

Government of India
Department of Telecommunications
(Access Services Cell)
Sanchar Bhawan, 20, Ashoka Road New Delhi - 110 001

File No: 800-15/2010-VAS

Dated: 20.11.2013

To

All Cellular Mobile Telephone Service (CMTS) Licensees
All Unified Access Service Licensees (UASL)
All Unified License (Access Service) Licensees {UL(AS)}
All Unified Licensee (UL)

Subject: Scheme of penalty in case of violation of terms and conditions of License and related instructions on the matter of EMF Radiation.

This has reference to CMTS/ UAS/UL(AS)/UL Licence conditions which, inter-alia, provide as under:

"The LICENSEE shall be bound by the terms and conditions of this Licence Agreement as well as by such orders/directions/regulations of TRAI as per provisions of the TRAI Act, 1997 as amended from time to time and instructions as are issued by the Licensor/TRAI." {UASL and CMTS}

"The LICENSEE shall be bound by the terms and conditions of this Licence Agreement as well as instructions as are issued by the LICENSOR and by such orders/directions/regulations of TRAI as per provisions of the TRAI Act, 1997 as amended from time to time." {UL(AS) and UL License Agreement}"

Also, the licenses, inter-alia provides:

".....The Licensor may also impose a Financial Penalty not exceeding Rs. 50 crores for violation of terms and conditions of licence agreement.....".

2.0 This also has reference to instructions issued vide letter No. 800-15/2010-VAS dated 8th April 2010, No. 800-15/2010-VAS dated 10.12.2010 and No. 800-15/2010-VAS dated 11.10.2012 on implementation of radiation norms on EMF exposure by Base Transceiver Stations (BTSs) and subsequent instructions and clarification issued from time to time on the subject and instructions/ scheme of financial penalty issued for violation of terms and condition of licence and instructions on EMF radiation.

2.1 The matter has further been considered and the changes as submitted in the subsequent paragraphs are formulated in the penalty structure against various violations pertaining to EMF radiation norms.

3.0 Penalty to be imposed for Non-submission / delayed submission of self-certificates in case of new Base Transceiver Stations (BTSs):

3.1 New BTS means any BTS commissioned on or after the date of issuance of these instructions.

3.2 Before commissioning, a BTS may require testing during which radiation of signals for small periods may be needed. During this period only intermittent radiation should be done by the Licensee/Telecom Service Provider (TSP) and it should be ensured that in no case the prescribed limits of EMF are violated.

3.3 The TSP shall submit the self-certificate within period of 15 days calculated from the date of start of radiation for testing purpose in the prescribed format alongwith Operating Support System (OSS) snapshot corresponding to the first radiation made from BTS. Commercial/ regular radiation shall start only after submission of self certificate.

3.4 The date of 15 days after the date of first radiation shall be treated the due date for submission of self-certificate in case of new BTS and no penalty shall be imposed on submission of self-certificate by this date.

3.5 The commercial / regular radiation shall start only after submission of self-certificate.

3.6 In case of delayed submission of self-certificates from due date, penalty as under shall be imposed:

Delay from due date	Total Penalty per BTS per incidence
Up to 15 days	Rs 5,000/-
Beyond 15 days and upto 30 days	Rs 20,000/-
Beyond 30 days and upto 60 days	Rs 50,000/-

In addition to imposition of penalty as above, the BTS shall be shut down on expiry of 60 days from due date of self-certification, if the self-certification is not submitted even within this period.

3.7 Restoration of BTS site may be allowed on the request of Licensee on production of proof of penalty and a valid self-certificate confirming compliance to the EMF norms.

4.0 Penalty to be imposed for non-submission / delayed submission of self-certificates in case of all kinds of BTS up-gradation:

4.1 Existing instructions on the up-gradation of BTS will continue to remain in force except the amendment made herein under on this subject.

4.2 Revised self-certificate has to be submitted in the following five cases only:

4.2.1 Increase in the TRX/channels.

4.2.2 Change of antenna

4.2.3 Change in the electrical/mechanical tilt:

4.2.3.1 In case the antenna height is 8 Meters or more from the roof top/ ground as the case may - change in tilt more than 3 degrees from the earlier intimated level.

4.2.3.2 In case the antenna height is less than 8 Meters from the roof top/ ground as the case may - any change in tilt from the earlier intimated level.

4.2.4 Change in azimuth (more than 2 degree change)

4.2.5 Change in Antenna Height.

Note: The provision of degree of tilt is liable to be reviewed within a year, if required.

4.3 In case of shared site as defined in the TEC test procedure, revised self-certificate shall be submitted by all the TSPs who are sharing that site.

4.4 The date of 15 days after the date of up-gradation shall be treated as due date for this purpose and no penalty shall be imposed on submission of self-certificate by this date.

