

**Auction of Spectrum in 800 MHz, 900 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 2500 MHz, 3300 MHz,
and 26 GHz Bands**

**Queries & Responses
to
Notice Inviting Applications
Dated 08th March, 2024**

**Government of India
Ministry of Communications
Department of Telecommunications
03rd April, 2024**

Sl. No.	Query	Response
1	<p><u>Clause 1.3: Timetable (Page 10)</u> Clause in NIA: One of the events mentioned under the Auction Timetable is “Publishing the Auction Catalogue for Live Auction”.</p> <p>Query: This is the first time that an NIA has mentioned about the publication of an Auction Catalogue for Live Auction. Accordingly, we request DoT to clarify the proposed contents of such Catalogue.</p>	<p>Through the auction catalogue each bidder will be able to view its Eligibility Points, Net Worth, EMD, Spectrum Holding data (existing), and the details of LSA-Bands put to Auction.</p> <p>No change in NIA.</p>
2	<p><u>Clause 1.5: Independent External Monitors and Integrity Pact (Page 11)</u> Clause in NIA: “The following Independent External Monitors (IEM) are appointed for DoT: (i) Shri Umendra, IFOS (Retd.), 1/55 C, Vipulkhand, Gomit Nagar, Lucknow-226010(Mob. No. 9415279693 & email ID: sharmaumendra@gmail.com)”</p> <p>Query: We believe the word “Gomit” is a typo and should be replaced with “Gomti”. We request DoT to kindly correct the same.</p>	<p>“Gomit” may be read as “Gomti”.</p> <p>Please refer to the amendment to NIA.</p>

3 **Clause 2.5: Duration (Page 15); Annexure 'F' to the NIA – Spectrum blocks for auction in 1800 MHz band: Note (Page 52 of Annexure 'F')**

Clause in NIA:

“Further, for Spectrum which is expiring in the year 2024 and whose assignment is extended through an interim assignment arrangement, ‘Effective Date’ for such spectrum shall be as below:

- i. If the same licensee who is holding the spectrum, wins the spectrum, ‘Effective Date’ will be the day following the expiry date of earlier assignment.
- ii. If an entity other than the one who is holding the spectrum wins the spectrum, then ‘Effective Date’ will be the day following the expiry date of the interim assignment arrangement made to the licensee holding the spectrum.”

Clause in Annexure ‘F’ to the NIA:

“In case the successful bidder is other than the incumbent, the “Effective date” for counting 20 years validity period for the right to use spectrum will be considered from the date of vacation by the incumbent, which will be not more than 60 days from the date of declaration of provisional results.”

Query:

- a) DoT, vide its OM No. L-14040/02/2024-IMT dated 9th February 2024, granted provisional assignment to TSPs for their spectrum expiring in the year 2024, in order to avoid disruption of public services. Clause (vi) of the OM clearly mentions that “In the event of incumbent TSP not winning such spectrum in Auction 23-24, a maximum transition period up to two months shall be allowed to the incumbent TSP from date of declaration of the provisional result of Auction 23-24”. However, the provisions of the NIA are not aligned with the same.

First, Annexure ‘F’ to the NIA mentions that the vacation of the spectrum by the incumbent TSP has to be within 60 days (and not two months) from the date of declaration of provisional results. Moreover, the said clause only pertains to 1800 MHz band. There is no corresponding

(i) In case the successful bidder is other than the incumbent, the vacation of the spectrum by the incumbent TSP has to be within two months from the date of declaration of provisional results.

(ii) The said clause is applicable for all relevant bands.

(iii) In case the successful bidder is same as the incumbent, two months period for vacation shall not be applicable.

clause in respect of the 900 MHz band.

Next, clause 2.5 of the NIA provides that the effective date of frequency assignment to a TSP, other than the incumbent holder of the spectrum, will be the day following the expiry date of the interim assignment arrangement. This would essentially imply that the incumbent TSP would not be given any time (whether two months or 60 days), for the vacation of the spectrum.

Accordingly, we request DoT to kindly clarify and confirm that the incumbent TSPs will be allowed two months' time from the date of declaration of provisional results, in line with the OM dated 9th February 2024, to vacate their spectrum – both 1800 MHz and 900 MHz – in case they do not win back the spectrum for which provisional assignment has been granted.

<p>4</p>	<p><u>Clause 3.2: Associated Eligibility Conditions (Page 17); Annexure P: Format of Integrity Pact – Section 4(1) (Page 154)</u> Clause in NIA: “(i)... They will also need to comply with conditions for spectrum assignment and other prescribed conditions such as rollout obligations, BG etc. For the limited purpose of this provision, 900 MHz and 1800 MHz Bands are considered as the same band.”</p> <p>Clause in Annexure P: “If the Licensor has disqualified the Bidder(s)/Buyer(s) from the auction process prior to the award according to Section 3, the Licensor is entitled to demand and recover the damages equivalent to Earnest Money Deposit (EMD) and/or Performance Bank Guarantee (PBG).”</p> <p>Query:</p> <p>We believe that the requirement of BG/PBG is not applicable anymore, and the mention of the same in the above clauses is an inadvertent error. Accordingly, we request DoT to kindly delete the reference to BG/PBG.</p>	<p>In Section 3.2 “(i)... They will also need to comply with conditions for spectrum assignment and other prescribed conditions such as rollout obligations, BG etc.” may be read as “.....They will also need to comply with conditions for spectrum assignment and other prescribed conditions.”</p> <p>Please refer to the amendment to NIA.</p>
<p>5</p>	<p><u>Clause 4.1.4: Earnest Money Deposit (Page 25)</u> Clause in NIA:</p> <p>“The EMD will be returned following failure to pre-qualify, or following the end of the auction and after meeting all the necessary obligations under the Auction Rules, as applicable.”</p> <p>Query:</p> <p>We request DoT to kindly clarify and confirm the EMD will be returned within 24 hours of the end of the auctions, as stated during the pre-bid conference.</p>	<p>No change in NIA</p>

