

PRIME MINISTER'S ROLE IN 2G SPECTRUM SCANDAL
UNCOVERED

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Bharatiya Janata Party

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1

**PM
KNEW
EVERYTHING
THAT
A. RAJA
WAS
DOING**

FOREWORD:

PM has changed his position 5 times on the 2G Scam

1. Prime Minister has changed his position on Raja and the 2G spectrum scam at least five times since 2008. Each of these is documented since they were public press conferences. Now, he is wanting sympathy for not being an expert in telecom while knowing fully well that the spectrum scam is about economics (*demand, supply and pricing*) and has nothing to do with telecom or technology.
2. This booklet provides evidence that contrary to his claim, Raja did not mislead him. Minus corruption, Raja had informed him about every single violation/deviation from rules/procedures and the TRAI Act, including rejecting the notion of auctions and Law Ministry's direction to send the matter to an EGoM. Further evidence that only after the PM acknowledged Raja's final letter of 26.12.2007 on 03.01.2008, did the DoT move ahead after an internal secret file noting which stated that Raja's letter to PM dated 26.12.2007 should be treated as "*a policy directive in the matter of Unified Access Services licenses.*"

All of this is backed by evidence etc.

Please see detailed note and accompanying annexures.

The Prime Minister, in his meeting with the press on 29 June, 2011 (specifically with regard to 2G – *Times of India, New Delhi, Page 13, "PM hits out at CAG on 2G, oil firms"*) criticizes Raja for falsely claiming that he had the "PM's endorsement". In the meeting, responding to the view that he failed to stop Raja from perpetrating the 2G scam, the PM suggested that he was betrayed by the sacked telecom minister. He said that as Prime Minister, he had to trust his minister when he had promised to abide by rules. "How can I conduct a post-mortem? I am not an expert in telecom matters. As Prime Minister, it is not that I am very knowledgeable about these matters. Or, that I can spend so much of my time, to look after each and every ministry."

He further states, "One observation that my private secretary recorded, that the PM says that there must be transparency – the minister should have said that it was his responsibility – rather than saying that the Prime Minister has also endorsed it."

When his attention was brought to newspapers reports about illegalities, the PM stated that he could not have gone by newspaper reports alone.

In effect, all the claims made by the PM are not only wrong in face of written documents available, but in fact, show that he is changing his stance literally every two months.

Changes in Stance:

1. May 2009:

When UPA-2 was elected, the Prime Minister re-appointed Raja as telecom minister. This was done after he had himself admitted that several complaints of wrongdoing had reached his doors. It is also clear that from October 2007 till January 2009, the press was full of reports about the loss, including accurate figures of loss which were then produced by the CAG in November 2010. The press reports pointed toward wrongdoings, violations of law and the loss: these were not general articles. There is also evidence available that the PM had himself asked Raja to hold a press conference to explain the spectrum allocation process and counter the claims of 'loss'. Consequently and upon such instruction and discussions, Raja did hold press conferences and gave out several press releases in the September – November 2008 time period. Clearly, at this stage, the PM was not only defending Raja but was also asking Raja to defend himself with facts.

2. October 2009:

Even after a FIR was registered in October 2009, the PM continued to defend Raja and in his press conference made a very general statement, saying 'guilty will be punished'. In fact, the PM allowed Raja to preside over the 3G auctions, the process of which began in October/November 2009, and culminating with bids in mid-2010.

3. November 2010:

In November 2010, the government and its law officers filed multiple affidavits in the Supreme Court in the crucial PIL, not only defending Raja, but in fact, stating in no uncertain terms that no wrongdoing had occurred (*Union Affidavit dated 11th November 2010*). In fact, this affidavit that was cleared and argued by the Solicitor General (*not just the DoT*) accepts in no uncertain terms that "The Prime Minister's office was kept informed about all the decisions made by Raja". It specifically cites multiple letters exchanged between the PM and Raja on 2nd November 2007 and

26th December 2007. Neither the PMO nor the Ministry of Law & Justice objected to such claims in an affidavit in the Supreme Court and argued by the senior most law officers. But this was all before the CAG report was released on 16th November 2010. Also, the PM, in his press conference of 24 May, 2010 had stated that, “Raja has informed me that he has followed the TRAI recommendations”.

4. February 2011:

After Raja's arrest and the stalling of the Parliament in the 2G matter, the PM, in his press interaction with TV editors on 16 February, 2011, stated that he had not stopped Raja for three reasons:

- i) TRAI had recommended no auctions.
- ii) Coalition pressures.
- iii) The DoT and the Finance Ministry had concurred on the matter.

(There is sufficient evidence to show that there was no concurrence between the DoT and the Finance Ministry. This is a story in itself, challenging the PM's claims and one on which P. Chidambaram had not uttered a word since February 2011 when this claim was made).

5. June 2011:

The PM has now changed his stance by suggesting that he was misled by Raja and, more importantly, that he is not an expert on telecom matters and asking how he can preside over every ministry etc.

In summary, the PM has gone from acknowledging Raja's letters which led to the scam to encouraging him to defend himself publicly, then reappointing him as the telecom minister, then making mild statements such as 'the guilty will be punished', then allowing Raja to preside over the prestigious 3G auctions, and then, under pressure from the CAG, media and Parliament, suggesting that he had done so because of 'coalition pressures' and because the DoT and the Finance Ministry had concurred, to now claiming that he is not an expert in telecom matters and that Raja had misled him. Essentially, it shows a new stance taken by the PM on the 2G matter literally every few months.

Merits of the PM's claims that he is not a telecom expert and that Raja had misled him:

The details are as follows:

1. With regard to whether Raja had misled the PM:

The main allegations against Raja (*apart from corruption*) for wrong doing relate to the following:

- i) Shunning auctions and rather going with First Come First Service (FCFS) in spite of the fact that demand far exceeded supply.
- ii) That spectrum was given in 2008 at 2001 prices.
- iii) That he violated TRAI's recommendations while pretending to follow them.
- iv) That he rejected the opinion of the Law Minister to take the matter to an EGoM.
- v) That he illegally advanced the cut-off date from 1st October 2007 to 25th September 2007 – thus ensuring that only a hand-picked few companies got spectrum.
- vi) That he violated Transaction of Business (*Government of India*) Rules which required the concurrence of the Cabinet and the Finance Ministry in matters of such large revenue.
- vii) That he illegally changed the definition of First Come First Service from 'date of application as priority' to 'date of compliance with Letter of Intent or date of payment as priority'.

2. Evidence that the PM knew about all of these violations:

- i) The two letters of Raja dated 2nd November 2007 to the PM in response to which the PM responded on the same day, informed the PM of all the above changes/deviations that he made in no uncertain terms in i) to vi) above. He detailed each of these in his letter, leaving nothing vague or to the imagination. Even if there was anything vague, the PM had every opportunity to check with him.
- ii) As far as vii) above is concerned (*changing the definition of First Come First Service to favour a few handpicked companies to alter the queue for spectrum*), Raja informed the PM in detail in his 6-page letter of 26th December 2007, which included a 4-page annexure. This change of definition was detailed in 1 ½ pages of the annexure.

In conclusion, Raja did not mislead the PM at any stage but in fact informed him of every single move that he made, including deviations. Further, Raja did exactly as he told the PM, and finally, he did so only after informing the PM (2nd November 2007 and 26th December 2007), and in fact, receiving an acknowledgment of the two letters by the PM on 2nd November 2007 and 3rd January 2008 respectively).

It cannot be the PM's case that he was misled by Raja on any of the deviations or legal violations.

3. With regard to the PM not being an expert:

This claim that the PM is not an expert is to be simply seen in context of the scam. The scam is that Raja misused his official position to cause a loss to the exchequer and corresponding gain to private companies by avoiding legal auctions and resorting to First Come First Service.

In effect, the PM is not only an expert where economics is concerned (*and this is an economic issue*), but in fact, his letter shows that he directed Raja to follow a perfect remedy which would have ensured that there would have been no scam at all. The letter of 2nd November 2007 informed Raja in no uncertain terms (*as part of the annexures to his letter – Paras 3 and 4*) that:

3. *Processing of a large number of applications received for fresh licenses against the backdrop of inadequate spectrum to cater to overall demand*

The DoT has received a large number of applications for new licenses in various telecom circles. Since spectrum is very limited, even in the next several years all these licensees may never be able to get spectrum. The Telecom Policy that had been approved by the Union Cabinet in 1999 specifically stated that new licenses would be given subject to availability of spectrum.

4. *In order that spectrum use efficiency gets directly linked with correct pricing of spectrum, consider*
 - (i) *Introduction of a transparent methodology of auction, wherever legally and technically feasible, and*
 - (ii) *Revision of entry fee, which is currently benchmarked on old spectrum auction figures.*

The above shows clearly that the PM not only knew the remedy, but was clearly aware that a loss would be caused if Raja did what he was suggesting, and in fact gave him two options – both of which would have avoided the loss and the scam. These were:

- i) Hold auctions where legally possible.
- ii) Index spectrum pricing with current rates.

Finally, it is important to note that the DoT only acted to perpetrate the scam on 7th January 2008 after they had received an acknowledgment from the PM on 3rd January 2008 (*internal note dated 7th January 2008 by A.K. Srivastava, DDG (AS) and also acknowledged in the CBI charge sheet wherein Raja's letter to the PM of 26th December 2007 was to be treated as a 'policy directive'*). So in essence, it was the PM's acknowledgment of Raja's letter that became the basis of the issuance of UAS licenses and dual technology licenses on 10th January 2008 – which led to the 2G spectrum scam. DoT never acted unless and until they had the PM's acknowledgment of Raja's letters – both of 2nd November 2007 (*two letters by Raja which were replied to by the PM on the same day*) and of 26th December 2007 (*which was acknowledged and confirmed by the PM himself on 3rd January 2008*). Please note that all five letters here are directly between the PM and Raja and not between the DoT and the PMO.

In conclusion, it is clear from the above that Raja did not mislead the PM (*except of course with regard to bribes etc, if any*) where violations of law, procedure or deviations were concerned. He openly thwarted the Law Ministry's opinion by informing the PM that he was doing so, and finally he changed the First Come First Service definition and illegally advanced the cut-off date – both after informing the PM in writing. Furthermore, the PM knew the problem (*excessive demand for too little spectrum which could not allow for First Come First Service*) and the solution (*auctions or price indexation*). In effect, this shows that the PM was not misled and is an expert who knew exactly how to stop the scam.

SUMMARY:

PM's claim with regard to the 2G spectrum scam has been that the TRAI had not recommended auctions, that the Finance Ministry and the DoT had agreed, and that he is not an expert on telecom and therefore he cannot be blamed for the scam.

In effect, there is evidence to show that the PM did know about every single aspect of the 2G spectrum scam since Raja wrote all of that in detailed letters to him (*two on 2nd November 2007 and the final letter on 26th December 2007*) – all of which he responded to and in fact, made specific recommendations and gave directions.

There is also contradicting evidence based on the affidavit filed by the DoT in the Supreme Court on 11th November 2010 in the PIL matter read with the letters exchanged between the Finance Secretary and the DoT Secretary on 22nd November 2007 and 29th November 2007, the Justice Shivraj Patil One Man Commission report and most importantly, statements given by Finance Ministry officials to the CAG in Chapter 3 of the report dated 16th November 2010 in which officials of the Finance Ministry have recorded as late as 2010 that there was no agreement whatsoever between the Finance Ministry and the DoT on keeping spectrum prices at 2001 rates while giving licenses and spectrum in 2007.

All of this causes very serious problems for the PM, namely:

1. How does the PM escape responsibility when he had information on every illegal act of Raja, including:
 - i) Illegal advancement of the cut-off date
 - ii) Rejection of auction as an option as suggested by the TRAI and the PM himself to ensure market price and avoid revenue loss
 - iii) Rejection of Law Ministry's opinion that the matter should be resolved in an EGoM
 - iv) A pretence to follow the TRAI's recommendations of no cap but placing a cap on only 121 out of 575 applicants by advancing the cut-off date illegally from 1st October 2007 to 25th September 2007
 - v) Manipulating the definition of First Come First Service to benefit a few hand-picked companies

The first four were in Raja's letters of 2nd November 2007 and the last one on First Come First Service was in Raja's letter of 26th December 2007.

2. If the PM is correct about DoT and Finance Ministry having agreed on spectrum pricing, then P. Chidambaram, the then Finance Minister, should be an equal accused as Raja for causing a loss to the exchequer. Also, how does the PM explain the Finance Secretary's letter if it is the government's claim that the Finance Minister and Raja met on 29th May 2007 (*not a documented meeting*) to settle spectrum pricing?

On the other hand, if P. Chidambaram and the Finance Ministry never agreed with the DoT (*as per evidence on record – CAG, Justice Shivraj Patil One Man Commission report, DoT affidavit of 11th November 2010*), then clearly the PM has lied to the nation and needs to explain why he did so.

Whatever the case, there is no running away from the fact that the PM knew exactly what Raja did since Raja followed his letters In Letter and In Spirit and did so in advance of taking the illegal actions.



2

LIST OF ANNEXURES PM / RAJA

PM hits out at CAG on 2G, oil firms

Criticizes Raja For Falsely Claiming That He Had PM's Endorsement

TIMES NEWS NETWORK

New Delhi: Interpreting the question as echoing a view that he had failed to stop A Raja from perpetrating the 2G scam, Prime Minister Manmohan Singh suggested on Wednesday that he was betrayed by the sacked telecom minister.

