



TRAI recommendations on Uniform SUC good for industry and not inconsistent legally - COAI

New Delhi, 24th September 2013: The Cellular Operators Association of India (COAI) has vehemently opposed the suggestion of continuation of discriminatory Spectrum Usage Charges (SUC) for different operators and has endorsed the TRAI's suggestions to implement a uniform SUC of 3% of AGR for all operators offering voice and data services in the country. COAI has pointed out that the charges should be non-discriminatory and uniform for all operators providing the same kind of services. Any distinction thereon, would be discriminatory and cannot be allowed as it will grossly affect the level playing field.

Recent media reports have mentioned that Reliance Jio Infocomm has opposed the TRAI's recommendations of a flat spectrum usage charge (SUC) of 3% of AGR proposal stating that this goes against the rules specified at the time of auctioning broadband spectrum in 2010. In a letter written to the Hon'ble Secretary, DoT Mr. M F Farooqui, COAI has pointed out that Reliance Jio Infocomm had acquired BWA spectrum under an ISP license and as per the condition of the NIA, it is prohibited from offering voice services (other than VOIP over the BWA spectrum) using the said spectrum. However, by payment of an additional amount, they have been allowed to offer voice services on their BWA spectrum which was not permissible as per the NIA. This is tantamount to change in the conditions of NIA and if this change is acceptable to Reliance Jio, it cannot object to concomitant changes in other conditions of NIA. Hence the argument that - *the TRAI recommendation of 3% flat SUC not being legally tenable for them as it is not per the NIA* - cannot be accepted.

Mr. Rajan S Mathews, Director General, COAI stated, *"Licensees cannot pick and choose parts of a policy to suit their own business needs. Since, the NIA condition of scope of service of a license has been changed by payment of certain amount for Reliance Jio Infocomm, it cannot be held by them that the Government now cannot change the condition of 1% flat SUC given in the NIA to flat 3% SUC as recommended by TRAI. This clearly shows that they are trying to follow selective rules from the NIA as well as the new policy to suit their own requirements."*

The TRAI in its recommendations has clearly stated that – **"In the new Unified Licensing regime, spectrum is delinked from licence and the licensee is permitted to provide any service under the umbrella of the Unified License. With the technological development, it has now become possible to offer other services including voice using this spectrum. Therefore, using BWA spectrum, a TSP can offer all services as provided in the Unified License on a mobile platform and as it will not be possible to segregate the subscribers and consequent AGR, it will pay less in the form of SUC as compared to other TSPs. This might open up the possibility for arbitrage. The Authority would like to avoid this**

possible arbitrage and therefore, is of the opinion that there should be a single uniform rate of SUC for all spectrum including the BWA spectrum (2300 MHz and 2500 MHz)."

It was on the basis of this reasoning that the TRAI recommended: **"The Authority recommends that the SUC rate for BWA spectrum should also be fixed at 3% where services are provided under CMTS/UASL/UL (AS)/UL."**

It may also be noted that the said recommendations apply only in case the services are provided under CMTS/UASL/UL (AS)/UL; and Reliance Jio is fully within its rights to continue under an ISP license and retain its 1% SUC.

COAI strongly recommends that the DoT should apply the same uniform SUC for all types of spectrum holders for the purpose of voice and data services to ensure a level playing field in the industry.

About COAI:

The Cellular Operators Association of India (COAI) was constituted in 1995 as a registered, non-governmental society dedicated to the advancement of communication, particularly modern communication through Cellular Mobile Telephone Services. With a vision to establish and sustain a world-class cellular infrastructure and facilitate affordable mobile communication services in India, COAI's main objectives are to protect the common & collective interests of its members. (<http://www.coai.in/>).