



AUSPI's COMMENTS ON THE TRAI RESPONSE ON EXIT POLICY FOR VARIOUS TELECOM LICENSES

1) **There is no need for a separate Exit Policy and the entry fee paid will continue to be non-refundable.**

A well-defined exit policy is an important element for bringing transparency and fostering perfect competitiveness. It also helps trigger reallocation of resources for efficient utilization enabling better service provisioning to the end consumer for fulfilling policy objectives in the long run.

Consumer interests are best served in a market of perfect competitiveness. For a contestable and sustainable market, entry should be absolutely free, *and exit is absolutely costless*. Absolute freedom of exit is one way to guarantee freedom of entry. This means that any firm can leave without any impediment and in the process of departure can recoup costs incurred in the entry process. In the context of telecom licenses, application of this theory may mean refund of the license entry fee which is not allowed in the current licensing regime in India.

Thus, there may be a case for altering the current licensing provisions and incentivizing exit from the license may be considered.

Provision of an exit policy in licensing is one aspect that has immediate implications for the state of the telecom industry. An exit policy paves the way towards consolidation and induces market forces to redistribute input resources to serve the development needs of the industry as a whole. This has a bearing on the quality of service (QoS) being offered to the end consumer as the consolidating agent (operator) is in a better position to redeploy the resources in an optimum manner. Considering these arguments, a well-defined exit policy is imperative for healthy functioning of the industry.

A tenable licensing arrangement should include provisions for exit of struggling enterprises by means of surrendering the resource (spectrum in case of telecom), in part or whole, and should address financial implications of the same. Partial exit could also have various dimensions such as conditions of an operator holding excess spectrum which may arise in following situations:

- ***Spectrum beyond the contracted limit:*** There are players who hold more than the stipulated 6.2 MHz of paired spectrum for TDMA. These are primarily the incumbent GSM players who in certain circles have been allocated spectrum beyond the 6.2 MHz limit. In absence of conditions facilitating voluntary surrender of spectrum, a valuable resource would remain inefficiently allocated ultimately harming telecom industry prospects.
- ***Spectrum in a particular frequency band:*** Under the current licensing regime, if an operator holds spectrum in two or more frequency bands under the same license (UASL), it may not surrender spectrum in one particular frequency band alone. In such a scenario, the operator is bound to hold the



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spectrum even if it deems unfit to provide services in the same for business or strategic reasons.

- ***Merger & Acquisitions:*** In case of intra-circle merger of two licensees, the merged entity may have spectrum beyond the combined requirement. In such a scenario the merged entity may be allowed to return the spectrum in part. This however, would also be governed by the treatment of spectrum under M&A guidelines which is likely to be covered in the forthcoming telecom policy.

In view of above arguments, one may consider including provisions for partial exit incentivizing surrender of the scarce resource. Provisions facilitating partial exit from licenses would well serve the policy objective of the government and would go a long way in serving the interests of the nation.

TRAI may further consider allowing the exiting operators to participate in the reallocation (auctions or otherwise) of the surrendered spectrum. This would lower entry barriers and would promote healthy competition in the industry.

For an operator surrendering spectrum to the, an incentive may be considered to facilitate harnessing the scarce national resource in an optimum manner. Following cases may arise in this context:

- ***Surrender of spectrum in full:*** Such a scenario may arise if the operator wishes to surrender full spectrum in a particular frequency band due to business reasons. Refunding the entry fee on a pro-rata basis for the remaining period of the license be considered.
- ***Surrender of spectrum in part:*** In such a scenario, refund may be considered on a proportionate basis.
- ***Surrender of excess spectrum:*** In case of surrender of spectrum above the license stipulated limit, refunding the entry fee on a proportionate basis MAY be considered. This would act as an incentive for releasing the under-utilized scarce spectrum and would then be available for reallocating.

While operators would be benefitted by such provisions, government would also stand to gain financially in the long run. In terms of change for the consumer, the subscriber base moves from the resource releasing operator to the resource gaining operator. Thus, the revenue pool remains intact. With better utilization of resources, further revenue channels may be built around the subscriber pool which would in turn, augment government revenues by means of enhanced tax and license/spectrum fee income.

TRAI may thus reconsider the point of framing a well-defined exit policy addressing the various dimensions linked with a license exit.



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Also, there could be number of circumstances like law and order, change in technology, wrong projection on available market etc which may make long term comments and investment unviable. In such conditions, it is not always viable for operators to remain invested and therefore for such cases also the Authority should propose and make recommendations separately for an exit policy.

2) Present conditions in various licenses with regard to surrender of licenses, whereby licensee can surrender its license by giving a notice of at least 60 calendar days in advance shall continue to be applicable.

The current UASL provisions of 60 days advance notice to the licensor with regards to license surrender, and 30 days advance notice to customers regarding consequential withdrawal of service seem appropriate.

This timeline would be sufficient for customers to move to some other operator by means of Mobile Number Portability (MNP). This would also be sufficient for the business partners of the exiting operator to accommodate for any business plan changes.
