

No. 1000/12/2013-WF/Auction
Government of India
Ministry of Communications & IT
Department of Telecommunications
(WPF Wing).

Dated 13-01-2014

Subject: Supplementary Queries and Response in respect of NIA for Spectrum Auction scheduled in February 2014.

The Supplementary Queries and Response in respect of NIA (dated 12-12-2013) , for Auction of 1800 MHz band and 900 MHz band is hereby enclosed. All amendments and responses to queries, issued in respect of NIA dated 12-12-13, form part of the NIA.

S/d
Director(WF)

Auction of Spectrum in 1800MHz and 900MHz Bands

Supplementary Queries & Responses To Notice Inviting Applications Dated 12th December 2013

**Government of India
Ministry of Communications & Information Technology
Department of Telecommunications**

13th January, 2014

No.	Query	Response
1.	<p>1) <u>Networth</u></p> <p>(a) DoT is therefore to clarify that the requirement in respect of both i.e. 'As on date' & 'As on last audited statement' gets satisfied if the company provides networth as per the last audited financials i.e. 30th Sep, 2013.</p> <p>(b) However, the operators can undertake that they are meeting the minimum requirement of networth as on date of filing of application. At best, DoT can ask for audited certificates after taking the upfront charge from operators but before allocating spectrum to them.</p>	<p>I. May please refer to Para 19 of Amendment No.2, dated 02-01-14 to the NIA, dated 12-12-2013, for the purpose of Sub-clause a) and b) of Clause 8.3.1, the details of Networth and Paid Up capital can be given "As on 30-09-2013" in place of "As on Date", however, in such a case-</p> <p>(i) A certificate to be given by the Company Secretary or Authorized Signatory of the Company that Company continues to meet the requirement of Networth and Paid Up capital, as on date of application.</p> <p>(ii) Audited certificates for "Networth" and "Paid Up capital" as on 31-12-2013, signed by Company Secretary or Authorized Certificates, would be submitted by the Company, not later than 15-02-2014.</p> <p>(iii) Further, details of any Capital infusion/dilution, done between 30-09-2013 and Date of application, be given (certified by Company Secretary or Authorized Signatory of the Company).</p> <p>II. Further, in respect of Companies, having financial year closing at the end of Calendar year, i.e. 31st December, the last Audited Financial Statement,</p>

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		<p>as on 31-12-2012 shall be acceptable, with a certificate from Company Secretary/Authorized Signatory to the effect that date of financial year closing is at the end of calendar year i.e. 31st December.</p> <p>III. Moreover, it is clarified that the company has to maintain minimum required Networth and Paid up capital, in accordance with the NIA for the number of service areas where it is bidding for assigning spectrum during the auction process and for the number of service areas where it has been declared successful bidder for assignment of spectrum till grant of Unified License/Wireless license and thereafter the Company would be governed by guidelines/conditions of UL/WL.</p>
2.	<p><u>Networth & Paid up Capital in respect of promoters holding more than 10 % in the Company :</u></p> <p>(a) DoT is requested to kindly consider the above and not mandate declaring the networth and paid up Capital of the promotrs/partners/shareholders holding more than 10% in the company in case their networth is not used for meeting the eligibility criteria for the auction.</p> <p>(b) For that purpose, operators can write 'Not Applicable' in the relevant column.</p>	<p>In respect of Networth and Paid Up capital details (as on date), of such promoter(s) /partner(s) /shareholder(s), whose networth is not to be used for meeting the eligibility criteria for the Auction, certificate need not be given by the Company Secretary of such promoters /partners /shareholders. However, these details are to be provided by the applicant Company. As regards last audit statement /figures the clarification given above shall also be applicable.</p>

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3.	<p>(a) Page no. 21, Point no 29 of Query and Response to NIA dated 12 Dec 2013: DOT response: It is clarified that any Unified License holder will not be required to take another Unified License but is required to take authorization for Access services in Service Area where it does not have the required authorization.</p> <p>(b) Page 18, Para 22 of Amendment No.2 to NIA wherein DoT has modified the format 8.3.3 of Undertaking to obtain additional service authorisation. Further, Format 8.3.4 “Undertaking to Obtain Unified License” is deleted.</p> <p>“ (c) That in case the Applicant is declared a Successful Bidder in the Specified Service Area (s) (namely Please indicate the names of service area(s).....), it shall apply for a Unified Licence with authorisation for access service in the Specified Service Area(s)/ authorisation for access service in the Specified Service Area(s) either directly or through one of its Associated Licensees or through a wholly-owned subsidiary of the Applicant (“Nominated Unified License Applicant”) or a company nominated by the Applicant where the Applicant has a minimum of at least 26% (“New Entrant Nominated Unified License Applicant”);“</p> <p>Query : In case an applicant has to specify the name of service area(s) where it is likely to bid as a ‘new entrant’ / ‘existing licensee’ ; it will be a violation of the confidentiality condition of the NIA and this will also have an impact on the bidding price.</p> <p>“ 4.1.1 Confidentiality</p>	<p>No change/clarification required in respect of NIA condition/Amendment No.2 to the NIA.</p>

