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TELECOM REGULATORY AUTHORITY OF INDIA

For Immediate release

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TRAI recommends wide ranging reform measures on licensing policy for access services provision

TRAI forwarded its recommendations today to the Department of Telecommunications (DOT), Ministry of Communications and Information Technology, Government of India on policies that should govern the licensing frame work for access service provision. The recommendations contain proposals on a wide range of inter connected issues that formed the basis of the reference from the DOT dated 13th April, 2007.

2. DoT's reference inter-alia required TRAI to make recommendations on key issues like entry regulation in access service market, review of guidelines on Merger & Acquisitions including the provisions relating to cross holding of a licensee company in the same service area, use of combination of technologies (CDMA, GSM & and/or any other) under the same license, roll out obligations etc.

3. These and other related issues were raised in the consultation paper no. 7/2007 dated 12th June, 2007 issued by the Authority as part of the consultation process. Written submissions received from stake holders were put out in TRAI's web-site. Open House Discussions were held in New Delhi with all the stake holders on 18th July, 2007. Separately the Authority afforded further opportunity to the associations

representing industry for making presentations to the Authority. Repeated and multiple submissions made by the stakeholders on several key issues have been considered by the Authority. The Authority also studied international best practices adopted by various regulators / policy makers in a number of jurisdictions. In-house Research was carried out to examine the implications of various proposals to test their validity. International practices / best practices guidelines relied upon by the Authority have been cited in the text of recommendations wherever appropriate.

4. After carefully evaluating the progress achieved in the growth of telecom services in the country since the liberalization of the sector, and after taking into account the dynamic changes that are seen in the sector on account of the fast pace of the technological changes, the Authority has underlined the importance of re-orienting the existing frame work of policies to suit the needs of emerging environment. More importantly, the Authority has kept in view the need to achieve the target of 500 million subscribers by 2010 and thus narrowing the “Digital Divide”.

5. The Authority has approached the issues keeping in view the power unleashed by the market forces in the past resulting in unprecedented growth of the sector particularly in the wireless space. In making these recommendations, the Authority has been guided by the following principles:-

- (i) Maximize socio-economic benefits for the country making use of the technological developments of the sector.
- (ii) Remove barriers to competition and efficiency in the market.
- (iii) Affordability of services to common man and protection of consumer interest.
- (iv) Enhance efficiency in utilization of scarce resources of radio spectrum.

- (v) Predictability, transparency and scientific approach in entry regulation.
- (vi) Technology-neutrality and level playing field by affording opportunity for equal competition.

6. The recommendations made by the Authority are given below :-

Entry Limit in Access Service Provision:

- No cap be placed on the number of access service providers in any service area.
- In order to frame a new spectrum allocation criteria, a multi-disciplinary committee may be constituted consisting of representatives from DoT/TEC, TRAI, WPC wing, COAI & AUSPI. The committee may be headed by an eminent scientist/technologist from a national level scientific institute.
- Enhance the present subscriber norms as an interim measure so that the task of spectrum allocation is not stalled. The suggested revision is given below:-

GSM subscriber base criteria (millions of subscribers)					
Service Area	2 x 6.2 MHz	2 x 8 MHz	2 x 10 MHz	2 x 12.4 MHz	2 x 15 MHz
Delhi/Mumbai	0.5	1.5	2	3.0	5
Chennai/Kolkata	0.5	1.5	2	3.0	5
A	0.8	3	5	8	10
B	0.8	3	5	8	10
C	0.6	2	4	6	8

CDMA subscriber base criteria (millions of subscribers)				
Service Area	3 rd carrier (2 x 3.75 MHz)	4 th carrier (2 x 5 MHz)	5 th carrier (2 x 6.25 MHz)	6 th carrier (2 x 7.5 MHz)
Delhi/Mumbai	0.5	2	3.0	5
Chennai/Kolkata	0.5	2	3.0	5
A	0.8	5	8	10
B	0.8	5	8	10
C	0.6	4	6	8

- GSM and CDMA operators may be given additional spectrum beyond 2X4.4 MHz and 2X2.5 MHz respectively after they achieve required subscriber base and subject to reporting compliance of roll-out obligation.
- Any licensee wishing to get additional spectrum beyond 10 MHz 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 rate mentioned below on prorata basis for allotment of each MHz or part thereof of spectrum beyond 10 MHz.

