

**Reliance Communications Limited's Response to the Draft Recommendations on  
"Ease of Doing Telecom Business"**

**Executive Summary**

- A. Operators granted license under Section (4) of Indian Telegraph Act should not be required to obtain Import License from WPC wing separately. A prior intimation along with the details of the equipment being imported may be provided in advance to the WPC/DoT to ensure traceability.**
- B. Equipment transfer should be permitted from one TSP to other TSP, both granted license under s(4) of Indian Telegraph Act, without obtaining any prior approval of DoT/WPC. A joint intimation in advance may be considered sufficient.**
- C. In case of Upgradation of a site, only the upgrading TSP should be required to make the revised EMF SC submission to TERM cell instead of all sharing TSPs.**
- D. There should not be any rollout obligations linked with the Spectrum acquired in Auction.**
- E. For fulfillment of earlier rollout obligations, TSTP covering Spectrum/ Infrastructure Sharing scenarios may also be issued by the DOT at the earliest.**
- F. Annual LF and SUC should be required to be paid on annual basis in arrears, in place of quarterly payouts at present. Also, there needs to be some timelines prescribed for completion of LF/SUC assessment.**
- G. Revenue from non-telecom activities should not be part of AGR for payment of LF. Further, SUC should strictly be on the revenues from wireless service using the licensed spectrum only.**
- H. Operators are subject to multiple financial audits at present. The requirement of Audit must be rationalized and number of agencies auditing should be reduced.**
- I. Payment under deferred payment option for spectrum acquired in Auction should be allowed in 15 equal annual installments with moratorium of 5 years. This option should also be extended to spectrum acquired under previous Auctions and number of installments can be made coterminous with the remaining validity of spectrum.**
- J. Lock-in of two years for selling spectrum acquired through Trading or Auction should be reduced to one (01) year.**
- K. 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.**
- L. Clarity needs be provided by DoT that the period of One year for permitting Sharing of spectrum acquired through Auction'2016, is to be calculated from the date of completion of Auction/announcement of final results.**
- M. A process for Surrender of Spectrum in case of M&A, including from the effective date of merger, needs to be prescribed in M&A guidelines.**

## Response

- I. We welcome the opportunity extended by the TRAI for providing comments on the draft recommendation published by the TRAI on the issue of “Ease of Doing Telecom Business” in India.
- II. At the outset, we appreciate the efforts of the TRAI for suo motu initiating the consultation process and coming out with the draft recommendations for comments from stakeholders. A number of steps have already been taken by the Government for easing various processes and acceptance of these recommendations by the Government/DoT will further simplify various processes and procedures relating to submission of applications, obtaining licenses, clearances/ approvals etc. from the DoT and other departments and also boost investor confidence by creating better telecom business environment in the Country.
- III. While we are broadly in line with the recommendations of the TRAI, we would like to take this opportunity to suggest few changes to some of the recommendations and also make some additional suggestions that were also submitted by RCOM during the consultation process.
- IV. We believe that the Policy and related Implementation Process are complement to each other and resolving issues on only one of them is unlikely to give the desired results. Therefore, our submission in the section below will also be highlighting some Policy related issues that need immediate consideration of TRAI and the Government to help sector coming out of current financial situation. We hope our submission will merit your kind consideration and suitable measures will be taken by the TRAI.
- V. Our submissions on the draft recommendations and various other issues are as under:
  1. **Import License and Transfer of Equipment** - With regard to the Import License for Wireless Equipment, TRAI has recommended the following:
    - a. *There should be a defined time-line within which an Import Licence should be granted and the same may be declared in the portal as well as in the Citizen’s Charter.*
    - b. *TSPs should be allowed to reinstall/deploy their wireless equipment into another LSA after giving prior intimation to WPC preferably through the online portal. There should not be any requirement of taking prior permission of WPC for this purpose.”*
  - i. **Import License** - We are of the view that a separate Import License from RLO/WPC wing of DoT should not be required to be obtained at all by an Operator allocated valid frequency and granted license under section(4) of the Indian Telegraph Act. To ensure traceability, only a prior intimation to the Licensor/DoT of details of the equipment to be imported may be provided.

- ii. **Equipment Transfer** - Further regarding the transfer of equipment, we recommend that transfer of any wireless equipment should not be limited to the transfer from one LSA to other LSA, rather, equipment transfer should be permitted from one TSP to other TSP without obtaining any prior approval of DoT/WPC. A prior joint intimation by both TSPs should be considered sufficient to ensure traceability.

Government has taken various initiatives in recent past which enables service providers to optimize their costs on establishing networks for providing services. Some of such initiatives include the policies on Sharing of Spectrum and Active Infrastructure. To be able to leverage these policies, an existing service provider optimizes its requirements for network equipments. Further, the industry is going through a consolidation phase. This is likely to result in redundancy in the deployed infrastructure by these operators as the resultant operations may not require all network equipment of both entities.

Service providers also had to forego a considerable number of wireless telecom equipment from their networks as a result of harmonization process in various bands in the past. Future harmonization exercises as proposed to be undertaken after each auction of spectrum are going to affect the networks the same way. Therefore, it is essential to allow for transfer of this redundant/excess wireless equipment from one licensee to another so as to achieve a better utilization of the equipment.

