

**BIF RESPONSE TO TRAI CP ON SUC & PRESUMPTIVE AGR FOR ISPs &
COMMERCIAL VSAT SERVICE PROVIDERS**

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

BIF RESPONSE

ISPs provide Internet Access to its consumers which are of both residential and enterprise categories. Its traffic typically rides on an IP backbone. Majority of the cases, Optical fiber is used in the Backbone Network. However, in some places where it is either not feasible to lay the fiber or the ROI is not justified to lay fiber, wireless alternatives are required to connect such customers.

Most of the present spectrum bands being used by the ISPs (2.7, 3.3, 5.7, 10.15 Ghz) are non-Access Spectrum bands and also these are allocated on administrative basis . These are essentially Point-to-Point links on location basis. . These links have been traditionally always administratively allocated and assigned .

BIF recommends that the current methodology of assignment based on location/link-by-link basis may be continued as these bands are non-competing with the access bands and are not used for cellular wide area coverage(access) , hence they may be administratively assigned as at present.

However, TRAI should also take into account the international developments related to these bands as well. For example, 3.3GHz has already been declared as IMT band by ITU. Thus, we suggest that 3.3GHz should be recognized as IMT band in India as well and a long-term migration plan should be developed under which the existing users of 3.3GHz band may be migrated to 2.7GHz band to ensure business continuity and to protect the existing investments.

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

BIF RESPONSE

Since the spectrum bands are essentially assigned for Microwave backbone/backhaul purpose and are administratively assigned on a link-by-link basis and not on the basis of coverage area/licensed area (LSA) , hence there is no rationale of using Minimum presumptive AGR for the purpose of charging SUC.

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

BIF RESPONSE

SUC based on percentage of AGR is not required to be introduced because of

- a) Majority of the ISP links which are gradually migrating to fiber for backhaul leaving few on wireless. In such cases charging on link-by-link method is more logical.
- b) Charges based on link by link basis leads to better utilisation of spectrum as ISPs will use carrier frequencies judiciously
- c) Also most of the spectrum that is used are in the non-access spectrum bands and are assigned in an administrative manner on a link-by-link basis
- d) AGR based charging should be implemented only if assignment of carriers to ISPs is done on an exclusive basis for a geographic location which is not the case.
- e) Majority of the ISPs are not having spectrum in all the cities in a LSA. (as mentioned in the Consultation Paper itself by the Authority). Hence entire AGR accruing from a LSA cannot be attributed to ISP service wherein spectrum is allocated only in some cities of the LSA. Therefore it would not be prudent to levy a SUC based on AGR and existing formula based charging to calculate levy of SUC should continue in case of administratively allocated spectrum.

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

BIF RESPONSE

Spectrum assignment on location/link-by-link basis on administrative basis should be continued. For assignment of carriers/spectrum through administrative mechanism on exclusive basis for geographic location, existing formula based spectrum charge should continue.

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

BIF RESPONSE

Spectrum assignment on location/link-by-link basis on administrative basis should be continued. For assignment of carriers/spectrum through administrative mechanism on exclusive basis for geographic location, existing formula based spectrum charge should continue. As noted by the Authority in the Consultation Paper itself that ISPs do not have spectrum in all the cities of an LSA. Therefore revenue (AGR) based linkage to calculation of SUC is not recommended as the entire revenue accruing from an LSA cannot be attributed to ISP service wherein band is allocated in only some cities of the given LSA.

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

BIF RESPONSE

Kindly refer to the Response given to Q2 above.

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

BIF RESPONSE

The ISPs are providing services to Enterprise customers as well as retail customers. To make broadband more affordable, the spectrum charges/royalty charges should be reduced by at least 50% so that the same benefits can be passed on to retail customers.

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

BIF RESPONSE

BIF feels that there is no need for a change from the current schedule of annual payments

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

BIF RESPONSE

For the sake of preserving a level playing field, BIF is of the opinion that the prevailing regime of interest rates for delayed payment of LF/SUC for use of spectrum should be the same as levied in case of delayed payment of LF/SUC for other licensed telecom services.

