

Consultation Paper No. 09/2014



**Telecom Regulatory Authority of India**



Consultation Paper

on

**Definition of Revenue Base (AGR) for the Reckoning of  
Licence Fee and Spectrum Usage Charges**

**31<sup>st</sup> July, 2014**

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**Written Comments on the Consultation Paper are invited from the stakeholders by 1<sup>st</sup> September, 2014 and counter-comments by 8<sup>th</sup> September, 2014 No extension will be granted. Comments and counter-comments will be posted on TRAI's website [www.trai.gov.in](http://www.trai.gov.in). The comments and counter-comments may be sent, preferably in electronic form on email ID [mptangirala@trai.gov.in](mailto:mptangirala@trai.gov.in).**

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# CHAPTER I

## BACKGROUND

- 1.1 The Government's power to grant licences to telecom service providers (TSP) flows from the Indian Telegraph Act, 1885 (ITA). Section 4 (1) of ITA states:

*'Within India, the Central Government shall have the exclusive privilege of establishing, maintaining and working telegraphs:*

*Provided that the Central Government may grant a licence, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of India:*

...

...

- 1.2 The licence fee (LF) levied on TSPs can thus be construed as the consideration for the licence granted to establish, maintain and work telegraphs. The term 'telegraph' has been defined in section 3 (1AA) of ITA and covers a wide ambit.
- 1.3 The National Telecom Policy 1994 (NTP 94) liberalized the telecom sector and opened it up to multiple service providers, including those from the private sector. The early telecom service licenses operated in a fixed LF regime. In the period up to 1999, many licensees defaulted on the payment of LF and made representations to the Government for relief. A new licensing regime came into being following the New Telecom Policy (NTP 99) which stipulated, among others, that licence fee for different categories of services would be on a revenue-sharing basis. The policy also envisaged that the appropriate level of entry fee, percentage of revenue share and basis for selection of new operators for different service areas of operation would be recommended by the

Telecom Regulatory Authority of India (hereafter 'the Authority') in a time bound manner, keeping in view the objectives of NTP 99.

1.4 A migration package was worked out by the Department of Telecom (DoT) to enable the transition to the NTP 99 revenue sharing regime and was offered to cellular and basic telecom service licensees on July 22, 1999. The relevant conditions of the migration package were:

- (i) The cutoff date for change over to NTP 99 regime would be 01.08.1999;
- (ii) The licensee would be required to pay one time Entry Fee and LF as a percentage share of gross revenue under the license. The Entry Fee chargeable would be the license fee dues payable by existing licensees up to 31.07.1999, calculated up to this date (after duly adjusting for notional extension of effective date by six months for some licensees offered as a part of the migration package), as per the conditions of existing license.
- (iii) The license fee as percentage of gross revenue under the license would be payable w.e.f. 01.08.1999. The Government would take a final decision about the quantum of the revenue share to be charged as license fee after obtaining recommendations of the Telecom Regulatory Authority of India (TRAI). Meanwhile, Government decided to fix 15% of the gross revenue of the Licensee as provisional LF. The gross revenue for this purpose would be the total revenue of the licensee company excluding the PSTN related call charges paid to DOT/MTNL and service tax collected by the licensee on behalf of the Government from their subscribers. On receipt of TRAI's recommendation and Government's final decision, final adjustment of provisional dues would be effected depending upon the percentage of revenue share and the definition of revenue for this purpose as was finally decided.

- 1.5 On similar lines, the Government prepared a new draft licence agreement for International Long Distance (ILD) services in September, 2000 containing a provision that LF was payable as a percentage of revenue. For the Public Mobile Radio Trunk Service (PMRTS) too, the revenue share regime was made applicable from November 1, 2001.
- 1.6 The migration package was accepted by all existing cellular mobile and basic service providers and came into effect from August 1, 1999. Thereafter, the Authority gave its recommendations regarding the revenue share LF for different services such as the Global Mobile Personal Communications by Satellite (GMPCS), Cellular Mobile Telephone Service (CMTS), Basic Telephone Service, PMRTS, Very Small Aperture Terminal (VSAT), National Long Distance (NLD), and ILD. The definition and scope of revenue recommended by the Authority were broadly the same, based on the principle that gross revenue (GR) accruing to the licensee for the purpose of levying LF shall be that revenue generated by way of operation of the service mandated under the licence; the Adjusted Gross Revenue (AGR) that would form the base for levying LF would be the GR as reduced by Interconnection Usage Charge (IUC)/ access charges payable to other telecom service providers (TSP) for carriage of calls, roaming revenues collected on behalf of other TSPs (if applicable) payable or liable to be passed on to them, service tax paid or payable, and proceeds from sale of handsets or terminal equipment. On the other hand, DoT defined GR to include all revenues accruing to the licensee company without any set-off for related items of expense etc.; the AGR was arrived at after deducting (1) the PSTN-related call charges actually paid to other TSPs within India, (2) roaming revenues actually passed on to other TSPs where applicable, and (3) service tax and sales tax actually paid to Government. Thus, the scope of the revenue base for calculating LF as recommended by the Authority and as adopted by DoT differed substantively. **Annexure I** indicates the differences in

the definitions for different services. The licence agreements incorporate formats for statement of revenue and LF showing itemized revenue and permitted deductions.

- 1.7 The definition of AGR has been litigated since 2003. TSPs questioned the inclusion of various components of revenue in the reckoning of AGR as well as the legality of the definition before TDSAT. In 2006, TDSAT, after noting that revenue from non-licensed activities needed to be excluded from the reckonable revenue, asked TRAI to make recommendations on the inclusion or exclusion of the disputed items in the AGR. TRAI made its recommendations on September 13, 2006 and the Tribunal gave its final order in the matter on August 30, 2007 after accepting most (but modifying some) of TRAI's recommendations. The recommendations of the Authority on each of the items of revenue referred to it and the gist of the TDSAT orders thereon may be seen at **Annexure II**.
- 1.8 In the course of finalizing the recommendations of the Authority on the reference from Hon'ble TDSAT, the views of DoT were obtained by the Authority through its representative and incorporated in the 'Recommendations on components of Adjusted Gross Revenue' dated September 13, 2006. The Authority was informed that the basic rationale adopted by the Government while formulating the definition of AGR was that (i) it should be easy to interpret - so as to pose fewer problems in application and less disputes and litigations, and to make it less prone to reduction in LF liability by way of accounting jugglery; (ii) it should be easy to verify - the definition of revenue should be uniform to enable a transparent and simple procedure for verification of revenue; (iii) it should be comprehensive - so as to discourage designing of tariff packages and schemes for the prime purpose of reducing LF liability to a minimum; (iv) the scope for exercise of discretion at the level of assessing authority should be minimized. DoT had thus tried to evolve a system of revenue sharing which was simple yet comprehensive. The Authority was also

informed that the DoT had kept in mind the report of an accounting expert, the Accounting Standards issued by the Institute of Chartered Accountants of India (ICAI), and the observations made by the Comptroller and Auditor General (C&AG) of India in regard to the revenue sharing scheme. The C&AG in its observations had stated that the system should be so designed as to enable proper verification of operator's GR and secure an effective check on the assessment, collection and proper allocation of revenue.

- 1.9 In arriving at its Recommendations of September 13, 2006, the Authority also took note of the Government order on gross revenue on which license fee is payable for direct-to-home (DTH) service. The GR for the purpose of levying license fee for DTH service was to be the gross inflow of cash, receivables or other consideration arising in the course of ordinary activities of the Direct to Home enterprise from rendering of services and from the use by others of the enterprise resources yielding rent, interest, dividend, royalties, commissions etc.
- 1.10 The TDSAT's judgment of 30.08.2007 was taken in appeal by DoT to the Supreme Court and was set aside by its judgment on October 11, 2011 on the grounds, among others, that TDSAT had no jurisdiction to decide the validity of the terms and conditions of the licence including the definition of AGR incorporated in the licence agreement. It was for DoT – and not TRAI and TDSAT – to take a final decision on the definition of AGR. The Supreme Court also held that a licensee can raise a dispute about the computation of AGR relating to a particular demand and that TDSAT can then examine whether the demand was in accordance with the licence agreement and the definition of AGR. The Supreme Court judgment, advertent to the substantive dispute regarding the definition of revenue, held that:

*'Coming now to the facts of the cases before us, clause (iii) of the letter dated 22.07.1999 of the Government of India, Ministry of Communications, Department of Telecommunications, to the licensees*



*quoted above made it clear that the license fee was payable with effect from 01.08.1999 as a percentage of gross revenue under the license and the gross revenue for this purpose would be total revenue of the licensee company excluding the PSTN related call charges paid to DOT/MTNL and service tax calculated by the licensee on behalf of the Government from the subscribers. It was also made clear in the aforesaid clause (iii) that the Government was to take a final decision after receipt of the TRAI's recommendation on not only the percentage of revenue share but also the definition of revenue. In accordance with this clause (iii) the Government took the final decision on the definition of Adjusted Gross Revenue and incorporated the same in the license agreement. Once the licensee had accepted clause (iii) of the letter dated 22.07.1999 that the license fee would be a percentage of gross revenue which would be the total revenue of the licensee company and had also accepted that the Government would take a final decision not only with regard to the percentage of revenue share but also the definition of revenue for this purpose, the licensee could not have approached the Tribunal questioning the validity of the definition of Adjusted Gross Revenue in license agreement on the ground that Adjusted Gross Revenue cannot include revenue from activities beyond the license. If the wide definition of Adjusted Gross Revenue so as to include revenue beyond the license was in any way going to affect the licensee, it was open for the licensees not to undertake activities for which they do not require license under clause (4) of the Telegraph Act and transfer these activities to any other person or firm or company. The incorporation of the definition of Adjusted Gross Revenue in the license agreement was part of the terms regarding payment which had been decided upon by the Central Government as a consideration for parting with its rights of exclusive privilege in respect of telecommunication activities and having accepted the license and availed the exclusive privilege of the Central Government to carry on telecommunication activities, the licensees could not have approached*

*the Tribunal for an alteration of the definition of Adjusted Gross Revenue in the license agreement.'*

[(2011) 10 SCC 543]

1.11 The judgment of the Supreme Court settled important points of law and has clarified the nature of the contractual relationship between the Government as licensor and the TSPs. The judgment also laid down the parameters of institutional responsibility in arriving at the contractual terms and conditions; it held that:

*'Regarding the recommendations of the TRAI under Section 11 (1) (a) (i) of the TRAI Act, we find that the Tribunal in its order dated 07.07.2006 has held that the opinion of the renowned expert in the accountancy that any other definition of Adjusted Gross Revenue would lead to reduction of license fee liability by way of accounting jugglery was not placed before the TRAI and as a result there was no proper and effective consultation with the TRAI and the weightage that was due to the recommendations of the TRAI was not given effect to. In our considered opinion, if the Tribunal found that there was no effective consultation with the TRAI on the opinion of the expert in accountancy, the Tribunal could have at best, if it had the jurisdiction to decide the dispute, directed the TRAI to consider the opinion of the expert on accountancy and send its recommendations to the Central Government and directed the Central Government to consider such fresh recommendations of the TRAI as provided in the provisos to Section 11 (1) of the TRAI Act.'*

1.12 Litigation regarding the computation of LF continues before the TDSAT in the case of individual demands made on TSPs. It has also been reported that writ petitions re-agitating the revenue share definition have been filed by TSPs in different High Courts. The revenue sharing regime works through the application of a 'rate'<sup>1</sup> (percentage share) on a revenue 'base' (AGR as defined in the licence

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<sup>1</sup> AGR is the revenue base on which the calculations of revenue share for both LF and Spectrum Usage Charges (SUC) are made.

agreement); the continuing disputes over the definition of the base even after the reduction in peak LF rate from around 15% at the time of introduction in 1999 to about 8% today (including 5% towards USO levy) signals a need for a comprehensive regulatory evaluation of the existing definitions in the licence agreements. It is pertinent to recognize in this connection that the judgment of the Supreme Court, while final, does not preclude such a regulatory reappraisal of the philosophy underlying the definition of AGR and an assessment of whether the existing definitions meet the requirements for orderly growth of the telecom sector. Many access service licences are due to expire during 2014-16 at the conclusion of 20 years presenting an opportunity to reengineer a new regime for the future. At the same time, it is necessary to note that the decision of DoT on any recommendations flowing from such a reappraisal would be final in terms of the statutory scheme as has been emphasized in the judgment of the Supreme Court.

- 1.13 After the pronouncement of the judgment of the Supreme Court in the AGR matter, the Government approved the National Telecom Policy, 2012 (NTP 12) on May 31, 2012. Two features of NTP 12 are of particular relevance in the present discussion. First, the introduction of a unified licensing regime and the delinking of spectrum from licences; and second, the need to rationalize taxes, duties, and levies affecting the telecom sector. DoT has released the guidelines for unified licences (UL) on August 19, 2013, covering 9 services (one of which - ISP service – is available in 3 categories) some or all of which a UL licensee can offer. The UL licence guidelines provide for an annual LF as a percentage of AGR (currently 8%, including USO levy of 5%) to be paid by the licensee service area wise for each authorized service separately as per procedure prescribed in the applicable chapter of the UL from the effective date of the respective

authorization. Part II of the licence agreement for UL<sup>2</sup> contains separate chapters for each of the 9 services, each containing the respective definition of the revenue base/ AGR for levying the LF and calculating SUC, if applicable. These definitions are available at **Annexure III**, and are substantively similar to the definitions previously adopted by DoT in the respective service licences. The UL Agreement also contains formats for computation of AGR and LF in each service which are placed at **Annexure IV**.

- 1.14 A second feature of NTP 12 that is relevant to the present exercise is the stated need to rationalize taxes, duties, and levies affecting the telecom sector and work towards providing a stable fiscal and regulatory regime to stimulate investments and making services more affordable (paragraph IV.12.3). This broad policy statement entails a closer examination of the nature of the LF (and SUC) levies and the basis on which these charges are being calculated and recovered from licensees. Looking to the future, and for ensuring the sustainability of the telecom industry, it may be time to take a second look at LF and SUC levies to see if a change is warranted.
- 1.15 The delinking of spectrum from licence and the transition from the administrative allocation regime towards market-determined prices for spectrum also offers another opportunity for a reappraisal of the definition of AGR which forms the basis for calculating SUC. It is noticeable that the UL Agreement does not ‘unify’ the licensing regime such that a single licence now covers the provision of all telecom services. Instead, it is a collation under one cover of terms and conditions of all telecom services that were previously governed by different sets of agreements. The UL regime falls short of imparting true flexibility to the licence holder to leverage convergence of networks for seamless delivery of services to the consumer by operating in any or all service segments. The substantive licensing

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<sup>2</sup> See

[http://www.dot.gov.in/sites/default/files/Amended%20UL%20Agreement\\_0.pdf](http://www.dot.gov.in/sites/default/files/Amended%20UL%20Agreement_0.pdf)

framework remains undisturbed, and the definitions of GR and AGR too remain more or less the same. The UL regime also envisages a uniform rate of LF for all licenced services and this too has some implications for the way in which GR and AGR are to be defined. In a recent reference (no. 800-23/2011-VAS of July 7, 2014), DoT has requested TRAI to submit recommendations for delinking of licensing of networks from delivery of services by way of virtual network operators, etc., including associated issues such as AGR, terms of sharing of passive and active infrastructure etc., under the unified licensing regime. Any licensing regime which envisages the separation of network operations and delivery of services would entail a reconsideration of the revenue base for levy of LF and SUC. This consultation exercise on AGR is expected to feed into the Authority's consideration of the issues arising from the latest DoT reference as well.

- 1.16 The format of revenue and LF prescribed for access services in the UL indicates a large number of revenue streams accruing to the licensee from different heads such as wireline, WLL, mobile (GSM and 3G), CDMA mobile, community phone service, BWA, etc. The determination of market prices for spectrum has also brought in changes to the SUC rate regime whereby different rates are applicable based on the specific mix of administratively allocated spectrum and spectrum acquired through different auctions. The segregation of revenue from different services and their proper accounting is also an important aspect for consultation; how revenue streams are to be separately accounted for and the supporting documentation for verification are areas of concern.
- 1.17 The Authority, in its Recommendations of May 11, 2010, had recommended that Infrastructure Providers Category I (IP-I) should also be brought under the licensing regime with immediate effect. IP-I provide assets such as dark fibre, right of way, duct space and towers to other TSPs. As on date, standalone IP-I has not been included

under the ambit of DoT's licensing regime. Service providers of IP-I category are required to register with DoT under the DoT's revised guidelines of December 9, 2013 on a non-exclusive basis, with the express provision among others that in case it is decided to grant licence under Section 4 of the Indian Telegraph Act, 1885 instead of registration at a later date, the said registration shall stand cancelled and the IP-I shall have to apply for grant of the specified licence/ authorization at that point of time as per terms and conditions applicable for such licence/ authorization. There were 403 IP-I providers registered with DoT as on May 13, 2013<sup>3</sup>. The Authority's recommendation to include IP-I under the licensing regime (along with application of uniform LF) recognizes the revenue earning potential of the service, the scope for faster rollout and reduction in capital expenditure, and the possibility of orderly development of the category by permitting IP-I licensees to provide both passive and active infrastructure independent of the service providers. The recommendation also seeks to plug the arbitrage opportunity arising from the incentive available to TSPs to hive-off their assets solely to avoid levy of LF. However, the perception that licensing IP-I is not under the ambit of section 4 of the Indian Telegraph Act persists among some TSPs, as does the contention that subjecting IP-I revenues to LF would amount to a sort of double taxation.

- 1.18 It is necessary to note in this context that Section 4 of the Indian Telegraph Act, 1885 provides for grant of licence to establish, maintain or work a telegraph in India subject to conditions. The definition of telegraph under this Act includes any appliance, instrument, material or apparatus "used or capable of use" for transmission or reception of signs, signals, etc. In view of the wide scope of the definition and the specific use of the phrase 'capable of use', the definition appears to allow for bringing IP-I service providers

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<sup>3</sup> DoT CS-III Section UO No. 10-12/2012-CS-III/Vol.II (available at <http://www.dot.gov.in/sites/default/files/DOC140513-002%20%281%29.pdf>).

under the licensing regime under Section 4 of the Act. As such, the Telegraph Act appears to provide statutory backing for including IP-I under the licensing regime. As far as the apprehension of double levy of LF is concerned, the relevant question is to identify in whose hands the revenue is subjected to LF. The IP-I providers are distinct legal persons entitled to earn revenues from their operations. Since the company (IP-I service provider) is an entity in its own right, transactions of the company are independent from those of its shareholders (some of who may have interests in access service provider companies). Once IP-I and TSPs are treated as separate entities, the LF levies each pays to the government are also to be accounted for separately if the existing framework is left undisturbed, since it is not permissible for expenses to be set off while reckoning GR. As of now, only interconnect charges and roaming charges are allowed as pass through. The possible inclusion of IP-I under the licensing framework in future is another aspect that needs to be considered while assessing the issue of definition of AGR.

