

Dated 16th July 2008

Dear

TRAI had submitted its recommendations to DoT on “Review of license terms and conditions and capping of number of access providers” dated 28th August 2007. Now DOT vide its letter No. P-11017/02/2008-PP dated 9th July 2008 (copy enclosed at **Annex-I**) has proposed certain modifications in the above referred recommendations with regard to annual spectrum usage charges and one time spectrum enhancement charges (referred letter of DoT has mentioned the date of TRAI’s recommendations as 28th August 2008 which need to be read as ‘28th August 2007’). DOT has requested TRAI for its considered views / comments on proposed modifications as per the proviso under section 11(1) of TRAI Act 1997.

The recommendations of the Authority on the proposed modifications are as below:

Annual Spectrum usage charges

2. With reference to para 6.8 of TRAI’s recommendations, DoT has proposed “an increase of 1% of AGR across the board, and minor change in the spectrum slab as outlined in the table below.

TRAI recommendations		DOT Proposal	
Amount of Spectrum	AGR	Amount of Spectrum	AGR Proposed
Upto 2x4.4 MHz/2x5MHz	2%	Upto 2x4.4 MHz/2 x5MHz	3%
Upto 2 x 6.2 MHz	3%	Upto 2 x6.2 MHz	4%
Upto 2 x 8 MHz	4%	Upto 2x8.2 MHz	5%
Upto 2 x 10 MHz	5%	Upto 2x10.2 MHz	6%
Upto 2 x 12.5 MHz	6%	Upto 2x12.5 MHz	7%
Upto 2 x 15 MHz	7%	Upto 2x15 MHz	8%
Beyond 15 MHz	8%	Beyond 15 MHz	9%

The reason given in the above referred letter of DoT is *“the rate revision in the past did not address the spectrum range of 4.4-8 MHz which contributes to the bulk of the customer reference. Hence there was a need to rationalize the tariff in this range. The proposed option is unlikely to burden the service providers”*.

3. The Authority in its above referred recommendations dated 28th August 2007 had revised the subscriber base criteria for spectrum allocation. The DoT vide its letter No. J-1025/200 (17)/2004-NT dated 17th January 2008 had included additional slabs of 1 MHz increment beyond 2x6.2 MHz of GSM spectrum. In the proposed modifications also, in place of earlier slabs of 2x 8 MHz and 2 x10 MHz, the DoT has proposed spectrum usage charges for 2x8.2 MHz and 2 x 10.2 MHz. However, DoT’s attention is invited to the TRAI’s letter of even no. dated 19th June 2008, wherein the Authority has mentioned 2x6.25 MHz of CDMA spectrum and 2 x 6.2 MHz of GSM spectrum for the same slab of 3% of AGR as spectrum charge. Accordingly, the Authority recommends that in this DoT proposal, the slab should be modified from “upto 2x6.2 MHz” to “upto 2x6.25MHz”.

4. The rationale behind Authority’s recommendation to revise, spectrum charges beyond 2 x 8 MHz was that in the spectrum slab of 2x4.4 MHz to 2x8 MHz, the spectrum usage charges are increasing in the steps of 1% i.e. from 2% - 4%. However, the upward slab from 2x8 MHz to 2x10 MHz, the prevailing spectrum usage charges, remains same as 4%. With a view to rationalize the spectrum usage charges across all slabs, the Authority while correcting this anomaly, recommended levying 5% of AGR as spectrum usage charges for 2x10 MHz. For further spectrum slabs, it accordingly revised the charges with an increment of 1% per slab.

5. The DoT has proposed a 1% increase in the spectrum charge across the board after modifying the spectrum usage charges as recommended by the Authority. This amounts to increase in spectrum usage charge by 2% in the slab of 2X10 MHz and above. The justification given by DoT in the above referred

letter for this modification is “the rate revision in the past did not address the spectrum range of 4.4-8 MHz which contributes to the bulk of the customer reference. Hence there was a need to rationalize the tariff in this range. The proposed option is unlikely to burden the service providers”. Perhaps ‘tariff’ referred in DOT letter is spectrum charge. The Authority is of the view that the proposed option is likely to burden the service providers, as in view of the Authority, the proposed changes would amount to around Rs. 1000 crores as additional payment of spectrum charges by the service providers. As conveyed in our DO letter No. 103-5/2008-MN dated 12th July 2008, “the Authority is of the view that incidence of financial burden should be estimated in totality and isolated or piecemeal hikes with a view to mopping up additional revenue may hurt the growth of infrastructure and in the long run the telecom sector itself”.

However, the Authority has decided to go along with the proposal of enhancement of spectrum charges along with the amendment in spectrum slabs as mentioned in the letter of DoT taking into consideration the broader picture of telecom sector.

