

RJIL/TRAI/2017-18/137
25th April 2017

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

Subject: Comments on 'Ease of doing Telecom Business in India' dated 14th March 2017.

Dear Sir,

TRAI had issued a paper on 'Ease of doing Telecom Business in India' on 14th March 2017 and sought comments of stakeholders. Please find enclosed herewith comments of Reliance Jio Infocomm Limited on the same for your kind consideration please.

Thanking You,
For **Reliance Jio Infocomm Limited**,


Kapoor Singh Guliani
Authorised Signatory



Enclosure: As above.

RELIANCE JIO INFOCOMM COMMENTS ON TRAI'S CONSULTATION PAPER ON
'EASE OF DOING TELECOM BUSINESS IN INDIA'
(Paper Dated 14th March 2017)

1. RJIL welcomes the Authority's decision to issue this consultation paper to seek stakeholder's inputs on measures required to promote Ease of doing Telecom business in India. This is a right step, in line with the national goals of improving 'Ease of Business' in India.
2. 'Ease of doing Business' is one of the pillars of the Government's vision for growth propellers in India alongwith 'Digital India', 'Make in India', 'Smart Cities' and 'Skill India'. The Government of India has been rightly going all out to improve India's 'Ease of doing Business' ratings as the same would be a harbinger of more investments coming to the country. Telecommunication, an industry which will be the backbone of many of the above national goals, needs to be at the forefront of the 'Ease of doing business' in India initiatives. Therefore the timing for this consultation could not have been better.
3. The fundamental requirements of facilitating business are enabling legislations and regulatory predictability. Regulatory predictability breeds investor confidence and brings in the much needed capital. Regulatory predictability also promotes competition and consumer welfare while at the same time simplifying and harmonising the sector. Thus regulatory predictability is in fact the hallmark of a good policy regime. We submit that Unified Licensing regime with the associated policies on mergers and acquisitions, spectrum sharing, spectrum trading etc. have been evolved over a period of time with much deliberation with all the stakeholders. Therefore, we submit that Authority should persist with them in the foreseeable future.
4. The 'Ease of Business' is also an annual ratings published by the World Bank project, under the Doing Business Report (DB). The DB study, initiated by World Bank Group in 2003, measures and ranks countries on the costs of business regulations. Doing Business records all procedures officially required, or commonly done in practice, for an entrepreneur to start up and formally operate an industrial or commercial business, as well as the time and cost to complete these procedures and the paid-in minimum capital requirement¹.
5. The study is one of the major knowledge initiative by the World Bank Group, and the rankings are known to be instrumental in the field of private sector development. It is also a common knowledge that the ratings have motivated many regulatory reforms in developing countries. The study is known to be indicative of the investment opportunities in a country. The study is an effective tool to understand the red tape and need of reforms and as per the IEG study from the World Bank:

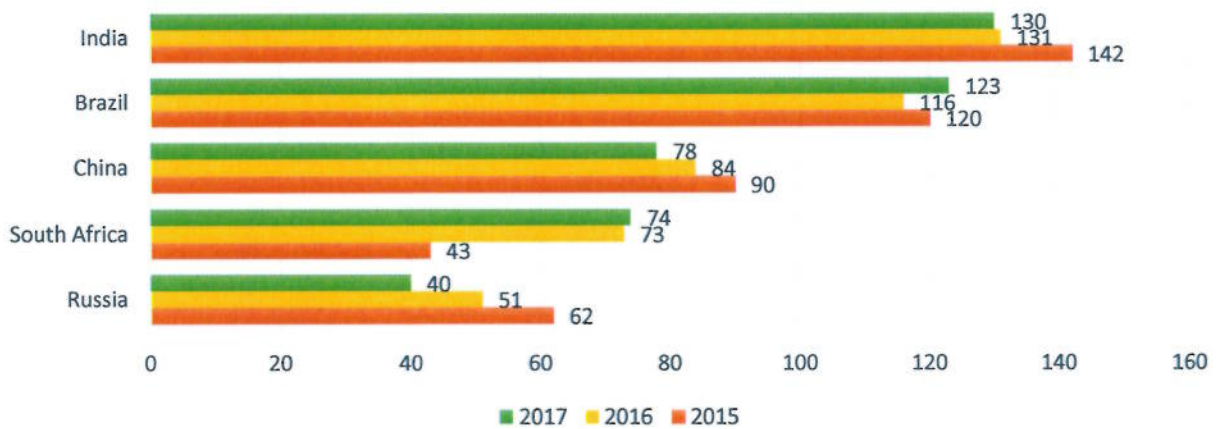
¹ <http://www.doingbusiness.org/Methodology/Starting-a-Business>



