



Reliance Jio

Infocomm Limited

RJIL-Reg/TRAI/2013-14/0251

14th Aug 2013

To

**Shri Arvind Kumar,
Advisor (Networks, Spectrum and Licensing),
Mahanagar Doorsanchar Bhawan (next to Zakir Hussain College),
Jawaharlal Nehru Marg (Old Minto Road),
New Delhi: 110 002**

Subject: TRAI's Consultation Paper on Valuation and Reserve Price of Spectrum

Sir,

Pl find attached comments of Reliance Jio Infocomm Limited (RJIL) on the issues raised in consultation paper No. 06/2013 on "Valuation and Reserve Price of Spectrum".

Thanking You,

Yours Sincerely,

For Reliance Jio Infocomm Ltd.,


**Kapoor Singh Guliani
(Authorised Signatory)**



Encl.: As above.

"Formerly, Infotel Broadband Services Limited"

RJIL's Comments on CP 06/2013 on ' Valuation and Reserve Price of Spectrum'

At the outset, we are grateful to the Authority for issuing this consultation paper in such a short time of just 10 days to deliberate the vital issues related to valuation and reserve price of spectrum in various bands pursuant to the reference from DOT dated 10.07.2013 seeking TRAI recommendation on Reserve Price for next round of Auction. In this context, it is to submit that spectrum, which is very important for mobile telecom services, is a finite and scarce national resource. It is an asset of the natives and the Government plays the role of a custodian whose primary objective is to maximize the net benefits to the society that can be generated from this resource by ensuring its efficient distribution and optimal utilization. Proliferation of new technologies and the growing demand for broadband services has led to manifold increase in demand for spectrum.

The Hon'ble Supreme Court, while explaining its directive and the judgment in February, 2012, had also stated the principle that- as natural resources are public goods, the **doctrine of equality**, which emerges from the concepts of justice and fairness, must guide the State in determining the actual mechanism for distribution of natural resources. The people should be granted **equitable access to the natural resources and/or its products**. In the true spirit of these principles, an **equitable access and level playing** field is required to be maintained between incumbents and new entrants not only in terms of **auction framework including reserve price** but also in terms of the **access to efficient spectrum bands** for providing state of the art services to consumers.

Further, **a transparent and consistent Regulatory and Licensing framework is essential to boost investors' confidence and encourage investment** in the telecom sector to achieve the objectives of NTP-12. Moreover, as per media reports, the national auditor CAG has recently alleged that that **telecom operators acted as a cartel in the recently concluded spectrum auctions** and has accused the government of wittingly or unwittingly aiding and abetting mobile phone companies by not acting against them.

Therefore, the responsibility becomes even bigger for the Government and TRAI to define the usage of spectrum and take appropriate measures like refarming and setting up appropriate reserve price to ensure that the **resource is efficiently used** and the price at which it is given is determined by a transparent market determined process and that the **participants are not able to take any advantage of the cartel they formed** in the recently concluded auctions in 2012/13 as observed by CAG in its recent draft report.

Keeping above in view, our response to the various questions raised in the said consultation paper is as below:

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?

TRAI has sought comments of the stake holders on the issue of refarming of spectrum in 900 MHz band which has been deliberated at length in the past and accepted by the Government in principle.

We would like to recall that the need for refarming of spectrum in 900MHz band was brought out by TRAI in its Recommendation on 'Spectrum Management and Licensing Framework' dated May 11, 2010. TRAI supported the efforts underway in different countries to reform the 900 MHz spectrum in view of its value for providing 3G services and for future technologies. However, due to the insufficiency of equal amount of spectrum in 1800MHz band, TRAI had mentioned that spectrum in 900MHz band would be refarmed on renewal.

Again in April 2012, when TRAI was asked to provide its recommendations on Auction of Spectrum after quashing of 122 licenses by Hon'ble Supreme Court, the TRAI had recommended that the refarming of spectrum in the 800 MHz and 900 MHz bands to be carried out progressively at an early date but not later than the due date of renewal of the licences as per following:

"Para 2.81

The Authority recommends that the refarming of spectrum in the 800 MHz and 900 MHz bands should be carried out progressively at an early date but not later than the due date of renewal of the licences. The spectrum available with the service providers in the 900 MHz band should be replaced by spectrum in the 1800 MHz band, which should be charged at the price prevalent at the time of refarming.”

“Para 2.82

The Authority recommends that the Government must actively explore the possibility of refarming of the spectrum in the 900 MHz band immediately, by invoking the authority to change the licence conditions.

Accordingly, the Authority recommended that after conducting the auction for spectrum in the 1800 MHz band, and reserving the spectrum required for refarming, out of the remaining spectrum if any, one block of 2x1.25 MHz of spectrum may be allocated to those licensees having 4.4 MHz of spectrum in the service area, at the auction discovered price for that service area.”

