

Annexure 4a)

No.P-19011/1/2005-IOC
Government of India
Ministry of Petroleum & Natural Gas

Shastri Bhawan,
New Delhi, the 17th November, 2005.

- To
1. The Director(Marketing), Indian Oil Corporation Ltd., Mumbai.
 2. The Director(Marketing), Hindustan Petroleum Corporation Ltd., Mumbai.
 3. The Director(Marketing), Bharat Petroleum Corporation Ltd., Mumbai.
 4. The Director(Marketing), IBP Co. Ltd., Mumbai.
 5. The Executive Director, Indian Oil Corporation Ltd (AOD), Guwahati.

Subject: Review of marketing guidelines.

Sir,

In various interactions with the oil marketing companies(OMCs), it has been felt that their guidelines on various aspects of marketing of petroleum products, including the following, need to be made more objective and transparent:-

- (i) Reconstitution/resitment/ revival of dealerships/distributorships.
- (ii) Allotment of retail outlets to landowners on the basis of direct offers of land.

2. These issues were also discussed by Secretary(Petroleum & Natural Gas) with the representatives of the OMCs on 29.8.2005 and by the Minister(Petroleum & Natural Gas) on 27.10.2005. Based on the deliberations in these meetings, I am directed to forward herewith, in Annex I to V, a set of broad guidelines on the above-mentioned issues and certain other aspects of the dealer selection process and marketing plan. The OMCs are requested to frame detailed guidelines on these issues, which should be objective and transparent, based on these broad guidelines. A copy of the guidelines framed by the OMCs may thereafter be forwarded to this Ministry for record and reference. The guidelines should also be given publicity through website, brochure, etc.

3. With the issue of this letter, all other guidelines/ instructions issued by this Ministry from time to time in the past, on all the issues covered by this letter, stand superseded.

Yours faithfully,

(V.K. Dewangan)

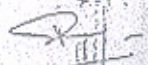
Deputy Secretary to the Government of India

Encl: Broad guidelines in Annex:

- i) Reconstitution of dealerships/distributorships - Annex-I (page nos.1-4)
- ii) Resitment of dealerships/distributorships - Annex-II (page nos.5-7)
- iii) Revival of dealerships/distributorships - Annex-III (page no.8)
- iv) Procedure to deal with direct offers of land received by the OMCs from the land owners for setting up of retail outlets. - Annex-IV (page no.9)
- v) Selection of dealers/distributors & Marketing Plan - Annex.V (page nos. 10-11)

Copy to:

- 1) PS to Minister(P&NG)/ PPS to Secretary(P&NG)/ PS to Special Secretary/ PS to JS(AT).
- 2) Director(PN)/ Marketing Section/MC Section.
- 3) Shri Adarsh Saiwal, NIC, MOP&NG. This letter, along with Annexes I to V, may please be hosted on the website of this Ministry.
- 4) Guard File.



(V.K. Dewangan)
Deputy Secretary to the Government of India

Reconstitution of dealerships/distributorships

I. Reconstitution at Letter of Intent (LOI) stage

No reconstitution of dealerships/distributorships should be allowed, at LOI stage, irrespective of categories of such dealerships/distributorships, except under following conditions :

- i) In the event of death/ incapacitation due to serious illness/ accident (to be certified by a Medical Board recognized by the Government) of an LOI-holder before commissioning of the dealership/distributorship, the LOI can be transferred to his/her legal heir in case substantial investment towards commissioning of the dealership/ distributorship has been made by the LOI holder before his/her death/ incapacitation. The amount that will constitute a 'substantial investment' will be decided by the Oil Marketing Companies (OMCs) jointly in order to have uniformity. The legal heir will have to satisfy the multiple dealership norms and other criteria for normal selection. However, as regards minimum age and minimum qualification, the OMCs may allow relaxation depending on merit. If the legal heir is a minor, the local guardian shall operate the dealership/ distributorship till the legal heir becomes a major. This transfer of LOI should be done within six months from the date of occurrence of vacancy due to death/ incapacitation.
- ii) Further, in cases where substantial investment has not been made by the LOI holder before his/ her death/incapacitation, the OMCs concerned, in order to give a fair opportunity to other empanelled candidates and the legal heir of the deceased/ incapacitated LOI holder, will evaluate afresh the candidature of the legal heir vis-à-vis that of the other empanelled candidates as per the prescribed selection criteria.

