

DoT's Comments
on
“The TRAI Recommendations dated 11.05.2010 & 08-02-2011
Read with TRAI's Clarification dt. 3rd May 2011
on
“Spectrum Management and Licensing Framework”
Requiring Reconsideration by TRAI

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
CHAPTER I: Spectrum requirement and availability		
1.42 (6.1)	<p>TRAI should be entrusted with the task of carrying out a review of the present usage of spectrum available with government agencies. The objective of this exercise will be:</p> <ul style="list-style-type: none"> • to identify the spectrum actually in use by them; • to assess the efficiency of spectrum use; • to identify possible alternative solutions; • to examine the creation of a separate defence band; • to draw up a suitable schedule for release of spectrum for Telecommunications. 	<p>TRAI may carry out review and make its recommendations, on the present usage of spectrum available, either suo moto or on request from the Licensor as per Section 11 (1) (a) (viii) of the TRAI Act, 1997 (as amended from time to time), on the “efficient management of available spectrum”. However, public consultations shall be limited to the usage by licenced telecom service providers and government agencies not related to defence / security.</p>
1.61 (6.2)	<ul style="list-style-type: none"> • 585-698 MHz may be earmarked for digital broadcasting services including Mobile TV. • 698-806 MHz be earmarked only for IMT applications. 	<p>Government has released National Frequency Allocation Plan (NFAP)-2008 which is effective from 1st April 2009. The frequency band 585-806 MHz has been earmarked as per IND 37 as reproduced below:</p> <p><i>“IND 37 In the context of frequency band 585-806 MHz, bearing in mind that the band is predominantly for broadcasting services which include mobile TV, requirements of IMT and Broadband Wireless Access (BWA) subject to availability of spectrum in the frequency band 698-806 MHz may be considered</i></p>

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		<p><i>for coordination on case by case basis, as appropriate.”</i></p> <p>WPC Wing of DoT is currently reviewing the National Frequency Allocation Plan (NFAP)-2008. However, before the introduction of IMT 2000 in frequency band 698-806 MHz, spectrum used by the Ministry of I&B for Broadcasting is to be refarmed. Matter is being examined by DoT & I&B ministry.</p> <p>A decision on the use of 698-806 MHz for IMT applications may be taken separately after examination of the issue.</p>
1.73 (6.3)	Spectrum in 800 and 900 MHz bands should be refarmed at the time of renewal of the licenses. For holders of spectrum in 900 MHz band, substitute spectrum should only be assigned in 1800 MHz band and for licence holders of 800 MHz band, spectrum should be assigned in 450 /1900 MHz bands.	Can be examined on receipt of recommendations of TRAI on refarming subject to availability of spectrum in 1800 MHz band.
1.74 (6.4)	The Authority will carry out a separate consultation process on the issues involved in the refarming of 800/900 MHz spectrum and shall endeavour to give its recommendations before the licences come up for renewal	Access Services licences shall become due for extension from 2014 onwards. The recommendations of TRAI on refarming exercise would be required in a time bound manner well in advance before the licences are due for extension.
1.90 (6.5)	The Authority would undertake the refarming exercise, at the end of which it would work out and recommend the process and timeframe for refarming.	
1.93 (6.6)	A specific fund for spectrum refarming be created and that 50% of the realisation from all proceeds from spectrum including from the auction proceeds as well as from the Spectrum Usage charges should be transferred to	Most of this refarming will have to be done from the Government agencies including Defence and Department of Space. As the spectrum assigned to these agencies is being used for some specific purposes, either an alternate media like optical fibre or some other non-commercial alternate spectrum band will have to be provided and the incumbents will have to replace/ upgrade their equipment so

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	this fund.	as to work with the alternate media. This will require considerable expenditure on the part of the existing users. As this exercise is being done to vacate the spectrum and employ it for commercial uses, it is necessary to meet the required expenditure. However, no support is envisaged for private sector. The expenditure for vacation of spectrum should be met from the Consolidated Fund of India, as per the present practice.
1.98 (6.7)	The Authority would undertake regular spectrum audit through appropriate means. The details of the audit procedure and frequency of the exercise would be finalised through a separate consultation process.	TRAI may undertake regular spectrum audit for efficient management of available spectrum in terms of section 11 (1) (a) (viii) of the TRAI Act 1997 (as amended from time to time). (para 1.42 also refers)
Chapter II: Licensing related issues		
2.51 (6.9)	Keeping in view the scarcity of spectrum and the need to provide the contracted spectrum to the existing licensees, the Authority recommends that no more UAS licence linked with spectrum should be awarded.	From the deliberation in para 2.52 of the TRAI recommendation, it has been observed that on reference dated 22.07.2009 of DoT, TRAI has made this recommendation in respect of the 343 pending applications for grant of new UAS licences and that this recommendation is subject to the court decision in this matter. TRAI may recommend the Unified Licence guidelines at the earliest including, inter-alia, recommendations on First Come First Serve (FCFS), entry/eligibility conditions, PBG, FBG etc. A draft Unified licence agreement may also be recommended by TRAI.
2.52 (6.10)	The Authority would therefore like the Government to note that the recommendation made by the Authority in para 2.51 above is subject to the court decisions in this regard. The applicants will however be free to apply for or opt for a Unified licence, which is being recommended for future licences separately.	
2.62 (6.11)	All future licences should be unified licences and that spectrum be delinked from the licence.	A final view for implementation would be taken only after receipt of guidelines from TRAI for Unified Licences and its scope and migration path for all existing licence(s) covered under the scope of proposed Unified Licences.
2.103 (6.14)	IP-I category be also brought under the licensing regime with immediate effect.	TRAI may recommend the guidelines including, inter-alia, entry/eligibility condition and migration path and methodology for bringing existing IP-I providers under licensing regime.
2.110	The Authority recommends the reintroduction of the 'C' Category licence with a District-wide jurisdiction to	TRAI may recommend the Licence guidelines at the earliest including, inter-alia, recommendations on First Come First Serve (FCFS), entry /eligibility conditions,

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(6.15)	enable small operators including the cable operators to offer Internet service along with other services.	<p>validity period, PBG, FBG etc.</p> <p>A draft licence agreement may also be recommended by TRAI.</p> <p>In view of recommendation in para 2.62 & 2.186, TRAI may also recommend the category of this licence under the frame work of new licensing regime.</p>																																										
2.129 (6.18)	<p>The licence fee for all the services viz. Basic/CMTS/UAS Licences in all the telecom service areas, NLD, ILD, ISP, ISP with IT and GMPCS and IP-I licences, PMRTS, Commercial VSAT, leftover IP-II licensees till their migration to NLD licence be finalized and IPLC, in all the service areas, will progressively be brought to a uniform 6% of AGR over a four-year period, as shown in the table 2.12 below.</p> <p style="text-align: center;">Table 2.12 - Uniform license fee</p> <table border="1" data-bbox="205 781 852 1073"> <thead> <tr> <th>Service providers</th> <th></th> <th>2010-11</th> <th>2011-12</th> <th>2012-13</th> <th>2013-14</th> </tr> </thead> <tbody> <tr> <td>UASL/CMTS Metro</td> <td>in</td> <td>10%</td> <td>9%</td> <td>8%</td> <td>6%</td> </tr> <tr> <td>UASL/CMTS Category 'A'</td> <td>in</td> <td>9%</td> <td>8%</td> <td>7%</td> <td>6%</td> </tr> <tr> <td>UASL/CMTS Category 'B'</td> <td>in</td> <td>7%</td> <td>6%</td> <td>6%</td> <td>6%</td> </tr> <tr> <td>UASL/CMTS Category 'C'</td> <td>in</td> <td>6%</td> <td>6%</td> <td>6%</td> <td>6%</td> </tr> <tr> <td>ISP</td> <td></td> <td>4%</td> <td>5%</td> <td>6%</td> <td>6%</td> </tr> <tr> <td>IP-I</td> <td></td> <td>4%</td> <td>5%</td> <td>6%</td> <td>6%</td> </tr> </tbody> </table>	Service providers		2010-11	2011-12	2012-13	2013-14	UASL/CMTS Metro	in	10%	9%	8%	6%	UASL/CMTS Category 'A'	in	9%	8%	7%	6%	UASL/CMTS Category 'B'	in	7%	6%	6%	6%	UASL/CMTS Category 'C'	in	6%	6%	6%	6%	ISP		4%	5%	6%	6%	IP-I		4%	5%	6%	6%	<p>The need for Uniform Licence Fee for various Telecom Service Providers was mainly envisaged in the interest of simplicity, transparency, ending arbitrage in the rate of licence fee, expanding the licence fee base, and ensuring a level playing field between different services, with due consideration of the revenue receipts of the Government and the growth of telecom services in India.</p> <p>As already recommended by DoT committee dt. 31-08-2009, in order to simplify the implementation and to protect the revenue of the government, it is viewed that a uniform licence fee of 8.5% of AGR may be levied across all telecom licences, from a date to be decided, except for captive licences like VSAT and CMRTS licences etc., for which fixed licence fee conditions apply.</p>
Service providers		2010-11	2011-12	2012-13	2013-14																																							
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ISP		4%	5%	6%	6%																																							
IP-I		4%	5%	6%	6%																																							
2.130 (6.19)	<p>Infrastructure providers – IP-I and the ISPs be levied a uniform licence fee which would be scaled upto 6% progressively over a three-year period, as shown in the table below. The Authority would however like the Government to examine the issues of double taxation, if any.</p>	<p>In view of para 2.129 above, IP-I and ISPs should pay the uniform annual licence fee of 8.5% of AGR. AGR from ISPs shall include all types of revenue from internet services, from a date to be decided.</p> <p>TRAI may recommend the issues involved with regard to double taxation, if any, considering the need for revenue neutrality and outsourcing model being used by various operators.</p>																																										