<p>6</p>	<p><u>Clause 4.4: Bid Validity (Page 28); Annexure J: Format for Earnest Money Deposit – Para 4 (Page 138)</u></p> <p>Clause in NIA:</p> <p>“The Bids made in the Auction shall be valid up to 30/09/2024.”</p> <p>Clause in Annexure J:</p> <p>“This guarantee will remain in force up to 31st December, 2024, further extendible by another six months on your request and any demand in respect thereof should reach the Bank not later than the date up to which this Bank Guarantee is valid.”</p> <p>Query:</p> <p>a) Clause 4.4 of the NIA requires the bids to be valid till 30th September 2024; however, the format of the EMD under Annexure J requires the EMD guarantee to be valid till 31st December 2024. We believe this is an inadvertent error, as the EMD should be co-terminus with the bid validity, i.e. till 30th September 2024.</p> <p>Accordingly, we request DoT to modify the EMD format, so that the EMD is also required to be valid only until 30th September 2024.</p>	<p>(i) In Clause 4.1.4, in Para 1, “<i>The Bank Guarantee shall be valid up to 31/12/2024</i>” may be read as “<i>The Bank Guarantee shall be valid up to 30/09/2024</i>”.</p> <p>(ii) In Section 12.10, Annexure J: (a) in Para 4, “<i>31st December, 2024</i>” may be read as “<i>30th September, 2024</i>”; and (b) in Para 5, “<i>30th June 2025</i>” may be read as “<i>31st March, 2025</i>”.</p> <p>Please refer to the amendment to NIA.</p>
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7	<p><u>Clause 6.1: Payment Terms (Pages 36-40)</u> Clause in NIA:</p> <p>The clause on Payment Terms has covered various situations with examples.</p> <p>Query: We request DoT to kindly ensure the following:</p> <ul style="list-style-type: none"> i. In case the spectrum, which has been provisionally assigned as per the OM No. L-14040/02/2024-IMT dated 9th February 2024, is won by an entity other than the incumbent TSP, then the demand note should be raised on the successful bidder only at the time of vacation of spectrum by the incumbent TSP and not immediately post the conclusion of the spectrum auctions. This is because the incumbent TSP would have a transition period of 2 months for vacating the spectrum as per the said OM; and the assignment to the successful bidder would be effective only post such vacation. ii. In case the spectrum, which has been provisionally assigned as per the OM No. L-14040/02/2024-IMT dated 9th February 2024, is won by the incumbent TSP, the demand note for final assignment should be raised only post adjustment of payment made at the time of such provisional allotment in terms of the said OM. 	<ul style="list-style-type: none"> i. NIA is self-explanatory. ii. Refer clause (iv) of OM No. L-14040/02/2024-IMT dated 9th February 2024
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<p>8</p>	<p><u>Clause 6.1.3: Payment in Cases of Partial Spectrum (Pages 37-38); Annexure 'F' to the NIA – Spectrum blocks for auction in 800, 900, 1800 and 3300 MHz bands: Notes (Pages 6, 23, 52 and 58, respectively, of Annexure 'F')</u> Clause in NIA:</p> <p>“... in some LSAs some of the spectrum is not available in the entire LSA. In such cases, while the bids will be sought for spectrum in entire LSA, the amount payable at this stage will be restricted to the spectrum available. Such payable amount will be calculated on pro-rata basis considering the proportion of population of those locations/area(s) (as of census of 2011) being excluded. ...”</p> <p>Clauses in Annexure 'F' to the NIA:</p> <p>Spectrum blocks for auction in 800 MHz band (Page 6): “Spectrum blocks mentioned above for Maharashtra LSA are not available for assignment in a region of 30 km radius around GMRT observatory. Exact details of the region where spectrum blocks in Maharashtra LSA are not available for assignment will be provided to the qualified bidders separately.”</p> <p>Spectrum blocks for auction in 900 MHz band (Page 23): “Spectrum blocks mentioned above for Maharashtra LSA are not available for assignment in a region of 30 km radius around GMRT observatory. Exact details of the region where spectrum blocks in Maharashtra LSA are not available for assignment will be provided to the qualified bidders separately.”</p> <p>Spectrum blocks for auction in 1800 MHz band (Page 52): “In Haryana LSA, spectrum block nos. 93 to 142 above are available for assignment in entire Haryana LSA except Sirsa and Fatehabad districts.”</p> <p>Spectrum blocks for auction in 3300 MHz band (Page 58): “The block nos. 1 to 7 in the Himachal Pradesh, Jammu & Kashmir & North East LSAs and block nos. 1 to 2 in Uttar Pradesh (West) LSAs are not available for assignment in 50 km from the International border. Details of the area where the aforementioned blocks are not available for assignment will be provided to the qualified bidders separately.”</p>	<p>(a & b) The details of the polygon of the exclusion zone along with the methodology shall be shared with the qualified bidders only, before the start of the auction.</p> <p>(c) Once the spectrum is released by the user agency in any of the exclusion zones, the same shall be made available to the successful bidder immediately.</p>
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Query:

- a) As per our understanding, Census 2011 may only provide the district-wise population; and we are also not aware of any data available in the public domain for deriving the exact populations of the specific areas being excluded. Accordingly, we request DoT to kindly clarify the methodology through which the population of the excluded areas would be calculated.
- b) Further, we request DoT to kindly provide, well before the last date of submission of applications (i.e. 22nd April 2024), the exact polygons for each of the exclusion areas and the populations of these excluded areas – to enable the TSPs to account for the same in their bidding strategy.
- c) We also request DoT to kindly clarify the time duration for the non-availability of spectrum in these areas.