“For country authorities, it sheds a bright, sometimes unflattering, light on regulatory aspects of their business climate. For business interests, it has helped to catalyse debates and dialogue about reform. For the World Bank Group, it demonstrates an ability to provide global knowledge, independent of resource transfer and conditionality. The annual exercise generates information that is relevant and useful.”

6. The Government of India prides itself on its reformatory approach and it has set itself an ambitious target of ‘Top 40’ rank in Ease of Business ratings from the current rank of 130. However, the improvement in India’s ranking indicates that much needs to be done in this field. India’s rankings in fact has stayed lowest among the BRICS peers over the last three years.

BRICS-Doing Business Ratings



7. The DB ratings primarily work on the policy and operational management of various aspects pertaining to starting a business. The operative words being policy clarity and predictability and operational ease, equating time with money. The DB ranking is based on the average of 10 sub-indices:

- a. Starting a business
- b. Dealing with construction permits
- c. Getting electricity
- d. Registering property
- e. Getting credit
- f. Protecting Minority investors
- g. Paying taxes
- h. Trading across borders
- i. Enforcing contracts
- j. Resolving insolvency



Thus the primary focus is to measure the simplicity and timeliness of the procedural regulatory requirements. Telecom and Information communication technologies (ICTs) being the harbinger of change in the way traditional businesses operate, have the natural role to ease the business operations in all sectors. Therefore it is imperative to bring in the ease of doing telecom business to kick-start the growth in DB ratings.

8. The Authority and the Government have taken a large number of defining policy decisions in last few years like the Unified licensing regime, delinking spectrum from license, allocation of spectrum only through auction, spectrum liberalisation, spectrum trading, spectrum sharing and merger & acquisitions. Therefore the broad policy framework is already set in place and the next step is to ensure predictability of this regulatory regime and sorting out the operational issues.
9. **'Starting a Business'**, the ground rules for starting a telecom business are well laid out in the Unified licensing regime. Further, the primary requirement to initiate a mobile telecommunications business i.e. access spectrum, is already being made available through e-auctions. The Government, on the recommendations of the Authority, has implemented well thought out policies on spectrum caps to ensure sufficient competition in the sector and to facilitate entry of the new service providers in the sector. Further, the process and requirements to acquire a Unified License is well laid out and the one facilitating factor can be an e-portal, where the applicant can apply first and post the initial e-approval, they can move towards hard copy application and documentary compliances, which should be put on a fast track with timelines.
10. **'Dealing with construction permits'** in telecom space would essentially mean dealing with Right of Way ("ROW") permissions, getting permission for tower installation, the lifeline of telecom services. We understand that despite the Department of Telecommunication ("DoT") issuing the advisory guidelines for state governments for issue of clearance for installation of mobile towers dated 01.08.2013, there are still a lack of standardisation in the processes all over the states. Further, these guidelines also advise the state governments to obtain a large number of documents before issuing approval. The Authority should work towards e-approval for tower installation with minimal number of documents and it should also focus on evolving a standardised national level tower policy to help address the biggest challenges facing the effective doing of telecom business in India.
11. The Authority has been cognizant to the need for an effective ROW policy and in recognition of the same, the Government has also issued the Indian Telegraph Right of Way Rules, 2016. We submit that the Authority should recommend to alter these rules so make these more inclusive and comprehensive and it should also ensure to bring in the concepts e-approval in the ROW rules.
12. **'Getting Electricity'**, would imply getting the uninterrupted power supply to the telecom towers, at reasonable tariffs. Telecom towers have been given infrastructure status by Government of India vide gazette notification no 81 dated 28.03.2012. As a



