

Reliance Communications Limited’s inputs on “Ease of Doing Telecom Business in India”

At the outset, we thank the Authority for initiating the discussions on the issue of Ease of Doing Telecom Business in India. Undoubtedly, the Government has taken various initiatives in last couple of years for creating a conducive regulatory environment for business operations in India, in line with the Government’s objective of “Ease of Doing Business” and promoting more investments in the Country.

India is ranked 130 among 190 economies in the ease of doing business, according to the latest World Bank annual ratings. The rank of India improved to 130 in 2016 from 131 in 2015. Ease of Doing Business in India averaged 132.89 from 2008 until 2016, reaching an all time high of 139.00 in 2010 and a record low of 130.00 in 2016. It is apparent that there are many areas which still need to be addressed through simpler and more friendly regulations to achieve the desired end results.



In the Telecom sector, the Government has introduced various forward looking policies and regulations such as Spectrum Sharing, Spectrum Trading, Introduction of VNOs, Indian Telegraph RoW Rules etc however there are still various impediments which hinders the growth of telecom sector and restrict the Government and industry from reaping all possible benefits of such policies. We are highlighting some of the areas that need to be addressed on priority to further the growth of the Telecom Sector especially in view of the deteriorating financial health of the sector.

We hope you find this submission useful. We stand ready to be involved in further consultations, industry dialogues that may be undertaken by the Authority before finalizing any view on these issues.

1. Goods & Services Tax (GST)

- a. Single Pan-India Registration for TSPs should be allowed as Communications is a Union matter:- State-wise registrations for Pan-India TSPs would result in humongous increase in compliance effort, tax uncertainty due to multiple assessments and audits and cascading impact of taxes on account of credit blockages in each state without yielding any incremental revenue for the Government. It is, therefore, imperative that telecom operators should be allowed to obtain single pan-India registration and seamless transfer of credits across States be allowed.

2. Mergers & Acquisitions

- a. M&A Guidelines dated 20th February 2014 should specifically prescribe the timelines for granting approval by DoT, pursuant to approval from High Courts/NCLT is granted to the applicants. Under any circumstances, it should not exceed 60 days.
- b. Resultant entity should be allowed to retain administrative spectrum held by Transferor Company without payment of any additional / market price for the same, subject to the condition that such administrative spectrum will continue to be used for 2G services only. Surrender or payment of market price of spectrum defeats the entire purpose of having Merger & Acquisition Policy facilitating consolidation in the sector besides putting additional financial burden on the TSPs.

3. Definition of Adjusted Gross Revenue (AGR)

- a. TRAI recommendations w.r.t. definition of AGR should be implemented in a time bound manner but no later than 1st October, 2017.

4. License Fee (LF)

- a. License Fee should be allowed to be paid on an annual basis in arrears.
- b. The rate of interest for delayed/short payment of license fee is still been maintained @SBI PLR +2%. It is requested that the system of SBI PLR rate should be replaced with SBI Base Rate or may also consider benchmarking to the SBI 1 year MCLR rate as is applicable on 1st of April of each year in line with RBI MCLR regime (i.e. Marginal Cost of Funds based Lending Rate).

5. Spectrum Usage Charges (SUC)

- a. Spectrum Usage Charges should be allowed to be paid on an annual basis in arrears
- b. The rate for SUC should be made flat @3% with the ultimate goal of getting it down to 1% in 2-3 years.

6. Interconnect Usage Charges (IUC)

- a. The IUC regime for Mobile to Mobile Interconnection must be made Bill and Keep (BAK) instead of Cost based as has been done for Mobile to Fixed, Fixed to Mobile and Fixed to Fixed interconnections. This is in line with the stated position of TRAI in 2015. Further, in the era of VoLTE, cost based termination charges would be difficult to estimate and implement.

- b. International termination charges should be kept at the same level as domestic termination charges (i.e. – Zero as per BAK regime)

7. USOF Levy

- a. TRAI had recommended to immediately bring down the USOF levy to 3% with an objective to doing away with it in next 2-3 years however the same is not implemented till now.
- b. Till the current fund in USOF is utilized, the contribution should be kept in abeyance.

8. Payments for Auction purchased Spectrum

- a. The payments for Auction purchased Spectrum should be made co-terminus with the life of the allocated spectrum (i.e. 20 years)

9. Liberalization of Spectrum

- a. Partial liberalization of Spectrum providing flexibility of any quantum – partial or full should be permitted. This will allow enough flexibility to TSPs to utilize their spectrum holdings as per their business requirements.
- b. Bank Guarantees against the payment of OTSC should not be required till final outcome of judicial process. As such, parties will comply with Final outcome/ Order of the Court.

10. Spectrum Sharing

- a. Administratively allocated spectrum should be allowed to be shared with Auction purchased/Liberalized/Traded spectrum subject to the condition that the entire resultant shared spectrum pool will be utilized for provision of 2G services.
- b. Additional 0.5% SUC levy amounts to double taxation as both TSPs separately pay SUC on their individual holdings.
- c. DoT must accept effective date of Sharing as 45 Days or lesser, if intimated by the TSPs as published in the Sharing guidelines/policy

11. Spectrum Trading

- a. Lock-in of two years for selling spectrum acquired through Trading or Auction should be reduced to one (01) year. This will be in line with recent NIA (Auction 2016) condition regarding Spectrum sharing which allows sharing of spectrum acquired through auction after one year of its acquisition.
- b. Spectrum Trading should be seen as a sale of capital assets and should be treated in line with the treatment of capital gains as laid down in AS-9 & AS-10 and as given in the TDSAT judgment on AGR definition dated 23rd April 2015. Therefore, only the capital gains i.e. sale proceeds from spectrum trading less the cost of acquisition (including cost of liberalization of administrative spectrum) should be considered for purposes of Computation of AGR for the purpose of License Fee and SUC.
- c. DoT must accept effective date of Trading as 45 Days or lesser, if intimated by the TSPs.

