

GUIDELINES ON SPECTRUM SHARING BETWEEN TELECOM COMPANIES

The Telecom Regulatory Authority of India (“**TRAI**”) has finally released the much awaited Spectrum Sharing Guidelines (“**Guidelines**”) on July 21st 2014, allowing licensees to make optimal use of spectrum by sharing of radio frequencies in all bands.

Salient Features: Some of the salient features of the Guidelines are as follows:

- Spectrum sharing is allowed between any two licenses holding Cellular Mobile Telephone Services license or Unified Access Services License or Unified License (AS) or Unified License in the following bands 800/900/1800/2100/2300/2500 MHz.
- Spectrum sharing will be restricted to sharing by only two licensees subject to the condition that there will be at least two independent networks provided in the same band.
- Leasing of spectrum between licensees is prohibited.
- Licensees to intimate the Department of Telecommunication (“**DoT**”) at the time of entering into the spectrum sharing agreement. The DoT shall have the right to annul the spectrum sharing agreement, if found to be flouting prescribed guidelines after giving due opportunity to the licensees.
- If any one of the licensees sharing spectrum have administratively assigned spectrum (allocated without auction) in that band, they will be permitted to provide only those services which can be provided through administratively held spectrum.
- Even if part of spectrum in a particular circle is shared, it will be taken that entire circle's spectrum is being shared between the licensees.
- The Spectrum Usage Charge of each of the licensees post sharing shall increase by 0.5% of AGR (Adjusted Gross Revenue) and a non-refundable processing fee of INR. 50,000 is to be paid individually by each licensee for each service area to DoT.

ARA LAW View: Much awaited the Guidelines are a welcome one and are a positive step towards liberalization of telecommunication sector. Spectrum sharing will not only help telecom companies to effectively use their resources, provide better infrastructure for call facilities to customers but also help them reduce the costs. Having said the above, what needs to be seen is how DoT reviews spectrum sharing arrangements/agreements and the ease with which they allow telecom companies to share spectrum