

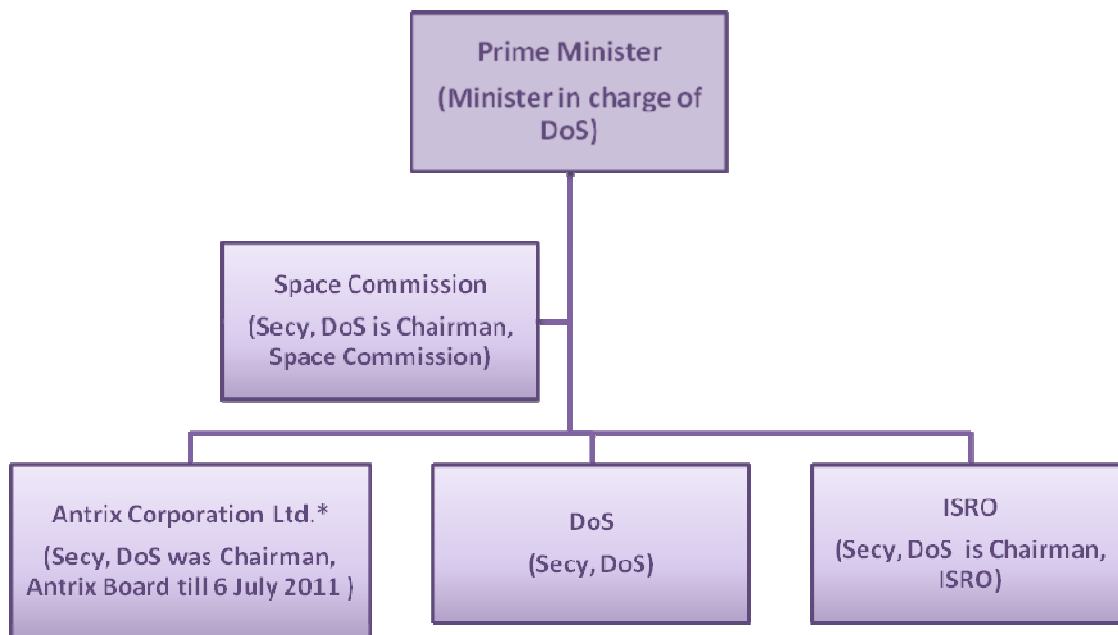
## Chapter 1 Introduction

### 1.1 Role of Department of Space

The Department of Space (DoS) is the department responsible for administration of the Indian space programme. Under its overall management, the Indian Space Research Organisation (ISRO) executes a variety of programmes through different organisations located across the country. It develops satellites, satellite launch vehicles and associated ground systems.

Its commercial arm, Antrix Corporation Limited (ACL) provides a variety of space services not just nationally, but also to other countries. These services include remote-sensing data services, transponder lease services, launch services through operational launch vehicles (PSLV and GSLV), mission support services as well as consultancy and training services.

### 1.2 How DoS is structured



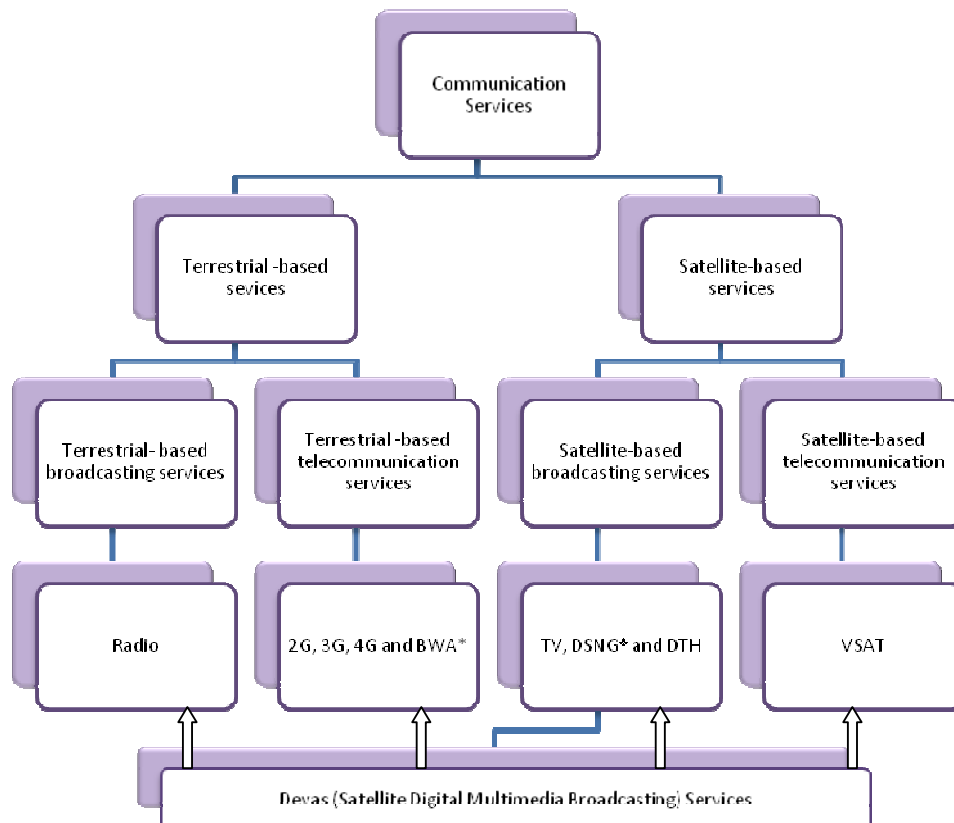
\*Secretary, DoS has since vacated this position and a senior scientist has been appointed as Chairman-cum-Managing Director, ACL