However, the current interest rates levied for delayed payment of license fee are at SBI PLR + 2%. From FY 2011 RBI vide its circulars RBI/2009-10/390x1 DBOD. No. Dir. BC 88 /13.03.00/2009-10 and RBI/2010-11/361 DBOD.No.Dir.BC.73/13.03.00/2010-11 has replaced Bank Prime Lending Rate (BPLR) system with the Base rate system.

In present context, the PLR rate is no longer used and is treated as representative of the cost of capital in the economy. The recent NIA released in August 2016, has also considered SBI base rate of 9.3% to be used as Internal Rate of Return (IRR) for deferred payment option.

Therefore, we request that TRAI should replace rate of interest currently charged at "SBI PLR Rate + 2%" to "SBI Base Rate" which is a more transparent and representative benchmark rate by RBI for capital expansion.

Q10: Should separate financial bank guarantee or single financial bank guarantee be submitted by the ISP licensee covering LF payable, fees/charges/royalties for the use of spectrum and other dues (not otherwise securitized)? If yes, what should be the amount of such financial bank guarantee in either case?

BIF RESPONSE

We recommend that the regime of Bank Guarantees which is there since the beginning of the licensing regime needs to be reviewed and probably done away with. If due to any reasons it is not possible, then the quantum of Bank Guarantee(single guarantee) should be kept to a bare minimum value..

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

BIF RESPONSE

The industry has reached a very high level of maturity. All the non-serious players have exited out of this. Recent examples are Essel Shyam (new name Planetcast Media) and Infinium. The market is dominated by players like Hughes, Bharti Airtel, Tatanet & BSNL. In the recent years, no new licenses have been issued by DoT. In the recent past, the Government owned NICSi has claimed that it earns no revenue and hence no revenue share is payable. These are exceptions and that can be dealt with a rollout obligation clause in the license rather than a minimum presumptive AGR. Hence Minimum presumptive AGR for VSAT Service providers is not required to be proscribed.

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

BIF RESPONSE

Yes. It is very old and certainly needs a review. VSAT is a very potent medium for the Government to achieve the rural connectivity goals. Such rural connectivity needs to be encouraged. VSATs play a dominant role in the rural markets and most of the revenues earned by VSAT providers pertain to the rural markets. The high space segment costs, monitoring charges levied by NOCC, SACFA charges of Rs. 1000/- levied by DoT and the revenue share of 8% towards license fees and 4% towards SUC have increased the burden on the rural customers quite a bit. The spectrum is today allocated on a non-exclusive basis and is valid only for the duration of the assignment of the space segment. The multiplicity of monetization does not exist for this spectrum as the satellite provides a national footprint and the spectrum cannot be reused as it is in the case of terrestrial spectrum. World over this spectrum is charged to cover administrative costs. The current levy of 4% is very high and needs to be reduced. It should be kept to a bare minimum and should be based on cost required to cover administration & regulation charges. Based on regulator's own calculations in the past, it has been found that administrative and regulation charges amount

to a small fraction. Hence, the SUC should be calculated and reduced accordingly and should not exceed an upper cap of 0.1-0.2% of AGR.

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

BIF RESPONSE

The biggest issue that the industry is facing is the administrative delay in assigning this spectrum. As on date the average time taken for issuance of decision letters by DoT to VSAT operators is in the order of ten months. While, ISRO assigns the space segment and begins its charging from day one, WPC takes an extremely long time for the assignment of the spectrum. This is in spite of the fact that the spectrum allocation mirrors the frequency assignment by ISRO and its approval by NOCC. This delay costs the service provider by way of space segment charges are payable during this period and is passed on to the rural customer. This is a unproductive cost and is only a result of administrative delay. This delay also impacts the telecom ministry in terms of the license fees and the SUC as the service providers begin to earn revenue only after the spectrum is assigned by WPC. In business terminology every stake holder in this equation loses. This needs to be dealt with and we urge the regulator to take up the matter with the authorities to ensure there is proper and efficient utilisation of royalty charges. BIF will be more than happy to provide any additional data that the regulator may need to address this issue.
