

Annexure A

**Idea Cellular Response to
TRAI Consultation Paper
on
Spectrum Usage Charges and Presumptive Adjusted Gross
Revenue for Internet Service Providers and Commercial Very
Small Aperture Terminal Service Providers
Released on August 19, 2016**

I. Preamble :

Over the last 10 years of telecom deregulation, the one sector that has produced formidable results both in terms of achievement of coverage and building a strong infrastructure has been the wireless industry. This has happened post the New Telecom Policy 1999 which laid down certain basic guidelines which have benefitted the overall industry. Due to various reasons, many of these principles have been diluted leading to the surfacing of several issues. Needless to mention the principles enshrined in NTP-1999 such as affordability, level playing field etc. should form the benchmark for any future changes in the Licensing conditions for any category of telecom players considering the impact they can have on the overall telecom ecosystem.

Further, we would like to highlight the following points with respect to Spectrum Usage Charges (SUC) & Presumptive AGR for ISPs and VSAT service providers:

Spectrum Assignment:

1. Last two decades have witnessed a rapid growth in the number of mobile subscribers and equally rapid advancement in the mobile technology. With ever increasing demand for wireless multimedia applications requiring more and more bandwidth, radio access technologies are continuously evolving to provide higher data rates and improved spectral efficiency
2. As the wireless industry is witnessing explosive growth in the demand for both voice and data services, the number of mobile telephone subscribers, as well as usage rates, have also grown considerably.
3. Consequently, the Service providers have been upgrading their networks with advanced technologies to meet this growing demand for high quality voice and data services. The equipment vendors are driving technical innovations with the latest wireless technologies showing significant gains in the efficiency of spectrum used, thus providing more capacity out of a given bandwidth.
4. With the availability of higher data speeds, the user requirements are also continually increasing with regard to different services and applications, expecting a dynamic, continuing stream of new

capabilities that are ubiquitous and available across a range of devices using a single subscription and a single identity (number or address).

5. The bandwidth intensive services that users will want, and the rising number of users, are placing increasing demands on access networks. These demands may eventually not be met by the enhancement of radio access systems (in terms of peak bit rate to a user, aggregate throughput, and greater flexibility to support many different types of service simultaneously). Therefore there will be a requirement for new radio access technologies to satisfy the anticipated demands for higher bandwidth services.
6. Many operators in the developed countries are already focussing on deploying IMT – advanced system networks to cater to the growing requirement of data, speed and content delivery.
7. In that context, it is critical that the Authority bears in consideration that a detailed roadmap is prepared for all IMT-Advanced bands available for future technologies in India including the 3.3 GHz band that is currently allocated to ISPs through administrative assignment. The roadmap should also address issues of migration of existing users including timely availability for new users as all the frequencies identified for IMT band need to be treated in tandem with all the other frequencies available for offering access services.
8. In the interim, however, the allocations including existing allocations in these bands allocated to the ISPs may be allowed to continue on a link by link basis along with link by link formula based charging as an interim arrangement.
9. It is also submitted that ISPs who have not yet received spectrum and are desirous of acquiring the same should be allocated the same without discrimination and on a speedy basis.

Spectrum Pricing:

10. A market price is a fair payment criterion for the use of scarce resources. It is thus important that the end use of the spectrum should determine its pricing approach so that if the spectrum is used for backhaul, then the rules governing pricing of backhaul spectrum get applied whereas if the usage is towards offering licensed access, then the pricing approach adopted for licensed access spectrum gets followed.
11. As submitted above, in view of the changes that may need to be ushered in the country's spectrum roadmap consequent to the changes taking place globally on the IMT front, as an interim arrangement, the allocations including existing allocations in these bands allocated to the ISPs may be allowed to continue on a link by link basis along with link by link formula based charging.
12. For all access spectrum acquired through an auction mechanism, there should ideally be no requirement for further annual payments other than a nominal administrative fees to cover the cost for spectrum management. Further, the same charging approach should get followed for all the auctioned access spectrum.

13. Should the Authority still feel the need to introduce presumptive AGR or revenue share, care should be taken to ensure that the same should not by extension imply a right to spectrum for entire LSA. Any change from the present method of link wise allocation /charging should only be by way of auctioning the spectrum

Our query wise response is as below:

II. Query wise Response:

Q1.Should the spectrum assignment on location basis/link-by-link basis on administrative basis to ISPs, be continued in the specified bands. If not, please suggest alternate assignment mechanism. Please justify your answer.