Spectrum enhancement charges beyond 6.2 MHz:

6. With reference to para 6.6 of TRAI’s recommendations, the DoT has proposed that “while agreeing with TRAI on the need for one time spectrum enhancement charges, however proposes to levy suitable one time charge for additional spectrum beyond 6.2 MHz”. The Authority in its recommendations dated 28th August 2007 has recommended

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Service Areas	Price (Rs. In million) for 2x5 MHz
<i>Mumbai, Delhi and Category A</i>	<i>800</i>
<i>Chennai, Kolkatta and Category B</i>	<i>400</i>
<i>Category C</i>	<i>150</i>

any licensee who seeks to get additional spectrum beyond 10MHz in the existing 2G bands i.e. 800, 900 and 1800 MHz after reaching the specified subscriber numbers shall have to pay a onetime spectrum charge at the above mentioned rate on prorata basis for allotment of each MHz or part thereof of spectrum beyond 10 MHz.

*For one MHz allotment in Mumbai, Delhi and Category A service areas, the service provider will have to pay Rs. 160 million as one time spectrum acquisition charge.” The reasons for levying one time spectrum enhancement charges beyond 10 MHz have been given in paras 2.74, 2.75 and 2.76 of its recommendations (extract enclosed at **Annex-II**).*

Now the DoT has proposed levying of one time charge for additional spectrum beyond 6.2 MHz. As mentioned above, in para 2.75 of its recommendation, TRAI has dealt in details for one time charge beyond 10 MHz. **However, in order to reconsider the issue, the Authority request DoT to clarify what will be the “suitable one time charge”. The details of this scheme “one time charge” would be very necessary for examining the proposal from legal and financial point of view. After receipt of the details of scheme of one time charge, the Authority shall send its recommendations to DoT.**

7. Presently, the entry fee for the UAS license in a service area varies from Rs.233 Crores for Tamilnadu to Rs. 1Crore for West Bengal. These entry fees have been determined on the basis of the price discovered in the bidding of the 4th CMSP license in 2001. On the issue of entry fee, the Authority in its recommendation dated 28th August 2007 has noted “the allocation of spectrum is after the payment of entry fee and grant of license. The entry fee as it exists today is, in fact, a result of the price discovered through a market based mechanism applicable for the grant of license to the 4th cellular operator. In today’s dynamism and unprecedented growth of telecom sector, the entry fee determined then is also not be realistic price for obtaining a license. Perhaps, it needs to be reassessed through a market mechanism” (¶ 2.73).

The Authority feels that as the DoT is revisiting the various levies being charged from the UASLs, therefore it is appropriate time for the DoT to revise the entry fees of the different service areas also, so as to bring them in line with the present market realities.

The letter is also being placed on TRAI's website www.trai.gov.in as required in terms of transparency under TRAI Act.

Yours sincerely,

(Nripendra Misra)

**Shri Siddhartha Behura,
Secretary,
Department of Telecommunications,
Sanchar Bhawan,
New Delhi.**

File No. P-11017/02/2008-PP
Government of India
Ministry of Communications & IT
Department of Telecommunications

Sanchar Bhawan,
Ashok Road, New Delhi -10001
Dated: 9 July 2008

To,
The Secretary,
Telecom Regulatory Authority of India
MTNL Bhawan, Jawahar Lal Nehru Marg
New Delhi - 110002

Subject: - TRAI Recommendation on Adjusted Gross Revenue (AGR) in respect of GSM & CDMA Service Providers.

Sir,

This has reference to the TRAI Recommendations of 28th August 2008 on "Review of Licence terms and conditions and capping of number of access providers".

2. The present rates of recurring spectrum usage charges as percentage of revenue share being levied on GSM and CDMA service providers and recommended by TRAI (Para 6.8) are given in table below:

Amount of Spectrum	Current rate of AGR	TRAI Recommendation
Upto 2X 4.4 MHz/ 2X 5MHz	2% Fixed in 2002	2% (No Change)
Upto 2X 6.2 MHz	3% Fixed in 2002	3% (No Change)
Upto 2X 8 MHz	4% Fixed in 2002	4% (No Change)
Upto 2X 10 MHz	4% Fixed in 2002	5%
Upto 2X 12.5 MHz	5% Fixed in 2004	6%
Upto 2X 15 MHz	6% Fixed in 2004	7%
Beyond 2X15 MHz	-	8% (New Slab)

3. The DOT proposes an increase of 1% of AGR, across the board, and minor change in the spectrum slab as outlined in the table below.