He said as Prime Minister he had to trust his minister when he had promised to abide by rules. "How can I conduct a post-mortem? I am not an expert in telecom matters. As Prime Minister, it is not that I am very knowledgeable about these matters. Or, that I can spend so much of my time, to look after each and every ministry."

Singh also criticized Raja for wrongly claiming that he had the PM's endorsement. "One observation that my private secretary recorded,

JUST LIKE THAT ART BY RAJ

UPM (left) is the weakest opposition for their "weekend" PM's long tenure.

that the PM says that there must be transparency — the minister should have said that it was his responsibility

Wasn't just chewing gum: Ex-IB official

S K Gupta, a former joint director of the Intelligence Bureau who was representing the private agency 3CL Security hired for debugging the finance ministry, told Times Now that he had identified 16 spots where bugs may have been attached. Playing down the controversy on hiring of an outside agency for a sensitive office like the PM's, Gupta, who is also the joint MD of 3CL Security, said: "My checks were in an individual capacity".

"I was called in last September by senior finance ministry officials to carry out a security audit. I found 16 off-white adhesives in the offices," Gupta said, rejecting media reports that mere chewing gum had been found. He said he had also submitted a report to the finance minister, containing 11 recommendations.

rather than saying that the Prime Minister has also endorsed it."

When told that the government failed to take notice of newspaper reports about irregularities in the allocation of 2G licences and spectrum, Singh said he could not have gone by newspaper reports alone. The intervention

was held against the growing perception that at a time when government is faced with an image deficit on the issue of corruption and other challenges, the Prime Minister has not been communicating enough with his constituency.

He hit out at the Comptroller and Auditor General

whose reports on 2G and alleged favors to oil firms had embarrassed the government for overstepping its constitutional mandate. "It has never been in the past that the CAG has held a press conference as the present CAG (Vinod Rai) has done. Never in the past has the CAG decided to comment on a policy issue. It is a well-defined role of the CAG to be role defined in the Constitution."

In his opening remarks, Singh said that their post-facto analysis of decisions by CAG and parliamentary committees did not recognize that the government had fewer facts when decisions were made.

He criticized media for creating the perception his government was under siege and for simultaneously playing the accuser, the prosecutor and the judge.

श्री. अ. राजा
ए. राजा
A. RAJA

मंत्री
संचार एवं सूचना प्रौद्योगिकी
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D.O. No.20-100/2007-AS.1
Dated 2nd November 2007.

Respected Sir,

After the announcement of TRAI Recommendations on Review of Licence Terms and Conditions for (Telecom) Access Service Providers on 28th August, 2007, an unprecedented number of applications were being received by the Department due to Recommendation of TRAI recommending "No Cap" on number of Licences in a Service Area.

2. As unprecedented number of applications were being received, a cut-off date of 1st October, 2007 was announced by the Department on 24th September, 2007 and a Press Release was given. In all 575 applications for 22 Service Areas were received.

3. The Department wanted to examine the possibility of any other procedure in addition to the current procedure of allotment of Licences to process the huge number of applications. A few alternative procedures as debated in the Department and also opined by few legal experts were suggested by the Department of Telecom to Ministry of Law & Justice to examine its legal tenability to avoid future legal complications, if any. Ministry of Law and Justice, instead of examining the legal tenability of these alternative procedures, suggested referring the matter to empowered Group of Ministers. Since, generally new major policy decisions of a Department or inter-departmental issues are referred to GOM, and, needless to say that the present issue relates to procedures, the suggestion of Law Ministry is totally out of context.

4. Now, the Department has decided to continue with the existing policy (first-cum-first-served) for processing of applications received up to 25th September 2007, i. e. the date when the news-item on announcement of cut-off date appeared in the newspapers. The procedure for processing the remaining applications will be decided at a later date, if any spectrum is left available after processing the applications received up to 25th September 2007.

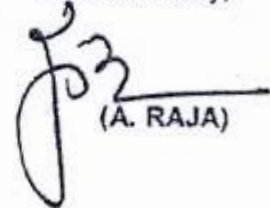
4. As the Department is not deviating from the existing procedure, I hope this will satisfy the Industry.

5. You will appreciate that I am writing this letter to apprise you about the latest developments in the Department.

I take this occasion to extend my warm Diwali Greetings.

With regards,

Yours sincerely,


(A. RAJA)

Dr. Manmohan Singh,
Prime Minister of India,
New Delhi.



सत्यमेव जयते

प्रधान मंत्री

Prime Minister

New Delhi
2 November, 2007

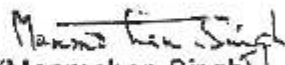
Dear Shri Raja,

A number of issues relating to allocation of spectrum have been raised by telecom sector companies as well as in sections of the media. Broadly, the issues relate to enhancement of subscriber linked spectrum allocation criteria, permission to CDMA service providers to also provide services on the GSM standard and be eligible for spectrum in the GSM service band, and the processing of a large number of applications received for fresh licenses against the backdrop of inadequate spectrum to cater to overall demand. Besides these, there are some other issues recommended by TRAI that require early decision. The key issues are summarized in the annexed note.

I would request you to give urgent consideration to the issues being raised with a view to ensuring fairness and transparency and let me know of the position before you take any further action in this regard.

With regards,

Yours sincerely,


(Manmohan Singh)

Shri A. Raja
Minister of Communications and IT
New Delhi

Annexure**1. Enhancement of subscriber linked spectrum allocation criteria**

In August 2007, the TRAI has recommended interim enhancement of subscriber linked spectrum allocation criteria. Service providers have objected to these recommendations, alleging errors in estimation / assumptions as well as due procedure not having been followed by the TRAI while arriving at the recommendations.

2. Permission to CDMA service providers to also provide services on the GSM standard and be eligible for spectrum in the GSM service band

Based on media reports, it is understood that the DoT has allowed 'cross technology' provision of services by CDMA service providers and three such companies have already paid the license fee. With the deposit of the fee, they would be eligible for GSM spectrum, for which old incumbent operators have been waiting since last several years. The Cellular Operators Association of India (COAI), being the association of GSM service providers, has represented against this. It is understood that the COAI has also approached the TDSAT against this.

3. Processing of a large number of applications received for fresh licenses against the backdrop of inadequate spectrum to cater to overall demand

The DoT has received a large number of applications for new licenses in various telecom circles. Since spectrum is very limited, even in the next several years all these licensees may never be able to get spectrum. The Telecom Policy that had been approved by the Union Cabinet in 1999 specifically stated that new licenses would be given subject to availability of spectrum.

4. In order that spectrum use efficiency gets directly linked with correct pricing of spectrum, consider (i) introduction of a transparent methodology of auction, wherever legally and technically feasible, and (ii) revision of entry fee, which is currently benchmarked on old spectrum auction figures**5. Early decision on issues like rural telephony, infrastructure sharing, 3G, Broadband, Number Portability and Broadband Wireless Access, on which the TRAI has already given recommendations.**

ANNEXURE-IV

श्री. अशोक
ए. राज
A. RAJA

मंत्री
संचार एवं सूचना प्रौद्योगिकी
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D.O. No. 20-100/2007-AS.I
2nd November, 2007.

Respected Sir,
Vanakkam.

Kindly refer to your letter dated 2.11.2007 regarding various issues related to Telecom sector. In this regard I have already written to you a letter earlier today (copy enclosed) clarifying the position on processing of large number of applications received for fresh licences. Before giving clarifications to the averments contained in the Annexure to your letter, I would like to inform you that there was, and is, no single deviation or departure in the rules and procedures contemplated, in all the decisions taken by my Ministry and as such full transparency is being maintained by my Ministry and I further assure you the same in future also.

Clarifications with respect to other issues are as follows:

1. **Enhancement of subscriber linked spectrum allocation criteria**

TRAI had recommended in August 2007, enhancement in subscriber linked criteria for allotment of additional spectrum to existing operators in order to increase spectrum efficiency which is scarce. Independent to this, Telecom Engineering Centre (TEC), which is the competent body to look into such matter, was asked to examine the spectrum efficiency issues scientifically. TEC submitted its recommendations on 26.10.2007, which was in principle accepted by me. It has been placed on the website of the Ministry and therefore, anybody much less COAI is at liberty to challenge the report of TEC with scientific basis. However, the fact still remains that no such attempts have been honestly made by them.

.....2/-

2. Permission to CDMA service providers to also provide services on the GSM standard and be eligible for spectrum in the GSM service band

This matter was referred to TRAI for its comments on use of dual technology. TRAI, after due deliberations on the issue, recommended use of dual technology, enabling existing Universal Access Service licensees (USAL) to provide services under both (GSM and CDMA) technologies. It was examined in the Ministry and was agreed to as they will be able to rollout the network fast which will ultimately benefit the customers because of increase in teledensity and also resulting lower tariff. **These operators will get spectrum only after the allotment of spectrum to the existing operators according to their eligibility and also licence holders awaiting for initial spectrum.**

3. Processing of a large number of applications received for fresh licenses against the backdrop of inadequate spectrum to cater to overall demand

The issue of auction of spectrum was considered by the TRAI and the Telecom Commission and was not recommended as the existing licence holders who are already having spectrum upto 10 MHz per Circle **have got it without any spectrum charge.** It will be unfair, discriminatory, arbitrary and capricious to auction the spectrum to new applicants as it will not give them level playing field.

I would like to bring it to your notice that DoT has earmarked totally 100 MHz in 900 MHz and 1800 MHz bands for 2G mobile services. Out of this, so far a maximum of about 35 to 40 MHz per Circle has been allotted to different operators and being used by them. The remaining 60 to 65 MHz, including spectrum likely to be vacated by Defence Services, is still available for 2G services.

Therefore, there is enough scope for allotment of spectrum to few new operators even after meeting the requirements of existing operators and licensees. An increase in number of operators will certainly bring real competition which will lead to better services.

.....3/-

and increased teledensity at lower tariff. **Waiting for spectrum for long after getting licence is not unknown to the Industry and even at present Aircel, Vodafone, Idea and Dishnet are waiting for initial spectrum in some Circles since December 2006.**

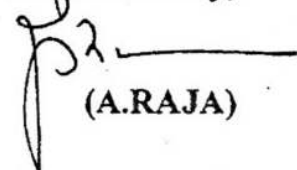
I would like to bring to your kind notice that M/s Aircel and M/s Spice Telecom, who were party to the petition to the TDSAT challenging DoT orders on acceptance of TRAI recommendations, have disassociated with the petition after having clarifications from me. These operators have openly admitted that the COAI had misled them, media and the public in general.

Since assuming charge, on more than three occasions I have reviewed all the long pending TRAI recommendations **announced during the tenures of my predecessors** including Number Portability, 3G, Wimax etc. and directed my officers to process them in a transparent manner. As a result we are almost reaching to shape the modalities to auction 3G and Wimax as contemplated by TRAI. I am told that divergence of views on implementation of Number Portability have been expressed by various stakeholders and I am trying to resolve it. The final decision on all these recommendations will be taken soon.

To conclude, I would like to assure you that all my decisions and endeavours are honestly aimed at development of the telecom sector, increasing the teledensity and lowering the tariff for the benefit of the public in general and customers in particular.

With regards,

Yours sincerely,



(A.RAJA)

Dr. Manmohan Singh
Hon'ble Prime Minister of India
7, Race Course Road
New Delhi.

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D.O. No. 260/M(C&IT)/VTP/2007

26th December, 2007.

Kindly refer to my letters dated 2.11.2007, and subsequent personal discussions with you on various issues related to Telecom sector. As discussed with you I also had several discussions with the External Affairs Minister, who is also heading GOM on vacation of spectrum on these issues. The major issues viz., (i) Subscriber based criteria for additional spectrum to existing operators; (ii) issue of dual technology; and (iii) issue of new licences were discussed with External Affairs Minister at length. Since the cases filed by Cellular Operators Association of India (COAI) on these issues before Telecom Disputes Settlement & Appellate Tribunal (TDSAT) and Delhi High Court are being represented by Solicitor General of India, he was also called for the discussions to explain the legal position.

I must recall that there are three reports available with the DoT with regard to subscriber based criteria for additional spectrum to existing operators viz., Telecom Regulatory Authority of India (TRAI), Telecom Engineering Centre (TEC) and the Report of the Committee which was constituted under the chairmanship of Additional Secretary, DoT with two Professors from IIT, Kanpur and IIT, Chennai who have done their specialisation in Radio Frequency. For one or the other flimsy reason, COAI neither accepted any one of the report nor co-operated with the DOT to arrive at an amicable solution. Similarly, on use of Dual Technology also, they want to challenge the policy decision taken by the Government on the basis of TRAI recommendations.

Since TDSAT refused to grant stay they moved the Delhi High Court for stay on subscriber based criteria, dual technology and in addition to these, the issue of new licences. This clearly shows that the attitude of COAI is to maintain their monopoly in the sector by avoiding healthy competition and level playing field. The only malicious intention of COAI, it appears, is that they want to procrastinate the issues through frivolous and vexacious Court proceedings endlessly.

