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28 December 2015

Shri Sanjeev Banzal
Advisor (Network, Spectrum & Licensing)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg
New Delhi 110 002

Subject: Consultation Paper on Valuation and Reserve Price of Spectrum in 700, 800, 900, 1800, 2100, 2300 and 2500 MHz Bands – Counter Comments

Dear Sir,

This is with reference to the above referred TRAI consultation paper No.6/2015 dated 26th November 2015 and our submissions made vide letter dated 21st December 2015.

In this regard, please find enclosed herewith our counter comments to various submissions made on the consultation paper as an Annexure.

We hope that the TRAI will find our response useful and consider our inputs while formulating the regulation on the subject.

Thanking you,

Yours sincerely,
For Telenor (India) Communications Private Limited

A handwritten signature in blue ink that reads "Pankaj Sharma".

(Pankaj Sharma)
Sr. Vice President and
Head - Corporate Affairs

Encl: a.a

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Telenor (India) Counter Comments on other Stakeholders Responses to the TRAI Consultation paper - (No. 6/2015)

Airtel

Executive Summary

B. Spectrum Cap:

1) Overall Spectrum Caps be increased:

The objective of placing this restriction is to ensure that a minimum of four mobile operators continues to operate in the cellular market. It is highly unlikely and impractical to assume that all operators would have equal spectrum holdings. Therefore, an overall spectrum cap of 25% will result in either the spectrum remaining unsold or being fragmented among a large number of operators.

Further, to promote consolidation in the telecom sector, the Government released the merger & acquisition guidelines under which mergers are allowed until the market share (subscriber and revenue) of merged entity is up to 50%. However, the present spectrum cap of only allows operators to hold up to 25% of the total spectrum.

Currently, some operators have more than 30% market share and continue to grow. An overall spectrum cap of 25% is stifling the growth of operators although such growth is not considered as anti-competitive or market concentration from the competitive perspective.

.....
*We, therefore, request the Authority that the **overall cap for spectrum holding be increased from current 25% to 33% of the total spectrum holding spread across all bands.***

2) Intra-band spectrum cap of 50% should be continued for each band:

*The Authority, in its consultation paper, has rightfully acknowledged that the spectrum caps are typically designed and enforced to prevent spectrum concentration in the hand of one or two operators. The current intra-band cap of 50% has effectively served the **interest of competition and the Industry.***

Q6. Considering the fact that one more sub-1 GHz band (i.e. 700 MHz band) is being put to auction, is there a need to modify the provisions of spectrum cap within a band?

Q7. Is there any need to specify a separate spectrum cap exclusively for the spectrum in 700 MHz band?

Q8. Should a cap on the spectrum holding within all bands in sub-1 GHz frequencies be specified? And in such a case, should the existing provision of band specific cap (50% of total spectrum assigned in a band) be done away with?

COAI Response to Q6, 7, 8

.....

4. *The spectrum caps need to increase with time. To promote consolidation in the telecom sector, the Government released the merger & acquisition guidelines under which mergers are allowed until the market share (subscriber and revenue) of merged entity is up to 50%. However, the present spectrum cap of only allows operators to hold up to 25% of the total spectrum. Currently, some operators have more than 30% market share and continue to grow. An overall spectrum cap of 25% is stifling the growth of operators, although such growth is not considered as anti-competitive or market concentration from the competitive perspective. The objective of placing this restriction is to ensure that a minimum of four mobile operators continues to operate in the cellular market. It is highly unlikely and impractical to assume that all operators would have equal spectrum holdings. Therefore, an overall spectrum cap of 25% will result in either the spectrum remaining unsold or being fragmented among a large number of operators.*

RJIL response Q 6, 7, 8

*RJIL believes that with liberalisation of spectrum, **intra band caps have lost their relevance**. Earlier the spectrum allocation was based on the technology to be utilised for a particular spectrum band and the intra band spectrum cap served the purpose of curbing the monopolistic and predatory practices in a particular band, however the auctioned spectrum is technology neutral and post liberalisation of spectrum, it can be used to deploy any technology therefore the intra band caps have now become redundant.*

.....

