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Ref: No. RP/FY20-21/062/827

Dated: 3rd June 2020

To,

Shri S.T. Abbas,
Advisor (Network, Spectrum & Licensing),
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
JawaharLal Nehru Marg,
New Delhi – 110 002.

Sub: Consultation Paper on "Methodology of applying SUC under the weighted average method of SUC assessment, in cases of Spectrum Sharing."

Dear Sir,

This is in reference to your above-mentioned consultation paper. In this regard, please find enclosed our response for your kind consideration.

Thanking You,

Yours' Sincerely,

For Bharti Airtel Limited

A handwritten signature in black ink, appearing to read 'Rahul Vatts', is placed over a light blue rectangular background.

Rahul Vatts

Chief Regulatory Officer

Encl: a.a

Bharti Airtel's response to TRAI's Consultation Paper on "Methodology of applying Spectrum Usage Charges (SUC) under the weighted average method of SUC assessment, in cases of Spectrum Sharing"

Executive Summary

We thank the Authority for this Consultation Paper and the opportunity for us to present our views. The issues raised in the present consultation include:

- The applicability of additional SUC, only on the Spectrum held in the band being shared or on the total Spectrum, for the past period;
- Future recommendations with regards to additional SUC upon sharing;
- Changes, if any required in the present sharing guidelines, etc.

A summary of our submissions is as under:

- **Applicability of Additional SUC under the present sharing policy**
Increment of 0.5% on SUC rate should apply only on the spectrum holding in the specific band, which is shared and not on the entire spectrum holding (all bands) of the TSPs. The purpose of spectrum sharing is to drive efficiency, and so extra charge should be levied only for the band in which the Spectrum is being shared.
- **Applicability of additional SUC for sharing - post a prospective sharing policy**
Increment in SUC by 0.5% for the band being shared acts as a deterrent for TSPs in entering into spectrum-sharing arrangements, and the same should be **dis-continued prospectively**.
- **Other recommendations on sharing to ensure efficient usage of Spectrum:**
 - **Allow inter-band sharing of Spectrum** without incremental SUC being applicable on the spectrum band being shared.
 - **Allow for sharing of microwave / backhaul carriers** while the operators enter into spectrum sharing or active infrastructure sharing at no additional cost.
 - **We fully support an open and free spectrum environment. However any change in spectrum sharing policy should only be prospective and no change can be retrospective.** Other suggestions in this regard form part of our detailed submissions.

With the above context, please find below our detailed submission on the issues raised in the consultation paper.

Q1. Do you agree that as per the existing Spectrum-Sharing Guidelines dated 24th September 2015, post sharing of spectrum, increment of 0.5% on SUC rate should apply on the spectrum holding in specific band in which sharing is taking place and not on the entire spectrum holding (all bands) of the TSPs. Please justify your answer.

Bharti Airtel's Response:

The Spectrum Sharing guidelines released in September 2015 were comprehensive and did not have scope for misinterpretation. **Post sharing of Spectrum, the increment of 0.5% on SUC rate should apply only on the spectrum holding in the specific band in which sharing is taking place and not on the entire spectrum holding (all bands) of the TSPs.**

The purpose of spectrum sharing is to drive efficiency and so extra charge should be levied only for the band in which Spectrum is being shared. This is apparent from the mere reading of Clause 2,3 & 12 of the spectrum sharing guidelines are reproduced as below:

(2). Spectrum sharing is permitted between two Telecom Service Providers utilizing the Spectrum in the same band.

(3). Spectrum sharing is not permitted when both the licensees are having Spectrum in different bands. Leasing of Spectrum is not permitted.

(12). For the purpose of charging Spectrum Usage Charges (SUC), it shall be considered that the licensees are sharing their entire spectrum holding in the particular band in the entire LSA.

As per Clause 2 & 3, Spectrum sharing is limited to two service providers utilizing the Spectrum in the same band and is not permitted when both the licensees have Spectrum in different bands. Further, Clause 12 clearly states that for SUC, the entire Spectrum in the band is considered as shared. The combined reading of Clause 2, 3 & 12 of spectrum sharing guidelines leaves no scope for interpretation and implies that post sharing, incremental SUC of 0.5% is applicable only for the Spectrum held in the particular band being shared.

The above inference can also be drawn from TRAI's recommendations dated 21st July 2014 on Spectrum Sharing basis which the Spectrum Sharing guidelines were formulated by DoT. The **recommendations distinctly mentioned that all the access spectrum would be sharable provided that both the licensees are having Spectrum in the same band.** It was also mentioned that the SUC rate of each of the licensee post sharing shall increase by 0.5% of AGR. Basis this, TRAI itself in the consultation paper has reckoned as below:

It can be inferred that since every spectrum sharing proposal is a separate proposal, which is specific to a spectrum band and Licensed Service Area (LSA), the incremental SUC of 0.5% applies to that particular spectrum band in the specified LSA.

It is, therefore, evidently clear that **the increment of 0.5% on the SUC rate in case of spectrum sharing is only applicable on the spectrum holding in the spectrum band being shared** and not on the entire spectrum holding (all bands) of the TSPs.