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Annexure

1. Subscriber Linked Spectrum Allocation Criterion for CMTS/UAS Licensees

DOT provides Radio spectrum for providing mobile services to Wireless Operating Licence holders for roll out of GSM / CDMA services. An initial spectrum of 4.4 MHz for GSM and 2.5 MHz for CDMA based technology is provided to operators. Additional spectrum is provided to operators based on the number of subscribers, availability of spectrum, optimal use of spectrum, competition and other interest of public. To ensure optimal utilization of spectrum, TRAI while giving recommendation on other issues as requested by the DOT, also recommended that "there is a need to tighten the subscriber criteria for all the service areas so as to make it more efficient from the usage and pricing point of view. In order to frame new spectrum allocation criteria, a multi-disciplinary committee may be constituted. However, it is necessary to enhance the present subscriber norms as an ad-hoc measure so that the task of spectrum allocation is not stalled". This recommendation was accepted by the department on 17-10-2007.

However, COAI and existing GSM operators challenged recommendations of TRAI saying it lacks scientific basis. In the meantime, TEC which was simultaneously working on the subscriber based criteria for allocation of additional spectrum submitted its report to the Ministry which was accepted in-principal. Incidentally, TEC norms, which were based on scientific basis, came out to be stricter than TRAI norms. COAI challenged these reports in the TDSAT. To avoid any controversy and to find an amicable solution, as suggested by TRAI a Committee headed by Additional Secretary, DOT, including Representatives of COAI and AUSPI and two Professors from IIT Kanpur and IIT Chennai was setup. However, on 7-12-2007, COAI disassociated itself from the proceedings of the Committee. The committee has submitted its report and has suggested that another Committee as suggested by TRAI may be set up to look into broader issues of allotment of additional spectrum and till then recommended to go with TRAI's interim report for allotment of additional spectrum. This recommendation of the Committee is accepted.

In view of above, DOT is proceeding ahead to implement the recommendation of TRAI on subscriber based criteria as an interim measure and allot additional spectrum to eligible existing operators as per TRAI norm, followed by those who got licence in Dec 2006, dual technology and to new applicants as and when licences are given. An affidavit to this effect will be filled in both TDSAT and Delhi High Court.

(674)
-158-
JK

2. Use of Dual Spectrum (Alternate technology) by UAS Licensees

DOT sought the recommendations of TRAI on Use of Dual Technology / Alternate Technology under USA License and other issues on 13-4-2007(prior to taking over by the present Minister). The recommendations of TRAI were received by DOT on 29-08-2007 which suggested that **“A licensee using one technology may be permitted on request, usage of alternative technology and thus allocation of dual spectrum. However, such a licensee must pay the same amount of fee which has been paid by existing licensees using the alternative technology or which would be paid by a new licensee going to use that technology”**. This recommendation was accepted by the department on 17-10-2007.

This policy makes existing UAS Licence holders (Reliance, TATA, Airtel, Vodafone, etc.) eligible for allotment of spectrum for alternate technology. COAI challenged Dual technology policy in the TDSAT. TDSAT has adjourned the case to 09-01-2008. Failing obtaining stay from TDSAT, COAI moved to Delhi high court on 20-12-2007. The matter was heard on 24-12-2007 and is posted for 3-1-2008 without granting any stay.

In view of above, DOT is proceeding ahead for allotting initial spectrum under dual technology policy to eligible applicants subject to the court order. Application of TATA Telecommunication will also be processed as per the policy and guidelines. An affidavit to this effect will be filled in both TDSAT and Delhi High Court.

3. Issue of New Licences

Although UASL guidelines issued in December 2005 clearly indicates that **“Licences shall be issued without any restriction on the number of entrants for provision of Unified Access Services in a service Area”**, DOT sought recommendation of TRAI on number of UAS licences to be issued in a Service Area on 13-4-2007(prior to taking over by the present Minister). The recommendations of TRAI were received by DOT on 29-08-2007 which suggested that **“No Cap be placed on the number of access service providers in any Service Area”**. This recommendation was accepted by the department on 17-10-2007 in order to encourage more competition in the Telecom Sector and decided to grant new UAS Licences. This is first time that December 2005 UASL guidelines are being implemented in letter and spirit in view of TRAI recommendation.

(675) 144-

DOT has been implementing a policy of First-cum-First Served for grant of UAS licences. The same policy is proposed to be implemented in granting licence to existing applicants. However, it may be noted that grant of UAS licence and allotment of Radio Frequency is a three stage process.

1. **Issue of Letter of Intent (LOI):** DOT follows a policy of First-cum-First Served for granting LOI to the applicants for UAS licence, which means, an application received first will be processed first and if found eligible will be granted LOI.

2. **Issue of Licence:** The First-cum-First Served policy is also applicable for grant of licence on compliance of LOI conditions. Therefore, any applicant who complies with the conditions of LOI first will be granted UAS licence first. This issue never arose in the past as at one point of time only one application was processed and LOI was granted and enough time was given to him for compliance of conditions of LOI. However, since the Government has adopted a policy of "No Cap" on number of UAS Licence, a large number of LOI's are proposed to be issued simultaneously. In these circumstances, an applicant who fulfils the conditions of LOI first will be granted licence first, although several applicants will be issued LOI simultaneously. **The same has been concurred by the Solicitor General of India during the discussions.**

3. **Grant of Wireless Licence:** The First-cum-First Served policy is also applicable for grant of Wireless Licence to the UAS Licencee. Wireless Licence is an independent licence to UAS licence for allotment of Radio Frequency and authorising launching of GSM / CDMA based mobile services. There is a misconception that UAS licence authorises a person to launch mobile services automatically. UAS licence is a licence for providing both wire and wireless services. Therefore, any UAS licence holder wishes to offer mobile service has to obtain a separate Wireless Licence from DOT. It is clearly indicated in Clauses 43.1 and 43.2 of the UAS Licence agreement of the DOT.

Since the file for issue of LOI to all eligible applicants was approved by me on 2-11-2007, it is proposed to implement the decision without further delay and without any departure from existing guidelines.

(677)

-2-

As I have already promised to you, my efforts in this sector are intended to give lower tariff to the consumer and to bring higher tele-density in the country, more specifically in rural areas. It is needless to say that the tariff in India is not as cheap as claimed in terms of purchasing power parity and standard of living of the people of the country since there is no tariff fixation.

In these circumstances, the discussions with the External Affairs Minister and Solicitor General of India have further enlightened me to take a pre-emptive and pro-active decision on these issues as per the guidelines and rules framed there under to avoid any further confusions and delay. The issue wise details and my decisions are given in the enclosed annexure.

This is for your kind information.

With regards,

Yours sincerely,

Sd/-

(A.RAJA)

Dr. Manmohan Singh
Hon'ble Prime Minister of India
New Delhi.

Encl: Annexure

Copy to:

Thiru Pranab Mukherjee
Hon'ble Minister of External Affairs
South Block
New Delhi - 110 011.

(A.RAJA)



सत्यमेव जयते

प्रधान मंत्री
Prime Minister

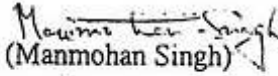
New Delhi
3 January, 2008

Dear Shri Raja,

I have received your letter of 26 December, 2007
regarding recent developments in the telecom sector.

With warm regards,

Yours sincerely,


(Manmohan Singh)

Shri A. Raja
Minister of Communications &
Information Technology
New Delhi

26/N

all the documents submitted at the time of applying for UASL as per existing guidelines may be obtained"

As per the above decision, it seems that the eligibility of the applicant as on date of applications is to be examined. It is also mentioned that a cut off date i.e. 1st October 2007 was put for receiving new application for UASL.

However, as mentioned in para 12 above, in past the eligibility of applicant has been considered even after the date of application also. This is being brought to the notice for kind consideration whether in the present case for processing of applications received upto 25-9-2007, the eligibility on the date of application shall be taken into account or it may be a subsequent date also.

Njan
Director(AS-I) 7/1/08

DDG(AS)

- (i) As mentioned in para 8 & 11 above, the stipulations at 'X' & 'Y' above may be followed as was followed during the migration of CMTS/Basic licence to UASL and subsequently new UASL were also granted based on these stipulations. Accordingly, we may consider an applicant as eligible who have paid up equity of 10 crore or more for all service areas.
- (ii) The procedure being followed hereto for grant of LOIs to UASL applicants is elaborated in para 13 above. However, there used to be small number of pending applications and the procedure being followed by DOT as explained therein was not in conflict with the interest of others.
- (iii) Para 13 above may kindly be perused in the present unprecedented situation wherein 575 UASL applications have been received subsequent to the recommendation of TRAI of no capping on UASL in a service area. Hon'ble MOC & IT has already taken a decision to grant LOIs to eligible applicants who submitted their applications upto 25-9-07. In the present scenario, there are large number of applicants whose eligibility is to be established and cases are to be processed. Probably this has already been considered by Hon'ble MOC & IT while taking a decision that eligibility on the date of application is to be considered for examining the cases. Therefore, we may check eligibility on the date of application for grant of LOIs and subsequent eligibility may not be considered.
- (iv) LOIs shall be issued in the existing format vide copy of draft LOI placed below at 22/c. the LOIs shall be simultaneously issued in respect to all UASL applications received upto 25/9/2007 subject to fulfillment of eligibility as on date of application.
- (v) Minor deviations such as missing signatures or stamp etc. on certain pages, other minor compliances etc. will be got completed, if approved, before issue of LOIs.
- (vi) The policy of DoT as decided by Hon'ble MOC&IT and communicated to Hon'ble PM vide letter dated 26-12-2007 (23/c) shall be treated as policy directive for licensing matters.

"Issue of Licence : The First-cum-First Served policy is also applicable for grant of licence on compliance of LOI conditions. Therefore, any applicant who complies with the conditions of LOI first will be granted UAS licence first. This issue never arose in the past as at one point of time only one application was processed and LOI was granted and enough time was given to him for compliance of

27/11

conditions of LOI. However, since the Government has adopted a policy of "No Cap" on number of UAS Licence, a large number of LOI's are proposed to be issued simultaneously. In these circumstances, an applicant who fulfils the conditions of LOI first will be granted licence first, although several applicants will be issued LOI simultaneously. The same has been concurred by the Solicitor General of India during the discussions."

"Grant of Wireless Licence : The First-cum-First Served policy is also applicable for grant of Wireless Licence to the UAS Licence. Wireless Licence is an independent licence to UAS licence for allotment of Radio Frequency and authorizing launching of GSM/CDMA based mobile services. There is a misconception that UAS licence authorizes a person to launch mobile services automatically. UAS licence is a licence for providing both wire and wireless services. Therefore, any UAS licence holder wishes to offer mobile service has to obtain a separate Wireless Licence from DOT. It is clearly indicated in Clauses 43.1 and 43.2 of the UAS Licence agreement of the DOT."

- (vii) The issue of LOIs shall be subject to outcome of court cases in various courts. To this effect following clause may be added in the draft LOI*

"It may be noted that the above will be subject to final decision of the Government as also subject to the outcome of relevant petition No 286/2007 pending in TDSAT & Civil Writ Petition No. W.P.(C) 9634/2007 pending in High Court of Delhi."

* format vide 27/11/08

A.K. Srivastava
27/11/08
(A.K. Srivastava)
DDG(AS)

07/11/08-See
07/11/08

Member(T)

Member(F)

Secretary(T)

Hon'ble MOC&IT

ADJ (F)

Cyid dh

With regards to item (v) of para 6 of the UASL guidelines dated 14. Dec 2005 (1/c) prescribed that non-refundable entry fee, Category of Service Area, FBG, PBG, Network and Paid up equity Capital required under the UAS licence for each service are as per Ann-I. For each of the service area Entry fee, FBG, PBG & Network is stated depending on the Category of Service area for which licence is given. That one can obtain a licence a

*S-5/M(S)/08
7/11/08*

ANNEX-VI Cont

Have no comments on this with

~~AD (F)~~

B. Singh
11/1/2008

~~AD (F)~~

AD
9/1

S. Singh
7/1/2008

~~Sec (F)~~

Note for 1/22/08 regarding disposal of pending applications

Hinble Mac (J.F.) for 4 AS licenses may be seen. The points raised by ADD (AS) as revised by Finance wing may be accepted. M(1) may also see.

~~M (F)~~

Mac & IT

S. Singh

11/1/08

course for Sec
7/1/08 25/1/08

PS

If approved, a Press Release may be issued, draft of which is placed at flag X.

~~Mac & IT~~

S. Singh

11/1/08

S. Singh

~~Sec (F)~~

approved; pl. abstract
S. Singh's opinion
he is opposed to
since TDSAT and High Court
press release should be
as announced

S. Singh
11/1/08

7/1/08

I have seen the notes. The issue regarding new L01's are not before any court. What is proposed is fair and reasonable. The press release makes for transparency. This seems to be in order.

Subramni

7/1/2008

Seely

The amended Press Note has been released. The amendment involves deletion of the last paragraph, i.e. "However, if more than 200 applications applicant complies with L01 condition on the same date, the inter-se seniority would be decided by the date of application".

On so amending, Hon'ble MCA 11 has remarked "it is not necessary as it is a new stipulation."

Member (T)

DDG (AS)

Dir (AS-I)

ADG (AS-I)

SP3 Cus

10.1.08

Cus. Secy
10/1

AD Divakar

10/1

3

**PM'S
MEET
WITH
TV
EDITORS
ON
FEBRUARY
16TH,
2011**

Did the Prime Minister lie to save himself from the 2G spectrum scam when he said at the TV Editors' Meet on 16th February 2011 - that he had decided to let A. Raja proceed since the Finance Ministry and the Department of Telecom had concurred on the issue of spectrum pricing?

