

No. L-14006//05/2015-NTG
Government of India
Ministry of Communications & IT
Department of Telecommunications
WPC Wing, 6th floor, Sanchar Bhawan, New Delhi

Dated: 12th October, 2015


Subject: Guidelines for Trading of Access Spectrum by Access Service Providers

The National Telecom Policy envisage to move at the earliest towards liberalisation of spectrum to enable use of spectrum in any band to provide any service in any technology as well as to permit spectrum pooling, sharing and later, trading to enable optimal utilisation of spectrum through appropriate regulatory framework.

The spectrum trading leads to greater competition, provides incentives for innovation, better/new services being available to consumers at cheaper tariffs, better choice to consumer, etc. This also facilitates ease of doing business in India by allowing free play in the commercial decisions and leads to optimisation of resources apart from improving the spectral efficiency and quality of service.

After considering the recommendations of TRAI on spectrum trading, the Government has now decided to allow trading of access spectrum as per guidelines given below:

- (1). Spectrum trading shall be allowed only between two access service providers, holding Cellular Mobile Telephone Service (CMTS) License, Unified Access Service License (UASL), Unified License (Access Services)(UL(AS)) and Unified License (UL) with authorization of Access Service in a licensed service area.
- (2). All access spectrum bands earmarked for Access Services by the Licensor will be treated as tradable spectrum bands.
- (3). The Access Service Provider who is transferring the right to use the spectrum is hereinafter referred as "Seller" while the Access Service Provider who is acquiring the right to use spectrum is hereinafter referred as "Buyer".

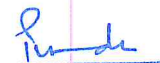


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- (4). Only outright transfer of right to use the spectrum from the seller to the buyer shall be permitted. Leasing of spectrum is not permitted.
- (5). Spectrum Trading shall be permitted only on a pan-LSA (Licensed Service Area) basis. In case the spectrum assigned to the seller is restricted to part of the LSA by the Licensor, then, after trading, the rights and obligations of the seller for the remaining part of the LSA with regard to assignment of that spectrum shall also stand transferred to the buyer. Further, relevant provisions of NIA with respect to spectrum assignment in part of the LSA, which were applicable to seller before the spectrum trade, will apply to buyer subsequent to the spectrum trade.
- (6). Spectrum trading shall be permitted only in the following block sizes (band wise):

Spectrum band	Block Size
800 MHz	2x1.25 MHz
900 MHz	2x200 KHz
1800 MHz	2x200 KHz
2100 MHz	2x5 MHz
2300 MHz	20 MHz in TDD
2500 MHz	20 MHz in TDD and 2x10 in FDD

- (7). Spectrum trading will not alter the original validity period of spectrum assignment as applicable to the traded block of spectrum.
- (8). Only that spectrum, as specified in para 6 above, is permissible to be traded which has either been assigned through an auction in the year 2010 or afterwards, or on which the Telecom Service Provider (TSP) has already paid the



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prescribed market price as per para 24 below. In such a case, entire spectrum would be tradable. In respect of spectrum in 800 MHz acquired in the auction held in March 2013, trading of spectrum shall be permitted only if the differential of the latest auction price and the March 2013 auction price on pro-rata basis on the balance period of right to use the spectrum is paid

- (9). Both the licensees trading the spectrum shall jointly give a prior intimation for trading the right to use the spectrum at least 45 days before the proposed effective date of the trading as per prescribed format enclosed as Annexure to Wireless Adviser, Wireless Planning and Coordination Wing, Department of Telecommunications, 6th floor, Sanchar Bhawan, 20, Ashok Road, New Delhi - 110001.
- (10). Both the licensees shall also give an undertaking that they are in compliance with all the terms and conditions of the guidelines for spectrum trading and the license conditions and will agree that in the event, it is established at any stage in future that either of the licensee was not in conformance with the terms and conditions of the guidelines for spectrum trading or/and of the license at the time of giving intimation for trading of right to use the spectrum, the Government will have the right to take appropriate action which inter-alia may include annulment of trading arrangement.
- (11). The seller shall clear all its dues prior to concluding any agreement for spectrum trading. Thereafter, any dues recoverable up to the effective date of trade shall be the liability of the buyer. The Government shall, at its discretion, be entitled to recover the amount, if any, found recoverable subsequent to the effective date of the trade, which was not known to the parties at the time of the effective date of trade, from the buyer or seller, jointly or severally. The demands, if any, relating to licenses of seller, stayed by the Court of Law, shall be subject to outcome of decision of such litigation.