Service Areas	Price (Rs.in million) for 2X5 MHz
Mumbai, Delhi and Category A	800
Chennai, Kolkatta and Category B	400
Category C	150

- For one MHz allotment in Mumbai, Delhi and Category A service areas, the service provider shall have to pay Rs. 160 million as one time spectrum acquisition charge.
- All spectrum excluding the spectrum in 800, 900 and 1800 bands should be auctioned in future so as to ensure efficient utilization of this scarce resource.
- Annual spectrum usage charges linked to the revenue of operators to be revised as given in table below:

Spectrum	Current	Proposed
Upto 2X4.4 MHz	2%	No Change
Upto 2X6.2MHz/2x5 MHz	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%

Merger and Acquisition Guidelines:

- The relevant service market be defined as wire line and wireless services. Wireless service market shall include fixed wireless as well. The relevant geographic market would continue to be licensed service area. The relevant geographic market shall be licensing circle as it exists today.
- For assessment of market power, market share of both subscriber base and revenue of licensee in the relevant market shall be considered to decide the level of dominance for regulating the M&A activity.
- M&A guidelines should use Exchange Data Records (EDR) in the calculation of wireline subscribers and VLR data, in the calculation of wireless subscribers for computing market share based on subscriber base.
- The duly audited Adjusted Gross Revenue shall be the basis of computing revenue based market share for operators in the relevant market.
- Market share of merged entity in the relevant market shall not exceed 40% either in terms of subscriber base or in terms of revenue.
- No M&A activity shall be allowed if the number of wireless access service providers reduces below four in the relevant market consequent upon such an M&A activity under consideration.
- Existing cap of 2x15 MHz per operator per service area for metros and category A circle and 2x12.4 MHz per operator per service area in category B and C circle applicable for a post merger entity be removed for purposes of regulating M&A activity.

- For the purpose of payment of the spectrum charge, the spectrum held by the two licensees will be added/merged and the annual spectrum charge will be at the prescribed rate applicable on this total spectrum.
- Acquisition of equity capital up to 10% of the target licensee's enterprise shall be permitted by an automatic route and anything beyond that and up to 20% of the equity holdings of the target licensee company, shall be approved on a case by case basis and the process of such approvals will be based on the M&A guidelines contained in these recommendations.

Access Service using Combination of Technologies:

- In case a new licensee wishes to deploy any other advanced and efficient technology for providing mobile service, the DoT should allocate spectrum subject to its availability.
- An existing licensee may be permitted to use alternate technology to provide wireless access service subject to following conditions:
 1. On payment of an upfront fee which should be, at least, equal to the entry fee for UAS licence in that service area.
 2. Such a licensee shall maintain separate details of the subscriber base data for the purposes of spectrum allocation
 3. For the purpose of payment of the spectrum charge, the spectrum held by the two licensees will be added/merged and the annual spectrum charge will be at the prescribed rate applicable on this total spectrum.
 4. The AGR will be the combined AGR of the service rendered through both the technologies. It is the combined AGR which will determine the license fee.

5. For purposes of assessment of market power in the context of competition analysis in the market, the combined market share arising out of service provision through both the technologies will be taken into account and obligations if any to be imposed on such dominant operators as and when necessary in future will be done with reference to combined market power of such licensees.
6. In order to ensure that this additional spectrum is efficiently and properly utilized in a timely manner; the licensee should also be required to fulfill the contingent roll out obligation.

Roll-out Obligations:

- The present provisions of roll out obligations should not be changed for the access service providers.
 - TEC should give the required certificate of compliance or any other report of inadequacy within 90 days. This time limit should start from the date when the application has been submitted to TEC. It is necessary that this work is delegated by TEC to certain other technically qualified organizations. The Vigilance Technical Monitoring Cell of DoT, C DoT and technical institutions who have requisite competence like IITs may also be entrusted to carry out verification/certification tests on the basis of a fee to be determined by DoT.
- i. SACFA clearance should be given in a stipulated time frame of 60 days. In case no communication is received in this prescribed time frame, the application will be deemed to be approved.
 - ii. Without any change in the provision of LD, in case the roll out obligation is not met even after 52 weeks of the period prescribed for completing roll out obligations, the Authority

recommends that the reference to termination of license in Cl. 35.2 of UASL may be replaced by the following

- i. The performance bank guarantee be forfeited and the service provider may be asked to resubmit PBG of the same amount.
 - ii. No additional spectrum may be allocated to licensee till he does not fulfill the roll out obligations.
 - iii. Such a licensee should not be eligible to participate in any spectrum auction till the roll out obligation is met.
 - iv. Any proposal of permission of merger and acquisition should not be entertained till the roll out obligation is met.
- Existing service providers who are in non-compliance of roll out obligation and do not possess the requisite TEC certificate may be given six months grace time as one time relief in present case only to comply with new certification scheme and imposition of penalty on earlier default will not be waived.
 - Rural roll-out by wireless access providers has been recommended for incentivisation using the USOF.
 - As per this framework a licensee who covers 75% of development blocks in any service area (excluding the four Metro service areas) should be eligible for a payment of Universal Service Obligation fee at a reduced scale. Such a licensee will be required to pay only 3% as against the existing level of 5%.

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