consequence to this classification, Telecom Towers should be extended all benefits available to infrastructure industry. However, getting electricity connections for telecom towers is not easy in many states. Further, there is vast variance in the electricity tariffs applicable across the country. In many states the State Electricity Boards charge commercial tariffs instead of the industrial tariffs and there are continuous disputes and litigation around this. We request the Authority to intervene in finalising a nationwide policy on electricity to telecom related establishments including the Telecom Towers. The Authority is aware that the industry is doing its utmost to move towards greener technologies, however in the interim the Authority and the Government should ensure that this vital infrastructural industry is not dependent on fossil fuels for energy and that they are charged industrial tariff for the same. We submit that in line with the DoT's recommendations, the electricity connection may be provided to BTS site on priority.

13. **'Getting credit'**. In this capital intensive industry with long gestation period, it is imperative that the policy framework is supportive of the investors getting sufficient credit to build this vital infrastructure. The Authority should join with Government in exploring the possibility of easy and low interest credit for this sector. The Government may also give fixed timelines to execute tripartite agreements and the tripartite agreements may not be delayed/denied without a valid and expressly communicated decision.

14. It is evident from the above that the easing of doing telecom business in India would require a number of administrative steps, a definitive movement towards a paperless, single window clearances and approvals based governance. The World Bank also recognises that Ease of doing business requires efficiency improvements across the bureaucracy and judicial system. With this background, our issue wise response is as below.

A. 'Related to Unified Licence

- *Acquiring Unified Licence,*
- *Compliance of various general / commercial /technical / financial / operating / commercial conditions,*
- *Adding new authorisations in the UL*
- *Surrendering any authorisation within the scope of UL or surrender of UL.*
- *Compliance of roll-out obligations*
- *Payment of Licence Fee, FBG/PBG and the release of bank guarantee, whenever due.*
- *Any other issue'*

RJIL submissions:

RJIL submits that the policy governing the Unified Licensing regime is well evolved and settled. The introduction of UL (VNO) authorization has also ensured that all types of foreseeable authorizations are covered under the UL. To leverage convergence of networks for seamless delivery of services to the consumer, the Authority can kindly consider the possibility of a truly Unified License with a single authorization and a single pay-out structure as a road



map. Additionally, we have following suggestions with regards to the procedural issues with the UL.

a. Roll Out obligations:

While we maintain that there should not be any requirement of roll-out obligations in the era of auctioned spectrum, we submit that the Authority needs to simplify the process of meeting the roll-out obligations. The testing by TERM Cells should be done on representative sample basis with the results being updated online. The TERM Cells may be mandated to publish the phase wise compliance certificate on completion of roll-out obligations in a time-bound manner.

b. License fee and spectrum usage charges:

We request the Authority to reiterate its recommendations on License fee deductions at source, made vide its recommendations on "Definition of Revenue Base (AGR) for the Reckoning of Licence Fee and Spectrum Usage Charges"

"The Authority is of the view that steps should be immediately taken by the DoT to introduce a system of LfDS w.e.f. 1st April 2015 and develop an e-portal for submission of LF and SUC by 1st April 2016. The Authority also recommends that the transition to the LfDS system may be initiated at the earliest, by putting in place a system for electronic/ online filing of licencees' returns."

