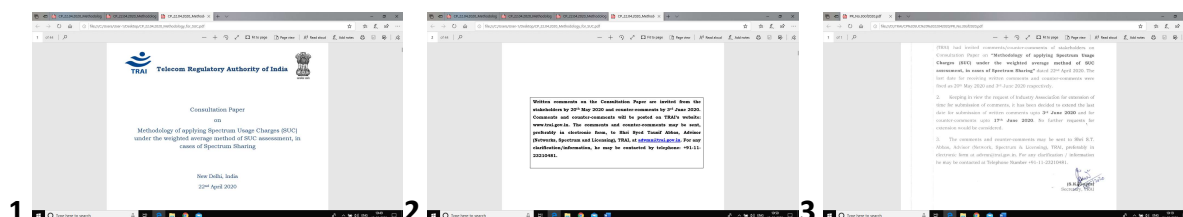


Comments on CP SUC 22042020



Issues for Consultation

Q1. Do you agree that as per the existing Spectrum-Sharing Guidelines dated 24th September 2015, post sharing of spectrum, increment of 0.5% on SUC rate should apply on the spectrum holding in specific band in which sharing is taking place and not on the entire spectrum holding (all bands) of the TSPs'. Please justify your answer

Ans.1 NO.

Please consider the following:

- I) The objective of spectrum sharing is to enhance spectral efficiency as per para 2.1 of CP.¹
- II) Sharing of spectrum can also provide additional network capacities in places where there is network congestion due to spectrum crunch as per para 2.1 of CP.¹
- III) Sharing of Access Spectrum by Access Service Providers also results in ability to serve higher number of consumers (page 14 para 1 CP¹).
- IV) However Spectral Efficiency is defined nowhere either by DoT or by TRAI. Noting that Spectral Efficiency can have many attributes as per ^{4.(htt)}, for the present discussion the following measure has been chosen as pertinent.

$$\text{Spectral Efficiency} = \frac{\text{Data rate or Throughput (bps)}}{\text{Channel Bandwidth (Hz)}}$$

5.(htt)

The spectral efficiency will increase if numerator is increased for a given denominator. This is what is achieved by sharing spectrum. However, the spectral efficiency changes non linearly as per para 2.1 of CP¹. Sharing of spectrum in a specific band only does not per se imply that its effect is restricted to that band only. The increase in throughput is the result of network effect and capacity to handle more subscribers. May be increment of 0.5% on SUC rate on the entire spectrum holding (all bands) of the TSPs' has been prescribed by taking these effects into consideration at the time prescribing the same. One thing is clear that proposed weighted average method is not suitable because of non-linearity of spectral efficiency that results from spectrum sharing coupled with the network effect. For affecting any change/changes in prescribed value it is better to know genesis behind the same.

Kindly refer to **Ans.4** also.

Q2. Do you think that increment in SUC rate is a deterrent for TSPs in entering into spectrum-sharing arrangements? Further, do you also think that in order to facilitate the spectrum sharing, there should not be any increment in SUC rate post sharing of spectrum? Please justify your answer.

Ans.2 No.

Kindly consider the following.

TSPs' resort to sharing of spectrum because of its inherent benefits in the form of increased throughput, handling network congestion and ability to serve a greater number of consumers. AGR is not the right parameter to judge the effect of spectrum sharing. Moreover, the source of AGR given in Table 1 on page 10 CP¹ is not provided. To know this is important. There was a lot of controversy between the demand raised by DoT and evaluation done by TSPs' of AGR after the issue of definition of GR was settled by The SUPREME COURT of INDIA after almost 20 years of litigation refer para 1 page3 ^{6 (htt)}.

The use of the SPECTRUM should be done as per the license held. The eventuality of post SUC for sharing of spectrum should be an exception and not a rule otherwise various monitoring activities concerning say like for adherence to license condition, QoS, Spectrum management, revenue flow for licensor etc will go hay wire.

The ambiguities arising out of post sharing are vividly evident from a letter available at p.37 of CP ^{6(htt)}. The following may kindly be noted:

- a) The intimation regarding sharing is dated 14082018
- b) The response is dated 29112018
- c)The date for taking sharing on record is 31092018.

The ambiguity is regarding the use of word 'intimation'. Does this relate to intention to share or regarding sharing already being done.? Is the date of record the starting date for charging/or for spectrum management purposes? If not, then what is the start date for charging?

All these dates are post sharing spectrum guidelines date 24092015 ^{8(htt)}. This date was reiterated in the response dated 29112018 page37 Of CP p-37 ^{8(htt)}. The parties have not raised any issue regarding post sharing SUC charges.

The objections pages 15-18 Of ^{8(htt)} to post SUC for Spectrum Sharing have been raised by JIO only. These are not tenable in view of response given above in **Ans,1 &Ans.2**

Kindly refer to **Ans.4** also.

Q3. What other changes are required in the Spectrum-Sharing Guidelines to facilitate spectrum sharing? Please provide detailed explanation and justification for your suggestions.

Ans.3 There is no need for any changes in the present sharing guide lines. Perhaps these may be reiterated.

The present Guidelines may stand and spectrum sharing may be left to market forces for TSPs' to resort to spectrum sharing or not. Spectral efficiency, ability to increase customer base, tackling of network congestion, overall network effect, need of evolving technologies are sufficient reasons for

driving TSPs' towards spectrum sharing. Not to levy post SUC charges just amounts to encourage loss of revenue for the licensor.

The changes may be done in figure 0.5 after study to quantify spectral efficiency, network effects and other related benefits accruing from spectrum sharing. Till then action may continue to be taken as per existing guide lines.

Kindly refer to **Ans.4** also.

Q4. If there are any other issues/suggestions relevant to the subject, stakeholders may submit the same with proper explanation and justification

Ans.4 The following is submitted for consideration.

1.The following Supreme Court Cases appear relevant to the present CP

(I)

Case referred in Annexure-(III) (1) of page 32 of CP ^{8(htt.)}. The diary number of this case in Supreme Court of India is 32881/2010.This case is still PENDING. In this case VODAFONE is petitioner, Bharti Airtel is one of the respondents.

(II)

The case ^{6htt.)} has been decided. The quote is from starting paragraph of the decision.

“The case has a chequered history and the scenario projected is that even after the licensees agreeing with the revenue sharing regime under the Telecom Policy of 1999 for the last two decades, definition of gross revenue has been litigated upon”

Vodafone IDEA, Bharti Airtel and TATA Teleservices went on appeal. The same was rejected by Supreme Court of India in January 2020 ^{9(htt.)}. JIO was perhaps in agreement with the judgment.

2.Noting that **the core members of the COAI** ^{10(htt.)} [Bharti Airtel](#), [Vodafone Idea Limited](#), [Reliance Jio Infocomm](#) and COAI are having different stands on various issues & AGR is figuring in present guidelines for SUC it is felt that before pursuing further with the present CP the:

The final outcome of SUPREME COURT case ^{8(htt.)} may be awaited.

The full & final status of implementation of SUPREME COURT case ^{6(htt.)} may be ascertained from DoT.

DoT may pursue with the payment of DUES as per the present guidelines for SUC from various TSPs'

3.The dates for receiving of comments & counter comments on CP may be further extended suitably keeping in view the observations in para 2 of **Ans.4** above.