LOI will then be issued to the candidate selected after this fresh evaluation.

II. Reconstitution within family

1. The definition of family for the purpose of reconstitution of dealership/distributorship shall be the same as defined in the guidelines for selection of dealer/distributor, which means that the 'family' will consist of the individual, his/her spouse and unmarried son(s) and unmarried daughter(s).

2. The incoming family member will have to satisfy the multiple dealership norms and other criteria for normal selection. However, as regards minimum age and minimum qualification, the OMCs may allow relaxation depending on merit.

3. There will be no restriction of time period for reconstitution within family.

III. Reconstitution outside the family

1. Reconstitution outside the family can be done only under the following circumstances without any restriction on time period:

i) In case of the death of the sole dealer/distributor, in favour of the legal heir. However, if there is no legal heir(s) or the legal heir(s) has expressed unwillingness, the dealership/distributorship shall be terminated.

ii) In case of death of a partner in a partnership firm, in favour of the legal heir(s). However, if there is no legal heir(s) or the legal heir(s) has expressed unwillingness, it can be reconstituted with the remaining partner(s).

iii) In case of incapacitation due to serious illness/ accident (to be certified by a Medical Board duly recognized by the Government) of dealers/distributors/partner, he/she may induct a minority partner.

iv) In case where the age of the dealer/ distributor/ partner is more than 60 years, he/she may induct a minority partner.

2. The incoming person will have to satisfy the multiple dealership norms and other criteria for normal selection. In case the legal heir does not meet the eligibility criteria as applicable to selection of dealer/distributor, he/she may induct a minority partner who satisfies the eligibility criteria.

3. It is likely that some of the dealerships/distributorships commissioned on the basis of selection based on earlier guidelines which contained an income ceiling of rupees two lakhs for the prospective dealer/distributor, may face financial constraints in running the dealerships/ distributorships and may need some infusion of funds. This aspect may be thoroughly examined by a committee of the oil industry and they may consider whether there will be any need for induction of financial partner in such cases. If so, they may suggest suitable guidelines on industry basis to deal with such cases including stipulation of time period for such reconstitution. Once a financial partner is inducted subsequent reconstitution may be made only on the grounds mentioned in paras 1 (i) to (iv) above.

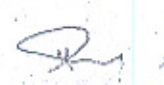
4. The guidelines to be observed while reconstituting outside the family

i) Original/ last approved allottee shall always have the majority share.

ii) For dealerships/distributorships belonging to SC/ST category, the incoming partner should also be from amongst SC/ST. Wherever an SC/ST dealer has married a non-SC/ST, reconstitution for inclusion of spouse, who is non-SC/ST, may also be permitted.

IV. Other conditions for reconstitution :

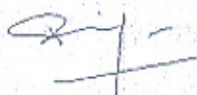
1. New partner(s) will be approved by the OMC concerned after verifying genuineness of the ground for reconstitution and eligibility of the incoming person.



2. The OMC concerned will ensure that, generally, the original LOI holder continues to benefit from the dealership/ distributorship as originally intended and continues to be responsible for the efficient and proper operation of the dealership/ distributorship and that functioning of the dealership does not become a 'benami' operation. The incoming person(s) will also be equally responsible for smooth and efficient operation of the dealership/distributorship.

3. In case of partnership firms, if the legal heir(s) expresses unwillingness to carry on the business, the dealership/distributorship will be reconstituted with the remaining partners after obtaining no objection certificate from the legal heir(s) and after considering any 'will' made by the deceased/ incapacitated allottee.

4. The proposals for reconstitution will be approved at an appropriate level as the OMC may decide. However, reconstitution may be permitted only after settlement of dues, if any, to the company and also court cases if any.



