Mid-February, the minister for telecommunications and information technology, Kapil Sibal, announced some broad policy changes. These included delinking spectrum from new licences, sharing of 2G spectrum, and simplification of the existing licensing policies and merger norms to bring more consolidation in the sector. These will be part of the country's National Telecom Policy, which is expected to come into effect in April 2012.

The direction of the policy changes is not new. The amendments have been under discussion and review for months. By announcing them now, Sibal has managed to dilute the sting from the Supreme Court judgment cancelling the 122 telecom licences awarded in 2008. With this, Sibal also indicated that the government was willing to set the growth ball rolling for the telecom industry and clear the regulatory uncertainty prevailing in the sector.

Licensing norms

All future licences will be unified licences and the allocation of spectrum will be delinked from the licence. Spectrum will have to be obtained separately at market-determined prices, which would be worked out separately by the Telecom Regulatory Authority of India (TRAI).

For migrating to the new unified licensing regime, operators will have to pay an entry fee. For the metros and Category A circles, this will be Rs 20 million, while for Category B and C circles, it will be Rs 10 million and Rs 5 million respectively. The licences will be renewed for a period of 10 years as against 20 years. "A final view on the implementation of and migration to a unified licensing regime will, however, be taken after the receipt of detailed guidelines from TRAI," Sibal said while addressing a press conference.

Sibal also stated that the current licence fee, which varies from 6 per cent to 8 per cent of the adjusted gross revenue (AGR) depending on the circle, will be made a uniform 8 per cent across all circles and services in two years starting from 2012-13.

Mergers and acquisitions

To encourage consolidation in the industry, mergers up to 35 per cent market share of the resultant entity will be allowed through a simple and quick process. The earlier limit was 30 per cent. The government also plans to remove the distinction between wireline and wireless services for determining market share. The company's overall market share will be considered as the relevant market share.

The government is also willing to consider merger cases where the market share of the combined entity is beyond 35 per cent but up to 60 per cent. However, this will be possible only if the 25 per cent cap on GSM spectrum and the 10 MHz cap on CDMA spectrum in any service area is not breached. These cases will be taken up by TRAI separately.

"To ensure clarity in such cases and the extent to which a merger above the 35 per cent limit will be permissible, detailed transparent criteria will be prescribed/ adopted after the receipt of TRAI's recommendations and after due consultation with the appropriate authorities," Sibal noted.

The higher validity period of the two merging companies will be taken as the licence validity period of the merged entity. Further, the AGR will be calculated after merging the AGRs of the two entities. The licence fee will be applicable at the specified rate of that service area on the resultant total AGR. Similarly, for the purpose of payment of the spectrum charge, the spectrum held by the two licensees will be added and merged. The annual spectrum charges will be levied at the prescribed rate applicable on this total spectrum.

Spectrum

While not getting into the issue of spectrum pricing, as TRAI is currently in the process of determining a base price for the auction of 2G spectrum, Sibal stated that the government has decided to allow spectrum sharing. However, it has said no to spectrum leasing and spectrum trading. Also spectrum sharing will not be permitted among licensees with 3G spectrum.

Giving an edge to GSM operators, the government has agreed to increase the spectrum held by service providers from the current 6.2 MHz to 10 MHz. This move is expected to help operators improve the quality of service.

“The prescribed limit on spectrum assigned to a GSM service provider will be 2x8 MHz (paired spectrum) for all service areas other than Delhi and Mumbai, where it will be 2x10 MHz (paired spectrum),” said Sibal. The prescribed limit for CDMA operators will, however, remain unchanged at 2x5 MHz for all circles.

Market view

Overall, the industry and the operators are happy about the steps initiated by the government. They are, according to many, in line with the TRAI recommendations.

According to a Bharti Airtel spokesperson, “The announcement pertaining to mergers and acquisitions is an encouraging step from the point of view of the long-term health of the telecom industry and will pave the way for consolidation in an overcrowded market.”

However, the official points out that the flat 8 per cent licence fee across the country is steep. He hopes the government will consider lowering the licence fee to 6 per cent over the next couple of years, as recommended by TRAI.

The Cellular Operators’ Association of India’s general secretary R.S. Mathews says, “Though most recommendations are in line with our expectations, we are disappointed with the uniform licence fee of 8 per cent. We don’t see any rationale for it and we had hoped it would be lower.”

In all, it seems that the government is keen to initiate reforms to give a fillip to the telecom industry, which had slowed down in the past two years and slipped into controversy.