*The **spectrum cap in 700 band and the spectrum caps in sub-1 GHz also become redundant** for the reasons cited above.*

Reliance communications

Executive Summary

9. *In the sub GHz bands (700/800/900 MHz), **the spectrum cap of 50% of earmarked spectrum for commercial use should be applicable**.*

10. *2.3GHz and 2.5 GHz **should be treated separately**.*

RCom Comments to Q 6, 7, 8

1. *Sub GHz spectrum (700 MHz, 800 MHz & 900 MHz) share inherently similar propagation characteristics and thus hold similar economic value.*

2. The clubbing of all spectrum under 1 GHz band thus ascribes to the similar nature of the bands and importantly shall help rationalize the capping structure irrespective of the quantum of spectrum held/available within each band.

3. Therefore, it is recommended to transit from a 50% cap on an individual band basis to cover the entire Sub GHz band.

4. Our Recommendations:

In the sub GHz bands (700/800/900 MHz), the spectrum cap of 50% of earmarked spectrum for commercial use should be applicable.

Q9. Should 2300 MHz and 2500 MHz bands be treated as same band for the purpose of imposing intra-band Spectrum Cap?

Please support your suggestions for Q6 to Q9 with proper justifications.

RCom Comments:

1. No, 2300 MHz and 2500 MHz bands **should not be treated as same band.**

2. It may be noticed that 2.3 GHz and 2.5 GHz are separate bands and cannot be clubbed together for usage.

3. Our Recommendations:

a. 2.3 GHz and 2.5 GHz **should not be treated as same bands.**

Telenor (India) counter comments:

Stakeholders have recommended increase in overall cap from 25% in the interest of competition and the Industry, according to them this will also be in consumer interest. The very same arguments have been taken (consumer, anti-competitive, Industry) by them while not recommending sub-1 GHz inter-band cap. There are other set of respondents who have recommended the inverse.

In order to evaluate their comments, it is important to develop an operator wise, service area wise spectrum heat map. This will establish that their arguments are a direct function of their portfolio; their arguments are not consistent and are sometimes contrary when they argue for / against another type of Cap.

We recommend a principle based approach, hence we submit the following:

- a) Overall Cap and In-Band Cap (also called as intra-band cap) were defined in 2012 auctions and remained the same in 2013, 2014, 2015 auctions. All operators have acquired as per this, any change now will be akin to changing the rules of the game mid-way. The operators who have purchased in earlier

auctions will follow the present cap (25% and 50%), while those who will participate in 2016 auctions will have a different cap. This will create unlevel playing field as two set of operators will be following old and new caps at the same time. There should be consistency in public policy any change now will unsettle the operators who have participated in earlier auctions based on existing caps.

- b) These definitions are interrelated to other policy documents like sharing, trading, M&A. Any stand alone change in one policy document requires a necessary change in other documents. These are not the subject matter of this consultation, so how and when will it be modified. Needless to say that any change in auction recommendations without corresponding changes in other substitutable policy documents will create arbitrage opportunities.
- c) The Authority had done consultation in June '15 in response to the reference from Hon'ble SC and issued its recommendations, so there is no need to revisit the matter which has been settled few months back.
- d) We have tabulated the spectrum heat map based on the information in public domain, as can be seen below, only 1% of the Licensees circle wise (3 out of 202) are affected by Overall Cap. The present consultation process intends to add 2x35MHz in 700, 2x15 or 2x20 MHz in 2100, 20MHz in 2300, 20MHz in 2300 and an equal amount in 2500 band. **This will increase the Overall Cap and automatically resolve the issue.**