4.5 In case of delayed submission of self-certificates from due date, penalty as under shall be imposed:

Delay from due date	Total Penalty per BTS per incidence
Up to 15 days	Rs 5,000/-
Beyond 15 days upto 30 days	Rs 20,000/-
Beyond 30 days and upto 60 days	Rs 50,000/-

In addition to imposition of penalty as above, the BTS shall be shut down on expiry of 60 days from due date of self-certification, if the self-certification is not submitted even within this period.

4.6 Restoration of BTS site may be allowed on the request of Licensee on production of proof of payment of penalty and a valid self-certificate confirming compliance to the EMF norms.

5.0 Revision of format for self-certification in case of up-gradation and mode of submission:

5.1 TSP who is upgrading the site as well as all other TSPs sharing that site(in case of shared site) shall submit only filled up Appendix-B/Appendix-C/Appendix-D/Appendix E (as applicable for the type of certification) format enclosed with test procedure No. TEC/TP/EMF/001/02.OCT.2012 or revised from time to time,

whenever a site is upgraded. No other information as required with the self-certificate like site layout, photograph of the surrounding buildings and others, marking of North direction and location of towers and generators etc. need be submitted in up-gradation cases.

5.2 In addition to above, the following undertaking/ statement confirming to EMF radiation compliance shall be submitted by all the TSPs:

"We hereby confirm that the above site is compliant to the EMF levels as specified by DoT and effective at present."

5.3 The TSPs shall submit the self-certificate as above in case of upgradation cases as well, as per procedure contained in the template enclosed as Annexure-I to this letter. This procedure of submitting the certificate in electronic form through e-mail shall be adopted after successful completion of a pilot. Till that time submission of self-certificate in hard copy shall continue.

5.4 However, in case of installation of new BTS at a shared site, the complete self-certificate as provided with the TEC test procedure shall be submitted by the concerned TSP. The other TSPs in the shared site shall submit only the partial certificate prescribed as above.

6.0 Penalty to be imposed for non-submission/ delayed submission of self - certificates in case of BTSs, other than new BTSs commissioned in the cycle:

6.1 In case of all BTSs, except new BTSs commissioned during the cycle, the TSPs are required to submit the self-certificate within the window of 2 years, which is presently from 01.04.2013 to 31.03.2015, subject to a time gap of at least one year in submission of self-certificate in 2 consecutive cycles. In case of upgraded sites, these certificates are to be submitted in addition to revised certificates submitted at the time of site upgradation.

6.2 In case of delayed submission of self-certificates from the last day of the cycle(which is 31.03.2015 for current cycle), penalty as under shall be imposed:

Delay from last day	Total penalty per BTS per incidence
Up to 30 days	Rs 5,000/-
Beyond 30 days and upto 60 days	Rs 20,000/-
Beyond 60 days and upto 90 days	Rs 50,000/-

In addition to imposition of penalty as above, the BTS shall be shut down on expiry of 90 days from last day of submission of self-certification, if the self-certification is not submitted even within this period.

6.3 Restoration of BTS site may be allowed on the request of Licensee on production of proof of payment of penalty and a valid self-certificate confirming compliance to the EMF norms.

7.0 Penalty to be imposed in case of incomplete submission of self-certificates:

7.1 In case of incomplete/improper/ non-submission of, or any other discrepancy in, Site Data, Shared Site Data and/or Annexure A to Annexure D (as applicable for the type of certification) to test procedure No. TEC/TP/EMF/001/02.OCT.2012 by the telecom service provider, the following penalty shall be applicable:

7.1.1 On detection of deficiencies by TERM cell: Rs. 5000 per certificate

7.1.2 In addition to above penalty, TSP shall submit the revised self-certificate, after removing the deficiencies detected, within a period of 15 days from the date of communication from TERM cell in this regard, failing which following penalty, inclusive of 7.1.1 above, shall be payable:

Delay from the date of communication from TERM cell	Total penalty per BTS per incidence
Up to 15 days	Rs 20,000/-
Beyond 15 days and upto 30 days	Rs 50,000/-

In addition to imposition of penalty as above, the BTS shall be shut down on expiry of 60 days from the date of communication from TERM cell, if the self-certification is not submitted even within this period.

7.1.3 Restoration of BTS site may be allowed on the request of Licensee on production of proof of payment of penalty and a valid self-certificate complete in all respect, confirming compliance to the EMF norms.

