

File No: 800-36/2014-AS.II
Government of India
Ministry of Communications
Department of Telecommunications
(Access Services Wing)
Sanchar Bhawan, 20 Ashoka Road, New Delhi – 110 001.

Dated: 29.03.2019

To

All Advisor(s)/Sr. DDG (s)
LSA Field Units of DoT

Subject: Implementation of judgement and order dated 15.11.2018 passed by Hon'ble Telecom Dispute Settlement & Appellate Tribunal (TDSAT) in Petition No. 133/2015 filed by COAI and other Telecom operators V/s UoI - regarding

This has reference to the judgment and order dated 15.11.2018 passed by Hon'ble TDSAT in Petition no. 133/2015 filed by COAI V/s UoI on the issue of levying penalty on all participating BTSs in case of non-compliance of EMF norms at a shared site. In the regard, the undersigned is directed to convey the approval of competent authority for implementation of the said orders of Hon'ble TDSAT and the following penalty scheme for non-compliance of EMF radiation norms in case of a shared site.

2. In case of non-compliance of prescribed EMF norms at a shared site, a penalty of Rs. 20 lakh per 'site' per 'incidence' basis shall be imposed on the rogue BTS (BTS whose exposure ratio/index is more than '1') only, if the site becomes compliant after removing the contribution of that rogue BTS, and no penalty shall be imposed on remaining participating BTSs. However, if the site is non-compliant even after removing the contribution of that rogue BTS, then a penalty in proportion to the exposure ratio (Rs. 20 lakh X Exposure Ratio), shall be imposed on all the remaining participating BTSs.
3. In those cases, where there is no rogue BTS and the site becomes non-compliant due to contribution of all participating BTSs, then a penalty in proportion to the exposure ratio (Rs. 20 lakh X Exposure Ratio), shall be imposed on all the participating BTSs.
4. The manner of imposition of penalty in case of a shared site is detailed as follows:
 - **When there is rogue BTS(s):**
 - i. Case I: If a shared site becomes non-compliant due to contribution of rogue BTS(s) only and it becomes compliant after removing the contribution of that rogue BTS(s), then a penalty of Rs. 20 lakh on each rogue BTS shall be imposed only and no penalty shall be imposed on the remaining participating BTSs.
 - ii. Case II: If a shared site has rogue BTS(s) and if the site is still non-compliant even after removing the contribution of that rogue BTS(s), then a penalty of Rs. 20 lakh on each rogue BTS shall be imposed and a penalty in proportion to the exposure ratio {Rs. 20 lakh X Exposure Ratio (rounded off to two digits after decimal)}, shall be imposed on the remaining participating BTSs.



- **When there is no rogue BTS(s):** If a shared site becomes non-compliant due to contribution of all BTSs i.e., when all participating BTSs have exposure ratio/index less than '1' but the RMS of Exposure Ratio/Index for overall compliance is more than '1' or '100%', then a penalty in proportion to the exposure ratio {Rs. 20 lakh X Exposure Ratio (rounded off to two digits after decimal)}, shall be imposed on each participating BTS.

An illustration regarding the manner of imposition of penalty in different cases, is attached as Annexure-I.

5. The pending penalty demand notice since 06.05.2015 (date on which Hon'ble TDSAT had passed interim stay in this matter) shall be revised and charged as per the scheme mentioned above.
6. The partial penalty demands which have either not been paid at all or have been partially paid by the Licensee on the pretext of petition no. 133/2015, shall be revised and recovered as per the scheme mentioned above. All such partial/ pending demands may be settled within 3 months from the date of issue of this order.
7. These instructions are in supersession of other interim instructions issued subsequent to the interim orders of Hon'ble TDSAT on the subject matter.
8. The other terms and conditions of instructions issued from time to time on the subject matter of EMF shall remain the same.


(Prashant Verma) 29/03/19

Assistant Director General (AS-II)
Tel: 011-23354042

Copy to:

- 1) **DG(T), DoT HQ, New Delhi-** for kind information and necessary action please.
- 2) **Sr. DDG, TEC, New Delhi.**
- 3) **All CMTS/UASL/UL (Access Service Authorization) Licensees.**
- 4) **COAI, New Delhi.**

Annexure-I

Case I: On frequency selective measurement, the exposure ratios are calculated as follows:

A: 1.15, B: 1.2, C: 0.56, D: 0.02, E: 0.35

RMS for overall compliance including rogue BTSs 'A' and 'B': 1.79 or 179%, the site is non-compliant and it is clearly identifiable 'A' & 'B' are rogue BTSs.

RMS for overall compliance after removing rogue BTSs 'A' and 'B': 0.66 or 66%, the site is compliant.

Penalty to be imposed on the rogue BTSs only: **BTS 'A'- Rs. 20 lakh, BTS 'B'- Rs. 20 lakh.**

Case II: On frequency selective measurement, the exposure ratios are calculated as follows::

A: 1.5, B: 0.60, C: 0.60, D: 0.45, E: 0.4, F: 0.35, G: 0.3, H: 0.25, I: 0.2, J: 0.15

RMS for overall compliance = 1.916 or 191.60 %, the site is non-compliant and rogue BTS is 'A'.

RMS for overall compliance after removing rogue BTSs 'A'= 1.192 or 119.20%, the site is still non-compliant. Penalty in this case may be imposed as follows:

BTS	Exposure Ratio (rounded off to two digits after decimal)	Penalty to be imposed
A	1.5 (Rogue)	Rs. 20 lakh
B	0.60	Rs. (20 x 0.6) lakh= 12 lakh
C	0.60	Rs. (20 x 0.6) lakh= 12 lakh
D	0.45	Rs. (20 x 0.45) lakh= 9 lakh
E	0.40	Rs. (20 x 0.40) lakh= 8 lakh
F	0.35	Rs. (20 x 0.35) lakh= 7 lakh
G	0.30	Rs. (20 x 0.30) lakh= 6 lakh
H	0.25	Rs. (20 x 0.25) lakh= 5 lakh
I	0.20	Rs. (20 x 0.20) lakh= 4 lakh
J	0.15	Rs. (20 x 0.15) lakh= 3 lakh

Case III: Exposure ratios are as follows:

A: 0.6, B: 0.54, C: 0.42, D: 0.35, E: 0.28 (No rogue BTS)

RMS for overall compliance = 1.014 or 101.40 %, the site is non-compliant. Penalty in this case may be imposed as follows:

BTS	Exposure Ratio (rounded off to two decimal digits)	Penalty to be imposed
A	0.60	Rs. (20 x 0.6) lakh= 12 lakh
B	0.54	Rs. (20 x 0.54) lakh= 10.8 lakh
C	0.42	Rs. (20 x 0.42) lakh= 8.4 lakh
D	0.35	Rs. (20 x 0.35) lakh= 7 lakh
E	0.28	Rs. (20 x 0.28) lakh= 5.6lakh
