

Industry Guidelines on Resitement of Retail Outlet Dealerships

2nd May 2019

1. RESITEMENT OF COMMISSIONED RETAIL OUTLET DEALERSHIPS

1.1 Resitement of a commissioned dealership may be considered on the following grounds :

(a) Road widening, diversion of road, realignment of existing road by a new one, road closure, closure/diversion of a particular traffic to the area, and any road related incidents beyond the control of dealer viz. shifting of octroi post etc.

(b) Increase in disparity in State Taxes leading to rendering ROs located at inter-State border areas unviable.

For this purpose, viability will be 100 kl per month combined potential of MS & HSD.

(c) Closure/ acquisition of the existing site by a competent authority for reasons not attributable to dealer.

(d) Closure of nearby business activities (e.g., stone quarries, road construction activities, private bus depots, etc.), beyond the control of the dealer, which were contributing to RO's revenue, rendering the RO unviable.

For this purpose, viability will be 100 kl per month combined potential of MS & HSD.

(e) Dealer is forced to vacate existing site by the lessor or any authority after the dealer has exhausted all legal remedies upto High Court.

(f) Where Corporation is unable to obtain legal redress to enable it to continue on the site and the legal department of the Corporation confirms (i) Corporation has no registered/ valid lease/ option available for the site, (ii) Corporation has no protection under any local tenancy and other Acts.

1.2 If dealer proposes to reconstitute the dealership along with resitement, the same will be allowed subject to meeting reconstitution guidelines in vogue.

1.3 For all cases of resitement (i.e. 'A/CC' site or 'B/DC' site), onus to provide land will be on dealer.

The land offered by the dealer can also be procured by the Corporation directly from the landowner (through negotiation on purchase / long term lease basis) in case the RO at resited location is proposed to be developed on 'A/CC' site basis.

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1.4 The resitement will be permitted in the same class of market within the same State except for cases covered in (a) & (b) below: -

(a) Resitement within the State/ UT boundaries (**in any class of market**) can be allowed in the following cases :

- i. For ROs meeting current resitement norms w.r.t. road related developments at the site, acquisition of RO site / being forced to vacate and surrender of site, will be allowed to resite to any class of market within the State/ UT boundaries.
- ii. In other words, resitement on account of reasons not covered in para (i) above will continue to be governed by the norm of being within “same class/ state”.
- iii. In case of Corporation owned / leased sites, where the Corporation has to vacate / surrender the site, Dealership at the old location shall be decommissioned before commissioning the dealership at the new site. Further, the vacated site should be surrendered immediately after obtaining approval from Board / Sub Committee of the Board / Competent Authority for avoiding infructuous rental outgo.

(b) ROs located in Delhi, can be resited beyond Delhi also but within National Capital Region (NCR) limits, irrespective of class of market subject to following conditions:

- i. For ROs meeting current resitement norms w.r.t. road related developments at the site, acquisition of RO site / being forced to vacate and surrender the site.
- ii. In other words, resitement on account of reasons not covered in para (i) above will continue to be governed by the norm of being within “same class/ state”.
- iii. In case of Corporation owned / leased sites, where Corporation has to vacate / surrender the site, Dealership at the old location shall be decommissioned before commissioning the dealership at the new site. Further, the vacated site should be surrendered immediately after obtaining approval from Board / Sub Committee of the Board / Competent Authority for avoiding infructuous rental outgo.

1.5 Resitement with the sole objective of improvement of sales will not be permitted.

1.6 No resitement shall be made from remote/ low service areas without the approval of Director (M).

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- 1.7** No Retail Outlet in a monopoly market (a market which is not covered by National/ State Highway and where there is no other Retail Outlet within a radius of 10 kms), will be resited.
- 1.8** In case of resitement of a RO dealership, as per the guidelines, is considered based on Dealer's request despite the existing site being viable (i.e. having potential of the class of market), Corporation will have the option of retaining/not retaining/de-leasing the original site at their discretion.