Resitement of dealerships/distributorships

I. Resitement at LOI stage

1. No resitement shall be allowed at Letter of Intent (LOI) stage, as it defies logic and reflects poorly on the marketing plan of OMCs. Even justifications like road widening, etc., may not be valid as the OMCs are expected to know in advance such possibilities. The plea of a certain old marketing plan location losing its viability, necessitating resitement at LOI stage, may also not be tenable because, in such cases, the OMCs can always re-assess the viability of locations before initiating the selection process.

2. However, in respect of old cases of LOI-holders, eligible for benefits under corpus fund scheme, change of location may be considered by OMCs in the same class of market and preferably within same district, depending on merit of the case, when efforts of the OMC concerned for acquisition of land in the advertised locations have failed.

3. In fresh cases, with effect from 27.10.2005, OMCs should acquire land before advertising for the selection of dealers eligible under the Corpus Fund scheme. In such cases, a change of location at LOI stage shall not be permitted.

II. Resitement of a commissioned dealership/distributorship

1. Resitement of a commissioned dealership/ distributorship may be considered on the following grounds :

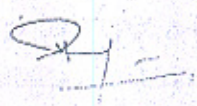
- (i) Road widening, diversion of road, realignment of existing road by a new one, road closure, closure of a particular traffic to the area, and any road-related incidents beyond the control of dealer/distributor, viz. shifting of octroi post, etc.
- (ii) Increase in disparity in State taxes leading to rendering ROs located at inter-State border areas unviable.

- (iii) Closure/acquisition of the existing site by a competent authority for reasons not attributable to dealer/distributor.
- (iv) The resitement should be made at the same market within the same State.
- (v) Closure of nearby business activities (e.g. stone quarries, road construction activities, private bus depots, etc.) which were contributing to RO's revenue, rendering the RO unviable.
- (vi) Dealer/distributor is forced to vacate existing site by the lessor or any authority after the dealer/distributor has exhausted all legal remedies upto High Court.
- (vii) Where an oil company is unable to obtain legal redress to enable it to continue on the site and the legal department of the company concerned confirms (a) they have now registered/valid lease/option available for the site, (b) they have no recourse to the Acquisition Act following nationalisation, (c) they have no protection under any local tenacy and other Acts.

III. Other conditions for resitement

The following shall be the other conditions for resitement:

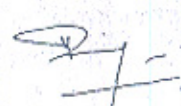
- (i) It has to be with the same dealer/distributor
- (ii) Within the same district/area specified for different class of markets, including periphery limits and within the same State. To clarify further, resitement can be only in the same market and within the same State.
- (iii) Partial resitement of facilities will not be allowed and resitement has to take place in total



(iv) At the old partially-resited outlets selling MS/HSD, addition of HSD/MS will not be permitted. However, there may not be any objection to addition of special brand of MS or HSD to the partially resited outlets selling only MS or HSD respectively.

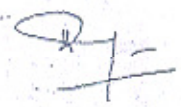
(v) Resitement with the sole objective of improvement of sales will not be permitted.

(vi) No resitement shall be made from the remote/low service areas without the approval of the Director (Marketing) of the oil company. Further no retail outlet in a monopoly market (a market which is not covered by a National Highway/State Highways and where there is no other retail outlet within a radius of 10 kms) will be resited. Also, the dealerships/distributorships at the old locations shall be de-commissioned before commissioning at the new sites



Revival of dealerships/distributorships

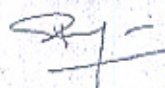
1. Revival of dealerships/distributorships shall not be allowed in the following cases:-
 - (i) In the case of those dealerships/distributorships terminated on account of malpractices/ irregularities / breach of dealership/distributorship agreements/ violation of Marketing Discipline Guidelines (MDG). This ban will not, however, come in the way of consideration of / decision on appeals which may be made by the terminated dealerships/distributorships under the provisions of the MDG.
 - (ii) Terminated SKO-LDO dealerships.
2. In other cases (for reasons beyond the control of the dealers/distributors), and depending on the merits of the cases, revival with the same constitution at the same location, may be permitted with the approval of the Board of Directors. In such cases, the dealer/distributor must meet the eligibility criteria for selection of a new dealer/distributor, which are in vogue at the time of revival. He/she will also be required to deposit the security amount applicable to new dealerships.
3. Dealerships/distributorships which are inoperative from a date prior to 1.4.2002 will not be considered for revival. Further, dealerships/distributorships remaining inoperative for a period more than three years will not be revived.