9	<p><u>Clause 8.4: Rural SDCA (Page 49)</u> Clause in NIA: “The rural SDCA shall be as notified by the Department of Telecommunications.” Query: We request DoT to kindly upload the list of rural SDCAs on its website before the start of the spectrum auctions.</p>	<p>List of Rural SDCAs under various Licensed Service Areas for the purpose of Roll out obligations:</p> <p>https://dot.gov.in/accessservices/list-rural-sdcas-under-various-licensed-service-areas-purpose-roll-out-obligations-2</p>
10	<p><u>Clause 9.4: Browsing software is IE10 and above (Page 56)</u> Clause in NIA: “The e-auction (online auction) will be conducted through internet using the web browsing software, Internet Explorer version 10 and above, wherein only the pre-qualified bidders will be allowed to participate. ...” Query: a) It is worthwhile to mention that Microsoft has stopped supporting the Internet Explorer web browser since 15th June 2022, and users are instead directed to Edge. b) We request DoT to kindly clarify and confirm that the same has been duly considered, and there will be no issues during the bidding due to this.</p>	<p>The EAS will work on Edge (in Internet explorer mode). The system setting required to ensure proper functioning are covered in Bidder’s guide hosted on the EAS.</p> <p>No change in NIA.</p>
11	<p><u>Clause 9.7: Spectrum Holding Capping Rule (Page 60)</u> Clause in NIA: “All spectrum assigned to TSPs, including quantity of spectrum whose rights to use were put to auction but remained unsold, spectrum whose rights to use were assigned but subsequently surrendered by the TSPs or taken back by the licensor and quantity of spectrum whose rights to use are being put to auction would be counted for the purpose of the spectrum cap.” Query: It is our understanding that the spectrum, for which provisional assignment has been granted for 3 months, will be excluded while calculating the spectrum cap of the TSP to whom such provisional assignment has been granted. We request DoT to kindly confirm the same.</p>	<p>Provisional spectrum assigned for a period of 3 months shall be excluded from the holding of the TSPs, while calculating spectrum caps.</p>

12	<p><u>Clause 9.7: Spectrum Holding Capping Rule (Page 60)</u> Clause in NIA: “The spectrum which may become available to DoT for commercial use after its refarming from other uses (such as defence) at different points of time would not be counted for determining the spectrum caps until its rights to use are put to auction.” Query: We believe the word “uses” is a typo should be replaced with “users”. We request DoT to kindly correct the same.</p>	No change in NIA
13	<p><u>Clause 9.8.6: Ranking of Bidders and Provisional Winning Bidders (Page 73)</u> Clause in Annexure A: “Where there is a tie according to the first five criteria, ties will be broken according to a random index assigned to the Bid in that LSA-Band combination when it is received by the EAS. The random index assigned will be considered in descending order of their value for determining the ranking. Hence if there are 3 bidders X, Y and Z where the random index assigned to X, Y and Z are 344563, 9976064 and 773412. Y will be considered for Rank 1 followed by Z and finally X will be awarded Rank 3. The Random Index assigned to a Bid will be determined in the Clock Round when a Bid is made.” Query: We request DoT to clarify the basis/methodology for assigning the random index number, which will be used to break the tie on first five criteria, as mentioned in the above clause.</p>	<p>Random Index number are random numbers generated by system using the inbuilt library of the programming language at each instance a bidder has submitted a bid for a LSA-Band combination.</p> <p>No change in NIA.</p>
14	<p><u>Annexure A – Table A5: 2300 MHz Band (Page 111)</u> Clause in Annexure A: The header of the second column reads as: “Quantum on sale (MHz) (paired)”. Query: We believe the word “paired” is a typo and should be replaced with “unpaired”, as 2300 MHz is a TDD band. We request DoT to correct the same.</p>	<p>“Paired” in header of the second column in Table A5: 2300 MHz Band (Page 111) may be read as “Unpaired”</p> <p>Please refer to the amendment to NIA.</p>

Annexure B: Details of Spectrum holding caps (Page 115)

Clause in Annexure A:

The Sub-1 GHz cap in respect of West Bengal LSA is mentioned as: "50.56 MHz".

Query:

- a) We believe there is an error in calculating the Sub-1 GHz cap in respect of the West Bengal LSA.
- b) As per our understanding, the current spectrum snapshot of the industry for 900 MHz is as below:

TSP	Bandwidth (in MHz)	Remarks
Airtel Admin	4.4	Shall be put to Auction
Airtel Auctioned	5	
Vi Admin	4.4	Shall be put to Auction
Vi Auctioned	3	
BSNL	6.4	
Railways	0.8	
Vacant	0.8	Shall be put to Auction
Total	24.8	Vacant - 9.6 MHz

- c) Since 0.8 MHz of spectrum in the 900 MHz band is held by Railways, the same needs to be excluded for the purpose of calculation of the Sub-1 GHz cap.
- d) Taking 20 MHz each for 700 MHz and 800 MHz bands, the total Sub-1 GHz spectrum (in unpaired terms) for the purpose of calculation of spectrum cap would be: $(20*2) + (20*2) + [(24.8-0.8)*2] = 128$ MHz.
- e) Accordingly, the spectrum cap should be 40% of 128 MHz, i.e. 51.2 MHz, and not 50.56 MHz.
- f) It seems that the anomaly in the spectrum cap has arisen because the spectrum holding of Railways in West Bengal LSA has been taken as 1.6 MHz (paired) instead of 0.8 MHz (paired). In case the spectrum holding of Railways had, in fact, been 1.6 MHz (paired), then the quantum of total vacant spectrum in the LSA would only be 8.8 MHz and not 9.6 MHz.
- g) We request DoT to please clarify and correct the spectrum cap

0.8 MHz of spectrum in the 900 MHz in WB LSA has been excluded from the Vacant spectrum put to auction and accordingly Annexure A, Annexure -E & Annexure – F are revised.