Simple measures such as reducing the number of documents can save TSPs and officials valuable time and resources. Implementation of LfDS would save deployment of large resources in as following requirements would no longer be required:

- (i) Regular submission of huge volume of records in support of deductions claimed from the Gross Revenue;
- (ii) Advance payment of Spectrum Usage Charges in the beginning of quarter on the basis of estimated revenue.

c. Single Authority for Submission and Assessment of License fee and Spectrum Usage Charges

At present assessment of License Fee and Spectrum Usage Charges is carried separately for every licensed Service Area by respective CCAs. The License Fee and Spectrum Usage Charges are also paid separately in each service area. The process of payment of LF and SUC and its assessment by multiple agencies can be simplified by having a single Authority for receiving and assessment of LF and SUC. The assessment of LF and SUC by a single Authority can be easily



executed especially after LfDS implementation as separate verification of deductions claims from the Gross Revenue would no longer be required.

Single Authority for payment of LF and SUC would not only reduce burden of submission of separate documents but will also bring uniformity in assessment of LF and SUC across all service areas. It will also save resources for preparation of separate circle wise or service wise accounts as LF rates are uniform across all licensed areas and services.

In view of the above it is suggested to recommend payment of LF and SUC and its assessment by a single Authority at a centralised place.

d. Single Authority for submission of Regulatory reports and standard report templates.

At present, we have multiple central and regional telecom authorities like the Department of Telecommunications, TRAI, TERM Cells of DoT and Regional offices of TRAI, which seek regulatory reports on certain parameters. It is observed that in most of the cases, while the parameters remain same, the format for the reports have substantial variations. Especially, many regional authorities like TERM Cells have TERM specific report formats designed.

We submit that this leads to duplicity of efforts and wastage of manpower. The Authority should prescribe standard templates for all regulatory requirements and there should be a single centralised Authority for report submission, which can further disburse the reports at regional levels, if required. We further suggest that the report submission should be mandatorily on electronic mode to ensure ease of business.

e. Surrendering any authorisation within the scope of UL or surrender of UL:

The Authority had earlier vide its recommendations dated 18.04.2012 had issued its recommendations on the exit policy for telecom licenses stating that

"a) Presently there is no need for a separate Exit Policy for all types of licenses and the entry fee paid by the licensees will continue to be non-refundable as per their license terms and conditions,

b) Present conditions in various licences with regard to surrender of licences, whereby licensee can surrender its licence by giving a notice of at least 60 calendar days (30 calendar days in case of ISP license) in advance shall continue to be applicable."

We submit that the Authority may decide to revisit the said directions in the changes circumstances. Further, the Authority is already deliberating on many related issues and the consumer centric issues on closure of telecom services



under the consultation paper on 'Issues related to closure of Access Services' dated 30.11.2016. We submit that the Authority may also include the recommendations on the exit policy along with the said recommendations.

B. Spectrum Allotment and use

- *Assignment of spectrum to the successful bidder by WPC.*
- *SACFA Clearance Process*
- *Spectrum Trading approval process such as settlement of dues etc.*
- *Spectrum Sharing process*
- *Liberalisation of spectrum process*
- *Any other issue*

RJIL submissions:

- a. The policies and procedures governing the spectrum liberalisation, spectrum trading and spectrum sharing are well brought out and time bound and there should not be any change in the same.
- b. RJIL submits that with the auction based allocation of spectrum, all the steps in acquiring spectrum, till the provisional allocation of spectrum are transparently available. However more transparency and procedural timeliness is required in the issuance of spectrum allocation letters, we understand that the DoT and WPC have improved the timeliness to a large extent, however it is still nowhere near the level of transparency brought in by spectrum auctions.
- c. SACFA Clearance process, though largely online and automated, still needs procedural improvement to enhance efficiency.
 - i. SACFA approval should be required only for sites with minimum distance of 4 KM from the nearest Airport and the sites with tower height above 40 meters, in all other cases there should be no requirement of SACFA approval and mere submission of requisite information should suffice.
 - ii. The SACFA approval for a site with defined latitude-longitude should be automatically available to any new tower coming up at the said site. As there will be no advantage in evaluating same site time and again.

