

15TH February 2012

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The Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg
New Delhi 110 002.

Sub : Loop Mobile's Response to TRAI Pre-Consultation Paper on "Allocation of Spectrum in 2G band in 22 Service Areas by auction"

Dear Sir,

This is with reference to Pre-consultation Paper on "Allocation of Spectrum in 2G band in 22 Service Areas by auction" issued by TRAI on 3rd February 2012, seeking the comments/suggestions from the stakeholders on the issues involved.

In this connection, please find our comments/suggestions on the various issues related to grant of license and allocation of spectrum in 2G band, by auction as given below:

I. Spectrum Related Issues

- a. Allocation of spectrum is best done through market based has also been recognized internationally. The practice by various regulators and by public demand is that all spectrum must be priced and this price be declared publicly as a cost for a "natural resource" allocation. Hence, spectrum should be allocated transparently through an auction process in order to determine its correct underlying market value.
- b. The auction methodology used for 3G auctions should be adopted with improvements incorporated to take care of whatever shortcomings were noticed at the time of 3G auctions.
- c. Like 3G auctions, there should be independent auctions for each Service Area.

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Spectrum for auction

- d. As far as the quantum of spectrum for auction is concerned, we would like to draw your attention to para 81 (i) of the Hon'ble Supreme Court of India's Judgment dated 2nd February 2012, which is reproduced as under :

81. *In the result, the writ petitions are allowed in the following terms:*

- (i) *The licences granted to the private respondents on or after 10.1.2008 pursuant to two press releases issued on 10.1.2008 and subsequent allocation of spectrum to the licensees are declared illegal and are quashed.*

In view of above, the entire spectrum freed up by the **ALL** licensees, which stand to be quashed pursuant to **two press releases** issued on 10.1.2008 should be made available for auctions.

Eligibility for bidding

- e. We would like to draw your attention to para 81 (i) and para 81 (iv), read together, of the Hon'ble Supreme Court of India's Judgment dated 2nd February 2012, which is reproduced as under :

81. *In the result, the writ petitions are allowed in the following terms:*

- (i) *The licences granted to the private respondents on or after 10.1.2008 pursuant to two press releases issued on 10.1.2008 and subsequent allocation of spectrum to the licensees are declared illegal and are quashed.*

- (iv) *The Central Government shall consider the recommendations of TRAI and take appropriate decision within next one month and **fresh licences** be granted by auction.*

On plain reading of the above 2 paras of the Judgment, the Hon'ble Supreme Court has clearly directed that **fresh licenses** be granted by auction to the licensees whose licenses have been declared illegal and been quashed. Hence we believe that the said auction will be open for participation for the operators whose licenses have been quashed and/or for the applicants (approx 350) which are pending for grant of UASL in DoT as on 30th September 2007.

In any case, all the existing players (UASL or CMTS) cannot participate in the auction, as they are already holding not only the start-up spectrum but are also holding spectrum ranging from 6.2 MHz to 10 MHz spectrum in 2G band.

Hence if at all, the existing players have to bid, then they have to bid for additional spectrum, and NOT for the start-up spectrum. In which case, the Authority may like to make recommendations that cover both kind of separate auctions – the start-up and the additional spectrum.

- f. The choice of the technology should be left to the operators as they will decide which is best suited to customer demands.
- g. The licensees should be allowed to bid for minimum of 4.4 MHz as startup spectrum and maximum to 6.2MHz as per the requirement of an operator for circle to circle basis.

Reserve Price for auction

- h. The impending Auction for 2G should be free from any prices recommended so far. The Market should be given a free hand to determine the price. The base price for the new auction may possibly be considered to be "zero" as was the case for 2001 auctions.

However, considering the current market scenario, the base price for 2G auction should be fixed at the last market determined price of pan India 2G Spectrum in 2001, i.e. Rs.1650 crores.

In the event that an applicant whose license has been cancelled pursuant to the said Judgment of the Hon'ble Supreme Court wins the bid in a Service Area, the entry fees paid by it should be allowed to be set off against the auction price for the Pan India license entry fee already paid in 2008.

Further, if an applicant whose license has been cancelled as mentioned above, and is unsuccessful in the bidding, then it should be entitled to a refund of the entry fees already paid by it.

- i. A fair auction will result in reasonable price, which may be considered as a good benchmark for license extension/renewal too.
- j. Keeping the One nation – one license, successful bidder should be allocated uniform frequency spots across all the circles wherever it has bid successfully. This will help in negotiation with vendors.

II. License Related Issues

1. The license should be de-linked from spectrum.
2. Once the allocation of spectrum is not linked to license, the licensee cannot have any wireless/mobile rollout obligations; these should be left to market forces.
3. Apart from market forces, in case minimum roll-out obligations are mandated to enhance the spread of service to uncovered areas, the same should be eligible for funding from USOF. The funding from USOF should be made available in a transparent mechanism based on sound economic principles.
4. Annual License fee be prescribed at 6% of AGR (5% USO + 1% administrative cost). This should be uniformly applicable to all licensees.

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5. The USOF levy should be de-linked from licence fee and should be gradually reduced with time.
6. Active sharing of all NW elements, including RAN to be allowed, irrespective of the spectrum band, viz. 2G or 3G.
7. ICR for all types of services should be allowed.
8. Spectrum sharing and spectrum trading should be allowed.
9. Incase of licensees whose license has been terminated, should be allowed to retain all approvals/licenses/subs/etc and a mechanism should be drawn out to ensure business continuity of process and continuity of back to back contracts with all partners.
10. There should be a ceiling on tariff mandated by Authority, as the same will have healthy competitive environment & forbearance needs to be discontinued immediately after successful auction.

This is for your kind consideration, please.

Thanking you,

Yours faithfully,

For **Loop Mobile (India) Limited**


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