

To,

The Advisor (NSL)
TRAI, New Delhi

Sub. : Comments on TRAI consultation paper on “Valuation and Reserve Price of Spectrum”.

The TRAI issued consultation paper on 23.07.2013 on the aforesaid subject and asked the various stakeholders to comment on the issues mentioned in the consultation paper. The following comments are made for consideration & submission to TRAI:

Q.1: What method should be adopted for re-farming of the 900 MHz band so that the TSPs whose licenses are expiring in 2014 onwards get adequate spectrum in 900/1800 MHz band for continuity of services provided by them?

Comment: Since 800 & 900 MHz bands have been identified as IMT bands; there will be a growing interest world over for deployment of UMTS technologies in these bands. In India 900 MHz band is already exhausted. The incumbent mobile operators having 900 MHz band had already made huge investments for creation of telecom infrastructure in 900 MHz band. If their spectrum in 900 MHz is withdrawn and substituted with spectrum in 1800 MHz band, all the investment made for creation of telecom infrastructure in 900 MHz band will go waste as it cannot be used in 1800 MHz band. Operators will have to again make huge investments for deployment of equipment in 1800 MHz band. In the sagging telecom market where the Telecom operators are already carrying huge debt burden, this additional burden is totally unwarranted. In case of MTNL it will create further operational and financial problems as MTNL will have to follow tendering process for changing its' networks from 900 MHz to 1800 MHz which will take 2-3 years. Further, considering the financial constraint, it will be very difficult to fund such CAPEX requirement.

In order to avoid waste of public money, MTNL the PSU operator with legacy issue, may be given option to retain their existing spectrum in 900 / 1800 MHz band in order to restore level playing field. This becomes more relevant in the case of MTNL, who as a Govt. PSU does not participate in the bidding process under taken by Govt. itself.

Q.2: In case spectrum is to be reserved for such TSPs, should it be restricted to licenses expiring in 2014 (metros) or include licenses expiring afterwards (LSAs other than metros) ?

Comment: It should be applicable for all LSAs

Q.3: Is any restriction required to be imposed on the eligibility for participation in the proposed auction?

Comment: There shall not be any restriction for participation and all eligible participants shall be allowed to participate in proposed auction.

Q.4: Should India adopt E-GSM band, in view of the diminishing interest in the CDMA services? If yes,

a) How much spectrum in the 800 MHz band should be retained for CDMA technology?

b) What are the issues that need to be addressed in the process?

c) What process should be adopted for migration considering the various issues involved?

Comment: While taking any decision it has to be ensured that a level playing field is provided to all the stake holders covering existing CDMA and GSM service providers.

Q.5: Should roll-out obligations for new/existing/renewal/quashed licenses be different? Please give justification in support of your answer.

Comment: Considering the difference in their operational status and the work for rollout to be carried out by them, there should be different rollout obligations for new/existing/renewal/quashed licenses.

Q.6: Is there a need to prescribe additional roll-out obligations for a TSP who acquires spectrum in the auction even if it has already fulfilled the prescribed roll-out obligations earlier?

Comment: No.

Q.7: What should be the framework for conversion of existing spectrum holdings into liberalised spectrum?

Comment: After fulfilling the relevant (commercial) terms and conditions the existing spectrum holders may be given option to migrate to liberated spectrum. However, the spectrum held by PSUs should be considered as liberalised spectrum without any financial burden to create level playing field vis-à-vis

private operators in view of the fact that PSUs are burdened with legacy issues such as large manpower, govt. rules etc.

Q.8: Is it right time to permit spectrum trading in India? If yes, what should be the legal, regulatory and technical framework required for trading?

Comment: For the spectrum(s) acquired at market driven price, the spectrum trading may be allowed. The operator may be allowed to trade its spectrum with the party who had acquired relevant license from the GOI and fulfil the eligibility criteria set by the Govt. for acquiring spectrum. This will also lead to efficient usage of spectrum. But the trading shall be allowed only among the operators who have fulfilled the Roll Out obligations i.e. are providing services and are trading only for partial (required/ free) spectrum.

Q.9: Would it be appropriate to use prices obtained in the auction of 3G spectrum as the basis for the valuation in 2013? In case the prices obtained in the auction of 3G spectrum are to be used as the basis, what qualifications would be necessary?