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	<p>Confidential Information means any non-public information which, if known to other Bidders, would be likely to affect the price that the other Bidders would be prepared to bid in the Auction or the bidding strategy that other Bidders would adopt. Such Confidential Information shall include (but not necessarily be limited to) the Bidder’s business case, auction strategy and the highest price it is willing to bid for spectrum in any service area.”</p> <p>Hence, we suggest DoT to modify the undertaking clause as suggested below to maintain confidentiality.</p> <p>Suggestion :</p> <p>“ (c) That in case the Applicant is declared a Successful Bidder in the Specified Service Area (s) (namely Please indicate the names of service area(s).....), it shall apply for a Unified Licence with authorisation for access service in the Specified Service Area(s)/ authorisation for access service in the Specified Service Area(s) either directly or through one of its Associated Licensees or through a wholly-owned subsidiary of the Applicant (“Nominated Unified License Applicant”) or a company nominated by the Applicant where the Applicant has a minimum of at least 26% (“New Entrant Nominated Unified License Applicant”);”</p>	
4.	<p><u>Frequency identification clarification(Frequency Allocation Rules) :</u></p> <p>In the current auction, frequencies of different ‘types’ are being</p>	<p>a) No such option is provided to the bidders and the system does the frequency assignment based on a pre-defined set of rules considering Contiguous Set of 5 MHz (Full with Guard</p>

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	<p>auctioned within the same circle: contiguous complete, contiguous partial, dis-contiguous complete and dis-contiguous partial. Operators are very likely to assign markedly different values to these spectrum types. It is therefore important that the rules governing the allocation of such spectrum are clarified. In short, operators need to understand how their ranking at the end of the bidding will affect what spectrum type they are allocated. In addition, the current (known) frequency allocation rules implicitly assume that bidders value some types of spectrum higher than others. This may not be the case, and we suggest that the auction allows bidders to express their preferences for different spectrum types.</p> <p>The Notice Inviting Application dated 12th December 2013 and the subsequent amendments and responses to queries only address the procedure to be adopted for allocating contiguous complete and contiguous partial spectrum. They are silent on how the other types of spectrum will be allocated in case of multiple winning bidders i.e., dis-contiguous complete and dis-contiguous partial.</p> <p>We would therefore request clarity on the following:</p> <ul style="list-style-type: none"> • In case multiple bidders win less than 5MHz spectrum in the 1800MHz auction in a circle where both complete and partial spectrum is being sold, what criteria will be applied to determine which bidders are allocated complete dis-contiguous spectrum and which bidders are allocated partial dis-contiguous spectrum. Will the higher ranked bidders be allocated complete dis-contiguous spectrum(analogous to the allocation 	<p>Band, Full without Guard Band, Partial) in that order followed by non-contiguous spectrum (Full, Partial) in that order.</p> <p>b) Regarding allocation of 5 MHz blocks in 900 MHz, it is further clarified that allocation of 5 MHz blocks will be done in the following order, as per the ranks of such bidders who win 5 MHz block spectrum:-</p> <p>Mumbai:</p> <ol style="list-style-type: none"> 1. 910-914.8 MHz 2. 895.2-900 MHz 3. 890.2-895 MHz <p>Delhi:</p> <ol style="list-style-type: none"> 1. 900.2-905 MHz 2. 895.2-900 MHz 3. 890.2-895 MHz <p>Kolkata:</p> <ol style="list-style-type: none"> 1. 895.2-900 MHz 2. 890.2-895 MHz

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	<p>methodology being followed for contiguous spectrum)?</p> <ul style="list-style-type: none"> In case of Maharashtra, there are two sets of partial contiguous blocks of 5MHz each. In one of these, (Set A, 1710.2-1715 Uplink) spectrum is not available in Nasik and Pune while in the other (Set B, 1724.6-1729.4 Uplink) spectrum is not available in only GMRT area of Pune. If two bidders end up winning 5MHz spectrum in the 1800MHz auction in this circle, kindly confirm that the higher ranked bidder will be allocated Set B as it is clearly more valuable <p>The current allocation rules assume that bidders who have bid for more than 5MHz will necessarily consider contiguous partial spectrum to be more valuable than dis-contiguous complete spectrum. This assumption may not be true for all circles and all bidders. In fact, based on the description of the blocks being offered in this auction, we think there are several circles where many bidders may consider the dis-contiguous complete spectrum to be more valuable than the contiguous partial spectrum.</p> <p>For instance, consider a scenario for Maharashtra 1800MHz auction where 5MHz of nearly complete contiguous spectrum (Set B), 5MHz of partial contiguous spectrum (Set A) and 4MHz (Sets C and D) of dis-contiguous spectrum have been put up for auction. Assume there are three winning bidders and in the order of ranking, the number blocks won by them are:</p> <ul style="list-style-type: none"> Rank 1: Bidder B-1 – 5 MHz 	