- 1.19 The Authority, in its Recommendations of April 16, 2012 on Guidelines for Unified Licence/ Class Licence and migration of existing licences considered the issue of financial conditions including LF and SUC. On the definition of AGR specifically, the Authority recommended that only the revenue from the wireless services shall count towards AGR calculation for the limited purpose of calculation of SUC that would continue to be determined on service area basis, and should be levied only in respect of those service areas where the Licensee holds any access spectrum. Regarding the revenue which shall be taken into account for calculating GR/AGR for levying LF, the Authority did not propose any change in the definition of GR/AGR as the issue required deeper study.
- 1.20 More recently, the Authority made Recommendations on Definition of AGR in licence agreements for provision of internet services and minimum presumptive AGR on May 1, 2014. It stated in these

Recommendations that technology has blurred the differences between conduit systems and the same services could be delivered through different technologies and platforms. Going forward, innovations in technologies and service provision will only make it further difficult to segregate the revenues service-wise. The Authority did not find any reason to deviate from its consistent position that the regulatory framework should ensure a level playing field to all licensees for fair competition and to prevent misuse of licence terms and conditions. It noted that the Indian telecom sector has moved to a UL regime with the objective of providing a simple and clear licensing framework for all telecom services. In this background, the Authority was of the opinion that the definition of AGR and LF should be uniformly applicable for ISP licences at par with licences for other telecom services, consistent with its Recommendations of various earlier occasions. The Authority accordingly recommended that a uniform LF of 8% should be applicable for all ISP and ISP-IT licences and that the revenue for the purpose of LF shall include all type of revenue from internet services, allowing only deductions available for pass through charges and taxes/ levies as in the case of access services, without any set-off for expenses. Revenues from internet services shall also be included in the definition of AGR. The Authority also recommended a minimum presumptive AGR for ISPs holding BWA spectrum as a transient arrangement valid up to the specified period by which the licensee is mandated to fulfill the rollout obligations<sup>4</sup> and that DoT may modify/ revise the format of the Statement of Revenue and LF for the three categories of existing ISP licensees.

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<sup>4</sup>The Authority also noted in this context that it was illogical to presume that DoT's decision to apply minimum presumptive AGR on spectrum assigned at market prices was based on the Authority's reasoning while trying to address a situation analogous to spectrum hoarding. However, as the licensor had implemented the policy of presumptive AGR on spectrum assigned at market prices, it is necessary that the policy is uniformly applicable to all licensees in a non-discriminatory manner to ensure a level playing field.



- 1.21 To summarise, the opportunity to consider issues pertaining to the framework of LF (and SUC) arises from NTP 12, the changes made to the licensing regime, the transition from the administrative allocation regime towards market-determined prices for spectrum, and the conclusion of the tenure of many licences. The exercise needs to deal with the following set of questions: what ought to be the components of GR; what are the items that could be excluded as PTC to arrive at AGR; how to ensure that any regime of exclusions or deductions will render the system transparent, simple to administer, and verifiable; whether, instead of such exclusions (to arrive at the AGR), it is feasible to levy LF and SUC as a percentage share of GR or whether the levy should continue to be imposed as a share of a *redefined* AGR; whether, instead of making changes to the definitions of GR and AGR, a reduction can be effected in the *rates* of LF and SUC; or whether a regime that combines changes to the definitions of GR and AGR and reductions in the rates of LF and SUC should be adopted.
- 1.22 It is in this backdrop that the Authority decided to *suo motu* conduct the present consultation process on the definitions of GR and AGR. The exercise is intended to elicit stakeholders' views on the framework and philosophy that must inform the levy of LF and SUC on TSPs/ licensees as well as the nitty-gritty of the inclusion or exclusion of specific items that now form part of the revenue base, in keeping with the objectives of NTP 12 for the rationalization of taxes, duties, and levies affecting the telecom sector and work towards providing a stable fiscal and regulatory regime to stimulate investments and making services more affordable within the unified licensing framework. The CP is divided into three chapters; this background chapter is followed by Chapter II that gives a brief introduction to the existing scheme along with an analysis of the trends in revenue, LF, and SUC. Chapters III and IV thereafter lay out the details of the issues involved and the specific questions that are being thrown open for consultation.

## CHAPTER II

### ANALYSIS OF TRENDS

2.1 The term Gross Revenue (GR) with reference to the revenue sharing regime, in general, is the revenue earned from the operations under the licenses issued to the service provider and includes revenue from permissible sharing of infrastructure, income from sale of equipments including handsets, revenue from dividend, interest and any other miscellaneous revenue, without any set-off for related items of expenses etc. Licence/service specific definition of GR is stipulated in the respective licence agreement. For the purpose of arriving at Adjusted Gross Revenue (AGR), certain deductions are allowed from GR. These deductions are specific to the license agreement. AGR is the base on which license fee (LF) and spectrum usage charges<sup>5</sup> (SUC) are computed by using the applicable rate. LF and SUC are the two sources of annual recurring non-tax revenue to the Government from telecom service sector. Table 2.1 indicates the changes that have been effected to the LF rate since 1999 when the revenue sharing regime was introduced.

**TABLE 2.1**

**License Fee as % of AGR for Cellular/Basic/UASL**

<b>LSA Category</b>	<b>w.e.f. August 1999</b>	<b>w.e.f. January 2001</b>	<b>w.e.f. April 2004</b>	<b>w.e.f. July 2012</b>	<b>w.e.f. April 2013</b>
Metro/A	15%	12%	10%	9%	8%
B		10%	8%	8%	
C		8%	6%	7%	

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<sup>5</sup> Payable by TSPs providing cellular mobile service, WLL service, ISP and VSAT.

2.2 SUC for access service till February 2014 was levied in the range of 3% to 8% depending upon the quantum of spectrum. The relevant SUC charges applicable to TSPs (Access Service-Wireless) are given in Table 2.2.

**TABLE 2.2**  
**Slab-wise Spectrum Usage Charges**

<b>Spectrum slab</b>		<b>Annual spectrum charges (as a percentage of AGR)</b>
<b>GSM</b>	<b>CDMA</b>	
Up to 4.4 MHz	Up to 5 MHz	3%
Up to 6.2 MHz	Up to 6.25 MHz	4%
Up to 8.2 MHz	Up to 7.5 MHz	5%
Up to 10.2 MHz	Up to 10 MHz	6%
Up to 12.2 MHz	Up to 12.5 MHz	7%
Up to 15.2 MHz	Up to 15 MHz	8%

2.3 In February 2014, the government decided<sup>6</sup> to change the method of charging SUC depending upon the quantum of spectrum holding and the source of allocation i.e. administrative allotment / acquisition through auctions. The applicable rates for charging SUC are now as follows:

- SUC for spectrum acquired through auctions (February 2014 and onwards) will be charged at 5% of AGR.
- No change in the existing slab rate of SUC (as given in Para 2.2 above) for Licensees who do not acquire spectrum in auctions (February 2014 and onwards).
- In cases of combination of existing spectrum in 900 MHz and 1800 MHz bands and spectrum acquired through auctions (February 2014 and onwards), the weighted average SUC rate,

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<sup>6</sup> Press Information Bureau, Government of India release on ‘Spectrum Usage Charges’ dated 19-February-2014 20:18 IST (available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103960>).

based on mix of spectrum holdings (existing and acquired in auctions), will apply.

2.4 An overview of the GR, Pass Through Charges<sup>7</sup> (PTC), AGR, LF and SUC over the last 6 years is shown in the following Tables (2.3 to 2.5):

**TABLE 2.3**  
**Service-wise GR, AGR, LF & SUC**

(Rs. in crore)

<b>Service</b>		<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>
<b>Access</b>	GR	125464	124436	131682	148221	160176	174811
	PTC	28793	28041	34211	40903	48920	50636
	AGR	96671	96395	97471	107318	111256	124175
	LF	8620	8566	8580	9511	9503	9939
	SUC	3173	3401	3851	4843	5188	6103
<b>NLD</b>	GR	14811	19321	25181	29206	31796	34633
	PTC	3909	4319	6167	7192	7844	8113
	AGR	10902	15002	19014	22014	23952	26520
	LF	654	900	1143	1333	1617	2122
<b>ILD</b>	GR	8411	8829	9054	10543	12220	14301
	PTC	4169	4729	5015	5697	7336	7876
	AGR	4242	4100	4039	4846	4884	6425
	LF	255	248	242	291	330	515
<b>Others (ISP, VSAT etc.)</b>	GR	3674	5399	5801	7471	8400	10070
	PTC	2476	4093	4711	7059	7713	9148
	AGR	1198	1306	1090	412	687	922
	LF	72	78	65	25	49	75
	SUC	5	22	10	7	13	12
<b>All Services</b>	GR	152360	157985	171719	195442	212592	233815
	PTC	39347	41182	50105	60853	71813	75773
	AGR	113013	116803	121614	134589	140779	158042
	LF	9601	9792	10030	11161	11500	12651
	SUC	3178	3423	3861	4850	5201	6114

<sup>7</sup> These are deductions allowed from Gross Revenue to arrive at Adjusted Gross Revenue for the purpose of computing license fee as stipulated in the respective license agreement. For ISP-IT licence, the deductions are not strictly of 'pass through' nature; they are allowed as exclusions from the GR to arrive at AGR.

**TABLE 2.4**

**Percent Growth over previous year (All Services)**

	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>
GR	18.1%	3.7%	8.7%	13.8%	8.8%	10.0%
AGR	11.4%	3.4%	4.1%	10.7%	4.6%	12.3%
LF	13.3%	2.0%	2.4%	11.3%	3.0%	10.0%
SUC	19.3%	7.7%	12.8%	25.6%	7.2%	17.6%

**TABLE 2.5**

**Percent Growth (2007-08 to 2013-14)**

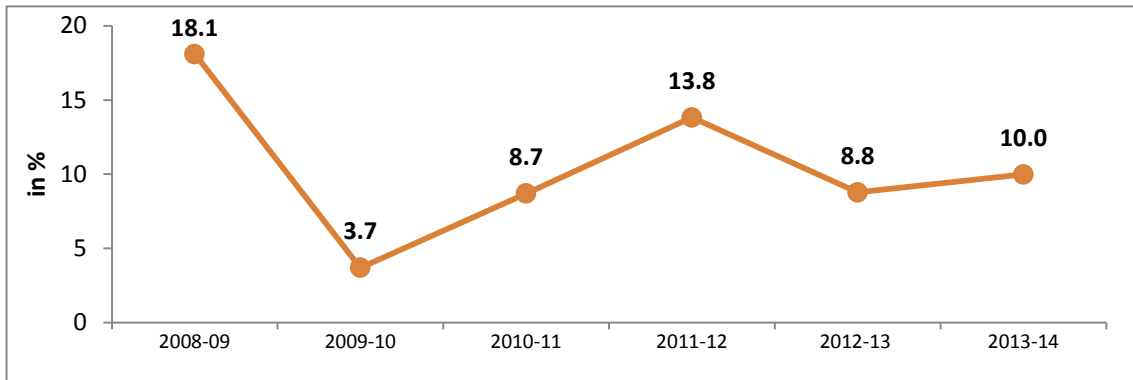
	<b>GR</b>	<b>AGR</b>	<b>LF</b>	<b>SUC</b>
<b>Cumulative Growth</b>	81.2%	55.8%	49.3%	129.5%
<b>Compounded Annual Growth Rate (CAGR)</b>	10.4%	7.7%	6.9%	14.9%

2.5 On a CAGR basis, GR has grown by 10.4%, AGR by 7.7%, and LF by 6.9% in the last 6 years. The increase in LF is not exactly the same as the growth in AGR due to downward revisions in the rate. The peak LF rate which was 15% in 1999 has over time been brought down to a uniform 8% since 2013. SUC growth has been impacted by both changes in rate as well as differences in the method of allocation and pricing of spectrum with the introduction of spectrum auctions.

2.6 The following charts depict the year wise growth in GR, AGR, LF and SUC.

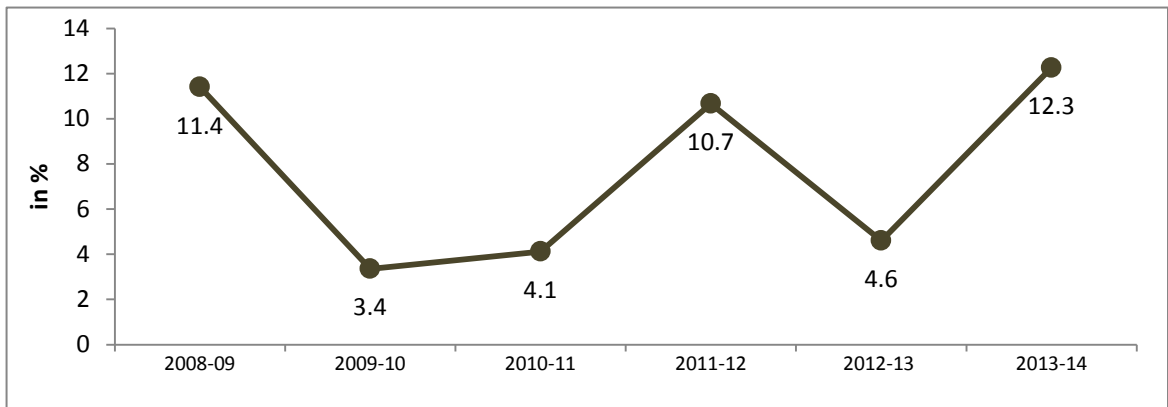
**CHART 2.1**

**Percent Growth of GR over previous year**



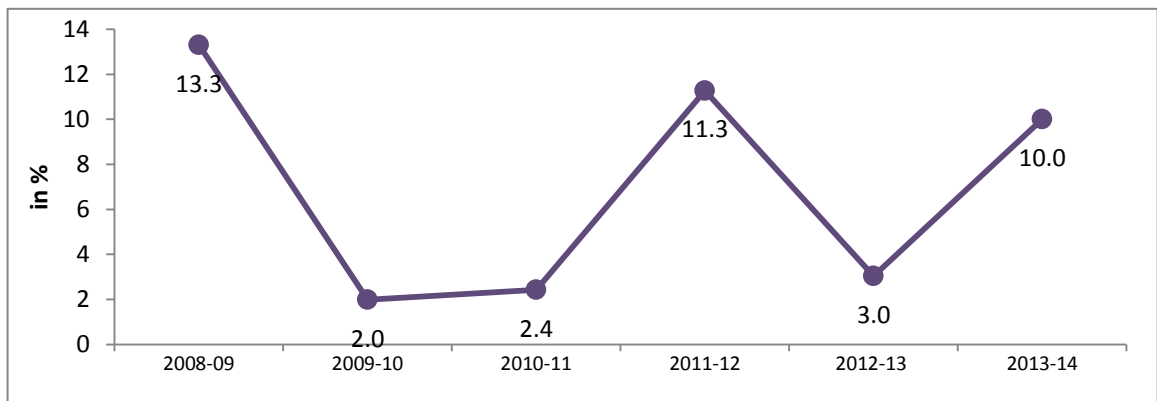
**CHART 2.2**

**Percent Growth of AGR over previous year**



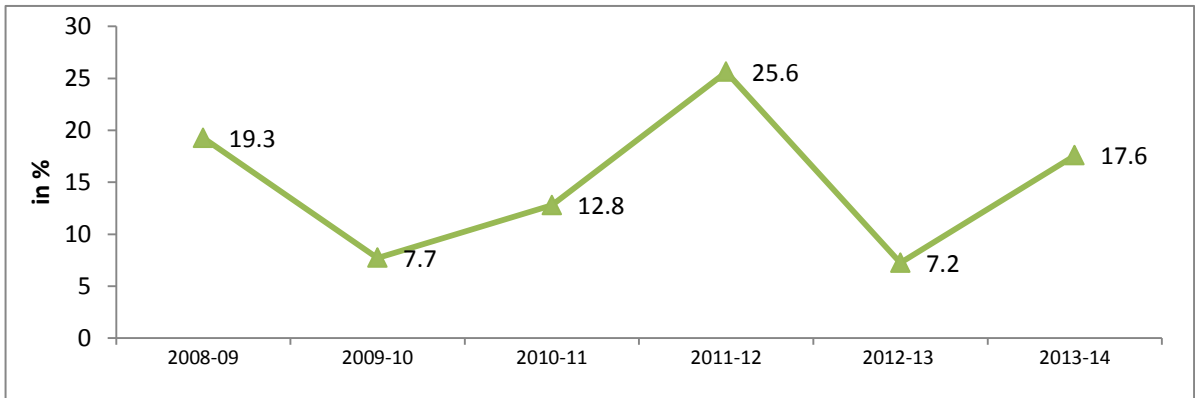
**CHART 2.3**

**Percent Growth of LF over previous year**



**CHART 2.4**

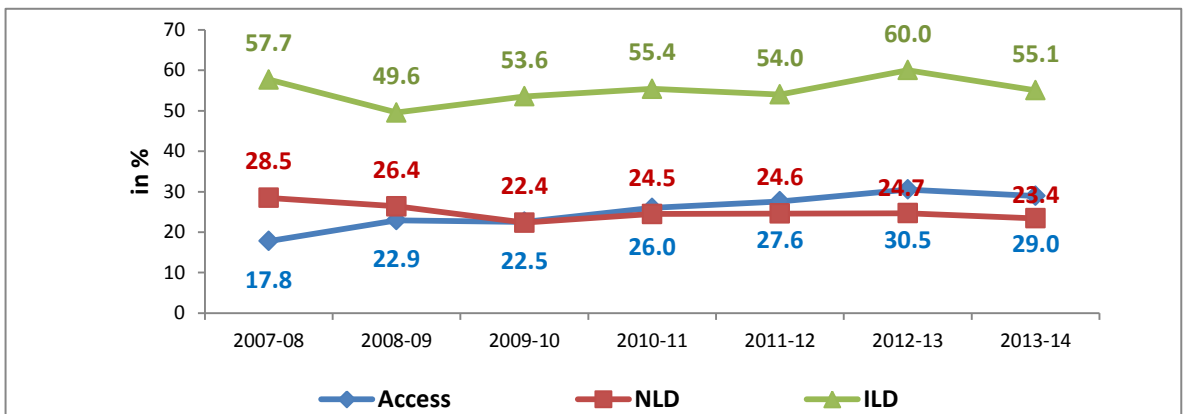
**Percent Growth of SUC over previous year**



2.7 The following charts depict PTC as a percentage of GR for access services and long distance services.

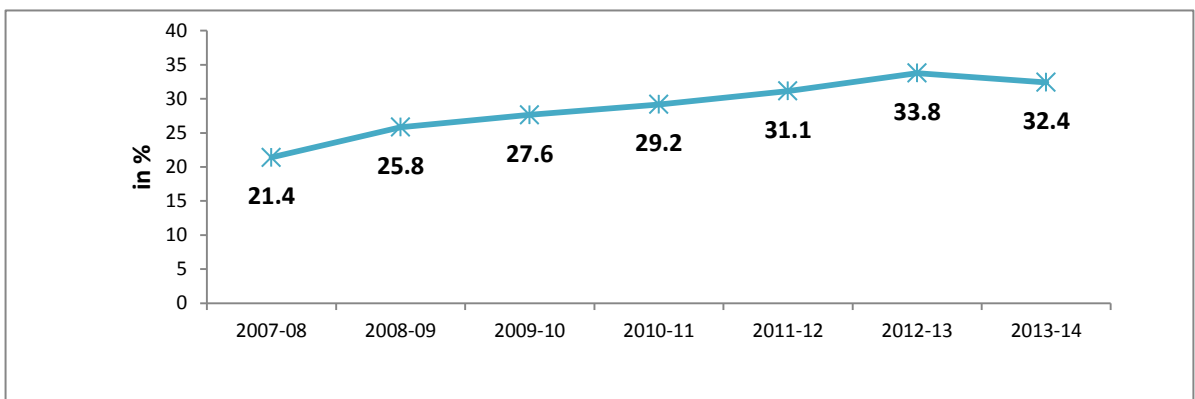
**CHART 2.5**

**Service wise - Percent share of pass through charges of GR**



**CHART 2.6**

**All Services - Percent share of pass through charges of GR**



## **CHAPTER III**

### **COMPONENTS OF GROSS REVENUE AND ADJUSTED GROSS REVENUE**

3.1 The legacy of the migration package, the contested nature of the definitions of GR and AGR and the features of the contractual relationship between licensor and licensees are some of the important aspects that must be considered in any reappraisal of the elements that constitute the revenue base on which LF and SUC are calculated. The consultation process must deal with higher order issues of policy intent animating the design of the revenue sharing regime; at the same time, the minutiae of accounting for inclusion and exclusion of specific items of revenue that have led to much of the litigation around the definitions must also be dealt with so that the cause for potential conflict between licensor and licensees is minimized. Finally, issues of verification and audit of the revenue base and permissible deductions need to be carefully addressed so that recommendations emanating from the consultation process are comprehensive and complete.

