

## **Response to Consultation Paper No 6/2013 on Valuation and Reserve Price of Spectrum**

We would like to congratulate TRAI for bringing in continuous stream of Consultation Papers and Recommendations on the subject matter of Spectrum auction for last five years. This has enabled shift from license regime to market driven auctions for allocation of spectrum.

However, it is seen that in last two auctions for 1800 MHz there was very low participation from operators except from those whose licenses were cancelled and had to participate by compulsion in the auction. The scarce and valuable spectrum, which could have earned high revenue for Government and could have provided much better quality of services and, is lying idle and is wasted .

It is observed that some of the big operators have formed cartel and are controlling the success of auction as per their will. By not participating in auction and discouraging others to participate in auction, they are causing loss to the Government as well as to customers. Recently Comptroller & Auditor General has also commented in its draft report to Department of Telecom that

*"...many of the leading operators, who were constantly demanding spectrum for meeting QoS (Quality of Service) parameters of TRAI, appeared to form a cartel and declined to take part in the auction in 2012/3,"*

It is expected that Authority will take this account and will not fall into their trap which is to force the Government to bring down the reserve price of the spectrum so that they can corner this expensive resource at a throw away price. They also want to create a situation whereby they are allowed to retain most efficient and precious spectrum in 900 MHz band which was allocated to them free of cost. Keeping this in view, our response to various questions raised in this consultation paper is submitted 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?**

**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)?**

The subject of refarming of 900 MHz spectrum has already been discussed at length and recommended by TRAI based. Government has also accepted these recommendations and conveyed its approval for refarming of 900 MHz spectrum. The 900 MHz spectrum now needs to be refarmed fully and auctioned for provision of new services. There is no need to look back or reconsider these issues. There will be no issue of discontinuity of services. These operators are already using 1800 MHz band along with 900 MHz band in these service areas. The requirement is to get additional spectrum in 1800 MHz band and there is sufficient spectrum available with the Government in 1800 MHz band to meet the requirement of all operators whose license are expiring in 2014 as shown in the table below.

<b>S.No.</b>	<b>LSA</b>	<b>Spectrum in 900MHz band (in MHz) which is due for Renewal in 2014</b>	<b>Spare Spectrum in 1800 MHz available for Auction</b>
1.	Delhi	16	18.40
2.	Mumbai	16	20.60
3.	Kolkatta	14	35.60
4.	Chennai	6.2	42.40

It is apparent that all the incumbent operators cartelised and decided not to participate in the recent auctions held in Nov.2012 and March,2013.Had the operators participated in these auctions ,they could get the required amount of spectrum in 1800 Mhz band for serving their 2G customers. This spectrum could be deployed well in advance before the expiry of their licenses for replacement of the network from 900 MHz to 1800 MHz band and there would have been no issue of discontinuity. Now also, it is not that late. It will take about 8-10 months for the operators to change their network. The requirement is to take a firm decision to refarm and inform the industry accordingly.

Entire available spectrum in 1800 MHz needs to be put to auction so that all operators, including those whose licenses are due for renewal in 2014, can participate in the auction to win spectrum as per their requirement. There is no need to reserve any amount of spectrum for any category of TSPs. This will ensure level playing field and enable the government to get true economic value of this scarce precious national resource. We, therefore, reiterate that all amount of spectrum in 900 MHz band should be refarmed at the time renewal of licenses as already recommended by TRAI and announced by the Government time and again and no amount of spectrum in this

precious band should be reserved for the incumbents .If TRAI and DOT are determined to implement this, there will be no discontinuity in service on this account.

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

No restriction needs to be imposed on any operator for auction and maximum number of operators needs to be encouraged to participate in the auction and make it a success this time.

**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?

TRAI and Government is moving towards auctioning liberalised spectrum and refarming of spectrum. While moving forward in this path, there is no need to again binding technology specific use to spectrum.

**Q.5. Should roll out obligations for new/existing/renewal/quashed licenses be different? Please give justification in support of your answer.**

The roll out obligations should be same for all licenses with a view to ensure level playing field.

