

**Press Information Bureau**  
**Government of India**  
**Ministry of Communications & Information Technology**  
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**Press Statement of Shri Kapil Sibal issued today**

Shri Kapil Sibal, Union Minister for Communications and Information Technology held a Press Conference here today. Following is the text of statement given by Shri Sibal.

Text

“Recommendations of TRAI on ‘Spectrum Management and Licensing Framework’ of May 11, 2010 along with its further recommendations of February 08, 2011, clarifications of May 03, 2011 and response dated November 03, 2011 were considered by the Telecom Commission. After consideration of the recommendations of the Telecom Commission, the Department of Telecommunications has taken following decisions:

1. No more UAS licences linked with spectrum will be awarded.
2. All future licences will be Unified Licences and allocation of spectrum will be delinked from the licence. Spectrum, if required, will have to be obtained separately. A final view on implementation of the Unified License Regime would be taken after receipt of detailed Guidelines and Terms & Conditions from TRAI for Unified Licence including migration path for all existing licence(s) to Unified Licence.
3. In the event of any auction of spectrum pending finalisation of the Unified Licensing Regime, UAS licence without spectrum may be issued which could be subject to a requirement to migrate to Unified licence as and when the regime is put in place. Detailed guidelines for such UAS licence without spectrum would be finalised after receipt of recommendations of TRAI in this regard.
4. There will be uniform licence fee across all telecom licenses and service areas which will progressively be made equal to 8% of the Adjusted Gross Revenue (AGR) in two yearly steps starting from 2012-13.
5. The licence fee and spectrum usage charges payable by each such licensee shall be on actual AGR, subject to a minimum presumptive AGR. This minimum figure would be reviewed by TRAI every year.
6. A decision on the recommendation to bring IP-I Service Providers under licencingregime, who are currently unlicensed passive infrastructure providers, has been deferred for further examination.
7. A rapid comprehensive techno-economic study will be carried out by DoT to examineissues relating to increase in coverage & tele-density in rural areas while at the same time ensuring sustained quality of service and also to examine the adequacy of

USOF mechanism alone to achieve these objectives and the need for augmenting USOF schemes with appropriate direct incentivisation of TSPs for rural rollout.

8. The validity of existing UAS (& CMTS and Basic services) licences may be extended for another 10 years at one time, as per the provisions of the extant licensing regime with suitable Terms & Conditions so as not to imply automatic continuance of existing license and related conditions including quantum and price of any spectrum allocated.
9. On extension, the UAS licensee will be required to pay a 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 fee does not cover the value of spectrum, which shall be paid for separately. While extending the licence, the licensee shall be assigned spectrum only up to the prescribed limit or the amount of spectrum assigned to it before the extension, whichever is less. Spectrum assigned by the Government to the licensee in excess of the Prescribed Limit shall be withdrawn.
10. The need for refarming of spectrum is accepted in-principle. Further steps will be taken after receipt of TRAI's recommendations in this regard.
11. The prescribed limit on spectrum assigned to a service provider will be 2X8MHz/ 2X5MHz for GSM/ CDMA technologies respectively for all service areas other than in Delhi and Mumbai where it will be 2X10MHz/ 2X6.25 MHz. However, the licensee can acquire additional spectrum beyond prescribed limits, in the open market, should there be an auction of spectrum subject to the limits prescribed for merger of licences.
12. Decisions on all matters relating to One Time Spectrum Charge including pricing of spectrum in cases of M&A and Spectrum Sharing will be taken separately.
13. Spectrum usage charges were revised in 2010 by the Government and the matter is sub-judice. Further action will be taken by DoT after the matter is decided by the court.
14. The broad guidelines in respect of intra-service area merger of CMTS/UAS licences will, inter-alia, include:
  - i. For determination of market power, market share of both subscriber base and Adjusted Gross Revenue of licensee in the relevant market shall be considered. The entire access market will be the relevant market for determining the market share, and will no longer be classified separately as 'Wire line' and 'Wireless'.
  - ii. Merger up to 35% market share of the resultant entity will be allowed through a simple, quick procedure. However, there may be a need to consider cases of merger beyond 35% market share in certain circumstances without breaching the 25% cap on GSM spectrum/ 10 MHz for CDMA spectrum holding in any service area. Recommendation of TRAI that such cases will be considered up to a market share of 60% has been taken note of. In order to ensure clarity on the circumstances and extent to which merger above 35% limit would be permissible, detailed transparent criteria will be prescribed/ adopted after receipt of TRAI's recommendations and after due consultation with the appropriate authorities.
  - iii. Consequent upon the merger of licences in a service area, the total spectrum held by the Resultant entity shall not exceed 25% of the spectrum assigned, by way of auction or otherwise, in the concerned service area in case of 900 and 1800 MHz bands. In respect of 800 MHz band, the ceiling will be 10 MHz. In respect of

spectrum in other bands, relevant conditions pertaining to auction of that spectrum shall apply.

- iv. 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 within one year of the permission being granted. Government may prescribe the band which will be required to be surrendered in accordance with spectrum refarming policy to be announced separately.
- v. The substantial equity and cross holding of the Resultant entity shall be in conformity with the provisions of the UAS licence.
- vi. 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.
- vii. In case of renewed validity beyond the original validity of any of the merged entity, holding of spectrum in 800/900 MHz band shall be subject to the applicable spectrum refarming guidelines to be announced in future w.e.f the deemed date of extension of merging entity having lesser validity of licence at the time of merger or the date of spectrum refarming guidelines whichever is later.
- viii. Issues related to spectrum price, to be paid by the resultant entity, would be decided separately. The same shall also apply in case of renewal of wireless operating licence, post merger.
- ix. 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 spectrum for various technologies by the entity subsequent to Merger, 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.
- x. Existing provisions in the UAS licence relating to Lock-in period for sale of equity/merger shall continue.

**15. Broad guidelines for sharing of 2G spectrum (800/900/1800 MHz bands) will, inter-alia, include:**

- 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. A simple automatic approval process will be put in place for this purpose.
- ii. Permission for Spectrum sharing will be given initially for a period of 5 years. Government may renew the permission for a further one term of five years, on terms to be prescribed.
- iii. Spectrum can be shared only between two spectrum holders both of which are holding spectrum either in 900/1800 MHz band or in 800 MHz band.
- iv. Total quantum of spectrum, as a result of the spectrum sharing, shall not exceed the limit prescribed in case of mergers of licences.
- v. In respect of spectrum obtained through auction, spectrum sharing will be permitted only if the auction conditions provide for the same.
- vi. Parties sharing the spectrum will be deemed to be sharing their entire spectrum for the purpose of charging.

- vii. Both the parties shall fulfil individually the roll out obligations as well as the QoS obligations prescribed under the licence.
  - viii. 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.
  - ix. Spectrum sharing would involve both the service providers utilising the spectrum. Leasing of spectrum is not permitted.
  - x. Decision on matters related to pricing of spectrum, post sharing, would be taken separately.
  - xi. Spectrum sharing will not be permitted among licensees having 3G spectrum.
16. Spectrum trading will not be allowed in India, at this stage. This will be re-examined at a later date.
17. For efficient management of available spectrum, TRAI may undertake regular spectrum audit. TRAI may carry out review on the present usage of spectrum available. In both the cases, TRAI may make recommendations to the Government.
18. The judgement of the Supreme Court pronounced on 2<sup>nd</sup>February, 2012 cancelling 122 licenses has implications for some of the recommendations of the Telecom Commission. Such recommendations are being examined further with reference to legal and other aspects and decisions in this regard will be announced later.”

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