

ADDITIONAL INPUTS ON "PERMITTING TRADING OF SPECTRUM IN INDIA"

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

SBICAP response:

Spectrum is a scarce resource and efficient use of spectrum shall result in maximizing its value. Spectrum trading helps achieving efficient use of spectrum as follows:

- Efficient usage of the spectrum by the entity which values it most.
- It provides operators increased flexibility to accommodate shifting demand driven by market changes
- Removes entry barriers for new operators which results into healthy competition.
- Given the above benefits, it provides customers with greater choice.

Spectrum trading comes with certain benefits as discussed above, however the trading regime should ensure that spectrum holding do not become concentrated into few hands such that competition is restricted. The same can be ensured by having cap on spectrum holding by operators in LSAs (Licensed Service Areas).

Considering the competitive environment and current spectrum allocation, partial spectrum trading could be allowed as a pilot, for 3G/BWA and liberalized 2G spectrum in India. Post the learnings drawn from this; DOT can gradually have this regime for all spectrums.

Rationale for 3G/BWA spectrum trading

- The 3G/BWA spectrum allotted as per the 2010 auctions did not result in any single operator having pan India spectrum, and thus the ability to provide these services.
- Further, as the DoT has declared the 3G ICR pacts as illegal, there is a case for spectrum trading being allowed for 3G/BWA services.
- The same would help in faster proliferation of data and would help in meeting DoT's target of broadband subscribers. Further, it would allow operators to offer pan India 3G/BWA services, which would translate into higher revenues for operators and thus higher regulatory revenues.

Rationale for 2G spectrum trading

At present, spectrum trading of 2G spectrum may be allowed for liberalized spectrum which has been allotted through auction process. Full spectrum trading of 2G spectrum can be allowed post the resolution of certain impediments as discussed below:

Lack of a level playing field:

Currently, there is a lack of level playing field in terms of the allotted spectrum as follows:

- New operators who have obtained spectrum in the 2012 auctions have liberalized spectrum while others (incumbents) do not.
- 3G/BWA spectrum allotted in 2010 through auction don't fall in liberalized category.
- The price paid by the operators for allocated spectrum is different for operators. Eg: for 1,800 MHz spectrum new operators have paid market driven price while incumbents have paid lower fixed price.

This shall make implementation of spectrum trading difficult as there shall be various buckets of available spectrum, with different prices paid across different times.

To overcome this issue going forward spectrum trading for 2G spectrum can be allowed once licenses of incumbents gets renewed and liberalized spectrum is allotted to operators/ or alternatively the operators are provided with a choice to pay market determined prices pro-rated on residual life of the spectrum to get the same liberalized..

Refarming of spectrum in the 900 MHz band:

- At present, the guidelines pertaining to the refarming of spectrum in the 900 MHz have not been firmed up.
- Allowing retention of spectrum by incumbents in the 900 MHz band, retention by paying market value or shifting operators to 1800 MHz band while putting the freed up 900 MHz spectrum on auction would drastically alter the current spectrum holding of operators.
- Thus, in the absence of clarity on refarming, it would be premature to allow full spectrum trading for 2G services

M&A guidelines:

- The DoT is yet to finalize the M&A guidelines to facilitate consolidation in the industry. Depending upon the policy, the need for spectrum trading would have to be relooked at, as the merged operators would design their networks taking into account the combined spectrum holdings and the same shall determine the demand for spectrum going ahead.

Greater clarity on the above aspects could lead to spectrum trading across all spectrum bands in India going forward.

Spectrum trading should be implemented under guidance of Government authorities for proper monitoring. The trading process can be controlled by way of imposing rollout obligations and regulatory charges on transacting parties/transactions.

Possible Approaches for implementing Spectrum Trading –

Spectrum Trading is allowed in various countries and similar approaches may be adopted for allowing spectrum trading in India. A suggested approach is provided below –

- Trading may be allowed though spectrum transfer and spectrum sharing
 - Spectrum transfer: Transfer of license rights and obligations and necessarily involves the grant of a new license to the transferee.
 - Spectrum Sharing: Contract between the parties holding unified license in a particular LSA to share the spectrum bandwidth.
- Type of transfers:
 - Outright or concurrent – the same refers to complete trade of the license to different entity for the entire residual life, however concurrent refers to both the operators having right on the spectrum.
 - Total or Partial – The same refers to trading/sharing of the entire band allocated or partial trading/sharing of frequency in the allocated band.
- The trading can be restricted to valid Unified License holders for the relevant LSA.
- Upon transfer of the entire spectrum in a particular area the original holder shall have no Right/Obligation with regards to that spectrum.

It may also be considered to have a Spectrum trading platform/Exchange being regulated by the Government of India that shall bring together the interested parties to carry out the trade. The transfer prices in such scenarios shall be the true market determined prices at that situation.

Conclusion

1. To begin with, the spectrum trading can be allowed in 3G/BWA/Liberalized spectrum.
2. Learnings from 1 and coming out with a clarity on the issues such as M&A guidelines/clear roadmap on spectrum holding and allocation, DoT can look at spectrum trading across all the spectrum bands.