Background:

The Prime Minister's comment, made at the TV Editors' Meet, was offered in his self defence when he was attacked by editors as to why he did not stop Raja from proceeding with the 2G scam in spite of having all the knowledge through letters written by Raja to the PM on 2nd November 2007 and 26th December 2007. The PM had responded by stating that he allowed Raja to proceed since consistent with the NDA Cabinet decision of October 2003, the MoF (Ministry of Finance), headed by P. Chidambaram during 2007-08, and the DoT (Department of Telecom), headed by A. Raja, had concurred on the issue of spectrum pricing. This statement of the PM was run live on all national channels and reported the next day in newspapers.

Adherence to the NDA Cabinet decision of October 2003 and even otherwise the agreement between the Minister of Finance and the Department of Telecom (if there was one no spectrum pricing in 2007) are also important – since this is a requirement under the Government of India (Transaction of Business) Rules where decisions which have a revenue impact are concerned and those that relate to decisions on issues that run across multi-ministries – in this case the Minister of Finance, I&B, Defence, and the Department of Telecom etc (spectrum and revenue).

Examination of Facts:

An examination of facts, however, shows that the PM lied about such concurrence. Contrary to the public claims of the PM made as late as 16th February 2011, all evidence, letters and reports, including statutory documentation and charge sheets, point to the fact that the PM had misrepresented to the nation – to save his own skin. He did so to make people believe that due process was followed and to blame a Cabinet colleague (Chidambaram) rather than accept the blame himself. Specific evidence is as follows:

1. July – November 2007: Four letters between the MoF and the DoT in 2007 show that there was no concurrence:

The Minister of Finance and the Department of Telecom exchanged four letters during 2007 on 6th June 2007 (Dr. Subbarao, Finance Secretary to D.S. Mathur to Department of Telecom Secretary), 15th June 2007 (Mathur to Subbarao), 22nd November 2007 (again Subbarao to Mathur) and 29th November 2007 (Mathur's final reply to Subbarao). All of these letters show that contrary to the PM's claim, the MoF vehemently opposed both keeping spectrum pricing outside the purview of the GoM and Raja's attempt to give spectrum in 2008 at 2001 prices without an auction or even indexation.

2G spectrum scam that resulted in a loss of Rs. 1.76 lakh crores to the exchequer occurred on 10th January 2008

2. November 2010 – Department of Telecom affidavit in the PIL filed in the Hon'ble Supreme Court shows that there was no concurrence:

The DoT affidavit of 11th November 2010 in the Prashant Bhushan matter admits that no correspondence was received from the MoF after the letters exchanged between Dr. Subbarao and D.S. Mathur on 22nd November 2007 and 29th November 2007 respectively.

3. November 2010 – The CAG report dated 16th November 2010 shows that there was no concurrence:

While completing the audit report on the 2G spectrum scam, the CAG invited comments from MoF officials on the draft report between January and September 2010. The CAG report has concluded in Section 3.2.2 and in Section 3.2.5 by including quotes of MoF officials that there was no concurrence whatsoever on the issue of spectrum pricing between the MoF and the DoT. In fact according to the CAG, the MoF was left out of the decision-making process.

4. February 2011 – Kapil Sibal-appointed Justice Shivraj Patil One Man Committee (OMC) report shows that there was no concurrence:

The Justice Patil OMC appointed by Kapil Sibal has produced a detailed 149-page report accompanied by 102 annexures running into 1309 pages. The Justice Patil OMC report has concluded that contrary to the NDA Cabinet decision of October 2003, there was no agreement between the MoF and the DoT as claimed by the PM. This is evident from the fact that according to Justice Shivraj Patil, Rule 4 of the Government of India (Transaction of Business) Rules under Article 77(3) of the Constitution and Rule 4 which requires concurrence with the MoF never occurred. Specific sections mentioned in the report are 3.1 (v), (viii), 3.2(xi) and (xviii).

PM says on 16th February 2011 that he did not stop Raja in proceeding with the 2G scam since the MoF and the DoT had concurred on the issue of spectrum pricing – consistent with the NDA Cabinet decision of October 2003. Statement made at the TV Editors' Meet, telecast live.

1. April 2011 – The CBI charge sheet dated 2nd April 2011 concludes that there was no concurrence:

Nearly a month and a half after the PM's statement defending himself on national TV, the CBI has, in its charge sheet of 2nd April 2011, concluded in Section E (Cheating the government exchequer by non-revision of entry fee) that Raja, in spite of multiple communications from the MoF, including a letter dated 22nd November 2007 and Member (Finance), DoT note of 30th November 2007, "*deliberately and dishonestly did not consider auctions or revision of entry fee.*" It also provides details on page 59/60 of its charge sheet of multiple meetings between the MoF and the DoT on the issue of entry fee and spectrum pricing, including the fact that even by indexation the spectrum price should have been 3.5 times the 2001 pricing – all of which was ignored by Raja while giving away spectrum in 2008 at 2001 prices.

2. August 2011 – Chidambaram finally breaks silence on the issue and reveals to India Today that Subbarao and he never concurred with the DoT on spectrum pricing:

The very last piece of evidence is a letter written by Chidambaram to India Today on 1st August 2011 in which he has refuted the claim that he kept quiet on the issue of spectrum pricing and instead said that both he and Subbarao (the then FM and Finance Secretary) had opposed spectrum pricing. Chidambaram says in his letter, *"It is obvious that Finance Secretary Subba Rao and I had objected to the pricing of entry fee at Rs. 1,658 crore."*

Final Conclusion:

Based on all the evidence above –

- a) Four letters between the MoF and the DoT
- b) DoT affidavit in the Supreme Court
- c) CAG report on the 2G scam
- d) Justice Shivraj Patil One Man Committee Report on 2G scam
- e) CBI charge sheet on the 2G scam, and
- f) Chidambaram's own letter to India Today

It is clear that the PM has lied to the nation regarding concurrence between the MoF and the DoT on the issue of spectrum pricing.

In reality, no such concurrence ever occurred and therefore the blame lies entirely on the PM for having allowed Raja to get away with the scam in spite of having full knowledge of his illegal actions through his letters of 2nd November 2007 and 26th December 2007.

Annexure of Evidence:

Text and evidence relating to PM's misrepresentation between the MoF and the DoT consistent with the NDA Cabinet decision of October 2003 regarding spectrum pricing:

1. NDA Cabinet decision of October 2003:

"2.1.2 In the above context, GoM recommended the following:

(3) The Department of Telecom and Ministry of Finance would discuss and finalize spectrum pricing formula, which will include incentive for efficient use of spectrum as well as disincentive for sub-optimal usages

2.4.6 Based on the above, the GoM has recommended the following course of action:

(ii) The recommendations of TRAI with regard to implementation of the Unified Access Licensing Regime for basic and cellular services may be accepted.

DoT may be authorized to finalize the details of implementation with the approval of the Minister of Communications & IT in this regard including the calculation of the entry fee depending upon the date of payment based on the principles given by TRAI in its recommendations.

2. Letters exchanged between the MoF and the DoT:

- i) Subbarao's letter to Mathur (D.O. No. 3/11/2003-Inf) dated 6th June 2007
- ii) Mathur's reply to Subbarao ((D.O. No. L-14047/01/2006-NTG) dated 15th June 2007
- iii) Subbarao's letter to Mathur (D.O. No. 10709/F8/2007) dated 22nd November 2007
- iv) Mathur's reply to Subbarao (D.O. No. 20-165/2007-AS-I) dated 29th November 2007

3. DoT affidavit in the Supreme Court dated 11th November 2010, Section 94, which states:

"Not only was there no difference of opinion between the Hon'ble PM, his office was duly kept informed of all decisions. "

And

"Thereafter, no further reference or communication was received".

4. The CAG report dated 16th November 2010, Sections 3.2.2 and 3.2.5:

Section 3.2.2 of the CAG report:

"Again in August 2007, TRAI in its report observed that the entry fee as it existed in 2001 was not a realistic price for obtaining a license in the changed situation considering the dynamism and growth of telecom sector and it needs to be reassessed through a market mechanism. It also observed that value of spectrum was not correctly reflected in the extant pricing model and recommended again for de-linking of spectrum from license. Yet, TRAI did not favour any change in 2G spectrum pricing even for new entrants on the grounds that it would affect the principles for level playing field for the new operators. It is to be noted that the role of TRAI, as per the TRAI Act is primarily to foster competition and to ensure a level playing field in the sector. Generation of revenue for the Government is not within the scope of its mandate and hence not perhaps a basis

for framing its recommendations. Thus, while accepting the recommendations of TRAI, protecting the financial interests of the Government should have been an important consideration for the DoT, more so, when it had left out MoF from the decision making process with regard to the pricing formula of spectrum.”

Section 3.2.5 of the CAG report:

“MoF while agreeing with the Audit view stated that the Ministry has at various points of time been advocating for a more rational mechanism for allocation and pricing of 2G spectrum. Right from August 2003 they have been recommending greater orientation in spectrum allocation, keeping efficiency and optimal utilization considerations in mind, through auction to users, who are willing to pay the maximum fee. MoF concurred with Audit that the assumption of the DoT to the effect that spectrum pricing was within its normal work allocation was not tenable. **The MoF observed that “in view the directions of the Union Cabinet (October 2003) and particularly in the absence of requisite clarity in the recommendations of TRAI and decision of the Union Cabinet, in regard to the fixation of entry fees for new licensees, prudent principles of governance would have required DoT to engage in further inter-ministerial discussions particularly with the MoF. The fact that this was not done despite repeated advices from MoF does give scope for creation of doubt, on the validity of the decision taken to fix the entry fee for new licenses at 2001 levels”.**

5. Justice Shivraj Patil OMC report, Section 3.2, which states:

“(ix) Between the period 2004 and 2008, if the entry fee was not to be revised to reflect the opportunity cost and when competitive bidding for determining entry fee was not followed, since the matter had financial bearing, before finalization of procedure for grant of license/allotment of spectrum, concurrence of Ministry of Finance ought to have been taken as per Rule 4 of the Government of India (Transaction of Business) Rules. This is yet one more deviation from extant policy.”

“(xviii) A procedure was formulated by DoT to collect the same entry fee paid by 4th cellular operator for inducting new UASL operators from 2003 onwards. This had financial bearing and also involved pricing of start-up spectrum. This decision was not only contrary to recommendations of TRAI but was also taken without concurrence of Ministry of Finance as required under Government of India (Transaction of Business) Rules and also as per decision of Cabinet dated 31.10.2003.”

6. The CBI charge sheet dated 2nd April 2011, which states:

Investigation has revealed that Ministry of Finance deliberated the matter regarding revision of entry fee and spectrum pricing with Department of Telecommunications in various meetings during 2007-2008. Later accused A. Raja, then Ministry of Communications and Information Technology, went ahead to allocate new licenses at an entry fee discovered through auction in 2001, despite the suggestion of Ministry of Finance to the contrary.”

7. Chidambaram's letter to India Today dated 1st August 2011, which refutes the claim that he was silent on the issue of spectrum pricing and states:

“It is obvious that Finance Secretary Subba Rao and I had objected to the pricing of entry fee of Rs. 1,658 crore.”



4

**PM
KNEW
EVERYTHING
THAT
DAYANIDHI
MARAN
WAS
DOING**

Detailed Note & List of Dates: The Prime Minister's involvement with the 2G spectrum scam and pricing dates back to 2006 when Dayanidhi Maran was the Ministry of Communications & Technology.

1. It is now well known that Dayanidhi Maran has been accused by the CBI of delaying permissions for processing the applications of Dishnet Wireless between April 2004 and December 2006 (ranging from 2 to 3 years) as per Table 1 below. It is also fairly well established that once Maxis bought out Dishnet Wireless (and became Aircel) licenses were granted for 14 circles by Maran to Maxis owned Aircel in December 2006. Sivasankaran has already filed a complaint with the CBI, giving the testimony that he was arm-twisted to sell Dishnet Wireless to Maxis in December 2006 by Maran. Maran has already been investigated by the CBI.
2. Given below is the full chronology with a list of dates that shows that Maran was in conniving with the Prime Minister where pricing of spectrum was concerned – to ensure that after Maxis bought out Dishnet Wireless, they were given licenses in December 2006 at 2001 prices – thus causing a massive loss to the exchequer and corresponding windfall gains to private companies. The criminal conspiracy here is as explicit as in the case of A. Raja, including the fact that the Prime Minister himself allows spectrum pricing to remain outside the purview of the GoM in spite of a specific Terms of Reference to review spectrum pricing, which was first issued and then withdrawn/revised on Maran's request and with the Prime Minister's concurrence between the dates when Maxis bought out Dishnet Wireless, applied for 7 new A category licenses, and the grant of 14 licenses to Maxis owned Aircel.

Maran delayed Dishnet applications till Maxis buyout in December 2006

Period	Circles	Date of Application	Date of License	Waiting Period
Dishnet Wireless, Pre-Maxis 2004	7 circles – Assam, Bihar, Himachal Pradesh, Jammu & Kashmir, North East, Orissa, West Bengal	March 2004	April 2004	*45 days
Dishnet Wireless, Pre-Maxis 2004	3 circles – Madhya Pradesh, Uttar Pradesh (East), Uttar Pradesh (West)	March – April 2004	Dec 2006	Apprx. 3 years
Dishnet Wireless, Pre-Maxis 2005	4 circles – Haryana, Kerala, Kolkata, Punjab	March 2005	Dec 2005	Apprx. 2 years
Aircel, Post-Maxis 2006	7 circles – Karnataka, Maharashtra, Rajasthan, Mumbai, Andhra Pradesh, Delhi, Gujarat	January – March 2006	Dec 2006	9 – 11 months

Red: NDA - Arun Shourie's period (May 03 - May 04)

Green: UPA – Dayanidhi Maran's period (May 04-May 07)

*7 licenses were granted to Dishnet by Arun Shourie in 45 days. The remaining 14 were granted by Dayanidhi Maran in December 2006.

