



REVISED TRAI RECOMMENDATIONS ON SPECTRUM MANAGEMENT AND LICENSING FRAMEWORK: FACILITATING CONSOLIDATION IN THE TELECOM INDUSTRY

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Overview

The Telecom Regulatory Authority of India (TRAI) published its response to the Department of Telecom (DOT) views on its recommendations regarding 'Spectrum Management and Licensing Framework' dated 11th May 2010. While TRAI has reiterated its earlier stance on most of the issues, especially related to spectrum and licensing, the key proposals which have been revised are with respect to the mergers and acquisitions (M&A) and spectrum sharing. Stringent regulations with respect to mergers, acquisitions and sharing of spectrum/licences have stymied prospects of industry consolidation in the past. TRAI has now recommended more liberal M&A and spectrum sharing norms, which are expected to facilitate consolidation in the telecom industry.

Key Recommendations

Relaxed norms for M&A

- Revised proposal on M&A allow the merged entity to hold 25% of the total GSM/CDMA¹ spectrum assigned in the circle. This allows Telecom Service Providers (TSPs) to hold more units of spectrum (varying from telecom circle to circle) as compared to the earlier recommended spectrum ceiling of 14.4/10MHz (GSM/CDMA) for the merged entity.
- TRAI has also relaxed the market share limit from earlier recommended 25% to 35% (of Subscriber Base and/or Adjusted Gross Revenue (AGR)) for the merged entity. Where the market share of the merged entity in the relevant market is not above 35% of the total subscriber base or the AGR in a licensed service area, DOT may grant permission. However, in case the market share exceeds 35% but is lower than 60%, DOT may decide on the case after taking recommendations from the TRAI. In cases the market share of the merged entity exceeds 60%, merger would not be permitted.

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Spectrum Sharing

The recommendations allow spectrum sharing between TSPs with combined spectrum of up to 25% of the spectrum allocated in the circle. Only spectrum holders are allowed to resort to spectrum sharing, limiting

¹ GSM: Global System for Mobile Communications
CDMA: Code Division Multiple Access

the entry of mobile virtual network operators (MVNO)². TRAI in its revised recommendations permits sharing of spectrum among the TSPs holding spectrum as compared to its earlier recommendations wherein the TSPs holding not more than 4.4/2.5 MHz (GSM/CDMA) Spectrum were permitted to share. Spectrum sharing to be allowed among TSP holding spectrum for a initial period of 5 years and further extendable by further 5 years. These recommendations if adopted are likely to benefit the established TSPs facing congestion especially in urban/metro areas and enabling them to provide better quality of service to its subscribers.

Spectrum Pricing and Re-farming

TRAI has reiterated its stance earlier announced in February 2011 regarding the above. The price of spectrum in the 900 MHz band should be 1.5x that of the price of the spectrum in the 1800 MHz band. However, if price is discovered through auction, then auction prices would be applicable for the pricing. TRAI also reiterated that re-farming of 800/900 MHz band of spectrum should be done. It would also come up with specific recommendations including considering restricting auction of 700 MHz band of spectrum to TSPs who do not possess spectrum in the 800/900 MHz band in due course. The recommendation to restrict holders (established TSPs i.e. Bharti Airtel, Vodafone, Idea) of 800/900 MHz band from participating in the auction of 700 MHz is likely to adversely impact their competitiveness.

Uniform License Fee

TRAI has reiterated its recommendation of reducing the license fee across circles to 6% over the next four years i.e. by FY2016. It also reiterated that IP-1 (Infrastructure Providers) and Internet Service Providers (ISPs) should also be brought under the licensing regime with the levy of license fee of 3% starting in FY2013 and increasing the same to 6% by FY 2016.