TRAI Recommendations		DOT Proposal	
Amount of Spectrum	AGR	Amount of Spectrum	AGR Proposed
Upto 2X4.4 MHz/ 2X 5MHz	2%	Upto 2X 4.4 MHz/2X 5MHz	3%
Upto 2X 6.2 MHz	3%	Upto 2X 6.2MHz	4%
Upto 2X 8 MHz	4%	Upto 2X8.2 MHz	5%
Upto 2X 10 MHz	5%	Upto 2X10.2 MHz	6%
Upto 2X 12.5 MHz	6%	Upto 2X 12.5 MHz	7%
Upto 2X 15 MHz	7%	Upto 2X 15 MHz	8%
Beyond 15 MHz	8%	Beyond 15 MHz	9%

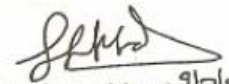
4. The rate revision in the past did not address the spectrum range of 4.4 - 8 MHz which contributes to the bulk of the customer revenue. Hence there was a need to rationalize the tariff in this range. The proposed option is unlikely to burden the service providers.

5. **Spectrum enhancement Charges beyond 6.2 MHz:** The DoT, while agreeing with TRAI (Para 6.6) on the need for one time spectrum enhancement charges, however proposes to levy suitable one time charge for additional spectrum beyond 6.2 MHz.

6. Considering the above, TRAI is requested to kindly provide their considered views/comments on the above proposal as per the proviso under section 11(1) of TRAI ACT 1997 (reproduced below).

"Provided also that if the Central Government, having considered that recommendation of the Authority, comes to a prima facie conclusion that such recommendation can not be accepted or needs modifications, it shall refer the recommendation back to the Authority for its reconsideration, and the Authority may, within fifteen days from the date of receipt of such reference, forward to the Central Government its recommendation after considering the reference made by the Government. After receipt of further recommendation, if any, the Central Government shall take a final decision".

Yours faithfully



(S. Chandrasekhar) 9/7/06

Deputy Secretary to the Government of India

Extract of Paras 2.74, 2.75 and 2.76 of Recommendations

“2.74 Some of the existing service providers have already been allocated spectrum beyond 6.2 MHz in GSM and 5 MHz in CDMA as specified in the license agreements without charging any extra one time spectrum charges. The maximum spectrum allocated to a service provider is 10 MHz so far. However, the spectrum usage charge is being increased with increased allocation of spectrum. The details are available at Table 8.

Spectrum	Current	Proposed
Upto 2X4.4 MHz/2x5 MHz(CDMA)	2%	No Change
Upto2X6.2MHz/2x6.25 MHz(CDMA)	3%	No Change
Upto 2X8MHz	4%	No Change
Upto 2X10MHz	4%	5.00%
Upto 2X12.5MHz	5%	6.00%
Upto 2X15 MHz	6%	7.00%
Beyond 2X15 MHz	-	8.00%

Table 8: Revised Spectrum Charges”

“2.75 The Authority has noted that the allocation beyond 6.2 MHz for GSM and 5 MHz for CDMA at enhanced spectrum usage charge has already been implemented. Different licensees are at different levels of operations in terms of the quantum beyond these thresholds may not be legally feasible in view of the fact that higher levels of usage charges have been agreed to and are being collected by the Government. Further, the Authority is conscious of the fact that further penetration of wireless services is to happen in semi-urban and

rural areas where affordability of services to the common man is the key to further expansion”.

“2.76 However, the Authority is of the view that the approach needs to be different for allocating and pricing spectrum beyond 10 MHz in these bands i.e. 800, 900 and 1800 MHz. In this matter, the Authority is guided by the need to ensure sustainable competition in the market keeping in view the fact that there are new entrants whose subscriber acquisition costs will be far higher than the incumbent wireless operators. Further, the technological progress enables the operators to adopt a number of technological solutions towards improving the efficiency of the radio spectrum assigned to them. A cost- benefit analysis of allocating additional spectrum beyond 10 MHz to existing wireless operators and the cost of deploying additional CAPEX towards technical improvements in the networks would show that there is either a need to place a cap on the maximum allocable spectrum at 10 MHz or to impose framework of pricing through additional acquisition fee beyond 10 MHz. The Authority feels it appropriate to go in for additional acquisition fee of spectrum instead of placing a cap on the amount of spectrum that can be allocated to any wireless operator. In any case, the Authority is recommending a far stricter norm of subscriber base for allocation of additional spectrum beyond the initial allotment of spectrum. The additional acquisition fee beyond 10 MHz could be decided either administratively or through an auction method from amongst the eligible wireless service providers. In this matter, the Authority has taken note of submissions of a number of stakeholders who have cited evidences of the fulfillment of the quality of service benchmarks of the existing wireless operators at 10 MHz and even below in almost all the licensed service areas. Such an approach would also be consistent with the Recommendation of the Authority in keeping the door open for new entrant without putting a limit on the number of access service providers”.