- 2. **EMF Self-Certificate submission on Shared Site** – Currently, in case of Upgradation of a Shared site, all sharing TSPs are required to submit revised self-certificate of the shared site again to TERM Cells even if the upgrade is done by one TSP. Submission of revised SC by all sharing TSPs is waste of resources and is not justified at all especially when all the latest/updated information is available on the NEP portal and accessible to TERM Cells/DoT all the time. Moreover, submission from all TSPs does not serve any useful purpose for TERM Cells. Therefore, we recommend that **in case of Upgradation of a site, only the upgrading TSP should be required to make the revised submission to TERM cells instead of all sharing TSPs** as well.
- 3. **Rollout obligations** – The purpose of mandatory rollout obligations was to ensure that the allocated resource is put to optimum use and its benefits can be extended to the masses in a timely manner when the spectrum used to be allocated through administrative process. Since year 2010, TSPs have been allocated spectrum only through the Auction process which is technology neutral i.e. any technology can be deployed by the operator using that spectrum and further there is no restriction on change in technology at any point in time.
  - i. When the spectrum is acquired by an operator after payment of auction determined price, it is in interest of the operator to rollout the services using the spectrum as soon as possible. Therefore, we feel that **there should not be any rollout**

**obligations for the spectrum acquired in Auction and TSP should be allowed to determine the best use of the spectrum rather than DoT mandating the usage in a particular manner.**

- ii. RCOM/RTL has rolled out 4G/LTE services in all service areas using the Spectrum and Active Infrastructure Sharing arrangements in 800 MHz band and subsequently also applied for MRO testing with the TERM cells in December'2016. However, the TERM Cells have not accepted our applications and also not starting any testing citing the reason that the current Test Schedule Test Procedure (TSTP) for rollout testing do not cover the Spectrum/Infrastructure Sharing scenarios. We have been constantly highlighting the issue with the DoT since May'2017 so that suitable clarification/ guidelines (TSTP) is issued to the TERM Cells and our applications are accepted. RCOM has already completed rollout obligations and the case is pending only testing by the TERM Cells. Therefore, **we recommend that the required clarity or a TSTP covering Spectrum/Infrastructure Sharing scenarios is also issued so that the MRO applications are accepted by the TERM Cells and testing can be started.** We also recommend that there should not be any penalty/LD charges in such cases as the operator has already completed the Rollout within timelines.
4. **Payment of License Fee & Spectrum Usage Charge** – Currently, the annual LF and SUC are required to be paid to the DoT on quarterly basis and the same keeps reserving related resources for the entire year besides affecting the liquidity with the TSP. Therefore, we recommend that **annual LF and SUC should be required to be paid on annual basis in arrears in place of quarterly payouts.**

**Further, there are no time-limits prescribed for LF/SUC assessment.** Even assessments of FY 1999-2000 are provisional. There is limit of 4 years under Income Tax Act, 1961. Similar limit may be stipulated for LF/SUC assessments as well

5. **Definition of AGR** - The revenue, for the purpose of calculation of LF, should be from the operation of the telecom license (activities for which an exclusive license has been granted under Indian Telegraph Act, 1885). Furthermore, SUC should only be levied on the wireless revenue from the use of licensed spectrum. **Non-telecom incomes should not come under the purview of LF and SUC.**

However, DoT has been including the revenue from non-telecom business activities for the purpose of calculation of LF. Moreover, DoT had been including revenue from non-wireless activities for the purpose of SUC. TRAI at various occasions during 2000, 2005, 2006, 2015 has consistently maintained that the license fee should be payable only on revenue from licensed activities and SUC should be payable on revenue from wireless services. **We suggest that the recommendations of the TRAI should be implemented by the DoT at the earliest but not later than 01-Jan-2018.**

6. **Audits by Multiple Agencies** - 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. We recommend that the **requirement of Audit must be rationalized and number of agencies auditing should be reduced.**
7. **Payment for Auction purchased spectrum** – Deferred payment schedule towards spectrum purchased through Auction should be made coterminous with the right to use the spectrum. **Option should be provided to successful bidders for 15 equal annual installments with moratorium of 5 years.**
8. **Spectrum Trading** - **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 only after one year.

Further, the 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.

9. **Spectrum Sharing** – In the Auction of Spectrum held in year 2016, DoT prescribed that the spectrum acquired through this Auction will be allowed for sharing only after the completion of One year. There are different views among stakeholders regarding the reference date to be taken for calculation of One year which is restricting TSPs from entering into various arrangements for providing services. **Clarity needs be provided by DoT that the period of One year for permitting Sharing of spectrum acquired through Auction'2016, is to be calculated from the date of completion of Auction/announcement of final results.**

#### 10. **Merger and Acquisition**

**Surrender of Spectrum** – As per current M&A guidelines, resultant entity is required to surrender the spectrum in excess of prescribed spectrum cap i.e. 50% within a band and 25% of overall allocated spectrum, with in a period of One year. There might also be cases where the combined spectrum of merging entities is not desired for resultant operations. Further, due to the condition of payment of market price for the spectrum allocated to the acquired company against the entry fee, TSPs like to surrender such spectrum. To cater to such requirements, a **process for Surrender of Spectrum in case of M&A, including from the effective date of merger, needs to be prescribed in M&A guidelines.**