The Space Commission is responsible for formulating and guiding implementation of space programmes and policies. Its members consist of the following senior functionaries:

- Chairman of Space Commission and Secretary DoS,
- Minister of State in charge of Prime Minister’s Office,
- National Security Advisor,
- Cabinet Secretary,
- Finance Secretary,
- Member (Finance) of Space Commission,
- Director, ISRO Satellite Centre, and
- Principal Secretary to Prime Minister.

### 1.3 The different types of communication services

The different types of communication services are given below:



\*Broadband Wireless Access

✦ Digital Satellite News Gathering

#### 1.4 What are S-DMB services?

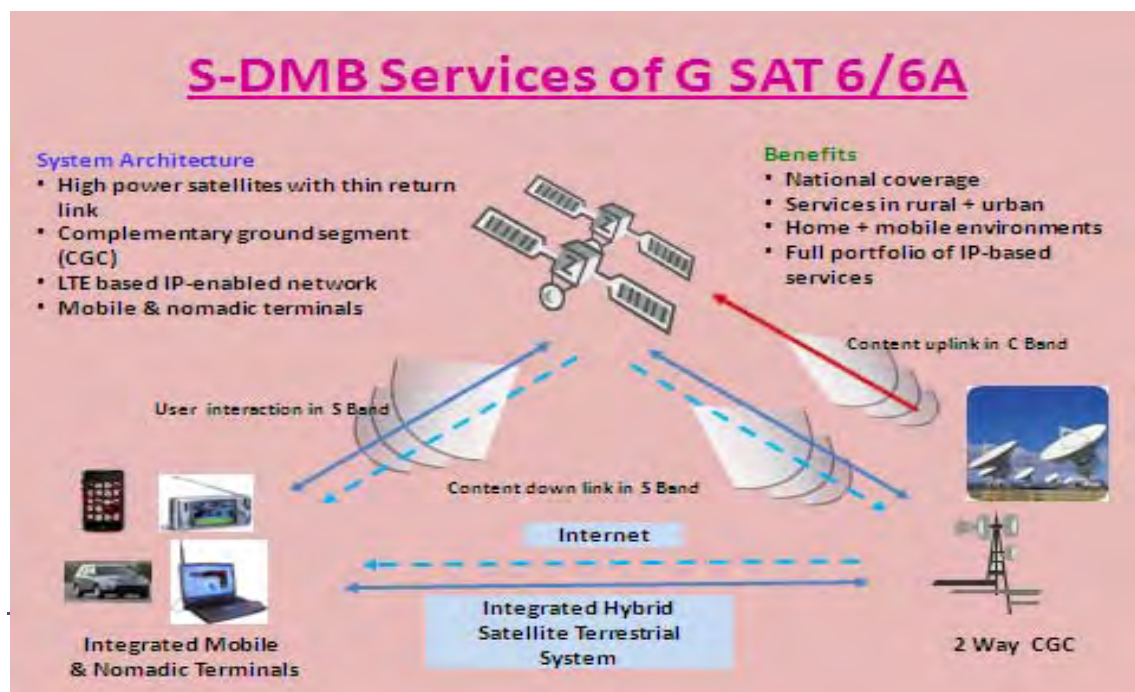
The satellite digital multimedia broadcasting service (S-DMB) is basically a digital mobile broadcasting service (mobile TV service) using satellites. Broadcasting satellite service transponders are used in satellites to provide one way S-DMB services.

S-DMB is used for a satellite-based national service for delivery of video, multimedia and information services via satellite to fixed and mobile receivers in vehicles and mobile phones across India.