Source: DoT affidavit in SC

Comments:

1. 7 applications processed by Arun Shourie in 45 days.
2. 3 more applications filed at the same time (Shourie's period) held back for nearly 3 years.

3. 4 new applications in 2005 also held back for nearly 2 years.
4. December 2005: Maxis takes over Dishnet.
5. January – March 2006: Dishnet (now Aircel) applies for 7 A category and Metro licenses.
6. March 2006: FIPB clears Maxis FDI investment.

i) **05 March 2004:**

Dishnet Wireless, owned by Sivasankaran, applied for 8 B/C category licenses. Arun Shourie was the Telecom Minister at this time in the NDA Government. On 21 April 2004 (*within 45 days*) Arun Shourie granted 7 of the 8 licenses applied for by Dishnet Wireless. These include Assam, Bihar, HP, J&K, North East, Orissa and West Bengal. Madhya Pradesh was not granted.

ii) **21 April 2004:**

Dishnet Wireless applies for 2 more B category licenses – in UP (East) and UP (West). The total number of pending applications now becomes: **[Madhya Pradesh (05 March 2004)] + [UP (East) and UP (West) (21 April 2004)] = 3.**

iii) **Mid-May 2004:** UPA

Comes to Power.

iv) **27 May 2004:**

Dayanidhi Maran is appointed Telecom Minister in the UPA Government.

v) **01 March 2005:**

Dishnet Wireless applies for 4 additional licenses in the circles of Haryana, Kerala, Kolkata and Punjab. The number of pending applications now becomes: **[Madhya Pradesh (05 March 2004)] + [UP (East) and UP (West) (21 April 2004)] + [Haryana, Kerala, Kolkata and Punjab (01 March 2005)] = 7.**

vi) **03 November 2005:**

Government of India issues Press Note, increasing Foreign Direct Investment (FDI) limit from 49% to 74%.

vii) **14 December 2005:**

Maran announces new Unified Access Services licenses guidelines without any reference to the TRAI or receiving recommendations in this regard. The 78-sectioned Unified Access Services licenses guidelines do not mention any process for allocating Unified Access Services licenses and linked 2G spectrum. There is no mention of first come, first served (FCFS) in the guidelines either. The guidelines, without any recommendations from the TRAI, reconfirm that the Unified Access Services license/2G spectrum will be allocated (without any defined process) at auction prices fixed in 2001. There was no Cabinet decision, GoM decision or TRAI recommendations to

back the guidelines, unlike in 2003 where the Unified Access Services licenses guidelines of 11 November 2003 were announced based on the TRAI's recommendations and Cabinet approval **(Annexure VI)**

viii) **31 December 2005:**

Taking advantage of the new FDI guidelines (79%), Maxis buys out Dishnet Wireless. At this time Dishnet Wireless has one active circle (Tamil Nadu, including Chennai), 7 licenses which are in the process of becoming operational – based on licenses granted on 21 April 2004 and 7 applications pending: **[Madhya Pradesh (05 March 2004)] + [UP (East) and UP (West) (21 April 2004)] + [Haryana, Kerala, Kolkata and Punjab (01 March 2005)] = 7**. Maxis knows full well that these applications can be granted licenses at any time.

(The Shivraj V. Patil OMC Report dated 31st January 2011 has held in several sections that during the period 2004 – 2005, Maran raised several frivolous queries to halt the processing Dishnet Wireless' applications. These findings are well documented and have not been contested by Maran till date).

ix) **11 January 2006:**

Maran, who has access to Wireless Planning & Coordination Wing files and knows exactly how much spectrum is available in each circle, writes to the Prime Minister, stating that “One major bottleneck in sustained growth of telecom sector is the availability and non-allocation of spectrum. The GoM should therefore focus its attention on the vacation of spectrum by defence and other agencies”. This is a demand made for additional spectrum by Dayanidhi Maran within 11 days of Maxis taking over Dishnet Wireless.

Evidence – Annexure V:

(Mentioned in D.O. No L-14047/01/2006-NTG dated 15 June, 2007 – letter from D.S. Mathur, Secretary, DoT to Dr. Subbarao, Secretary, DEA, MoF)

x) **12 January 2006:**

Exactly one day after Maran writes his letter to the Prime Minister, Maxis owned Aircel Ltd puts in 4 additional applications for A category circles and Metros – Karnataka, Maharashtra, Rajasthan and Mumbai. So now, the total number of pending applications becomes: **[Madhya Pradesh (05 March 2004)] + [UP (East) and UP (West) (21 April 2004)] + [Haryana, Kerala, Kolkata and Punjab (01 March 2005)] + [Karnataka, Maharashtra, Rajasthan and Mumbai (12 January 2006)] = 11**.

xi) **01 February 2006:**

Maran and the Prime Minister discussed the need for a GoM on the issue relating to spectrum.

Evidence – Annexure II:

(Maran's letter dated 28 February, 2006, marked Secret, to the Prime Minister)

xii) **23 February 2006:**

GoM announced by Cabinet Secretariat via Secret Notification dated 93/1/1/2006-Cab., titled 'Constitution of a Group of Ministers (GOM) on vacation of spectrum and raising resources for the purpose' (**enclosed as Annexure I**). The opening of the notification clearly states that it has been issued "with the approval of the Prime Minister" and the Terms of Reference specifically include as item 3 (e) spectrum pricing, including ensuring that spectrum pricing policy aims at revenues to fully offset the cost of vacation of spectrum. The reference to the Prime Minister's approval and the relevant Terms of Reference (*extracts*) and the constitution of the GoM is as below:

1. *It has been decided, with the approval of the Prime Minister, to constitute a Group of Ministers (GOM) to look into the issues concerning vacation of spectrum and upgrading the technology and equipment of existing users like Defence and funding such upgradation.*
2. *The composition of the Group of Ministers (GOM) will be as under:-
Shri Pranab Mukherjee, Minister of Defence;
Shri Shivraj V. Patil, Minister of Home Affairs;
Shri P. Chidambaram, Minister of Finance;
Shri Priyaranjan Dasmunsi, Minister of Parliamentary Affairs and Minister of Information & Broadcasting; and
Shri Dayanidhi Maran, Minister of Communication & Information Technology.*
Special Invitee
Dr. Montek Singh Ahluwalia, Deputy Chairman, Planning Commission
3. *The Terms of Reference of the GOM are as under:*
(e) Suggest a Spectrum Pricing Policy and examine the possibility of creation of a Spectrum Relocation Fund. Indicate likely source and quantum of resources so generated and guidelines for the operation of the fund. Spectrum Pricing Policy may, as far as possible, aim at revenues fully offsetting the cost of vacation of spectrum.
4. *The Group of Ministers (GOM) will submit its recommendations by the end of June 2006.*

So it is clear and in no uncertain terms that the **GoM was formed with the PM's approval and the original Terms of Reference for the GoM included spectrum pricing 3 (e)** – in February 2006.

xiii) **28 February 2006:**

Surprised by the Terms of Reference (ToR) which includes spectrum pricing, within 5 days,

Dayanidhi Maran shoots off a personal letter (marked Secret) to the Prime Minister, referring to his discussion of 01 February 2006 with the Prime Minister, and expressing surprise at the inclusion of spectrum pricing in the Terms of Reference for the GoM (**enclosed as Annexure II**). He reminds the Prime Minister that **“You had kindly assured me that the Terms of Reference of the GOM would be drawn up exactly the way we wanted, which was to focus only on the issue of vacation of spectrum. I am, however, surprised to note that the GOM as constituted has much wider Terms of Reference, some of which I feel impinge upon the work normally to be carried out by the Ministry itself”**. He further requests the Prime Minister to **“kindly instruct the concerned to modify the Terms of Reference as suggested by us, which are enclosed”**. Maran includes a new Terms of Reference which has no mention whatsoever of spectrum pricing, but only concentrates on making available additional spectrum/vacation from various sources. He also delinks spectrum pricing from the funds that will be needed by the Ministry of Defence for the replacement of analogue and old equipment etc. The text of Maran's letter is as below:

1. **You may kindly recall my meeting with you on 1st February, 2006 when we had, inter-alia, discussed the issue of the Group of Ministers relating to the vacation of spectrum by the Defence. You had kindly assured me that the Terms of Reference of the GOM would be drawn up exactly the way we wanted, which was to focus only on the issue of vacation of spectrum. I am, however, surprised to note that the GOM as constituted has much wider Terms of Reference, some of which I feel impinge upon the work normally to be carried out by the Ministry itself.**
2. **I shall be grateful if you could kindly instruct the concerned to modify the Terms of Reference as suggested by us, which are enclosed.**

xiv) **March – April 2006:**

FIPB clears Maxis' 79% FDI in Maxis owned Aircel Ltd.

xv) **16 November 2006:**

Maran submits a second draft of the revised ToR for the GoM. This is consistent with his earlier stance that spectrum pricing will not be discussed by the GoM.

Evidence – Annexure V:

(Mentioned in D.O. No L-14047/01/2006-NTG dated 15 June, 2007 – letter from D.S. Mathur, Secretary, DoT to Dr. Subbarao, Secretary, DEA, MoF)

xvi) **20/21 November 2006:**

Maran issues Lols to 7 of Maxis owned Aircel Ltd's applications for Mumbai, Karnataka, Maharashtra, Rajasthan, Andhra Pradesh, Delhi, Gujarat and Mumbai.

xvii) **29 November 2006:**

Maran issues Lols to 7 of Maxis owned Dishnet Wireless' applications for the circles of Madhya Pradesh, UP (East) and UP (West) (*approximately 3 years' wait*), Haryana, Kerala, Kolkata and Punjab (*approximately 2 years' wait*).

xviii) **05 December 2006:**

After submission of a new draft ToR for the GoM, Maran grants 7 licenses to Maxis owned Aircel Ltd. at 2001 prices in 2006, consistent with his UASL guidelines of 14 December 2005 and without any revision of spectrum pricing even though the ToR for the GoM, which included spectrum pricing, dated 23 February 2006, remains in force. **The text of the new, modified terms of Reference dated 05 December 2006 and marked Secret/Most Immediate – minus spectrum pricing is as below:**

Relevant Extract:

1. In partial modification of the Cabinet Secretariat Memorandum of even number dated 23.2.2006 as modified vide O.M. of even number dated 10.11.2006, the **Prime Minister has approved modification of the Terms of Reference of the Group of Ministers.**
2. The revised Terms of Reference of the GoM will, accordingly, be as under:
 - (i) To recommend measures for vacation of adequate additional spectrum by the existing large users such as Defence, Space, Para-military, etc. in a time bound manner for the growth of mobile telephony and broadband sectors in the country, in the overall national interest;
 - (ii) To recommend alternate frequency bands/media for migration of such existing users, keeping in mind the nature of technology upgradation;
 - (iii) To estimate and identify the resources required by the concerned Ministries and their phasing, for putting in place necessary alternate systems by such users to enable migration;
 - (iv) To suggest measures for early introduction of spectrum efficient digital terrestrial broadcasting for vacation of spectrum for other services in line with international practices.
3. The composition of the Group of Ministers (GoM) will remain the same. The GoM will continue to be serviced by the Department of Telecommunications.
So it becomes clear from the new ToRs that the PM, after the letter from Maran and on receipt of two draft versions of ToRs from Maran (28 February 2006 and 15 November 2006), issues new

ToRs for the GoM by removing spectrum pricing – consistent with Maran's letter of 28 February 2006.

xix) **07 December 2006:**

Based on Maran's letter to the Prime Minister and 'the Prime Minister's approval' – as mentioned in the new ToR – a fresh and modified Terms of Reference for the GoM is issued, which retains most of the Terms of Reference from 23 February 2006, except explicitly deletes the Terms of Reference related to spectrum pricing (**enclosed as Annexure III**).

xx) **14 December 2006:**

Maran grants licenses to the 7 remaining Dishnet Wireless applications: [**Madhya Pradesh (05 March 2004)**] + [**UP (East) and UP (West) (21 April 2004)**] + [**Haryana, Kerala, Kolkata and Punjab (01 March 2005)**] = 7.

xxi) **March 2007:**

Maxis' sister companies announce investments in Sun TV.

xxii) **Mid-May 2007:**

Maran removed as Telecom Minister.

xxiii) **End-May/June 2007:**

A Raja takes over as Telecom Minister.

xxiv) **06 June 2007:**

The then Finance Secretary, after discussions with the Finance Minister, P. Chidambaram, writes to D.S. Mathur, Secretary, DoT, asking him to reconsider the matter of including spectrum pricing in the Terms of Reference for the GoM yet again (**enclosed as Annexure IV**). He states that **“this matter has been discussed at the level of the Finance Minister. It is our view that for optimum utilisation of spectrum, a sound policy on spectrum pricing is necessary”**. The methodology to be followed for spectrum pricing would logically follow the vacation of spectrum, which is the main task of the GoM. **“I, therefore, request you to reconsider the matter and include spectrum pricing in the ToR for GoM”**.