“Para 2.84

Since the application for renewal of licenses must be made at least 30 months in advance of the expiry of licenses, the Authority recommends that the 900MHz spectrum be auctioned at least 18 months in advance so as to enable the winning bidders to be ready with the deployment plans. Accordingly, the Authority recommends that the auction of 900MHz spectrum may be carried out in the first half of the year 2013.”

As submitted above, **in line with the international best practices and ITU guidelines, TRAI has taken a consistent stand that entire 900 MHz band should be refarmed** and utilised to provide high speed data services as this will result into best possible use of the highly efficient band while the voice services could be shifted to 1800 MHz band. Government has already accepted the

recommendations of the Authority with respect to refarming and the same has also been incorporated in our National Telecom Policy – 2012. **Therefore, there is no need to revisit this issue at this stage. Also,** DOT has not sought any fresh recommendations of TRAI on the issue of refarming in its present reference to TRAI.

However, as the issue has been raised in the present consultation, we would like to reiterate that this is an opportune moment when Authority and the Government **can ensure that complete 900 MHz band gets vacated,** as world over it is being used more efficiently for newer technologies which have evolved around this efficient band for provision of IMT advanced services. In fact all sub 1GHz bands need to be got vacated, from Government and Private Telecom operators and other users for provision of IMT advanced services. **At present, adequate amount of spectrum in 1800 MHz band is available with the Government** that can be deployed to refarm the entire 900 MHz band held by the telecom licensees whose licenses are due for renewal in 2014 and 2015. **The requirement is to mandate a clear road map for refarming of 900 MHz band and ask the operators to bid for 1800 MHz band which is lying vacant at present.** The operators will be able to get required amount of spectrum in 1800 MHz band to serve their 2G customers. This will also ensure proper pricing for 1800 MHz band and adequate revenue for the Government. The operators will get a period of 8-12 months which is adequate to shift their operations from 900 MHz band to 1800 MHz band. **This will also ensure continuity of service and level playing field amongst all operators. It may be that** the operators acted as a cartel, as observed by CAG and did not participate in the last auction held in March, 2013. Had they participated, they could get requisite amount of spectrum almost 20 months ahead of expiry of their licenses. This much time is more than sufficient to replace the network from 900 MHz band to 1800 MHz band and there was no issue of any discontinuity of service

Q.2 In case spectrum is to be “reserved” for such TSPs, should it be restricted to licences expiring in 2014 (metros) or include licences expiring afterwards (LSAs other than metros)?

As submitted above, it is reiterated that entire spectrum in 900 MHz band should be refarmed as early as possible and **no amount of spectrum should be reserved**

for any TSP in 900MHz. The operators should not be allowed to take any advantage of the cartel they formed during the recently concluded auctions as alleged by CAG. Therefore, as recommended by the Authority earlier and also accepted by the Government, all TSPs should be moved to 1800 MHz spectrum compulsorily, wherein they may be assured of spectrum up to 5 MHz on market discovered price in case they participate in the spectrum auctions.

It should also be ensured that total spectrum holding limits are applied to all stakeholders including Government owned PSU's and all excess spectrum retrieved and made available for auctions as & when they are planned.

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

The Auction should be **open to all and no additional restriction** on participation in the auction needs to be imposed. The eligibility criteria, as stipulated by DoT for the March 2013 auction could be adopted with suitable modifications taking into account the new FDI guidelines and the Unified Licensing Regime.

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?**

It will not be proper to consider the E GSM band at this stage as it will be difficult to get the paired spectrum of 925- 935 MHz spectrum vacated.

Further, BSNL and MTNL are utilising the 800 MHz band to provide Fixed Wireless services. These services are being provided wherever the last mile access on copper is not available. Forcing PSUs to vacate 800 MHz will affect their fixed line business adversely, cause customers' inconvenience and will lead to wastage of

Public money as the fixed wireless services being provided by PSUs will become inoperable and network set up by these companies will also become redundant.

Q.5 Should roll out 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 roll-out obligations for a TSP who acquires spectrum in the auction even if it has already fulfilled the prescribed roll-out obligations earlier?

The spectrum, whether acquired by a new entrant or an existing licensee, should carry the same set of roll-out obligations upto 6.2 MHz to ensure level playing field. However, after getting some spectrum through auction, if the total spectrum holding is more than 6.2MHz, the rollout obligations should be stringent, in line with the international practices. They should be mandated to cover 95% of the rural SDCAs within the stipulated time frame.

Further, on renewal ,if spectrum to a TSP operating in 900 MHz or 900/1800 MHz band, is allocated in 1800 MHz band instead of 900 MHz band, there will arise need to retest the roll out as BTS numbers & locations may get shifted. In other cases, retesting for roll out shall not be necessary.