In these cases, resitement would be approved subject to the dealer offering the original site to the Corporation (in case of B site). Corporation may surrender the site based on de-leasing policy guidelines in case of A/CC site or may not opt to retain the site in case of B/DC site. However, in case the original site is found feasible and Corporation wishes to take over the site/retain the site, then the dealer / land owner has to offer the site on sale / lease rental as per Corporation's requirement, otherwise, resitement would not be allowed.

In such cases, it should be ensured that the new dealership at the original site cannot be resited on the same grounds (specific reason) under which resitement of the earlier dealership was carried out.

- 1.9** Facilities at the old location shall be decommissioned before commissioning the dealership at the new site, wherever Corporation decides to surrender the original site.
- 1.10** For cases of resitement, where RO dealer proposes to induct the land owner of the proposed site for resitement as partner in the firm, in such cases conditional reconstitution approval can be given subject to materialization of resitement and commissioning of the RO in the new/proposed site.

In case of non-materialization of resitement to the proposed site of the landowner (who is inducted in the firm as partner), the reconstitution would be considered null and void. A suitable undertaking would be obtained from the landowner / proposed partner and the dealer(s) to this effect during the conditional reconstitution.

However, the above is applicable only if the dealer(s) proposes for the same.

- 1.11** If any inoperative / terminated RO dealership proposed to be revived / restored requires to be resited, the same shall be permitted if the dealership meets the guidelines for resitement, as applicable, at the time of revival/restoration of the dealership.

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1.12 Partial Resitement

- a. Partial resitement of facilities will not be allowed.
- b. 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 Branded MS to partially resited RO selling normal MS and branded HSD to partially resited RO selling normal HSD only.
- c. Prior to issuance of guidelines dated 17.11.2005, partial resitement of facilities was allowed and dealerships were operating at two locations selling MS at one location and HSD at another location. There may be cases, where these locations (either original location or resited location) are facing the situation of resitement. In such cases, Guidelines for resitement will be applicable for each location (product specific).
- d. There may be cases, where RO dealer proposes to operate both the products from one of the partially resited RO site. In such cases, resitement of one product (MS/HSD) can be allowed to the site of the other product (HSD/MS). This can be allowed subject to the dealer offering the vacated site to the Corporation. Corporation may take over or surrender the site based on de-leasing policy guidelines. However, in case the site to be vacated is found feasible and Corporation wishes to take over the site, then the dealer / landowner has to offer the site on sale / lease rental as per Corporation's requirement, otherwise, resitement would not be allowed.

1.13 Resitement in case of conviction of partner(s) in an existing RO dealership, where the existing RO site is not under the control of remaining partners.

In a partnership firm, if any partner(s) gets convicted by Court of Law for any criminal / moral turpitude cases, then Corporation may exercise its right to derecognize the existing set up, debar the convicted partner(s) and reconstitute the dealership **only** with the remaining partners.

In such cases, if the control of the RO site is not with Corporation or with the remaining partner(s), then Corporation can permit resitement of the dealership in the same class of market within the same state. In case of locations in Delhi, dealerships may be allowed to offer land outside the state of Delhi but within NCR (any class of market).

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2. RESITEMENT (CHANGE OF LOCATION) AT LOI / PRE-LOI STAGE

Resitement (Change of location) at LOI/Pre-LOI stage shall be allowed in the following cases only:

- 2.1 There may be a situation, where the land offered by the applicant meets all the specifications as laid down in the advertisement and on the basis of which LOI has been issued or proposed to be issued and the LOI holder or the selected candidate to whom LOI is proposed to be issued would like to offer an alternate land, due to whatsoever reason, such land may be considered by Corporation subject to the alternate land meeting all specifications and is within the advertised location/stretch. This opportunity would be available to the LOI holder up to 90 days from the issuance of LOI. The above mentioned opportunity can be availed by the selected candidate (after clearing FVC) / LOI holder only once.

In case the selected candidate (after clearing FVC) avails the opportunity to offer alternate land before issuance of LOI, the opportunity will not be available to the candidate post issuance of LOI.