Evidence:

D.O. No. 3/11/2003-Inf dated 06 June, 2007 by Dr. Subbarao, Secretary, DEA, MoF

xxv) **15 June 2007:**

D.S. Mathur, Secretary, DoT replies to Dr. Subbarao, Secretary, DEA, FinMin, reminding him of the discussion that has occurred between the Telecom Minister and the Prime Minister between January and February 2006 as well as the revised draft sent by Maran to the Prime Minister on 16

November 2006. He cites the resultant ToR issued by the Cab Sec on 07 December 2006 and states,

"This matter is discussed in a meeting with MoCIT (A. Raja) at this time". And it was felt that the ToR may now remain as they were issued in December last year". (Enclosed as Annexure V).

There is no further communication between the MoF and the DoT on the matter of ToRs related to the GoM. Later, as it is well known, A. Raja proceeded to give 122 additional UAS licenses and 35 dual technology licenses in January 2008 at 2001 prices, thus causing a loss of Rs. 1.76 lakh crores, according to the CAG.

xxvi) **28 August 2007:**

TRAI makes recommendations with regard to new UAS licenses and capping.

xxvii) **25 September 2007:**

Raja puts out a press release announcing the cut-off date of 01 October 2007.

xxviii) **18 October 2007:**

Reliance granted dual technology spectrum.

xxix) **19 October 2007:**

DoT puts out press release, announcing dual technology policy and illegally deviating from TRAI's recommendations with regard to calculation of AGR for the purposes of spectrum charge.

xxx) **19 October 2007:**

TRAI, Chairman, N. Misra shoots out a letter to caution the DoT to not deviate from TRAI's recommendations without following due process and consult them before implementing the recommendations etc.

xxxi) **26 October 2007:**

575 applications for new UAS licenses received.

xxxii) **27 October 2007:**

DoT sends reference to Law Ministry for opinion.

xxxiii) **01 November 2007:**

Law Minister Bhardwaj rejects demand for opinion. Directs that the matter be sent to an EGoM.

xxxiv) **02 November 2007:** Raja writes to Prime Minister, informing him:

- i) That the DoT is following TRAI's recommendations on no cap.
- ii) That 575 applications have been received till 01 October 2007.
- iii) That the Law Minister has rejected DoT's demand for a legal opinion and instead directed them to an EGoM. This *"suggestion of the Law Ministry is totally out of context."*
- iv) That the DoT will follow the First Come, First Served (FCFS) process.
- v) That cut-off date will be moved up from 01 October 2007 to 25 September 2007, i.e. when the news item on announcement of the cut-off date appeared.
- vi) That procedure for processing remaining applications will be decided later if any spectrum is left.
- vii) That the DoT is not deviating from existing procedure.

xxxv) **02 November 2007:**

PM shot back a letter on the same day, cautioning Raja and directing him to:

- i) Examine issues relating to allocation of GSM spectrum to CDMA operators, enhancement of subscriber-linked criteria and processing of large number of applications received for fresh licenses against the backdrop of inadequate spectrum to cater to overall demand.
- ii) He reminded him of the TRAI's recommendations that require an early decision and summarized the key issues in an 'annexed note', seeking urgent consideration of the Minister to ensure fairness and transparency and most importantly directing him to let him know of the position *"before any further action is taken"*.
- iii) In the annexure, the PM specifically included the following language:

"3. The matter was discussed with the DDG (AS) and Member (T) who had in turn discussed with the Hon'ble MoC&IT.

It was discussed and felt in the meeting that the proposed advice is out of context. It is, therefore, advisable that we may follow the existing policy for grant of new licenses as suggested by the Secretary (T) in the meeting chaired by Hon'ble MoC&IT. DoT has till now been following a process of first come first serve of UASL licenses.

In view of TRAI recommendation of no cap on number of operators, large number of applications were being received in the DoT. Therefore it was decided that no more applications shall be received after 1-10-2007 till further orders. Till the cut off date for receipt of UASL application, 575 applications were received from 46 companies for 22 service areas. The list of these applications along with date of receipt, company wise and service area wise are placed at p.10/c and 11/c respectively. In order to avoid any legal

implication of cut off date, all the applications received till the announcement of cut off date in the press i.e. 25-09-2007 may be processed as per the existing policy and decision on remaining applications may be taken subsequently.

4. *Wireless Planning & Coordination Wing has indicated (in the linked file) an availability of circle wise spectrum based on the internal exercise and likely availability once M/O Defence vacates the spectrum being used by them. Since 75 MHz has been earmarked for 2G in 1800 band of which a maximum of about 15 MHz has been released. Therefore, approximately 60 MHz is left unused so far which could be utilized for new licenses and additional requirement of existing operators. Since the availability of spectrum is not immediately guaranteed in all the service areas as it needs to be vacated by the Defence, **a clause may be inserted in the LoI that spectrum allocation is not guaranteed and shall be subject to availability.**”*

xxxvi) **02 November 2007:**

Raja writes back a second letter in response to PM's letter:

- i) The issue of auction was considered by TRAI and the Telecom Commission and has not been recommended.
- ii) It will be unfair, discriminatory, arbitrary and capricious to auction spectrum to new applicants.
- iii) Only 60 – 65 MHz of spectrum is left. 30 – 40 MHz has been allocated. Therefore there is enough scope for allotment of spectrum to a few operators after meeting the needs of existing operators and licensees.

xxxvii) **02 November 2007 – 26 December 2007:**

No communication in the public domain.

xxxviii) **22 November 2007:**

Finance Secretary, Dr. Subbarao writes to Secretary, DoT, questioning as to how spectrum was being awarded in 2008 at prices discovered in 2001 – of Rs. 1600 crores for pan India allocation. He also directs immediate halt of all grant of Unified Access Services licenses/spectrum.

xxxix) **29 November 2007:**

DoT Secretary Mathur's letter to Subbarao, explaining that the decision is being taken consistent with the Cabinet decision of 2003.

xxxx) **26 December 2007:**

Raja informed the PM about the following:

- i) That he was going to follow a modified First Come, First Served process.
 - ii) That he'd had a discussion with the then head of GoM on spectrum, Pranab Mukherjee, as well as an agreement with the soli of India, Ghulam Vahanvati.
 - iii) That Tatas would also be given spectrum under dual technology as per existing policy.
 - iv) That he was going to proceed immediately.
- xxxix) **03 January 2008:** PM acknowledged Raja's letter of 26 December 2007.
- xxxixii) **10 January 2008:** Spectrum scam breaks. Raja awards UAS licenses to 121 operators in 2008 at 2001 prices as well as 35 dual technology operators who also bought spectrum in 2008 at 2001 prices.
- xxxixiii) **10/11 January 2008:** A. Raja issues 2G startup spectrum to Aircel/Dishnet issued in 14 circles – AP, Karnataka, Kerala, Maharashtra, Bihar, Delhi, Gujarat, Haryana, MP, Mumbai, Punjab, Rajasthan, UP (East) and UP (West) (*4.4 MHz startup 2G spectrum in 1800 MHz band issued in January 2008 at 2001 prices*)

Conclusion:

So apart from serious evidence that the Prime Minister knew about all the actions of Raja, i.e. advancement of cut-off date, rejection of the Law Minister's request to re-refer the matter to an EGoM, refusal to submit to auctions, and a pretence of implementing the TRAI's no cap recommendation while knowing full well that there is not enough spectrum available to accommodate 575 applications, there is now fresh evidence that the Prime Minister had, after discussions with Maran in January/February 2006, instructed the Cab Sec to issue a Terms of Reference on 23rd February 2006 – which included spectrum pricing. Further, Maran, flatly refused to accept the ToRs, submitted two drafts (*28 February 06 and 16 November 2006*), and modified the Terms of Reference after 'the Prime Minister's approval' – as has been stated in the new Terms of Reference dated 07 December 2006.

If the Prime Minister had stood his ground and ensured that the Terms of Reference did not delete spectrum pricing, clearly, the following would not have taken place:

1. Maran would not have been able to issue 14 licenses to Maxis owned Aircel Ltd in December 2006 at 2001 prices. Further, Maran would not have been able to issue 6 licenses to Vodafone Essar in December 2006 at 2001 prices.

2. Maran would not have been able to issue Idea Cellular 2 UAS licenses in December 2006 at 2001 prices.
3. A. Raja would not have been able to issue 122 UAS licenses/linked 2G spectrum in 2008 at 2001 prices.
4. A. Raja would not have been able to issue 35 dual technology licenses in January 2008 at 2001 prices.

The UPA Government issued a total of 184 licenses at 2001 prices in the following break-up:

1. 27 licenses by Maran – 14 of which were to Maxis owned Aircel
2. 122 UAS/linked 2G spectrum by A. Raja on 10 January 2008
3. 35 dual technology licenses by A. Raja between October 2007 and 10 January 2008

SUMMARY OF NOTE ON PM & MARAN:

Maran had to resign from office for having favoured Maxis and essentially having delayed the license applications of Aircel/Dishnet sufficiently long so that he could manipulate policy and force the exit of Sivasankaran and then received investments from Maxis to buy out Sivasankaran with a crossholding into Sun TV. The question is, did Maran do this on his own, or was each of the steps taken by Maran done in tandem with and with the information of the PM?

There is evidence to suggest that unlike in the Raja case, where he wrote letters even though he knew all the illegal acts and Raja continued to snub him, in case of Maran, the PM actually participated in the process of bringing Maxis in, then keeping spectrum prices artificially low, and doing so in tandem with the movement of applications of Maxis from application state to license stage.

1. Maran holds off processing 7 applications of Dishnet:

Maran refuses to process 7 applications of Dishnet, some for nearly 2 ½ years and others for 18 months, by asking multiple and vague questions – as documented by the Shivraj Patil Committee Report. He frustrated Sivasankaran and brought him to the verge of selling his stake.

2. Increasing FDI to facilitate Maxis' entry:

The first step Maran took to bring in Maxis was to increase FDI through a notification approved by the Cabinet dated 3rd November 2005. This was done with the Cabinet's approval and the approval of the PM.

3. Write new UASL guidelines to ensure 2001 pricing in 2006 for Maxis:

Write fresh guidelines for UAS licenses by indicating in an annexure that the 2001 prices will prevail – on 14th December 2005. This was done illegally since any guidelines which result in issuance of new licenses (introduction of new service providers) has to be done mandatorily after seeking TRAI recommendations under Section 11(1), Second Proviso. Clearly, this was a PIB press release and the entire Cabinet and that PM would have known about this.

In fact, Maxis is the single largest beneficiary of these new guidelines during Maran's period as they received 14 new UAS licenses, including some of the most lucrative circles in December 2006.

4. Maxis buys out Sivasankaran from Dishnet:

This act of Maran is well documented and has been clearly stated by the CBI in the Hon'ble Supreme Court.

5. Maran writes to secure additional spectrum for Maxis:

On 11th January 2006, immediately after Maxis takes over Dishnet, Maran writes to the PM, seeking the setting up of a GoM to get additional spectrum for Aircel. He realizes that he can give them licenses, but they can't get spectrum. Realizing that spectrum will be with Defence, he takes

this action 2 ½ years after becoming the MoC&IT, but within two weeks of Maxis buying out Dishnet. Obviously, the PM knew about this since this letter would have been directed at him.

6. Encourages Maxis to put in 4 additional applications for A category circles:

On 12th January 2006, one day after Maran's letter to the PM seeking a GoM, Maxis (Dishnet, now Aircel) puts in 4 applications for A category circles with 7 applications already pending. Maxis now has 11 applications in all.

7. Maran personally meets PM to discuss the constitution of the GoM to discuss the agenda:

Maran held this meeting with the PM on 1st February 2006. Clearly the PM knew about Maran's agenda here.

8. PM announces Terms of Reference (ToRs) for GoM on spectrum, including revision of spectrum pricing:

On 23rd February 2006, based on Maran's letter of 11th January 2006 and the meeting on 1st February 2006, the PM announces a GoM on spectrum which has a 6-part ToR. 3 (e) specifically includes revision of spectrum pricing. It states, *"Suggest a spectrum pricing policy and examine the creation of a spectrum reallocation fund. Indicate likely source and quantum of resources generated and guidelines for the operation of the fund. Spectrum pricing policy may as far as possible aim at revenues fully offsetting the cost of vacation of spectrum"*.

These ToRs are clearly against Maran's wishes as he has already announced, as part of the UASL guidelines on 14th December 2005 (illegally announced in violation of the TRAI Act) that bundled spectrum with UAS licenses will be given at 2001 prices, i.e. Rs. 1658 crores for all 22 licenses.

9. Maran shoots a letter back to the PM, questioning the ToRs and attaching a new draft ToR:

Shocked by the variance between his discussion with the PM and the actual ToRs for the GoM on spectrum, Maran shoots back a rather rude letter, questioning the variance between what had been agreed with the PM and the real ToRs for the GoM. He quotes, *"You had kindly assured me that the terms of reference of GoM would be drawn up exactly the way we wanted, which was to focus only on the issue of vacation of spectrum. I am, however surprised to note that the GoM has constituted a much wider terms of reference, some of which I feel impinge upon the work normally to be carried out by the ministry itself"*

He further directs the PM. *"Kindly instruct the concerned to modify the terms of reference as suggested by us, which are enclosed"*.