C. Merger and Acquisition Policy

- a. Any Merger and Acquisition in telecom needs to be closely monitored to avoid monopolistic tendencies as the same will have adverse effect on competition in the sector. The current merger and acquisition guidelines have been implemented after much deliberation, taking all this into consideration. We have already seen a few mergers happening under this policy. The policy is consistent with the spectrum sharing, spectrum trading and spectrum liberalisation policies alongwith the spectrum holding restriction in place. As all



these policies have been arrived at post much deliberation and requests from the industry, it will not be prudent to discuss any changes in this at this time.

- b. **Further, we do not understand rationale behind tagging this policy under the consultation on ease of doing business. First it is not part of any of the defined indices for 'Ease of Business' and second, it is not even a pending reform, in fact it is one of the major reforms already carried out. There are no regulatory issues with the policy and as per our understanding neither has any stakeholder sought a change in this policy.**
- c. Furthermore, predictability in regulatory policy is the hallmark of a good policy regime. At the cost of repetition, we submit that Unified Licensing regime with the associated policies on mergers and acquisitions, spectrum sharing, spectrum trading etc. have been evolved over a period of time with much deliberation with all the stakeholders. Therefore, we submit that Authority should avoid tinkering with such policies.
- d. The regulatory regime should be same for all stakeholders, the industry has been long insisting only on 'level playing field' and 'same service same rules' and now to even discuss possibility of alterations in one of the cornerstones of such reform on any flimsy protest would be a betrayal of the whole process and regulatory regime.
- e. In view of the above, we submit that there is no need to discuss any reforms in the merger and acquisition policy.

D. Taxes and Levies: The Telecom sector on an average pays 30% or above of the gross revenue in taxes and levies. If we add the amount of processing fee for various applications including SACFA application, testing fee for EMF and Roll-out obligations testing then the taxes and levies amount assumes more humungous proportions. This type of taxes and levies, in a capital intensive industry with a vital infrastructural role to play in national development is not suitable. As the 'Ease of Business' is as much about cost as it is about the time, the Authority needs to look into this aspect as well and work towards simplifying and reducing these burdens.

E. Import Licenses: In the telecom sector, most critical Radio Frequency equipment are imported and as per the extant regulations, the TSPs are required to obtain import licenses for the same. The import licenses are issued at regional licensing offices ('RLO') of the WPC wing of DoT. We submit that the procedures being followed by the RLOs are very cumbersome, time-consuming and are not applied uniformly. We submit that the Authority may recommend procedural reforms so that these issues are smoothed and the vital import license are issued in a time-bound manner with minimum requisite paperwork.

F. Most of the Information technology and Information technology enabled services ('IT & ITES') providers are required to register under the Other Service Providers ('OSP') registration. We submit that, while an e-application process is available for this



service, however the registration for more modern and technology driven models of ICT implementation need to be approved by the TERM Cell of the DoT. We submit that the procedures followed by the TERM Cells on this are time-consuming and are not applied uniformly leading to unsuitable delay in permissions. We submit that the Authority may recommend procedural reforms to simplify the OSP registration process.

G. **Conclusion:** In view of the above submissions, we are summarizing as below:

1. **The Authority should maintain regulatory predictability and ensure that the policies evolved over the years are here to stay for a while.**
2. **The Authority should recommend steps to streamline the processes to ensure timeliness in telecom related approvals and permission processes**
3. **The Authority should reiterate its recommendations on Licence fee deductions at source and recommend for single Authority for payment of licence fee and SUC.**
4. **To avoid duplication of efforts, the Authority should recommend submission of all reports in electronic form to a single Authority.**
5. **The Authority should recommend simplification of the taxes and levies regime.**
6. **The Authority should recommend that all government processes and procedures should be on electronic mode.**
7. **The Authority should take up the industry issues with other regulators like RBI (Reserve Bank of India), CERC (Central Electricity Regulatory Commission) etc.**

