



**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 :

At the outset, 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. A detailed plan related to the frequency bands assigned to ISPs as listed in the TRAI paper, should be developed in line with international developments.
2. All the frequencies which are identified as an IMT band must be treated as all the other licensed access spectrum.
3. The Authority should lay down the roadmap for the auction of all such spectrum which are or may be declared as an IMT band. Further, the Authority should devise a long term migration roadmap for the users of such bands which are or may be declared as an IMT band to alternate frequency bands to ensure the business continuity.
4. We would like to submit that in the interim, the allocations including existing allocations in these bands allocated to the ISPs may be allowed to continue on a link by link basis. The link by link charging needs to be only an interim arrangement.

Spectrum Pricing:

5. It is our view that the end use of the spectrum would determine its pricing approach. If the spectrum is used for backhaul, then the rules applied to backhaul spectrum may be extended to this spectrum as well. If the use is for licensed access, then the approach adopted for licensed access spectrum should be followed.

6. We would like to submit that for assignment of spectrum done administratively on a link by link basis, a formula based approach may be continued purely as an interim arrangement.
7. For all access spectrum which is acquired through an auction mechanism, there should ideally be no requirement for further annual SUC payments beyond nominal administrative fees towards covering the cost for spectrum management. Same approach should be followed for all auctioned access spectrum.
8. Any decision of TRAI in favour of presumptive AGR or revenue share should not mean a right to spectrum for entire LSA. In this regard, we would like to submit that any change from link wise allocation /charging can only be by way of auctioning of this 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.

Comments:

1. It is pertinent to note that spectrum in 3.3-3.4 GHz frequency band has already been identified for IMT. The Authority should devise a long term migration roadmap for the users of 3.3 GHz band which has been declared as an IMT band to 2.7 GHz frequency band to ensure the business continuity.
2. Since the spectrum in all bands in current scenario (2.7, 3.3, 5.7 and 10.5 GHz) are given on a link by link basis and can only be used for last mile access and not for creating a ubiquitous mobile network across the service area, in the interim, these bands may continue to be allocated administratively and on link by link 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.

Comments:

1. As stated by TRAI in its Recommendation on “*Definition of Revenue Base (AGR) for the Reckoning of Licence Fee and Spectrum Usage Charges*” dated 6 January 2015, there should be NO presumptive AGR for the purpose of SUC if spectrum is acquired through auction.
2. Minimum presumptive AGR is not relevant under the framework of administrative allocation wherein the spectrum is allocated on link by link basis and the ISPs are paying a fixed formula based SUC to the Government.
3. Any decision of TRAI in favour of presumptive AGR or revenue share should not mean a right to spectrum for entire LSA. In this regard, we would like to submit that any change from link wise allocation /charging can only be by way of auctioning of this spectrum.
4. Further, we would like to submit that issues pertaining to level playing field among operators should be taken into 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.

Comments:

1. As highlighted in the preamble we would like to submit that assignment of spectrum done through administrative mechanism on a link by link basis, the existing formula based spectrum charge may be continued as an interim arrangement.
2. It may however not be out of place to mention that COAI's consistent stand has been that SUC should only be levied on the revenue earned from the licensed access spectrum.

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.

Comments:

1. We note that TRAI in its recommendations on “*Delivering Broadband Quickly: What do we need to do?*” 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.”*

2. As submitted above, the allocation and charges may continue on a link by link basis as an interim arrangement, with rationalization as suggested above.

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

Comments:

1. Same approach should 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?

Comments:

1. To maintain parity with the existing terms and conditions, regime of interest rates for delayed payment of royalty for the use of spectrum should be the same the prevailing interest rates for delayed payment of license fee/ SUC for other licensed telecom services.
2. However, the interest rate regime should be modified. The current interest rates levied for delayed payment of license fee are 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 is treated as representative of the cost of capital in the economy. In fact, the same has been recognized by DoT in the NIAs for spectrum auctions including the recent spectrum auction has also considered SBI base rate of 9.3% to be used as IRR for deferred payment option.

3. Authority is therefore requested **to replace rate of interest currently charged at “SBI PLR Rate + 2%” to “SBI Base Rate”**

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?

Comments:

1. It has been the stated position of COAI that there should be NO Bank Guarantees.

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.

Comments:

1. As has been stated in the TRAI consultation paper, VSAT licensees have to essentially hire the satellite bandwidth and pay the charges for the transponder-bandwidth to the DoS. The current transponder charge are around 5 crore per transponder (36 MHz). License fee and spectrum charges payable to WPC are the additional charges that a VSAT licensee is required to pay.
2. In light of the charges payable by the VSAT licensee, it can be presumed that these service providers would be taking bandwidth based on their actual requirement and would be using the same efficiently.
3. We are thus of the view that 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.

Comments:

1. SUC should be nominal to cover the administrative charges only. 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.

1. No further comments.
