



## JSA Prism Regulatory (Communications)

June 2022

### Recent Updates in the 5G Tech Space in India

#### Cabinet approves 5G spectrum auction

The Union Cabinet ("Cabinet") has finally approved the proposal of the department of telecommunications ("DoT") to conduct the spectrum auction on June 15, 2022. The said auction will assign spectrum in high, mid and low frequency bands to the successful bidders for providing 5G services to public and enterprises. Nearly 72 gigahertz of spectrum, with a validity period of 20 years will be auctioned by the end of July 2022.

The acquisition of spectrum in the upcoming auction will be benefitted by the zero Spectrum Usage Charge ("SUC") announced in September 2021, providing a significant relief to the service providers in terms of the operating cost of telecom networks.

The Cabinet has announced various progressive options for acquisition of spectrum bidders for facilitating ease of doing business, such as allowing successful bidders to pay for spectrum in 20 equal instalments, rather than making an upfront payment. The bidders would be given an option to surrender the spectrum after 10 years with no future liabilities with respect to balance instalments. The Cabinet also decided to enable the development and setting up of 'Private Captive Networks' to facilitate innovation in applications such as machine-to-machine communications, internet of things, artificial intelligence across automotive, healthcare, agriculture, energy, and other sectors.

Pursuant to the Cabinet approval, the DoT has initiated the spectrum auction and notice inviting applications ("NIA") has been issued on June 15, 2022.

The highlights of the spectrum auction are as below:

**Spectrum:** All the available spectrum in 600 MHz, 700 MHz, 800 MHz, 900 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 2500 MHz, 3300 MHz, and 26 GHz bands is part of the auction.

**Technology:** Spectrum allotted through this auction can be used for 5G (IMT-2020) or any other technology within the applicable scope of the telecom license.

**Process of Auction:** The auction will be an e-auction conducted online.

**Period of Spectrum Assignment:** Spectrum will be assigned for a period of 20 years.

**Payment:** Successful bidders will be allowed to make payment in 20 equal annual installments, duly protecting the Net Present Value (NPV) of the bid amount at the interest rate of 7.2%.

## Surrender: Spectrum acquired through this auction can be surrendered after a minimum period of 10 years.

**SUC:** There will be no SUC for spectrum acquired in this auction.

**Bank Guarantees:** The requirement for a successful bidder to submit a financial bank guarantee and performance bank guarantee has been dispensed with.

**Captive Private Network:** Licensees can set up isolated captive private network(s) for industries using the spectrum acquired through this auction.

## 5G services may begin by September 2022

Minister Ashwini Vaishnaw, Minister of Communications and Electronics & Information Technology, has stated that with the issue of the NIA, the 5G spectrum auction process has started and he estimates the auction process to be completed by end of July. He further stated that the roll-out of 5G services may commence by September of 2022 as the telecom service providers have been working parallelly to set up the telecom infrastructure to support 5G services.

## Guidelines for surrender of access spectrum by access service providers

Having considered the recommendations on 'Auction of Spectrum in Frequency Bands Identified for IMT / 5G' dated April 11, 2022, issued by the Telecom Regulatory Authority of India ("TRAI") which recommended easy and transparent spectrum surrender guidelines for ease of doing business, the DoT has notified the Guidelines for Surrender of Access Spectrum by Access Service Providers dated June 15, 2022 ("Guidelines"). The entire process for the surrender of spectrum by a TSP would be conducted online in a time-bound manner.

The Guidelines permit telecom service providers ("TSPs") to surrender the spectrum, acquired through any auction conducted after the issue of the Guidelines, after a minimum period of 10 years from the date of acquisition of such spectrum. Spectrum so acquired when transferred from one TSP to another through trading or any other permitted means of acquisition would also be eligible for surrender. For surrender of spectrum, the TSP is required to submit an online application with details regarding the spectrum, at least 12 months prior to the proposed date of surrender. The TSP is also required to clear all dues in respect of proposed quantity of spectrum being surrendered. Upon clearance of dues, the approval for the surrender of spectrum would be communicated by the DoT to the TSP within 15 days.

Additionally, in the event the TSP surrenders partial or complete spectrum in a License Service Area ("LSA") band, the TSP will be prohibited from taking part in the auction of spectrum in that LSA-band for a period of 2 years from date of surrender of spectrum.

On the date of surrender of spectrum, the TSP is required to submit a declaration that the surrendered spectrum has been vacated and the surrendered spectrum would be put to auction at the first opportunity after the final approval to surrender of spectrum is issued by the DoT.

A nominal processing fee of INR 1,000 per spectrum band per LSA would be charged from the TSPs for surrender.

## COAI opposes direct 5G spectrum allotment to State-owned telecom companies

The Cellular Operators Association of India ("COAI"), an association of private telecom service providers operating in India, has opposed the reservation of spectrum to state-owned telecom companies. The COAI opines that such reservation will curtail private players from getting adequate spectrum in auction and promote a non-level playing field between private and public telecom operators.

## TRAI launches pilot study for deploying 5G using street furniture

TRAI has launched a pilot study named "5th Generation (5G) Small Cell and Aerial Fiber deployment using Deendayal Port Street Furniture" on April 29, 2022 ("**Study**"). The aim of the Study is to assess the challenges in 5G small cell deployment at Indian ports. The results of the Study will provide insights into identifying the suitable street furniture based on availability of backhaul and power, deployment heights, load bearing capabilities of street furniture for mounting suitable equipment and rate of reduction in the capital expenditure and time involved for rolling out telecom networks and services.

## Consultation paper on use of street furniture for small cell and aerial fiber deployment

TRAI had issued a consultation paper on the 'Use of Street Furniture for Small Cell and Aerial Fiber Deployment' dated March 23, 2022 ("**Consultation Paper**") and sought comments from stakeholders (timelines for submission expired on May 25, 2022). The Consultation Paper has been issued considering that the public street furniture will eliminate the need to have greenfield deployment of towers or poles for small cells and fiber which would in effect bring down the capital expenditure and time involved for rolling out telecom networks and services.

TRAI has issued the Consultation Paper with the aim to take views of stakeholders on existing concerns on issues related to outdoor small cell and aerial fiber deployment using street furniture for the successful rollout of next generation networks, namely - (i) identification of the suitable street furniture based on availability of backhaul and power, deployment heights, load bearing capabilities of street furniture for mounting suitable equipment; (ii) local approvals, aesthetics and safety for deployment of street furniture; (iii) the process/ procedure for sharing of the street furniture amongst various users; (iv) permissions requisite for power supply under state electricity laws; and (v) exemptions or bulk permissions for small cell deployment (vi) ease of deployment and right of way issues like procedure and charges to deploy or rent the street furniture.

## Third hike in mobile tariffs

Reports state that the Indian telecom operators are likely to hike their tariff prices as it seems to be essential for the industry to invest in the network and spectrum. The tariff hikes also assume importance as the 5G auction is expected to take place in the near future and telecom operators are in need of funds to bid on the 5G spectrum. Telecom operators are likely to roll out 5G services in urban/ semi-urban areas within 3-6 months of obtaining the spectrum.

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