#### **The framework of revenue share**

3.2 The first issue that requires to be tackled is the policy intent of the revenue sharing regime since its introduction in 1999. As noted previously, it has been the stand of the Government that the definition of AGR should meet four policy objectives – the definition must be easy to interpret, simple to verify, be comprehensive and minimize scope for the exercise of discretion by the assessing authority. The definitions of AGR are broadly all-inclusive and allow for deductions of only those items that are ‘passed through’ to other entities and are, thus, amenable to easy verification<sup>8</sup>. There does not appear to be an

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<sup>8</sup> In view of the calling party pays (CPP) regime, it is the responsibility of the calling party’s service provider to collect all revenues including those that would be



intention to set up an elaborate monitoring mechanism; the share of revenue accruing to the Government is largely on the basis of licensees' self-certification, subject to legal and accounting due diligence. The revenue sharing regime is designed around the licensees' top line that consists of operating revenues and other income. Deductions that are allowed, such as roaming revenues collected on behalf of other TSPs and service tax and sales tax, are not legitimately part of the licensee's revenues; the deduction allowed on account of access charges paid to other TSPs allows for the costs of mandatory interconnection of networks and is at the same time easy to verify and simple to administer. In essence, the deductions allowed arise from statutory or regulatory mandates designed to maximise positive network effects. At the same time, they are easy to verify and also do not require an elaborate monitoring mechanism to be established by the licensor to ensure compliance.

- 3.3 Simplicity and easy verifiability are desirable attributes whatever be the definition adopted for the revenue base. Almost 15 years have elapsed since the introduction of the revenue sharing regime and the licensor and TSPs have acquired a level of expertise in operating under the present dispensation, court cases notwithstanding. As such, there are valid arguments to support the continuation of the existing definitions of GR and AGR. At the same time, it is also true that licensees have expressed concerns regarding the basis of the revenue sharing regime; for example, levy of licence fee on activities undertaken by TSPs that do not strictly fall under the ambit of the licence such as income accruing from interest or dividend, gains from foreign exchange fluctuations, or other income on account of management consultancy fee, etc. These and other similar matters have been the bone of contention in the long and tortuous litigation resorted to by the TSPs regarding the definition of AGR.

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payable to the terminating and carriage networks for the work done by these networks.

- 3.4 The contentions on both sides bring us face to face with the issue of whether the revenue sharing regime should operate on a revenue base consisting of the licensee's income as a whole i.e. gross/ total income or on its income accruing only from licensed activities, strictly construed. With respect to revenues accruing from activities that may not require licence, the Hon'ble Supreme Court held in its 2011 judgment that if the wide definition of AGR so as to include revenue beyond the licence was in any way going to affect the licensee, it was open for the licensees not to undertake activities for which they do not require license under clause (4) of ITA and transfer these activities to any other person or firm or company. While it is evident that non-telecom business can be thus transferred to another entity such that the income accruing from such activities is not reckoned for the calculation of LF and SUC, the contention regarding whether income accruing from activities undertaken by the TSP ancillary to the normal running of the telecom business should form a part of the revenue base still requires consideration. For example, a TSP has the option of either ploughing back the surpluses generated from its licenced activities from time to time or of investing them with other entities to earn interest or dividend income. It is arguable whether the income stream arising from investments outside the licenced business should or should not be subject to revenue share. How such income should be construed for the levy of LF (and SUC) ought to take into account accounting rules and conventions, as well as the potential misalignment of incentives in case they are excluded from the reckoning, and the transaction costs associated with the monitoring of a more elaborate enforcement structure.
- 3.5 It is also important to acknowledge the contribution of LF and SUC to the exchequer; they contribute a significant portion of the non-tax revenue accruing to the Central Government. Changes in the rate of levy or in the revenue base will have a direct impact on Government receipts. However, it is also true that there is a change in the nature of

revenue accruing to the Government by way of non-tax levies; where earlier (in the post-NTP 99 regime) revenues were made up of LF and SUC, in the present regime where market-determined prices for spectrum are mandated, Government revenues have been augmented by receipts from spectrum auctions in addition to LF and SUC. It is also moot whether the Government's revenue considerations should be a factor in deciding upon the definitions of GR and AGR, since it could be argued that any direct reductions in revenues could be offset by indirect accruals from the improved corporate performance of TSPs and the consumer benefit that may arise if reductions in levies are passed on in the form of lower retail tariffs. It is trite that the revenue share burden on licensees could be reduced by a reduction either in the base or rate; it is important to note in this connection that the uniform rate of LF of 8% is made up of a 5% component of USO levy, and the balance 3% is the 'pure' LF levy. The present architecture of USO is to utilize the funds collected as USO levy for provision of universal service under different schemes; the collections are first credited to the Consolidated Fund of India and are then appropriated to the non-lapsable USO Fund after Parliamentary approval.

- 3.6 The following table (**Table 3.1**) exhibits the collection, allocation and disbursement of USO fund since 2002-03. Balance in USOF as on 31<sup>st</sup> March 2014 is Rs.33682.85 crore. The total funds disbursed from the Fund constitute only about 30.64% of the amount collected over the years as universal service levy. In addition, about 11.86% of the levy was disbursed to BSNL as reimbursement of LF and SUC, still leaving more than 57% of the total levy undisbursed.

**TABLE 3.1**

(Rs. in crore)

<b>Financial Year</b>	<b>Funds collected as Universal Access Levy</b>	<b>Funds allocated</b>	<b>Funds disbursed</b>	<b>Reimbursement of LF and Spectrum Charges to BSNL</b>
2002-03	1653.61	300.00	300.00	2300.00
2003-04	2143.22	200.00	200.00	2300.00
2004-05	3457.73	1314.59	1314.59	1765.68
2005-06	3215.13	1766.85	1766.85	582.96
2006-07	3940.73	1500.00	1500.00	0
2007-08	5405.80	1290.00	1290.00	0
2008-09	5515.14	1600.00	1600.00	0
2009-10	5778.00	2400.00	2400.00	0
2010-11	6114.56	3100.00	3100.00	0
2011-12	6723.57	1687.96	1687.96	0
2012-13	6735.46	625.00	625.00	0
2013-14	7896.39	2163.45	2163.45	0
<b>TOTAL</b>	<b>58579.34</b>	<b>17947.85</b>	<b>17947.85</b>	<b>6948.64</b>

Source: [www.usof.gov.in](http://www.usof.gov.in), DoT's Annual reports

3.7 As already noted in Chapter I, the introduction of the UL regime also impacts the framework governing revenue share. Even though the substantive aspects of the licensing framework have not undergone much change, the UL licence brings the licensing of all existing telecom service licences under the ambit of one document and introduces an element of standardization of terms and conditions across services. At the same time, the imposition of a uniform LF levy (of 8% of AGR) across LSAs and services attenuates the potential for arbitrage that existed previously, since selective booking of revenues by TSPs under different licences no longer provides any advantage by

way of reduced LF burden. With the delinking of spectrum from licence, the reckoning of AGR continues to remain significant for access service providers who have to pay SUC based on the terms and conditions of NIA/ licence agreement. However, the present UL licensing is by no means a finished project, since true unification of the licence has not yet taken place as discussed in paragraph 1.15. The definitions of GR and AGR for different services have been retained in the UL more or less in their earlier form; hence, there exists the opportunity for a comprehensive relook at the basis of these definitions.

### **Entity revenues vs. revenues from licenced activities**

3.8 A legal entity, typically a business, is defined as detached from another business or individual with respect to accountability. A separate legal entity may be set up in the case of a corporation or a limited liability company, to separate the actions of the entity from those of the individual or other companies<sup>9</sup>. At the time of formation of a company, the promoters are required to prepare and file with the Registrar of Companies a copy of the Memorandum of Association (MoA) and Articles of Association (AoA). The MoA is a document that sets out the constitution of the company. It contains, among other things, the objectives and the scope of activity of the company and also describes the relationship of the company with the outside world. Prior to the notification of Companies Act 2013, the MoA of the company contained the object clause which stated the object of the formation of the company; the objects were further divided into Main

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<sup>9</sup> For example, the Reserve Bank of India's draft guidelines of July 17, 2014 for licensing of Payments Banks prohibits Payments Banks from setting up subsidiaries to undertake non-banking financial services activities and requires other financial and non-financial activities of promoters to be kept distinctly ring-fenced and not comingled with the banking and financial services business of the Payments Bank.

Objects, Objects incidental to the Main Objects and Other Objects. Section 4 (c) of the Companies Act 2013 provides that the MoA of a company shall state the objects for which the company is incorporated. The AoA contain the rules and regulations of the company for the management of its internal affairs. While the Memorandum specifies the objectives and purposes for which the Company has been formed, the Articles lay down the rules and regulations for achieving those objectives and purposes.

- 3.9 As far as revenues are concerned, the total revenue of a company refers to the revenue arising from its normal business activities as per the object clause of the MoA as well as other income. The revenue from business is income that a company receives from its normal business activities usually from the sale of goods and services to customers. Most businesses also have revenue that is incidental to that derived from the entity's primary activities. Such revenue is included in the total revenue but not included in the sales/ revenue from services rendered. The company may also receive some non-operating revenue (other revenue) which arises from non-core operations of the company. For example, a company that manufactures and sells automobiles would record the revenue from the sale of an automobile as "regular" revenue. If that same company also rents out a portion of one of its buildings, it would record that revenue as "other revenue" and disclose it separately in its income statement to show that it has accrued from something other than its core operations.
- 3.10 The Guidance Note issued by the Institute of Chartered Accountants of India (ICAI) on "Terms Used in Financial Statements" and the Accounting Standard 9 (AS 9) define revenue as the gross inflow of cash, receivables or other consideration arising in the course of the ordinary activities of an enterprise from the sale of goods, from the rendering of services, and from the use by others of enterprise resources yielding interest, royalties and dividends. It also states that

revenue is measured by the charges made to customers or clients for goods supplied and services rendered to them and by the charges and rewards arising from the use of resources by them. However, in an agency relationship, the revenue according to these definitions is the amount of commission and not the gross inflow of cash, receivables or other consideration.

- 3.11 Ministry of Corporate Affairs has notified Ind AS in February 2011 on the lines of International Financial Reporting Standards (IFRS). Ind AS -18 on “Revenue” defines revenue in the following manner:

*“Revenue is the gross inflow of economic benefits during the period arising in the course of the ordinary activities of an entity when those inflows result in increases in equity, other than increases relating to contributions from equity participants. Revenue includes only the gross inflows of economic benefits received and receivable by the entity on its own account. Amounts collected on behalf of third parties such as sales taxes, goods and services taxes and value added taxes are not economic benefits which flow to the entity and do not result in increases in equity. Therefore, they are excluded from revenue. Similarly, in an agency relationship, the gross inflows of economic benefits include amounts collected on behalf of the principal and which do not result in increases in equity for the entity. The amounts collected on behalf of the principal are not revenue. Instead, revenue is the amount of commission.”*

- 3.12 The International Accounting Standards Board has issued International Accounting Standards (IAS)/IFRS which are globally accepted standards of accounting. IAS-18 on ‘Revenue’ defines revenue.

*“Revenue includes only the gross inflows of economic benefits received and receivable by the entity on its own account. Amounts collected on behalf of third parties such as sales taxes, goods and services taxes and value added taxes are not economic benefits which flow to the entity and do not result in increases in equity. Therefore, they are*

*excluded from revenue. Similarly, in an agency relationship, the gross inflows of economic benefits include amounts collected on behalf of the principal and which do not result in increases in equity for the entity. The amounts collected on behalf of the principal are not revenue. Instead, revenue is the amount of commission.”*

- 3.13 Total revenue of a licensee company would thus mean the sum of revenue from operations (including other operating revenue) and other income. In view of the specific definitions given to GR (and AGR) under the licences granted to TSPs, the total revenue of a company shown in its Profit & Loss statement may not match the GR reported by the licensee for the purpose of calculating LF. The variation could be because (1) the company may possess multiple licences and the inter-licence revenue transactions are eliminated while calculating total revenue for reporting in the financial statements; (2) where a company is engaged in other businesses in addition to providing telecom services, the total revenue of the company depicted in the Profit & Loss account will include revenue from all businesses of the company including telecom services. It is often argued that income from non-core business of a telecom service sector company should not be treated as part of the revenue base for the purpose of calculating LF (and SUC). The revenue base in this view must be limited to income derived from the telecom business of the licensee company.
- 3.14 The inclusion of revenues from non-core businesses of licensees could also lead to distortions in the implementation of policy priorities. For example, the objective of rapid rollout of broadband services in the country may entail encouraging their provision by cable service providers (CSP) as well, who could provide the broadband by acquiring UL (with Internet service authorization). However, if the definition of AGR for the purpose of LF was to include revenues from cable service operations as well, this would incentivize CSPs to float separate entities for providing broadband services, with attendant technical and commercial complexities that may not be conducive to faster



rollout of broadband services. This needs to be factored in while arriving at recommendations on the issue.

- 3.15 It would also be possible, in order to simplify the entire process of levy of LF, to levy it as a percentage share of GR rather than as a percentage share of AGR. This would enable the licensor to sidestep questions regarding inclusion or exclusion of some revenue items either as accounting adjustments or as pass through charges in the reckoning of AGR. Of course, the LF rate would need to be suitably adjusted downwards if the top-line (GR) is taken as the revenue base instead of the AGR; this would be balanced by the simplicity and ease of administration of the LF framework occasioned by removing deductibles from the calculation scheme. As indicated in paragraph 1.9, provision for levying LF as a percentage of GR exists in the licences given by the Ministry of Information and Broadcasting for DTH services; FM radio broadcasting licences too have a similar provision. In the Authority's recent Recommendations on 'Issues related to New DTH Licenses' on July 23, 2014, it was recommended that:

*"The license fee in the new DTH licensing regime should be charged as 8% of Adjusted Gross Revenue (AGR) where AGR is calculated by excluding Service Tax, Entertainment Tax and Sales Tax/VAT actually paid to the Government, from the Gross Revenue (GR)".*

The deductions recommended by the Authority in this case are limited to statutory collections/ payments actually paid to the Government.

The following questions arise as issues for consultation in this context:

**Q1: Is there a need to review/ revise the definition of GR and AGR in the different licences at this stage? Justify with reasons. What definition should be adopted for GR in the Unified Licence in the interest of uniformity?**

- Q2: What should be the guiding principles for designing the framework of the revenue sharing regime? Is the present regime easy to interpret, simple to verify, comprehensive and does it minimize scope for the exercise of discretion by the assessing authority? What other considerations need to be incorporated?**
- Q3: In the interest of simplicity, verifiability, and ease of administration, should the rate of LF be reviewed instead of changing the definitions of GR and AGR, especially with regard to the component of USO levy?**
- Q4: If the definitions are to be reviewed/ revised, should the revenue base for levy of licence fee and spectrum usage charges include the entire income of the licensee or only income accruing from licenced activities? What are the accounting rules and conventions supporting the inclusion or exclusion of income from activities that may not require licence?**
- Q5: Should LF be levied as a percentage of GR in place of AGR in the interest of simplicity and ease of application? What should be the percentage of LF in such a case?**

### **New business practices and GR**

3.16 Financial Statements of the companies contain information that companies make available to various stakeholders such as shareholders, creditors, bankers/ financial institutions and regulatory bodies. It therefore imperative for the company and its management that all the financial transactions are correctly recorded in accordance with the accepted accounting standards/policies and procedures prescribed by the Companies Act and the concerned regulatory agencies. The Companies Act requires every company to keep accounting records for providing information on receipts and

expenditure, sales and purchases, and assets and liabilities. Companies are also required to prepare annual financial statements at the end of every accounting year which includes a Profit and Loss account, a Balance Sheet, and Notes to the Accounts and Cash Flow statement.

- 3.17 The Accounting Standards to be followed by the companies for recording the financial transactions are prescribed under the Companies Act, 2013. Accounting Standard 1 requires every company to formulate accounting policies on important areas of financial accounting and disclose them in the financial statements of the company. Accounting policies are the specific accounting principles and the methods which are applied by a company in the compilation and presentation of financial statements. To ensure proper understanding of financial statements, it is mandated that all significant accounting policies adopted in their preparation should be disclosed. Further, any change in the accounting policy which has a material effect in the current period or which will have a reasonable effect in future needs to be disclosed. It is the responsibility of the company and its management to ensure compliance with all the rules, regulations and standards in recording the revenue and expenditure, assets and liabilities and that the accounting does not cause loss or avoidance of statutory and other dues to Government.
- 3.18 While the rules and standards prescribed for preparing financial statements are well-established and elaborate, companies have the flexibility to adopt accounting methods and conventions that they find suitable for recording financial transactions subject to professional oversight, uniform application, and transparency. The form and content of financial statements differ from sector to sector and from entity to entity depending upon rules and the conventions adopted. This could result in lack of uniform reporting and differing accounting treatment of revenues; the calculation of the revenue base for levying LF and SUC would be subject to the licensor's interpretation. This is

not conducive to certainty and predictability in the licensing regime. In the context of the LF regime in the telecom sector that is based on share of revenue, the licensor is obliged to insist on a fair and transparent recording of the licensees' financial transactions so that the correct share of LF accrues to the exchequer. The design of the licensing framework has to account for how the licensee would be able to satisfy the licensor (and the audit department) with respect to the share of revenue that it pays as LF. A strict monitoring and enforcement regime would entail cumbersome recordkeeping and onerous reporting requirements, while the other extreme would be to assume the correctness of licensees' calculations; a balance obviously needs to be struck so that the regime is fair and hassle-free.

