

# TELECOM REGULATORY AUTHORITY OF INDIA

## Press Release – No. 8/2004

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### TRAI provides its recommendations on Intra Circle Mergers & Acquisition Guidelines to the Government

The TRAI today provided its recommendations to the Government on Intra Circle Mergers & Acquisition Guidelines in accordance with its previous recommendation to the Government on Unified Licensing Regime, which were accepted by the Government.

#### Recommendations on Intra Circle Mergers & Acquisition Guidelines

While mergers to encourage efficiencies of scope and scale are desirable, care has to be taken that monopolies do not emerge as a consequence. The Authority has recommended the following broad guidelines for intra circle Mergers & Acquisition cases.

- If consequent to the merger under consideration, the number of operators in any circle/served market reduces below three (3), the merger will not be allowed by the competent authority.
- Detailed examination of the impact of merger would be conducted by the Competent Authority in the following cases:
  - Market share of merged entity is greater than 50%; and
  - Concentration ratio of top 2 firms (CR2) in a post-merged scenario is greater than or equal to 75%.
- The competent Authority would also consider allowing mergers where one of the merging parties is a failing firm and in case :
  - The firm and its assets would have to exit the market in the near future irrespective of the merger; and

- There should be no serious prospect of restructuring the business without the merger
  - However, in any such case, the onus to prove that the merger would substantially improve the prospects of the firm warding off failure would rest on the merging parties.
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- The spectrum of the merging entities should be merged subject to the condition that the maximum spectrum that could be held by a Merged entity should be capped at 15 MHz per operator per service area for Metros & Category 'A' Circles and 12.4 MHz per operator per service area in Category 'B' and Category 'C' Circles. The merged spectrum subject to these limits would remain with the merged entity even after issue of detailed spectrum guidelines. The guidelines on Spectrum would entail details of efficient utilization and for this purpose the total amount of spectrum emerging after Merger would be treated as the starting point for further allocation. Any further allocation should be as per the spectrum guidelines to be issued separately.
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- For the purpose of the above mentioned conditions, the impact of equity share holding by the same business group / promoter in more than one company in the same license area would be kept in mind.
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- All telecom mergers are to be notified to TRAI. The merged entity should obtain the approval of the licensor, i.e. Department of Telecommunications (DoT) for the proposed merger.
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- TRAI reserves the right to intervene and or inquire into expected or completed mergers.
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- TRAI has already classified an operator having market share greater or equal to 30% of the relevant market as one having "Significant Market Power" in its Reference Interconnect Order (RIO). In case the merged entity becomes an SMP post merger then the extant rules & regulations applicable to SMPs would also apply to the merged entity.

- As the present industry is in a stage of flux and would need some time before the market stabilizes, the TRAI is of the opinion that the Merger Guidelines may be reviewed after one year.
- For more details please see – [www.trai.gov.in](http://www.trai.gov.in)

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