Q2. Do you think that increment in SUC rate is a deterrent for TSPs in entering into spectrum-sharing arrangements? Further, do you also think that in order to facilitate the spectrum sharing, there should not be any increment in SUC rate post sharing of Spectrum? Please justify your answer.

Bharti Airtel's Response:

We have always recommended that once the Spectrum has been acquired via auctions and paid for at market-determined price, Spectrum Usage Charges should be kept to a minimum of not more than 1%, to account for administrative charges in management of Spectrum. This view has also been supported by TRAI in past.

In this context, it is relevant to mention that irrespective of the fact whether two operators enter into sharing agreement or not, they continue to pay Spectrum Usage Charges on their respective revenues. Even in the case of spectrum sharing, enhanced revenues, if any, earned consequent to sharing are also subject to Spectrum Usage Charges.

Therefore, we are of the view that incremental SUC of 0.5% acts as a deterrent for spectrum sharing, and thus there is no merit in the imposition of additional SUC while sharing spectrum. Even TRAI in the Consultation paper concurs with the said view in Para 2.19 to 2.21

Hence, to promote spectrum sharing, **no incremental SUC should be levied going forward.**

Q3. What other changes are required in the Spectrum-Sharing Guidelines to facilitate spectrum sharing? Please provide detailed explanation and justification for your suggestions.

Bharti Airtel's Response:

The present spectrum sharing guidelines allow sharing of Spectrum between two operators when both operators have Spectrum in the same band. TRAI in the consultation paper has also recognized that spectrum sharing works on carrier aggregation and that inter-band spectrum sharing is also possible.

It is worthwhile to mention that in 2015 when the spectrum sharing guidelines were introduced, specific cellular technologies worked in specific bands, for instance, GSM in 900/ 1800 MHz bands, CDMA in 800 MHz band, 3G in 2100 MHz band, etc.

With the advent of LTE-4G, almost all the bands are being utilized for LTE-4G, which inter-alia include 800 MHz, 900 MHz, 1800 MHz, 2100 MHz, 2300 MHz, and 2500 MHz band. It is imperative that with the operators having deployed LTE in different bands, they also be allowed the opportunity to share the Spectrum held by them in various bands.

Therefore, the limitation of Spectrum sharing only in a particular band may be done away with. **TSPs may be allowed inter-band spectrum sharing.**

Q4. If there are any other issues/suggestions relevant to the subject, stakeholders may submit the same with proper explanation and justification.

Bharti Airtel's Response:

We have the following suggestions:

A. Microwave/ backhaul sharing:

While Fiber is one of the critical components to connect and build a Digital India, Microwave Spectrum acts as an equally important enabler as it enables faster rollout of services in deep rural & remote pockets as well as in dense urban environment. Microwave deployment is also cheaper, easier to maintain, and can provide higher coverage.

In the last two decades, overall data consumption in the country has grown from almost zero to 700 Crore GBs per month. However, backhaul microwave spectrum allocation remains the same and has seen no policy initiatives/reforms. On the contrary, policy shifts in 2015 have imposed onerous conditions and restrictions and discouraged the use of microwave spectrum.

While the guidelines provide for sharing of access spectrum, we recommend that Microwave/ backhaul sharing also be allowed.

In both, active infrastructure sharing (wherein Spectrum is not shared only the active radio element are shared) as well as spectrum sharing, the two operators come together to have a common Radio Access Network. Both also require a corresponding increase in backhaul bandwidth. Since the RAN is allowed to be shared, it is imperative that microwave/backhaul spectrum assigned to the two operators should also be allowed for sharing.

In the case of active infrastructure sharing, the additional revenues paid by one Operator to another operator for infrastructure sharing is subject to LF/ SUC. Similarly, additional revenues are paid to Government in the form of additional SUC and LF/ SUC on incremental revenues in case of spectrum sharing

It is therefore recommended that **microwave/ backhaul sharing be also allowed both in case of Active Infrastructure sharing and Spectrum sharing at no additional cost.**

B. Other suggestions:

- **We fully support an open and free spectrum environment. However any change in spectrum sharing policy should only be prospective and no change can be retrospective.** Thus any change in the policy except as detailed in Q1 to be made applicable prospectively from the time new policy comes into force.
- **Also in case additional SUC is proposed to be removed prospectively, then in order to ensure level playing field qua operators who acquired spectrum through trading, the hefty spectrum trading fee paid in past needs to be refunded to concerned operators on a pro-rata basis (from date of change of policy till spectrum expiry date) or a one-time sharing fee be applied on operators sharing spectrum on prospective basis of similar terms as trading. The operators had a choice to share spectrum and pay additional SUC or acquire spectrum under the trading guidelines by paying a hefty one-time charge. It's only in order that if the terms are being changed, the operators who traded in spectrum should not be now put to a disadvantage.**
- **In case of operators sharing Spectrum, the Spectrum shared must be fully paid or secured for payment, as per applicable NIA, by both the parties. If any instalment of spectrum remains unpaid, then no sharing should be permitted.**
- **Spectrum being a sovereign resource, is allocated to operators for a specified period. In this context, in cases, where operators file for bankruptcy in NCLT, spectrum should be taken back by the DoT and put up for auction for proper & efficient use.**