- 3.19 Further, as already discussed in paragraph 3.3, TSPs have argued for the exclusion of revenues from activities that cannot strictly be termed licensed activities such as income accruing from interest or dividend, etc. Gains from foreign exchange transactions are an example of such revenues that are at present included for the reckoning of GR (without allowing set-off for concomitant losses). Gains (or losses) from foreign exchange fluctuations may occur (a) when liabilities for payment in foreign exchange decrease (or increase) on account of appreciation (depreciation) of domestic currency vis-à-vis foreign currency; or (b) due to end-of-year revaluation of foreign exchange reserves lying in bank accounts, foreign securities or revaluation of provisions made for overseas vendors etc<sup>10</sup>. TSPs – who undertake significant foreign exchange transactions in the course of their operations – have argued that gains from foreign exchange fluctuations should not be treated part of GR (or that losses should be allowed to be set off) since these gains (or losses) arise due to fluctuations in the foreign exchange

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<sup>10</sup> In terms of Accounting Standard 11, exchange differences arising on the settlement of monetary items or on restatement of monetary items at rates different from those at which they were initially recorded during the period, or reported in previous financial statements, should be recognised as income or as expenses in the period in which they arise.

market that are beyond the TSPs' control. The treatment of revenues such as these (accruing as 'other income') as part of the revenue base for levy of LF requires to be addressed.

- 3.20 An additional level of complexity is introduced into the reckoning of revenue share by new and innovative business practices adopted by TSPs to remain competitive in the marketplace. In the context of the discussion on AGR and revenue base, it would be appropriate to factor in the potential impact of the opportunities that a regulatory redefinition would afford to TSPs to reengineer their revenue accounting practices. While it could be argued that regulatory intervention should not be oriented towards curbing innovation in micro-level business practices, it is nevertheless necessary to consider the transaction costs that would arise from an elaborate scheme of exemptions and deductions especially if the scope for exercise of executive discretion is enlarged due to the different ways in which the business of different TSPs is structured/ conducted. An assessment of the additional costs of implementation is required to balance these with potential gains to licensees accruing from a possible reduction in the revenue base.
- 3.21 The example of Mobile Virtual Network Operators (MVNO) is apposite in this context. Generally, an MVNO is an entity that provides mobile telephone service but does not have its own radio spectrum nor does it necessarily have all infrastructure required to provide mobile telephone service. The entity that has the radio network and all required infrastructure is called the Mobile Network Operator (MNO); an MVNO thus enters into an arrangement with a 'parent' MNO to provide services to end-customers. In its Recommendations of August 6, 2008, the Authority defined an MVNO as "a licensee in a service area that does not have spectrum of its own for access service, but can provide wireless (mobile) access services to its own customers through an agreement with the licensed access provider, UAS/CMTS licensee". The Authority also recommended that MVNO should be

introduced as a distinct service provider with its own licensing and enabling light touch regulatory framework; that it should be free to choose its business model; and that it shall not set up its Radio Access Network (RAN)/ Base Station Sub-system (BSS). With regard to annual LF (which was to be paid in addition to a recommended entry fee), the Authority noted that since the services offered by the MNO and the MVNO are similar in nature (if not the same), it is important that the revenues accruing to the Government should not get reduced due to accounting juggleries and cross-booking of revenues between MNOs and MVNOs. The Authority also noted the view that the AGR for MVNO should include all the revenues attributable directly to the access services provided by the MVNO and that the charges payable by the MVNO to the MNO (such as for bulk minutes of use, roaming, taxes, etc.) should be allowed as deduction from the total revenues of the MVNO for arriving at the AGR, to avoid double taxation. The Authority thereafter recommended that the rate of annual LF as well as the definition of AGR for MVNO shall be on similar lines as defined in the access service provider's licence to whom the MVNO is parented.

3.22 Further, as indicated in paragraph 1.15, DoT has, on 7<sup>th</sup> July, 2014, sought the Authority's recommendations on delinking of licensing of networks from delivery of services by way of virtual network operators, etc., including associated issues such as AGR, terms of sharing of passive and active infrastructure etc., under the unified licensing regime. The Authority notes in this context that the licensing regime in the telecom sector has evolved over time from the earlier stage of CMTS and Basic service licences to the Unified Access Service (UAS) licences and onwards to the UL. Other licences for different services such as NLD, ILD, ISP, ISP-IT, GMPCS, etc., have also been created/ issued over the years. As already discussed, the UL regime has not yet fully unified the different licences. It is also true that the clock cannot be turned back; neither can there be a 'clean slate' to start over. If

delivery of services is delinked from the licensing of networks as envisaged in NTP 12 and conveyed in the DoT's July 2014 letter, virtual network operators (VNO) would really be no different from existing TSPs except to the extent that they would not be required to build and operate telecom networks. VNOs could be expected to compete fiercely for customers at the front end while simultaneously negotiating for favourable terms from the network operators whose facilities they utilize for providing the services. This process is likely to throw up innovative business practices as well as some entirely new business models in the telecom services market. These aspects will need to be considered during the present consultation process.

3.23 With the adoption of new business practices and models by TSPs and the complexities involved in recognition and segregation of revenue, the following are some of the other telecom sector-specific accounting issues that have a bearing on the reckoning of GR for levy of LF and SUC:

- a) Sale of handsets or telecom equipment bundled with telecom service: TSPs sometimes offer bundled products which involve multiple components such as sale of equipment (like handsets, modems, etc. either at full price or subsidized prices or at no separate price) with free minutes or subsidized call rates. Segregation of revenue to exclude items that are not strictly licenced activities is cumbersome and prone to disputes.
- b) Discount offers: TSPs offer discount on recharge coupons for prepaid customers. They may also offer discounts to postpaid customers for early payment of their bills or for advance payment against their future bills/ after making some additional security deposit. If the TSP records revenues net of discount, the revenue base on which LF (and SUC) is levied is reduced.
- c) Unorthodox tariff schemes: In the event interest income is not considered for computing AGR, the TSP can be expected to shift

revenue streams from operational income to interest income. This can be done by introducing innovative tariff arrangements. For example, customers could make a large upfront deposit and thereafter avail airtime at very low (or even zero) charges. The TSP may not be earning much by way of call charges/ airtime but this can be made up by investing the deposits received from customers for earning interest/ dividend income.

- d) Sale of services/products through retailers (Principal agency relationship): These include the franchise arrangements resorted to by TSPs for sale of recharge vouchers, top-up vouchers, special tariff vouchers etc., where incentives could be misaligned if reckoning of revenues net of commissions paid to franchisees is allowed while calculating the revenue base. AS 9 defines revenue as the gross inflow of cash, receivables or other consideration arising in the course of the ordinary activities of an enterprise from the sale of goods, from the rendering of services, and from the use by others of enterprise resources yielding interest, royalties and dividends. In an agency relationship, the revenue according to AS 9 is the amount of commission and not the gross inflow of cash, receivables or other consideration. A strict interpretation of such a definition for the purpose of reckoning GR could result in problems of verifiability and increase opportunities for arbitrage, especially in the case of group companies and associated entities that are present in the integrated value chain of large business conglomerates, where monitoring of intra-group transactions may not always be at arm's-length. For example, if such a deduction is permitted, a TSP could sense an opportunity to sell recharge/ top-up/ special tariff vouchers through a subsidiary company or through a non-telecom related party on a commission basis and book higher amounts as commission



since these would not be subject to LF in the hands of the subsidiary/ related party.

- e) Mobile content: TSPs offer access to mobile content without acquiring rights over the content itself; they generate revenue based on users' access to the content that itself is paid for. The case of provision of value added services (VAS) is a relevant example in this regard. In addition to services such as voice call, voice and non-voice messages and data transmission, the TSPs also provide a number of value added services. The retail tariffs charged to consumers includes a certain amount that the TSP collects on behalf of third parties i.e., content providers. Under the existing definition of GR, the entire revenue is to be reckoned for arriving at the revenue base without allowing any set-off for expenses; as such, TSPs are not allowed to deduct the pro-rata amount that they collect for the content provided. If however, the revenue collected on behalf of content providers is allowed either as an exemption or as a deduction, there is every incentive for TSPs to attempt to book revenues as accruing from content provision rather than for carriage. Such arrangements can become even more complex to track and monitor in case the content providers and the TSP are associated entities; there are indications that TSPs are in fact beginning to expand both horizontally and vertically such that the same conglomerate has interests in media, content creation, data services, and carriage of voice calls as well as up and down the value chain in the content and carriage segments. At the same time, it is necessary to note the disruptive potential of 'over the top' (OTT) services for TSPs' revenue streams; there may indeed be a case for making it easier for TSPs to provide OTT services. The additional revenue stream could then be subject to LF levy.
- f) Premium rate services: Caller pays a premium to the standard call rate to access additional services such as directory inquiry

services, chat lines, other information services or voting services on a television show. TSPs have back-to-back charging arrangements with service providers. Whether the revenue share paid by the TSP to the premium rate service provider can be allowed as a deduction will have an impact on the revenue base and the LF collected.

3.24 The treatment of the revenue earned from some or all of these services hinges on the nature of the principal-agent relationship between the TSP and its business partners. Whether an operator is acting as a principal or as an agent will be determined by the location of the risks and rewards for rendering services. Under normal accounting conventions, it could be that where it can be demonstrated that the risks and rewards of the transaction effectively remain with the operator, revenue should be recognized on gross basis. On the other hand, if the risks and rewards do not vest in the operator, the revenue should be recognized on net basis (its own share of income, i.e. the amount billed to the customer less the amount paid to a content provider/third party).

3.25 A second and potentially more complex issue is that of vouching and verifiability of the principal-agent transactions, since Schedule III to the Companies Act 2013 and the Accounting Standards do not offer any guidelines regarding separate disclosure of these transactions in the financial statements.

Views of stakeholders are invited on the following issues that arise from the foregoing discussion as to how GR is to be arrived at:

**Q6: Should the revenue base for calculating LF and SUC include 'other operating revenue' and 'other income'? Give reasons.**

**Q7: Specifically, how should the income earned by TSPs from the following heads be treated? Please give reasons in support of your views.**

**(a) Income from dividend;**

**(b) Income from interest;**

- (c) Gains on account of profit on assets and securities;**
- (d) Income from property rent;**
- (e) Income from rent/ lease of passive infrastructure (towers, dark fibre, etc.);**
- (f) Income from sale of equipment including handsets;**
- (g) Other income on account of insurance claims, consultancy fees, foreign exchange gains etc.;**

**Q8: What categories of revenue/income transactions qualify for inclusion in the revenue base of TSPs on 'net' basis? Please support your view with accounting/ legal rules or conventions.**

**Q9: What are the mechanisms available for proper verification from the financial statements of TSPs of items/ income proposed to be excluded from the revenue base, especially for TSPs engaged in multiple businesses? Would new verification mechanisms be required?**

**Q10: What is the impact of new and innovative business practices adopted by telecom service providers and licensees on the definition of GR? What impact will exempting other income from the revenue base have on the verification mechanism to be adopted by the licensor?**

**Q11: Do the potential benefits accruing to TSPs by moving from a simpler to a more complex definition of the gross revenue base (providing for additional exclusions) justify the additional costs of strengthening the assessment, accounting and monitoring system? Should the definition of AGR remain unchanged once the gross revenue base is reduced by providing for additional exclusions from the top line?**

## **Minimum Presumptive AGR**

- 3.26 Licensees do not commence operations from the effective date of their licences. Rollout obligations are prescribed to ensure that services under the licence are made available to consumers within a reasonable period so that resources such as spectrum do not remain idle. Non commencement of the services within the stipulated time will also result in loss of revenue to the exchequer in the form of the LF and SUC that are based on revenue generated by the licensee. In order to ensure that licensees make sincere efforts to start services within the stipulated time, the idea of a minimum presumptive AGR came to be introduced in the licensing framework.
- 3.27 The UASL licence agreement contains provisions for presumptive AGR for levying licence fee and spectrum usage charges. The primary motivation for presumptive AGR appears to have been more relevant in a scenario where spectrum was bundled with licence and was given at administrative price. However, where spectrum is not bundled with licence and TSPs are required to pay market determined prices the rationale for imposition of levies based on presumptive AGR becomes weaker since the licensee has already paid significant amounts upfront and any idling of the spectrum resource would be to the licensee's detriment. The move towards market-based determination of spectrum prices can generally be expected to be sufficient motivation for the licensees to rollout services in time. However, spectrum hoarding for non-market-related reasons and delays in rollout for other business reasons cannot be ruled out altogether. In its Recommendations on the definition of AGR and minimum presumptive AGR for ISP licences made on May 1, 2014, the Authority had noted that the licensor has implemented the policy of presumptive AGR on access spectrum assigned at market prices, and therefore it is necessary that the policy is made applicable uniformly to all licensees in a non-discriminatory manner to ensure level playing field. The

Authority was, therefore, of the opinion that minimum presumptive AGR should be applicable for BWA spectrum held by ISPs as well for the payment of LF, without relaxing or deferring in any manner the rollout obligations. The following questions arise for consultation in this regard:

**Q12: Should minimum presumptive AGR be applicable to licensees?  
How should minimum presumptive AGR be arrived at?**

**Q13: Should minimum presumptive AGR be made applicable to access licensees only or to all licensees?**

### **Intra-circle roaming**

3.28 In June 2008, DoT amended the UASL/CMTS license and allowed licensees to enter into mutual commercial agreements for intra-service area roaming with other licensed UASL licensees/CMTS licensees. In response to TRAI's letter no. 103-4/2010-MN/16 dated 28<sup>th</sup> January 2011 regarding admissibility of intra circle roaming charges under the definition of pass through charges for calculating AGR, DoT in its letter no. 842/725/2005-VAS(Pt.)/22 dated 31<sup>st</sup> May 2011, had clarified that:

“As per definition of Adjusted Gross revenue (AGR) as contained in Clause 19.2 of UASL agreement, roaming revenues actually passed on to other eligible/entitled telecommunication service providers shall be excluded from the Gross Revenue to arrive at the AGR.

The intra circle roaming charges come under above category, the same may be allowed as deductions.”

3.29 The Authority had noted that prior to June 2008, only inter-service area roaming was permitted. Therefore, the roaming revenue mentioned in clause 19.2 of the UL (AS) quoted above probably refers to the revenue relating to inter-service area roaming. In this context, the Authority had already written to the DoT vide its letter no.102-

11/2011-MN dated 20<sup>th</sup> October 2011 to re-examine the issue. The Authority had also taken a view in its Recommendations on “Terms and Conditions of Unified License (Access Services)” dated 2<sup>nd</sup> January 2013 that treating both inter- and intra-service area roaming in a similar fashion for the purpose of pass through may have revenue implications. The Authority noted therein that unlike inter-service area roaming, where the licensee cannot have its own network in the licensed area being visited by its subscriber, in intra-service area roaming, the licensee has the option to either build its own network or use someone else’s network through intra-service area roaming arrangement. Given the revenue implications of treating both inter- and intra-circle roaming in a similar fashion, the Authority went on to recommend that intra-service area roaming revenues should not be excluded from GR for calculating the AGR of the service provider. Such a recommendation proceeds on the basis that no essential facility is at issue in such roaming arrangements; the decision to enter into intra-circle roaming arrangements is a judgment call akin to a ‘make or buy’ decision and is not effectuated by regulatory fiat.

### **Permissible deductions from GR and treatment of expenses**

3.30 The components of pass through charges (PTC), as already noted, have been defined separately under each service licence agreement, and constitute the deductions allowed from GR to arrive at the AGR. They are broadly similar in scope across licenced services, subject to service-specific variations. PTC reflect the understanding that those charges that are collected by the last mile provider due to ‘single point billing’ but are actually in the nature of revenues of the carrier or terminating network are to be passed on to the respective service provider. Since these are not revenues accruing to the biller but are to be passed on to the carriage service provider and the terminating network, these were allowed as a deductible from the gross revenue.

Similarly there were receivable PTC for all operators that formed part of the gross revenue. Later with the regulation on IUC, the charges exchanged between operators came to be regulated within the ceilings prescribed by the TRAI. However, the PTC were easily verifiable as these were transacted based on agreements between operators and there was contra pressure to complete the transaction. The other pass through of roaming charges was of the same nature of transaction as the IUC charge and therefore also easily verifiable. The government taxes were also verifiable from the receipts of payment to the treasury. The DoT has subsequently allowed the operators to remove the element of government taxes from the gross revenue itself. All these charges were deductible only to the extent paid (cash basis) to the other operators.

- 3.31 It could also be argued that charges other than those that are collected on behalf of other operators (specified in the agreements) are essentially costs that are passed on to the consumers in the retail tariffs for various services. The question arises whether in such cases these costs are to be treated as PTC since they are included in the tariff cost-base. Normally, the charges payable to other operators are either to be treated as costs or as PTC to be deducted from GR; treating them as both simultaneously may not be appropriate. Since TSPs are expected to recover operating costs by way of retail tariffs levied on consumers, the case for treating some of them as PTC is weakened.
- 3.32 It has also been urged in several representations that the infrastructure hiring/leasing charges can be treated as pass through. This issue needs to be examined carefully since it involves a reorientation of the framework of revenue share that at present does not allow for setting off expenses for reckoning the revenue base. Any change in the framework that recognizes expense items as PTC may offer incentives for TSPs to hive off or outsource infrastructure activities to outside entities. To the extent that this would encourage

firms to change their mode of operation purely to avail of favourable regulatory treatment such a concession could be termed as a perverse incentive. At the same time, monitoring and vouching of deductions claimed on this account would place additional burden on the licensor since transactions between TSPs and linked entities may not always be at arm's length. Further, allowing set off of expenses of one kind may trigger demands for allowing other expenses to be given the same treatment in future. In this context, it is a moot question whether the treatment sought ought to be permitted or whether it is indeed worthwhile to draw up a long list of principle-based exclusions to impart clarity.

- 3.33 In the past, there have been demands from various sections of the Indian telecom sector to expand the list of components under different licenses such as leased line/bandwidth charges, port charges, sharing of infrastructure, dark fiber charges, co-location charges, interconnection set up cost, roaming signaling charges and content charges that should also be considered as part of PTC and allowed as deduction from GR for the purpose of calculating LF. It has been represented by the TSPs/Associations that payments made for the use of critical inputs in the form bandwidth/lease charges, port charges, co-location charges etc., for providing telecommunication services are currently not allowed as deductions to arrive at AGR. On the other hand, revenue earned by the TSP from bandwidth/lease charges, port charges, co-location charges etc. is added to its revenue base for the purpose of levy of LF. It has been claimed that this is a form of double taxation in the form of levy of LF on both the TSPs (provider and recipient) for the same amount. To remedy this, it has been suggested that payment of LF to DoT should be treated similar to the payment of GST/VAT/Service Tax and the LF already paid on such revenue would be automatically allowed as deduction from the GR. The Authority has reviewed this issue earlier. In the Recommendations on components of Adjusted Gross Revenue to TDSAT on 13<sup>th</sup> September 2006, the



Authority had recommended (Para 3.22.3.1 to 3.22.3.3) that leased line charges, port charges etc paid by one operator to other operator should not be allowed as deductible under pass through charges to arrive AGR as they are part of the costs linked to network functioning whereas pass through charges are revenues collected from customers by one service provider for using the telecom network of another service provider. The Authority also observed that LF paid to DoT is not a direct or indirect tax/ cess levied by Government of India under any statute/ law. It is a contractual obligation on the TSP as per the license agreement. The Authority also noted that these access facilities either can be taken on lease or built by the operator based on commercial considerations.