Please refer to the amendment to NIA.

16	<p><u>Annexure 'F' to the NIA: Date of availability of various spectrum blocks in the different bands put to auction (Pages 2, 8, 25, 37, 44 and 48)</u></p> <p>Clause in Annexure 'F' to the NIA: Some of the blocks for auction in different spectrum bands are available with effect from a later date.</p> <p>Query: We request DoT to kindly clarify and confirm the following:</p> <ul style="list-style-type: none"> i. The spectrum available w.e.f. a later date would also be included in the spectrum harmonization exercise conducted for the rest of the spectrum which is immediately available. ii. In case any of the spectrum which is available w.e.f. a later date is currently being used by a Government user, it shall be assigned to a TSP only after the same has been vacated and harmonization has been completed; and the effective date of assignment of such spectrum shall be the date of frequency harmonization. 	No change in NIA
17	<p><u>Annexure 'H' to the NIA: Application Checklist</u></p> <p>S. No. of 3, 4,5 6, 7, 8, 10, 14 in Annexure 'F' to the NIA: As per NIA requirements, numerous documents necessitate a signature solely from the Company Secretary. Among these documents are the Certificate of Registration, along with the Articles of Association and Memorandum of Association, as well as certificates for Paid-up Capital, Net worth, etc.</p> <p>Query: Given that bidding activities are time-sensitive and in various circumstances, there may be a scenario wherein the Company Secretary is not available due to personal or official reasons during the bidding process. Many organizations appoint a 'Deputy Company Secretary, who signs all relevant documents.' Therefore, adequate flexibility should be available to TSPs during the bidding period.</p> <p>Therefore, we request DoT to also allow both the 'Deputy Company Secretary' as well as 'Authorized Signatory' to sign all such documents currently restricted to the Company Secretary's signature.</p>	No change in NIA

18	<p><u>Additional Query:</u></p> <p>a) We submit that in case spectrum assigned to TSPs remains unutilized/under-utilized due to issues such as interference or non-contiguity for which DoT is solely responsible, TSPs should be provided proportionate relief in terms of either reduced payout or extension of validity of spectrum, in order to reduce the impact on the investments made by the TSP. We request DoT to kindly issue detailed guidelines regarding this, well before the last date of submission of applications (i.e. 22nd April 2024), to enable the TSPs to account for the same in their bidding strategy.</p>	No change in NIA
19	<p><u>Section 2.1 Spectrum to be auctioned. (Page 13)</u></p> <p><u>Section 12.1 Annexure A: Details of Spectrum put to auction. (Pages 113 & 114)</u> Table A7 and Table A8</p> <p>The quantity of spectrum being put to auction in 3300 MHz band and 26 GHz band is less than the unsold spectrum in these bands in auction held in year 2022. Similarly, no spectrum is put to auction in 700 MHz band, even though certain quantum of spectrum remained unsold in this band in auction held in year 2022. Request you to confirm the reasons.</p>	No change in NIA
20	<p><u>Section 2.1 Spectrum to be auctioned. (Page 13)</u></p> <p><u>Section 12.1 Annexure A: Details of Spectrum put to auction. (Page 106)</u> The EMD requirement as % of reserve price varies from 6% to 17% across LSA and spectrum bands. It is suggested to bring some uniformity with EMD requirement benchmarked at lower level compared to the reserve price.</p>	No change in NIA
21	<p><u>Section 9.7 Spectrum Holding Capping Rule. (Page 59)</u></p> <p><u>Section 12.2 Annexure B: Details of Spectrum Holding caps. (Page 115)</u> Caps for spectrum in 3300 MHz and 26 GHz band seem higher than the before without any change in spectrum cap rules. Please reconfirm.</p>	No change in NIA.

22	<p><u>Section 4.1.1 Application Requirements (Page 21)</u> The sub-clause (iv) mentions that Applicants may authorize one more person, who could act as the alternate authorized person. However, as per Section 9.4 maximum of four authorized signatories are permitted. Therefore, kindly confirm our understanding that in the Application for Participating in Auction, under Sr No 5, details for only 2 authorized signatories i.e. Primary and Alternate Authorized Person are to be provided, while Digital Signature Certificate (DSC) can be obtained for 4 authorized signatories for participation in the e-auction.</p>	<p>Section 4.1.1 (iv) & Sr No. 5 (Page 128) is regarding Authorised Person for submission of application. However, Section 9.4 is regarding authorised signatories to submit the bids in E-Auction. Primary Login Id is created by Authorised Person through online KYC. Secondary Login Ids are created by Primary Login Id only, which can be up to 3 nos.</p> <p>No change in NIA.</p>
23	<p><u>Section 4.1.4 Earnest Money Deposit (Page 25)</u> The NIA requires that the earnest money (in the form of a Bank Guarantee from a Scheduled Bank) shall be valid up to 31.12.2024 and extendable for a further period of six months at the request of DoT. We submit that this is an inordinately long validity for EMD and may be revised to 30.06.2024, considering auction timelines and return of BG in previous auctions, which was done withing 10 days of auction closure.</p>	<p>Please refer to response at s.no 6.</p>
24	<p><u>Section 5.8 Spectrum Surrender (Page 34)</u> The surrender of spectrum is permitted as guidelines issued by DOT on 15.06.2022. However, the said guidelines rule out refund of any full or partial pre-payment made. DOT is requested to reconsider this provision, otherwise no TSP will have any incentive to make part/full upfront/pre-payment of bid amount and will make a discriminatory treatment to those who have made such payments.</p>	<p>No change in NIA</p>
25	<p><u>Section 7.1 Assignment of Spectrum (Page 41)</u> <u>Section 7.1.1 Issuance of Frequency Assignment Letter (Page 41)</u> The WPC Wing of DoT will issue a Frequency Assignment Letter specifying the frequencies to the successful bidder within thirty (30) calendar days from the date of receipt of first payment, as applicable. Hence the interest on the remaining amount should be applicable from the date of Frequency Assignment letter.</p>	<p>No change in NIA</p>
26	<p><u>Section 9.1.3 Frequency reconfiguration (Page 55)</u> Kindly confirm that post auction the spectrum harmonization will be done to ensure newly acquired spectrum is made contiguous with the existing spectrum in the same band.</p>	<p>No change in NIA.</p>

