

SCK CONSULTANCY SERVICES

RESPONSE

ON

CONSULTATION PAPER ON VALUATION AND RESERVE PRICE OF SPECTRUM

14th AUGUST 2013

Q . 1 What method should be adopted for refarming of the 900 MHz band so that the TSPs whose licences are expiring in 2014 onwards get adequate spectrum in 900/ 1800 MHz band for continuity of services provided by them ?

Telecom Regulatory Authority { T R A I }has repeatedly recommended and Department Of Telecom D O T has accepted refarming of 900 MHz spectrum. The licences with spectrum in 900 MHz were given to them at a nominal price . These licences were for 15 years were extended for 20 years at the time of migration under 1999 Telecom Policy . Therefore ,these companies have no right for further extension of these licences .These companies cannot be allowed to keep 2 . 5 MHz spectrum in 900 MHz spectrum

There is no case for reserving spectrum in 1800 MHz band for them. As per Supreme Court order all spectrum in 1800 MHz band and 800 MHz band for which licences were cancelled has to be auctioned immediately. The auction of 1800 MHz band and 900 MHz band should be held simultaneously. There will be competitive bidding as current licences whose licenses are expiring in 2014 will have to buy spectrum in this band or 1800 MHz band.

We also expect some foreign companies to bid in this auction as 100% FDI is now allowed.

In the mean time efforts must be made by DOT to get more spectrum released from defence forces, so that we have sufficient spectrum at the time of next round of auction of 900 MHz and 1800 MHz bands when other licenses expire.

Q.2 In case spectrum is to be “reserved “ for such TSP’s,should it be restricted to licenses expiring in 2014(metros) or include licenses expiring afterwards (LSA’s other than metros) ?

Ans. No, we are not in favour of reserving any spectrum for licenses expiring either in 2014 or afterwards

Q.3 Is any restriction required to be imposed on the eligibility for participation in the proposed auction?

Ans. DOT had issued NIA dated 30th January, 2013 for auction of spectrum in 1800 MHz ,900 MHz bands. The eligibility criteria to participate in the auction should be same with some modifications if required.

Q.4 Should India adopt E-GSM Band, in view of the diminishing interest in the CDMA services? If yes,

a) How much spectrum in the 800 MHz Band should be retained for CDMA technology?

b) What are the issues that need to be addressed in the process?

c) What process should be adopted for migration considering the various issues involved ?

Ans. It is suggested that we should continue using 800 MHz band spectrum for CDMA technology at least for next 3-5 years. There are 73 million subscribers spread all over India. The reserve price of 800 MHz band should be the same as 1800 MHz band. Since Indian Telecom reforms model is based on competition resulting into low tariffs, we should support the CDMA technology to keep the competition

between both the technologies i.e GSM and CDMA. Please remember, as per TRAI quote, it was CDMA technology which brought the tariffs down.

We can review our decision after 3 years. In the mean time, discussions can be held with Operators for adopting E-GSM band.

Q.5 Should rollout obligations for new/existing/renewal/quashed licenses be different? Please give Justification in support of your answer

Q.6 Is there a need to prescribe additional rollout obligations for TSP's who acquires spectrum in the auction even if it has already fulfilled the prescribed rollout obligations earlier?

Ans. Since the present major operators like Bharti, Vodafone, IDEA, Reliance, Tata and BSNL/MTNL have wide networks in all the 22 telecom circles, there is no need to impose any rollout obligations if they purchase more spectrum in the auction, however for new entrants and the entrants who started rollout in 2008, rollout obligations should be as per NIA of 30th January 2013 for auction of spectrum in 1800 Mhz, 900 Mhz and 800 Mhz bands.

Q.7 What should be the framework for conversion of existing spectrum holdings into liberalized spectrum?

Ans. There should be no restriction on technology to be adopted for providing telecom services within the scope of license. For conversion of existing spectrum holdings into liberalized spectrum. The existing TSP's holding spectrum given along with the license will pay difference of price at which they got the spectrum with license and the auction price, in the upcoming auction and not the November 2012 Auction.

Q.8 Is it the right time to permit spectrum trading in India? If yes, what should be the legal, regulatory and technical framework required for trading

Ans. On the face of it, once the spectrum is purchased in open auction, the buyer should be permitted to trade in spectrum, but it is a complicated issue as it requires a lot of legal, regulatory and technical framework. We do not have required time to discuss this issue, therefore it is not the right time to permit spectrum trading in India. Spectrum trading should be reviewed after 3 years. However, spectrum sharing can be permitted.

Q.9 Would it be appropriate to use prices obtained in the auction of 3G Spectrum as the basis for the valuation in 2013? In case the prices obtained in the auction of 3G Spectrum are to be used as the basis, what qualifications would be necessary?