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

The existing spectrum holdings in 800 MHz band, 900 MHz band and 1800 MHz band which were allocated to the operators bundled with their licenses for providing CDMA and GSM based 2G services, are **not liberalised**. These spectrum bands were allocated with restrictive channel plan and can be deployed only for providing 2G services using GSM or CDMA technology. If these spectrum bands are to be deployed for providing any other service e.g. 3G service or any another IMT advanced services, these spectrum holdings need to be got liberalised which may be permitted if one pays the market determined price for the same as per latest auction conducted by the Government, for the balance time period of the license; i.e. on pro rata basis. Wherever the latest market rates are not available,

it is suggested that 3G and BWA rates, which were determined through the auction held in 2010 may be used. These spectrums were auctioned **for technology and service neutral usage of the spectrum in 2100 MHz and 2300 MHz bands which is thus liberalised** in all respects. The market determined rates of 3G spectrum which was in FDD mode may be appropriately indexed and applied as minimum rates for the purpose of liberalisation of spectrum in sub 2G bands in FDD modes . TRAI has already done this indexation of 3G rates while determining spectrum rates for 1800 MHz band (para 3.13 of present consultation). For spectrum in **TDD mode**, the BWA spectrum rates determined through the auction held in 2010 may be used as a benchmark for the purpose of charging for liberalising the spectrum.

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

It has been mentioned in para 1.3 of the Consultation Paper that Government has taken a decision that spectrum trading will not be allowed in India. Therefore, **we feel there is no need to deliberate this issue presently**, till government takes a view on this and seeks recommendations of the Authority in this regard.

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?

At the outset, it is to submit that in the Consultation Paper, the Authority has painted a very sorry state of telecom affairs in terms of loans, falling EBITDA margins etc. **However, there have been many upswings as well.** Operators have reported very healthy profits. The tariff rates have gone up by 40-50%. TSP's have seen uptrend in ARPUs. Competition has substantially reduced. At one time there were 10-12 operators per circle whereas now there are 6-8 operators only. New Service providers, who have bought spectrum at such so called high price, are already running EBITDA positive in some of the circles. The telecom sector is showing healthy growth which can be sustained and **further accelerated through a consistent and stable regulatory and licensing regime.**

With regard to issue raised in the above question ,it is to submit that the latest market determined price based on the auctions held in November,2012 are already there for the spectrum in 1800 MHz band for most of the service areas. **These prices should be used as the basis for valuation of spectrum for these service areas in 2013 as well.** For the remaining four circles where there was no bid, **it would be quite appropriate to use the prices obtained in the auction of 3G spectrum after indexation** as the basis for the valuation of spectrum in FDD mode for 2013. **Any other alternate method of valuation shall be inappropriate as it will be arbitrary and will also disturb the level playing field.** This will also be contrary to TRAI's own recommendations submitted to the Government in April ,2012 on "Auction of Spectrum". **There is, therefore, no need for any further qualification of these prices.**

It is to submit that there is neither any justification nor any requirement to revisit these prices or revise them down ward for the next round of auction to be held in 2013 since:

- (i) The analysis done by TRAI in its report dated 1st August 2013, states that GSM ARPU increased by 7.8% Y-O-Y, while for CDMA it increased by 26.51%.
- (ii) MOU increased by 6.28% for GSM & 19.5% for CDMA wrt last quarter.
- (iii) The quarterly and the year-on-year (Y-O-Y) growth rates of pass-through charges for QE Mar-13 are 3.67% and 28.53% respectively.
- (iv) **These parameters clearly establish that the sector is viable & kicking.**
- (v) The impact of spectrum prices, which were recommended by TRAI in April, 2012 based upon the 3G prices discovered through auction held in 2010, is negligible on the subscribers' tariff. **As per TRAI's own calculations, the spectrum pricing contributes to 4 paise per minute only.**
- (vi) Any downward revision in reserve price at this stage will create a **non level playing field** for the licensees who have bought spectrum in November 2012, as the Govt is not going to refund any money to them.

(vii) **It will be arbitrary, anti competitive and will lead to litigations.**

(viii) It will extend undue benefit to the incumbent operators who will be main participating entities in the next round of auction as their licenses are due for renewal in 2014/2015.

(ix) In view of allegation by CAG that the cartelisation by telcos in the last two auctions had led to the government losing out on funds, any downward revision in the reserve price may lead to similar scrutiny by the national auditor.

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?

Please refer to our replies to Q9 above. Since auction discovered price is already there for most of the LSAs, there is no need to do any other valuation. For the remaining four LSAs, the auction determined price for 2100 MHz band through the auction held in 2010 may be used after time indexation and factoring in for the spectral efficiency. **Any other valuation will be subjective, arbitrary and will create non level playing field** which may result in avoidable litigations.

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?

Those methods mentioned in this paper & many more statistical methods or otherwise are available, however once a recently discovered price is available, there is no need to go in for these methods. We therefore support price determination based on Nov 2012 auction results as it was market determined.