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2.143 (6.21)	<p>The existing roll out obligations in the CMTS/UAS licences be replaced by the following roll out obligations for all the service areas except the Metros. The rollout obligations for metros would continue to be in force.</p> <table border="1" data-bbox="205 430 814 560"> <thead> <tr> <th colspan="4" data-bbox="468 430 636 451">Roll out obligations</th> </tr> <tr> <th data-bbox="205 451 457 472">Time</th> <th data-bbox="468 451 583 472">Habitation >10000</th> <th data-bbox="594 451 709 472">Habitation 5000-10000</th> <th data-bbox="720 451 814 472">Habitation 2000-5000</th> </tr> </thead> <tbody> <tr> <td data-bbox="205 472 457 493">2 years from effective date</td> <td data-bbox="468 472 583 493">100%</td> <td data-bbox="594 472 709 493">50%</td> <td data-bbox="720 472 814 493">-</td> </tr> <tr> <td data-bbox="205 493 457 514">3 years from effective date</td> <td data-bbox="468 493 583 514">100%</td> <td data-bbox="594 493 709 514">100%</td> <td data-bbox="720 493 814 514">50%</td> </tr> <tr> <td data-bbox="205 514 457 535">4 years from effective date</td> <td data-bbox="468 514 583 535">100%</td> <td data-bbox="594 514 709 535">100%</td> <td data-bbox="720 514 814 535">100%</td> </tr> </tbody> </table> <p>In the above roll out obligations, coverage of 90% or above habitations will be taken as compliance of the obligation.</p>	Roll out obligations				Time	Habitation >10000	Habitation 5000-10000	Habitation 2000-5000	2 years from effective date	100%	50%	-	3 years from effective date	100%	100%	50%	4 years from effective date	100%	100%	100%	<p>Para 2.143 to 2.146 and 2.150 to 2.152</p> <p>It is not clear whether:</p> <ul style="list-style-type: none"> (i) The additional roll out are prescribed by TRAI for those Access Services Providers (UASL) who have already completed the existing roll out period of 3 years under the licence agreement. or (ii) This roll out is to be applied for new UAS licenses to be given in future. <p>In case of (i) above, it may be examined by TRAI whether enforcing additional roll out obligation is legally tenable.</p> <p>It may also be noted that TRAI has recommended all future licences to be in the category of Unified Licence category only.</p>
Roll out obligations																						
Time	Habitation >10000	Habitation 5000-10000	Habitation 2000-5000																			
2 years from effective date	100%	50%	-																			
3 years from effective date	100%	100%	50%																			
4 years from effective date	100%	100%	100%																			
2.144 (6.22)	<p>A licensee may be allowed to cover the habitations having a population between 2000-5000 through intra service area roaming, subject to the condition that at least one third of the habitations shall be covered by its own network.</p>																					
2.145 (6.23)	<p>For the existing licensees, who have already completed more than 4 years but have not achieved the roll out obligations, the Authority recommends that they should be given one more year to complete the roll out in required number of habitations.</p>																					
2.146 (6.24)	<p>Failure to fulfil the rollout obligations would entail penalty in the form of additional spectrum usage charge at the rates indicated in Para 2.140 above.</p> <p><i>Para 2.140: In order that the roll out obligations are properly fulfilled, it is essential that the monitoring is strict. The Authority would propose that in the event a service provider, who has already completed five years from the effective date of licence, fails to fulfil the rollout obligations as indicated above, it will be charged</i></p>																					

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	<i>spectrum usage charges (as proposed in Chapter-III) at the next slab every successive year. In other words, if a service provider with 6.2MHz spectrum, and liable to pay the Spectrum Usage Charges at 3.1% of AGR, failing in its rollout obligations will be charged 4.8% or 6.9% in the successive years. In so far as operators who have not yet completed five years, failure to fulfil the rollout obligations would entail an additional spectrum usage charge of 0.5% of AGR every successive year.</i>	
2.150 (6.26)	Those licensees who have covered 50% of the habitations with a population of 500-2000 be given a reduction of 0.5% in the annual licence fee. And those licensees who have covered 100% (90% & above to be treated as 100%) of the habitations with a population of 500-2000 should be given a 2% discount in the annual licence fee.	
2.151 (6.27)	The Universal Service Obligation Fund be utilised by the government for provision of telecommunications facilities in habitations having a population of less than 500 and to provide broadband to all the villages having a population of more than 1000 to start with and later extend the same to all habitations having a population of 500 and above.	
2.152 (6.28)	In order to provide a level playing field between the old and new service providers the Authority recommends that the reduction in the licence fee shall be applicable only with effect from 1.4.2012 i.e. four years from the grant of licence to the new service providers.	
2.163 (6.29)	A licensee must apply for renewal 30 months before its expiry and that the licensor must convey its decision preferably within 3 months but not later than 6 months from the date of application.	A licensee must apply for extension at least 30 months and not earlier than 36 months before its expiry and that the licensor shall convey its decision preferably within 3 months from the date of application.

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2.164 (6.30)	Existing UAS licences may be renewed for another 10 years at one time, as per the provisions of the existing licensing regime.	The validity of existing UAS licences may be extended for another 10 years at one time, as per the provisions of the existing licensing regime with suitable Terms & Conditions. Existing CMTS and Basic Services licences may also be included.
2.165 (6.31)	On renewal, the UAS licensee will be required to pay a Renewal fee which will be Rs. 2 crore for Metro and 'A' Circles, Rs. 1 crore for 'B' circles and Rs. 0.5 crore for 'C' circles. This Renewal fee does not cover the value of spectrum, which shall be paid for separately.	Present licences have provisions for extension of validity period of licence. Accordingly the term 'renewal' may be replaced by 'extension'. (Comments in Chapter –III also refers)
2.173 (6.32)	While renewing the licence, the Government should assign spectrum only upto the prescribed limit or the amount of spectrum assigned by it to the licensee before the renewal, whichever is less. Spectrum assigned by the Government to the licensee in excess of the Prescribed Limit shall be withdrawn.	
2.174 (6.33)	The spectrum will be assigned at the current price, duly adjusted to the year of renewal. The Authority may review the situation and recommend to the Government the Current price from time to time.	
2.175 (6.34)	Keeping in view the value of 900 MHz spectrum, the Authority recommends that on renewal of the licence, spectrum held by a licensee in the 900 MHz band shall be replaced by assignment of equal amount of spectrum in 1800 MHz. In case sufficient spectrum in 1800 MHz band is not available with the Government to replace the 900 MHz, the licensee will be allowed to retain the 900 MHz band spectrum on a purely temporary basis subject to the condition, and an undertaking by the licensee, that on availability of spectrum in the 1800 MHz, the spectrum given in the 900 MHz will be taken back by the	Looking at the technical and implementation issues, it is observed that 6 months period may not be sufficient to migrate the network from 900MHz to 1800MHz band on extension of licence(s). Also during the overlap period of migration (i.e. 6 months as recommended by TRAI), spectrum charges to be levied are to be recommended by TRAI because during this overlap period, the service providers could have spectrum more than the entitled allocation. Criteria for allocation of spectrum in 1800 MHz band on extension of licences may be recommended by TRAI in case spectrum in 1800 Mhz band is not sufficient to meet the requirement of all the licensees.

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	Government at 6 months' notice. Renewal of the licence will be subject to, inter alia, this express condition. Similar action would be taken in respect of the 800 MHz band spectrum which would be replaced by spectrum in 1900 MHz/450 MHz band.	This may be reviewed by TRAI. (Comments in Chapter –III also refers)
2.186 (6.35)	<p>The framework under the new licensing regime should be as follows:</p> <ol style="list-style-type: none"> i. <u>Unified licence</u> covering UASL/CMTS, NLD, ILD, Internet, IP-I and GMPCS; ii. <u>Class licence</u> covering VSAT services; and iii. <u>Licensing through Authorisation</u> covering PMRTS, Radio Paging and Voice Mail/Audio Tex/Unified Messaging Service. iv. <u>Broadcasting licences</u> 	<p>(para 2.62 refers)</p> <p>TRAI may recommend detailed guidelines and licence conditions for all the 4 categories, including, inter-alia, recommendations on First Come First Serve(FCFS), entry fee, eligibility conditions, validity period, PBG, FBG etc. The scope of this licence shall cover voice, video and data services including internet telephony.</p> <p>A draft licence agreement may also be recommended by TRAI in all the 4 categories. However 'Broadcasting Licences' may continue under purview of I&B Ministry as at present.</p> <p>It is also noted that:</p> <ol style="list-style-type: none"> i) The present entry fee for obtaining NLD / ILD licence is only Rs. 2.5 crore while the entry fee for the Unified Licence has been recommended as Rs. 20 crore. ii) The entry fee for obtaining ISP licences (20 years) is also very minimal (Rs.30 lacs/Rs 15 lacs for Category 'A' (all India ISP Licence)/ Category 'B' (service area level ISP licence) respectively) <p>TRAI may also recommend modalities & guidelines for enabling existing UAS/CMTS/ISP/NLD/ILD/GMPCS licensees including IP-I providers to migrate to National/Service Area level Unified Licence. Guidelines shall ,inter-alia, include entry fee payable, eligibility, validity period of licence on migration, PBG, FBG etc.</p>
2.187 (6.36)	A Unified licensee shall be permitted to offer any/all services covered under 'Class licence' and 'Licensing through Authorization' but not vice-versa. Such a licensing regime will be service and technology neutral	Terms & conditions for the additional services are to be specified in the Unified Licence also. These may be recommended by TRAI.