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- (12). Where an issue, pertaining to the spectrum proposed to be transferred is pending adjudication before any court of law, the seller shall ensure that its rights and liabilities are transferred to the buyer as per the procedure prescribed under the law and any such transfer of spectrum will be permitted only after the interest of the Licensor has been secured.
- (13). The relevant provisions in the NIA for auction of spectrum with regard to liberalization of existing spectrum holding in 800 MHz/1800 MHz band shall apply. In respect of other bands, where spectrum has not been acquired through auction, terms and conditions of liberalisation shall be as decided by the Government from time to time.
- (14). The terms and conditions attached to the spectrum under the provisions specified in the relevant Notice Inviting Application (NIA) document or otherwise shall continue to apply after the transfer of spectrum unless specifically mentioned in the guidelines.
- (15). Buyer will be allowed to use the spectrum acquired through trading to deploy any technology by combining it with their existing spectrum holding in the same band after converting their entire existing spectrum holding into liberalized spectrum in that band as per the prevalent terms and conditions.
- (16). The buyer should be in compliance with the prescribed spectrum caps declared from time to time. It is clarified that the spectrum acquired through trading shall be counted towards the spectrum cap by adding to the spectrum holding of the buyer. This will result in increase of spectrum holding of the buyer and reduction in spectrum holding of the seller.



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- (17). A TSP will be allowed to sell the spectrum through trading only after two years from the date of its acquisition through auction or spectrum trading or administratively assigned spectrum converted to tradable spectrum.
- (18). In case of administratively assigned spectrum converted to tradable spectrum after paying the prescribed market price, period of two years will be counted from the effective date of assignment of administrative spectrum.
- (19). If buyer is acquiring the entire spectrum holding of the seller in a spectrum band, then it shall fulfil the associated roll-out obligations within the balance time period for compliance subject to a minimum period of two years.
- (20). If the buyer is acquiring a part of the spectrum holding of the seller in a spectrum band, then both buyer and seller will have spectrum holding in that band after the trade. In such a scenario, both will be responsible for the roll-out obligations. There is no change in the roll-out obligations prescribed for seller, even if it is holding a lesser quantity of spectrum in that band post-trade. In addition, buyer will also be required to fulfil entire roll-out obligations. Since there is no change in the roll-out obligations of seller and there will be additional roll-out obligations for buyer, the buyer shall be given entire time duration to fulfil these roll-out obligations.
- (21). If the buyer has met some or all of its roll-out obligations through its prior spectrum holding in that band, it shall be taken into account and the buyer will not be required to repeat the required testing for roll-out obligations it has already met.
- (22). The seller should clear its Spectrum Usage Charges (SUC) and its instalment of payment due (in case seller had acquired the spectrum through auction and



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opted for deferred payment) till the effective date of trade and thereafter, the buyer shall clear all these dues.

- (23). If any TSP sells only a part of its spectrum holding in a band, both, buyer as well as seller, will be required to pay the remaining instalments of payment (in case seller had acquired the spectrum through auction and opted for deferred payment), prorated for the quantum of spectrum held by each of them subsequent to the spectrum trade.
- (24). A non-refundable transfer fee of one percent (1%) of the transaction amount of aforesaid trade or one percent (1%) of the prescribed market price, whichever is higher shall be imposed on all spectrum trade transactions, to cover the administrative charges incurred by Government in servicing the trade. The transfer fee shall be paid by the buyer to the Government. Transaction amount refers to the amount payable by the buyer to the seller to purchase the rights to use the spectrum block(s). It will be decided exclusively by the buyer and the seller. The market prices shall be equal to the auction determined amount prorated for the balance validity period of spectrum assignment. In case more than one set of market determined prices are available, the latest market determined price available at the time when the TSP wants to trade its spectrum holding, would be applicable. If the auction determined prices are more than one year old, the prevailing market price shall be applied by indexing the last auction price at the rate of SBI PLR.
- (25). The payment is to be made by draft in favour of Pay & Account Officer (HQ), DOT payable at New Delhi.
- (26). The amount received from trading shall be part of Adjusted Gross Revenue (AGR) for the purpose of levy of License fee and Spectrum Usage Charges (SUC).