#### 1.5 What was Devas offering?

Antrix entered into an agreement with Devas Multimedia Limited (Devas) in January 2005 to introduce a new S-DMB service (Devas service) in the country by launching two satellites, PS1 and PS2. The Devas service was to be a hybrid system delivering internet services including multimedia, information services via landline as well as satellite and terrestrial wireless systems to fixed, portable and mobile terminals, tailored to the needs of various market segments. S-DMB technology provided two-way audio/video services and internet services, both for fixed and mobile receivers within the coverage area of the satellites.

A pictorial representation of the range of services offered by Devas proposed is depicted in Figure-1 below:



The multiple services offered by Devas were 4G services, mobile TV services, both through satellite and terrestrial routes and DTH services in the same platform. This was to be a hybrid of one-way and two-way services, both through satellite and terrestrial routes in the same platform.

## **1.6 Audit Approach**

### **1.6.1 Audit objectives**

- To evaluate whether policies, rules, orders, instructions issued by the competent authority were complied with in the agreement between DoS/Antrix and Devas.
- To evaluate whether the agreement between DoS/Antrix and Devas served the interests of the Government.
- To evaluate the adequacy of the control systems in DoS.

### **1.6.2 Audit scope and methodology**

The audit was conducted from July 2010 to June 2011, covering the period from March 2003 to June 2011. The audit covered the execution of the agreement between Antrix (on behalf of DoS) and Devas. We studied the contractual procedures related to Devas as well as the existing clients of Antrix/DoS. The audit was conducted on the basis of records/information to the extent made available by DoS. A Statement of Facts was issued to DoS in November 2010 and their reply was received in March 2011. The revised draft report was issued to DoS in July 2011, a meeting was held with Secretary, DoS in July 2011 and their replies were received in August 2011. A meeting was held with DoS on 30 January 2012, wherein Secretary DoS furnished a list of actions taken with regard to the Antrix-Devas agreement. These replies have been appropriately included in this Report.

### **1.6.3 Organisation of audit findings**

Audit reviewed the contract between Antrix and Devas and its observations are discussed in Chapters 2 to 4 of this Report.

Chapter 2 of this Report deals with violation of policies and procedures in the Antrix-Devas agreement.

Chapter 3 discusses the undue favours extended to Devas Multimedia Limited.

Chapter 4 highlights the governance and conflict of interest issues within DoS.

Chapter 5 contains the Conclusion.

## 1.7 Chronology of events

Date	Event
June 1972	The Space Commission and DoS are created.
1977	The Government constitutes the INSAT Coordination Committee (ICC).
June 1997	The Union Cabinet approves the SATCOM policy framework.
1997	World Radio Communication conference (1997) makes changes in filing of orbital slots, their coordination and notification. Introduces due diligence and filing charges to avoid non-serious filings.
January 2000	The INSAT Coordination Committee prescribes practices and procedures to be followed in the allocation of satellite capacity to non-Government users.
January 2000	Government of India approves the SATCOM policy laying down norms, guidelines and procedures for implementation of the policy framework for satellite communication in India.
June 2001	DoS prescribes guidelines to be followed by DoS/ISRO in carrying out commercial projects of Antrix.
2002	Based on the International Telecommunication Union's allotment of frequencies to various countries for various applications, the Wireless Planning and Coordination Wing of Department of Telecommunications formulates a National Frequency Allocation Plan.
June 2002	DoS creates a Pricing Committee, consisting of the Additional Secretary, Director, Satellite Communication and Navigational Programme Office (SCNPO), Executive Director, Antrix, Director, Contract Management and Legal Services (CMLS) and a representative of the Member (Finance) to decide the minimum price and review the market strategy periodically in respect of various types of INSAT transponders.
March 2003	M/s Forge Advisors, USA makes a presentation to DoS/ISRO officials regarding opportunities in the global satellite market.
July 2003	A broad MOU is signed between Antrix and M/s Forge Advisors, USA for partnership and positioning Antrix in the global satellite market.
April 2004	M/s Forge Advisors make a second presentation to DoS/ ISRO officials and proposes constitution of an Indian Company to launch Devas services.
May 2004	Secretary, DoS, who is also Chairman, ISRO, constitutes the Dr. Shankara Committee to examine technical and financial feasibility, risk management, organisational aspects and time schedule of the proposal submitted by M/s Forge Advisor.