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	and shall permit a unified license holder to offer any or all telecom services. Spectrum, if required, is to be obtained separately.	
2.188 (6.37)	There shall be two levels of Unified licence: National level and Service area level. National level unified licence shall permit the licensee to offer any or all of the above-mentioned services in any/all service areas. Service area level unified licence, on the other hand restricts this option to the specified service area/s for which licence is given. Such licensees would not be permitted to offer NLD & ILD services. Both these licences will carry an obligation to pay licence fee at 6% of the AGR.	(para 2.62 may also be referred) As clarified by TRAI, Service Area level licence shall not include GMPCS. Annual Licence fee shall be as per the decision to be taken on para 2.129.
2.195 (6.38)	The Authority accordingly recommends an Entry Fee of Rs. 20 crore for Nationwide Unified licence. For Service area-wise licences, the Entry Fee may be Rs. 2 crore for the Metros and Category 'A' service areas, Rs. 1 crore for Category 'B' and Rs. 0.5 crore for Category 'C' service areas. In addition, Annual Licence fee of 6% on AGR will be levied.	
2.196 (6.39)	The V-SAT licence will continue to have an Entry Fee of Rs. 30 lakh and an annual licence fee of 6% of AGR. The Entry Fee for licences through Authorisation will entail an Entry Fee of Rs. 10,000 and an annual licence fee of 1% of the AGR.	
2.197 (6.40)	In case an existing licensee obtains a Unified License, the licensee shall surrender the old licence(s). However, in case of CMTS/UASL, the licensee will continue to retain the spectrum assigned for the validity period of the old license.	TRAI may also recommend modalities & guidelines for enabling existing UAS/CMTS/ISP/NLD/ILD/GMPCS licensees to migrate to National/Service Area level Unified Licence. Guidelines shall ,inter-alia, include entry fee payable, eligibility, validity period of licence, PBG, FBG etc. In addition, TRAI may also recommend modalities & guidelines for migration of Service Area level Unified Licence to National level Unified Licence.

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2.201 (6.41)	In respect of the unified licences, there will be no roll out obligations. But from the second year of the effective date of the license, the licensee will pay the licence fee at the applicable rate, subject to a minimum of 10% of the Entry fee.	Rollout obligation on obtaining spectrum may be incorporated in Unified Licence(s)/Wireless operating licence(s) which shall be subject to date of allocation of spectrum. TRAI may recommend the Roll out Obligation provisions to be included in the relevant licence(s) taking into account the provisions of rollout in the existing licence(s) for migration to Unified Licence. In addition, TRAI may also recommend presumptive AGR, on obtaining spectrum by operator, similar to para 2.133.																		
CHAPTER III:SPECTRUM ASSIGNMENT AND PRICING																				
3.28 (6.42)	The limit on spectrum to be assigned to a service provider will be 2X8MHz for all service areas other than in Delhi and Mumbai where it will be 2X10MHz. Similarly for CDMA spectrum the Authority recommends that the limit on spectrum will be 2X5MHz for all service areas and 2X6.25 MHz in the Metro areas of Delhi and Mumbai. As concluded in chapter-II, the contracted Spectrum as per the license is 6.2MHz/5 MHz (GSM/CDMA) only. Therefore, even though the service provider will be assigned spectrum upto the prescribed limit, Spectrum assigned beyond contracted amount will be paid for at the current price. This will be equally applicable to the service providers who are already holding the excess spectrum and those who will be assigned beyond the contracted amount in future.	Regarding current price, para 3.82 may also be seen. TRAI has clarified various nomenclature used for spectrum assignment as summarised below: <table border="1" data-bbox="930 748 1898 1377"> <thead> <tr> <th data-bbox="930 748 1251 834">Nomenclature used</th> <th data-bbox="1257 748 1579 834">Amount of spectrum for GSM</th> <th data-bbox="1585 748 1898 834">Amount of spectrum for CDMA</th> </tr> </thead> <tbody> <tr> <td data-bbox="930 839 1251 919">Initial / Start up spectrum</td> <td data-bbox="1257 839 1579 919">2x4.4 MHz</td> <td data-bbox="1585 839 1898 919">2x2.5MHz</td> </tr> <tr> <td data-bbox="930 924 1251 1003">Contracted/Committed Spectrum</td> <td data-bbox="1257 924 1579 1003">2x6.2MHz</td> <td data-bbox="1585 924 1898 1003">2x5MHz</td> </tr> <tr> <td data-bbox="930 1008 1251 1175">Prescribed Limit of Spectrum</td> <td data-bbox="1257 1008 1579 1175">2x8MHz (other than Delhi & Mumbai) 2x10MHz(for Delhi & Mumbai)</td> <td data-bbox="1585 1008 1898 1175">2x5MHz(other than Delhi & Mumbai) 2x6.25MHz(for Delhi & Mumbai)</td> </tr> <tr> <td data-bbox="930 1180 1251 1260">Excess Spectrum</td> <td data-bbox="1257 1180 1579 1260">Beyond contracted spectrum</td> <td data-bbox="1585 1180 1898 1260">Beyond contracted spectrum</td> </tr> <tr> <td data-bbox="930 1265 1251 1377">Additional Spectrum</td> <td data-bbox="1257 1265 1579 1377">Beyond initial Spectrum and includes excess spectrum</td> <td data-bbox="1585 1265 1898 1377">Beyond initial Spectrum and includes excess spectrum</td> </tr> </tbody> </table>	Nomenclature used	Amount of spectrum for GSM	Amount of spectrum for CDMA	Initial / Start up spectrum	2x4.4 MHz	2x2.5MHz	Contracted/Committed Spectrum	2x6.2MHz	2x5MHz	Prescribed Limit of Spectrum	2x8MHz (other than Delhi & Mumbai) 2x10MHz(for Delhi & Mumbai)	2x5MHz(other than Delhi & Mumbai) 2x6.25MHz(for Delhi & Mumbai)	Excess Spectrum	Beyond contracted spectrum	Beyond contracted spectrum	Additional Spectrum	Beyond initial Spectrum and includes excess spectrum	Beyond initial Spectrum and includes excess spectrum
Nomenclature used	Amount of spectrum for GSM	Amount of spectrum for CDMA																		
Initial / Start up spectrum	2x4.4 MHz	2x2.5MHz																		
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		TRAI has defined the quantum of spectrum contracted and spectrum beyond contracted spectrum has been defined as excess spectrum. TRAI may indicate the rationale for defining the prescribed limit of spectrum.
3.34 (6.43)	<p>Spectrum beyond contractual quantity i.e. 2x6.2MHz may be assigned in the following tranches:-</p> <ul style="list-style-type: none"> • For all the service areas, the additional spectrum may be assigned in a single tranche of 2x1.8MHz making a total 2x8MHz; • For the metro service areas of Delhi and Mumbai, the additional spectrum may be assigned in two tranches; the first tranche of 2x1.8MHz, the making a total of 2x8MHz and then the second tranche of 2x2MHz making a total of 2x10MHz. 	Same as above in para 3.28 above.
3.43 (6.44)	The use of subscriber linked criteria be done away with for assignment of spectrum.	May be read with para 3.52(6.48) & 3.54(6.49).
3.46 (6.45)	The Authority concludes that it is not feasible to auction spectrum in the 800,900 and 1800 MHz bands.	This recommendation has been modified vide TRAI letter dated 08.02.2011 and has been considered in para 3.82.
3.50 (6.47)	Government should bring additional blocks into 3G services at the earliest and offer the same at the highest price being discovered through the present auction to the	It is noted that the additional blocks in 3G have not become available within 1 year of the 3G auction.

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	<p>remaining bidders in the order of bids. If, however, more than a year lapses from now for this exercise, a fresh auction needs to be conducted.</p>	
<p>3.52 (6.48)</p>	<p>The eligibility conditions for assignment of additional spectrum beyond the initial start up spectrum, shall be as follows:</p> <ul style="list-style-type: none"> • For assignment of spectrum beyond 2.5 MHz and upto 3.75 MHz of CDMA, the service providers should have made the commercial launch and have covered 25% of the district headquarters or any other town in the district in lieu thereof. • For assignment of spectrum beyond 4.4 MHz and up to 6.2 MHz in respect of GSM as well as beyond/3.75 MHz and up to 5MHz in respect of CDMA, the service provider should have covered at least 50% of the District headquarters or any other town in a District in lieu of the District Headquarters. Coverage of a DHQ/town would mean that at least 90% of the area bounded by the Municipal limits should get the required street coverage. The assignment is subject to the condition that the service provider will complete the prescribed roll out obligations for 2 years, within a period of 6 months from the date of assignment of additional spectrum. 	<p>Observations are as below:</p> <ul style="list-style-type: none"> • Present licensing regime does not envisage coverage of 25% of the district headquarters or any other town in the district in lieu thereof as part of either 1st year or 3rd year rollout obligations. • There are also no provisions for monitoring 2nd year roll out in the present licences. Para 2.143(6.21) may also be seen. • Moreover, having considered recommendation in para 3.43(6.44), there is no tool/methodology recommended by TRAI to ensure satisfactory penetration after having covered the area as roll-out obligations for determining eligibility for further assignment of spectrum. • TRAI has also raised concerns recently with DoT for unsatisfactory coverage of services inspite of meeting roll out criteria by the operators. • Criteria of allocation for CDMA from 5MHz to 6.25 Mhz in service areas other than Delhi/Mumbai prescribed by TRAI is not applicable as the prescribed limit is only 5MHz. • It is noted that in respect of recommendations for assignment of additional spectrum beyond initial start up spectrum, in DELHI & MUMBAI service area, TRAI has recommended satisfactory coverage criteria also in terms of % of market share.

