



Reliance Jio

Infocomm Limited

RJIL/TRAI/2015-16/465
28st December 2015

To,
Sh. Sanjeev Banzal,
Advisor (NSL),
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawaharlal Nehru Marg,
New Delhi - 110002

Subject: Counter Comments on some of the submissions made by stakeholders in response to TRAI's Consultation Paper dated 26.11.2015.

Dear Sir,

Please find enclosed herewith counter comments of Reliance Jio Infocomm Limited on some of the submissions made by stakeholders in response to TRAI's Consultation Paper on 'Valuation and Reserve Price of Spectrum in 700, 800, 900, 1800, 2100, 2300 and 2500 MHz Bands' dated 26.11.2015.

Thanking You,

Yours sincerely,
For **Reliance Jio Infocomm Limited**,

Kapoor Singh Guliani
Authorised Signatory



Enclosure: As above.

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**Reliance Jio Infocomm Limited (“RJIL”) Counter Comments on some of the
submissions made by stakeholders on
TRAI’s Consultation paper on “Valuation and Reserve Price of Spectrum in
700, 800, 900, 1800, 2100, 2300 and 2500 MHz Bands” Dated 26.11.2015**

After going through the responses of various stakeholders to TRAI’s Consultation Paper on “Valuation and Reserve Price of Spectrum in 700, 800, 900, 1800, 2100, 2300 and 2500 MHz Bands” dated 26.11.2015, RJIL has following counter comments on some of the submissions made by stakeholders:

1. Spectrum Cap

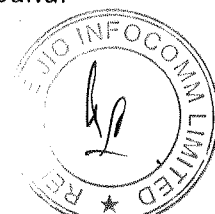
Some of the stakeholders commented that the intra-band spectrum cap of 50% should be continued for each band and overall cap for spectrum holding be increased from current 25% to 33% of the total spectrum holding spread across all bands.

In this regard, it is respectfully submitted that Spectrum Caps are introduced in a mobile market to primarily achieve the objectives of ensuring healthy competition and preventing predatory behavior by an operator. Given these objectives, the spectrum capping policy has been successful in India, with sufficient competition in the market and no operator or group of operators being able to monopolize the market. The counter comments of RJIL with respect to Intra Band Spectrum Cap and Overall Spectrum Cap are as follows:

(a) Intra Band Spectrum Cap:

The band wise cap was useful when spectrum allocation was based on the technology to be utilized in a particular spectrum band and the intra-band spectrum cap served the purpose of curbing monopolistic and predatory practices for a particular technology. However, in the current spectrum policy regime, spectrum is liberalized i.e. the spectrum is technology neutral and it can be used to deploy any technology. Therefore intra-band spectrum caps have now become redundant. All frequency bands support all technologies and hence market forces should be allowed to determine what each operator is willing to pay for spectrum in a particular band, as long as the operator does not hold disproportionately high amount of overall spectrum, thereby impeding competition.

It is submitted that the existing mobile market segment of users and tariff offerings are also recognized as GSM or CDMA, not merely because these are separate technology but these are separately identifiable market segments because of substantial subscriber base and tariff plans offered by several service providers. With technological advances and development of eco-system, device availability across multiple spectrum bands and end user being concerned about services irrespective of technology, it can be easily concluded that there is no correlation of market segment and extent of competition within the specific spectrum band.



It may also be noted that in the past spectrum used to be administratively allotted for specific technology (GSM or CDMA) in a band and therefore it was prudent to ensure adequate competition for each technology and in each band, however that has changed now with spectrum liberalization. In the current scenario, to continue with intra band spectrum cap will not serve the objective of introduction of competition.

Attention of the Authority is also invited to one of the important functions of TRAI, under section 11(1)(a)(viii) of the TRAI Act, to recommend to the Government initiatives with respect to efficient management of available spectrum. In this regard, it is submitted that the intra band spectrum caps is against efficient management of available spectrum. The prevailing intra band caps constraint the service providers and they are forced to opt for multiple bands owing to limited availability of spectrum in specific bands, thereby denying the benefits of bigger spectrum blocks for mobile broadband services in terms of enhanced spectral efficiencies.

Since all the spectrum allocation is through auction now, auction prices reflect the technical efficiency of the spectrum in a particular band, thus making the economic case agnostic to the spectrum band. Hence, just by virtue of holding spectrum in any particular band does not give any TSP significant power as long as such spectrum holding is within the overall cap. Hence, **we reiterate that the band-wise cap should be done away with and only the overall spectrum cap should be considered.**

Attention of the Authority is also invited to the details announced by Ofcom for 2016 spectrum auction for the spectrum band of 2.3 GHz and 3.4 GHz (<http://media.ofcom.org.uk/news/2015/2016-spectrum-auction/>). As per details available, there will not be a cap on the amounts bidders can buy. Ofcom believes that any cap would prevent a bidder from buying large blocks of adjacent spectrum. Large blocks have the potential to support very fast download speeds, meaning even faster mobile broadband for consumers, which helps pave the way for newer technologies.