Further, there is no **Apple to Apple** comparison between 2001 and 2013. **In 2001, the bids were invited for award of licenses to provide GSM based 2G services** wherein spectrum bundled with the license was to be allocated depending upon its availability. Whereas, now **in 2013, a liberalised spectrum** is proposed to be

auctioned which can be used **for providing any service including IMT advanced services and by using any technology.**

Thus, the **indexation of 2001 prices which were for grant of license for provision of 2G services**, for valuation of liberalised spectrum in 1800 MHz band in 2013 **is not appropriate**. There is no Apple to Apple comparison between the two. **It will be a highly approximate and arbitrary option and is ,therefore, not recommended.**

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 correlating the sale prices achieved in similar LSAs with known relevant variables? Can multiple regression analysis be used for this purpose?

For those circles like KARNATKA, RAJASTHAN, DELHI & MUMBAI it will be better to follow the base price as used in earlier auctions. These prices were benchmarked to 3G auction results and therefore are representative of true economic value of the spectrum and do not warrant any revision. Any other basis, such as correlating it to the sale price achieved in similar LSAs will be arbitrary and may lead to litigations. Such move will also send wrong signals to the market on the policy consistency by the Government.

In view of the allegations by the national auditor, it may also be contented that these operators who had not bid earlier are waiting for TRAI and Government to vacillate and change. **These wrong signals have given hope to those operators, who need to vacate spectrum in 900MHz band, that they can misuse this consultation process to ensure that these prices are set downward.**

As stated above, spectrum is scarce national resource and an asset of the natives and the Government plays the role of a custodian. It is the responsibility of the Government and TRAI to ensure that all those, who acted as a cartel in the recently held auctions which has caused huge loss to the exchequer as alleged by CAG, are not able to take any undue advantage of this.

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 results.

Value of spectrum is already available with Government and the Regulator. These prices are already discovered through auctions for most of the LSA's. However for 4 LSA's wherein no one participated **it should not be changed** because of reasons mentioned above.

The efforts of TRAI as well as the Government should be to arrange all spectrum in 1800MHz band by getting it vacated from non commercial users and make the same available to ensure that all those whose licenses are expiring in 2014 and 2015 are able to migrate their services in this band thus vacating spectrum in 900 MHz band which can be auctioned subsequently for provision of IMT advanced services to achieve the target as envisaged in NTP-2012 and it can also serve the additional requirement of operators.

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.

Q.15 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.

As submitted earlier, when market determined price through recently held auction is available for spectrum in 1800 MHz band for most of the LSAs, any alternate approach will be **too subjective, arbitrary and therefore, not appropriate. This will also disturb the level playing field.** We, therefore, do not support any other approach for valuation of spectrum at this stage.

Q.16 Should the premium to be paid for the 900 MHz and liberalised 800 MHz spectrum be based on the additional CAPEX and OPEX that would be incurred on a shift from these bands to the 1800 MHz band?

The valuation of liberalised spectrum in 900 MHz band and 800 MHz bands need to be determined only through a transparent market determined process. Any other approach will be arbitrary and thus, inappropriate. As submitted earlier, entire spectrum in these valuable bands should be refarmed first and then put to auction in a liberalised mode. This will provide equitable access to all stakeholders for this valuable scarce resource, provide level playing field between incumbents and new entrants and help in proliferation of broadband services in every nook and corner of the country to achieve the targets envisaged in NTP-2012. This will enable discovery of its true economic value for the benefit of entire country and its populace.

Q.17 Should the valuation of spectrum and fixing of reserve price in the current exercise be restricted to the unsold LSAs in the 1800 MHz band, or should it apply to all LSAs?

It should be applied only on unsold LSAs; else it will create a non level playing field.

Q.18 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?

- Fixed Fee
- In the alternative, a Flat rate – 1% or 3% AGR
- Existing licensees to be given a choice to migrate to the new regime upon payment of a reasonable one-time fee.

The existing players who have obtained spectrum through earlier auctions should continue to pay spectrum usage charges as per the NIA conditions as any change in the same will not be legally tenable. Therefore TRAI may analyze this issue keeping in mind the level playing field issue and technical feasibility for segregating revenue under different policy regime.

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

The reserve price should be kept as close to the market value of spectrum as possible to avoid its misuse by vested interests through collusion which may cause huge revenue loss to the Government. In this context, TRAI should take into consideration the report of CAG which has observed that **telecom operators acted as a cartel in the recently concluded spectrum auctions** and has accused the government of wittingly or unwittingly aiding and abetting mobile phone companies by not acting against them. TRAI had earlier recommended a ratio of 0.8 in its recommendations of April 2012 on "Auction of Spectrum". **The same ratio can be used for fresh round of auction as well. In no case, it should be reduced.**