Ans. It is not appropriate to use prices obtained in the auction of 3G Spectrum as basis for valuation in 2013. The earlier recommendations of TRAI were based on prices obtained in 3G spectrum auction. The reserve price of Rs 18,000 crores for 5 Mhz of spectrum PAN INDIA in 1800 Mhz band was very high. These prices were not at all acceptable to the industry. The empowered group of ministers reduced this reserve price from Rs 18,000 crore to Rs 14,000 crore in November 2012 auction. There was a sale of

spectrum in only few LSA's where purchase was done on the basis of "distressed purchase", as some licencees had to buy some spectrum where their licenses were cancelled. They had the network in these LSA's. EGOM further reduced the price of 5Mhz PAN INDIA Spectrum in 1800 Mhz band to Rs 10,000 crores. There was no buyer at this price for spectrum in Delhi, Mumbai, Karnataka and Rajasthan circles as there is no business case to buy spectrum at Rs 10,000 crore and make profit. Currently the condition of the industry is very bad. The Service providers have large amount of debts. The Banks are refusing to give them loans. ARPU's are dropping-EBITIDA of service providers are dropping, Economic conditions of our country is bad as there is a drop in annual growth rate from 8-9% to 5%.

Therefore TRAI should not consider use of prices obtained in 3G auction for valuation of 2G SPECTRUM IN 2013.

Q.10 Should the value of Spectrum for individual LSA be derived in a top down manner starting with PAN INDIA valuation or should valuation of Spectrum for each LSA be done individually?

Ans. The valuation of the spectrum should be LSA based(circle) as India is divided into 22 telecom circles. Licenses are also given circle wise and not PAN INDIA wise. In the last 20 years, all the spectrum valuations has been on circle wise and not PAN INDIA wise. Further it is difficult to auction spectrum PAN INDIA as availability of spectrum differs from circle to circle.

Q.11 Is indexation of 2001 prices of 1800 Mhz spectrum an appropriate method for valuing spectrum in 2013? If yes, what is the indexation factor that should be used?

Ans. Indexation of 2001 prices of 1800 Mhz band spectrum can be suitable method for valuing spectrum in 2013. Let us choose the indexation method on State Bank Of India prime lending rate(SBIPLR) to arrive at valuation of the spectrum. By using this method, we arrive at valuation of 5Mhz of spectrum PAN INDIA in 1800 Mhz band at Rs 2587 crores (LSA wise price can be worked out).

When we compare the price of Rs 2587 crores PAN INDIA spectrum in 1800 Mhz band with the price of small quantity of spectrum sold in some circles in November 2012. There is a vast difference in the two prices. The prices obtained in selling small quantity of spectrum in some LSA's cannot be the base for arriving valuation of spectrum as these prices were arrived at due to "distressed purchase" by some TSP's whose licenses were cancelled by Supreme Court Order and these TSP's had already rolled out their networks in these LSA's. They were forced to buy spectrum at these prices. Therefore, the valuation of spectrum at Rs 2587 crores for 5Mhz spectrum in 1800 Mhz band can be one of the best method to arrive at valuation of spectrum. This valuation will attract large number of bidders including foreign telecom companies as 100% FDI is permitted.

Q.12 Should the value of Spectrum in the areas where Spectrum was not sold in the latest auctions of November 2012 and March 2013 be estimated by co-relating the sale prices achieved in similar LSA's with known relevant variables? Can multiple regression analysis be used for this purpose?

Ans. No. Since we have found that sale price of small quantity of spectrum sold in some circles was achieved due to “distressed purchase” by some TSP’s. This cannot be considered at base for arriving the valuation of spectrum in 2013.

Q.13 Should the value of spectrum be assessed on the basis of producer surplus on account of additional spectrum? Please support your response with justification. If you are in favour of this method, please furnish the calculation and relevant data along with the results.

Ans. No. It is not a suitable method to arrive at valuation of spectrum.

Q.14 Should the value of spectrum in the 1800 Mhz band be derived by estimating a production function on the assumption that spectrum and BTS are substitutable resources? Please support your response with justification. If you are in favour of this method, please furnish the calculation and relevant data along with results

Ans. No. It is not a suitable method to arrive at valuation of Spectrum

Q15. Apart from the approaches discussed in the foregoing section, is there any alternate approach for valuation of spectrum that you would suggest? Please support your answer with detailed data and methodology

Ans. The second approach for valuation of spectrum is to double the 2001 price of Rs 1658 crores of PAN INDIA spectrum with license and 4.4 Mhz spectrum in 1800 Mhz band. This could go upto 6.2 Mhz of spectrum in 1800 Mhz band.

This valuation will come to Rs 3316 crores for 5 Mhz spectrum in 1800 Mhz band. It should attract bids from Indian companies as well as foreign telecom companies when auction is conducted. This valuation is neither very high nor valuation priced “for a song”.

We would like to mention here that in large number of countries where spectrum is sold by auction, do not charge spectrum usage charges, whereas in India DOT has been charging usage charges from 4%-8% of AGR. We have to keep this in mind that higher valuation of spectrum will force TSP’s to increase tariffs which is not good for AAM AADMI. Higher spectrum prices will also effect our telecom reforms model which is based on competition and affordable tariffs.