(b) Overall Spectrum Cap:

The major objective of the spectrum caps is to maintain a minimum level of competition in the markets. The overall spectrum cap of 25% of the total spectrum may be continued to guard against monopolies. Such a cap will ensure that there would be atleast 4 operators in any market, and infact in most cases, there would be more than 4 operators, thereby ensuring adequate competition. Once such competition has been ensured, operators should be allowed flexibility to develop own spectrum portfolio across spectrum bands to meet their requirements.

The overall spectrum cap of 25% and allowing market share of merged entity up to 50% in the merger & acquisition guidelines are two separate and independent



measures to guard against monopolies. Overall spectrum cap of 25% is in the form of spectrum holding only, while the 50% cap in M&A guidelines is in terms of subscriber base and revenue of merged entity. The M&A guidelines provide for exceptions whereby operators are able to merge even at large scale (upto 50% market share), however this should not mean that the Authority proposes guidelines which will lead to that level of market concentration (50% may effectively result in only two operators, which will not be healthy for any industry). For healthy competition in the sector, both conditions must prevail.

It is also submitted that spectrum is a scarce national resource. The demand of some of the stakeholders to increase the overall spectrum cap from existing 25% to 33% in the garb of meeting the objectives of 'broadband for all' is misleading. These objectives can be better met with larger blocks of spectrum in a band rather than holding more spectrum across all bands which will adversely affect the efficient use of spectrum. This would not be in the interest of consumers or other stakeholders.

In view of the above, **we reiterate that the prevailing spectrum cap of 25% of the total available spectrum in the service area should be retained.** The total available spectrum in the service area should include the following:

- spectrum currently assigned to TSPs;
- spectrum currently with the Government and put to auction;
- spectrum vacated or surrendered by TSPs (commercially available spectrum) in a band but currently not put for auction, since it forms part of overall spectrum which shall be put for use.

***Note:** Any double count should be avoided so that the same frequencies are not considered as part of two of the above categories at any point of time.*

2. Issues relating to 800 MHz Spectrum Band

Some of the stakeholders commented on issues relating to 800 MHz spectrum viz. (a) spectrum cap of 800 MHz band as prescribed in M&A Guidelines; (b) liberalization of spectrum; (c) new condition for auction and minimum bid size for 800 MHz for existing operators.

Such contentions are totally irrelevant with respect to this consultation process of valuation of spectrum. The contentions are frivolous, devoid of any fact, and will result into post facto change in the NIA conditions. Such contentions will only act as roadblock to the progressive policies of the Government for further liberalization of the telecom sector. The counter comments on issues relating to 800 MHz are as follows:



(a) Spectrum Cap for 800 MHz spectrum band as prescribed in M&A Guidelines:

Some of the stakeholders have objected to the spectrum cap of 10 MHz in the 800 MHz band as prescribed in the M&A guidelines dated 20.02.2014 and have sought its disallowance on the grounds of non-parity with spectrum caps in other bands.

In this regard, RJIL would like to point out that the M&A guidelines dated 20.02.2014 are applicable only in case of mergers and have no role to play in case of acquiring spectrum through auction. M&A guidelines have no linkage with the spectrum auction or NIA conditions or valuation of spectrum for auction.

Further, M&A guidelines were issued by DoT after considering all the aspects of ensuring adequate competition and level playing field in the market and we therefore do not see any conflict or dissimilar treatment for 800 MHz spectrum.

It should be noted that spectrum cap of 10 MHz for 800 MHz spectrum band was fixed in M&A guidelines given that availability of spectrum in this band is less than 20 MHz in all the circles. Further, the UASL allowed operators to hold up to 5 MHz of 800 MHz spectrum as contracted spectrum. In such a scenario in a circle wherein two operators held 5 MHz each, no merger could have been possible, if the M&A guidelines would have followed the spectrum cap rule of 50% of the assigned spectrum in a band.

It may also be noted that in other bands the quantum of spectrum in each LSA is much higher and there is possibility of M&A of operators even after applying the band cap of 50% of the assigned spectrum.

It was a well-considered policy decision of the Government. It may also be noted that M&A guidelines dated 20.02.2014 were issued subsequent to the policy decision taken by the Government and published in the Press Release dated 15.02.2012. In the press release, it was clearly mentioned that in respect of 800 MHz band the ceiling will be 10 MHz and in respect of spectrum in other bands, relevant conditions pertaining to auction of that spectrum shall apply. The relevant Para of the Press release is reproduced below:

“14 (iii) Consequent upon the merger of licence in a service area, the total spectrum held by the Resultant entity shall not exceed 25% of the spectrum assigned, by way of auction or otherwise, in the concerned service area in case of 900 and 1800 MHz bands. In respect of 800 MHz band, the ceiling will be 10 MHz. In respect of spectrum in other bands, relevant conditions pertaining to that spectrum shall apply.”