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
	<ul style="list-style-type: none"> • For assignment of spectrum from 6.2 to 8 MHz in respect of GSM and from 5 MHz to 6.25 MHz in respect of CDMA, the service providers should have completed the two years' roll-out target. The assignment is subject to the condition that the service providers will complete the roll-out target prescribed for three years within a period of one year from the date of assignment of additional spectrum. • In Delhi and Mumbai, the service provider would be entitled for additional GSM spectrum beyond 4.4 MHz upto 6.2 MHz on achievement of 90% street coverage of the Metro service area. Achievement of 5% and 10% of market share in the Metro service area would entitle the service provider for spectrum of 8 MHz and 10 MHz respectively. In respect of CDMA, the commercial launch and 90% street coverage would be the entitlement for spectrum from 2.5 MHz upto 3.75 MHz, and achievement of 5% and 10% of the market share in the Metro service area for 5 MHz and 6.25 MHz respectively. 	<p>Accordingly, it is viewed that:</p> <ul style="list-style-type: none"> (i) The recommendations may be considered for DELHI & MUMBAI service areas only. TRAI may examine to consider similar criteria for Kolkata & Chennai LSAs. (ii) Market share shall be as defined in M&A guidelines. (iii) It is further viewed that recommendations in respect of other service areas may be reconsidered by TRAI in the absence of suitable criteria to judge satisfactory penetration for the already assigned spectrum. TRAI may examine and reconsider a criteria for service areas other than Delhi & Mumbai also on the same lines as in (i) above. (In this regard the views in para 2.143-2.145 may be referred to.) (iv) For service areas other than Delhi & Mumbai, existing subscriber linked criteria shall continue till a revised criteria for allocation of additional spectrum is finalised.
3.54 (6.49)	<p>The subscriber linked criteria, as adopted by the Government in January 2008 be kept operational only for a period of six months to enable all operators who are already qualified for the additional spectrum based on the prevalent SLC or those who would be qualified within the next six months, to be assigned additional spectrum subject to availability and the Prescribed limit recommended earlier (Para 3.28). Assignment of</p>	<p>The subscriber linked criteria, as adopted by the Government in January 2008 be kept operational only for a period of six months to enable all operators who are already qualified for the additional spectrum based on the prevalent SLC or those who would be qualified within the next six months, to be assigned additional spectrum subject to availability and the Prescribed limit recommended in Para 3.28.</p>

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
	additional spectrum to such service providers will be subject to the condition that they shall complete the 2 years' roll out obligation within a period of six months from the date of assignment of additional spectrum.	(Para 3.52 and 3.43 also refers.)
3.61 (6.50)	<p>The inter-se priority between the different categories of operators shall be as follows:</p> <p>a. Licensees who have received the initial start up spectrum and have met the eligibility conditions for grant of additional spectrum up to 6.2/5 MHz will be given the top priority. The inter-se priority for such operators, subject to meeting the eligibility norms, would be the date of application for additional spectrum.</p> <p>b. Licensees who have been assigned the committed spectrum but are waiting to get additional spectrum-up to the maximum permissible limit will be next in priority. The inter-se priority between operators within this group, subject to meeting the eligibility norms, would also be the date of application for additional spectrum,</p> <p>c. Next in priority will be those who are waiting for the start up spectrum. The inter-se priority between such operators would be the date of UAS licence.</p>	<p>TRAI has recommended a gap of 6 months for reference date for considering allocation. (refer para 3.57)</p> <p>As per TRAI's recommendations, the licensee, who have not been allocated the contracted spectrum and are waiting for initial/start up spectrum shall be the last in priority after those who are seeking spectrum beyond the contracted spectrum. As per these recommendations of TRAI, it may so happen that licensee in category (c) may always be left out, in case spectrum chunk to be allocated is not sufficient to meet the demand of category (a) and (b). However licensee(s) in category (c) have the contractual right to obtain the spectrum.</p> <p>It is also observed that there may be a scenario where the spectrum available for assignment is less than the tranche of spectrum to be allocated to the eligible operator. In such a scenario, the spectrum shall be assigned only after required tranche becomes available even though the spectrum may be sufficient to meet the demand of next eligible operator. Moreover, those operators, who have been allocated spectrum only in part of service area geographically, after being eligible, shall be on the first priority to get the spectrum in the remaining parts of the service area.</p> <p>Referred back to TRAI for reconsideration in view of above.</p>
3.69 (6.51)	<ul style="list-style-type: none"> • Spectrum in bands other than 800, 900 and 1800 MHz could be considered for non-commercial use on a case by case basis, after due reference to and recommendation from TRAI. However, such 	<ul style="list-style-type: none"> • It is an ongoing process and there are a large number of telecom services in bands other than 800, 900 and 1800 MHz commercial band.

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	<p>assignment will be done very sparingly.</p> <ul style="list-style-type: none"> Users of all spectrum assigned for the non-commercial usage in the identified commercial bands will be levied an annual spectrum usage charge comparable to the charge being paid for the commercial services. 	<ul style="list-style-type: none"> Non-commercial usage in commercial bands should not be encouraged in-principle. Current non-commercial users in commercial bands would, however, may continue till such time as they can be relocated to other bands. Annual spectrum usage charges for commercial bands are as % of AGR. TRAI may recommend the methodology for levy of annual spectrum usage charge for non-commercial services (including government users), comparable to the charges being paid for commercial services.
3.82 (6.52)	<p>The 3G prices be adopted as the 'Current price' of spectrum in the 1800 MHz band. At the same time, Authority is separately initiating an exercise to further study this subject and would apprise the Government of its findings.</p>	<p>On further consideration, TRAI has made recommendations vide letter dated 8.2.2011 subsequently.</p> <p>TRAI has further forwarded their clarifications on earlier recommendations vide letter dated 3rd May 2011.</p> <p>It is observed that:</p> <ol style="list-style-type: none"> (a) TRAI, in its letter dt. 8.2.2011, has recommended that the "Current Price" of GSM spectrum in 1800 MHz be taken equal to the estimated price mentioned in the table given in para 5 of letter dated 8.2.2011. The "Current Price" of spectrum is in two parts: <ul style="list-style-type: none"> (i) Upto 6.2 MHz (i.e. upto contracted Spectrum) in 1800 MHz band (ii) Beyond 6.2MHz (i.e. beyond contracted Spectrum) in 1800 MHz band <p>This table is reproduced as below:</p>