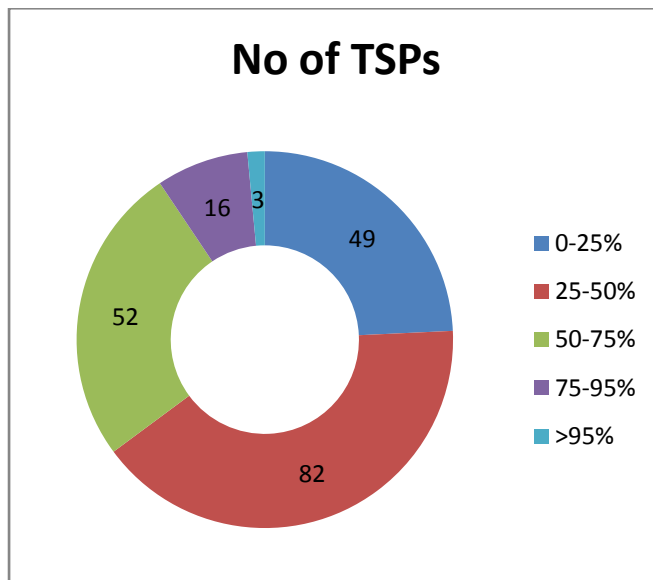


Fig 1: TSP's Spectrum holding as a percentage of Overall Cap

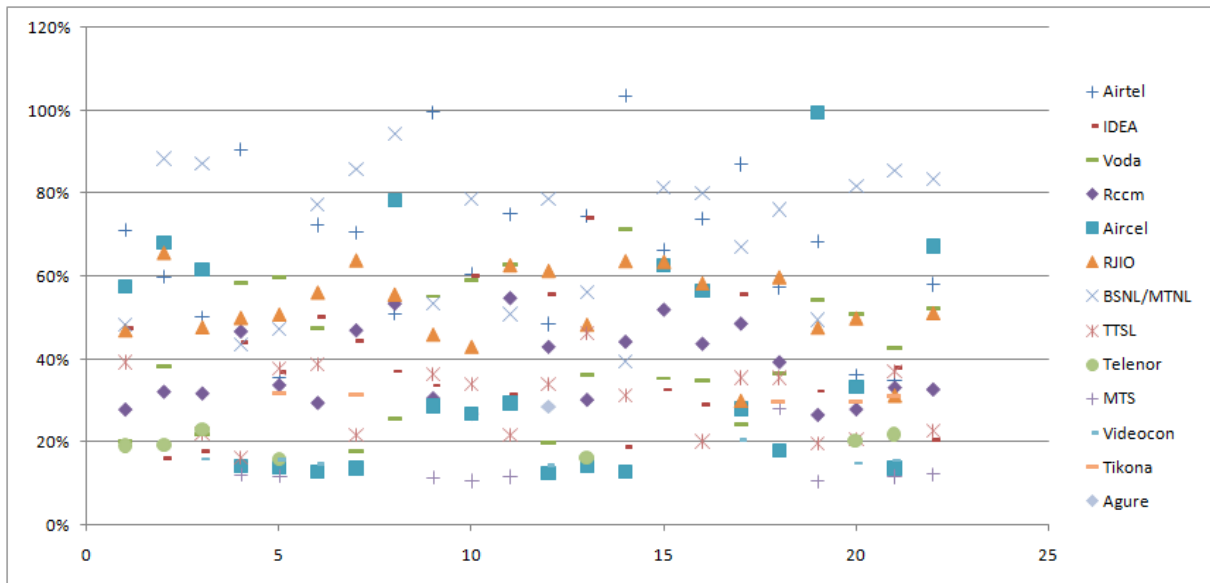


Fig 2: Spectrum heat map - Operator wise, service area wise spectrum holding as a percentage of Overall Cap

Q4. Whether there is any requirement to change the provisions of the latest NIA with respect to block size and minimum quantum of spectrum that a new entrant / existing licenses/expiry licensee is required to bid for in 800, 900, 1800 and 2100 MHz bands. Please give justification for the same.