- 3.34 As briefly noted in Chapter I, treatment of infrastructure hiring or leasing charges paid by ISPs has implications for any future move to bring IP-I category under the licensing framework. The Authority has noted in its Recommendations of May 11, 2010 that major TSPs form IP-I companies and hive off their existing tower assets to such IP-I companies with the primary motive of reduction in incidence of LF on revenues arising from sharing of infrastructure, and that it was necessary that transparency, separation of accounts and non-discriminatory treatment be introduced to avoid the introduction of novel accounting methods solely for minimizing the incidence of LF. If charges paid by TSPs to IP-Is are either treated as expenses to be set-off or deductions to be effected to the TSPs' GR, the incentives for moving assets and concomitant revenues away from TSPs to IP-Is would be further strengthened. At the same time, arm's-length pricing of infrastructure sharing services by IP-Is would need to be introduced and strictly monitored to ensure a level playing field between vertically integrated TSPs/ group companies and standalone access providers. This would have the effect of raising transaction costs, which can only increase as the scope of IP-I services is enhanced (as it needs to be, for more efficient capital expenditure).

3.35 Some specific items which may entail a further examination for their treatment as deductions in this background are:

- a) Leased Line/bandwidth Charges: A Leased line refers to a dedicated connection that allows for communication between two sites (point to point leased line) or between a site and the internet (an internet leased line). Leased lines are charged based on the flat rate principle, i.e. users pay a flat fee (rent) for the line irrespective of how much line is used.
- b) Port Charges: Port is a place of termination on a switch/exchange to provide Point of Interconnection (POI) for ingress and egress of traffic between the two interconnecting networks. The Port charges are payable by the interconnection seeker to the interconnection provider for terminating interconnection links on the network interface of the interconnection provider. Port charges are paid to other operators to enable carriage of calls.
- c) Cable Landing Station Charges: It includes access facilitation charges and co-location charges payable to the owner of cable landing station on the type of facilities used, for the purpose of housing the equipment at the premises another service provider for the purpose of interconnection and includes charges for providing space, power supply, accessing physical facilities, operation and maintenance of co-location site.
- d) Sharing of Infrastructure Service: It includes charges primarily paid for sharing of towers (rental or sharing charges).
- e) Interconnection Set-Up Costs: It represents the initial cost of any engineering work needed to provide the specific interconnection facilities requested.
- f) Roaming Signaling Charges: It represents the fixed charge payable by the access service provider to long distance operators for domestic and international long distance subscribers for the purpose of effective roaming services.

- g) Receipts from USO Fund: These represent the USO subsidy granted to cover the operating losses incurred by the service providers in providing access to telegraph services to people in the rural and remote areas at affordable and reasonable prices.

The following questions arise for consultation in this context:

**Q14: Should intra circle roaming charges paid to another TSP be treated as a component of PTC? If so, why?**

**Q15: How should the permissible deductions be designed keeping in view future requirements? Specifically, what treatment should be given to charges paid to IP-I providers in the context of the possibility of bringing them under the licensing regime in future?**

**Q16: Should the items discussed in paragraph 3.35 be considered as components of PTC and allowed as deduction from GR to arrive at AGR for the purpose of computation of license fee? Please provide an explanation for each item separately.**

**Q17: If answer to Q16 above is in the affirmative, please suggest a mechanism/audit trail for verification.**

**Q18: Is there any other item which can be considered for incorporation as PTC?**

### **International Practices**

3.36 The Authority has also reviewed the license conditions in different countries regarding annual license fee (LF) and the related definition(s) of revenue for the purpose of LF. There is no discernable uniformity in charging LF or in the definition of revenue across countries and licensing jurisdictions. In some countries LF is charged as a percentage of revenue, in others it is levied to cover regulatory and administrative costs, and in a few countries, it is a mix of these two. Further, the definition of revenue and deductions allowed for the

purpose of computation of license fee varies from country to country (see **Table 3.2**; **Annexure V** indicates details).

**TABLE 3.2**

<b>Country</b>	<b>Computation of Annual License fee/Frequency fee</b>
<b>Australia</b>	<ul style="list-style-type: none"> <li>▪ <u>Concept</u>: Recovery of regulatory costs.</li> <li>▪ <u>Computation</u>: Annual levy (telecommunications industry levy and annual carrier license charge) paid by Licensee based on its share of eligible revenue in industry's eligible revenue.</li> <li>▪ Deductions allowed for revenue items (i.e., revenue from non-telecom activities, customer equipment, content services, infrastructure revenue, overseas activities etc.) and expense items (i.e. inter licensee/service provider input payments etc).</li> </ul>
<b>United States of America</b>	<ul style="list-style-type: none"> <li>▪ <u>Concept</u>: Recovery of regulatory costs.</li> <li>▪ <u>Computation</u>: Annual regulatory fee is divided among different category of licensed services on the basis of full time employees (of FCC) assigned to each category and after that within each service category, licensee pays its proportionate share based on applicable selected parameter i.e. revenue, subscribers, licenses etc.</li> </ul>
<b>Canada</b>	<ul style="list-style-type: none"> <li>▪ <u>Concept</u>: Recovery of regulatory costs.</li> <li>▪ <u>Computation</u>: This annual fee is based on the TSP's contribution eligible revenue in the industry's contribution eligible revenue.</li> <li>▪ Contribution eligible revenue is total operating revenues (excluding non-Canadian revenues and Canadian non-telecommunications revenues) less deductions for inter-carrier payment, retail internet/paging service revenue, etc.</li> </ul>
<b>South Africa</b>	<ul style="list-style-type: none"> <li>▪ <u>Concept</u>: As percent of revenue.</li> <li>▪ <u>Computation</u>: Licensees are required to pay annual license fee (different slab rates – <b>0.15% to 0.35%</b>) as percentage of revenue from licensed services.</li> <li>▪ Revenue from licensed services represents revenue as disclosed in the licensee's audited annual financial statements but does not include resale of electronic communications services, service providers discount, agency fees, interconnection and facilities leasing charges, and government grants and subsidies.</li> </ul>
<b>Singapore</b>	<ul style="list-style-type: none"> <li>▪ <u>Concept</u>: As percent of revenue.</li> <li>▪ <u>Computation</u>: Facility Based Operators (FBOs) pay annual recurrent fee as percent (slab based - maximum 1%) of their Annual Gross Turnover (AGTO).</li> <li>▪ AGTO represents the annual fair value of the consideration received or receivable for licensable activities taking into account the amount of any trade discounts and volumes rebates allowed.</li> <li>▪ Operators also pay frequency management fees based on spectrum holding</li> </ul>

Country	Computation of Annual License fee/Frequency fee
<b>Pakistan</b>	<ul style="list-style-type: none"> <li>▪ <u>Concept</u>: As percent of revenue.</li> <li>▪ <u>Computation</u>: Cellular Mobile Operators pay annual license fee as <b>0.5%</b> of gross revenue less inter-operator payments.</li> <li>▪ Operators also pay a contribution for Universal Service Fund (USF) @ <b>1.5%</b> of gross revenue less inter-operator payments and related Authority/Frequency Allocation Board mandated payments, as determined by the Government.</li> </ul>
<b>Malaysia</b>	<ul style="list-style-type: none"> <li>▪ <u>Concept</u>: As percent of revenue.</li> <li>▪ <u>Computations</u>: Standard annual license fee @ <b>0.5%</b> of gross turnover from licensed activities (with no deductions) or RM 50,000 whichever is higher.</li> <li>▪ Deductions from Gross turnover from licensed activities are allowed on account of research and development expenditure, skills and training etc. After the eligible deductions, applicable annual license fee shall not be lower than <b>0.15%</b> of gross turnover or RM 50,000 whichever is higher.</li> </ul>
<b>Finland</b>	<ul style="list-style-type: none"> <li>▪ <u>Concept</u>: Formula based.</li> <li>▪ <u>Computation</u>: Operators pays frequency fees based on availability, usability and number of frequencies included in the licence</li> </ul>
<b>Zimbabwe</b>	<ul style="list-style-type: none"> <li>▪ <u>Concept</u>: As percent of revenue.</li> <li>▪ <u>Computation</u>: Annual fee @ 2% of audited annual gross turnover towards contribution to Universal Service Funds.</li> </ul>

### **Format of Statement of Revenue and Licence Fee**

3.37 As discussed, the formats of statement of revenue and licence fee are incorporated as part of the licence agreements. Under the Unified License, the service provider can provide number of telecom services, and reporting formats have been prescribed for each licenced activity in the agreement. Many changes have taken place in the telecom sector since the time the formats were originally designed. New revenue models have emerged with particular focus on revenue from data, content, VAS, sharing of infrastructure etc. The present system of step-by-step verification of deductions and computation of AGR is a well settled and established mechanism. If any new item is allowed as deduction for computation of AGR, the formats would naturally undergo modification and additional line items introduced for each

additional deduction. This would entail modification to the formats; more importantly, it would also entail an examination of what supporting documents may be required to vouch for the deductions claimed. Introduction of additional deductions, if any, presents an opportunity to identify and prescribe documentary proof that the licensor would need to establish that the deductions were indeed permissible.

### **Audit and verification of revenue and license fee**

- 3.38 It appears that the stress on simplicity of the definition was driven by the intent to minimize the verification requirement for the GR or the AGR that was to be declared by the various licensed telecom operators. The need for verification arises as LF and SUC receipts constitute a significant portion of the government's non-tax revenue and their correctness needs certification by the appropriate accounting and auditing authority. Since the audited financial statements of the licensed company were accepted as the basis of reconciliation and assessment of the AGR and the payable license fee, only the deductions are required to be verified by the field offices of DoT. The statements in the audited financial statements were accepted as verified AGR of the licensee. The various conditions in the license for reconciling and assessing the license fee payable include the quarterly statement of license fee; a reconciliation statement between the figures appearing in the quarterly statements submitted to the DoT with the audited annual accounts, duly audited; and provisions for special audit of computation of revenue and license fee submitted in quarterly statement and/or the annual reconciliation statement.
- 3.39 In a recent judgment in the case of *Association of Unified Tele Services Providers and Others v. Union of India* (CA No. 4591 of 2014) delivered on April 17, 2014, the Hon'ble Supreme Court has held, among

others, that LF and radio spectrum charges received by DoT from licensees is a “revenue received by the Government”. It also held that the Comptroller and Auditor General of India (CAG) is entitled to seek the records maintained in terms of Rule 3 of the TRAI Service Providers (Maintenance of Books of Accounts and other documents) Rules, 2002 and the records maintained under clauses of the licence agreement and that TSPs are bound to make available all the books of accounts and other documents to CAG so as to ascertain whether the Union of India is getting its full share of revenue. This ruling thus requires TSPs to satisfy CAG regarding the correctness of the revenue base used for the calculation of LF and SUC and the deductions claimed in this regard.

- 3.40 Another issue that arises in the context of ease of verifiability of deductions is the procedural requirement for adding revenues accruing to a licensee from PTC collected on its behalf by other TSPs and paid to it at settlement. These charges are added to the revenue base to arrive at the amount of LF that the licensee pays to DoT (after netting deductions as admissible). This settlement process whereby LF is levied in the hands of the receiving TSP does not allow for easy verification by DoT of LF paid against deductions claimed across all licensees. An alternative approach could be to require the TSP claiming the deduction to also deduct LF at source, remit this to DoT, and issue a certificate of LF deducted at source to the TSP/ licensee receiving the pass through charges. The receiving TSP would then be required to pay LF on the revenue base net of pass through charges received by it and produce the certificates of LF deducted at source for the balance amount. This process – similar in nature to input tax credit schemes – could potentially provide an easier verification trail to the licensor, given that the current regime is marked by a uniform rate of license fee.

In this context, the following questions arise for consultation:

- Q19: Please suggest the amendments, if any, required in the existing formats of statement of revenue and licence fee to be submitted by service providers.**
- Q20: Is there a need to develop one format under unified license for combined reporting of revenue and license fee of all the telecom services or separate reporting for each telecom service as in present license system (as per respective license) should continue? If yes, please provide a template.**
- Q21: In case any new items, over and above the existing deductions, are allowed as deduction for the purpose of computation of AGR, please state what should be the verification trail for that and what supporting documents can be accepted as a valid evidence to allow the item as deduction.**
- Q22: Is there is need for audit of quarterly statement of Revenue and License Fee showing the computation of revenue and licence fee?**
- Q23: If response to Q22 is in the affirmative, should the audit of quarterly statement of Revenue and License Fee be conducted by the statutory auditor appointed under section 139 of Companies Act, 2013 or by an auditor, other than statutory auditor, qualified to act as auditor under section 139 & section 148 of Companies Act, 2013 or by any one of them?**
- Q24: Is it desirable to introduce deduction of LF at source as far as PTC payable by one TSP/ licensee to another are concerned, in the interest of easy verification of deductions?**
- Q25: Is there any other issue that has a bearing on the reckoning of GR/ AGR? Give details.**



## **CHAPTER IV**

### **ISSUES FOR CONSULTATION**

- Q1: Is there a need to review/ revise the definition of GR and AGR in the different licences at this stage? Justify with reasons. What definition should be adopted for GR in the Unified Licence in the interest of uniformity?**
- Q2: What should be the guiding principles for designing the framework of the revenue sharing regime? Is the present regime easy to interpret, simple to verify, comprehensive and does it minimize scope for the exercise of discretion by the assessing authority? What other considerations need to be incorporated?**
- Q3: In the interest of simplicity, verifiability, and ease of administration, should the rate of LF be reviewed instead of changing the definitions of GR and AGR, especially with regard to the component of USO levy?**
- Q4: If the definitions are to be reviewed/ revised, should the revenue base for levy of licence fee and spectrum usage charges include the entire income of the licensee or only income accruing from licenced activities? What are the accounting rules and conventions supporting the inclusion or exclusion of income from activities that may not require licence?**
- Q5: Should LF be levied as a percentage of GR in place of AGR in the interest of simplicity and ease of application? What should be the percentage of LF in such a case?**
- Q6: Should the revenue base for calculating LF and SUC include 'other operating revenue' and 'other income'? Give reasons.**
- Q7: Specifically, how should the income earned by TSPs from the following heads be treated? Please give reasons in support of your views.**

- (a) Income from dividend;**
- (b) Income from interest;**
- (c) Gains on account of profit on assets and securities;**
- (d) Income from property rent;**
- (e) Income from rent/ lease of passive infrastructure (towers, dark fibre, etc.);**
- (f) Income from sale of equipment including handsets;**
- (g) Other income on account of insurance claims, consultancy fees, foreign exchange gains etc.;**

**Q8: What categories of revenue/income transactions qualify for inclusion in the revenue base of TSPs on 'net' basis? Please support your view with accounting/ legal rules or conventions.**

**Q9: What are the mechanisms available for proper verification from the financial statements of TSPs of items/ income proposed to be excluded from the revenue base, especially for TSPs engaged in multiple businesses? Would new verification mechanisms be required?**

**Q10: What is the impact of new and innovative business practices adopted by telecom service providers and licensees on the definition of GR? What impact will exempting other income from the revenue base have on the verification mechanism to be adopted by the licensor?**

**Q11: Do the potential benefits accruing to TSPs by moving from a simpler to a more complex definition of the revenue base (providing for additional exclusions) justify the additional costs of strengthening the assessment, accounting and monitoring system? Should the definition of AGR remain unchanged once the revenue base is reduced by providing for additional exclusions from the top line?**

- Q12: Should minimum presumptive AGR be applicable to licensees?  
How should minimum presumptive AGR be arrived at?**
- Q13: Should minimum presumptive AGR be made applicable to access licensees only or to all licensees?**
- Q14: Should intra circle roaming charges paid to another TSP be treated as a component of PTC? If so, why?**
- Q15: How should the permissible deductions be designed keeping in view future requirements? Specifically, what treatment should be given to charges paid to IP-I providers in the context of the possibility of bringing them under the licensing regime in future?**
- Q16: Should the items discussed in paragraph 3.35 be considered as components of PTC and allowed as deduction from GR to arrive at AGR for the purpose of computation of license fee? Please provide an explanation for each item separately.**
- Q17: If answer to Q16 above is in the affirmative, please suggest the mechanism/audit trail for verification.**
- Q18: Is there any other item which can be considered for incorporation as PTC?**
- Q19: Please suggest the amendments, if any, required in the existing formats of statement of revenue and licence fee to be submitted by service providers.**
- Q20: Is there a need to develop one format under unified license for combined reporting of revenue and license fee of all the telecom services or separate reporting for each telecom service as in present license system (as per respective license) should continue? If yes, please provide a template.**
- Q21: In case any new items, over and above the existing deductions, are allowed as deduction for the purpose of computation of AGR, please state what should be the verification trail for that and what supporting documents can be accepted as a valid evidence to allow the item as deduction.**

- Q22: Is there is need for audit of quarterly statement of Revenue and License Fee showing the computation of revenue and licence fee?**
- Q23: If response to Q22 is in the affirmative, should the audit of quarterly statement of Revenue and License Fee be conducted by the statutory auditor appointed under section 139 of Companies Act, 2013 or by an auditor, other than statutory auditor, qualified to act as auditor under section 139 & section 148 of Companies Act, 2013 or by any one of them?**
- Q24: Is it desirable to introduce deduction of LF at source as far as PTC payable by one TSP/ licensee to another are concerned, in the interest of easy verification of deductions?**
- Q25: Is there any other issue that has a bearing on the reckoning of GR/ AGR? Give details.**

**DEFINITION OF REVENUE UNDER DIFFERENT LICENSE AGREEMENT**

<b>Name of Service</b>	<b>Gross Revenue</b>	<b>Adjusted Gross revenue</b>
<b>UASL</b>	The Gross Revenue shall be inclusive of installation charges, late fees, sale proceeds of handsets (or any other terminal equipment etc.), revenue on account of interest, dividend, value added services, supplementary services, access or interconnection charges, roaming charges, revenue from permissible sharing of infrastructure and any other miscellaneous revenue, without any set-off for related item of expense, etc.	For the purpose of arriving at the Adjusted Gross Revenue the following will be excluded from the Gross Revenue to arrive at the adjusted gross revenue:  (i) PSTN related Call charges (access charges) actually paid to Bharat Sanchar Nigam Ltd. (BSNL) / Mahanagar Telephone Nigam Ltd. (MTNL) or other telecom service providers within India.  (ii) Roaming revenues actually passed on to other telecom service providers, and  (iii) Service Tax on provision of service and Sales Tax actually paid to the Government; if gross revenue had included the component of Service Tax.
<b>CMTS</b>	The Gross Revenue shall be inclusive of installation charges, late fees, sale proceeds of handsets (or any other terminal equipment etc.), revenue on account of interest, dividend, value added services, supplementary services, access or interconnection charges, roaming charges, revenue from permissible sharing of infrastructure and any other miscellaneous revenue, without any set-off for related item of expense, etc.	For the purpose of arriving at the “Adjusted Gross Revenue” the following will be excluded from the Gross Revenue to arrive at the adjusted gross revenue:  (i) PSTN related Call charges (access charges) actually paid to Bharat Sanchar Nigam Ltd. (BSNL) / Mahanagar Telephone Nigam Ltd. (MTNL) or other telecom service providers within India.  (ii) Roaming revenues actually passed on to other telecom service providers, and  (iii) Service Tax on provision of service and Sales Tax actually paid to the Government; if gross revenue had included the component of Service Tax.