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		<p>TABLE</p> <table border="1"> <thead> <tr> <th rowspan="3">Sl.no</th> <th rowspan="3">Service Area</th> <th rowspan="3">Category</th> <th colspan="3">In Rs. Cr</th> </tr> <tr> <th rowspan="2">Entry Fee (in 2001)</th> <th colspan="2">Estimated Price of 1800 MHz spectrum (in 2010)</th> </tr> <tr> <th>per MHz</th> <th>per MHz upto 6.2 MHz</th> <th>per MHz Beyond 6.2 MHz</th> </tr> </thead> <tbody> <tr><td>1</td><td>Delhi</td><td>Metro</td><td>27.53</td><td>149.78</td><td>249.73</td></tr> <tr><td>2</td><td>Mumbai</td><td>Metro</td><td>32.85</td><td>101.11</td><td>157.34</td></tr> <tr><td>3</td><td>Kolkata</td><td>Metro</td><td>12.58</td><td>49.48</td><td>47.60</td></tr> <tr><td>4</td><td>Maharashtra</td><td>A</td><td>30.48</td><td>117.14</td><td>374.47</td></tr> <tr><td>5</td><td>Gujarat</td><td>A</td><td>17.58</td><td>149.87</td><td>355.37</td></tr> <tr><td>6</td><td>Andhra Pradesh</td><td>A</td><td>16.61</td><td>153.77</td><td>431.95</td></tr> <tr><td>7</td><td>Karnataka</td><td>A</td><td>33.36</td><td>136.16</td><td>345.92</td></tr> <tr><td>8</td><td>Tamil Nadu</td><td>A</td><td>37.58</td><td>187.38</td><td>426.05</td></tr> <tr><td>9</td><td>Kerala</td><td>B</td><td>6.54</td><td>73.98</td><td>232.16</td></tr> <tr><td>10</td><td>Punjab</td><td>B</td><td>24.48</td><td>72.86</td><td>180.56</td></tr> <tr><td>11</td><td>Haryana</td><td>B</td><td>3.46</td><td>14.50</td><td>107.90</td></tr> <tr><td>12</td><td>UP- East</td><td>B</td><td>7.30</td><td>151.76</td><td>318.76</td></tr> <tr><td>13</td><td>UP-West</td><td>B</td><td>4.93</td><td>60.11</td><td>252.55</td></tr> <tr><td>14</td><td>Rajasthan</td><td>B</td><td>5.20</td><td>106.03</td><td>278.84</td></tr> <tr><td>15</td><td>Madhya Pradesh</td><td>B</td><td>2.81</td><td>87.71</td><td>254.45</td></tr> <tr><td>16</td><td>West Bengal</td><td>B</td><td>0.16</td><td>44.79</td><td>216.96</td></tr> <tr><td>17</td><td>Himachal Pradesh</td><td>C</td><td>0.18</td><td>9.34</td><td>28.12</td></tr> <tr><td>18</td><td>Bihar</td><td>C</td><td>1.61</td><td>51.04</td><td>153.69</td></tr> <tr><td>19</td><td>Orissa</td><td>C</td><td>0.81</td><td>24.33</td><td>73.26</td></tr> <tr><td>20</td><td>Assam</td><td>C</td><td>0.81</td><td>10.40</td><td>31.33</td></tr> <tr><td>21</td><td>North-east</td><td>C</td><td>0.32</td><td>10.61</td><td>31.95</td></tr> <tr><td>22</td><td>Jammu and Kashmir</td><td>C</td><td>0.32</td><td>7.60</td><td>22.89</td></tr> <tr><td></td><td>All India</td><td></td><td>267.51</td><td>1769.75</td><td>4571.87</td></tr> </tbody> </table>	Sl.no	Service Area	Category	In Rs. Cr			Entry Fee (in 2001)	Estimated Price of 1800 MHz spectrum (in 2010)		per MHz	per MHz upto 6.2 MHz	per MHz Beyond 6.2 MHz	1	Delhi	Metro	27.53	149.78	249.73	2	Mumbai	Metro	32.85	101.11	157.34	3	Kolkata	Metro	12.58	49.48	47.60	4	Maharashtra	A	30.48	117.14	374.47	5	Gujarat	A	17.58	149.87	355.37	6	Andhra Pradesh	A	16.61	153.77	431.95	7	Karnataka	A	33.36	136.16	345.92	8	Tamil Nadu	A	37.58	187.38	426.05	9	Kerala	B	6.54	73.98	232.16	10	Punjab	B	24.48	72.86	180.56	11	Haryana	B	3.46	14.50	107.90	12	UP- East	B	7.30	151.76	318.76	13	UP-West	B	4.93	60.11	252.55	14	Rajasthan	B	5.20	106.03	278.84	15	Madhya Pradesh	B	2.81	87.71	254.45	16	West Bengal	B	0.16	44.79	216.96	17	Himachal Pradesh	C	0.18	9.34	28.12	18	Bihar	C	1.61	51.04	153.69	19	Orissa	C	0.81	24.33	73.26	20	Assam	C	0.81	10.40	31.33	21	North-east	C	0.32	10.61	31.95	22	Jammu and Kashmir	C	0.32	7.60	22.89		All India		267.51	1769.75	4571.87
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		<p>(b) In view of availability of spectrum envisaged by TRAI on cancellation of licences in Annexure A1 to A6 of letter dated 8.2.2011, TRAI has recommended to auction this spectrum. TRAI has further recommended that the current price mentioned in the above table be modified as relevant current price of spectrum beyond 6.2 MHz for given LSA based on the auction, provided auction is conducted within 12 months of decision by the Government on these recommendations.</p> <p>(c) It is implied that in case of non-availability of spectrum in 1800 MHz band due to non cancellation/vacation by the existing licensee, and/or non-auction of spectrum due to any reason within 12 months from the date of acceptance of these recommendations by Government, the estimated price mentioned in the table above shall remain as the Current Price of spectrum for GSM beyond 6.2 MHz(beyond contracted spectrum) in 1800 MHz band.</p> <p>(d) However, the Current Price upto contracted spectrum shall be equal to the estimated price upto 6.2MHz in 1800MHz band as recommended by the TRAI. Further, TRAI has clarified on 3rd May 2011(para 7) that “ The very concept of ‘current price’ is in respect of excess spectrum. As such the application of ‘current price’ to the contracted spectrum whether GSM or CDMA does not arise.” The Current Price of spectrum upto 6.2MHz in 1800 MHz band is recommended in case of extension of licences.</p> <p>(e) Further, as clarified by TRAI, no current price is to be charged from the existing operators for assigning spectrum upto 6.2MHz (contracted spectrum) in 1800 MHz band and upto 5MHz for CDMA (contracted spectrum) during the validity of existing licences held by them.</p>

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		<p>2.</p> <p>(a) Reading of para 3.28 of TRAI recommendations indicates that maximum spectrum (prescribed limit) is to be assigned as below:</p> <p>2x10 MHz for GSM in Delhi & Mumbai</p> <p>2x8 MHz for GSM in rest of Service Areas</p> <p>2x6.25MHz for CDMA in Delhi and Mumbai</p> <p>2x5 MHz for CDMA in rest of Service Areas</p> <p>It is implied that as per TRAI recommendations, spectrum beyond the above prescribed limit is not to be assigned in any case except in case of consolidation/mergers. As already discussed by TRAI in para 2.47(6.8), contracted spectrum for GSM is 2x6.2 MHz and for CDMA is 2x5 MHz.</p> <p>(b) Reading of para 3.102 along with of letter dated 8.2.2011 indicates that this current price for GSM beyond 8 MHz in 1800 MHz band would be 1.3 times of the current price of the spectrum in 1800 MHz.</p> <p>(i.e. equal to 1.3 x current price of beyond 6.2 MHz GSM spectrum in 1800MHz band)</p> <p>(c) Further, TRAI has not recommended the current price for CDMA spectrum in recommendations dated 8-2-2011. However, for CDMA spectrum (beyond contracted spectrum), it is linked to para 3.91, 3.102 and 3.104 of recommendations dated 11-05-2010.</p> <p>(d) Reading of para 3.91, 3.102 and 3.104 alongwith letter dt. 8.2.2011 indicates that -</p> <p>(i) the Current Price for CDMA spectrum per MHz in 800 MHz band beyond contracted spectrum upto prescribed limit would be 1.5 times of 1800MHz GSM spectrum current price beyond 6.2 MHz.</p> <p>(ii) the Current Price for GSM spectrum per MHz in 900 MHz band upto prescribed limit would be 1.5 times of 1800MHz GSM spectrum</p>

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
		<p>current price beyond 6.2 MHz</p> <p>(iii) the Current Price for CDMA spectrum per MHz in 800 MHz band beyond prescribed limit would be 1.3x1.5 times of 1800MHz GSM spectrum current price beyond 6.2 MHz.</p> <p>(iv) the Current Price for GSM spectrum per MHz in 900 MHz band beyond prescribed limit would be 1.3x1.5 times of 1800MHz GSM spectrum current price beyond 6.2 MHz.</p> <p>3. The recommendation in letter dt. 8-2-2011 read with para 2.175(6.34) indicates that TRAI has not recommended pricing of 1900MHz or 450MHz band at the time of renewal of licence held by operators using 800 MHz band. However, TRAI has clarified on 3rd May 2011 that value of spectrum in these two bands shall be assessed separately.</p> <p>4.</p> <p>(a) TRAI's recommendations in para 3.28 read with para 10 of letter dated 8.2.2011 and alongwith para 8 of clarification dated 3-5-2011 is regarding date of applicability of current price beyond contracted spectrum for existing and future allocations.</p> <p>Para 3.28 of TRAI's Recommendations:</p> <p><i>".....Spectrum assigned beyond contracted amount will be paid for at the current price. This will be equally applicable to the service providers who are already holding the excess spectrum and those who will be assigned beyond the contracted amount in future."</i></p> <p>Para 10 of letter dt. 8-2-11:</p> <p><i>".....these current prices be made applicable from 1.4.2010, prorated for the remaining validity of the respective licence while charging for excess spectrum."</i></p> <p>(b) It is noted that TRAI vide recommendation dt. 8-2-2011 has recommended</p>

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		<p>that the applicable date for current price in respect of GSM 1800MHz band spectrum as 1.4.2010 for excess spectrum (beyond contracted spectrum).</p> <p>(c) As clarified by TRAI, applicable date in respect of 800MHz(CDMA) & 900MHz(GSM)spectrum bands shall also be same as for 1800 MHz band i.e. 1.4.2010.</p> <p>(d) Further, it is noted that following stipulation was approved on 28-05-2008 by DoT and was part of subsequent spectrum allocations.</p> <p style="padding-left: 40px;"><i>“Further allotment of spectrum is subject to:</i></p> <p style="padding-left: 80px;">(a) Pricing as determind in future for spectrum beyond 6.2+6.2MHz and</p> <p style="padding-left: 80px;">(b) The outcome of court orders.”</p> <p>(for e.g. DoT order dt. 30-07-08, copy attached as Annexure-VI)</p> <p>The allocations made operator/service area wise under the above conditions are annexed in Annexure –VII.</p> <p>(e) TRAI has now clarified on 3rd May 2011 that, wherever spectrum allocations have been made subject to explicit conditions for pricing the spectrum in future beyond contracted spectrum, Current price may be charged from the date of allocation in year 2008-09 and subject to outcome of various court cases.</p> <p>(f) There is some contradiction in these recommendations (refer (b) & (e) above). These are further deliberated in Para 3.99 (6.54) of this report. This may be considered after reconsidered recommendations of TRAI on para 3.99 (6.54).</p> <p>5. While going through the estimated price of 1800 MHz 2G GSM spectrum as arrived by the experts appointed by TRAI, it is noted that the variations in the price of spectrum among various service areas is at variance with the price determined through the 3G auction. It is also noted that the</p>

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		<p>expert committee of TRAI made various assumptions while arriving at these estimated prices.</p> <p>TRAI while clarifying the issue in para 6 of letter dated 3rd May 2011, has stated that: "It may however be noted that the Authority also recommended that the charging of spectrum in 1800 MHz band beyond 6.2 MHz, on the basis of these estimated figures, should be unambiguously subject to the condition that the final price could be suitably modified as described in para 8 of the recommendations dated 8th February 2011."</p> <p>In para 8 of said recommendations, TRAI has mentioned that ".....In that event, it should be possible for the government to auction the surplus spectrum and treat this auction price as the relevant price of spectrum beyond 6.2 MHz for the given LSA, provided the auction is conducted within 12 months of the decision by the Government.....Government could consider appropriately modifying the estimated figure of a LSA to reflect the market price based on the auction price in the LSAs where auction was conducted."</p> <p>It is also noted that in para 10 of recommendations dated 8th Feb. 2011, TRAI has mentioned that these prices are for year 2010 and may be made applicable from 1.4.2010.</p> <p>It is noted that it has to be kept in mind that auction, if any in future, would discover the market price of spectrum at that point of time and modifying the estimated price given by experts for year 2010 based on future auction price retrospectively would be very complex and would certainly require reconsidered recommendations of TRAI.</p> <p>Determination of market price through auction of 2G spectrum may take more time due to non-availability of spectrum. Current price has to be made applicable now.</p> <p>In view of the above, TRAI may reconsider the current price recommended and confirm.</p>