In view of the above, we submit that there is no valid basis for the proposed changes in the spectrum cap in 800 MHz band and instead the Authority should favorably consider our suggestion of completely removing intra band spectrum caps. If at all any amendment is required in the M&A guidelines, appropriate process should be followed for comprehensive review of the guidelines.



(b) Liberalization of Spectrum:

Some stakeholders have sought to redefine the principle of treating auction discovered market price as liberalized price by adding an additional condition that *“liberalized price can only be discovered through an auction, where the spectrum put to auction is at least 5MHz or above”*.

RJIL disagrees with this proposed modification to an established policy. The process for liberalization of spectrum in 800 MHz and 1800 MHz has already been prescribed by the DoT vide liberalisation guidelines dated 05.11.2015. This guideline is based on the Authority’s recommendations given in September 2013 and November 2014 after detailed consultation with all the stakeholders. Under this, service providers are entitled to liberalize their administratively allocated spectrum holding, by paying the market price on pro-rata basis without any linkage to the amount of spectrum put for auction.

In all spectrum auctions post 2010, DoT has consistently maintained the stand that auctioned spectrum can be used for any technology irrespective of the quantum purchased. Further, the auction process by itself does not differentiate between the price of contiguous and non-contiguous spectrum. Thus, auction discovered price is truly taken as liberalization price irrespective of the quantum or contiguity. The current liberalization policy imbibes the same principle and is consistent with the stand taken by the Government so far.

Nowhere in the NIAs or in the TRAI recommendations has it been stated that the auction discovered price shall be considered as the price for liberalization only if the spectrum auctioned is 5 MHz or more. Hence, the submission to link the price for liberalization to the quantum of spectrum is misplaced and devoid of logic.

Clause 2.3 and Clause 3.9 of the 2015 auction NIA clearly prescribe the liberalization process of administratively allocated 800 MHz spectrum, by paying the auction determined price on pro-rata basis. Frequent changes in the policies should be avoided. Further, present consultation is w.r.t. liberalization of 900 MHz spectrum band and the comments w.r.t. 800 MHz spectrum band liberalization policy are out of context and merit no consideration.

(c) New condition for auction of Spectrum in 800 MHz band and minimum block size for existing service provider:

One of the stakeholders has proposed a new scheme pertaining to the auction of spectrum in 800 MHz spectrum band. According to them, the spectrum in 800 MHz band should be auctioned only when the spectrum available is at least 5 MHz or more. Further, an operator should be allowed to bid for less than 5 MHz only if all the following conditions are satisfied:



- (a) Current holding of operator is less than 5 MHz - then minimum bid should be 5 MHz less current holding; and
- (b) All existing administratively allocated spectrum of the operator is liberalized; and
- (c) Remaining useful life of existing spectrum is more than 8 years.

In all other cases minimum bid quantity for 800 MHz should be 5 MHz.

This is an entirely new scheme which has been proposed for only one spectrum band without any parity with other bands. The 800 MHz is an important spectrum band which already has less availability of spectrum. Putting such illogical restrictions will adversely affect the bidding process and resultant revenue to the Government. There is no logical reasoning for such selective treatment of spectrum in one specific band.

RJIL disagree with such suggestions, especially when the principles of minimum bid by an existing and new service provider are more or less settled over the years. Further, in case a service provider wishes to propose such changes then it should propose it for all spectrum bands and not focus on a single spectrum band.

3. Block Size of 2300 MHz Spectrum Band

Some of the stakeholders have suggested a block size of 20 MHz unpaired spectrum in 2300 MHz band. The minimum bid for an existing and new TSP is also proposed to be same at 20 MHz.

We do not agree with this view. 2300 MHz spectrum was auctioned for the first time in 2010 with block size of 20 MHz unpaired spectrum. Currently there are only two spectrum holders in the 2300 MHz band, each holding spectrum blocks of 20 MHz. Existing operators would participate in any new auction for meeting incremental capacity requirement and not as a new operator. Minimum of 20 MHz has been proposed as that is viewed to be the minimum optimum block size for efficient operations for a new operator. However, if an operator already has such minimum spectrum, then it does not need to acquire another 20 MHz to continue operations.

In all the auctions since 2012, the minimum bid by an existing operator and a new operator differs by a factor of at least 4, as existing operators are only bidding for incremental capacity and their operations are not sub-optimal. The same principle is being proposed for spectrum in all bands other than 2300 MHz band.