Procedure to deal with direct offers of land received by the OMCs from land owners for setting up of retail outlets

Existing guidelines of OMCs have a provision for award of retail outlet dealerships to land owners, based on offers of land received from the latter. The following procedure which the Government had advised (*vide Ministry of Petroleum & Natural Gas letter No.P-19011/1/2004-IOC dated 22.2.2005*) the OMCs to follow in such cases, is reiterated:-

"The OMCs should, after receipt of direct offers of land, assess the viability of the location and if the same is found viable, OMCs must release an advertisement in 2 leading newspapers, which are in circulation in the area, stating the fact that they have received offer(s) of land for dealerships, etc., and are inviting similar offers from others. Further, these advertisements must indicate that final selection of the dealer will be on the basis of evaluation of the lands offered and evaluation of the candidates in respect of other parameters as provided for in the guidelines."



Selection of dealers/distributors and Marketing Plan

I. Selection of dealers/distributors

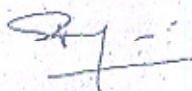
1. Guidelines of oil marketing companies (OMCs) for selection of dealers/distributors provide for evaluation of the candidates based on certain parameters and weightage attached thereto. Among them, weightage of 60% is given to the following parameters:

- | | | |
|------|---|-----------------------------------|
| (i) | Capability of the candidate to provide land and infrastructure/facilities | 35 marks (out of total 100 marks) |
| (ii) | Capability of the candidate to provide finance | 25 marks (out of total 100 marks) |

2. In respect of candidates eligible for benefits/financial assistance under Corpus Fund Scheme, land/infrastructure/ working capital loan are provided by the OMCs themselves, and, thus, the dealers/distributors are not required to make any investments for setting up the dealerships/ distributorships.

3. In view of above, candidates who are the beneficiary of the Corpus Fund Scheme, are not required to be evaluated under the two parameters mentioned above. However, it has been noted that while some OMCs do not evaluate such candidates under both these parameters, some OMCs though do not evaluate such candidates under 'Capability to provide land and infrastructure / facilities' but evaluate them under the parameter 'Capability to provide finance'.

4. For the sake of uniformity, OMCs concerned should amend their guidelines so that the candidates, eligible under the Corpus Fund Scheme, are not evaluated under both the above-mentioned parameters; which means that they should be evaluated for a total of 40 marks only under the remaining parameters.



5. To ensure transparency, selection of dealers/distributors should be through advertisement including that for 'fleet operator' category also. Exception can be made only in case of Government agency/PSUs.

II. Complaints against selection

1. It has been observed that in a number of cases, scrutiny of applications for selection of dealers/distributors and in some cases evaluation of land offered by prospective candidates by land evaluation committee as well as evaluation of candidates by the selection committee have not been done properly which have resulted into numerous complaints/ VIP references / litigations after issue of LOI.

2. While the OMCs must ensure that these exercises are carried out thoroughly by the officers concerned so that no inconsistencies are detected afterwards in such scrutiny/evaluations, OMCs should also consider stipulating a suitable timeframe for receipt of complaints and their disposal before issue of LOI. This timeframe may suitably be notified at the time of advertisement for selection of dealership/distributorship. This provision may also be hosted on the web-site of OMCs.

3. Further, disposal of complaints should be done by way of a speaking order by the appropriate authority in the OMCs, incorporating each point of the complaint and after giving reasonable opportunity to all the parties concerned in a transparent manner as per the principle of natural justice. A copy of the speaking order (for disposal of complaint) may be given to all the parties concerned. Such transparent and fair disposal of complaint before issue of LOI will ensure that selections are not cancelled after issue of LOI.