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		<p>Keeping in view the above, TRAI may reconsider the following:</p> <ol style="list-style-type: none"> I. Government has publicly stated that all spectrum allocations not thus far allocated beyond 4.4 MHz is liable to be charged and priced for the existing licensees of access services. Further, spectrum already allocated from 4.4 MHz/2.5 MHz startup GSM/CDMA spectrum upto 6.2 MHz/5 MHz contractual GSM/CDMA spectrum pursuant to the relevant access services licence(s) are not to be revisited for charging and pricing of spectrum beyond 4.4 MHz. Considering the above, TRAI may recommend the pricing of spectrum from initial to contracted quantum to be allocated in future. This also implies that price for initial/start up spectrum will also need to be worked out for future. II. Across the board applicability of assumptions made by TRAI for arriving at the proposed pricing formula is not evident. Appropriateness of the spectrum pricing suggested by TRAI, in cases where auction is not feasible, needs to be re-examined. In view of para 1 to 3 and 5 above, It is referred back to TRAI for reconsideration. III. For the purpose of extension of licence, per MHz price in 1800 MHz upto 6.2 MHz (contracted spectrum) as recommended by TRAI in letter dated 8.2.2011 shall be considered subject to reconsideration by TRAI as in I above. IV. TRAI may also recommend per MHz price for CDMA upto 5MHz (contracted spectrum) for the purpose of extension of licences. V. TRAI may recommend the Current Price for GSM and CDMA spectrum (upto contracted and beyond contracted) every year by 31st December which shall be valid for next financial year. VI. In case auction of spectrum is feasible and it turns out that the auction price is lower than the administered price, it needs to be clarified whether the administered price will have any applicability thereafter.

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
3.91 (6.53)	The Current price of spectrum in the 900 MHz band be fixed at 1.5 times that of the 1800 MHz band. The Authority recommends that this be also fixed as the price of Spectrum in the 800 MHz band.	(Refer para 3.82) What price will be charged from the holders of 900 MHz spectrum who do not reform/surrender/return in the post reform scenario due to any reason including non-availability of spectrum in other band? Would it be 1.5 times price of 1800 MHz beyond 6.2 MHz as recommended by TRAI or the price discovered after auction of spectrum in 900 MHz band, in case auction is feasible.
3.99 (6.54)	All the service providers having spectrum beyond the contracted quantum should pay excess spectrum charges at the Current price, pro-rated for the period of the remaining validity of their licence subject to a minimum of seven years. Service providers returning the excess spectrum shall be liable to return the 900 MHz spectrum if any and also pay the additional one-time charges at the Current price for a minimum period of three years.	<p>Regarding Current Price Para 3.82 may also be seen.</p> <p>1. TRAI, on 3rd May 2011, has clarified in response to query no. 8 (ii) of DoT letter dated 15.04.2011 that: <i>“It may be noted that the value given by the experts is for the year 2010 and is to be applied from 1.4.2010. Applying this figure from a retrospective date will not be correct. In view of this, the Authority, after careful consideration, has not indicated the 7 years.”</i></p> <p>2. However, in response to query no. 8 (v) of the DoT letter cited, TRAI has further clarified that : <i>“Since, as indicated by the DOT, allocations have been made subject to explicit conditions, there should be no objection to the ‘current price’ being charged from the date of allocation. In giving this clarification, the Authority would like to point out that the DOT will naturally go by the orders of a court, if any.”</i></p> <p>3. It is noticed that the clarification under para 8(v) (dated 3rd May 2011) differs in principle from the clarification under para 8(ii). If current price is charged from the date of allocation, this would amount to charging from a retrospective date in these cases (i.e. a date earlier than 1.4.2010), which is not in line with the TRAI clarification that applying the current price from a</p>

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
		<p>retrospective date will not be correct. If charging from the date of allocation is recommended by TRAI, then as a matter of principle, there may not be any difficulty in stipulating a minimum period of 7 years as recommended by TRAI in the earlier instance(para 3.99 dt. 11-05-2010). In view of this, the matter is referred back to TRAI for reconsideration that :</p> <p>“All service providers having spectrum beyond the contracted spectrum should pay the excess spectrum charges at the current price prorated for the period of remaining validity of the license subject to a minimum of 7 years.....”</p> <p><i>(Para 3.99 of recommendation dated 11-05-2010)</i></p> <p style="text-align: center;">or</p> <p>All service providers having spectrum beyond the contracted spectrum should pay the excess spectrum charges at the current price w.e.f. the date of allocation of the excess spectrum. (Current price for the relevant years would also be required from TRAI.)</p>
3.102 (6.55)	The excess spectrum beyond 8 MHz would be charged at 1.3 times the current price.	(Refer para 3.82)
3.104 (6.56)	Excess spectrum in 900 MHz band should be charged at 1.5 times that of excess spectrum in 1800 MHz band. It will equally apply in cases of 800 MHz band, if any.	
3.122	Spectrum usage charges, both for GSM and CDMA	Spectrum Usage Charges were revised in 2010 (Annexure – VIII) by the

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration																																				
(6.58)	<p>spectrum, should be at the rate of 0.5% for every MHz up to the contracted spectrum and at the rate of 1% for every MHz in respect of spectrum beyond the contracted quantity, subject to a limit of 10% in respect of GSM and 7% in respect of CDMA. Resultantly, the spectrum usage charges would be as follows:</p> <p style="text-align: center;">Table 3.10</p> <table border="1" data-bbox="205 548 898 1133"> <thead> <tr> <th colspan="4" data-bbox="205 548 898 597">Proposed Spectrum Usage Charges</th> </tr> <tr> <th colspan="2" data-bbox="205 602 541 651">GSM</th> <th colspan="2" data-bbox="548 602 898 651">CDMA</th> </tr> <tr> <th data-bbox="205 656 369 813">Amount of spectrum (in MHz)</th> <th data-bbox="375 656 541 813">Charge as % of AGR</th> <th data-bbox="548 656 711 813">Amount of spectrum (in MHz)</th> <th data-bbox="718 656 898 813">Charge as % of AGR</th> </tr> </thead> <tbody> <tr> <td data-bbox="205 818 369 867">4.4</td> <td data-bbox="375 818 541 867">2.2</td> <td data-bbox="548 818 711 867">2.5</td> <td data-bbox="718 818 898 867">1.25</td> </tr> <tr> <td data-bbox="205 872 369 920">6.2</td> <td data-bbox="375 872 541 920">3.1</td> <td data-bbox="548 872 711 920">3.75</td> <td data-bbox="718 872 898 920">1.9</td> </tr> <tr> <td data-bbox="205 925 369 974">8</td> <td data-bbox="375 925 541 974">4.9</td> <td data-bbox="548 925 711 974">5</td> <td data-bbox="718 925 898 974">2.5</td> </tr> <tr> <td data-bbox="205 979 369 1027">10</td> <td data-bbox="375 979 541 1027">6.9</td> <td data-bbox="548 979 711 1027">6.25</td> <td data-bbox="718 979 898 1027">3.75</td> </tr> <tr> <td data-bbox="205 1032 369 1081">12.4</td> <td data-bbox="375 1032 541 1081">9.3</td> <td data-bbox="548 1032 711 1081">8.75</td> <td data-bbox="718 1032 898 1081">6.25</td> </tr> <tr> <td data-bbox="205 1086 369 1135">14.4</td> <td data-bbox="375 1086 541 1135">10</td> <td data-bbox="548 1086 711 1135">10</td> <td data-bbox="718 1086 898 1135">7</td> </tr> </tbody> </table> <p data-bbox="205 1203 898 1268">The Authority recommends that the changes effected on 25.2.2010 be suitably modified.</p>	Proposed Spectrum Usage Charges				GSM		CDMA		Amount of spectrum (in MHz)	Charge as % of AGR	Amount of spectrum (in MHz)	Charge as % of AGR	4.4	2.2	2.5	1.25	6.2	3.1	3.75	1.9	8	4.9	5	2.5	10	6.9	6.25	3.75	12.4	9.3	8.75	6.25	14.4	10	10	7	<p>government and the matter is sub-judice. May be examined after the matter is decided by the court.</p>
Proposed Spectrum Usage Charges																																						
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Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
Chapter IV: CONSOLIDATION OF SPECTRUM		
4.81 (6.60)	<p>The following should be the guidelines “intra service area Merger of Cellular Mobile Telephone Service (CMTS)/ Unified Access Services (UAS) Licences”:</p> <ol style="list-style-type: none"> i. Prior approval of the Licensor shall be necessary for merger of the licence. ii. Merger of licences shall be restricted to the same service area. iii. Merger of licence(s) shall be permitted in the following category of licences:(i) Cellular Mobile Telephone Service (CMTS) Licence with Cellular Mobile Telephone Service (CMTS) Licence; (ii) Unified Access Services Licence (UASL) with Unified Access Services Licence (UASL); (iii) Cellular Mobile Telephone Service (CMTS) Licence with Unified Access Services Licence (UASL); and (iv) Unified licence with Unified licence. <p>Merged licences in all the categories above shall be in UASL category only. In case of Unified licences, this shall not apply.</p> iv. The relevant market for determining the market share will no longer be classified separately as ‘Wire line’ and ‘Wireless’. It will be defined in future as the entire access market. v. For determination of market power, market share of both subscriber base and Adjusted Gross 	<p>As a broad guiding principle, it is viewed that the M&A policy of DoT should be simple and easy to implement with minimal conditions necessary to ensure a balance between facilitating consolidation, ensuring competition and protecting consumer interest. It is also felt that the M&A regulations should be in harmony with other relevant legal and regulatory provisions. TRAI may review the recommendations on consolidation of spectrum with respect to conformity with the provisions of the Competition Act, especially those relating to the principles of market dominance.</p>

