, is being moved to other countries because of uncertain and delayed approval processes in India. While the Experimental Licences under non-radiating conditions and indoor environment remain valid for 2 years from the date of issue, for Experimental (radiating) Licence, the validity period is 3 months, extendable by another 3 months only. The Authority had viewed that the validity period of Experimental Licence (radiating) is too short. Therefore, the Authority had recommended that validity period of the Experimental (radiating) Licence should initially be six months, extendable by another six months.

DoT in its back-reference has mentioned that considering the limited carriers / frequency spots, Experimental (radiating) Licences are being issued initially for a period of three months to prevent hoarding for longer period by non-serious applicants. DoT has proposed that Experimental (radiating) Licence may initially be issued for three months and extendable by another six months and has requested the Authority to reconsider.

The Authority has noted that as per the existing requirement, the licensee has to apply for renewal at least one month prior to the expiry of the license. Therefore, if the validity of initial licence remains unchanged i.e. for a period of 3 months, within two months of grant of Experimental Licence, the licensee will have to apply for renewal of its licence. The Authority is of the view that two months is too short a period for a licensee to

practically utilize the licence and also for DoT to assess whether the entity is a serious player or not. Further, it adds to the uncertainty for the licensee.

In view of the above, the Authority reiterates its recommendations.

7. Para 2.31(c) of Authority's Recommendations dated 30th November 2017:

If a transferor company holds a part of spectrum, which (4.4 MHz/ 2.5 MHz) has been assigned against the entry fee paid, the transferee company/ resultant entity should be liable to pay the differential amount for the spectrum assigned against the entry fee paid by the transferor company from the date of written approval of transfer/ merger of licences by DoT.

DoT View

DoT is of view that M&A guidelines be modified as under:

“When the licensee applies for transfer / merger of licenses to DoT, DoT will raise demand upon transferee of One Time Spectrum Charges (OTSC), from the date of NCLT approval, with a stipulation that such demand is subject to revision after the grant of approval of transfer of licenses by DoT. The demand of OTSC will be recalculated based upon the date of grant of approval. Excess amount paid, if any, will be refunded back to the transferee / set off against other dues.”

Accordingly TRAI is requested to reconsider the above view of DoT.

Response of TRAI

As brought out in the recommendations, a merger is effective only after the written approval by the Licensor and the transferee company/ resultant entity will be able to derive benefits of merger (including spectrum holding of the transferor

company), only after the approval. Therefore, the Authority had recommended that if a transferor company holds a part of spectrum, which (4.4 MHz/2.5 MHz) has been assigned against the entry fee paid, the transferee company/ resultant entity should be liable to pay the differential amount for the spectrum assigned against the entry fee paid by the transferor company from the date of written approval of transfer/merger of licences by DoT and not from the date of approval of such arrangement by NCLT/Company Judge.

DoT in its back reference has proposed that when the licensee applies for transfer / merger of licenses to DoT, DoT will raise demand upon transferee of One Time Spectrum Charges (OTSC), from the date of NCLT approval, with a stipulation that such demand is subject to revision after the grant of approval of transfer of licenses by DoT. The demand of OTSC will be recalculated based upon the date of grant of approval. Excess amount paid, if any, will be refunded back to the transferee or set off against other dues.

The Authority noted that the DoT raises the demand for payment of OTSC before giving the written approval to the merger. Therefore, the Authority agrees with the proposal of DoT.

In view of the above, the Authority recommends that if a transferor company holds a part of spectrum, which (4.4 MHz/2.5 MHz) has been assigned against the entry fee paid, the transferee company/ resultant entity should be liable to pay the differential amount for the spectrum assigned against the entry fee paid by the transferor company from the date of written approval of transfer/merger of licences by DoT. However, while raising the demand for payment of OTSC, DoT shall calculate tentative demand from the date of NCLT approval, and upon grant of merger approval, the actual

demand of OTSC shall be recalculated based upon the date of grant of approval. Excess amount paid by the transferee company/resultant entity, if any, shall be refunded back to the transferee company/resultant entity or set off against other dues.

Government of India
 Ministry of Communications
 WPC Wing, Sanchar Bhawan,
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No. R-11017/01/2018-PP

Dated: 06.06.2018

To,
 The Secretary,
 Telecom Regulatory Authority of India,
 Mahanagar Doorsanchar Bhawan,
 Jawahar Lal Nehru Marg (Old Minto Road),
 New Delhi-110002

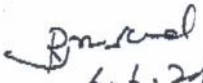
Subject: Back reference/ clarifications on TRAI recommendations dated 30th November 2017 on "Ease of doing Telecom Business".

Undersigned is directed to refer to TRAI letter No. 102-3/2017-NSL-II Dated 30th November 2017, enclosing recommendations on "Ease of doing Telecom Business" and to state that these recommendations have been considered by the Government and it is felt necessary to seek clarifications/ reconsidered recommendation, under Section 11 of the TRAI Act 1997, i.r.o. recommendations at paragraphs 2.16, 2.18 and 2.31(c) mentioned below:

Recommendations of TRAI	DOT's view for reconsideration/ clarification from TRAI
The Authority recommends that the applications for Demonstration Licence and Experimental Licence should be processed and the licence should be granted within a maximum period of 15 days and 30 days respectively. This time period should be declared on the portal as well as in Citizen's Charter.(Para 2.16)	Demonstration Licence is issued by RLOs in consultation with WPC HQRS for frequency clearance and period of 15 days may not be considered sufficient. DOT is of the view that, 30 days is required to process and grant both Demonstration Licence and Experimental Licence. Accordingly TRAI is requested to reconsider whether 30 days period can be considered for process and grant of Demonstration licence
The Authority recommends that the validity period of the Experimental (radiating) Licence should initially be six months, extendable by another six months. (Para 2.18)	Considering the limited carriers/frequency spots, Experimental (radiating) licences are being issued initially for a period of three months to prevent hoarding for longer period by non-serious applicants.

	<p>DOT is of the view that, Experimental (radiating) licences may initially be issued for three months and extendable by another six months.</p> <p>Accordingly TRAI is requested to reconsider, Experimental (radiating) licences can initially be issued for three months and extendable by another six months.</p>
<p>c) If a transferor company holds a part of spectrum, which (4.4MHz/2.5 MHz) has been assigned against the entry fee paid, the transferee company/ resultant entity should be liable to pay the differential amount for the spectrum assigned against the entry fee paid by the transferor company from the date of written approval of transfer/merger of licences by DoT.(Para 2.31)</p>	<p>DOT is of view that M&A guidelines be modified as under:</p> <p>"When the licensee applies for transfer / merger of licenses to DoT, DoT will raise demand upon transferee of One Time Spectrum Charges (OTSC), from the date of NCLT approval, with a stipulation that such demand is subject to revision after the grant of approval of transfer of licenses by DoT. The demand of OTSC will be recalculated based upon the date of grant of approval. Excess amount paid, if any, will be refunded back to the transferee/ set off against other dues."</p> <p>Accordingly TRAI is requested to reconsider the above view of DOT.</p>

2. It is requested to kindly expedite.


 6.6.2018
 (R B Prasad)
 Joint Wireless Adviser