7.2 In case of incomplete/improper/Non-Submission of Site Photographs, Site Layout or submission of single certificate for BTS (s) of multiple technologies at shared site or submission of unsigned documentation by the TSP, a penalty of Rs. 2,000/- per self-certificate shall be levied as and when detected by TERM Cells and a time of 30 days shall be given to the TSP for removing these deficiencies. If the compliance is not received within 30 days from the date of communication to the Licensee, an additional penalty of Rs. 3,000/- per week , subject to a limit of Rs. 20,000/- per self-certificate, shall be imposed thereafter,.

7.3 For simultaneous existence of deficiencies indicated in 7.1 and 7.2 above, only single penalty as applicable for deficiencies indicated at 7.1 above shall be imposed, however, communication from TERM Cell to the TSP regarding deficiencies shall indicate all the deficiencies noticed by TERM Cell (either covered at 7.1 or 7.2) in that self-certificate.

8. Self-certification process, in case of a BTS, might attract multiple violations. For example, the self-certificate submission may be delayed as well as there may be shortcomings in the certificate. In such a case only one penalty, which is more severe in terms of quantum of penalty, shall be imposed on per BTS per incidence basis.

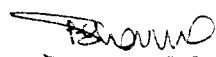
9. In case of non-compliance of actual EMF radiation norms, a penalty of Rs. 10 lakh per BTS per incidence shall be imposed.

10. The new EMF radiation norms have come into existence w.e.f. 01.09.2012, as already communicated to the telecom service providers vide letter of even number dated 30.12.2011. Accordingly, all the BTSs must already be compliant to these norms. However, a time period upto 31.12.2013 is being given to all the TSPs for re-submission of self-certificates as per new EMF levels/norms, if not already submitted, against the self-certificates submitted during 01.04.2011 to 31.08.2012 as per old norms.

11. The instructions issued vide letter dated 08.04.2010 and 11.10.2012 shall stand amended to above extent. These instructions shall be applicable from the date of issue of this memorandum. The above-said penalties will be imposed on per incidence basis. The Licensor may take any other action as per terms and conditions of licence agreement in addition to imposition of below mentioned financial penalty.

12. Separate penalty will be payable by the service providers for their each and every Base Transceiver Station (BTS) in a site belonging to different technologies, type of service, license held etc.

13. The demand notice for penalty and shutdown of site, as the case may be, shall be issued by Licensed Service Area (LSA) TERM Cell.


20/11/2013
(F.C Sharma)
Director(AS-II)

Copy to:

1. Secretary, TRAI
2. Sr. DDG, TEC
3. Sr. DDG (TERM), DoT
4. DDG (CS), DoT
5. All DDsG TERM/DDG(LF-I)/DDG(LF-II).
6. DDG(Accounts) for communicating it to CCAs.
7. Director (AS-I)/ Director (AS-III)/ Director (AS-IV)/ Director

**Template for electronic submission of self-certificate,
in case of site up-gradation**

E-Mail format:

- (1) Self certificates in respect of upgradation of BTS sites shall only be submitted in soft copy through e-mail
- (2) Appendix (B1/B2 ; C1/C2; D1/D2 as applicable) should be part of single PDF document and shall be digitally signed by the TSP submitting the self certificate.
- (3) Name of upgradation certificate attached as annexure should have file name as **Site ID_Date(DDMMYYYY)**
- (4) A single e-mail ID for each TERM Cell shall be created on which all Self certificates will be submitted on account of BTS up-gradation. This email will have an auto-Responder set by the TERM Cell which will acknowledge the receipt of the email. This receipt will only serve to acknowledge the receipt of mail and will in no way comment on correctness/completeness of the contents
- (5) The text of Auto-Response should capture the text of the Operator's email. The settings should be set in HTML for Auto-response.
- (6) In case of non-receipt of the Auto response from the TERM Cell within 24 hours, the Operator should resubmit the email.
- (7) TSP will ensure before submission that all documents required are complete, correct and have been attached.
- (8) No repeat submission will be accepted.
- (9) In case of special circumstances TSP may contact local TERM Cell to permit re-submission.
- (10) Any TSP say "A" does the changes in respect of point 3,6,7,9 then it should be informed to all the other sharing partners.
- (11) A consolidated list of BTS, in respect of those self-certificates for up-gradation have been submitted during the month, shall be submitted to term cell by 7th of the next month for reconciliation.

Text for covering mail

Dear Sir/Madam,

Sub: **TSP Name**: Submission of EMF Certification regarding up-gradation

Kindly find enclosed here with Self Certificates for following BTS sites on account of Up-gradation.

S No	Site ID	Documents attached	
		Annexure-1	Annexure-2
1	Site-1	B1	B2
2	Site-2	D1	D2
X	Site-X	E1	E2
X	Site-X	B1	B2
Total	No of Sites (4)	No of attachments (4)	

Note: This template is liable to change depending on feedback received from TSPs and TERM Cells on conclusion of pilot period.