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	Revenue of licensee in the relevant market shall be considered	
	<p>vi. The market share of the Resultant entity in the relevant market shall not be greater than 30 % of the total subscriber base and/or the AGR in a licensed telecommunication service area.</p> <p>vii. Exchange Data Records (EDR) shall be used in the calculation of wireline subscribers and Visitor Location Register (VLR) data, in the calculation of wireless subscribers for the purpose of computing market share based on subscriber base.</p> <p>viii. The duly audited Adjusted Gross Revenue shall be the basis of computing revenue based market share for operators in the relevant market.</p>	TRAI may recommend reference date for taking into account EDR/VLR data (in addition to duly audited AGR which would be 31 st March of the preceding year).
	<p>ix. No M&A activity shall be allowed if the number of UAS/CMTS access service providers reduces below six in the relevant market consequent upon such an M&A activity under consideration.</p>	<p>Refer para 4.81(i) to (v).</p> <p>With respect to the requirement of minimum number of UAS/CMTS licences after any M&A activity as recommended by TRAI in para 4.81 (ix), TRAI may consider the possibility of separate dispensation for the requirement of minimum number of UAS/CMTS licences in a service areas based on its population.</p>
	<p>x. Consequent upon the Merger of licences in a service area, the total spectrum held by the post merger Resultant entity shall not exceed 14.4 MHz for GSM technology In respect of CDMA technology, the ceiling will be 10 MHz.</p>	<p>1. TRAI, vide letter dated 3rd May 2011 has clarified in para 12 that “The spectrum price that the resultant entity is required to pay would be the current price for the spectrum which is being paid for minus the Entry fee paid by the licensee holding that spectrum prior to merger, irrespective of the year in which it was paid and the amount therefor. Any Indexation is fraught with serious difficulties.”</p>

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
	<p>xi. As the resultant entity is entitled to only one block of 6.2 MHz/ 5MHz for the Entry fee paid, either of the parties to the merger should pay the Spectrum price i.e. the difference between the Current price and the sum already paid, before permission for merger is granted.</p>	<p>It is evident that the merged entity shall pay Spectrum usage charge as per the spectrum held by the resultant entity.</p> <p>2. TRAI has recommended that total spectrum which can be held by post merger resultant entity is up to a maximum of 14.4 MHz for GSM and 10 MHz for CDMA technology. However, prescribed limit in other cases is 8/10 MHz for GSM and 5/6.25 MHz in case of CDMA. TRAI may indicate the rationale for the wide variation between the limit of spectrum that can be acquired through M&A and by regular procedure. In case a variation is considered necessary for practical reasons, it may be indicated whether the higher limit for M&A is for a limited duration or for the entire licence period. Further, taking into account the possible operational/technical constraints in homogenizing the networks after merger, TRAI may consider indicating a transition period after which the spectrum in excess of the prescribed limit applicable for any licensee (non-merger case) may be withdrawn.</p> <p>3. TRAI may clarify the period for which the current price is to be paid in the proposition given in the example 4.51 in the recommendations:</p> <p><i>“the sum to be paid will be 4.4MHz X current price/MHz of that service area-Entry fee originally paid for the service area.”</i></p> <p>Example 4.51 is reproduced below.</p> <p><i>Example: In circle of ‘A’ category, if operator ‘X’ with 8 MHz has merged with operator ‘Y’ having 4.4MHz, the Resultant entity could be ‘X or ‘Y’ or a totally new entity ‘Z’. Either way, the Resultant entity is entitled to only one block of 6.2 MHz for the entry fee paid. The balance spectrum must be paid for at the Current</i></p>

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
		<p><i>price. If 'X' has already paid for the 1.8 MHz that was in excess of the contracted spectrum, the amount of spectrum for which payment is to be made would be $(8+4.4=12.4)-(6.2+1.8=8)=4.4$ MHz. And the sum to be paid will be 4.4MHz X current price/MHz of that service area- Entry fee originally paid for the service area. Otherwise, the amount of spectrum for which payment will have to be made will be $(8+4.4=12.4)-(6.2)=6.2$ MHz.</i></p> <p>Regarding Current Price Para 3.82 may also be seen.</p> <ol style="list-style-type: none"> 4. It may also be examined by TRAI whether such limit (14.4 MHz) may create an opportunity for arbitrage in terms of transaction price for those TSPs which hold small quantities of spectrum. While examining this, various aspects relating to efficient utilization of spectrum/spectral efficiency may be kept in view. 5. There may be a scenario where the merging entities may hold CDMA and GSM spectrum both. There is a possibility that either or both parties may have 3G/BWA spectrum. It may be examined by TRAI whether the modalities of merger of such entities will be different from those recommended in its recommendations of May, 2010. In either case, the principles governing the holding of spectrum in each of the technologies post merger may be recommended by TRAI. 6. In view of recommendations of TRAI in para 3.28 regarding prescribed limit of spectrum to a Service Provider, the recommendation of TRAI in para 4.81 (x) that consequent upon the Merger of licences in a service area, the total spectrum held by the post merger Resultant entity shall not exceed 14.4 MHz/ 10 MHz for GSM/CDMA technology, needs to be reconciled and harmonized.

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
		Referred back to TRAI for reconsideration.
	<p>xii. The spectrum transfer charge, @5% of the difference between the transaction price and the total current price, shall be payable before permission is granted.</p>	<ol style="list-style-type: none"> 1. TRAI has recommended spectrum transfer charge @ of 5% of the difference between the transaction price and the total current price. Rationale for recommending spectrum transfer charge and logic for quantum of charge as 5% may be clarified by TRAI. 2. Transaction price may be a sum total of transactions in form of equity/debt/preferential share/ tangible or intangible assets/ various other modes of trade-offs etc.) and also there is a possibility of negative transfer charge. In view of the above, TRAI may reconsider this recommendation for a suitable methodology which can be made applicable transparently. It is also mentioned that there may be scenarios involving 2G, 3G and BWA spectrum holders for M&A activity. 3. TRAI may also define 'Acquisition' with respect to the applicability of spectrum transfer charge e.g. acquiring a certain minimum % of equity of a licensed entity by any other entity.
	<p>xiii. If, as a result of the merger, the total spectrum held by the resultant entity is beyond the limits prescribed, the excess spectrum must be surrendered. Discretion to choose the band to surrender the spectrum beyond the ceiling will be of the resultant entity.</p>	<ol style="list-style-type: none"> 1. As clarified by TRAI, limits prescribed for merger is 14.4MHz. TRAI may recommend the methodology to deal with the quantum of spectrum to be considered for allocation at the time of extension of merged licences. 2. If the spectrum held by a merged entity is more than the limits prescribed, e.g. 14.4 MHz for GSM, what should be the time frame for surrender of

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
		<p>excess spectrum beyond 14.4 MHz.</p> <p>3. TRAI has recommended that in the event of merger the resultant entity has to surrender any spectrum held beyond limits prescribed and discretion to choose the band to surrender the spectrum beyond the ceiling will be of the resultant entity. It is viewed that keeping in view the requirement of re-farming the spectrum, the choice of surrender should not be left to the merged entity. Government may prescribe the band which will be required to be surrendered in accordance with the spectrum re-farming policy. TRAI may review this recommendation.</p>
	<p>xiv. All dues, if any, relating to the licence of the merging entities in that given service area, will have to be cleared by either of the two licensees before issue of the permission for merger of licences.</p>	<p>This would be as per the demand raised by the Government/licensor based on the returns filed by the company notwithstanding any pending legal cases or disputes.</p>
	<p>xv. If consequent to merger of licences in a service area, the licensee becomes a "Significant Market Power" (SMP) post merger, then the extant rules & regulations applicable to SMPs would also apply to the resultant entity.</p>	<p>Refer para (i) to (v)</p>
	<p>xvi. In so far as mergers that take place before 31.3.2011, the resultant entity will be required to pay, for the first year after merger, the spectrum usage charges at the rate applicable to the higher spectrum of the two merging entities at the time of merger. In the second year, the resultant entity will be liable to pay spectrum usage charges at a rate which is the average of the rate on the combined spectrum and the rate that was applicable to the higher spectrum of the two merging entities.</p>	<p>Not relevant now as the new M&A guidelines would be issued only after acceptance of this report which would be after 31.3.2011.</p> <p>However, the existing condition as reproduced below shall continue(para 4.59):</p> <p><i>"The annual license fee and the spectrum charge are paid as a certain specified percentage of the AGR of the licensee. On the merger of the two licenses, the AGR of the two entities will also be merged and the license fee will be therefore levied at the specified rate for that service area on the resultant total AGR. Similarly, for the purpose of payment of the spectrum charge, the spectrum held by the two licensees will be added /merged and the annual spectrum charge will be at the prescribed rate applicable on this total spectrum. However, in case of holding of</i></p>