27	<p><u>Section 12.9 Annexure I: Application format (Page 129)</u></p> <p>As per Sr No 6 (a) and (b), applicant is required to provide two values for net worth and paid-up capital values, i.e. 'as on date' as well as 'as on last audited statement'. Further as per Note 3 (I) of the clause, the details of Net worth and Paid-Up capital can be given "As on 31-12-2023" in place of "As on Date".</p> <p>In view of the above, if applicant is having these details "as on 31-12-2023" which are also "last audited statement", kindly confirm that only one value (as on date i.e. as on 31-12-2023) can be provided for net worth and paid-up capital to avoid duplication of the same information.</p>	No change in NIA.
28	<p><u>Section 1.3 Timetable (Page 10)</u></p> <p><u>Timing of auction:</u></p> <p>As DoT is aware, the General elections are going to be taking place all over the country and the final results of the same are expected to be announced by 4th June 2024. Given that the spectrum auctions are an important event in the DoT calendar, we suggest that it may be desirable to defer the same to post completion of the General elections. We suggest that the spectrum auctions may commence from 10th June 2024.</p>	Please refer to the amendment to NIA.

29	<p><u>Section 2.5 Duration (Page 15)</u> <u>Provisional assignment /extension of spectrum rights which are expiring in 2024.</u></p> <p>Clause 2.5 of the NIA reads as follows:</p> <ul style="list-style-type: none"> i. If the same licensee who is holding the spectrum, wins the spectrum, 'Effective Date' will be the day following the expiry date of earlier assignment. ii. If an entity other than the one who is holding the spectrum wins the spectrum, then <p>'Effective Date' will be the day following the expiry date of the interim assignment arrangement made to the licensee holding the spectrum."</p> <p>In this regard, the DoT OM No 14010/02/2024 – IMT dated 09.02.2024 states as below:</p> <ul style="list-style-type: none"> iv. After the conclusion of auction 2023-24, any excess spectrum charges paid by TSP for duration of extension., will be adjusted in the first instalment/upfront payment, without interest. In case of shortfall, additional demand shall be payable... vi. In event of incumbent TSP not winning such spectrum in Auction 23-24, a maximum transition period up to two months shall be allowed to the incumbent TSP from date of declaration of the provisional result of Auction 23-24. vii. ...for the spectrum which is expiring in the year 2024 effective date for such spectrum, when acquired by the same licensee who is holding the spectrum, in Auction 2023-24, will be the day following the expiry date of the earlier assignment... <p>It is our understanding that:</p> <ul style="list-style-type: none"> a) If the incumbent licensee wins back the spectrum: If the original date of expiry is 22.03.2024 and the expiry date of the interim assignment is 22.06.2024 and the date of declaration of provisional result of Auction 2023-24 is 01.06.2024. In case the Licensee with the interim assignment wins back the spectrum, then the effective date for the incumbent licensee will be 23.03.2024 and hence the excess payment made by the Licensee from 	No change in NIA
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23.03.2024 to 22.06.2024 will be adjusted by DoT in the first instalment/upfront payment.

- b) If the incumbent licensee does not win back the spectrum:
If the expiry date of the interim assignment is 22.06.2024 and the date of declaration of provisional result of Auction 2023-24 is 01.06.2024. In that case the Licensee with the interim assignment can take a transition period up to 31.07.2024 but since the expiry date is 22.06.2024, additional demand will be raised by DoT on the Licensee with interim assignment for the intervening period from 23.06.2024 to 31.07.2024.

Alternatively, if the expiry of the interim arrangement is, say 22.08.2024 and the date of declaration of provisional result of Auction 2023-24 is 01.06.2024. In that case the Licensee with the interim assignment can take a transition period up to 31.07.2024. In this case the excess charges paid by the Licensee with interim assignment for the period 01.08.2024 to 22.08.2024 will be adjusted by DoT in the first instalment/upfront payment or refunded in case there is no amount payable by the Licensee with interim assignment or the amount payable by the said Licensee is less than the amount of excess charges paid as explained above.

The effective date for the new bidder in both the above cases will be 01.08.2024.

DoT may kindly confirm that the above understanding is correct.