Maran included a new ToR which only has 4 and not 6 parts as the original ToR and includes in it a fresh ToR relating to vacating spectrum for digital terrestrial broadcasting. Firstly this is not even the DoT's area of work and secondly it directly benefits Sun TV, a company owned by his brother. No objection is raised on either the removal of spectrum pricing from the draft suggested by

Maran nor his the expansion of the ToR by including vacation of spectrum for digital terrestrial broadcasting.

The ToRs are issued with the approval of the PM, so the PM was aware of exactly what was going on.

10. Maxis puts in three more applications.

11. FIPB clears Maxis' 74% FDI:

The 74% FDI held by Maxis was cleared by FIPB during March-April 2006. This means that not only the Minister of Commerce knew but in fact the Home Affairs Minister would have known since their approval is critical to the approval of FDI at 74%. Surely this is sensitive information and would have been shared with several members of the Cabinet including the PM. It is questionable and worrying that Maxis never held 74% but in fact held 99% in a roundabout manner where the Reddys (*of Apollo*) seemed to hold the Indian equity of 26%, but in fact were only a face for Maxis. All of this has been known to the entire establishment & the press and the security establishment.

12. No action between April and November 2006:

Even though Maran could have easily processed all 14 applications of Maxis, based on the UASL guidelines of 14th December 2005, he did not do so because the ToRs included review of spectrum pricing and that prohibited him from processing the applications of Maxis even when the FIPB approval was at hand. Clearly it was during this period that serious pressure was put on PMO which can be seen from what happened in November 2006.

13. Maran submits a second draft for revised ToR for the GoM:

On 16th November 2006 Maran, sensing an opportunity, submitted a second draft ToR for the GoM, minus spectrum pricing but including spectrum vacation for digital terrestrial broadcasting. This was similar to what he had done on 28th February 2006.

The PM obviously knew about the second draft since ToRs for GoMs can only be changed on the PM's approval.

14. Sending movement on the new ToRs for GoM, Maran issues 7 Lols to Maxis:

On 20/21 November 2006, Maran issued 7 Letter of Intent to Maxis as soon as he got the comfort that new ToRs were being drafted for the GoM based on his two draft of 28th February 2006 and 16th November 2006. Clearly this information was public and known to everybody including the PM

15. Maran issues the remaining 7 Letters of Intent to Maxis in anticipation of new ToRs based on his draft:

On 29th November 06 Maran issues the remaining 7 Letters of Intent to Maxis – exactly 8 days after he issued the earlier 7 Letters of Intent.

16. Maran, having got a whiff of the actual ToRs, issues 7 licenses to Maxis in December 2006:

On 5th December 2006 Maran issued 7 licenses to Maxis in 2006 at 2001 prices, consistent with his illegal UASL guidelines of 14th December 2005 and knowing full well that the GoM will not review spectrum pricing based on the assurances given to him and the draft submitted by him in February and November 2006.

17. New ToRs issued on 7th December 2006, dropping spectrum pricing and incorporating vacation of spectrum for digital terrestrial broadcasting:

Exactly along Maran's draft and his discussions with the PM, a new ToR is issued for the GoM which reduces the ToRs from 6 to 4, and specifically drops spectrum pricing but includes vacation of spectrum for digital terrestrial broadcasting.

18. Maran grants the remaining 7 licenses to Maxis on 14th December 2006.

19. In May 2007, Maran removed as Telecom Minister and later towards the end of 2007, Maxis sister company invests in Sun TV.

It is clear from the above that Maran moved in tandem with the Terms of Reference, which in turned moved exactly as per Maran's wishes and draft submitted by him. It is also clear that the PM himself met Maran multiple times on the issue of GoM/related ToRs and not only issued the first ToRs but also approved the change as both ToRs for the GoM on spectrum in February and December 2006. It has already been established by the CBI that Maran delayed the issuance of licenses to Dishnet till Maxis bought it and issued it to Maxis in return for cross investment in Sun TV but now for the first time there is fresh evidence that he did so with the approval of the PM and could not have done this favour to Maxis if he had not increased the FDI to 74% (*with the PM's and Cabinet's approval*), issued new UASL guidelines (*with Government's approval*) and vacated additional spectrum through a GoM for Maxis (*with the PM's and Cabinet's approval*), removed spectrum pricing from the Terms of Reference of the GoM (*with the PM's and the entire Cabinet's approval*) to benefit Maxis by keeping spectrum prices at 2001 rates in 2006, and finally adding the reference relating to vacation of spectrum for efficient digital terrestrial broadcasting – to benefit Sun TV (*with the explicit approval of the PM and consistent with his own draft of 28th February 2006*). Also important to note that Dasmunsi, who was the then Minister for I&B and should have made the recommendation regarding vacation of spectrum for digital terrestrial broadcasting, made no such request. Instead it came from the Telecom Minister who incidentally also owned a television family business. Every single piece here was known to the PM and almost all of it to the Cabinet through members who served on the GoM.



5

**LIST OF
ANNEXURES
PM / MARAN**

No. 93/1/1/2006-Cab.
GOVERNMENT OF INDIA (BHARAT SARKAR)
CABINET SECRETARIAT (MANTRIMANDAL SACHIVALAYA)
RASHTRAPATI BHAVAN

New Delhi, the 23rd February, 2006
4 Phalgun, 1927 (S)

Subject: Constitution of a Group of Ministers (GOM) on vacation of spectrum and raising resources for the purpose.

It has been decided, with the approval of the Prime Minister, to constitute a Group of Ministers (GOM) to look into the issues concerning vacation of spectrum and upgrading the technology and equipment of existing users like Defence and funding such upgradation.

2. The composition of the Group of Ministers (GOM) will be as under:-

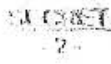
Shri Pranab Mukherjee,
Minister of Defence;
Shri Shivraj V. Patil,
Minister of Home Affairs;
Shri P. Chidambaram,
Minister of Finance;
Shri Priyaranjan Dasgupta,
Minister of Parliamentary Affairs and Minister of
Information & Broadcasting; and
Shri Dayanidhi Maran,
Minister of Communications and Information Technology.

Special Invitee

Dr. Montek Singh Ahluwalia,
Deputy Chairman, Planning Commission.

3. The Terms of Reference of the GOM are as under:

- (a) Determine the quantum of additional minimum and optimum requirement & identify frequency bands for major users, viz.,
- (i) Cellular-mobile services, and
 - (ii) defence and paramilitary forces,
- for both (i) short term (i.e. less than one year) and (ii) medium term (i.e., less than five years)
- (b) Based on current occupation of spectrum, clearly delineate a transition path enabling users like defence and paramilitary forces to migrate to the appropriate spectrum slots identified at (a) above, keeping in mind technical and procurement procedures. The transition should be a feasible one.




- (c) Correspondingly, suggest a transition path for cellular and mobile services to step into the spectrum bands vacated by security forces and allocated to them.
 - (d) Estimate quantum of funds and resources required to enable security forces to procure state-of-the-art equipment, technologically appropriate for the assigned spectrum. Estimate year-wise fund-flow requirements, to bring about a smooth transition.
 - (e) Suggest a Spectrum Pricing Policy and examine the possibility of creation of a Spectrum Relocation Fund. Indicate likely source and quantum of resources generated and guidelines for the operation of the fund. Spectrum Pricing Policy may, as far as possible, aim at revenues fully offsetting the cost of vacating spectrum.
 - (f) Suggest guidelines to encourage and incentivise introduction of spectrum efficient technologies.
4. The Group of Ministers (GOM) will submit its recommendations by the end June 2006.
5. The GOM will be serviced by the Department of Telecommunications.


(K.L. Sharm
for Cabinet Secret
Tele: 2301 5

To
Shri Pranab Mukherjee, Minister of Defence,
Shri Shivraj V. Patil, Minister of Home Affairs,
Shri P. Chidambaram, Minister of Finance,
Shri Priyaranjan Dasmunsi, Minister of Parliamentary Affairs and Minister of Information & Broadcasting,
Shri Dayanidhi Maran, Minister of Communications and Information Technology,
Dr. Montek Singh Ahluwalia, Deputy Chairman, Planning Commission.

Copy forwarded for information to :-

Secretary to the President.
Secretary to the Vice-President.
Principal Secretary to the Prime Minister.


(K.L. Sr
Deputy Secretary (C

Copy also forwarded, for information to :-

Secretary, Department of Telecommunications,
Defence Secretary
Secretary, Ministry of Home Affairs

(K.L. Sr

30 - SECRET

DAYANIDHI MARAN
MINISTER OF COMMUNICATIONS &
INFORMATION TECHNOLOGY

Respected Prime Minister

28 FEB-2006

You may kindly recall my meeting with you on 1st February, 2006 when we had, inter-alia, discussed the issue of the Group of Ministers relating to the vacation of spectrum by the Defence. You had kindly assured me that the Terms of Reference of the GOM would be drawn up exactly the way we wanted, which was to focus only on the issue of vacation of spectrum. I am, however, surprised to note that the GOM as constituted has much wider Terms of Reference, some of which I feel impinge upon the work normally to be carried out by the Ministry itself.

2. I shall be grateful if you could kindly instruct the concerned to modify the Terms of Reference as suggested by us, which are enclosed.

With kind regards,

Yours sincerely,

(DAYANIDHI MARAN)

ISSUED

28/2

Dr. Manmohan Singh
Hon'ble Prime Minister of India,
South Block,
New Delhi.

GOM 2006 - Draft Terms of Reference

The Mid Term Appraisal (MTA) of the 10th Five Year Plan has identified spectrum as a scarce national resource and the consequential need for its optimum use by all. Adequate availability of spectrum for telecom services has been recognised as a significant area and the need for a formalized institutional arrangement for vacation of appropriate spectrum from existing users like Defence.

The Prime Minister has approved, in principle, the constitution of a Group of Ministers (GOM) to address these issues.

The Terms of Reference of the GOM are as follows:

- To recommend measures to make available adequate additional spectrum for growth of telecom sector to achieve high teledensity.
- To make necessary funds available to the Ministry of Defence in particular for replacement of analogue/old equipment with alternate systems or more spectrally efficient equipment;
- To recommend measures for vacation of the spectrum in a time bound manner.
- To suggest measures for early introduction of efficient digital terrestrial broadcasting for vacation of spectrum for other services in line with international practices;

The Group of Ministers will be serviced by the Office of WPC Wing, Department of Telecommunications, Ministry of Communications & IT.

The GOM will give its report within a period of six months.

ANNEXURE-III

*for 23.12.06
11/12/06*

15 *wpc*

ANNEXURE - III
SECRET
Copy No. *11*

No. 93/1/1/2006-Cab.
GOVERNMENT OF INDIA (BHARAT SARKAR)
CABINET SECRETARIAT (MANTRIMANDAL SACHIVALAYA)
RASHTRAPATI BHAVAN

S. 26 17

New Delhi, the 7th December, 2006
Agrahayana 16, 1928 (S)

Subject: Constitution of a Group of Ministers (GoM) on vacation of spectrum and raising resources for the purpose.

In partial modification of the Cabinet Secretariat Memorandum of even number dated 23.2.2006 as modified vide O.M. of even number dated 10.11.2005, the Prime Minister has approved modification of the Terms of Reference of the Group of Ministers

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11/12/06

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11/12/06

2. The revised Terms of Reference of the GoM will accordingly, be as under:

- (i) to recommend measures for vacation of adequate additional spectrum by the existing large users such as Defence, Space, Para-military, etc., in a time bound manner for the growth of mobile telephony and broadband sectors in the country, in the overall national interest;
- (ii) to recommend alternate frequency bands/media for migration of such existing users, keeping in mind the nature of technology upgradation;
- (iii) to estimate and identify the resources required by the concerned Ministries and their phasing, for putting in place necessary alternate systems by such users to enable migration;
- (iv) to suggest measures for early introduction of spectrum efficient digital terrestrial broadcasting for vacation of spectrum for other services in line with international practices.

3. The composition of the Group of Ministers(GoM) will remain the same. The GoM will continue to be serviced by the Department of Telecommunications.


(Signature)
(K.L. Sharma)
for Cabinet Secretary
Tele: 2301 5802

To
Shri Pranab Mukherjee, Minister of External Affairs.
Shri A.K. Antony, Minister of Defence.
Shri Shivraj V. Patil, Minister of Home Affairs.
Shri P. Chidambaram, Minister of Finance.
Shri Piyarenanjan Dasgupta, Minister of Parliamentary Affairs and Minister of Information & Broadcasting.
Shri Dayanidhi Maran, Minister of Communications and Information Technology
Dr. Montek Singh Ahluwalia, Deputy Chairman, Planning Commission

(16)


Copy forwarded for information to :-

- Secretary to the President.
- Secretary to the Vice-President.
- Principal Secretary to the Prime Minister.


(K.L. Sharma)
Deputy Secretary (Cabinet)

Copy also forwarded, for information to :-

- ✓ Secretary, Department of Telecommunications.
- Defence Secretary.
- Secretary, Ministry of Home Affairs.
- Finance Secretary.


(K.L. Sharma)
Deputy Secretary (Cabinet)

* KC*
30 - Copies.

