

Date: 06/12/2016

To,
The Advisor (Networks, Spectrum and Licensing),
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
Jawaharlal Nehru Marg,
(Old Minto Road),
New Delhi- 110002

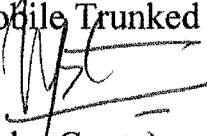
Subject: Comments/Counter-comments to Consultation Paper on Captive VSAT
CUG Policy Issues.

Dear Sir,

In reference to your Consultation Paper No. 23/2016 dated 28/10/2016, on Captive
VSAT CUG Policy Issues. Please find enclosed our comments.

Thanking You,

For Mobile Trunked Radio Operators Association of India



(Narender Gupta)
Director General

MTROA response to the consultation paper by TRAI on Captive VSAT CUG License

When we look at the nature of VSAT services both the captive network as well as commercial network are *designed to provide services to a closed user group*. In fact DOT has not defined the term commercial VSAT or Captive VSAT. It has only mentioned that the scope of the VSAT service is to provide data connectivity between various sites scattered within territorial boundary of India using VSATs. The users of the service should belong to a Closed User Group.

This scope of service does not create any distinction between captive and commercial. However for the sake of understanding we may loosely assign the following meaning to the two terms:

Commercial CUG VSAT

A commercial VSAT service provider can offer the service on commercial basis to its subscribers by setting up a number of CUGs.

Captive CUG VSAT

In case of captive VSAT, the licensee can set up only one CUG.

What precisely constitutes the offering of services on "commercial basis" has not been defined in the Licence agreement.

CLOSED USER GROUP (CUG):

A Closed User Group is Permissible for following categories of business association:-

- i) Producer of goods and his trader/agent;
- ii) Provider of service and his trader/agent;
- iii) Producer of same category of goods (e.g. manufactures of petroleum products); and
- iv) Provider of the same category of service (e.g. bank).

Provided that ultimate consumer of a service or a product shall not be a part of the Closed User Group.

A Closed User Group can also be formed among a holding company and its subsidiaries, these terms being defined as per the Companies Act 1956. Provided that such closed User Group shall be only for the purposes of legitimate internal business communications of the group.

There is actually no distinction between Captive and Commercial VSAT CUG license because in both cases:-

1. The network is created for use only by a CUG (*whether different organizations in case of a Commercial license or the same organization together with its subsidiaries for captive use*)
2. The only distinction that is being made for the Commercial VSAT CUG license is that *it can have many groups versus one group for Captive VSAT licensee*. But in our opinion even in case of Captive, there could be multiple groups within the same organization responsible for carrying out different functions. Thus here too, there is no distinction!
3. Moreover, even in the case of multiple groups for a Commercial VSAT licensee, one group cannot communicate with another group, effectively creating a separate virtual network for each group that is just like the Captive VSAT CUG only.



Let us now examine the nature of two services and the conditions applicable to them with the help of the following table:

Criteria	Captive	Commercial	Remarks
Scope of service	To set up CUG for in-house Commercial application	To set up CUG for commercial application of the same client	Both use it for commercial purpose (same end use) and hence no difference.
Revenue earned	Not directly from this service but this CUG helps in earning revenue from the commercial activity carried on by the Licensee. Licence fee is paid on fixed amount basis.	Revenue earned by providing these services to its clients for running their Commercial activity. Revenue share is paid to the DOT as a percentage of ADJUSTED GROSS REVENUE as opposed to fixed licence fee paid by captive network licensee.	By virtue of the AUSPI decision of the Supreme Court, in case the Licensee carries on other kinds of business, apart from providing Telecom services, "gross revenue", for the purpose of determining the licence fee, will include inflow from all its business activities, whether under the licence or beyond the licence. <i>On this basis why the entire revenue of a captive VSAT licensee should not become liable for payment of revenue share as opposed to fixed licence fee?</i>
Network resources required	Same on a per customer basis	Same on a per customer basis	
Satellite usage	Same on a per customer basis	Same on a per customer basis	
Service offered by network	Only to one CUG	Multiple CUGs	Service offering to each CUG is same. Multiple CUGs cannot talk to each other outside their own specific CUG.
Spectrum charges/royalty charge	Lower	Higher	
SACFA Approvals	Required	Required	
Technical Standards	Same TEC standard	Same TEC standard	

From the above it is quite clear that the service offering, technical standards for both the types of Licensees are same. However, the commercial VSAT companies land up paying much higher charges towards revenue share and royalty charges and thus this artificial distinction creates a distorted playing field between the two types of Licensees.

VSAT CUG network is primarily created for end users to establish, install, operate and maintain VSAT CUG Domestic data network service via INSAT Satellite system. In order to have domestic data network service, the end user has two options viz. one to subscribe to a VSAT service operated by a third party or choose to create its own network and use the same for its captive use. *In both cases the end use is same and the scarce spectrum and space segment resources are being used.* Essentially since the end use is same in both cases, there is no difference between Commercial or Captive licenses and both need to be treated at par without one being discriminated against the other.

Captive users *excluding Public Safety and Armed forces etc.* use VSAT CUG network for making their operations more productive and efficient (exactly the same purpose as customers of a Public network) so that they can offer their merchandise and or services to the market at the lowest cost, so as to earn maximum profits || Therefore even for a Captive user, the usage is just as Commercial in nature as for a subscriber to a Public network. Hence the Captive CUG and Commercial CUG cannot be distinguished on the basis of a Commercial versus a non-commercial end use and should be subjected to the same norms to create a level playing field.

Such an artificial distinction is also distorting the playing field for many other sectors of Telecom such as PMRTS, where again a Public Mobile Radio Trunking service is being labelled as a Commercial service while a Captive Mobile Radio Trunking Service for the same end use and purpose is not being called a Commercial operation.

It is a known fact that a Public Service (as opposed to captive), by virtue of catering to several customers, is able to achieve a far greater efficiency of using a common resource like spectrum than for a captive usage catering to just one customer. Because of this Trunking effect, the Commercial CUG VSAT licensee shall typically be able to use far less bandwidth /spectrum on a per customer basis than a Captive CUG VSAT licensee. Since the objective of any Government is to maximize revenue earned from a scarce resource, it will be prudent to define for every unit of the scarce resource, an optimum loading criterion of number of users per unit of scarce resource. Thereafter it should become mandatory for any of the Licensees, whether Captive CUG VSAT or Commercial CUG VSAT to pay the same minimum amount for allocating a unit of scarce resource, whether bandwidth or spectrum, to ensure a level playing field.

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