30	<p>Section 12.2 Spectrum Cap (Page 60) Spectrum Capping: We note that there is an increase in the Spectrum Cap in 3300 MHz (from 130 MHz to 150 MHz) and 26 GHz (from 1100 MHz to 1300 MHz) despite the fact that the total spectrum available is the same as last auction. In this regard, attention is drawn to Para 9 and Para 10 of the TRAI letter No. C-15/2/(2)/2023-NSL-II dated 01.09.2023 are as reproduced below: “Para 9: With regard to band plan, block size, and associated conditions for auction of spectrum in the existing bands viz. 600 MHz, 700 MHz, 800 MHz, 900 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 2500 MHz, 3300 MHz, and 26 GHz bands for IMT, it may be noted that the previous recommendations for auction of spectrum in these bands were made on 11.04.2022, based on which the auction was conducted during July-August 2022. The Authority is of the view that in such a short span of time since the previous recommendations, no technological developments or market changes have occurred that warrant any change in the band plan, block size, and associated conditions for auction of spectrum in the existing bands. The Authority also notes the changes made by the Government in the roll-out obligations in the Auctions of 2022. As regards the quantum of spectrum to be auctioned, the Authority maintains its position that all available spectrum should be put to auction.</p> <p>Para 10. In light of the above, the Authority reiterates its recommendation at para 6.42 (II) of the Recommendations on 'Auction of Spectrum in frequency bands identified for IMT/5G' dated 11.04.2022 on the reserve price. All available spectrum in the existing bands viz. 600 MHz, 700 MHz, 800 MHz, 900 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 2500 MHz, 3300 MHz, and 26 GHz in the referred LSAs may be put to auction with the same band plan, block size and associated conditions.”</p> <p>We would like to understand as to why despite the TRAI’s observation that, “no technological developments or market changes have occurred that warrant any change.....”</p> <p>and its recommendation as above to retain the same band plan block size and associated conditions, DOT has chosen to increase the spectrum Cap for these two bands.</p>	No change in NIA.
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Also, in the 2022 auction NIA it was mentioned that “Spectrum reserved for BSNL in 600 MHz, 3300 MHz and 26 GHz bands, shall be excluded while calculating spectrum caps”. However, this time the cap has been computed on the total spectrum including the spectrum allocated/reserved for BSNL.

It is submitted that any increase in the spectrum caps may lead to the possibility of concentration of spectrum with in the hands of a few operators thus negating the very basis for setting spectrum caps.

In the absence of TRAI recommendation for such a change, the provisions in the last NIA and our concern as highlighted above, it is appropriate that Spectrum Cap for 3300 MHz and 26 GHz bands are not changed and are as per the last auction at 130 MHz and 1100 MHz respectively.

31	<p>Section 1.8 Governing Law (Page 12)</p> <p>Point 1.8 state the following “The Bidders shall be bound by the laws of India, including the statutory provisions and the rules made under Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933, Information Technology Act, 2000, and TRAI Act, 1997 as amended from time to time, and the rules and regulations there under.”</p> <p>It is submitted that with the promulgation of the Telecommunication Act, 2023 which has been gazette notified on 24.12.2023, the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933 stand repealed; hence the references in Clause 1.8 are required to be updated to include a reference to the Telecommunications Act 2023.</p>	No change in NIA
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32	<p><u>Section 5.4 Merger & Acquisitions (Page 33) and Spectrum Capping:</u> The NIA 2023-24 allows for the following spectrum cap:</p> <p>“A Cap of 40% on the combined spectrum holding in the sub-1 GHz bands i.e. 700 MHz, 800 MHz and 900 MHz bands, including existing spectrum holding of TSPs in these bands. A Cap of 40% on the combined spectrum holding in 1800 MHz, 2100 MHz, 2300 MHz and 2500 MHz bands, including existing spectrum holding of TSPs in these bands.</p> <p>A Cap of 40% on the spectrum holding in 3300 MHz band including existing spectrum holding of TSPs (rounded off considering the block size in this band).</p> <p>A Cap of 40% on the total spectrum holding in 26 GHz band including existing spectrum holding of TSPs (rounded off considering the block size in this band).”</p> <p>However, the merger and amalgamation guidelines 2014 read with the amendment dated 30.05.2018 stipulates the spectrum caps to be followed in case of M&A, which are at variance with the capping rules given in NIA 2024.</p> <p>The DOT may thus kindly clarify that the spectrum capping rules as per the NIA, as amended from time to time, would also be applicable in case of M&As.</p>	No change in NIA
33	<p><u>Spectrum Price increase –</u> As per the TRAI recommendations of 18th April 2022 -</p> <p>“Accordingly, as there will be regular conduct of spectrum auctions on annual basis (or at shorter intervals), the Authority recommends that</p> <p>... (II) For auctions conducted in the interim period between periodic valuation exercises conducted once every three years:</p> <p>... (2) for LSAs, where spectrum remains unsold in previous auctions, past recommended reserve price (without indexation) should be used”</p>	No change in NIA

As per the TRAI recommendations of 1st August 2018,

“4.11 The Authority recommends that the reserve price for 800 MHz, 900 MHz, 1800 MHz and 2100 MHz bands

.... (iii) in LSAs where spectrum was offered in October 2016 auction but remained entirely unsold, the reserve price should be lower of the figures – 80% of average valuation or the reserve price as fixed in October 2016 auction”

The above guideline provides for the cases where the auction is held between the periodic valuation exercises, for LSA bands where spectrum remains unsold in previous auctions, past recommended reserve price (without indexation) should be used. As per recommendation of TRAI of 2018 (as reproduced above), when the provision of price determination was supposed to be applied to cases where the spectrum was entirely unsold it was specifically provided for.. Hence, the point (2) of 2022 recommendations covers both the scenarios where the spectrum is partially unsold or completely unsold and the last reserve prices should be used as the reserve price for this auction.