This change in 2300 MHz band will adversely impact the interest of the existing operators in the band and therefore we reiterate that the block size for 2300 MHz spectrum bands should be kept at 10 MHz. The minimum spectrum that a new entrant can bid in this band should be 20 MHz as that is the minimum optimum block size in



these bands for meaningful business operations and is in line with past policy, and the minimum spectrum that an existing operator can bid in this band should be 10 MHz.

Attention of Authority is invited to the details announced by Ofcom for 2016 spectrum auction for spectrum in the 2.3 GHz and 3.4 GHz bands (<http://media.ofcom.org.uk/news/2015/2016-spectrum-auction/>). In this forthcoming auction, Ofcom proposes to auction the spectrum in lots of **10 MHz for the 2.3 GHz band**.

4. Treatment of the 2300 MHz and 2500 MHz bands for the purpose of imposing Intra-band Spectrum Cap

Some of the service providers submitted that 2300 MHz and 2500 MHz bands should be treated separately for intra-band spectrum cap. According to them treating 2300 MHz and 2500 MHz bands as one band may result in one operator acquiring a disproportionate amount of spectrum in one band or consolidate spectrum in 2300 MHz band, which will create one operator's monopoly over that particular band.

We do not support this view. We reiterate that the provision of intra-band spectrum caps has become redundant after running its time, thus it should be done away with. However, in case Authority persists with the intra-band spectrum caps then in that scenario the 2300 MHz and 2500 MHz bands should be treated as same band for the purpose of imposing intra-band spectrum cap.

The Authority's proposal for treating 2300 MHz and 2500 MHz spectrum bands as same band for the purpose of intra-band spectrum cap stems from the fact that the availability of spectrum in these bands is limited. Also, historically the spectrum in 2300 MHz and 2500 MHz bands has been treated as one band in previous auctions or policy matters. DoT itself has treated these as same band while allocating spectrum to PSUs during the 2010 spectrum auctions and publishing the spectrum holdings before the auction in March 2015.

The 2500 MHz band is proposed to be auctioned in TDD configuration since China ecosystem is developing for this band with TDD configuration which can help India for affordable devices and services. Moreover, existing BWA operators are allocated TDD spectrum in 2300 MHz band, so carrier aggregation with another TDD system could be deployed to enhance customer experience.

The 2300 MHz and 2500 MHz spectrum bands have a lot of similarities and therefore may be treated as same band for all practical purposes. Further, given their suitability for deployment of LTE-TDD technology, larger blocks of spectrum need to be auctioned.

In view of the above, we reiterate that the 2300 MHz and 2500 MHz band may be treated as same band for all practical purposes and that applies to the roll-out obligations as well.



5. Valuation of the spectrum in 2100 MHz band

Some stakeholders have suggested that the value of spectrum in 2100 MHz band has declined and its valuation cannot be higher than the market price of spectrum in 1800 MHz band. We disagree with the same on the grounds that this is against market realities and settled principles of using the already discovered auction price as a basis of valuation of spectrum.

Result of a particular auction process cannot be used to justify that spectrum valuation has reduced. Operators may have different strategic requirements, because of which the bidding pattern was different in the March-2015 auction. However, the importance and value of spectrum in the 2100 MHz band has been well established in previous auctions. Operators have successfully launched 3G services in this band and there is healthy demand for such spectrum. The eco-system for WCDMA technology in this band has already matured. Furthermore, the eco-system for LTE technology is also developing in the 2100 MHz band and this band is becoming increasingly important for operators. In such a scenario, it would not be advisable to reduce the reserve price for spectrum in this band.

Any reduction in the reserve price will also not be consistent with past policy. It would put operators who have already acquired spectrum in this band at higher prices at a disadvantage. It may result in loss of revenue for the Government from a precious natural resource.

6. Valuation of 700 MHz Spectrum

Most of the stakeholders are of the view that it will take time for 700 MHz market to mature and to develop appropriate eco system in this spectrum band. However, some of the stakeholders suggested that valuation of this spectrum should not be more than 50% of the value of 800 MHz band discovered in 2013-2015 auction or the value should be kept as that of 1800 MHz.

As already submitted in our comments, RJIL agrees that internationally the device and vendor ecosystem is still evolving and it will take time for this to attain a semblance of maturity. Therefore, it will be prudent to not auction the spectrum in 700 MHz band now. However, on pricing we are of the view that when the time is right to auction spectrum in 700 MHz band, the valuation of this spectrum may be done on comparable basis to spectrum in sub-1 GHz bands, taking into consideration and providing for suitable adjustments on account of efficiency delta, infrastructure delta and TDD vs FDD delta. We reiterate our comments that this is not the right time to auction spectrum in the 700 MHz band. Therefore **the valuation of spectrum in 700 MHz band may be deliberated at the appropriate time under a separate consultation paper.**