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- (27). Existing rates as prescribed by the Government from time to time for Spectrum Usage Charge (SUC) shall continue to apply on spectrum held by the buyer and seller. The spectrum held by buyer shall include the spectrum acquired through trading. Spectrum acquired through spectrum trading shall be treated akin to spectrum acquired through auction.
- (28). Frequency swapping/reconfiguration from within the assignments made to the licensees shall not be treated as trading of spectrum. The conditions in the NIA shall govern frequency swapping/reconfiguration.
- (29). A licensee shall not be allowed to trade in spectrum if it has been established that the licensee had breached the terms and conditions of the license and the Licensor has ordered for revocation/termination of its license.
- (30). Licensor reserves the right to modify the guidelines from time to time as it may deem fit.


12.10.15
(P S M Tripathi)

Assistant Wireless Adviser
for and on behalf of President of India

To,

Wireless Adviser to the Government of India
 WPC Wing, Department of telecommunications
 Ministry of Communications & IT
 Sanchar Bhawan
 20, Ashok Road, New Delhi - 110001

Subject: - Intimation for Trading of Access Spectrum.

With reference to guidelines for trading of access spectrum issued vide L-14006/05/2015-NTG dated 12.10.2015, we wish to trade the spectrum as per details given below:

S. No.	Item	Status
1.	Name of the Licensee who is acquiring right to use spectrum (Buyer)	
2.	License No. of the Buyer and date of expiry of license	
3.	Name of the Licensee who is transferring the right to use the spectrum (Seller)	
4.	License No. of the Seller and date of expiry of license	
5.	Name of Licensed Service Area where spectrum trading is proposed	
6.	Total spectrum available with Buyer in the LSA (band wise)	
7.	Total spectrum available with Seller in the LSA (band wise)	
8.	Amount of administrative allotted spectrum band wise with the Buyer, if any, along with date of expiry of right to use of spectrum	
9.	Amount of administrative allotted spectrum band wise with the Seller, if any, along with date of expiry of right to use of spectrum	
10.	Amount of band wise spectrum obtained by Buyer through auction year wise along with date of expiry of right to use of spectrum	
11.	Whether administratively assigned spectrum has been converted to tradable spectrum by the Seller (attach proof of payment to the Govt.)	



12.	Amount of band wise spectrum obtained by Seller through auction year wise along with date of expiry of right to use of spectrum		
13.	Band of the spectrum for trading and frequency spots to be traded		
14.	Technology: Presently deployed To be deployed after trading		
15.	Amount of band wise spectrum to be traded (a)		
16.	Details of the spectrum (band wise) left with Seller after trade		
17.	Details of the spectrum (band wise) with Buyer after trade		
18.	Effective date of Trade		
19.	Band wise Market Price per MHz (b)		
20.	Prescribed Market Price (axb)		
21.	Transactional Amount		
22.	Details of payment of Transfer fee (one percent (1%) of the transactional amount or one percent (1%) of the prescribed market price, whichever is higher) to DoT, Amount/DD No.		
23.	Does the Buyer meet the band wise & overall Spectrum Cap limits as decided by the Government?		
24.	Spectrum cap %age held by Buyer post trade in the spectrum band traded		
25.	Spectrum cap %age held by Buyer post trade in the overall spectrum		
26.	Present Use of Spectrum by Seller		
27.	Intended Use of Spectrum by Buyer		
28.	Date of expiry of traded spectrum		
29.	Any other relevant information		

Date of Intimation:-----



It is certified that:

- 1) Both the licensees fulfil all the eligibility conditions for trading the spectrum.
- 2) Seller will be able to fulfil all the obligations linked with the spectrum including the roll-out obligations with the remaining amount of spectrum in the band. It has cleared all its dues, relating to its license, issued under section 4 of the Indian Telegraph Act 1885, including SUC charges and instalment of payment due (in case seller has acquired the spectrum through auction and opted for deferred payment) till effective date of trade. The demands, if any, relating to licenses of seller, stayed by the Court of Law, shall be subject to outcome of decision of such litigation.
- 3) Buyer fulfils all the eligibility conditions for acquiring the spectrum and shall assume all the obligations linked with the spectrum including roll-out obligations.
- 4) Both the licensees fulfil the conditions mentioned in the Guidelines for Trading of Access Spectrum by Access Service Providers issued vide OM No. L-14006/05/2015-NTG dated 12.10. 2015.

Seller

(Authorized Signatory)

Copy of Board Resolution and POA to be attached

Buyer

(Authorized Signatory)

Copy of Board Resolution and POA to be attached

Pande