12. Spectrum Re-configuration / Harmonization

- a. Immediate harmonization/ reconfiguration post Auction of Spectrum should be undertaken by the DoT.
- b. There should not be any charges for re-configuration of spectrum.

13. Interference

- a. DoT must ensure that only an Interference-free spectrum is assigned during auctions
- b. Interference should be resolved in a time-bound manner such as within a week of such intimation. In case the same is not possible to be resolved, affected spectrum should be swapped with the interference-free spectrum.
- c. However, if DoT is unable to resolve the interference issue within the prescribed timelines, then the period of interference should be counted towards extension of spectrum life.
- d. DoT must constitute a mechanism involving TSPs for conducting regular/ periodic monitoring of spectrum for ensuring its bonafide use.

14. Centralized Payment System and Corporate Bank Guarantees

- a. Currently, TSPs are required to make payments/ submit BGs to CCAs at Circle level. DoT must create a system for Centralized payments and submitting Bank Guarantees.
- b. This will ease the reconciliation and settlement between DoT/CCAs and TSPs.

15. Telecommunication Infrastructure - Indian Telegraph RoW Rules, 2016

- a. All states must align their Telecom Infrastructure Policies with the RoW Rules notified by the Government of India on 16th November, 2016 for laying under-ground and over-ground telecom infrastructure. An ordinance should be passed for one single policy for India instead of each state/ administrative body having different policies.

16. Full Allocation of 1.25 MHz in 800 MHz Spectrum band

- a. In spite of payment of price for entire 1.25 MHz Block Size, actual allocation is only 1.23 MHz. SUC is also being levied basis 1.25 MHz as size of one Carrier/block in 800 MHz band.
- b. To remove this anomaly, entire 1.25 MHz block/carrier in 800 MHz band should be allocated to TSPs.

17. Import License for Wireless Equipment

- a. At present, TSPs are required to obtain Import License from WPC Wing (through RLOs) for import of equipment separately for each LSA which is a very cumbersome process. DoT should do away with requirement of obtaining Import License for Wireless equipment imported by the TSPs. Frequency Assignment letter issued by the WPC/DoT should suffice the requirements for importing the equipment.
- b. If required, a list of equipment imported at the end of each month can be provided to DoT.

18. SACFA Applications

- a. The main aim of SACFA is to ensure aviation safety and security which can be addressed by taking one clearance for a tower/ antenna / site. Thus, Clearance under Additional Antenna Category i.e. further clearance on same site should be done away with even for any change in frequency, change in technology or reduction in Antenna Height.
- b. Additional Antenna Category clearance may be required in case there is any increase in Antenna Height.
- c. SACFA should not be required for all sites. Only following category of sites should require SACFA clearance:
 - i. Sites <3 Km from the nearest Airpor
 - ii. Height >40 m and distance from nearest airport is between 3-10 Kms.
 - iii. Only intimation to be given to SACFA secretariat for sites <40 m height & distance >3 km from Airport and for the sites which are >40m in height but beyond 10 Km from the nearest Airport.

19. E-KYC for Outstation, Bulk and Foreign Subscribers

- a. Recently, DoT has issued instructions for e-KYC based activation of mobile subscribers. Subscribers under Outstation, Bulk & Foreign category constitutes a significant portion of total subscriber base especially in Metro areas. Therefore, e-KYC based activations should also be allowed for these categories.

20. Roll-out obligations

- a. Since the spectrum is being assigned through Auction/ Market process only, rollout obligations should be done away with.
- b. TSP who is acquiring spectrum by paying market determined price should be allowed to determine the best use of the spectrum rather than DoT mandating the usage in a particular manner.

21. Audits by Multiple Agencies

- a. At present, TSPs are subject to multiple Financial Audits from various multiple agencies such as CAG, Special Auditor, and Statutory Auditor etc. which requires considerable amount of time and resources from the Operators.
- b. Requirement of Audit must be rationalized and number of agencies auditing should be reduced.

22. Encryption Policy

- a. At present, encryption is restricted to 40-bits under telecom licensing policy. This level of encryption is weak for ensuring data and privacy protection.
- b. An Encryption Policy aligned with International norms of 128/256-bits encryption is required in India.

23. Guidelines with regards to Pricing for Data services

- a. With the market shifting from being predominantly voice centric towards consumption of data access and content services, it is imperative to establish clear guidelines for new tariff structures (QoS based pricing models, Conditional Zero rating etc) to foster wider adoption of innovative services and continued digital investments.

24. Bank Guarantees – PBG and FBG

- a. Performance Bank Guarantee (PBG) – PBG should be immediately returned on fulfillment of rollout obligations by a TSP.
- b. Financial Bank Guarantee (FBG) – Amount of FBG should be reviewed periodically i.e. every year by TSP as per the license.