**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?**

Yes. For proper and efficient use of the spectrum, which is a scarce national resource, additional roll out obligations must be mandated by the Government in terms of coverage of the rural areas as the rural tele-density is still very poor. It has been seen that operators only focus in the urban areas or rich rural belts to maximise their profits. Most of the villages and blocks are still uncovered. Therefore, for benefit of the rural masses and to achieve the objectives envisaged in the NTP-2012, there is a need to prescribe additional roll-out obligations in terms of the coverage of rural areas for all those TSPs who acquire additional spectrum in the auction.

Further, on renewal of licenses, when TSPs migrate their networks from 900 MHz band to 1800 MHz band, the coverage as prescribed in the roll out obligation has to be re-verified.

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

All the operators willing to convert their existing spectrum into liberalised spectrum should pay the market determined price for the liberalised spectrum in that band. In cases where market determined price is not available, the prices discovered in 3G auction after factoring for the time and spectrum efficiency may be used for the purpose of calculation of the market value.

**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?**

Once sufficient quantity of spectrum is auctioned and liberalised spectrum is available in the country then spectrum trading can also be brought in. Government has already conveyed its decision that spectrum trading is not to be permitted at present.

**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?**

We need to have a reasonable valuation of spectrum so as to ensure maximum revenue to Government and also ensure maximum participation in the auctions. The participation of operators is must for successful auctions for which rightly prescribed policies need to be in place and sufficient clarity and transparency is available to participants and investors about the issues involved and regulatory and licensing policies linked to auction. Without such clarity and transparency of auctions participants are not willing to invest such heavy amounts in auction of spectrum.

The time indexed value of 3G auction rates would be appropriate basis for the auction in 2013 for those service areas for which market determined rates through latest auctions held in November, 2012 are not available. For most of the service areas, the rates for 1800 MHz bands have been discovered through the auction held in Nov.2012. It would, therefore, be appropriate to use these rates for all those areas and for the remaining four areas, the rates determined through 3G auctions with appropriate indexation be applied to determine the valuation of spectrum in 2013. It is also to be noted that as pointed out by CAG in one of its recent reports, there was poor response to the auction due to cartelisation of the participants which affected the discovery of true price of the spectrum.

**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?** In the Indian context, the operational area of telecommunications has been the license service area, roughly synonymous with a state. Each of this area has unique characteristics in terms of population, per capita income and economic status, infrastructure, business and industrial activities and other cultural factors. Therefore till the unified license (pan India) and related concepts come into vogue over the next few years, a top down approach may not be in line with ground realities and hence should be avoided.

A consistent approach of following service area wise auction and service area wise spectrum valuation based on service area wise 3G auction rates need to continue. The alternate approaches suggested by TRAI are not required to keep the process transparent and reasonable to be accepted by all operators.

**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?**

No. It is not appropriate. There is no similarity between the two.

**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?**

**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.**

**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.**

All above methods are subjective and arbitrary and, therefore, we do not support any of these methods. The market determined price for 1800 MHz band is already available for most of the service areas except four service areas. The price of 1800 MHz band for these four service areas can be benchmarked against the price of spectrum in 2100 MHz band discovered through auction held in 2010 after factoring in time duration and spectrum efficiency .

**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.**

**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?**

**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?**

Our comments as above are reiterated. No other alternate approach for valuation is suggested due to reasons as mentioned above. However, TRAI has advantage of report of expert committee of IIT professors for the purpose of comparison of 1800 MHz spectrum and 900 MHz spectrum valuations. TRAI had already accepted its report and the same should be used. The principle should be adopted for all service areas uniformly for the sake of transparency.

**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?**

The present principle of annual spectrum usage charge being a % of AGR does not require to be revisited. Change of regulatory charges with every auction will create market uncertainty and will also be difficult to implement for operators having spectrum in multiple tranches from multiple auctions. Also, this will create a discriminatory playing field for competitors in same service area.

**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 as close to the market value as possible to prevent its misuse due to cartelisation. CAG has already pointed out that the recently held auctions were marred due to cartelisation by the participants as a result the participation was very poor and Government could not get the proper price of the spectrum. To prevent any damage in future, it is suggested that the reserve price may not be less than 90% of the market value of the spectrum.