Comment: No. The last two auction efforts of Govt. where the reserve price of 1800 Mhz band was based on auction derived 3G spectrum prices has proved that the bidding during 3G auction was based on operators perception of ***'Now or Never' as itself discussed in the consultation paper.***

Q.10: Should the value of spectrum for individual LSA be derived in a top-down manner starting with pan-India valuation or should valuation of spectrum for each LSA be done individually?

Comment: Considering the following the value of spectrum for individual LSA be derived in a top-down manner starting with pan-India valuation-

- (i) Roaming within the network of an operator is more or less free and Govt. as well as TRAI is looking for making roaming free.
- (ii) The business is being evaluation on PAN India basis.

In addition to above, it is suggested that the Tele-density and ARPU may be kept in view while deciding the criteria for spectrum valuation of an LSA.

Q.11: Is indexation of 2001 prices of 1800 MHz spectrum an appropriate method for valuing spectrum in 2013? If yes, what is the indexation factor that should be used?

Comment: Pricing should be market driven.

Q.12 : Should the value of spectrum in the areas where spectrum was not sold in the latest auctions of November 2012 and March 2013 be estimated by correlating the sale prices achieved in similar LSAs with known relevant variables? Can multiple regression analysis be used for this purpose?

Comment: No comments.

Q.13: Should the value of spectrum be assessed on the basis of producer surplus on account of additional spectrum? Please support your response with justification. If you are in favour of this method, please furnish the calculation and relevant data along with results.

Comment: No comments.

Q.14 : Should the value of spectrum in the 1800 MHz band be derived by estimating a production function on the assumption that spectrum and BTS are substitutable resources? Please support your response with justification. If you are in favour of this method, please furnish the calculation and relevant data along with results.

Comment: No comments.

Q.15 : Apart from the approaches discussed in the foregoing section, is there any alternate approach for valuation of spectrum that you would suggest? Please support your answer with detailed data and methodology.

Comment: No comment.

Q.16 : Should the premium to be paid for the 900 MHz and liberalised 800 MHz spectrum be based upon the additional CAPEX and OPEX that would be incurred on a shift from these bands to the 1800 MHz band?

Comment: The premium for the 900 and 800 MHz band should be based on their efficiency vis-a-vis 1800 MHz band as mentioned under para 1.25 of the referred consultation paper.

Q.17: Should the valuation of spectrum and fixing of reserve price in the current exercise be restricted to the unsold LSAs in the 1800 MHz band, or should it apply to all LSAs?

Comment: It should apply to the unsold LSAs and the LSA for which the license are due for renewal in next five years. .

Q.18 :

- (a) Should annual spectrum usage charges be a percentage of AGR or is there a need to adopt some other method for levying spectrum usage charges? If another method is suggested, all details may be furnished.
- (b) In case annual spectrum usage charges are levied as a percentage of AGR, should annual spectrum charges escalate with the amount of spectrum holding, as at present, or should a fixed percentage of AGR be applicable?
- (c) If your response favours a flat percentage of AGR, what should that percentage be?

Comments:

- (a) The spectrum usage charges as percentage of AGR is OK.
- (b) Should be a fixed percentage of AGR.
- (c) **4% of AGR**

Q.19: What should be the ratio adopted between the reserve price for the auction and the valuation of the spectrum?

Comment: Fixing of high reserve price limits the possibility of deriving market driven price as was also proved during the last two auctions. Any imposition of superficially derived prices on the telecom industry which is already sailing through financial turbulence may be disastrous for the industry. Accordingly, based on the experience of the last two auctions, the reserve price should be kept around **25 %** of valuation and let the market derive its true value under the prevailing circumstances.

Besides the questions raised by TRAI in referred consultation paper the following points are being submitted:

While appreciating TRAI's efforts in bringing level playing field among the operators, MTNL would like to put on record that for the following reasons, it is requested not to treat Govt. operators i.e. BSNL & MTNL at par with private operators-

- (i) Unlike Private operators whose objectives is to create wealth for its stakeholders, PSUs have responsibilities towards social agenda of the Govt. For example, PSUs had to absorb large legacy manpower recruited by the Govt. on the terms & conditions decided by the Govt. PSUs have follow various Govt policies such as reservation quota to other Govt PSUs, PMA etc.

