

Comments & Suggestions on the Issues for consultation

Q1. How should the market in the access segment be defined (see ¶2.22)?

Ans: As per annexure V containing market share of various service providers based on subscriber base, it is amply evident that incumbent operators who have major share of fixed line customers, are in no position to dominate in view of much faster growth in the mobile sector. As per the current trend the market share of the incumbents will slide down further. Additionally, with the new technologies there will hardly be any difference between fixed and mobile lines as both the services will be offered from the same platform. Thus there appears to be no justification in computing the market share of fixed and mobile lines separately for defining their shares.

Q2. Whether subscriber base as the criteria for computing market share of a service provider in a service area be taken for determining the dominance adversely affecting competition, If yes, then should the subscriber base take into consideration home location register(HLR) or visited location register (VLR) data? Please provide the reasons in support of your answer.

Ans: In the mobile scenario the customers have freedom to move from one service area to other service area and also from one country to another country. As per normal trend such movements in the same service area are largest followed by inter service area and a very small percentage roam internationally. Also the outward and inward movement balances each other and if at all there is a numerical difference, it is marginal. Considering this the logic of computing subscriber base taking into consideration VLR does not appear to be sound. Hence only HLR should be taken as a customer base.

Q3. As per the existing guidelines, any merger/acquisition that leads to a

market share of 67% or more, of the merged entity, is not permitted. Keeping in mind, our objective and the present and expected market conditions, what should be the permissible level of market share of the merged entity? Please provide justifications for your reply?

Ans: The spirit behind deregulation in telecom sector, is to promote element of healthy competition and discourage monopolistic tendencies keeping in view the interest of consumers. The present ceiling of 67% of market share is quite appropriate to ensure competition. and any dilution may result otherwise.

Q4. Should the maximum spectrum limit that could be held by a merged Entity be specified?

a. If yes, what should be the limit? Should this limit be different for mergers amongst GSM/GSM, CDMA/CDMA & GSM/CDMA operators? If yes, please specify the respective limits?

b. If no, give reasons in view of effective utilisation of scarce spectrum resource?

Ans:No, it is presumed that before merger both the entities were utilizing the spectrum effectively as per the applicable WPC norms and the merged entity would continue to use the available spectrum in the similar fashion. However, after the merger WPC should control future allotment of spectrum on the basis of norms as are being applicable to a single entity.

..

Q5. Should there be a lower limit on the number of access service providers in a service area in the context of M&A activity? What should this be, and how should it be defined?

Ans: The minimum limit of number of access service provider as specified in the existing guide lines appears to be quite reasonable.

Determining a cap on number of Access provider in each area.

Q29. Should there be a limit on number of access service providers in a service area? If yes, what should be the basis of deciding the number of operators and how many operators should be permitted to operate in the service area?

Ans: We understand that the need to restrict the number of Access provider in a given service area, has primarily arisen due to constraint in the availability of spectrum, which naturally is limited and scarce. There are predominantly two Access technologies namely, GSM & CDMA providing mainly voice and limited data services. The license in these two technologies is granted subject to availability of spectrum in respective bands. This automatically puts restriction on the number of operators in these technologies.

On the other hand newer technologies which are much more spectrum efficient and capable of providing higher capacity for speech and high speed data have either been evolved or evolving. At this given juncture, sticking to older technologies with low capacity for voice and data is certainly not prudent approach. Moreover, allocating more and more spectrum to existing technologies would unnecessarily put burden on spectrum and also would not provide any incentive for migration to spectrum efficient technologies. The need, therefore, is to encourage induction of new technologies in other new bands and thus open a channel for technological competition.

For the present though the growth in telecom market is spectacular ,the digital divide is widening day by day as the existing technologies are not very cost effective for rural deployment where the population density is low and also the paying capacity is much lower. The access technologies being used in India are inherently having a lower coverage area due to low link-budget and not capable of delivering high speed data specially needed for specialized rural applications such as e-health,e-education, e-governance and agricultural marketing etc.

In the event of blocking the entry of new operators primarily to protect the interest of existing operators in terms of allocating more spectrum to them ,there will be no pressure on them to induct new technologies which are more spectrum efficient and ideally suited for rural coverage and applications.

We would like to draw the attention to para 6.14 of consultation paper where in a graph pertaining to level of competition Vs incentive to innovate has been shown as inverted U.We feel this is more relevant to the situations where the technology does not play a leading role as in telecom. In present scenario, when a large chunk of population is not having access to telecom facilities and are deprived of the fruits of Telecom & IT revolution, it is our belief that innovations should be encouraged and exploited fully to mitigate this problem.

Summarizing our views:

- I) We strongly feel that capping the number of operators will not be in the interest of consumers and will hamper growth drastically**
- II) There is a tremendous unfulfilled demand especially in the rural areas and the sector needs very large investment in a limited time as envisaged in the Govt. policy. The Indian companies have already made enough investments and any substantial future investment is likely to flow through new companies in the form of FDI etc.In the event of capping the number of operators the process becomes self defeating both in terms of investment and the innovative technologies. It is worth recalling that initially there was capping on the number of operators in each service area and it is only after its removal by the Govt. that the telecom services have seen the exponential growth.**
- III) The present guidelines for grant of UAS license and the license itself are based on a basic premise that the UAS license shall be technology neutral. However, in reality it is vitiated by the clause**

no. 37 of the Guide Lines issued by the DoT, in which the frequency allocation for only two technologies i.e TDMA and CDMA has been envisaged without making any reference to the future technologies. We feel this needs inclusion of an additional clause in the Guide Lines to UAS license to enable the introduction of new technologies which are more spectrum efficient ,cost effective and suitable for providing larger coverage to meet the challenge of bridging the digital divide in India.

Q30 Should the issue of deciding the number of operators in each service area be left to the market forces?

Ans. Yes, in view of our comments given for question no. 29.