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	<ul style="list-style-type: none"> • Rank 2: Bidder B-2 – 5 MHz • Rank 3: Bidder B-3 – 4 MHz <p>Our understanding of the current auction rules is that Bidder B-1 will be allocated Set B, Bidder B-2 will be allocated Set A and Bidder B-3 will be allocated Sets C and D.</p> <p>However, it is quite possible that Bidder B-2 may value completedis-contiguous spectrum more than partial contiguous spectrum. Its needs would be better served if it is awarded 4MHz from Sets C and D and 1MHz from Set B. However, the current rules will force Bidder B-2 to take less valuable spectrum despite being ranked higher than Bidder B-3. In effect, Bidder B-2 is being penalised for having bid for more spectrum than Bidder B-3!</p> <p>We would therefore like to submit that instead of the auction software deciding on behalf of bidders on the relative value of each type of spectrum, bidders should be permitted to submit a preference list based on their commercial judgment after the bidding stage of the auction. In the frequency identification stage, the auction software could match ranks of successful bidders against their preferences. This should not be very difficult to implement. In fact, such a system is routinely deployed by several Government and other educational institutes to allocate courses to students based on rankings in an entrance exam (e.g. counselling process adopted by the IITs and the process adopted for cadre selection after the Civil Services Entrance Exams).</p>	
5.	<u>Query regarding Clause 4.7 of NIA and Format 8.3.3 (as</u>	No changes are required in Clause 4.7 of NIA and Clause(c) of the Format 8.3.3(as amended by

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	<p><u>amended)</u></p> <p>Clause 4.7 of NIA (Allotment of Spectrum- New Entrants) states as follows: “Upon declaration as successful applicant, the applicant Company can apply to AS Wing of DoT for grant of an Lol for Unified License for applicable service area for which it proposes to participate in the auction. The date of validity of Lol to be issued on completion of the application for grant of Unified License shall be 20 days after the date of declaration of successful bidder.”</p> <p>Clause (c) of the undertaking in Format 8.3.3, as amended, provides that “That in case the Applicant is declared a Successful Bidder in the Specified Service Area (s) (namely Please indicate the names of service area(s).....), it shall apply for a Unified Licence...”</p> <p>Further Clause (f) of the undertaking in Format 8.3.3 as amended, provides that the application for UL has to be made within 7 days of the applicant being declared a successful ‘applicant’.</p> <p>We therefore request DoT to clarify and inform the day by which such applications for UL can be submitted by New Entrants.</p>	<p>Amendment No.2). However, in Clause(f), it is clarified that “Successful applicant” may be read as “Successful bidder”.</p>
6.	<p><u>Query regarding grant of UL</u></p> <p>The 3 Companies Vodafone India Limited (VIL), Vodafone Mobile Services Limited (VMSL) and Vodafone East Limited(VEL) have respective UASLs in Mumbai, Delhi and Kolkata and are in category of New Entrants as per NIA. VIL is common parent (100%</p>	<p>The understanding is correct.</p>

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	<p>holding company) of VMSL and VEL. As per the NIA process VIL can apply as New Entrant for these 3 Service Areas and as Group Bidding Entity on behalf its other Associated Licenses.</p> <p>We understand that if VIL is declared as a successful bidder for 900MHz and / or 1800MHz spectrum in Mumbai, Delhi and Kolkata service areas, 3 separate Unified Licences with authorisation for access service in the names of VIL, VMSL and VEL for Mumbai, Delhi and Kolkata service areas respectively can be applied for and given and the 3G spectrum allocated to these companies under UASL will be seamlessly transferred to the respective Unified Licenses.</p>	
7.	<p><u>Query regarding table 5-F</u></p>	<p>Please refer to the Para 16 of the Amendment No.2 to the NIA, vide which Table 5-F of the NIA was revised, it is clarified in this regard that the Amendment No.2 modified the Table 5-F of the NIA, only to the extent of “Proportionate Price Increment rule for e-auction of Spectrum in 1800 MHz and 900 MHz Band”. Rest of the contents of Table 5-F, namely “Maximum Price Increment per Block per Round(In Rs. Crore)” remain the same.</p>