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
		<i>spectrum for various technologies by the entity subsequent to M&A, spectrum charges & license fee etc. or any other criterion being followed by the licensor shall be applicable as in case of any other UAS/CMTS licensee”.</i>
xvii.	The provisions relating to substantial equity and cross holding be in conformity with the provisions of the UAS licence which is that “no single company/ legal person, either directly or through its associates, shall have substantial equity holding in more than one LICENSEE Company in the same service area for the Access Services namely; Basic, Cellular and Unified Access Service. ‘Substantial equity’ herein will mean ‘an equity of 10% or more’” and that a promoter company/ Legal person cannot have stakes in more than one LICENSEE Company for the same service area.”	It is an existing condition of UAS licence. The terms ‘Associates’ and ‘Stakes’ as appearing in recommendation of para 4.81(xvii) regarding substantial equity clause, may be defined and the clause as a whole may be relooked/reframed so that competition is not compromised.
xviii.	The stipulation regarding the minimum period of three years from the effective date of license for merger/acquisition be done away with.	TRAI has suggested removal of lock-in period of three years on one hand and has recommended restriction in dilution of equity up to a period of 5 years in part (xix) of para 4.81. It appears that the objective of the recommendations given under Chapter IV is to have an enabling M&A policy regime. But this recommendation appears to be contrary to this objective. Referred to TRAI for reconsideration and review this recommendation.
xix.	The licence condition in the UAS licence be amended to stipulate that the promoters whose net worth/equity has been taken into consideration for determining the eligibility of the licence shall not	Refer 4.81(xviii) above. It is noted that presently there is no requirement of promoters equity being 51% for eligibility. However these recommendations may be accepted with the

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
	<p>dilute their equity below 51% for a period of 5 years or till the roll-out conditions have been fully accomplished, whichever is earlier. Any reduction below 51% shall be with the prior and specific permission of the licensor</p>	<p>modifications as below:</p> <p>The licence condition in the UAS licence be amended to stipulate that the promoters whose net worth/equity has been taken into consideration for determining the eligibility of the licence shall not dilute their equity below 51% of their original equity for a period of 5 years or till the roll-out conditions have been fully accomplished, whichever is earlier. It may also be ensured that no promoter during the above period, dilutes their equity amount below 10% of total paid up equity of the company on the effective date of the licence.</p> <p>TRAI may recommend a suitable transparent criteria for granting/withholding permission for reduction below 51% by promoters during the validity of the licence.</p> <p>The above provision shall not be construed as dilution of roll out obligations as defined in the Access Services licence(s) in any manner.</p>
	<p>xx. The duration of licence of the resultant entity in the respective service area will be equal to the higher of the two periods on the date of merger. This does not however entitle the resultant entity to retain the entire spectrum till the expiry of licence period. The Authority recommends that while a fresh licence can be issued in the name of the resultant entity, the Wireless operating licences will be issued separately for the two sets of spectrum retaining the respective validity.</p>	<ol style="list-style-type: none"> 1. TRAI has recommended that wireless operating license of one of the merged entity having lesser validity at the time of merger will be renewed for the remaining period of license of the merged entity when renewal becomes due. It is viewed that a stipulation can be made that when the renewal of wireless operating license becomes due, spectrum in a band which is specified for refarming should be surrendered and alternate band should be allocated. TRAI may accordingly review this recommendation. 2. TRAI may also clarify in example 4.80, the charges to be paid by merged entity for the extension of wireless operating licence of 'X' in the example since initially the entry fee was paid for a period of 20 years validity of licence. But

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
		<p>now the validity of 'X' gets extended for a further period of 8 years in this example.</p> <p>Example as in para 4.80 is reproduced below:</p> <p><i>Example: If the validity of the licence and the spectrum of operator X is till 2012 and that of Y till 2020, the resultant entity will be given a licence to the year 2020 and two separate Wireless operating licences in the name of the resultant entity, one for the spectrum of X till 2012 and for Y's spectrum till 2020. The first Wireless operating licence will be renewed in 2012 for period of 8 years.</i></p> <p>May be reconsidered by TRAI.</p>
	<p>xxi to New items for review by TRAI on consolidation. xxiii</p>	<p>xxi TRAI may confirm the recommendations in para 4.81 with respect to their applicability in cases of acquisition. (refer para 4.7)</p> <p>xxii TRAI may recommend guidelines for consolidation among Unified Licences, and between Unified Licence and UAS/CMTS/Basic licence.</p> <p>xxiii Modalities and detailed steps involved in merger and acquisition may also be recommended by TRAI.</p>

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
4.118 (6.61)	The following guidelines be adopted for spectrum sharing:	
	<ul style="list-style-type: none"> • (i) Spectrum sharing will be permitted but in each case, it will be in the same licence service area and will be with the prior permission of the licensor, strictly in accordance with the guidelines being laid out. 	TRAI may indicate the rationale for placing restrictions on sharing of spectrum, i.e. for a maximum period of five years only. TRAI may also examine this aspect keeping in view the saving of scarce resources, impact on Q.o.S., consumer satisfaction and share its analysis of the pros & cons of implementing a policy allowing spectrum sharing. TRAI may also indicate the specific reasons for placing restrictions on the entities that could be allowed to share spectrum based on the quantum of spectrum held.
	<ul style="list-style-type: none"> • (ii) Permission for spectrum sharing will be given for a maximum period of 5 years. There shall be no renewal. 	
	<ul style="list-style-type: none"> • (iii) Spectrum sharing will be allowed only between parties each of whom does not have more than 4.4MHz /2.5 MHz (GSM/CDMA) of spectrum. 	<p>It is noted that TRAI vide their recommendations dt 12-04-2011 on Infrastructure policy, in chapter 3B, have recommended that a Unified Licensee who does not have spectrum can be permitted to work as MVNO by sharing spectrum with MNO. This implies that there is no limit on the spectrum held by the MNO in context to the limit of 4.4 MHz mentioned in the recommendations herein.</p> <p>In view of above, TRAI may reconsider spectrum sharing for licensees not holding even the initial 4.4 MHz GSM spectrum as well as those holding more than 4.4 MHz.</p>
	<ul style="list-style-type: none"> • (iv) Sharing will be allowed only if there are at least six operators in the LSA, post-sharing arrangement. 	Shared operators be treated as one. For the purpose of rollout, operators have to meet individual rollout obligations.

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
	<ul style="list-style-type: none"> • (v) Spectrum sharing will not be permitted among licensees having 3G spectrum. 	<p>Intra Service Area roaming in 3G network where one of the operators does not have 3G spectrum shall not be treated as spectrum sharing.</p>
	<ul style="list-style-type: none"> • (vi) Spectrum sharing would involve both the service providers utilising the spectrum. Leasing of spectrum is not permitted. 	<p>Refer para 4.118(i) & (ii) above.</p>
	<ul style="list-style-type: none"> • (vii) Spectrum can be shared only between two spectrum holders. In other words, a non-licensee or licensee who has not been assigned access spectrum as yet cannot be a party to spectrum sharing. 	<p>Para 4.118(iii) refers. TRAI may also recommend actions subsequent to allocation of spectrum beyond initial allocation/further allocation to one or both the licensees.</p>
	<ul style="list-style-type: none"> • (viii) Parties sharing the spectrum will be deemed to be sharing their entire spectrum. In other words, even if the licensees are sharing partial spectrum, it will be taken as sharing of entire spectrum for the purpose of charging. 	<p>Refer para 4.118(i) & (ii) above</p>
	<ul style="list-style-type: none"> • (ix) Both the parties will pay to the Government the prorated current price for spectrum beyond 6.2/5 MHz, in the ratio of the spectrum held by them individually. 	<p>Refer para 4.118(i) & (ii) above.</p>
	<ul style="list-style-type: none"> • (x) Spectrum usage charges will be levied on both the operators individually but on the total spectrum held by both the operators together. In other words, if an operator X having 4.4MHz of spectrum shares 4.4 MHz of spectrum of another operator Y, then both X and Y will be liable to pay spectrum usage charges applicable to 8.8 MHz of spectrum. 	<p>If the intention of the recommendation contained in para 4.118 is to encourage sharing of spectrum, then the recommendation contained in para 4.118 (x) may work as a disincentive to spectrum sharing. Therefore, the recommendation of para 4.118 (x) may be reconsidered.</p>

Para No.	TRAI's Recommendations	DoT's Comments on the recommendations for TRAI's Reconsideration
4.142 (6.62)	Spectrum trading should not be allowed in India, at least at this stage. This will be re-examined at a later date.	Noted.
Chapter V: Spectrum Management		
5.11 (6.63)	TRAI be strengthened by placing the TERM units under its control, and enabling TRAI to carry some of the functions through the Wireless Monitoring Organisation (WMO), even as WMO continues to function under the control of WPC Wing of the DoT.	TERM cells are doing more of security related functions including LIM/LIS testing, coordination with LEAs, CAF verification and safety measures like radiation measurements etc. These functions can not be transferred to TRAI. With regard to the requirement of TRAI to carry out some specific functions, WMO shall take up such request on case to case basis.
5.12 (6.64)	WPC Organisation be suitably strengthened. A few suggested areas are : <ul style="list-style-type: none"> • Upgradation of the post of Wireless Advisor; • Establishment of unmanned remote monitoring units in Central Business Districts and along coastal areas; • Enhanced participation of WMO/WPC officials in ITU/APT; • Augmentation of manpower in Regional Offices of Deputy Wireless Advisor. 	Noted.
New	Other issues:	TRAI may recommend an exit policy for the licensees who want to exit from the provisioning of telecom Services under a licence.