

**COMMENTS BY**  
**DEN NETWORKS LIMITED**  
**ON THE CONSULTATION**  
**PAPER ON -**  
**“SPECTRUM USAGE**  
**CHARGES AND PRESUMPTIVE**  
**ADJUSTED GROSS**  
**REVENUE FOR INTERNET**  
**SERVICE PROVIDERS AND**  
**COMMERCIAL VERY**  
**SMALL APERTURE TERMINAL**  
**SERVICE PROVIDERS**

## 1. Preamble

At the outset we wish to express our sincere thanks to the Telecom Regulatory Authority of India (the Authority) for its support and cooperation in the establishment and growth of Broadcasting & Cable TV industry, Broadband and Internet Services industry in India and also resolving various issues, which have arisen from time to time. The Authority has been kind enough to consider the interest of all the stakeholders, whether it is a Broadcaster, Multi System Operator, Local Cable Operator, Internet Service Provider (ISP) or Consumer and has always been proactive in regulating the sector and have also been keeping the balance by showing its willingness to address the concerns of various market participants thereby also acting like a solution oriented Regulator while keeping the ground realities in mind. This Consultation Paper on “Spectrum Usage Charges And Presumptive Adjusted Gross Revenue For Internet Service Providers And Commercial Very Small Aperture Terminal Service Providers” discusses the issues relating to minimum presumptive AGR for ISP license and VSAT licenses. We, at DEN, would like to thank the Authority for giving us an opportunity to submit our comments/response on the same.

## 2. DENs Response w.r.t this Consultation Paper

**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.

**Response** – In our view the spectrum assignment on location basis/link – by-link on administrative basis to ISPs should be continued in specified band and the current scenario does not require any changes at the moment. The current scenario of providing access spectrum to access services providers such as UL with authorization to provide access services, CMTS, UASL etc. through market based mechanism and spectrum usage charge over such licensees is being levied on the basis of percentage of AGR does not call for review at this moment.

**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.

**Response-** No, there should be no presumptive AGR in ISP license fee for purpose of charging SUC. Further, we would like to add that the AGR should be only applicable on the ISP licensee providing services through spectrum usage only and breathing space should be provided to the ISP licensees providing services without spectrum usage through wire line etc.

**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.

**Response** – Yes. In our view Spectrum Usage Charge should be directly proportionate to usage of spectrum by the ISPs and percentage of AGR should be computed as per the usage of Spectrum as the Spectrum being the scarce national resource. This will further push the industry to promote alternate technology such as wirelines, optic fiber etc.

**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.

**Response** - In our view, the percentage of AGR should not be uniform and SUC should be directly related to utilization of spectrum by the ISPs. The more the Spectrum utilized, more the AGR. This will result in effective usage of Spectrum and avoid any hoarding by ISPs and government shall be paid for entire spectrum allocated to ISPs.

We would also like to add that a distinction should be made among the ISPs and AGR should not be uniform for all ISPs licenses. AGR should be applicable to only those ISPs who are operating and utilizing Spectrum allocated by the government and those ISPs operating without utilizing Spectrum should not be charged with any AGR at all as the ISPs are operating on totally different technology which has its own costs. These ISPs do not consume any national resource and are investing on their own huge amounts in laying of fiber and up gradation of the technology. The Authority will appreciate the fact the books of ISPs are filled with debts and additional applicability of AGR even though no spectrum is utilized will further discourage them. Accordingly, these ISPs should be exempted from any burden of AGR as no Spectrum is utilized by them.

**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.

**Response** – In our view self-declaratory mechanism is the best suited at the moment as the ISPs are well aware of the revenues generated and best segregated by them.

**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.

**Response** – In our view, there should be no minimum presumptive AGR for ISPs and the usage of Spectrum should be the only basis for computation of AGR.

**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.

**Response** – We do not feel there is a need of change in current formula.

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

**Response** – Yes, we would like to propose that the Schedule of Spectrum related charges should be modified and only those ISPs utilizing spectrum should be charged with SUC.

**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?

**Response** – In our view, the conditions mentioned in the license agreement provides adequate interest rate and we do not feel that any changes are required at the moment.

**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?

**Response** – In our view ISPs should be required to submit only single financial bank guarantee towards covering all charges. However, the Authority should make a distinction between ISPs using Spectrum and ISPs operating without usage of Spectrum. The amount of such financial bank guarantee shall be decided by the authority keeping in view the amount of Spectrum utilized/allocated to ISPs.

**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.

**Response** – Yes, we feel that License fee and spectrum charges payable to WPC are the additional charges that a VSAT licensee is required to pay. Prescription of minimum presumptive AGR shall lead the TSPs to efficiently utilize the spectrum and on the other hand may discourage the existing TSPs, resulting better consumption of available resources.

**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.

**Response** – No, we do not feel that there is a need at this hour to change the SUC for commercial VSAT services in fact we would support



recommendations of the Authority prescribing single rate of WPC fee and ceiling of 4% should be lowered to 1% to cover administrative charges.

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

**Response** – None.

Additionally, in case of any queries or clarification required by the Authority, we further request the Authority to contact Mr. Ashish Yadav- Deputy General Manager- Legal @ [ashish.yadav@denonline.in](mailto:ashish.yadav@denonline.in) and Ms. Ritika Arora- Officer- Legal @ [ritika.arora@denonline.in](mailto:ritika.arora@denonline.in).