<p><b>BASIC</b></p>	<p>The Gross Revenue shall include all revenues accruing to the LICENSEE on account of goods supplied, services provided, leasing of infrastructure, use of its resources by others, application Fee, installation charges, call charges, late Fees, sale proceeds of instruments (or any terminal equipment including accessories), handsets, band width, income from Value Added Services, supplementary services, access or interconnection charges, roaming charges, any lease or rent charges for hiring of infrastructure etc. and any other miscellaneous items including interest, dividend etc. without any set off of related items of expense, etc.</p>	<p>Adjusted Gross Revenue for the purpose of levying LICENCE Fee as a percentage of revenue shall mean the Gross Revenue as reduced by :</p> <ul style="list-style-type: none"> <li>(i) PSTN related call charges (access charges) actually paid to other telecom service providers for carriage of calls;</li> <li>(ii) service tax for provision of service and sales tax actually paid to the Government, if gross revenue had included the component of service tax.</li> </ul>
<p><b>NLD</b></p>	<p>Gross Revenue is the revenue income accruing to the Licensee by way of providing NLD service under the LICENCE including the revenue on account of supplementary/value added services and leasing of infrastructure, interest, dividend etc. The Gross Revenue shall also include previous debits (e.g. bad debts recovered, of excess provisions in earlier years.) It is clarified that any lease or rent charges for hiring of</p>	<p>Adjusted Gross Revenue for the purpose of levying Licence fee as a percentage of revenue shall be Gross Revenue as reduced by the component part of a pass-through nature payable to other service providers to whose networks the Licensee's NLD network is interconnected for carriage of calls.</p>

	<p>infrastructure shall not be so deducted. Service tax and sales tax collected and passed on to the Government(s) from customers of the LICENSEE shall not form a part of the Revenue.</p>	
<b>ILD</b>	<p>The Gross Revenue shall include all revenues accruing to the LICENSEE on account of goods supplied, services provided, leasing of infrastructure, use of its resources by others, application Fee, installation charges, call charges, late fees, sale proceeds of instruments (or any terminal equipment including accessories), handsets, band width, income from Value Added Services, supplementary services, access or interconnection charges, any lease or rent charges for hiring of infrastructure etc. and any other miscellaneous items including interest, dividend etc. without any set off of related items of expense, etc.</p>	<p>Adjusted Gross Revenue for the purpose of levying Licence Fee as a percentage of revenue shall mean the Gross Revenue as reduced by: Call charges (access charges) actually paid to other telecom service providers for carriage of calls; service tax for provision of service and sales tax actually paid to the Government, if gross revenue had included the component of service tax.</p>
<b>ISP</b>	<p>The Gross Revenue shall be inclusive of revenue from Internet access service, revenue from internet contents, revenue from Internet Telephony service, revenue from activation charges, revenue from sale, lease or renting of bandwidth, links, R&amp;G</p>	<p>For the purpose of arriving at the Adjusted Gross Revenue the following shall be excluded from the Gross Revenue to arrive at the AGR:</p> <p>(i) Charges from pure Internet service, activation charges from pure internet subscribers. Pure Internet Services shall mean any method / device / technology to provide access to Internet unless explicitly prohibited and all</p>

	<p>cases, Turnkey projects etc., revenue from IPTV service, late fees, sale proceeds of terminal equipments, revenue on account of interest, dividend, value added services, supplementary services, interconnection charges, roaming charges, revenue from permissible sharing of infrastructure and any other miscellaneous revenue, without any set-off for related item of expense etc.</p>	<p>content available including web-hosting, web-colocation which is available on internet without access restriction.</p> <p>(ii) Service Tax on provision of service and Sales Tax actually paid to the Government if gross revenue had included as component of Sales Tax and Service Tax.</p> <p>(iii) Roaming revenue actually passed on to other eligible/entitled telecom service provider.</p>
<p><b>VSAT</b></p>	<p>The Gross Revenue shall include all revenues accruing to the Licensee on account of goods supplied, services provided, leasing/hiring of infrastructure, use of its resources by others, application fees, installation charges, call charges, late fees, sale proceeds of instruments (or any terminal equipment including accessories), VSAT hardware/software, fees on account of Annual Maintenance Contract/ Annual Comprehensive Maintenance Contract income from value added services, supplementary services, access or interconnection charges, etc. and any other miscellaneous item including interest, dividend etc. without any set-off of related item of expense etc.</p>	<p>Adjusted Gross Revenue for the purpose of levying Licence Fee as a percentage of revenue shall include the Gross Revenue excluding:-</p> <p>(i) charges of pass through nature actually paid to other Telecom service provider(s) to whose network, the Licensee's network is interconnected for carriage of data.</p> <p>(ii) Service tax and sales tax actually paid to the Government, if gross revenue had included the component of service tax.</p>



<b>PMRTS</b>		<p>License Fees:</p> <p>(a) All Captive Mobile Radio Trunked Service licensees shall pay license fee except for agencies working for public service such as Police, Fire and Government Security.</p> <p>(b) License fee for captive mobile radio trunking service Systems shall be Rs.300/- per annum per terminal subject to a minimum of Rs.25000/- per annum per licensed area.</p>
<b>GMPCS</b>	<p>The Gross Revenue shall be inclusive of installation charges, late fees, sale proceeds of handsets (or any other terminal equipment etc.), revenue on account of interest, dividend, value added services, supplementary services, access or interconnection charges, roaming charges, revenue from permissible sharing of infrastructure and any other miscellaneous revenue, without any set-off for related item of expense, etc.</p>	<p>For the purpose of arriving at the Adjusted Gross Revenue the following will be excluded from the Gross Revenue to arrive at the adjusted gross revenue:</p> <p>(i) PSTN related Call charges (access charges) actually paid to Bharat Sanchar Nigam Ltd. (BSNL) / Mahanagar Telephone Nigam Ltd. (MTNL) or other telecom service providers within India.</p> <p>(ii) Roaming revenues actually passed on to other telecom service providers, and</p> <p>(iii) Service Tax on provision of service and Sales Tax actually paid to the Government; if gross revenue had included the component of Service Tax.</p>
<b>IPLC</b>	<p>The Gross Revenue shall include all revenues accruing to the Licensee on account of goods supplied, services provided, leasing of infrastructure, use of its resources by others, application Fee, installation charges, call charges, late fees, sale proceeds of instruments (or any terminal</p>	<p>Adjusted Gross Revenue for the purpose of levying Licence Fee as a percentage of revenue shall mean the Gross Revenue as reduced by:</p> <p>(i) charges actually paid to other telecom service providers for procurement of bandwidth last mile connectivity used for provision of end to end IPLC (Note any charges paid for multiplexing, de-multiplexing, billing system and related customer management are not to</p>

	<p>equipment including accessories), handsets, band width, income from Value Added Services, supplementary services, access or interconnection charges, any lease or rent charges for hiring of infrastructure etc. and any other miscellaneous items including interest, dividend etc. without any set off of related items of expense, etc.</p>	<p>be deducted).</p> <p>(ii) Service tax for provision of service and sales tax actually paid to the Government if gross revenue had included the component of service tax and sales tax.</p>
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**ANNEXURE II**

<b>SL No.</b>	<b>TRAI's recommendations dated September 13, 2006</b>	<b>TDSAT order dated August 30, 2007 on TRAI's Recommendations</b>
<b>(i)</b>	<p><b>Income from Dividend:</b></p> <p>The Authority recommends that income from dividend even though part of the revenue, cannot be said to represent revenue from the licensed activity and therefore should not be included in the AGR.</p> <p><b>Recommendation:</b> Should not be included in AGR.</p>	<p>Agreed with TRAI's recommendations.</p>
<b>(ii)</b>	<p><b>Income from Interest:</b></p> <p>The Authority recommends that that interest on refundable deposits be calculated at a rate of SBI's term deposit rate for six months' deposits.</p> <p>For license fee payable in first half of the financial year, the prevalent interest rate on 1st April and for payments in second half of the financial year the prevalent interest rate on 1st of October can be made applicable.</p> <p>Any fund raised and income earned on the strength of telecom service viz. linkage with tariff will also have similar treatment for inclusion in AGR. The Authority also recommends that only interest so calculated on the refundable deposits should be added to the AGR instead of entire amount of interest earned.</p> <p><b>Recommendation:</b> Only interest calculated on refundable deposits to be added to the AGR.</p>	<p>Agreed with TRAI's recommendations.</p>
<b>(iii)</b>	<p><b>Other Income (Capital gains on account of profit on sale of assets and securities):</b></p> <p>The Authority recommends that revenue on account of sale of immovable property, securities, warrants or debt instruments, other items of fixed assets should not be</p>	<p>Agreed with TRAI's recommendations without rider.</p>

	<p>part of AGR unless there is verifiable data that the receipts have come from ‘establishing, maintaining and working of telecommunication’.</p> <p><b>Recommendation:</b> Should not be included in AGR.</p>	
<b>(iv)</b>	<p><b>Gains from Foreign Exchange rates fluctuations</b></p> <p>Foreign exchange fluctuation is a contingency which has impact on every business which may have something to do with foreign exchange. Fluctuations in foreign exchange rates have nothing to do with licensed activity of telecom service providers.</p> <p><b>Recommendation:</b> Should not be included in AGR.</p>	Agreed with TRAI’s recommendations.
<b>(v)</b>	<p><b>Reversal of provisions and vendor’s credits</b></p> <p><b>Recommendation:</b></p> <p>(a) Revenue arising out of reversal of provisions like bad debts and taxes should not form part of AGR;</p> <p>(b) Revenue arising from reversal of Vendors’ credits should form part of AGR.</p>	<p>(a) Modified TRAI’s recommendations. TDSAT allowed as deduction.</p> <p>(b) Agreed with TRAI’s recommendations.</p>
<b>(vi)</b>	<p><b>Income from property rent</b></p> <p>Revenue from property rent should be excluded from AGR provided it is clearly established that the property is nowhere connected to “establishing, maintaining and working of telecommunication”.</p> <p><b>Recommendation:</b> Should not be included in AGR.</p>	Agreed with TRAI’s recommendations.
<b>(vii)</b>	<p><b>Income from sale/lease of Passive Infrastructure like towers, dark fibre etc.</b></p> <p>Service providers create assets for establishing, maintaining and carrying out telecom activities and capabilities to</p>	Agreed with TRAI’s recommendations.

	<p>provide towers and dark fibres on rent emanate from licence. The licensees have special privilege like right of way which facilitates laying down of ducts and fibre. This facility is not available to independent/non-licensed operators.</p> <p><b>Recommendation:</b> Should be included in AGR</p>	
(viii)	<p><b>Other income including miscellaneous income</b></p> <p><b>Recommendation:</b></p> <p>(a) Revenue streams like sale of tenders, directories, forms, forfeiture of deposits/earnest money, management fees, consultancy fees, and training charges from the telecom service should form part of the AGR.</p> <p>(b) Revenue from sale of fixed assets which is in the nature of capital receipts and insurance claims should not be part of AGR.</p> <p>(c) Payments received on behalf of third party should form part of AGR.</p> <p>(d) Other items falling under categories of miscellaneous /other income will have to be decided for taking a view regarding its inclusion or exclusion on a case to case basis.</p>	<p>(a) Agreed with TRAI's recommendations but revenue from management fees, consultancy fees and training charges should not be included in AGR.</p> <p>(b) Agreed with TRAI's recommendations.</p> <p>(c) Modified. Should not be included in AGR.</p> <p>(d) Agreed with TRAI's recommendations</p>
(ix)	<p><b>Inclusion of Revenue from one licensed activity in the revenue of another licensed activity</b></p> <p>Many service providers are integrated operators and provide all telecom services. Since license fee on number of services is charged at different rates, it is possible for the service providers to book revenue in such a manner that license fee liabilities are minimized.</p> <p><b>Recommendation:</b> In the light of existing provisions of the license, revenue from TV uplinking service and internet service should be part of the AGR.</p>	<p>Not agreed with TRAI's recommendations. Allowed as deduction for computation of AGR.</p>

<b>(x)</b>	<p><b>Revenue from sale of equipment including sale of handsets.</b></p> <p><b>Recommendation:</b> Revenue from discernible and stand-alone sale of handsets or telecom equipment, which is not bundled with telecom service, should be excluded from AGR. It further recommended that sale of handsets or telecom equipment bundled with telecom service should be part of AGR.</p>	Agreed with TRAI's recommendations.
<b>(xi)</b>	<p><b>Receipts from USO Funds.</b></p> <p>The USO subsidy is granted by the DoT to cover the operating losses of the telecom licensees from telecom connections provided in rural areas.</p> <p><b>Recommendation:</b> Receipt from USO Fund Should not form part of AGR</p>	Agreed with TRAI's recommendations.
<b>(xii)</b>	<p><b>Receipt from ADC (Access Deficit Charge)</b></p> <p><b>Recommendation:</b> Revenue receipts on account of ADC should be part of AGR.</p>	Agreed with TRAI's recommendations.
<b>(xiii)</b>	<p><b>Deduction of leased line charges, port charges, interconnection set-up costs, signaling charges</b></p> <p>Telecom is a networked industry and setting-up of interconnection with other operators is as much part of operators' cost as any other element of its own network. Payments made to other service providers on account of port charges, leased lines are costs for the service providers for giving effective telecom services, expansion of their own network and interconnecting with other operators which is also mandatory under the Licence. Expenditure on effective network operation viz. port charges etc. cannot be considered similar as interconnection usage charge as interconnection usage charge is revenue collected from the customer by one service</p>	Agreed with TRAI's recommendations.

	<p>provider for using telecom network of another service provider. The interconnection usage charge eventually passed on to another operator. It is in this background that exclusion of interconnection usage charge is specifically provided in the Migration Package and also in the respective service licenses.</p> <p><b>Recommendation:</b></p> <p>Costs on account of port charges, interconnection setup charges, leased line, sharing of infrastructure, roaming signaling charges and content charges should form part of AGR.</p>	
(xiv)	<p><b>Bad debts, waivers, discounts from AGR</b></p> <p>Bad debts are normal costs attached to business and are standard items of expenditure in the profit and loss account. Being part of business such risks including recovery of such costs is built-in in the tariff structure. There is inherent possibility of its occurrence in business.</p> <p><b>Recommendations:</b></p> <p>Should be part of AGR.</p>	<p>Not agreed with TRAI's recommendations. Allowed as deduction for computation of AGR.</p>
(xv)	<p><b>Inclusion of items of revenue on accrual basis but exclusion of items of cost on actual payment basis</b></p> <p><b>Recommendation:</b></p> <p>(a) Service tax should be shown on accrual basis both for inclusion and exclusion for the purpose of AGR.</p> <p>(b) Interconnection usage is also to be shown on accrual basis both for inclusion and exclusion from the gross revenue for purpose of AGR.</p>	<p>(a) Agreed with TRAI's recommendations.</p> <p>(b) Agreed with TRAI's recommendations.</p>

### ANNEXURE III

#### DEFINITIONS AS PER UNIFIED LICENCE AGREEMENT

<b>Access Service</b>	<p>The Gross Revenue shall be inclusive of installation charges, late fees, sale proceeds of handsets (or any other terminal equipment etc.), revenue on account of interest, dividend, value added services, supplementary services, access or interconnection charges, roaming charges, revenue from permissible sharing of infrastructure and any other miscellaneous revenue, without any set-off for related item of expense, etc.</p>	<p>For the purpose of arriving at the Adjusted Gross Revenue, following shall be excluded from the Gross Revenue to arrive at the AGR:</p> <ul style="list-style-type: none"> <li>(i) PSTN/PLMN/GMPCS related call charges (Access Charges) actually paid to other eligible/entitled telecommunication service providers within India;</li> <li>(ii) Roaming revenues actually passed on to other eligible/entitled telecommunication service providers and;</li> <li>(iii) Service Tax on provision of service and Sales Tax actually paid to the Government if gross revenue had included as component of Sales Tax and Service Tax.</li> </ul>
<b>Internet service</b>	<p>Gross Revenue shall be inclusive of all types of revenue from Internet services, revenue from Internet access service, revenue from internet contents, revenue from Internet Telephony service, revenue from activation charges, revenue from sale, lease or renting of bandwidth, links, R&amp;G cases, Turnkey projects, revenue from IPTV service, late fees, sale proceeds of terminal equipments, revenue on account of interest, dividend, value added services, supplementary services, interconnection charges, roaming charges, revenue from permissible sharing of</p>	<p>For the purpose of arriving at the Adjusted Gross Revenue the following shall be excluded from the Gross Revenue to arrive at the AGR:</p> <ul style="list-style-type: none"> <li>(i) Service Tax on provision of service and Sales Tax actually paid to the Government if gross revenue had included as component of Sales Tax and Service Tax.</li> <li>(ii) Roaming revenue actually passed on to other eligible/entitled telecom service provider.</li> </ul>



	infrastructure etc. allowing only those deductions available for pass through charges and taxes/levies as in the case of access services, without any set-off for related item of expense etc.	
<b>NLD service</b>	Gross Revenue shall mean the Gross total Revenue income accruing to the Licensee by way of providing NLD service under the License including the revenue on account of supplementary/value added services and leasing of infrastructure, interest, dividend etc. The Gross Revenue shall also include previous debits (e.g. bad debts recovered, of excess provisions in earlier years.) It is clarified that any lease or rent charges for hiring of infrastructure shall not be so deducted.	Adjusted Gross Revenue for the purpose of levying License fee shall mean the Gross Revenue as reduced by the: (i) component part of a pass-through nature actually paid to other telecom service providers to whose networks the Licensee's NLD network is interconnected, for carriage of calls. (ii) Service tax and sales tax collected and passed on to the Government(s) from customers of the Licensee shall not form a part of the Revenue.
<b>ILD service</b>	The Gross Revenue shall include all revenues accruing to the Licensee on account of goods supplied, services provided, leasing of infrastructure, use of its resources by others, application Fee, installation charges, call charges, late Fees, sale proceeds of instruments (or any terminal equipment including accessories), handsets, bandwidth, income from Value Added Services, supplementary services, access or interconnection charges, any lease or rent charges for hiring of infrastructure etc. and any other miscellaneous items including interest, dividend etc. without any set off of related items of expense, etc.	Adjusted Gross Revenue for the purpose of levying License Fee as a percentage of revenue shall mean the Gross Revenue as reduced by: (i) Call charges (access charges) actually paid to other telecom service providers for carriage of calls; (ii) service tax for provision of service and sales tax actually paid to the Government, if gross revenue had included the component of service tax.