Idea Response:

The digital revolution is radically transforming economies and societies. In that context, India simply cannot afford to remain behind. Further, realization of ‘**Digital India**’ is one of the major priorities of the Government.

It is thus critical that there is timely development of a future spectrum roadmap for the ever-growing mobile services in the country. In any case, TRAI had itself in its **Recommendations on Delivering Broadband Quickly: What do we need to do? Dated 17.04.2015** stated:

“There is a need to lay down a clear roadmap for spectrum management which should state the requirement and availability of spectrum for each LSA as well as for the whole country. This roadmap should be made available publicly to ensure transparency.”

It is also pertinent to note that spectrum in 3.3-3.4 GHz frequency band, currently one of the frequencies administratively allocated to ISPs, has already been identified as a band for IMT services. Further, the Authority had itself in its “**Recommendations on Delivering Broadband Quickly: What do we need to do?**” dated 17.04.2015 stated:

“It would not be prudent to make recommendations in isolation on the possible candidate bands for IMT applications. It is better to wait for the outcome of WRC-15.”

The Authority should thus taking note of the above, devise a long term migration roadmap for the users of 3.3GHz band to ensure business continuity.

Since the spectrum in all bands as per the current scenario (2.7 GHz, 3.3 GHz, 5.7 GHz and 10.5 GHz) can only be used for last mile access, and not for creating a ubiquitous mobile network across the service area, in the interim, the spectrum assignments for these bands can continue to be administratively allocated on location / link-by-link basis.

Further, it is also submitted that ISPs who have not yet received spectrum and are desirous of acquiring the same should be allocated the same without discrimination and on a speedy basis

Q2.Should minimum presumptive AGR be introduced in ISP license for the purpose of charging SUC? If yes, what should be the value of minimum presumptive AGR and basis for its computation? Please provide justification for your response.

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Q6.In case minimum presumptive AGR is prescribed for the ISP license, what percentage should be applied on minimum presumptive AGR to compute SUC? Please provide justifications for your response.

Idea Response:

TRAI had in its Recommendation on *“Definition of Revenue Base (AGR) for the Reckoning of Licence Fee and Spectrum Usage Charges”* dated 6 January 2015, itself stated that the motivation for a presumptive AGR is really more relevant in a scenario where spectrum was bundled with license and given at an administered price. Accordingly, the Authority had recommended the following:

“The Authority recommends that the minimum presumptive AGR for the purpose of LF and SUC should not be made applicable to any licence(s) granted by Government for providing telecom services.”

Idea Cellular agrees and supports the above-mentioned TRAI recommendation that there should be no presumptive AGR for the purpose of SUC if the spectrum has been acquired through auction.

As per the current process, spectrum allocation to ISPs is city-wise basis, subject to the availability of spectrum, and the assignments are renewed annually. Further, the SUC applicable on ISPs is based on a formula without a linkage to AGR.

However, such allocation does not fall under the category where spectrum comes bundled with license, nor does it fall under the category where the spectrum has been acquired through auction.

Hence, the existing arrangement may be allowed to continue.

Should the Authority still feel the need to introduce presumptive AGR or revenue share, care should be taken to ensure that the same should not by extension imply a right to spectrum for entire LSA. Any change from the present method of link wise allocation /charging should only be by way of auctioning the spectrum.

Lastly, Idea Cellular feels that while taking any position on this issue, the principle of level playing field among operators should definitely be kept in consideration.

Q3. Is there a need to introduce SUC based on percentage of AGR for ISPs or should the existing formula based spectrum charges continue? Please give justification while suggesting a particular method of charging SUC.

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Q4.If AGR based SUC is introduced, whether the percentage of AGR should be uniform for all ISP licenses or should it be different, based on revenue/spectrum-holding/any other suitable criteria? Please suggest suitable criteria with reasons.

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Q5.What mechanism should be devised for ISP licensees to identify revenue generated from use of spectrum and revenue generated without use of spectrum? Please give your view on this with justification.

Idea Response:

As already highlighted in the preamble, it is critical that the Authority bears in consideration that a detailed roadmap is prepared for all IMT-Advanced bands available for future technologies in India including the 3.3 GHz band that is currently allocated to ISPs through administrative assignment. The roadmap should also address issues of migration of existing users including timely availability for new users as all the frequencies identified for IMT band need to be treated in tandem with all the other frequencies available for offering access services.

