

Joint Parliamentary Committee Report Summary

Allocation and Pricing of Telecom Licences and Spectrum

The Joint Parliamentary Committee (Chairman: Mr. P. C. Chacko) formed to examine allocation and pricing of telecom licenses and spectrum submitted its report on October 29, 2013. The Committee was formed after the Comptroller and Auditor General (CAG) submitted an audit report on the issuance of 122 Unified Access Service (UAS) licences in 2008. A UAS license allows the licensee to provide basic and/or cellular telecom services using any technology. CAG pegged the presumptive loss to the public exchequer on account of these allocations between Rs 57,666 crore and Rs 1,76,645 crore.

The terms of reference of the Committee were to: (i) examine telecom licensing policy and its interpretation by successive governments from 1998 to 2009, (ii) examine irregularities and aberrations, if any, and (iii) make recommendations for the formulation of appropriate procedures for implementation of laid down policy.

Key observations and recommendations are:

- **Migration Package under NTP-1999:** The government lost revenues of Rs 42,080 crores due to the Migration Package offered to the licensees under the New Telecom Policy, 1999 (NTP-1999).
- **Additional spectrum allotted in 2002:** The additional spectrum allocated to existing licensees in 2002 was deliberately under-valued to favour some operators, causing a loss to the exchequer.
- **UAS licence fee reduction in 2004:** The 2004 decision to reduce the licence fee for UAS licensees caused a Rs 968 crore loss to the exchequer for the first four years and Rs 885 crore per annum thereafter.
- **Revision of cut-off date for 2008 allocations:** The Department of Telecommunication's (DoT) decision to advance the cut-off date for receipt of UAS licence applications to September 25, 2007 from October 1, 2007 was unfair and not communicated promptly.
- **Prime Minister misled by the MoCIT:** The Prime Minister was misled by the then Minister of Communications and Information Technology (MoCIT) about the procedure to be followed in respect of issuance of UAS licences.

- **First Come, First Serve criteria:** The First Come, First Serve criteria, adopted and announced by DoT for the award of licences through a January 10, 2008 press release, was a departure from its existing policy.
- **Verification of eligibility conditions:** While 85 of the 122 licences thus issued did not satisfy the eligibility conditions, DoT had no mechanism to detect such lapses.
- **Issuance of Letter of Intent (LOI):** The Committee censured DoT for the unusual manner in which it announced its decision to issue LOI to all eligible applicants, issued LOIs/responses and also received compliance with LOI conditions, all on a single day.
- **CAG's loss estimates:** The figures of loss to the exchequer as calculated by CAG should have been based on proven facts. CAG also failed to take cognisance of the benefits accrued to the citizens as a result of the government's telecom policy.
- **Role of TRAI:** The government should respond to Telecom Regulatory Authority of India's (TRAI) recommendations within a specific time frame and the TRAI Act, 1997 should be amended correspondingly.

The conclusions of the report were not unanimous as 11 of the 30 members of the Committee voted against the adoption of the draft report. Portions of the Minutes of Dissent submitted by some of the members have been expunged under the directions by the Speaker, Lok Sabha. Key concerns raised in the edited Minutes of Dissent are:

- **Report prepared without members' inputs:** The draft report is at variance with the opinion of the members of the Committee on a number of grounds. The Chairman of the Committee made no attempt to reach a consensus on major issues.
- **Selective use of evidence:** The report selectively quotes from evidence presented before it, ignoring crucial documents and verbal evidence. The Committee did not examine several key witnesses, including the Prime Minister, the Minister of Finance (MoF) and the then MoCIT.

- **Failure to fix responsibility:** The report fails to adequately analyse and assign responsibility for the government’s failure to follow the auction route or use indexation for pricing of spectrum.
- **Inaction by the Prime Minister:** The report asserts the then MoCIT misled the Prime Minister. However, it does not examine why the Prime Minister did not stop the process of awarding licenses despite holding concerns about the process.
- **Role of other decision makers:** The report fails to examine the role of MoF, the Cabinet Secretary and the Solicitor general in the awarding of licences and subsequent Merger and Acquisition (M&A) deals.
- **Loss to the exchequer:** The report tries to suggest that there was no undervaluation of the spectrum in 2008 allocations by contesting CAG’s calculations. It deliberately avoids the question whether these allocations resulted in any loss to the exchequer, nor does it suggest any alternate method to compute the loss. The suggestion of no loss is in contrast with the observations made by the Supreme Court and the Central Bureau of Investigation.
- **Changes in rollout norms and M&A policy:** The report claims that spectrum was priced at low levels to ensure low telecom tariffs for the end-user. It fails to examine why there was a change in rollout norms and the M&A policy.
- **Allocations during 2004-2007:** The report fails to examine the licenses awarded during 2004 to 2007, but unnecessarily focuses on the allocations between 1998 and 2004.

DISCLAIMER: This document is being furnished to you for your information. You may choose to reproduce or redistribute this report for non-commercial purposes in part or in full to any other person with due acknowledgement of PRS Legislative Research (“PRS”). The opinions expressed herein are entirely those of the author(s). PRS makes every effort to use reliable and comprehensive information, but PRS does not represent that the contents of the report are accurate or complete. PRS is an independent, not-for-profit group. This document has been prepared without regard to the objectives or opinions of those who may receive it.