During the last auction of 2022 the details of spectrum sold and price increase applied is as follows:

Particulars	800 MHz	900 MHz	1800 MHz	2100 MHz	2300 MHz	2500 MHz	3300 MHz	26 GHz
2022 Auctions								
Spectrum put to auction for LSAs	22	21	22	19	6	12	22	22
Spectrum Entirely sold for LSAs	4	1	2	4	0	1	0	0
Spectrum Partially Unsold for LSAs	0	2	8	3	0	1	22	22
Spectrum Entirely Unsold for LSAs	18	18	12	12	6	10	0	0

2024 Auctions

Number of circles in which spectrum not being put to auction 24 auction

3 0 0 4 0 6 0 1

Price increase for LSA where Spectrum Entirely sold

14.30%	14.30%	11.70%	NA	NA	NA	NA	NA
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Price increase for LSA where Spectrum Partially unsold

NA	12.50%	12.10%	12.00%	NA	NA	12.00%	11.90%
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Price increase for LSA where Spectrum Entirely unsold

0.00%	0.00%	0.00%	0.00%	0.00%	NA	NA	NA
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UPE 1800 MHz and Odisha 1800 MHz price increase considered from Winning price as demand exceeded supply and there was a price increase

As can be seen from the above analysis, for the current auction, for the LSAs where the spectrum has been entirely sold, the prices have been indexed and increased by ~12%. For the LSAs where the spectrum is entirely unsold the prices have been kept unchanged and equal to the reserve price for 2022 auctions. However, even for the LSAs where the spectrum was partially unsold the prices have been indexed and increased by ~12%. The increase in this category is not in line with the TRAI recommendation of 2022

Also, please refer to the LSA band wise comparison of the reserve price provided in the table below for the LSAs bands where the spectrum was partially unsold in the 2022 auction, the total value per MHz of spectrum being put to auction in 2024 auction works out to be 2,093 crores which is 12% higher than the value of Rs 1,867 crores in case the reserve prices were determined in line with the TRAI recommendations of 2022.

Comparison of reserve price basis TRAI recommendation and Price as per the NIA 2024

Sr No	LSA Band	Last Auction	Price for this auction as per		

		Reserve Price / MHz (Rs cr)	Auctioned Quantity (MHz)	Unsold Quantity (MHz)	TRAI Reco - Based on unsold qty. in last auction (Rs cr)	Price as per NIA 2024 (Rs cr)	Price higher by %
	900 MHz						
1	Assam	56	4.4	0.6	56	63	12.50 %
2	Jammu & Kashmir	16	6.2	1.2	16	18	12.50 %
	Total 900 mhz	72	10.6	1.89	72	81	12.50 %
	1800 MHz						
1	Andhra Pradesh	172	12.4	9	172	193	12.20 %
2	Gujarat	150	14	4	150	168	12.00 %
3	Himachal Pradesh	14	18.2	13.2	14	16	14.30 %
4	Kolkata	97	23.6	18.6	97	109	12.40 %
5	Madhya Pradesh	88	11.2	1.2	88	99	12.50 %
6	Maharashtra	190	17.4	2.4	190	213	12.10 %
7	Mumbai	236	22.4	18.4	236	264	11.90 %

8	Rajasthan	75	17	7	75	84	12.00 %
	Total 1800 mhz	1,022 .00	136.2	73.8	1,022 .00	1,146 .00	12.10 %
	2100 MHz						
1	Delhi	224	15	10	224	251	12.10 %
2	Gujarat	125	10	5	125	140	12.00 %
3	Karnataka	100	10	5	100	112	12.00 %
	Total 2100 mhz	449	35	20	449	503	12.00 %

Sr No	LSA Band	Last Auction			Price for this auction as per		
		Reserve Price / MHz (Rs cr)	Auctioned Quantity (MHz)	Unsold Quantity (MHz)	TRAI Recommendation . Based on unsold qty. in last auction (Rs cr)	Price as per NIA 2024 (Rs cr)	Price higher by %
	3300 MHz						
1	Andhra Pradesh	26	330	80	26	29.1	12.00 %

2	Assam	5	330	130	5	5.6	12.00	%
3	Bihar	12	330	80	12	13.4	12.00	%
4	Delhi	40	330	80	40	44.8	12.00	%
5	Gujarat	23	330	80	2	25.8	12.00	%
6	Haryana	6	330	80	6	6.7	12.00	%
7	Himachal Pradesh	2	330	100	2	2.2	12.00	%
8	Jammu & Kashmir	1	330	100	1	1.1	12.00	%
9	Karnataka	18	330	50	18	20.2	12.00	%
10	Kerala	9	330	50	9	10.1	12.00	%
11	Kolkata	15	330	80	15	16.8	12.00	%
12	Madhya Pradesh	13	330	50	13	14.6	12.00	%
13	Maharashtra	29	330	80	29	32.5	12.00	%
14	Mumbai	35	330	80	35	39.2	12.00	%
15	North East	1	330	10	1	1.1	12.00	%
16	Odisha	5	330	130	5	5.6	12.00	%
17	Punjab	9	330	80	9	10.1	12.00	%
18	Rajasthan	11	330	50	11	12.3	12.00	%
19	Tamil Nadu	21	330	80	21	23.5	12.00	%

20	Uttar Pradesh (East)	14	330	80	14	15.7	12.00 %
21	Uttar Pradesh (West)	13	330	50	13	14.6	12.00 %
22	West Bengal	9	330	80	9	10.1	12.00 %
Total 3300 MHz		317	7260	1,770	317	355	12.00 %

Sr No	LSA Band	Last Auction			Price for this auction as per		
		Reserve Price / MHz (Rs cr)	Auctioned Quantity (MHz)	Unsold Quantity (MHz)	TRAI Recommendation . Based on unsold qty. in last auction (Rs cr)	Price as per NIA 2024 (Rs cr)	Price higher by %
3300 MHz							
1	Andhra Pradesh	0.57	2,850	800	0.57	29.10	12.30 %
2	Assam	0.10	2,850	1,050	0.10	5.60	10.00 %
3	Bihar	0.27	2,850	1,050	0.27	13.40	11.10 %