Q.16 Should the premium to be paid for the 900Mhz and liberalized 80 Mhz spectrum be based upon the additional CAPEX that would be incurred on a shift from these bands to the 1800 Mhz band?

Ans. The coverage of 900 Mhz band spectrum is roughly double in urban setting than in 1800 Mhz spectrum. Expenditure on CAPEX and OPEX is almost 50 % lower in 900 Mhz band spectrum as compared to 1800 Mhz band spectrum. In earlier recommendations of TRAI, it was recommended that reserve price of 900 Mhz band spectrum should be double than 1800 Mhz band spectrum. These recommendations were based on efficiency of 900 Mhz band spectrum as compared to 1800 Mhz band spectrum. The current TPS’s were given 900 Mhz band spectrum with the license at a fixed price. They will be enjoying the benefit of this spectrum for 20 years (i.e upto October 2014) as compared to those TPS’s who were

given spectrum with license in 2001 at same price with 1800 Mhz band spectrum. Therefore they have 2 choices:

a) To buy the spectrum in 900 Mhz band in auction

b) To buy 1800 Mhz band spectrum in auction

These TSP's should not be given any benefit if they have to shift to 1800 Mhz band spectrum instead of 900 Mhz band spectrum. Once they buy the spectrum in 900 Mhz band in future auction, the 900 Mhz band liberalized spectrum will be much more beneficial as compared to 1800 Mhz band liberalized spectrum. We also recommend there should be a level playing field when spectrum is purchased in auction as we expect that other TSP's and foreign companies will be more in favour of buying spectrum in this frequency of 900 Mhz band liberalized spectrum.

Therefore, we are of the view that the valuation of 900 Mhz band liberalized spectrum should be double than the liberalized spectrum in 1800 Mhz band.

Q.17 Should the valuation of spectrum and fixing of reserve price in the current exercise be restricted to the unsold LSA's in the 1800 Mhz band or should it apply to all LSA's?

Ans. The success of telecom reforms in India is based on competition, affordable price of spectrum and lowest tariffs. The whole business model is also based on optimum use of spectrum by TSP's by use of latest equipment. We do not recommend the higher quantity of spectrum by TSP's as compared to other countries where large amount of spectrum is given to the TSP's as number of operators are few and tariffs are high.

Govt of India had filed Presidential Reference with Supreme Court of India. The Supreme Court in its reply clarified that auction was not the only method for allocating natural resources and added that maximizing revenue was secondary to serving the public good with regard to avoiding allocating natural resources. We suggest that the price at which the spectrum was sold in small quantity in some LSA's in November 2012 and March 2013 should not be considered as basis for arriving at valuation of spectrum

From the above you will observe that spectrum valuation has to be fixed for all 22 LSA's and not only LSA's where there was no sale of spectrum. The valuation should be such that TSP's are not forced to increase tariffs which may affect the AAM AADMI.

The other most important point for consideration is that financial condition of the Telecom Service Industry is very poor. Most of the TSP's are having very heavy amounts of debts. Banks may not be able to offer them further loans.

Therefore TSP's should be permitted to make payment of the auction price on deferred payment basis. The first instalment should be 30% of the bid price, second installment of 15% after 2 years and balance 55% should be paid by them in a maximum period of 6 years after second installment.

All those service providers who purchased spectrum in November 2012 and March 2013 at the reserve price at that time should be refunded the difference (vice versa) if any between the final auction price in the next auction and the reserved price paid by them in November 2012 and March 2013. This will ensure a level playing field. This will also not raise any legal cases on this issue.

Q18.

a) Should Annual spectrum usage charges be a percentage of AGR or is there a need to adopt some other method for levying spectrum usage charges? If another method is suggested, all details may be furnished

b) In case Annual Spectrum Usage Charges are levied as a percentage of AGR, should annual spectrum charges escalate with the amount of spectrum holding, as at present or should a fixed percentage of AGR be applicable?

c) If your response favours a flat percentage of AGR, what should that percentage be?

Ans. The annual spectrum usage charges (SUC) should be percentage of AGR. Please note that in India, in telecom services, we have the highest amount of taxes and duties, starting from 12.3% service tax, 8% revenue share, excise duties and custom duties on the equipment procured by TSP's and SUC charges. The total taxes, duties, revenue share and SUC come to approximately 28%. The tariffs are lowest in the world. ARPU's are very low. EPBITA's of TSP's are dropping, the best way will be not to have any SUC on spectrum when it is purchased in open auction. It may be difficult for TRAI to recommend the same due to the prevailing tradition. Therefore to keep level playing field between all operators, we suggest Spectrum Usage Charge of 4% of AGR in respect of quantum of spectrum holdings with the TSP's

Q.19 What should be the ratio adopted between the reserve price for the auction and the valuation of the spectrum?

Ans. The Reserve price should be the same as valuation of the Spectrum.