



भारतीय दूरसंचार विनियामक प्राधिकरण  
TELECOM REGULATORY AUTHORITY OF INDIA  
भारत सरकार/Government of India



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No.103-5/2015-NSL-II

Date: 16<sup>th</sup> February 2016

To

**The Secretary**  
**Department of Telecommunications,**  
Sanchar Bhawan,  
20, Ashok Road,  
New Delhi - 110 001

**Subject: Clarification on TRAI views dated 2<sup>nd</sup> July 2015 on the issues relating to Spectrum Cap and minimum spectrum holding by Telecom Service Providers (TSPs) as follow up of SC interim order dated 14.05.2015 - reg.**

DoT through their letter No. L-14006/03/2015-NTG dated 21<sup>st</sup> January 2016 has requested the Authority to provide clarification on TRAI views dated 2<sup>nd</sup> July 2015 on the issues relating to Spectrum Cap and minimum spectrum holding by Telecom Service Providers (TSPs) as follow up of SC interim order dated 14<sup>th</sup> May 2015.

2. The Authority after examination has finalized its response which is enclosed herewith (Annexure).
3. In keeping with practice, a copy of this letter, along with the response, is being placed on the website of TRAI [www.trai.gov.in](http://www.trai.gov.in).

This letter issues with the approval of the Authority.

Encl: As above

  
(Sudhir Gupta)  
Secretary, TRAI

**Clarification on TRAI views dated 2<sup>nd</sup> July 2015 on the issues relating to Spectrum Cap as follow up on SC interim order dated 14<sup>th</sup> May 2015.**

1. On 29<sup>th</sup> May 2015, DoT sought the Authority's views on the issues relating to spectrum cap and minimum spectrum holding by TSPs as follow up of Hon'ble S.C. interim order dated 14<sup>th</sup> May 2015 in the Transfer Case (Civil) Nos. 43/2015 and other similar matters. In its response dated 2<sup>nd</sup> July 2015, the Authority, inter-alia, stated that :

*"The Authority is of the opinion that at present there is no need to modify the existing spectrum cap (50% of the spectrum assigned in each of the 800/900/1800/2100/2300/2500 MHz and 25% of the total spectrum assigned in all these bands put together in each service area). (Para 1.14 of the Authority's response)*

*On the methodology of calculating the spectrum cap, the Authority is of the opinion that all spectrum assigned to the TSPs including any spectrum which was put to an auction but remain unsold, spectrum which was assigned but subsequently surrendered by the TSP or taken back by the Licensor and spectrum put to auction should be counted. However, any spectrum out of the above will not be taken into calculation, if the Government assigns it for any other non-commercial purpose e.g. assignment to Defence." (Para 1.15 of the Authority's response)*

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2. DoT, through its letter dated 21<sup>st</sup> January 2016, communicated that the above views of TRAI have been considered by the Government. While accepting the recommendations in para 1.15, that: '*However any spectrum out of the above will not be taken into calculation if the Government assigns it for non-commercial purpose e.g. assignment to Defence.*', DoT sought views of TRAI on the following:

- Modalities to operate two different spectrum caps i.e. one declared at the time of auction and other published as soon as some spectrum is assigned for non-commercial use.
- Consequent to reduction in band as well as overall cap due to assignment of spectrum for non-commercial use after the auction, whether existing spectrum holding of operators be protected as an exception?
- If answer to above is affirmative whether taking into consideration the principle of level playing field, the said value cap be applicable to all other operators in that service area.

3. The Authority has examined the comments of DoT. It is of the considered opinion that quantum of spectrum in any LSA should not be adversely affected by (a) spectrum remaining unsold in any auction, (b) spectrum surrendered by any TSP or (c) Spectrum taken back by the Licensor, unless the Government decides to

assign it for any non-commercial purpose. In case the Government assigns such spectrum for any other non-commercial purpose e.g. assignment to Defence, the same should not be taken into calculation of spectrum cap because it will not be auctioned again.

4. In view of the fact that Defence band has already been notified, it is unlikely that any spectrum that was hitherto assigned for commercial use will be assigned for non-commercial use. In the case of 1800 MHz band, frequency harmonization is required to be taken place amongst TSPs and Defence, implying that Defence and commercial chunk of spectrum are placed in their respective allotted slots. In its Recommendations "Valuation and Reserve Price of Spectrum in 700 MHz, 800 MHz, 900 MHz, 1800 MHz, 2100 MHz, 2300 MHz and 2500 MHz bands" dated 27<sup>th</sup> January, 2016, the Authority has recommended that DoT should ensure that this exercise gets completed before the next auction. It is also mentioned in the said Recommendations that after completion of this exercise it is expected that additional spectrum of about 200 MHz will be made available for assignment for commercial use. There is no other spectrum band where any rearrangement of spectrum with Defence is immediately foreseen.
5. In view of the above, except for 1800 MHz band, any spectrum assigned for commercial purposes is unlikely to be diverted for Defence purposes. Even in case of 1800 MHz also, after the harmonisation exercise with the Defence, additional spectrum will be made available for commercial usages, as Defence has been occupying more than 20 MHz of bandwidth agreed as per Memorandum of Understanding (MoU) between DoT and Ministry of Defence (MoD). Therefore, the situation, as raised by DoT, is unlikely to arise. However, in case such a situation arises wherein due to any subsequent assignment of spectrum to Defence / non-commercial usage, spectrum cap is affected adversely, the Authority is of the view that no TSP should be asked to surrender any spectrum which it already holds. For the sake of level playing field amongst TSPs, the same spectrum cap may be made applicable for all the TSPs in that LSA.

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