4	Delhi	0.89	2,850	850	0.89	44.80	12.40	%
5	Gujarat	0.50	2,850	600	0.50	25.80	12.00	%
6	Haryana	0.13	2,850	650	0.13	6.70	15.40	%
7	Himachal Pradesh	0.05	2,850	1,050	0.05	2.20	20.00	%
8	Jammu & Kashmir	0.03	2,850	1,050	0.03	1.10	0.00	%
9	Karnataka	0.40	2,850	850	0.40	20.20	12.50	%
10	Kerala	0.19	2,850	250				
11	Kolkata	0.32	2,850	850	0.32	16.80	12.50	%
12	Madhya Pradesh	0.29	2,850	650	0.29	14.60	10.30	%
13	Maharashtra	0.63	2,850	650	0.63	32.50	12.70	%
14	Mumbai	0.78	2,850	850	0.78	39.20	11.50	%
15	North East	0.03	2,850	1050	0.03	1.10	0.00	%
16	Odisha	0.12	2,850	1050	0.12	5.60	8.30	%
17	Punjab	0.20	2,850	750	0.20	10.10	10.00	%
18	Rajasthan	0.25	2,850	750	0.25	12.30	12.00	%
19	Tamil Nadu	0.46	2,850	750	0.46	23.50	13.00	%
20	Uttar Pradesh (East)	0.30	2,850	800	0.30	15.70	13.30	%

21	Uttar Pradesh (West)	0.29	2,850	700	0.29	14.60	10.30 %
22	West Bengal	0.19	2,850	650	0.19	10.10	10.50 %
	Total 26 GHz	6.80	59,850	17,450	6.80	7.60	11.90 %
	Total*	1,867	67,474	19,411	1,867	2,093	12.10 %

Hence, DoT should follow the TRAI recommendations of 2022 and remove the indexation applied to the prices for the cases where spectrum was partially unsold during the previous auctions and keep the reserve prices of 2022 auctions as reserve prices of 2024 auctions for such cases.

34	<p><u>Validity of EMD:</u></p> <p>It is provided in the NIA that the Bank Guarantee for the EMD shall be valid up to 31/12/2024 and extendable for a further period of six months at the request of DoT. In this regards we would like to highlight the following points</p> <p>a. In the past, the auctions were running for many days, which is no longer the case. The auctions in 2016 closed in 5 days, auction in Mar'21 closed in 2 days and auction in July'22 closed in 7 days.</p> <p>b. In Oct'16 auction BG was provided in Sep'16 and was returned in Oct'16 (i.e. less 2 months' time). In July 22 auction as well the BG was provided along with the application and returned promptly in august 22.</p> <p>Hence, in our opinion based on practical experience of past auctions, a BG validity of approximately 02 months i.e. up to 30th June 2024 is adequate to cover any situation as all payments have to be made within 10 days of close of auction. Hence, request DoT to consider revising the validity of BG to 30th June 2024.</p> <p>In any case since it is mentioned in the NIA that “the Bids made in the Auction should be valid up to 30/09/2024”, the validity of the EMD should at maximum be equal to the bid validity i.e. 30th September 24.</p>	Please refer to response at s.no 6.
35	<p><u>West Bengal LSA:</u></p> <p>XXX is holding 23.4 MHz spectrum in 1800 MHz band, out of which 1.8 MHz (UL: 1732.1 to 1733.9 / DL:1827.1 to 1828.9 MHz) spectrum is expiring on 22-March-2024. This expiring spectrum lies within XX's current allocation of UL: 1720.7 to 1744.1 / 1815.7 to 1839.1 MHz. In line with the harmonization policy of DoT, DoT may kindly interchange 1.8 MHz spots with XX allocated spectrum and offer UL: 1742.3 to 1744.1 / DL: 1837.3 to 1839.1 MHz for auction in lieu of UL: 1732.1 to 1733.9 / DL: 1827.1 to 1828.9 MHz. This will ensure contiguous holdings irrespective of whether the spectrum is acquired by the incumbent or another bidder.</p>	No change in NIA.

	<p>Hence, DoT may kindly update Annexure F with the 1.8 MHz spots as UL: 1742.3 to 1744.1 / DL: 1837.3 to 1839.1 MHz being available for auction.</p>	
36	<p><u>Absence of 600 MHz & 700 MHz amongst the bands put up for auction</u></p> <p>We note that in 2022, 30MHz of 600MHz and 25MHz of 700MHz spectrum was put to auction, after setting aside 10 MHz for BSNL. In the said auction, 10MHz in 700MHz was picked up by one private player and the balance 45 MHz remained unsold.</p> <p>Both these bands are missing in the forthcoming auction.</p> <p>In respect of 700MHz band, we understand that the balance spectrum has been reserved for BSNL or has been allocated to Indian Railways and NCRTC and in fact further 5MHz is proposed to be allocated to Indian Railways for improving passenger safety and operations. If this is done, it will leave no further spectrum for TSPs in future, thus disentiitling some private TSPs forever from offering 5G in this band, leading to inequity and non-level playing field. This has never happened in the past that 71% (25 MHz out of the 35 MHz spectrum) in a band which is the main spectrum for telecom services has been taken away for administrative allocation.</p> <p>The 700 MHz band has already been identified for IMT in India and also has a good retail device ecosystem and hence should be allocated to the TSPs only. Insofar as spectrum requirement of India Railways/NCRTC is concerned, DoT is also aware that the spectrum is required for safety and security applications and there is no dependency on the end consumer device ecosystem. Hence the OEMs can be asked to provide equipment supporting alternate bands and that the assignments to Indian Railways / NCRTC can be moved to these alternate bands freeing up valuable spectrum for 5G. Hence, DoT is urged to put 700MHz band for auction to TSPs only.</p> <p>In respect of 600MHz, as the ecosystem is yet to develop, we believe that this spectrum can be considered for auctions at a later date depending on the evolution of the ecosystem and considered for allocation to TSPs and Government users, if required.</p>	No change in NIA