We have already submitted that in the interim, however, the allocations including existing allocations in these bands allocated to the ISPs may be allowed to continue on a link by link basis along with the formula based link by link charging.

It is further submitted that the revenue for the purpose of calculating the SUC should be only from those licensed telecommunication services which require spectrum. Any telecom revenue, which has no linkage with spectrum directly or indirectly, should not be subjected to SUC

Q7. In case, Formula based spectrum charging mechanism in ISP license is to be continued, do you feel any changes are required in the formula being currently used that was specified by DoT in March 2012? If yes, suggest the alternate formula. Please give detailed justification.

Idea Response:

We note that TRAI in its recommendations dated 17th April 2015 has stated as below:

“Annual Royalty Charges for 3.3-3.4 GHz band for last mile access are excessive. These need to be reviewed and rationalized in line with the recommendations of the

Authority on E-band. The maximum EIRP of the band also needs to be increased to enable its use in rural areas. This decision also needs priority attention and should be taken within 6 months.”

The allocation and charging on a link by link basis may be allowed to continue as an interim arrangement along with rationalization. It is also submitted that ISPs who have not yet received spectrum and are desirous of acquiring the same should be allocated the same without discrimination and on a speedy basis.

Q8. Do you propose any change in existing schedule of payment of spectrum related charges in the ISP license agreement?

Idea Response:

There should be no change in the existing payment schedule. However, should there be any change, the same approach needs to be followed for all licensees.

Q9. Should a separate regime of interest rates for delayed payment of royalty for the use of spectrum be fixed in ISP license or should it be the same to the prevailing interest rates for delayed payment of license fee/ SUC for other licensed telecom services?

Idea Response:

It is submitted that in order to maintain parity with the prevailing terms and conditions, the regime of interest rates for delayed payment of royalty for the use of spectrum in case of ISP license should be the same the prevailing interest rates for delayed payment of license fee/ SUC for other licensed telecom services.

At the same, the interest rate regime also needs to undergo amendment in keeping with the changes in the financial markets. This is because the current interest rate levied for delayed payment of license fee is pegged at SBI PLR + 2%. However, from FY 2011 RBI vide its circulars RBI/2009-10/390x1 DBOD. No. Dir. BC 88 /13.03.00/2009-10 and RBI/2010-11/361 DBOD.No.Dir.BC.73/13.03.00/2010-11 has replaced Bank Prime Lending Rate (BPLR) system with the Base rate system. Thus the PLR rate is no longer used and has now become redundant after the introduction of the concept of “Base Rate”. In view of the same, the applicable rate to be considered in case of delayed payments needs to be the “base rate” and not the “prime lending rate.” It is pertinent to mention here that the same has also been recognized by DoT in the NIAs for spectrum auctions including the recent spectrum auction where the SBI base rate of 9.3% has been used as IRR under deferred payment option.

The Authority is therefore requested to consider the same for its recommendations.

Q10. Should separate financial bank guarantee or single financial bank guarantee be submitted by the ISP licensee covering LF payable, fees/charges/royalties for the use of spectrum and other dues

(not otherwise securitized)? If yes, what should be the amount of such financial bank guarantee in either case?

Idea Response:

Idea Cellular does not favour the system of having Bank Guarantees, more so in the case of operators who already have a proven record in offering telecom services.

Q11. Is there a need to specify minimum presumptive AGR for commercial CUG VSAT license for the purpose of charging SUC? If yes, what should be the value of minimum presumptive AGR and basis for its computation? Please provide justifications for your response.

Idea Response:

Idea Cellular is of the view that the concept of minimum presumptive AGR should not be applicable for Licensees of any category. In keeping with the same, there should be no minimum presumptive AGR for VSAT service providers.

Q12. Should the SUC applicable to commercial VSAT services be reviewed? If yes, what should be the rate of SUC to be charged? Please give your view on this with justification.

Idea Response:

It is submitted that there should be no requirement for further annual payments beyond specific (and relatively minor) administrative fees. This should be applicable for all services and all bands. Thus, we recommend that the SUC for VSAT service providers should be fixed at a nominal rate.

Q13. In addition to the issues mentioned above, comments of stakeholders is also invited on any other related matter/issues.

Idea Response

We have no other comments.

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