Table 1: Licence Fees - TRAI Recommendations (November 2011)

Service Providers	FY 2013	FY 2014	FY 2015	FY 2016
UASL/CMTS ³ in Metro	10%	9%	8%	6%
UASL/CMTS in Category A Circles	9%	8%	7%	6%
UASL/CMTS in Category B Circles	7%	6%	6%	6%
UASL/CMTS in Category C Circles	6%	6%	6%	6%
ISP	3%	4%	5%	6%
IP-I	3%	4%	5%	6%

Source: TRAI

Rollout Obligations

TRAI reiterates its May 2010 recommendations to replace the existing roll out obligations by the revised stringent norms in order to provide faster and larger coverage of rural/semi-urban areas. It also proposes to incentivise the TSPs by providing them concessions in the reduction in Universal Service Obligation Fund (USOF) component of annual licence fees. As an incentive, it has recommended progressive reduction of the USOF component of licence fees, starting from reduction of 0.5% for the achievement of two years' roll-out obligations and extending up to reduction of 4% in the event of coverage of all villages with population of 500 to 2,000 people.

² MVNO is an entity that provides mobile phone service but neither has its own spectrum nor the entire infrastructure required to provide mobile telephone service. MVNOs operate through commercial arrangements with licensed service providers and buy bulk minutes of traffic and resell them to their own subscribers in their own brand i.e. Virgin Mobile India Limited.

³ CMTS: Cellular Mobile Telephone Service; UASL: Unified Access Service Licence

As per the existing rollout obligations, the TSPs are required to cover at least 10% of the District Headquarters (DHQ) of a telecom circle at the end of first year and 50% of the DHQs within three years of effective date of licence TRAI has reiterated its earlier recommendations of more stringent rollout obligations (applicable to all telecom circle except metros) which are presented in the table below:

Table 2: Roll Out Obligations – TRAI Recommendations (November 2011)

Time	Villages having population > 10000	Villages having population ranging from 5000-10000	Villages having population ranging from 2000-5000
2 years from effective date	100%	50%	-
3 years from effective date	100%	100%	50%
4 years from effective date	100%	100%	100%

Source: TRAI

Summary

The revised TRAI recommendations with the relaxation of M&A norms are expected to act as the enablers for the consolidation in the telecom industry which presently is grappling with subsiding subscriber growth and high competitive pressures. The important policies now to watch out for pertain to spectrum re-farming, pricing and assignment, which are likely to have critical bearing on the financial and operational profile of the TSPs.

Table 3: Summary of key guidelines on Mergers/Acquisitions and recent TRAI Recommendations

	Existing Regulations	TRAI Recommendations May 2010	Revised TRAI Recommendations November 2011
Number of Operators	Merger should not result in less than four TSP in the service area	Merger should not result in less than six TSP in the service area	Not Applicable
Market Share of Merged Entity	The market share of merged entity should not be greater than 40% in terms of wireless/wire line subscriber base and/or AGR	The market share of merged entity should not be greater than 30% in terms of subscriber base and/or AGR	The market share of merged entity should not be greater than 35% in terms of subscriber base and/or AGR. But in case market share exceeds 35% but is less than 60%, TRAI would evaluate and recommend the DOT on a case to case basis. In case the market share exceeds 60% M&A would not be permitted.
Lock in Period	Three year lock-in for owner's equity in the new operators which have been granted licences in 2008	51% promoter's equity lock-in for 5 years; three year lock-in for owner's equity to be done away with	No Change
Spectrum	No Limit	Maximum Spectrum of the merged entity will be capped at 14.4MHz/10 MHz (GSM/CDMA); excess spectrum to be returned	Maximum Spectrum of the merged entity should not exceed 25% of the total spectrum allocated in the particular telecom circle; excess spectrum to be returned
Spectrum Price		The resultant entity is entitled to only one block of 6.2 MHz/5MHz for the entry fee paid and either of the parties in the merger should pay the spectrum price, i.e. the difference between the current price (price discovered through the auction for 3G services) and the sum (entry fees) already paid	No Change
Equity Holding	No one entity can hold an equity of 10% or more in more than one licensee company in the same service area	No Change	No Change

Source: TRAI

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