

**TAIPA's response to supplementary consultation paper "Roadmap to promote broadband connectivity and enhanced broadband speed"**

TAIPA would like to thank the Authority for giving an opportunity to provide our comments on important issues raised in the supplementary consultation paper to the main consultation "Road map to promote broadband connectivity and enhanced broadband speed". It is heartening to note that TRAI has taken a 360-degree view of the subject with the inclusion of Right of Way issues impacting the rollout of 5G technology as well.

5G technology will not only be used in telecom but in other sectors such as agriculture, healthcare, transport and in many other use cases as well. 5G value for India may be even higher than in advanced countries because of the lower levels of availability of physical infrastructure due to multiple challenges. 5G may offer leapfrog opportunities by providing smart infrastructure that offers lower cost and enabling faster rollout of service delivery to end customers.

In case of 5G, the network infrastructure would move far closer to the consumers, since it is estimated that approximately 1000 Base Station Cells per square Kilometer will be required. Therefore, it is important that the rollout aspects are addressed now itself, when launch of 5G is imminent in the country. Our issue wise response follows.

We note that Question 1 to 7 and Question 10 to 13 relate to Business to Customer(B2C) domain and these questions can be best answered by Telecom service providers as they provide services to end consumers. Our comments on other issues related to small cell and their installation on street furniture are given below.

**Q 8 What are key issues and challenges in getting access to public places and street furniture for installation of small cells? Kindly provide the State/ City wise details.**

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**Q 9 How to permit use of public places and street furniture for the effective rollout of 5G networks? Kindly suggest a uniform, simple, and efficient process which can be used by States/ Local-Bodies for granting access to public places and street furniture for installing small cells. Kindly justify your comments.**

## **TAIPA's response:**

To enable a ubiquitous and seamless coverage, 5G technology would require mushrooming of small cells. Further, as data traffic rises and subscribers' performance expectations grow, supplementing macro networks with small cells would be an effective way to enable coverage – both indoors as well as outdoors. The small cell will be required to be installed on street furniture such as streetlight/ lamp post, traffic signals, metro pillars, bus stands, public buildings etc. which has a nearby power source. Further, the street furniture used for small cell would also require fiberisation for the backhaul as well. At present, non-availability of permissions, multiple policies, and high charges etc are major hindrance in faster rollout of micro cells/small cells which are required for deeper penetration of network. The details of issues, challenges and suggestions are given below:

### **1. Amendment in ROW rules, 2016:**

- i. At present, The Indian Telegraph RoW Rules, Nov'2016 do not have provision for use of street furniture for deployment of telecom infrastructure., even though, few States have included small cells under the scope of Right of Way policies in addition to telecom towers and OFC. Therefore, ROW rules, 2016 would require an amendment for incorporation of provision of IBS, street furniture for deployment small cells free of cost or at reasonable rates.
- ii. Right of Way without payment of any charges should be granted for installation of small wireless equipment /small cells on existing street furniture viz. poles, towers, buildings, and other structures. Creation of single window system from all agencies would significantly facilitate the adoption of street furniture.

### **2. Use of Government lands/ buildings and other assets:**

- i. The State Government/ local authority owned lands and public places/ assets such as parks, traffic lights etc. are most likely to be adopted as street furniture. However, at present, there is no single window clearance for policy for installation of small cells at such locations. Mandatory provision of small cells should be adopted for Government owned buildings, assets, billboards, streetlights, public parks, metro pillars, poles etc.
- ii. The Government should consider that to accomplish the National Broadband mission, there ought to be no charges to infrastructure providers /TSPs for using this infrastructure which will enable faster and cost-effective rollout of broadband networks.

- iii. New street infrastructure should be designed in such a manner for making it ready to use for the purpose of small cells, which would facilitate the telecom infrastructure providers to promptly install the equipment for faster rollout of 5G technology.
- iv. The Policy mechanisms would have to be enacted to ensure availability of standardized Power and space etc. at street infrastructure for rollout of telecom infrastructure.

### **3. Bulk approvals and uniform application process**

- i. Presently there are no provisions for batch processing of a group of small cells, and therefore it would become administratively very difficult to apply permission/approval for each small cell. Ideally, the small cells should not be mandated to get approval for installation of small cells. The local authorities should adopt measures such as exemptions or a simplified bulk approval process for small cells.
- ii. The present system of granting access to public spaces/ structures for installing small cells varies by state and the local body/agency, and this needs to be made uniform and simplified in its application with adoption of efficient processes to award permits.

### **4. Facilitation of cross sector infrastructure sharing:**

Telcom infrastructure should be allowed to be installed at cross sector infrastructure beyond Telecom Industry as well e.g Broadcasting industry, Electricity poles/transmission, Bus Stands, Petrol Pumps etc. for sharing space with the telecom equipment. Accordingly, terms and conditions must be incorporated in the ROW policies. Standard charges should be incorporated in the amended ROW rules, 2016 and the States should align their rates with the amended ROW rules, 2016.