<b>GMPCS</b>	The Gross Revenue shall be inclusive of installation charges, late fees, safe proceeds of handsets (or any other terminal equipment etc.), revenue on account of interest, dividend, value added services, supplementary services, access or interconnection charges, roaming charges, revenue from permissible sharing of infrastructure and any other miscellaneous revenue, without any set-off for related item of expense, etc.	For the purpose of arriving at the Adjusted Gross Revenue, the following will be excluded from the Gross Revenue to arrive at the adjusted gross revenue: (i) PSTN/PLMN/GMPCS related call charges (Access Charges actually paid to other eligible/entitled telecommunication service providers, within India, (ii) Roaming revenues actually passed on to other telecom service providers, and (iii) Service Tax on provision of service and Sales Tax actually paid to the Government; if gross revenue had included the component of Service Tax.
<b>PMRTS</b>	The Gross revenue shall include all revenues accruing to the Licensee on account of goods supplied, services provided, leasing/hiring of infrastructure, use of its resources by others, application fees, installation charges, call charges, late fees, sale proceeds of instruments (or any terminal equipment including accessories), fees on account of annual maintenance contract, income from value added services, supplementary services, access or interconnection charges, etc. and any other miscellaneous item including interest, dividend etc. without any set-off of related item of expense etc.	Adjusted Gross Revenue for the purpose of levying license fee as a percentage of revenue shall include the Gross Revenue excluding: (i) Charges of pass through nature paid to other telecom service provider(s) to whose network, the licensee's network is interconnected, (ii) Service tax and Sales tax actually paid to the Government, if Gross Revenue had included the component of Service tax/Sales tax.

<p><b>VSAT</b></p>	<p>The Gross Revenue shall include all revenues accruing to the Licensee on account of goods supplied, services provided, leasing/hiring of infrastructure, use of its resources by others, application fees, installation charges, call charges, late fees, sale proceeds of instruments (or any terminal equipment including accessories), VSAT hardware/software, fees on account of Annual Maintenance Contract/ Annual Comprehensive Maintenance Contract income from value added services, supplementary services, access or interconnection charges, etc. and any other miscellaneous item including interest, dividend etc. without any set-off of related item of expense etc.</p>	<p>Adjusted Gross Revenue for the purpose of levying License Fee as a percentage of revenue shall include the Gross Revenue excluding:-</p> <ul style="list-style-type: none"> <li>(i) charges of pass through nature actually paid to other Telecom service provider(s) to whose network, the Licensee's network is interconnected for carriage of data.</li> <li>(ii) Service tax and sales tax actually paid to the Government, if gross revenue had included the component of service tax.</li> </ul>
<p><b>INSAT MSS- Reporting Service</b></p>	<p>The Gross revenue shall include all revenues accruing to the Licensee on account of goods supplied, services provided, leasing/hiring of infrastructure, use of its resources by other, application fees, installation charges, call charges, late fees, sale proceeds of instruments (or any terminal equipment including accessories), INSAT-MSS Reporting Service hardware/software, fees on account of Annual Maintenance Contract/ Annual Comprehensive Maintenance Contract income from value added services, other miscellaneous item including interest, dividend etc. without any set-off of related item of expense etc.</p>	<p>Adjusted Gross Revenue for the purpose of levying license fee as a percentage of revenue shall include the Gross Revenue excluding:</p> <ul style="list-style-type: none"> <li>(i) Charges of pass through nature actually paid to other Telecom service provider(s) to whose network, the Licensee's network is interconnected for carriage of data.</li> <li>(ii) Service tax and Sales tax actually paid to the Government, if Gross Revenue had included the component of Service tax and Sales tax.</li> </ul>

<p><b>IPLC Service</b></p>	<p>The Gross revenue shall include all revenues accruing to the Licensee on account of goods supplied, services provided, leasing/hiring of infrastructure, use of its resources by other, application fees, installation charges, call charges, late fees, sale proceeds of instruments (or any terminal equipment including accessories), handsets, bandwidth, income from Value Added Services, supplementary services, access or interconnection charges, any lease or rent charges for hiring of infrastructure etc. and any other miscellaneous items including interest, dividend etc. without any set off of related items of expense, etc.</p>	<p>Adjusted Gross Revenue for the purpose of levying license fee as a percentage of revenue shall mean the Gross Revenue as reduced by:</p> <ul style="list-style-type: none"> <li>(i) Charges actually paid to other telecom service providers for procurement of bandwidth, last mile connectivity used for provision of end to end IPLC; (Note: Any charges paid for multiplexing, demultiplexing, billing system and related customer management are not to be deducted.)</li> <li>(ii) Service tax for provision of service and sales tax actually paid to the Government, if gross revenue had included the component of service tax and sales tax.</li> </ul>
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**Annexure IV**

**Format of Statement of Revenue and License Fee**  
 \_\_\_\_\_(Name and address of operator)  
**Access Services in \_\_\_\_\_ ( Service Area)**  
**Statement of Revenue and License Fee for the Quarter**  
 .....  
**of the financial year.....**

**(AMOUNT IN RUPEES)**

<b>S.N.</b>	<b>PARTICULARS</b>	<b>ACTUALS FOR THE PREVIOUS QUARTER</b>	<b>ACTUALS FOR THE CURRENT QUARTER</b>	<b>CUMULATIVE UPTO THE CURRENT QUARTER.</b>
<b>1</b>	<b>Revenue from services</b>			
<b>A</b>	<b>Revenue from wire-line subscribers:</b>			
(i)	Rentals			
(ii)	Call revenue within service area			
(iii)	National LONG DISTANCE CALL revenue			
(iv)	International LONG DISTANCE CALL revenue			
(v)	Pass thru revenue for usage of other networks (give OPERATOR-wise details)			
(vi)	Service tax			
(vii)	Service charges			
(viii)	Charges on account of any other value added services, Supplementary Services etc.			
(ix)	Any other income / miscellaneous receipt from wireline subscribers.			
<b>B</b>	<b>Revenue from WLL subscribers : (Fixed)</b>			
(i)	Rentals			
(ii)	Call revenue within service area			
(iii)	National LONG DISTANCE CALL revenue			
(iv)	International LONG DISTANCE CALL revenue			
(v)	Pass thru revenue for usage of other networks (give OPERATOR-wise details)			

(vi)	Service tax			
(vii)	Service charges			
(viii)	Charges on account of any other value added services, Supplementary Services etc.			
(ix)	Any other income / miscellaneous receipt from WLL subscribers.			
<b>C</b>	<b>Revenue from WLL subscribers : (handheld)</b>			
(i)	Rentals			
(ii)	Call revenue within service area			
(iii)	National LONG DISTANCE CALL revenue			
(iv)	International LONG DISTANCE CALL revenue			
(v)	Pass thru revenue for usage of other networks (give OPERATOR-wise details)			
(vi)	Service tax			
(vii)	Service charges			
(viii)	Charges on account of any other value added services, Supplementary Services etc.			
(ix)	Any other income / miscellaneous receipt from WLL subscribers.			
<b>D</b>	<b>Revenue from Mobile Services:</b>			
<b>D (a)</b>	<b>Revenue from GSM and 3G spectrum based Mobile Services:</b>			
<b>D(a) 1.</b>	<b>Post paid options:</b>			
i.	Rentals			
ii	Activation Charges			
iii.	Airtime Revenue			
iv.	Pass through charges (provide operator-wise details)			
v.	Service Tax			
vi.	Roaming charges			
vii	Service charges			
viii.	Charges on account of any other value added services. Supplementary Services etc.			
ix.	Any other income/ miscellaneous			

	receipt from post paid options.			
<b>D(a) 2.</b>	<b>Pre-paid options:</b>			
i.	Sale of pre-paid SIM cards including full value of all components charged therein.			
ii.	<b>Activation Charges</b>			
iii	<b>Airtime Revenue</b>			
iv	<b>Pass through charges (provide operator-wise details)</b>			
v	<b>Service Tax</b>			
vi	<b>Roaming charges</b>			
vii	<b>Service charges</b>			
viii.	<b>Charges on account of any other value added services. Supplementary Services etc.</b>			
ix	Any other income/ miscellaneous receipt from pre-paid options.			
<b>D(a) 3. i.</b>	<b>Revenue from Mobile Community phone service including full value of all components charged therein.</b>			
<b>ii.</b>	<b>Any other income/ miscellaneous receipt from Mobile Community phone service.</b>			
<b>D (b)</b>	<b>Revenue from CDMA based Mobile Services:</b>			
<b>D(b) 1.</b>	<b>Post paid options:</b>			
i.	Rentals			
ii	Activation Charges			
iii.	Airtime Revenue			
iv.	Pass through charges (provide operator-wise details)			
v.	Service Tax			
vi.	Roaming charges			
vii	Service charges			
viii.	Charges on account of any other value added services. Supplementary Services etc.			
ix.	Any other income/ miscellaneous receipt from post paid options.			

<b>D(b) 2.</b>	<b>Pre-paid options:</b>			
i.	Sale of pre-paid SIM cards including full value of all components charged therein.			
ii.	<b>Activation Charges</b>			
iii	<b>Airtime Revenue</b>			
iv	<b>Pass through charges (provide operator-wise details)</b>			
v	<b>Service Tax</b>			
vi	<b>Roaming charges</b>			
vii	<b>Service charges</b>			
viii.	<b>Charges on account of any other value added services. Supplementary Services etc.</b>			
ix.	Any other income/ miscellaneous receipt from pre-paid options.			
<b>D(b) 3. i.</b>	<b>Revenue from Mobile Community phone service including full value of all components charged therein.</b>			
<b>ii.</b>	<b>Any other income/ miscellaneous receipt from Mobile Community phone service.</b>			
<b>D (c)</b>	<b>Revenue from BWA Services:</b>			
<b>D(c) 1.</b>	<b>Post paid options:</b>			
i.	Rentals			
Ii	Activation Charges			
iii.	Airtime Revenue			
iv.	Pass through charges (provide operator-wise details)			
v.	Service Tax			
vi.	Roaming charges			
Vii	Service charges			
viii.	Charges on account of any other value added services. Supplementary Services etc.			
ix.	Any other income/ miscellaneous receipt from post paid options.			



<b>D(c) 2.</b>	<b>Pre-paid options:</b>			
i.	Sale of pre-paid SIM cards including full value of all components charged therein.			
Ii	<b>Activation Charges</b>			
iii.	<b>Airtime Revenue</b>			
iv.	<b>Pass through charges (provide operator-wise details)</b>			
v.	<b>Service Tax</b>			
vi.	<b>Roaming charges</b>			
Vii	<b>Service charges</b>			
viii.	<b>Charges on account of any other value added services. Supplementary Services etc.</b>			
ix.	Any other income/ miscellaneous receipt from pre-paid options.			
<b>D(c) 3. i.</b>	<b>Revenue from Mobile Community phone service including full value of all components charged therein.</b>			
<b>ii.</b>	<b>Any other income/ miscellaneous receipt from Mobile Community phone service.</b>			
<b>E</b>	<b>Revenue from Voice Mail /any other value added service</b>			
<b>2</b>	<b>Income from trading activity (all including of sales tax)</b>			
(i)	Sale of handsets ( <b>Excluding Sales Tax</b> )			
(ii)	Sale of accessories etc. ( <b>Excluding Sales Tax</b> )			
(iii)	Any other income/ miscellaneous receipt from trading activity. ( <b>Excluding Sales Tax</b> )			
(iv)	<b>Sales Tax</b>			
<b>3</b>	<b>Revenue from roaming.</b>			
i.	Roaming facility revenue from own subscribers.			
ii.	Roaming revenue from own			

	subscriber visiting other networks including STD/ISD/pass thru charges for transmission of incoming call during roaming.			
iii.	Roaming Commission earned.			
iv.	Roaming revenue on account of visiting subscribers from other networks (provide operator-wise details).			
v.	Service Tax if not included above.			
vi.	Any other income/miscellaneous receipt from roaming.			
<b>4</b>	<b>Income from investments</b>			
(i)	Interest income			
(ii)	Dividend income			
(iii)	Any other miscellaneous receipt from investments.			
<b>5</b>	<b>Non-refundable deposits from subscribers</b>			
<b>6</b>	<b>Revenue from franchisees /resellers including all commissions and discounts etc. excluding the revenues already included in IA&amp;IB</b>			
<b>7</b>	<b>Revenue from sharing/ leasing of infrastructure</b>			
<b>8</b>	<b>Revenue from sale/ lease of bandwidth, links, R&amp;G cases, turnkey projects etc.</b>			
<b>9</b>	<b>Revenue from other Operators on account of pass through call charges</b> (provide operator-wise details).			
<b>10</b>	<b>Revenue from other Operators on account of provisioning of interconnection</b> (provide operator-wise details)			

<b>11</b>	<b>Miscellaneous revenue</b>			
<b>AA</b>	<b>GROSS REVENUE OF THE Licensee COMPANY: (Add 1-11)</b>			
<b>BB</b>	<b>DEDUCT:</b>			
1	Charges actually paid to other Service Provider(s) (Operator-wise)			
2	Roaming revenues actually paid to other CMSPs and GMPCS service providers. (operator-wise)			
3	Service Tax paid to the Government			
4	Sales Tax paid to the Government			
<b>BB</b>	<b>TOTAL DEDUCTIBLE REVENUE (1+2+3+4)</b>			
<b>CC</b>	<b>ADJUSTED GROSS REVENUE (AA-BB)</b>			
	<b>REVENUE SHARE @ ----- - OF ADJUSTED GROSS REVENUE</b>			

**Format of Statement of Revenue and License Fee**  
 \_\_\_\_\_ (Name and address of operator)  
**NATIONAL LONG DISTANCE SERVICE**  
**Statement of Revenue and License Fee for the Quarter**  
 ..... of the financial  
 year.....  
**(AMOUNT IN RUPEES)**

S.N.	PARTICULARS	ACTUALS FOR THE PREVIOUS QUARTER	ESTIMATED FOR THE CURRENT QUARTER	CUMULATIVE UPTO THE PREVIOUS QUARTER
1.	<b>Revenue from Services:</b>			
i.	Revenue from provisioning of NLD service as defined in clause 2 of schedule -I of the License agreement			
ii.	Revenue from supplementary/value added services.			
iii.	Service Tax			
iv.	Any other income/ miscellaneous receipt.			
1(a)	Revenue from calling cards			
(i)	Revenue from sale of calling cards			
(ii)	Any other income/Miscellaneous receipt from Calling Cards			
(iii)	Service Tax			
(iv)	Sales Tax			
2.	<b>Income from investments.</b>			
i.	Interest income			
ii.	Dividend income			
iii.	Any other miscellaneous receipt from investments.			
3.	<b>Non-refundable deposits.</b>			
4.	<b>Revenue from sharing/leasing of other infrastructure</b>			
5.	<b>Miscellaneous revenue.</b>			

AA	<b>GROSS REVENUE OF THE Licensee COMPANY:</b>			
	<b>DEDUCT:</b>			
1	Revenue of pass thru nature actually passed on to other service providers.(operator-wise details). Note: Lease/rent charges for hiring of infrastructure not to be deducted.			
1(a)	Revenue of pass thru nature actually passed on to other telecom service providers for usage of Calling cards at the originating point (Operator-wise detail)			
1(b)	Revenue of pass thru nature actually passed on to other telecom service providers for usage of Calling Cards at the terminating Point (operator-wise detail)			
2.	Service Tax paid to the Government.			
BB	<b>TOTAL DEDUCTIBLE REVENUE</b>			
CC	<b>ADJUSTED GROSS REVENUE: (AA - BB)</b>			
	REVENUE SHARE @.....OF ADJUSTED GROSS REVENUE:			

**Format of Statement of Revenue and License Fee**  
**----- (Name and address of OPERATOR)**  
**International Long Distance Service**  
**Statement of revenue and License Fee for the Quarter -----**  
**Of the financial year -----**  
**(amount in Rupees)**

S.N.	PARTICULARS	ACTUALS FOR THE PREVIOUS QUARTER	CUMULATIVE UPTO THE PREVIOUS QUARTER.
1	Revenue from traffic		
A	Revenue		
(i)	Outgoing traffic revenue		
(ii)	Incoming traffic revenue		
(iii)	Pass thru revenue for usage of other networks (give OPERATOR-wise details)		
(iv)	Service tax		
(v)	Service charges		
(vi)	Charges on account of any other value added services, Supplementary Services etc.		
(vii)	Any other income / miscellaneous receipt.		
(viii)	Revenue from calling cards		
(a)	Revenue from sale of calling cards		
(b)	Any other income/Miscellaneous receipt from calling cards		
( c )	Service Tax		
(d)	Sales Tax		
2	Income from investments (made on the strength of this License)		
(i)	Interest income		
(ii)	Dividend income		
(iii)	Any other miscellaneous receipt from investments.		
3	Non-refundable deposits from subscribers		
4	Revenue from franchisees		

5	Revenue from sharing/ leasing of infrastructure		
6	Revenue from sale/ lease of bandwidth, links, R&G cases, turnkey projects etc.		
7	Revenue from other OPERATORS on account of pass thru call charges.		
8	Revenue from other OPERATORS on account of provisioning of interconnection		
9	Miscellaneous revenue		
AA	GROSS REVENUE OF THE Licensee COMPANY: (Add 1-9)		
B	DEDUCT:		
1	Charges passed on to other SERVICE PROVIDER(s) (OPERATOR-wise) (Copy of agreement to be provided in the first quarter.		
1(a)	Revenue of pass thru nature actually passed on to other telecom service providers for usage of Calling cards at the originating point (operator-wise details)		
1(b)	Revenue of pass thru nature actually passed on to other telecom service providers for usage of Calling cards at the terminating point (operator-wise detail)		
2	Service Tax paid to the Government		
3	Sales Tax paid to the Government		
BB	TOTAL DEDUCTIBLE REVENUE (1-3B)		
CC	ADJUSTED GROSS REVENUE (AA-BB)		
	REVENUE SHARE @ ----- OF ADJUSTED GROSS REVENUE		

**Format of Statement of Revenue and License Fee**

\_\_\_\_\_ (Name and address of operator)  
**ISP License No.**  
**in \_\_\_\_\_ ( Service Area)**  
**Statement of Revenue and License Fee for the Quarter**  
 .....  
**of the financial year.....**

*(AMOUNT IN RUPEES)*

S.N.	PARTICULARS	ACTUALS FOR THE PREVIOUS QUARTER	ACTUALS FOR THE CURRENT QUARTER	CUMULATIVE UPTO THE CURRENT QUARTER.
1	Revenue from services			
<b>A</b>	<b>Revenue from Pure Internet Service ( Internet Access and Content Service):</b>			
A1.	Post paid options:			
i	Rentals			
ii	Activation Charges			
iii	Service Tax			
iv	Service charges			
V	Charges on account of any other value added services. Supplementary Services etc.			
vi	Any other income/ miscellaneous receipt from post paid options.			
A2.	Pre-paid options:			
i.	Sale of pre-paid option including full value of all components charged therein.			
ii.	Any other income/ miscellaneous receipt from pre-paid options.			
<b>B</b>	<b>Revenue from Internet Telephony Service:</b>			
B1.	Post paid options:			
i	Rentals			
ii	Activation Charges			
iii	Service Tax			
iv	Service charges			



v	Charges on account of any other value added services. Supplementary Services etc.			
vi	Any other income/ miscellaneous receipt from post paid options.			
B2.	Pre-paid options:			
i.	Sale of pre-paid option including full value of all components charged therein.			
ii.	Any other income/ miscellaneous receipt from pre-paid options.			
<b>C</b>	<b>Revenue from any other value added service</b>			
<b>2</b>	<b>Income from trading activity</b> (all including of sales tax)			
(i)	Sale of Terminal Equipments			
(ii)	Sale of accessories etc.			
(iii)	Any other income/ miscellaneous receipt from trading activity.			
<b>3</b>	<b>Income from investments</b>			
(i)	Interest income			
(ii)	Dividend income			
(iii)	Any other miscellaneous receipt from investments.			
<b>4</b>	<b>Non-refundable deposits from subscribers</b>			
<b>5</b>	<b>Revenue from franchisees /resellers including all commissions and discounts etc. excluding the revenues already included in IA&amp;IB</b>			
<b>6</b>	<b>Revenue from sharing/ leasing of infrastructure</b>			
<b>7</b>	<b>Revenue from sale/ lease renting of bandwidth, links, R&amp;G cases, turnkey projects</b>			

