

SUBJECT: VOICE Comments on “Spectrum Usage Charges and Presumptive Adjusted Gross Revenue for Internet Service Providers and Commercial Very Small Aperture Terminal Service Providers”

Voluntary Organisation in Interest of Consumer Education (VOICE) is a consumer protection group set up by teachers and students of Delhi University in 1983.

We at VOICE as part of our advocacy initiative in Telecommunications continuously raise different issues with Policy makers impacting consumers based on the knowledge through Consumer feedbacks.

As a registered CAG we are in forefront of providing inputs to the Government, Regulatory authorities, consumers and business community at large related to consumer concerns and interests.

In continuation of this effort on behalf of consumers we at VOICE have following COMMENTS on “Spectrum Usage Charges and Presumptive Adjusted Gross Revenue for Internet Service Providers and Commercial Very Small Aperture Terminal Service Providers”

Question 1: 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:

Spectrum assignment to ISPs should continue on location basis/link-by-link basis on administrative basis as ISP is still not a popular business as was expected and Internet penetration through ISP has not achieved the desired reach and popularity thereby leaving a Oligopoly like situation with TSPs.

Question 2: 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:

Minimum presumptive AGR should be introduced in ISP license for the purpose of charging SUC with a preparation cum launch period of say 1 year with no SUC. After 1 year a minimum presumptive AGR based on the Entry Fee (EF) be charged with say 1 X EF for 2nd year, 2 X EF for 3rd year and so on. There should also be a mechanism of determining a minimum LF even after commercial launch based upon estimated minimum business / minimum commercial value of the spectrum under use which should accrue to the Government which than can be extrapolated to minimum presumptive AGR.

Question 3: 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.

Yes all ISPs should be brought under SUC based in % of AGR on par with other spectrum users. Specifically-

- As far as possible it should be same for all spectrum users
- To encourage ISPs towards wider availability of internet in remotest territories there may be area specific and startup incentives – but time bound till a certain level of revenue / market penetration is achieved
- A minimum SUC based on allocated spectrum should be prescribed based on potential revenue so that spectrum allocated does not remain under-utilised or the ISPs refrain from hoarding of spectrum

Question 4: 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.

Yes, % of AGR should be uniform but with a minimum LF based on spectrum holding and incentive scheme if any as explained above.

Question 5: What mechanism should be devised for ISP license to identify revenue generated from use of spectrum and revenue generated without use of spectrum? Please give your view on this with justification.

Why should we try to differentiate at all. All the revenue accruing to the entity is because of the ISP license and should be treated as such. Licensee should ensure that his other businesses are not part of the (ISP) licensed entity. By recognising **revenue generated without use of spectrum we have already given a loop hole to the current TSPs and they are continuously reporting lower AGRs resulting into disputes with DOT leading to even CAG audit.**

Question 6: 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.

Applicable SUC % should be same across all service providers with some kind of incentives based upon area of operation and being a start-up but in a strictly time bound manner.

Question 7: 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.

Formula based spectrum charging mechanism in ISP licenses should be discontinued.

Question 8: Do you propose any change in existing schedule of payment of spectrum related charges in the ISP license agreement?

Quarterly payment is most suited to ensure regular flow of revenue and to safeguard against big liability accrual to ISPs leading to big defaults if at all. Quarterly payments can be on revenue estimates / minimum presumptive AGR basis to be neutralised annually based upon audited accounts.

Question 9: 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 17 Para 20.7 of Unified License 19 rates for delayed payment of license fee/ SUC for other licensed telecom services?

It should be same across all licensees.

Question 10: 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?

It should be uniform across all licensees.

Question 11: 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.

Again we need to maintain uniformity across all licensees and value should be same as described above for other licensees.

Question 12: 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.

It should be uniform across all licensees.

Question 13: In addition to the issues mentioned above, comments of stakeholders is also invited on any other related matter/issues.

As mentioned above, we need to incentivise ISPs based on them being start-ups or operating in semi-urban / rural / remote areas to ensure wider availability of internet / faster & wider spread of internet.