- (ii) Unlike Private operators, all Administrative, HR, Finance, Commercial and procurements policies of BSNL & MTNL are governed by Govt. policies / guidelines and accordingly do not enjoy similar flexibilities in decision making. These PSUs are answerable to various Govt. agencies like CAG, CVC, CBI, CIC etc.
- (iii) All rollout and expansion of networks are carried out through open tendering process and closing of such process gets delayed due to reasons beyond the control of these PSUs i.e. BSNL & MTNL.

In addition to above to put the things in right perspective, MTNL would like to submit its' comments on observation under certain paras of Consultation Paper as per below-

- (i) **On following observations under Para 2.12 of Consultation Paper –**

“Authority would like the Government to withdraw spectrum in the amount of 2X2.4 MHz from MTNL to maintain a level playing field between the private and public service providers”

Comment: MTNL would like to submit that only 8 MHz (6.2 MHz in 900 MHz band + 1.8 MHz in 1800 MHz band) spectrum was allotted to it on regular basis. In addition 4.4 MHz spectrum was a temporary allotment on trial basis only.

Considering that the incumbent Telecom Service Providers will now have to pay one time spectrum fee for holding GSM spectrum beyond 4.4 MHz, after analysing all pros-n-cons, MTNL conveyed its' decision to DoT for retaining 0.4 MHz spectrum (out of trial spectrum) along with 8 MHz regular spectrum for its GSM operation in Delhi and Mumbai.

In view of above, TRAI is requested to modify the consultation paper accordingly.

- (ii) **On following observations under para 2.14 of Consultation Paper –**

“It is obvious that spectrum is not being put to efficient use by MTNL. In fact, as per the earlier subscriber based criteria for allotment of GSM spectrum, the amount of spectrum assigned to MTNL should have been only 6.2 MHz both in Delhi and Mumbai”

Comment: MTNL would like to submit that the GSM spectrum allotted to it from time to time by the Govt. was as per the prevailing spectrum allotment criteria and no special treatment at any point of time has been given to MTNL.

As already stated MTNL was allotted spectrum as per prevailing guidelines and had made investments in the network for the allotted spectrum. Considering that the demography of NCR & suburban areas of Mumbai is undergoing rapid changes, networks are required to be expanded frequently. The authority will appreciate that unlike other private operators, MTNL is governed by all Govt. policies / guidelines. for all its procurements and is answerable to various Govt. agencies like CAG, CVC, CBI, CIC etc. Accordingly, any expansion has to be routed through open tendering process and the closing of such process gets delayed due to reasons beyond the control of MTNL. This has direct effect on customers' acquisition / retention. Since MTNL is not provided with level playing field on the above referred issues, comparing it with other operators is not appropriate.

However, MTNL is in the process of expanding & upgrading its GSM networks of Delhi & Mumbai and will require at least 8.4 MHz spectrum per city, not only for offering adequate quality of service critical for surviving in this fiercely competitive market.

(iii) On following observations under para 2.34 of Consultation Paper -

“Presently, both the PSUs (MTNL/BSNL) are also holding spectrum in 800 MHz. However, they are not providing full mobility service in this band and their number of subscribers by these PSUs is very small. Therefore, these two PSUs could be asked to vacate spectrum in the 800 MHz band.”

Comment: MTNL does not agree with rationale behind TRAI's view for withdrawing Spectrum allotted to it in 800 MHz band. MTNL has made investment in the network for rollout of CDMA services in 800 MHz band. Further, MTNL will be deprived of opportunity offered by way of making spectrum technology agnostic and sharing of spectrum. Any unilateral decision for withdrawal of spectrum applicable only in the case of PSUs will not only be unfair but also be against the law of natural justice and level playing field.

(iv) The Regulator may ensure efficient use of spectrum by the service providers. The spectrum efficiency audit may be carried out by the Regulator on routine basis, So that the spectrum (natural resource) will not be hoarded by any operator.

(v) Not just the spectrum but even the telecom infrastructure shall be efficiently utilized. E.g. the telecom towers shall be shared among operators for BTS installation for their best efficiency. This will not only limit the number of towers required to provide the service, will also reduce the cost burden to operators. This will also lead Green Telecom industry.

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