



THE ASSOCIATED CHAMBERS OF COMMERCE AND INDUSTRY OF INDIA
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Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan
J. N Marg
New Delhi 110002

Subject: ASSOCHAM Response on TRAI's Pre consultation on Spectrum Auction

Dear Sir,

We wish to congratulate and applaud the Authority for their timely action to immediately views on the issue of Auction of Spectrum in 2G band and to start the process of Consultation.

ASSOCHAM established in the year 1920 is a representative industry body of over 4,00,000 member companies and professionals across India. Our members include the stakeholders of the telecommunications markets in India.

Our drive for competition and inclusive growth in all sectors of India has been represented at various forums in the country. As an industry body representing many industries we have been deeply concerned with the recent developments in the telecommunications sector. Telecom impacts all members and consumers equally. With the recent rise in telecom tariffs it has become imperative to invite new entrants to create competition for already existing incumbents.

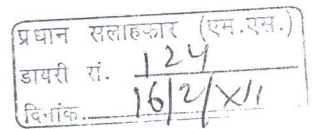
Our views and inputs for the upcoming 2G auctions and its consultation process are enclosed for the consideration of the Authority.

Thanking You,

Yours Sincerely,

Authorised Signatory

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I. Main Points to be considered by TRAI

1. It is imperative to arrive at a healthy balance between upfront fiscal returns to the Government of India and a vibrant and healthy competitive market. Ensuring a level playing field among operators will ultimately benefit the Indian consumer. Thus, the participation in the proposed grant of fresh licences and allocation of spectrum by auction in 2G band should be open to all eligible parties but excluding the incumbent operators and their shareholders as they are not eligible to apply for fresh license due to their respective existing licenses. This will not only promote and increase competition by permitting new telecom players but will also facilitate the reduction in tariffs.
2. The process of auction should be for fresh licenses for spectrum upto 4.4 Mhz for GSM and participation should be restricted to new entrants excluding incumbents or their shareholders.
3. In the Judgment, the Supreme Court has not recommended any reserve / base price but has desired that the appropriate value of the spectrum must be discovered through the process of fair and transparent auction, therefore no reserve / base price should be fixed to discover the right price. If at all it is considered necessary to fix the reserve / base price, then the same could be set low and market competition be allowed to discover the right price. The last discovered price of the pan India 2G spectrum being Rs. 1,658 Crores in 2001, may be considered as the reserve price for the proposed 2G auction. A higher reserve / base price runs the risk of being a policy devise to keep higher tariff, opportunity for super profit by the incumbent operators at the cost of the customers and restrict competition for incumbent operators which may be subject to scrutiny by the Competition Commission of India. Besides the same price has been applied for granting spectrum and licenses till just 2 months before January 2008 i.e; Dual Spectrum for UASLs and a little before that in the year 2006 as well. Hence, to maintain a level playing field TRAI may consider keeping the reserve price at or below Rs. 1,659 Crores for Pan India spectrum.
4. In order to ensure level playing field, the new license should not have any onerous roll out obligations than the existing licenses. Other than that the terms and conditions as specified in the existing License Agreement could remain the same as for incumbent operators including the duration of license (i.e. duration of 20 years from the date of allocation of the spectrum after completion of the auction).
5. The license fee as well as other payments made under the license agreement which has been paid in 2008 should be allowed to set-off against the fee for grant of fresh licenses and the allocation of spectrum by auction.
6. If any licensee whose license has been quashed is unwilling to participate in the process any more or is unsuccessful in either procuring license and / or spectrum in the auction, it should be allowed to sell its assets, infrastructure and transfer its employees, which will ensure continuity of employment for the employees as well as facilitate the successful licensee to effectively meet its roll-out obligations in terms of the unified access service license agreement by utilizing the existing infrastructure.

II. Other Points to be considered by the TRAI.

1. The licensees whose licenses have been quashed pursuant to the Judgment , should be provided a fair chance to re-enter the market and compete in the market, following the due process laid down by the government on the recommendations of the TRAI pursuant to the Judgment. In addition to this, new telecom players should be permitted to enter the landscape.
2. Monopolization of the spectrum to be carefully and strictly avoided as per the GOM Recommendations dated October 30, 2003.
3. To create a spectrum pool for auction which should include all spectrum becoming available consequent to the Judgment, the currently available GSM and CDMA spectrum as on the date of the Judgment and all excess GSM spectrum beyond 6.2 Mhz held by any service provider.
4. In compliance with the Judgment, the Central Government would need to take appropriate decision (after considering the recommendations of TRAI) within next one month of TRAI recommendation for issue of fresh licenses and allocation of spectrum in 2G band by auction. Therefore, to comply the Judgment, the Central Government needs to **"issue fresh licenses for 2G and allocate spectrum for the same by auction"**.
5. The recommendation of TRAI and the issue of licenses by the Central Government, in terms of the Judgment, is to be issued only for issue of new licensees and allocation of spectrum for the same by auction for larger public good, amongst similarly placed eligible parties including the holders of a Quashed License. .
6. The Regulator and the Licensor to maintain a level playing field between the existing operators that hold more than 4.4 Mhz of GSM spectrum in each licensed service area and the new entrants.