

Government of India  
Ministry of Communications & IT  
Sanchar Bhawan, New Delhi-110001

No. P-11014/04/2013-PP

Dated: 10<sup>th</sup> May, 2016

**Subject:** On line sale/purchase of wireless sets/equipments.

It was conveyed to the online/ e-commerce companies vide this Ministry's letter of even No. dated 15.05.2015 that as per the Indian Wireless Telegraphy (Possession) Rules, 1965, no person/dealer shall sell or hire a wireless set/equipment to any person, unless such person /dealers hold a valid Dealer Possession License (DPL). The DPL holder can sell wireless sets/equipments only to such person/ entity that hold an authorization issued by this Ministry to establish a wireless telegraph under Indian Telegraph Act 1885.

2. In response to above, some of the online companies have stated that their role is of an intermediary only and they do not require holding or possessing a DPL (Dealer Possession License).
3. In this regard, the on-line/ e-commerce companies may further note the following:
  - i) e-commerce portals are operating as "online market place" and hence are covered under the preview of Information Technology Act 2000 as intermediaries. Hence, Section 79 of the IT Act and Information Technology (Intermediaries guidelines) Rules, 2011 are applicable in this case.
  - ii) It is the responsibility of these intermediaries to follow certain due diligence guidelines as stated in the Information Technology (Intermediaries guidelines) Rules, 2011, which includes signing of "**User Agreement**" for access or usage of the intermediary's computer resource by any person (Sellers and Purchasers under the referred context). These IT rules clearly indicate the typical aspects this "**User Agreement**" should address including the need for compliance of any laws by these sellers and the purchasers.
  - iii) In the instant case, there is a need for the Dealer Possession License (DPL) under the relevant provisions of the Indian Wireless Telegraphy Act 1933 by the seller for wireless equipment if it is in the licensed bands or "**Equipment Type Approval (ETA)**" if it is in the de-licensed band. The purchaser needs to obtain "**frequency authorization/agreement in principle letter**" from WPC Wing, DoT under Indian Telegraph Act 1885 before purchasing any equipment in the licensed bands and subsequently wireless operating license for the same after submitting required documents and spectrum charges/ fees. Therefore, the on-line intermediaries need to ensure that these statutory requirements are fulfilled.
  - iv) In case a wireless apparatus/ transceiver is required to be imported from abroad, the importing entity needs to obtain an *Import License*, as required under relevant



**Customs' rules**, from Regional Licensing Offices (RLOs) of this Ministry after submitting necessary fees and documents.

4. Therefore, it is reiterated that if there is any licensing/ statutory requirement on telecom equipment being sold or purchased, it will be the responsibility of those selling it or purchasing it, as well as of the online intermediaries facilitating such sale and purchase, that the relevant statutes of the Government are not violated.

5. The processes involved in obtaining DPL, frequency authorization /agreement in principle letter, Equipment Type Approval (ETA) certificate and import license are available on the website [www.wpc.gov.in](http://www.wpc.gov.in).

6. All concerned may ensure the compliance in this regard.

(D.JHA)

Senior Deputy Wireless Adviser

To

1. M/s eBay India Pvt. Ltd., 14<sup>th</sup> floor, North Block, R-Tech Park, Western Express Highway, Goregaon (E), Mumbai-400063.
2. M/s Flipkart Internet Pvt. Ltd. Vaishnavi Summit, Ground Floor, 7<sup>th</sup> Main, 80 feet Road, 3<sup>rd</sup> Block, Koramangla, Bangalore-560034.

**Copy to:**

1. M/s eBay India, Ashoka Estates, Barakhamba Road, New Delhi-110001.
2. M/s Flipkart Shop No. 310/311, C Wing Classic CENTRE, Curve Road, Andheri (E), Mumbai-400093
3. M/s Snap deal, 246 1<sup>st</sup> floor, Okhla Industrial Area, Phase-III, Delhi-110020
4. M/s Amazon.in, Brigade Gateway, 8<sup>th</sup> Floor, 26/1 Dr. Rajkumar Road, Malleswaram (W), Bangalore-560055
5. All the online/ e-commerce intermediaries.
6. Sr DWA (ASMS), to upload on the website.