### **5. Exemption and simplification of approval processes for small cells:**

There is a need to differentiate between the approval process designed for macro cell and a small cell. The approval process for a small cell can be streamlined through simplified, transparent, and standardised application and processes need to be revisited for small cell siting, as well as exemption of small cells that meet certain set criteria from reviews of environmental and historic site preservation organisations.

**6. Benefit awareness at local level for better co-operation**

There is need to create awareness among municipal bodies' officials for 5G benefits and its usages, and to explain the opportunities and benefits of use of street furniture for small cells. The local authorities should adopt measures such as exemptions or a simplified bulk approval process for small cells.

**7. Facilitation of access by Resident Welfare Associations ( RWA)**

Presently a lot of restrictions are enforced upon telecom infrastructure providers/TSPs by RWAs and exorbitant charges are imposed by the resident associations for getting access to societies/colonies. The local Municipal authorities may ensure that no fees/onetime charges should be levied, and unrestricted access must be provisioned for telecom purposes and safety of telecom infrastructure must be ensured. Through provisions in ROW policies of the States.

**8. Enhanced role for LSA cell to support small cell installations:**

No coercive action such as disconnection, removal or sealing or withdrawal of permission should be taken without the involvement of LSA cell in the State. The ROW rules, 2016 should be amended accordingly.

We are enclosing some international practices that have been adopted in some other countries to promote deployment of small cells.

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## International examples

### FCC, USA

In the matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment - Declaratory ruling and third report and order dated 27<sup>th</sup> September 2018, FCC, USA has arrived at far reaching decisions for all the States for removing restrictions to rollout of small cells required for 5G penetration in the States. The FCC has framed rules about the administration fee, approval timelines (shot clocks) in this historical ruling. The relevant paras are as under:

9. *In the Declaratory Ruling, we note that a number of appellate courts have articulated different and often conflicting views regarding the scope and nature of the limits Congress imposed on state and local governments through Sections 253 and 332. We thus address and reconcile this split in authorities by taking three main actions.*
10. *First, we express our agreement with the U.S. Courts of Appeals for the First, Second, and Tenth Circuits that the “materially inhibit” standard articulated in 1997 by the Clinton-era FCC’s California Payphone decision is the appropriate standard for determining whether a state or local law operates as a prohibition or effective prohibition within the meaning of Sections 253 and 332.*
11. *Second, we note, as numerous courts and prior FCC cases have recognized, that state and local fees and other charges associated with the deployment of wireless infrastructure can unlawfully prohibit the provision of service. At the same time, courts have articulated various approaches to determining the types of fees that run afoul of Congress’s limits in Sections 253 and 332. We thus clarify the particular standard that governs the fees and charges that violate Sections 253 and 332 when it comes to the Small Wireless Facilities at issue in this decision.<sup>1</sup> **Namely, fees are only permitted to the extent that they are nondiscriminatory and represent a reasonable approximation of the locality’s reasonable costs.** In this section, we also identify specific fee levels for the deployment of Small Wireless Facilities that presumptively comply with this standard. We do so to help avoid unnecessary litigation over fees.*
12. *Third, we focus on a subset of other, non-fee provisions of local law that could also operate as prohibitions on service. We do so in particular by addressing state and local consideration of aesthetic concerns in the deployment of Small Wireless Facilities, recognizing that certain reasonable aesthetic considerations do not run afoul of Sections 253 and 332. This responds in particular to many concerns we heard from state and local governments about deployments in historic districts.*
13. *Next, we issue a Report and Order that addresses the “shot clocks” governing the review of wireless infrastructure deployments. We take three main steps in this regard. First, we create a new set of shot clocks tailored to support the deployment of Small Wireless Facilities. In particular, we read Sections 253 and 332 as allowing 60 days for reviewing the application for attachment of a Small Wireless Facility using an existing structure and 90 days for the review of an application for attachment of a small wireless facility using a*

*new structure. Second, while we do not adopt a “deemed granted” remedy for violations of our new shot clocks, we clarify that failing to issue a decision up or down during this time period is not simply a “failure to act” within the meaning of applicable law. Rather, missing the deadline also constitutes a presumptive prohibition. We would thus expect any locality that misses the deadline to issue any necessary permits or authorizations without further delay. We also anticipate that a provider would have a strong case for quickly obtaining an injunction from a court that compels the issuance of all permits in these types of cases. Third, we clarify a number of issues that are relevant to all of the FCC’s shot clocks, including the types of authorizations subject to these time periods.*

### **Other examples**

2. The IMDA in Singapore has required “mobile installation spaces”—typically rooftop spaces reserved for telecommunication equipment—be provided to network operators by building developers and owners free of charge.
3. In Japan, operators can install 5G base stations on 208,000 traffic lights across the country. Moreover, the Japanese government has proposed that the costs of using the traffic lights for 5G deployments be shared between operators and local administrations.
  - a. In a move to further its smart city infrastructure, the government also plans to equip traffic lights with communication functions for traffic data collection and processing and emergency communication.
4. The UK’s Electronic Communications Code facilitates operators’ access to macro and small cell infrastructure on public and private land.

*( Source: GSMA paper : Realising 5G’s full potential: Setting policies for success, published in April 2020)*