DO No. 3/11/2003-Inf



सत्यमेव जयते

श्री. डी. सुब्बाराव
Dr. D. SUBBARAO

सचिव
आर्थिक कार्य विभाग
वित्त मंत्रालय
भारत सरकार

SECRETARY
DEPARTMENT OF ECONOMIC AFFAIRS
MINISTRY OF FINANCE
GOVERNMENT OF INDIA
नई दिल्ली/New Delhi

Tel. : 23092611, 23092555 Fax : 23094075

June 6, 2007

Sri D.S. Mathur
Secretary
Department of Telecom
Sanchar Bhawan
New Delhi

Dear Mr. Mathur,

1. I am writing further to our earlier DO dated 28.3.2007 on the subject of Terms of Reference (ToRs) of the GoM on vacation of Spectrum. We had pointed out therein that the ToRs of the GoM circulated vide Cabinet Secretariat OM No.83/11/2006-Cab. dated 7.12.2006 do not include issues relating to technology neutral spectrum allocation and spectrum pricing.

2. When I called you last week, you had told me that Department of Telecom has agreed to include 'Technology Neutrality' in the ToRs. However, you had expressed your disinclination to include 'Spectrum Pricing' in the ToRs.

3. This matter has been discussed at the level of the Finance Minister. It is our view that for optimum utilization of spectrum, a sound policy on spectrum pricing is necessary. The methodology to be followed for spectrum pricing would logically follow the vacation of spectrum which is the main task of the GoM.

4. I, therefore, request you to reconsider the matter and include spectrum pricing in the ToRs for the GoM. I shall be grateful for your reply at the earliest.

Best regards,

Yours sincerely,

(D. SUBBARAO)

1930/09/21076
3/6/07



Tel : (011) 2321 5001
 Fax : (011) 2321 5101
 e-mail : damdama@nic.ni

D. S. MATHUR
 सचिव Secretary

ANNEXURE - V

सूचना विभाग -
 सचिव भवन, नई दिल्ली-110 001
 Government of India
 Ministry of Communications &
 Information Technology
 Department of Telecommunication
 Sanchar Bhawan, New Delhi-110 0

DO No. L-14047/01/2006-NTG
 June 15, 2007

Dear Dr. Subramanian,

Kindly refer to your DO letter No 3/11/2003-Inf dated June 6, 2007 regarding TOR for the Group of Ministers (GoM) on vacation of spectrum and raising resources for the same.

2. You may kindly recall that I had told you in the discussion referred to by you that we have always been technology neutral and this is therefore not an issue to be brought before the GOM.

3. As regards the issue of pricing of the spectrum, the then Minister of Communications & IT had written to the Hon'ble Prime Minister on January 11, 2006 that one major bottle-neck in the sustained growth of telecom sector is the availability of and not allocation of spectrum. The GOM should therefore focus its attention on the vacation of spectrum by the Defence and other agencies. The Minister had again written to the Hon'ble Prime Minister on February 28, 2006 that some of the Terms of Reference (TOR) impinge upon the work that is normally being carried out by this Ministry.

4. The revised draft of TOR was submitted by the Minister to the Hon'ble Prime Minister on November 16, 2006 and the final ToR was issued by the Cabinet Secretariat on December 7, 2006.

5. The spectrum pricing and charges for the use of the spectrum is a dynamic issue. It depends, inter-alia, on the region of use, the type of telecom service, the band of the spectrum used, etc. Hence, pricing of spectrum cannot be fixed for a long time to come at any stage. It is to be reviewed and considered from time to time in the context of the changing technology and international best practices in consultation with TRAI. As you are aware, TRAI is a statutory body.

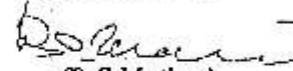
6. The Telecom Regulatory Authority of India (TRAI) under its statutory provisions, provides recommendations on, among other matters, 'Efficient Management of available spectrum'. Appropriate pricing of spectrum is one of the important tools to ensure optimum & efficient use of the scarce resource. The Government has been consulting TRAI on several spectrum issues for different wireless based services / systems including new technologies. It may be mentioned that TRAI has recently given its recommendations on spectrum allotment & pricing of 3G services.

02 :

7. This matter was discussed in a meeting with Minister of Communications & IT and it was felt that the ToR may now remain as they were issued in December last year.

With regards,

Yours sincerely,


(D.S.Mathur)

Dr. D. Subbarao
Secretary
Department of Economic Affairs
Ministry of Finance, North Block
New Delhi

ANNEXURE-VI

Government of India
Ministry of Communications and Information Technology
Department of Telecommunications
Sanchar Bhawan, 20 Ashoka Road, New Delhi-110 001.

No.808-26/2003-VAS

Dated the 11th Nov., 2003.

SUB: GUIDELINES FOR UNIFIED ACCESS (BASIC & CELLULAR) SERVICES LICENCE.

Given the central aim of NTP-99 to ensure rapid expansion of teledensity; given the unprecedented expansion of telecom services that competition has brought about; given the steep reductions in tariffs that competition has ensured; given the fact that advances in technologies erase distinctions imposed by earlier licensing systems; given the fact that even more rapid advances in technologies are imminent; given the steep reduction in costs of providing telecom services; given the rapid convergence of tariffs for wireless services; given the fact that the provision of such services at the cheapest possible rates and by the most reliable mode is the sine qua non for India to consolidate its position as a leading hub of Communications systems, Information Technology, IT enabled services, and of establishing itself as a leader in new disciplines such as bioinformatics and biotechnology; given the recommendations of TRAI in this regard; Government, in the public interest in general and consumer interest in particular and for the proper conduct of telegraphs and telecommunications services, has decided to move towards a Unified Access Services Licensing regime. As a first step, as recommended by TRAI, Basic and Cellular services shall be unified within the service area. In pursuance of this decision, the following shall be the broad Guidelines for the Unified Access Services License.

- (i) The existing operators shall have an option to continue under the present licensing regime (with present terms & conditions) or migrate to new Unified Access Services Licence (UASL) in the existing service areas, with the existing allocated/contracted spectrum.
- (ii) The license fee, service area, rollout obligations and performance bank guarantee under the Unified Access Services Licence will be the same as for Fourth Cellular Mobile Service Providers (CMSPs).
- (iii) The service providers migrating to Unified Access Services Licence will continue to provide wireless services in already allocated/contracted spectrum and no additional spectrum will be allotted under the migration process for Unified Access Services Licence.
- (iv) In addition to services permissible under current licences, Cellular Mobile Service Providers (CMSPs) may also offer limited mobility facility existing

within Short Distance Charging Area (SDCA) as permitted to Basic Service Providers at appropriate tariffs through concepts such as home-zone operations, etc.

- (v) The Unified Access service providers are free to use any technology without any restriction.
- (vi) No additional entry fee shall be charged from CMSPs for migration to UASL. For Basic Service Operators (BSOs), the entry fee for migration to the Unified Access Services Licence for a Service Area shall be equal to the entry fee paid by the Fourth Cellular Operator for that Service Area, or the entry fee paid by the BSO itself, whichever is higher. While applying for migration to UASL, the BSO will pay the difference between the said entry fee for UASL and the entry fee already paid by it.
- (vii) Notwithstanding anything stated in para (vi) above, no additional entry fee will be paid by the existing Basic Service Providers where no Fourth CMSP had bid despite repeated attempts.
- (viii) Those Basic Service Operators who do not wish to migrate to the full mobility regime, would only be required to pay the additional fee for Wireless in Local Loop (M), with mobility confined strictly within Short Distance Charging Area, as prescribed separately.
- (ix) Some of the Basic Service Licensees have provided following features/facilities to their subscribers:
 - (a) Over the air activation/authentication of the subscriber wireless access terminal outside one SDCA by pressing/punching certain keys/numbers such as *444N;
 - (b) Use of the same subscriber wireless access terminal in more than one SDCA;
 - (c) Multiple registration or temporary subscription facilities in more than one SDCA using the same subscriber terminal in wireless access systems.

In such cases of migration to Unified Access Services Licence, the Basic Service Licensees shall in addition to the Entry Fee based on the principles stated in para (vi) and (vii) above, pay till the date of payment from the date of their having signed the Basic Service Licence agreement, a penal interest @ 5% above Prime Lending Rate (PLR) of State Bank of India prevalent on the day the payment became due, i.e. the date they signed the Licence Agreement. The interest shall be compounded monthly and a part

of the month shall be reckoned as a full month for the purposes of calculation of interest.

- (x) The Service Areas for Unified Access Services Licence will be as per the existing Cellular Mobile Telephone Service Licences. BSO wishing to migrate to UASL will be permitted to operate in the service area in which it is already operating. It is, however, clarified that BSOs in Delhi, Haryana and UP(West) service areas, on migration to UASL, will have service area as that of CMSP in Delhi, Haryana and UP(West) service areas respectively. Since the service area for the Unified Access Service Licensees will be as per existing CMSPs, existing BSOs in Maharashtra, Tamil Nadu and West Bengal service areas will be required to hold two unified licenses (one for Mumbai Metro city and the other for the rest of Maharashtra and so on).
- (xi) The existing BSOs after migration to Unified Access Licensing Regime may offer full mobility; however, they will be required to offer limited mobility service also for such customers who so desire.
- (xii) A total of additional Entry Fee to be paid by existing Basic Service Operators in respect of each of its service area for migration to USAL is given at Annexure-I.
- (xiii) Request for migration to UASL shall be made in writing by the concerned service provider. The payment of additional Entry Fee and penal interest, if any, is to be made along with and not later than the date of such request in writing for migration to Unified Access Services Licence.
- (xiv) If on verification Department of Telecommunications comes to the conclusion that the entire amount due for migration to UASL has not been paid by the applicant, it shall be intimated to the applicant to pay the difference. The concerned applicant will be bound to pay the said difference in full within 3 working days from the date of receipt of the demand; failing this the application will be rejected and the amounts paid by the applicant, if any, shall be refunded within a period of 15 days from the date of receipt of the demand from DoT. However, no interest shall be payable by DoT for the amounts deposited for migration to UASL. While applying for migration to UASL the existing licensee shall also certify as hereunder:

"I have carefully read the guidelines for providing Unified Access Services Licence. I have complied and/ or agree to fully comply with the terms and conditions therein".
- (xv) Consequent upon migration, the Licence will be termed as Unified Access Services Licence. The relevant applicable conditions of the existing licence agreements will get modified to the extent of the conditions stated above. The amended Licence shall be set out in detail separately.

- (xvi) The LICENSOR reserves the right to modify these Guidelines or incorporate new Guidelines considered necessary in the interest of national security, public interest, consumer interest and for the proper conduct of telegraph / services.
- (xvii) *With the issue of these Guidelines, all applications for new Access Services Licence shall be in the category of Unified Access Services Licence.*

ANNEX-VI Cont

Annexure-I

Additional Entry fee to be paid by the existing Basic Service Operators for migration to Unified Access Service Licence.

S.No.	Name of the Operator	Service Area Of BSO	Date of signing of licence agreements	Entry Fee paid by BSO(in Rs.Crores)	Entry Fee paid by 4 th Cellular Operator(in Rs. Crores)	Additional Entry Fe to be paid for migration to UASL(in Rs. crores)
1.	Reliance Infocom Ltd.	Rajasthan	20.7.2001	20	32.25	12.25
		UP(East)	20.7.2001	15	45.25	30.25
		Maharashtra	20.7.2001		189+203.66*	
				115	392.66	277.66
		Karnataka	20.7.2001	35	206.83	171.83
		Punjab	20.7.2001	20	151.75	131.75
		AP	20.7.2001	35	103.01	68.01
		Haryana	20.7.2001	10	21.46	11.46
		Kerala	20.7.2001	20	40.54	20.54
		UP(West)	20.7.2001	15	30.55	15.55
		West Bengal	20.7.2001		0+78.01*	
				25	78.01	53.01
		MP	20.7.2001	20	17.4501	0
		Bihar	20.7.2001	10		
		Himachal	20.7.2001	2	1.1	0
		Orissa	20.7.2001	5		
		Tamil Nadu	26.9.2001		79+154*	
				50	233	183
		Delhi	20.7.2001	50	170.7	120.7
		A & N**	20.7.2001	1		0
2.	RTL	Gujarat	18.3.1997	179.0859030	109.01	0
3.	Tata Teleservices Ltd.	Gujarat	31.8.2001	40	109.01	69.01
		Karnataka	31.8.2001	35	206.83	171.83
		AP	4.11.1997	161.47(cld)	103.01	0
		Tamil Nadu	31.8.2001		79+154*	-

ANNEX-VI Cont

				50	233	183
		Delhi	31.8.2001	50	170.7	120.7
4.	TTL(Mah.)Ltd.	Maharashtra	31.8.2001		189+203.66*	-
				532.55(old)	392.66	0
5.	Bharli Telenet Ltd.	Karnataka	29.10.2001	35	206.83	171.83
		Haryana	8.10.2001	10	21.46	11.46
		MP	28.2.1997	35.33 (old)	17.4501	0
		Tamilnadu	29.10.2001	50	79+154*	
					233	183
		Delhi	29.10.2001	50	170.7	120.7
6.	Shyam Telelink	Rajasthan	4.3.1998	29.29(old)	32.25	2.96
7.	HFCL Infotel Ltd.	Punjab	7.11.1997	177.59(old)	151.75	0

*For BSOs in MH, WB and TN the entry fee of fourth cellular MH+Mumbai, WB+Kolkata and TN+Chennai has been taken.

** Now A&N is a part of WB service area for cellular. nse.

Published By:



Bharatiya Janata Party,
Central Office,
11 Ashoka Road,
New Delhi - 110 001.