<b>June 2004</b>	68 <sup>th</sup> (last) meeting of ICC.
<b>November 2004</b>	Technical Advisory Group (TAG) is informed in its 122 <sup>nd</sup> meeting that ISRO has plans to enter into a contract with Devas and the committee will be informed of further developments.
<b>December 2004</b>	The Antrix Board, in its 57 <sup>th</sup> meeting, decides that instead of a joint venture, Devas services could be supported by it through leasing of capacity from an S-band satellite of ISRO.
<b>December 2004</b>	M/s Forge Advisors, USA promotes an Indian Company, namely, Devas Multimedia Limited.
<b>January 2005</b>	Dr. Shankara Committee submits its report.
<b>January 2005</b>	The Antrix -Devas deal is signed.
<b>May 2005</b>	The Space Commission approves the proposal of DoS to launch GSAT-6 by incurring expenditure from the DoS budget.
<b>August 2005</b>	DoS submits a proposal seeking financial sanction of the Minister-in-charge for GSAT-6 to incur expenditure from the INSAT budget.
<b>September 2005</b>	DoS informs Ministry of Finance that revenues are estimated to be ₹51.70 crore per annum, totalling ₹620.40 crore, during the expected 12-year life period of the GSAT-6 satellite.
<b>November 2005</b>	The Union Cabinet approves the proposal to undertake design, development and launch of the GSAT-6 multimedia mobile satellite system at a cost of ₹ 269 crore.
<b>February 2006</b>	TAG is informed in its 124 <sup>th</sup> meeting that the GSAT-6 satellite is being made for a specific customer and will not be a part of the INSAT capacity.
<b>August 2007</b>	TRAI recommends that all spectrum for terrestrial operations in India should be auctioned.
<b>January 2008</b>	TRAI furnishes recommendations on mobile TV services.
<b>December 2008</b>	The 129 <sup>th</sup> meeting of TAG is held on 26 December 2008. Under agenda item no. 7, it discusses the ground segment test requirements to validate with the Devas utilisation concept.
<b>January 2009</b>	A TAG sub-committee, deliberating the issues relating to the Devas experimental plan, observes that terrestrial transmission is not to be permitted in the portion of S-Band proposed to be allocated to Devas.
<b>October 2009</b>	DoS seeks financial approval of the Space Commission to incur expenditure of ₹147 crore from the INSAT budget for GSAT-6A development and fabrication.

<b>December 2009</b>	ISRO constitutes the Dr. Suresh Committee, a one-man committee, to examine the legal, commercial, procedural and technical aspects related to licensing of spectrum/frequency and leasing of transponders with reference to the Antrix-Devas agreement.
<b>June 2010</b>	Dr. Suresh Committee submits its report.
<b>June 2010</b>	DoS seeks the opinion of Ministry of Law and DoT to annul the Antrix-Devas agreement.
<b>July 2010</b>	The Space Commission approves annulment of the Antrix-Devas agreement.
<b>December 2010</b>	ISRO replies that based on the direction of the Space Commission to annul the Devas contract, the matter has been discussed with the Additional Solicitor General and a note submitted to the Cabinet Committee on Security (CCS) for its decision.
<b>February 2011</b>	CCS gives directions to annul the agreement with Devas.
<b>February 2011</b>	DoS directs Antrix to annul the agreement with Devas.
<b>February 2011</b>	Antrix sends a letter of termination to Devas.
<b>February 2011</b>	A High-Powered Review Committee (HPRC) is formed.
<b>March 2011</b>	HPRC submits its report .
<b>April 2011</b>	Report of HPRC is examined by the Cabinet Secretary.
<b>April 2011</b>	Return of up-front payment to Devas by Antrix. Devas cancels the cheque and returns it to Antrix.
<b>May 2011</b>	High Level Team (HLT) is formed with former CVC as Chairman.
<b>June 2011</b>	Senior Management Team is set up with officials from DoS/ISRO Antrix to resolve the issue with Devas.
<b>June 2011</b>	Devas files an arbitration demand before the International Court of Arbitration of the International Chamber of Commerce.
<b>July 2011</b>	Antrix issues notice of arbitration appointing retired Justice Sujata V Manohar as arbitrator.
<b>August 2011</b>	Department of Space furnishes its reply to Audit.
<b>August 2011</b>	Antrix files an arbitration petition before Hon'ble Supreme Court .

<b>September 2011</b>	HLT submits its report.
<b>December 2011</b>	Antrix files an arbitration application before City Civil Judge of Bangalore.
<b>January 2012</b>	DoS furnishes the Action Taken on the report of HPRC and HLT.
<b>February 2012</b>	Devas files Statement of Claim before ICC seeking either performance of the agreement by Antrix, or a compensation of USD 1.6 billion (₹ 8240 crore) plus interest at a rate to be decided by the tribunal, cost and attorney's fees etc.