	<b>etc.</b>			
<b>8</b>	<b>Revenue from Roaming</b>			
i	Roaming facility revenue from own subscribers.			
ii	Roaming revenue from own subscriber visiting other networks.			
iii	Roaming Commission earned.			
iv	Roaming revenue on account of visiting subscribers from other networks.			
V	Service Tax if not included above.			
vi	Any other income/miscellaneous receipt from roaming			
<b>9</b>	<b>Revenue from IPTV Services</b>			
<b>10</b>	<b>Revenue from other Operators on account of provisioning of interconnection</b>			
<b>11</b>	<b>Miscellaneous Revenue</b>			
<b>AA</b>	<b>GROSS REVENUE OF THE Licensee COMPANY :(Add 1-11)</b>			
<b>B</b>	<b>DEDUCT:</b>			
<b>1</b>	Revenue from Pure Internet Service			
<b>2</b>	Service Tax paid to the Government			
<b>3</b>	Sales Tax paid to the Government			
<b>4</b>	Roaming revenue actually passed on to other eligible/entitled telecom service provider.			
<b>BB</b>	<b>TOTAL DEDUCTIBLE REVENUE (1+2+3+4)</b>			
<b>CC</b>	<b>ADJUSTED GROSS REVENUE (AA-BB)</b>			
	<b>REVENUE SHARE @ ----- - OF ADJUSTED GROSS REVENUE</b>			

----- (Name and address of operator)

**VERY SMALL APERTURE TERMINAL SERVICE**

**Statement of Revenue and License Fee for the Quarter.....  
of the financial year.....**

(AMOUNT IN RUPEES)

<b>Sl. No.</b>	<b>PARTICULARS</b>	<b>ACTUALS FOR THE PREVIOUS QUARTER</b>	<b>FIGURES FOR CURRENT QUARTER</b>	<b>CUMULATIVE FIGURES UPTO THE PREVIOUS QUARTER</b>
1.	Revenue from Services:			
i.	Revenue from provisioning of VSAT service as defined at Sl. No.1 under heading 'Definition and interpretations' in the License after clause 35			
ii.	Revenue from supplementary/value added services.			
Iii.	Service Tax			
Iv.	Revenue from lease/rentals of items in 2(i) and (ii) below.			
v.	Revenue from Annual Comprehensive Maintenance Contract (ACMC)/ Annual Maintenance Contract (AMC) etc.			
Vi.	Any other income/ miscellaneous receipt.			
2.	<b>Income from Trading activity:</b> (all inclusive of sales tax)			
i.	Sale of VSAT including antennas and other accessories including software, hardware etc.			
ii.	Sale of accessories, etc.			
Iii.	Any other income/miscellaneous receipt from trading activity.			
3.	<b>Income from investments.</b>			
i.	Interest income			
ii.	Dividend income			

i.	Any other miscellaneous receipt from investments.			
4.	<b>Non-refundable deposits.</b>			
5.	<b>Revenue from sharing/leasing of other infrastructure</b>			
6.	<b>Miscellaneous revenue.</b>			
AA	<b>GROSS REVENUE OF THE Licensee COMPANY:</b>			
	<b>DEDUCT:</b>			
1.	Revenue of pass through nature actually passed on to other service providers. (operator-wise details). Note: Lease/rent charges for hiring of infrastructure not to be deducted.			
2.	Service Tax paid to the Government.			
3.	Sales Tax paid to the Government			
BB	<b>TOTAL DEDUCTIBLE REVENUE</b>			
CC	<b>ADJUSTED GROSS REVENUE: (AA-BB)</b>			
	REVENUE SHARE @..... OF ADJUSTED GROSS REVENUE:			

**Format of Statement of Revenue and License Fee**  
 \_\_\_\_\_(Name and address of operator)  
**Public Mobile Radio Trunking Service in \_\_\_\_\_ Service Area**  
**Statement of Revenue and License Fee for the Quarter**  
 .....  
**of the financial year.....**

(AMOUNT IN RUPEES)

S.N.	PARTICULARS	ACTUALS FOR THE PREVIOUS QUARTER	ACTUAL FOR THE CURRENT QUARTER	CUMULATIVE UPTO THE CURRENT QUARTER
1.	Revenue from Services:			
i.	Rentals			
ii	Activation Charges			
iii.	Airtime Revenue			
iv.	PSTN charges			
v.	Service Tax			
Vi	Service charges			
vii.	Income from lease/rental/AMC of items in 2(i) and 2(ii).			
viii.	Any other income/ miscellaneous receipt from service			
2.	Income from Trading activity: (all inclusive of sales tax)			
i.	Sale of handsets			
ii.	Sale of accessories, including sim cards, spares, consumables, etc.			
iii.	Any other income/miscellaneous receipt from trading activity.			
3.	Income from investments.			
i.	Interest income			
ii.	Dividend income			
iii.	Any other miscellaneous receipt from investments.			
4.	Non-refundable deposits from subscribers.			
5.	Any other receipt / Miscellaneous revenue.			

A	GROSS REVENUE OF THE Licensee COMPANY: (Add 1-5)			
B	DEDUCT:			
1.	PSTN related Call charges actually paid on to other Access telecom service provider			
2.	Service Tax paid to the Government.			
3.	Sales Tax paid to the Government.			
C	TOTAL DEDUCTION (1B to 3B)			
D	Adjusted Gross Revenue (A-C)			
	REVENUE SHARE @.....OF ADJUSTED GROSS REVENUE:			

**Format of Statement of Revenue and License Fee**  
**\_\_\_\_\_ (Name and address of operator)**  
**Global Mobile Personnel Communication by Satellite Service in India**  
**Statement of Revenue and License Fee for the Quarter**

.....  
**of the financial year.....**

*(AMOUNT IN RUPEES)*

S.N.	PARTICULARS	ACTUALS OF THE PREVIOUS QUARTER	FIGURES FOR THE CURRENT QUARTER	CUMULATIVE FIGURES UP TO THE PREVIOUS QUARTER
1.	Revenue from Services:			
A.	Post paid options:			
i.	Rentals			
ii	Activation Charges			
iii.	Airtime Revenue			
iv.	Pass through charges			
v.	Service Tax			
vi.	Roaming charges			
vii	Service charges			
viii.	Charges on account of any other value added services. Supplementary Services etc.			
ix.	Any other income/ miscellaneous receipt from post paid options.			
B.	Pre-paid options:			
i.	Sale of pre-paid sim cards including full value of all components charged therein.			
ii.	Any other income/ miscellaneous receipt from pre-paid options.			
C. i.	Revenue from Mobile Community phone service including full value of all components charged therein.			
ii.	Any other income/ miscellaneous receipt from Mobile Community phone service.			
2.	Income from Trading activity: (all inclusive of sales tax)			
i.	Sale of handsets			

ii.	Sale of accessories, including sim cards etc.			
iii.	Any other income/miscellaneous receipt from trading activity.			
3.	Revenue from roaming.			
i.	Roaming facility revenue from own subscribers.			
ii.	Roaming revenue from own subscriber visiting other networks including STD/ISD/pass thru charges for transmission of incoming call during roaming.			
iii.	Roaming Commission earned.			
iv.	Roaming revenue on account of visiting subscribers from other networks.			
v.	Service Tax if not included above.			
vi.	Any other income/miscellaneous receipt from roaming.			
4.	Income from investments.			
i.	Interest income			
ii.	Dividend income			
iii.	Any other miscellaneous receipt from investments.			
5.	Non-refundable deposits from subscribers.			
6.	Revenue from franchisees / resellers, excluding revenues already included in 1A&1B			
7.	Revenue from sharing/leasing of infrastructure			
8.	Revenue from other operators from sale of bandwidth			
9.	Revenue from other operators on account of pass thru call charges.			
10	Revenue from other operators on account of provisioning of interconnection.			
11.	Miscellaneous revenue.			
AA	GROSS REVENUE OF THE			



	LICENSEE COMPANY: (Add 1-11)			
B	DEDUCT:			
1.	PSTN related Call charges passed on to basic, cellular and long distance service provider(s) (operator-wise)			
2.	Roaming revenues actually passed on to CMSPs and other GMPCS service providers. (operator-wise)			
3.	Service Tax paid to the Government.			
4.	Sales Tax paid to the Government.			
BB	TOTAL DEDUCTION (1-4B)			
CC	Adjusted Gross Revenue (AA-BB)			
	REVENUE SHARE @.....OF ADJUSTED GROSS REVENUE:			

**Format of Statement of Revenue and LICENCE Fee**

----- (Name and address of OPERATOR)

**Resale of IPLC Service**

**Statement of revenue and LICENCE Fee for the Quarter -----**

**Of the financial year -----**

(amount in Rupees)

(AMOUNT IN RUPEES)

<b>Sl. No.</b>	<b>PARTICULARS</b>	<b>ACTUALS FOR THE PREVIOUS QUARTER</b>	<b>ESTIMATED FOR THE CURRENT QUARTER</b>	<b>CUMULATIVE UPTO THE PREVIOUS QUARTER</b>
1.	Revenue from IPLC			
A	Revenue			
I	IPLC revenue			
II	Pass thru revenue for usage of other networks (give OPERATOR-wise details)			
III	Service Tax			
IV	Service charges			
V	Charges on account of any other value added services, Supplementary Services etc.			
VI	Any other income / miscellaneous receipt.			
2.	<b>Income from investments.</b>			
i.	Interest income			
ii.	Dividend income			
iii.	Any other miscellaneous receipt from investments.			
3.	Non-refundable deposits from subscribers			
4.	Revenue from franchisees			
5.	<b>Revenue from sharing/leasing of infrastructure</b>			
6.	Revenue from sale/ lease of bandwidth, links, R&G cases, turnkey projects etc.			
7.	Revenue from other OPERATORS on account of pass thru call charges.			

8.	Revenue from other OPERATORS on account of provisioning of interconnection			
9.	Miscellaneous Revenue			
AA	<b>GROSS REVENUE OF THE Licensee COMPANY(ADD 1 - 9):</b>			
B	<b>DEDUCT:</b>			
1.	Charges actually paid to other telecom service providers for procurement of bandwidth, last mile connectivity used for provision of end to end IPLC; (Note: Any charges paid for multiplexing, de-multiplexing, billing system and related customer management are not to be deducted.) (Operator-wise) (Copy of agreement to be provided in the first quarter.)			
2.	Service Tax paid to the Government.			
3.	Sales Tax paid to the Government			
BB	<b>TOTAL DEDUCTIBLE REVENUE (1-3B)</b>			
CC	<b>ADJUSTED GROSS REVENUE: (AA-BB)</b>			
	REVENUE SHARE @..... OF ADJUSTED GROSS REVENUE:			

----- (Name and address of operator)

**INSAT MSS Reporting Service**

Statement of Revenue and License Fee for the  
Quarter.....  
of the financial year.....

(AMOUNT IN RUPEES)

<b>Sl. No.</b>	<b>PARTICULARS</b>	<b>ACTUALS FOR THE PREVIOUS QUARTER</b>	<b>FIGURES FOR CURRENT QUARTER</b>	<b>CUMULATIVE FIGURES UPTO THE PREVIOUS QUARTER</b>
1.	Revenue from Services:			
i.	Revenue from provisioning of INSAT – MSS Reporting Service as defined in <b>Annexure II</b>			
ii.	Revenue from supplementary/value added services.			
iii.	Service Tax			
iv.	Revenue from lease/rentals of items in 2(i) and (ii) below.			
v.	Revenue from Annual Comprehensive Maintenance Contract (ACMC)/ Annual Maintenance Contract (AMC) etc.			
vi.	Any other income/ miscellaneous receipt.			
2.	<b>Income from Trading activity:</b> (all inclusive of sales tax)			
i.	Sale of INSAT MSS Reporting Terminal and other accessories including software, hardware etc.			
ii.	Sale of accessories, etc.			
iii.	Any other income/miscellaneous receipt from trading activity.			

3.	<b>Income from investments.</b>			
i.	Interest income			
ii.	Dividend income			
iii.	Any other miscellaneous receipt from investments.			
4.	<b>Non-refundable deposits.</b>			
5.	<b>Revenue from sharing/leasing of other infrastructure</b>			
6.	<b>Miscellaneous revenue.</b>			
AA	<b>GROSS REVENUE OF THE Licensee COMPANY:</b>			
	<b>DEDUCT:</b>			
1.	Revenue of pass thru nature actually passed on to other service providers. (operator-wise details). Note: Lease/rent charges for hiring of infrastructure not to be deducted.			
2.	Service Tax paid to the Government.			
3.	Sales Tax paid to the Government			
BB	<b>TOTAL DEDUCTIBLE REVENUE</b>			
CC	<b>ADJUSTED GROSS REVENUE: (AA-BB)</b>			
	REVENUE SHARE @..... OF ADJUSTED GROSS REVENUE:			

**International Practices**

**AUSTRALIA**

Participating Persons (Telecom Carriers) are required to pay annual levy to Australian Communications and Media Authority (ACMA) in the form of telecommunications industry levy (TIL) and annual carrier license charge (ACLC) based on eligible revenue of the respective year. Eligible revenue is arrived at as follows:

- Initial sales revenue is revenue as per annual financial statements.
- Initial sales revenue is reduced by non telecommunications sales revenue to arrive at Gross Telecommunications Sales Revenue.
- Eligible revenue represents gross telecommunication sales revenue as reduced by deductions for revenue (i.e. revenue from customer equipment, content services, infrastructure revenue, overseas activities etc.) and expense items (i.e. inter licensee/service provider input payments etc).

Each year, the ACMA collects financial information from the industry in the form of an eligible revenue return to calculate each carrier's eligible revenue. TIL is the levy for providing reasonable accessible standard telephone services, delivery of emergency call services, national telephone service etc. ACLC represents the charges to be paid annually by carriers to ACMA to recover the cost of regulating the telecommunications industry. ACLC paid by each carrier is based on the carrier's pro-rata share in regulating costs based on share in total 'eligible revenue'. TIL and ACLC is calculated based on a formula which changes every year with changes in eligible revenue.

**UNITED STATES**

Federal Communications Commission (FCC) is mandated by the Government to collect an amount (as determined by Government) in the form of annual regulatory fees from licensee. The amount to be collected

represents the costs incurred by FCC on enforcement activities, policy and rulemaking activities, user information services, and international activities in the form of regulatory fees from licensees. The responsibility for payment of annual regulatory fees is divided among various category of services (International Services, Media Services, Wireline Services and Wireless Telecommunications) based on the number of full time employees assigned to work in each service category. Within each service category, licensee pays its proportionate share based on selected parameter i.e. revenue, subscribers, licenses etc. FCC is authorized to waive, reduce or defer payment of the fees where such action would promote public interest.

### **CANADA**

A telecommunications service provider with Canadian telecommunications services revenues of \$10 million or more is required to pay an annual fee to the Canadian Radio-television and Telecommunications Commission for the total regulatory costs (of the Commission) for the year. This annual fee is based on the TSP's contribution-eligible revenue in the industry's contribution-eligible revenues for the year. Contribution-eligible revenues are total operating revenues (excluding non-Canadian revenues and Canadian non-telecommunications revenues) less deductions for inter-carrier payment, retail internet/paging service revenue, terminal equipment revenues (sale/rental) etc.

### **SOUTH AFRICA**

Licensees are required to pay annual license fee as percentage of revenue from licensed services as given below:

<b>License Revenue</b>	<b>Percentage Applied</b>
0-50,000,000	0.15%
50,000,001-100,000,000	0.20%
100,000,001-500,000,000	0.25%
500,000,001-1,000,000,000	0.30%
1,000,000,001 and above	0.35%

'Revenue' means revenue as defined in terms of the International Accounting Standard 18 and disclosed in the licensee's audited annual financial statements excluding revenue from resale of electronic communications services, service providers discount, agency fees, interconnection and facilities leasing charges, and government grants and subsidies.

### **SINGAPORE**

Facility Based Operators (FBOs) are required to pay annual recurrent fee based on their Annual Gross Turnover (AGTO), subject to minimum of S\$80,000 or S\$ 2,00,000 depending upon nature of licence. AGTO represents the annual fair value of the consideration received or receivable for licensable activities taking into account the amount of any trade discounts and volumes rebates allowed by the FBO licensee. Annual licence fee is S\$80,000/ S\$2,00,000 where AGTO is less than S\$50 million, 0.8% of AGTO where AGTO is S\$50 million to S\$100 million and 1% of AGTO where AGTO is above S\$ 100 million. Apart from annual license fee, operators also pay frequency management fees based on spectrum holding and corresponding slab rate (S\$ 300 to S\$ 6200 per frequency).

### **PAKISTAN**

Cellular Mobile Operators are required to pay annual license fee which is 0.5% of gross revenue less inter-operator payments. Apart from annual license fee, cellular operators also pay a contribution for Universal Service Fund (USF) at rate of 1.5% of gross revenue less inter-operator payments and related Authority/Frequency Allocation Board mandated payments, as determined by the Government by issuing rules. USF is utilized for spreading network coverage and service to un-served or under-served areas and helps operators to supply individual service on normal commercial terms in areas which are covered through the USF.



## **MALAYSIA**

Cellular operators are required to pay a standard annual license fee of 0.5% of gross turnover from licensed activities or RM50,000 whichever is higher. However deductions from gross turnover on account of research and development expenditure, skills and training, Malaysian value added procurement from Malaysian SMIs etc. are allowed. After the eligible deductions, annual license fee shall not be lower than 0.15% of gross turnover or RM 50,000 whichever is higher.

## **FINLAND**

Service providers pay frequency fee for all allotted radio licences and frequency reservations. The amount of the frequency fee is based on availability, usability and number of frequencies included in the licence. The frequency fee is calculated as below:

$$\text{Frequency Fee} = C1 * Cinh * C6b * B0 * S * P$$

*Where, C1 = frequency band coefficient, Cinh = population coefficient, C6b = system coefficient, B0 = relative band width, S = basic fee coefficient and P = basic fee (a constant)*

## **ZIMBABWE**

All licensed operators are required to pay annual fee at the rate 2% of annual revenue towards contribution to Universal Service Funds. In addition to this Operators are also required to pay Spectrum fees which depend on a number of factors: frequencies used, bandwidth and channel separation.