Opportunity to offer alternate land also will be available in case of failure of rental negotiation. However, in this case, LOI holder can offer alternate land within 90 days of failed negotiation. Further, this opportunity will not be available to the LOI holder in case he/she has availed the opportunity before issuance of LOI/post issuance of LOI.

- 2.2. One time option has been given to all eligible pending LOI holders and empanelled candidates under Corpus Fund Scheme, in respect of whom the Oil Companies were required to arrange the land for the dealerships allotted to them, to arrange land at a place of their choice anywhere in the country irrespective of State/ class of market, subject to the offered land meeting techno-commercial viability norms. The LOI holder / empanelled candidate will take prior written consent of Corporation before making any expenditure on land. LOIs / empanelment of those candidates who fail to utilize this option within stipulated time will be cancelled.

Whenever land is offered against the one time option, the same should be immediately examined for techno-commercial viability, after following the laid down norms for land evaluation and investment (development of new RO).

Under the above-mentioned one-time option scheme, the offered land can also be procured by the concerned Corporation directly from the landowner (through negotiation on purchase / long term lease basis).

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Change of location at LOI stage will not be permitted in case land has already been arranged by the Corporation.

2.3. Resitement in case of rejection of NOC by statutory authority:

There may be cases where though the site offered by the applicant was found to be technically and commercially suitable but NOC not being granted by NHAI / District Authorities / Environmental Authorities etc., due to unforeseen circumstances for which dealer select cannot be held responsible. In such cases LOI holder may be allowed six months' time by the Corporation to make available an alternate land in the advertised stretch / location where RO was intended to be set up.

In case the LOI holder(s) could not offer any other suitable land within the advertised stretch, in view of non-availability of the same within the advertised stretch, the concerned LOI holder may be allowed to offer suitable alternate land within the same District in the same class of market.

In such cases, the Corporation should receive a certificate of rejection of application for NOC from District / NHAI authority citing reasons for rejection as mentioned below.

The reasons for such rejection are:-

- i) Land acquisition within the advertised location/stretch by local Govt. / NHAI / PWD.
- ii) Proposed development plan by the local government authority/NHAI within the advertised location/stretch.
- iii) Non availability of statutory approvals for alternate land within the advertised location/stretch due to restrictions imposed by Statutory authorities/ local Govt. bodies.

Further, the concerned LOI holder should also submit a certificate from the Revenue department from an authority not below the level of District Magistrate / Commissioner of Police, stating that there is no other suitable site available within the advertised location/stretch for setting up of Retail Outlet.

The offered alternate land should meet techno commercial viability.

The concerned LOI holder should offer the alternate land within a period of six months from the date of the offer letter by the Corporation.

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The LOI holders are expected to make any investment in the offered land only after obtaining written approval / consent of the Corporation.

However, in specific cases if the concerned LOI holder is not able to offer suitable alternate land within the same District in the same class of market, in that case the LOI holder may be allowed to offer land in adjoining district(s) / State in the same class of market. This would be allowed subjected to the concerned LOI holder submitting a certificate from the concerned District Authority at a level not below that of District Magistrate stating that there is no other suitable site available within the same district in the same class of market.

2.4 Resitement at Pre- LOI / LOI stage for war widows:

In the case of selected dealers, who are war widows and able to arrange suitable site at a location other than the originally advertised location, resitement within the same district shall be allowed at the pre-Letter of Intent (LOI) / LOI stage subject to techno commercial viability of the location.

2.5 Resitement at LOI stage due to road related development:

Subsequent to issuance of advertisement, in the event of Road widening, diversion of road, realignment of existing road by a new one, road closure, closure/diversion of a particular traffic to the area, and any road related incidents beyond the control of the LOI holder viz. shifting of octroi post etc. rendering the proposed RO site/proposed RO location unviable, resitement at LOI stage shall be allowed.

For this purpose, viability will be 100 kl per month combined potential of MS & HSD.

In such cases LOI holder may be allowed six months' time by the Corporation to make available an alternate land within the same District in the same class of market where the RO was intended to be set up.

The offered alternate land should meet techno commercial viability. The concerned LOI holder should offer the alternate land within a period of six months from the date of the offer letter by the Corporation.
