

**SBI Capital Markets Limited – Response to**

**Pre-Consultation on Allocation of Spectrum in 2G band in 22 service areas by auction**

We refer to the comments invited by TRAI on ‘Pre-Consultation on Allocation of spectrum in 2G band in 22 service areas by auction’. In our comments that follow, we touch upon issues to be addressed on:

- Licensing Framework& Refund of the License fee
- Spectrum Management
- Spectrum Auctions
- Lenders’ Concerns
- Other Aspects

**A. Licensing Framework& Refund of the License fee**

**Issues to be addressed**

- Whether the license and the spectrum should be de-linked, prior to the proposed auction, as recommended in the draft licensing framework as on January 16, 2012?
- How should the migration to the new unified license regime be carried out, so as to ensure harmonization between different existing license terms?
- With regard to the cancellation of licenses issued after January 2008, should there be a refund of the license fee. If so, should the same be on a pro-rata basis of the license term remaining and/or should the refund be along with interest?
- Should there be a mechanism during the refund, which would allow Lenders/Creditors of the affected companies (whose licenses have been cancelled) to recoup some of their outstanding monies?

**B. Spectrum Management**

**Issues to be addressed**

- It is observed through the data on subscribers and spectrum allocation publicly available; and also taking into account the subscriber linked criterion, some operators are holding spectrum over and above their eligibility. Thus, should DoT impress upon such operators to surrender the excess spectrum?
- Should there be a spectrum management framework to address the following aspects?
  - Requirement of the spectrum for various services going forward

- Regular spectrum audits to determine the efficient use of airwaves which have been allotted to the operators
- The results of these spectrum audits could be a part of the criteria for future spectrum allocations
- A roadmap for identifying the frequency bands in which the government proposes to allow various sets of services, as well as a timeline for allocations of spectrum in these frequency bands.

### **C. Spectrum Auctions**

#### **Issues to be addressed**

##### ***Quantum of spectrum***

- What is the quantum of spectrum that should be auctioned? Should it be
  - The spectrum vacated due to cancellation of licenses
  - Spectrum available with the government and not yet allotted
  - Spectrum which could be free in case the DoT demands operators to surrender their excess holdings
  - Spectrum expected to be released from the defence services
- Should there be a roadmap for future spectrum allocation consisting of timelines, frequency bands and quantum of spectrum

##### ***Auction Participants***

- Who all should be allowed in the immediate auction,
  - the incumbent operators and/or
  - operators affected by cancellation of licenses and/or
  - any other entity eligible to hold a license
- Should there be separate auctions for operators affected by cancellations/new entrants and incumbents?

##### ***Auction Design***

- Whether the spectrum auction should be block based or MHz based (pre-defined minimum unit of spectrum that can be bid – say 4.4 MHz for new operators and 1MHz for incumbents) and would the design differ in case there are separate auctions for incumbents and new/affected operators?
- Should the spectrum auction and subsequent allocation contain qualitative parameters like network rollout obligations, spectrum efficiency criteria, Cost to the subscriber etc.?

- Whether rollout obligations are to be specified with the spectrum allocation as done in the 3G and BWA auctions. If so, how can it be ensured that new players and incumbents have harmonized rollout obligations?
- Whether the operators affected by cancellation of licenses should be given a preference like first right to obtain the spectrum by matching the highest bid price?

#### **Pricing of Spectrum**

- Should there be a reserve price for the auctions? If so, considering the uncertainties involved, should the same be linked to the prices at which the licenses (and the contracted spectrum) were awarded in 2008? The process of competitive auctions will help in true price discovery. Also, setting a high reserve price may result in insufficient/nil bidders.
- Should the government allow an amortized payment schedule of the spectrum auction fee, or would the payment be upfront in nature?
- Should a contracted quantum of spectrum be defined for the incumbent operators (as appearing in TRAI recommendations to DoT)? If so, should the incumbents be asked to either surrender the excess spectrum held or make a one-time payment based on discovered per MHz price as per the auctions?

#### **D. Lenders' Concerns**

##### **Issues to be addressed**

- What necessary steps should be taken so that the interests of Lenders are adequately safeguarded, who have lent to a sector of significant importance on the basis of a (then) valid license issued by the Government of India?
- Can the Government of India/TRAI/DoT stipulate taking over the lenders' dues as a condition in case of auction of spectrum of the affected operators as stipulated by Supreme Court?
- Can the lenders' dues be paid directly by DoT in lieu of transfer of the assets and infrastructure of the affected companies to DoT?
- Will the Financial and Performance Bank Guarantees extended to DoT/Government bodies be invoked?
- Should the spectrum allocated to the affected operators be bid out separately with the successful bidder being liable to take up all the lenders' dues?

#### **E. Other Aspects**

##### **Issues to be addressed**

- The following policy issues need to be cleared as a part of the NTP before the proposed spectrum auctions
  - Spectrum trading/sharing/pooling norms

- Guidelines for Mergers and Acquisitions
- In case the operators affected by cancellations are unwilling to continue, there should be an appropriate exit policy formulated for the same. What should be the contours of the same taking into account the significant investments made by these operators in creating network assets and acquiring subscribers?
- In case of affected telecom operators willing to participate in the auctions and continue operations:
  - Ensure that there is no break in service/ operations of these operators during the transition to new license and spectrum post-auction
  - Other Govt. policy making bodies (Eg: RBI, FIPB etc.) to be approached for formulating suitable policies to enable these operators to raise the required capital (ECBs, FDI etc.)
- MNP to address concerns of those subscribers <90 days old on the network of affected telecom operators.
- The exit policy as well as the regulations could be designed in a manner so as to ensure that foreign investors, Lenders and other stakeholders retain their confidence in the country and the sector.