

No. 20-271/2010-AS-I-Aircel-BWA-CMTS
Government of India
Ministry of Communications & IT
Department of Telecommunications
(Access Services Division)
1203, Sanchar Bhavan, Ashok Road, New Delhi-110001.

22nd September, 2010

To

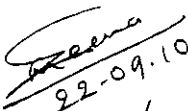
M/s Aircel Limited,
5th Floor, Spencer Plaza,
769, Anna Salai,
Chennai – 600 002

Subject: Amendment of Cellular Mobile Telephone Service (CMTS) Licence Agreement(s) to use BWA spectrum for provision of telecom access services.

In pursuance of Condition 14(ii) of the CMTS licence agreement(s). Clause 4.6 of the Notice Inviting Applications (NIA) for "Auction of 3G and BWA Spectrum" vide No. P-11014/13/2008-PP dated 25.02.2010, WPC Wing's Letter of Intent (LoI) no. L-14035/09/2010-BWA dated 01.09.2010 and on the request of the licensee vide letter no. Aircel/WPC/BWA/LOI/2010 dated 03.09.2010, the LICENSOR hereby insert following Condition 24.17 in the CMTS licence agreement(s) for the **Tamilnadu (excluding Chennai service area)** service area(s), with immediate effect:

"24.17 Use of BWA Spectrum: The licensee is also authorised to use the BWA spectrum block (as earmarked in the above said Letter of Intent) for provisioning of Telecom Access Services as per the scope of the CMTS license agreement, from the date of award of right to commercially use the BWA spectrum i.e. the date of issue of this amendment letter, till the validity of the CMTS licence agreement or for a period of 20 years from the date of issue of this amendment letter, whichever is earlier, subject to compliance of following conditions:

*(i) **Validity period for BWA Spectrum:** The licensee is authorised to use this spectrum for a period of 20 years from the date of award of right to commercially use the allocated BWA spectrum block i.e. the date of issue of this amendment letter, for operation of Telecom Access Services as per the scope of the CMTS license agreement, subject to the condition of validity of the CMTS licence agreement. In case the CMTS licence is cancelled/ terminated/ revoked/ surrendered for any reason, the spectrum usage rights shall stand withdrawn forthwith. If the validity period of the CMTS licence agreement expires before the expiry of the right to use the BWA Spectrum for 20 years, awarded by means of the said Auction, then the validity of the CMTS licence for operation of Unified Access Services by using the said BWA Spectrum only, shall be extended to make it coterminous with the validity of the right to use the BWA Spectrum, without any charges and in such manner as the Licensor deems fit. The extension shall be done on the application of the licensee made 3 months in advance of expiry of the validity period of the CMTS licence. This does not include authorisation or extension of period of validity of the CMTS licence for*


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providing Unified Access Services using wireline and/or spectrum allocated under the provisions of the CMTS licence agreement..

*(ii) **Roll-out obligations for BWA Spectrum:** The Licensee shall ensure compliance of following network roll-out obligations for BWA Spectrum for respective category of the licensed service area(s):*

*(a) **Applicable for Metro service area licence(s):** The licensee shall be required to provide required street level coverage using the BWA Spectrum in at least 90% of the service area within five years of the Effective Date.*

*(b) **Applicable for Category A, B and C service area licence(s):** The licensee shall ensure that at least 50% of the rural SDCAs are covered within five years of the Effective Date using the BWA Spectrum. Coverage of a rural SDCA would mean that at least 90% of the area bounded by the municipal/ local body limits should get the required street level coverage.*

The Effective Date shall be the date when the right to use awarded spectrum commercially commences i.e. the date of issue of this amendment letter.

If the licensee does not achieve its roll out obligations, its BWA spectrum assignment shall be withdrawn.

*(iii) **Licence Fee for BWA Spectrum:** Over and above the 'Licence Fees' payable by the licensee as per present provisions of the CMTS licence agreement, the licensee shall also pay the annual licence Fee as share of Adjusted Gross Revenue (AGR) from the services using BWA spectrum as per rates mentioned in the CMTS licence agreement. All conditions contained in Part-III Financial Conditions of UAS Licence Agreement will continue to be applicable to the Licensees as amended by government from time to time.*

*(iv) **Spectrum Usage Charges for BWA Spectrum:***

i) Over and above the 'Radio Spectrum Charges' payable by the licensee as per present provisions of the CMTS licence agreement, the licensee shall also pay 1% of AGR from the services using BWA spectrum as annual spectrum Charge payable Quarterly in advance.

ii) The revenue from BWA services shall be reported separately in the 'APPENDIC-II TO ANNEURE-II, Format of Revenue and License Fee' as amended.

*(v) **Merger of BWA spectrum blocks:** Unless otherwise notified by the Licensor due course, if two or more licensees holding BWA Spectrum blocks in a service area merge, then they shall be allowed to retain only one BWA Spectrum block and shall surrender the remaining BWA Spectrum blocks in that service area.*

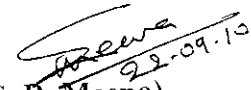
*(vi) **Breach, revocation and surrender for BWA Spectrum:** The BWA spectrum assignment may be revoked, withdrawn, varied or surrendered in accordance with the applicable licence conditions or any other applicable laws, rules, regulations or other statutory provisions. The BWA spectrum assignment may also be revoked if the*

Licensor determines the user of the spectrum to be in serious breach of any of the conditions of the award of the spectrum (including adherence to the Auction Rules) and the consequent obligations. In case of less serious breaches, the Licensor may impose penalties at its discretion. Seriousness of the breach shall be determined by the Licensor at its sole discretion. The licensee may surrender the BWA spectrum, by giving notice of at least 60 calendar days in advance. In that case, it shall also notify all its customers of consequential withdrawal of service by giving 30 calendar days notice to each of them. The licensee shall pay all fees payable by it until the date on which the surrender of the BWA spectrum becomes effective. The effective date of surrender of the spectrum shall be the later of the dates of expiry of the two notices mentioned in this clause. If at any stage, the spectrum allocation is revoked, withdrawn, varied or surrendered, no refund will be made.

(vii) **Applicability of the NIA for BWA Spectrum:** This amendment of the CMTS licence agreement is subject to all the terms & conditions of the Notice Inviting Applications (NIA) for "Auction of 3G and BWA Spectrum" vide No. P-11014/13/2008-PP dated 25.02.2010. The licensee shall comply with all the terms & conditions of the above said Notice Inviting Applications (NIA) unless and otherwise amended by the licensor by way of amendment of the CMTS licence agreement from time to time."

2. All other terms and conditions of the CMTS licence agreement including amendments and instructions issued from time to time shall remain unchanged.

3. Please acknowledge receipt.


(S. R. Meena)
ADG (AS-I)

For and on behalf of the President of India
Ph.No.2303 6574

Copy To:

1. Administrator USOF/ Wireless Advisor/ Sr.DDG(TEC)
2. JS(T)/ DDG(Security-Term)/ DDG(CS)/ DDG(DS)/ DDG(LF-I)/ DDG(LF-II)/ DDG(WPF)/ Dir(AS-II)/ Dir(AS-III)/ Dir(AS-IV)
3. Secretary, TRAI
4. Director (IT) may kindly arrange to upload this letter on the website of DoT.