All stakeholders unanimously recommended no change in block size. **Airtel, Reliance Communications, Tata Teleservices** have submitted detailed formula for minimum quantum of spectrum to be bid in different bands by expiry/ new / existing.

Telenor (India) counter comments:

We agree with all stakeholders that there should not be any change in block size from NIA 2015.

We also wish to submit to the Authorities attention that while we acquire 5MHz of liberalised spectrum in 1800 band, the actual allocation is 4.8MHz. This remains unchanged even as per the 1800 MHz band harmonisation draft plan circulated by WPC on 18 Dec 2015. Similar issues remain in other bands and other block sizes of 1.25 MHz, the Authority should recommend that TSPs should be assigned quantum as per the bid documents for which they have paid.

We believe that there should be consistency in important policy such as block size, minimum quantum and going forward these should be simplified so that the design of

the auction is simple. In the last auction of 2015 there were 69 simultaneous auctions and this time round in 2016 there will be 105 simultaneous auctions. In order to simplify the process we recommend a simpler approach which will be equitable to all.

- Such rule will not only promote participation and competition but will also ensure that no spectrum will be left unsold.

In view of above submission, we recommend:

- All bidders should have the flexibility to choose whether to have status as a “new entrant” or an “existing licensee”.
- Rather than pre-defining the bidder’s status as “new entrant” or existing licensee” in a band, the bidder should have the flexibility to choose its own status, i.e. a bidder is able to decide the minimum quantum of spectrum required to bid for. It should be straight-forward to implement this in the auction system. As an illustration, in the latest 900 MHz auction in Bihar, Reliance Telecom was outbid by Bharti Airtel. Reliance Telecom could not win less than 2x5 MHz (as a new entrant). 2x4.6 MHz of spectrum therefore remained unsold. With the suggested flexibility this could have been avoided.
- Similarly, the bid for 5 MHz can be assigned priority over the bid for partial spectrum. For instance, if two operators A & B bid for 5 MHz and 1 MHz spectrum respectively on the same price, the auction rules should be framed in such a manner that priority ranking for allocation of spectrum should be given to operators A who has bid for 5MHz spectrum instead of operators B who need only 1 MHz spectrum. This will ensure optimal spectral efficiency by ensuring allocation of contiguous blocks of 5MHz for 4G.

Q.5. What should be the block size in the 2300 MHz and 2500 bands?

RJIL response

.....The minimum startup spectrum that a new entrant can bid in this band should be 20MHz as that is the minimum optimum block size in these bands for meaningful business operations and is line with last policy, and the minimum spectrum that an existing operator can bid in this band should be 10MHz.

Idea Response:

A. Since 2300 MHz band would be used in the TDD mode, the block size for the same should be the same as in the last auction, i.e. 20 MHz

*B. Regarding the 2500 MHz band, we feel that insufficient detailing is available on 2500 band and hence **no auction should take place in this band currently**. Infact, any introduction of this band in the Indian spectrum market needs to be preceded by a larger discussion of all stakeholders – WPC, ITU, ATC, IP-1 providers, TSPs, etc. The TRAI should therefore have a separate Consultation process on this band.*

Telenor (India) counter comments:

The 2300 and 2500 may be not be suitable for launching a standalone coverage network, the cost of such implementation may be huge.

Creating many rules/ guidelines (different block size for new / existing as recommended by JIO) on similar issues will create arbitrage and act as a disincentive for investment. It is regulatory best practice to avoid arbitrage opportunities.

The new entrant as envisaged by RJIO may not be green field operator with no network, rather it may be an existing operator with network in 800, 900, 1800, 2100 band and is looking to 2300/2500 to fill the capacity requirement in dense urban areas to ease the spectrum crunch. Hence, a block of 10Mhz should be put to auction, there is always a possibility of an operator winning 2 such blocks, winners with **more than one block should get contiguous spectrum**.

There are gaps with 12.5 / 10 MHz in 2300 band which post synchronisation can be sold in smaller blocks of 10MHz TDD.
