

EXECUTIVE SUMMARY

1. Revenue share model in Indian Telecom Sector

With a view to ensure availability of state of the art technology and services in the communication market, the Government in 1999 introduced the New Telecom Policy (NTP 99). NTP - 99 introduced the revenue sharing regime in which telecom licensees were required to share a percentage of their Adjusted Gross Revenue (AGR) with the Government as License Fee (LF). Mobile operators were also required to pay Spectrum Usage Charges (SUC) for the use of the radio frequency spectrum allotted to them. To revive the slowing down in the telecom sector and to help the financially constrained telecom service providers, a bailout package was offered to them. All the existing service providers were permitted to migrate to the new revenue share regime from the fixed license fee regime of National Telecom Policy 1994 (NTP-94). All of the licensees accepted the bailout package and moved over to the new regime. New licenses conditions were framed in 2001 defining the revenue of the licensee companies and other terms and conditions for computation of the AGR and payment of LF. These were accepted by all the service providers.

2. Rationale for audit by CAG of India on the correctness of revenue share paid by private telecom operators

The revenue shared by Private Service Providers (PSPs) with Government of India (GOI) as LF and SUC forms part of the Consolidated Fund of India. Article 266 of the Constitution of India and Sections 13, 16 & 18 of Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 make it obligatory on the part of CAG of India to satisfy himself that the Government of India has received its complete and correct share. Further, the 'Telecom Regulatory Authority of India, Service Providers (Maintenance of Books of Accounts and other Documents) Rules, 2002', promulgated by the Government in November 2002 contains enabling provisions for verification of all the accounting records and documents maintained by the service providers that has a bearing on the Gross Revenue (GR) of the service providers by the CAG of India. As the correctness of revenue share is directly linked to the correctness of the GR of the service provider, it was imperative to verify the accounting records of all the service providers to ensure that revenue due to the Government was reported correctly. Consequently, it was decided to take up the audit verification of the revenue shared by six major telecom service providers, in the first phase, covering the accounts of four years from 2006-07 to 2009-10 and to conduct similar audit of all the service providers every year in future.

3. Structure of the Report

This report consists of ten chapters and annexures. Chapter-I gives an overview of the genesis of revenue sharing regime in the telecom sector and also presents important conditions

stipulated by the Government, through the licence agreements with the service providers, for reporting their revenue and payment of revenue share. It also covers the arrangements in Department of Telecommunication (DoT) for collection of LF and SUC and their final assessment. Chapter-II explains the audit scope, methodology and reasons for selecting the operators covered in the first phase of audit. PSP wise audit findings are narrated in Chapters-III to VIII. Chapter-IX deals with audit findings on process of verification of deductions at the offices of the Controllers of Communication Accounts (CsCA). Chapter-X deals with audit observations on assessment of LF and SUC by DoT.

4. Summary of important audit findings

(i) GR/AGR understated by all the PSPs by the amount of commission/discount paid to their distributors/dealers/agents

PSPs employ distributors/dealers/agents/franchisees to sell their prepaid products and for customer acquisition and pay commission/discounts etc. to them. All the six PSPs have reduced the GR/AGR reported to DoT by the amount of commission/discounts etc. paid to distributors/dealers/agents/franchisees. However, different PSPs have accounted these transactions in different ways. While Airtel and Tata Teleservices Limited (TTSL) have booked the amount of commission/discounts etc. as a debit entry to revenue, Reliance and Aircel have booked the revenue *per se* after netting of discounts/commission. Different LSAs of Vodafone and Idea have accounted it in either of the ways mentioned above whereas Tata Teleservices Maharashtra Limited (TTML) has booked it as expenses. Since commission/discounts etc. paid to distributors/dealers/agents/franchisees is in the nature of business expense (marketing expense), netting off or reducing the revenue for the purpose of reporting GR/AGR for computation of revenue share to GOI is against the license agreement. Amount of discount/commission etc. netted off from revenue worked out by audit comes out to be ₹ 5672.66 crore resulting in short payment of LF and SUC by ₹ 487.09 crore and ₹ 203.38 crore respectively.

(Para 3.2.1A, 4.2.1, 5.2.2 A, 5.2.3, 5.2.5, 5.2.6, 6.2.1A, 7.2.1, 7.2.4, 8.2.3)

(ii) GR/AGR understated by all the PSPs by the amount of promotional schemes like Free Talk Time/Free Air Time

Tariff has been defined in the Unified Access Services License (UASL) agreement. PSPs submit quarterly tariff plans to Telecom Regulatory Authority of India (TRAI). Audit noticed that PSPs provide various offers like Free Talk Time/Free Air Time (FTT/FAT) to their prepaid subscribers on different occasions. These are basically promotional schemes by various names, over and above the tariff plans submitted to TRAI. UASL agreements provide that service revenue (amount billable) shall be shown gross and details of discount/rebate indicated separately. It was noticed by audit that promotional offers have not been

recognised as revenue by all the six PSPs and they have accounted it differently in their books of accounts. In the books of accounts of Airtel, Idea, Tata and Aircel, amount of promotional FAT/FTT given to subscribers could be identified by audit as it had been accounted as debit entries to revenue heads. No such information could be ascertained from the books of accounts of Reliance as it has eliminated the value of promotional FAT/FTT at the technical system (mediation level) itself without reflecting it in the financial systems and the books of accounts. In respect of Vodafone, it could not be segregated as it has booked such promotional offers, on both the prepaid & post-paid services, in one account. Similarly, in case of Aircel, waivers to both prepaid and postpaid customers were accounted together, the impact of such waivers on LF and SUC was calculated in entirety and included here. Since such promotional offers are in the nature of business expenses, in accordance with UASL agreements, they should be recognised as revenue for the purpose of GR/AGR for computation of revenue share to GOI. Audit worked out understatement of GR/AGR on this account by ₹ 8960.81 crore resulting in short payment of LF and SUC by ₹ 784.28 crore and ₹ 271.29 crore respectively.

(Para 3.2.1 B, 4.2.2, 4.2.4, 5.2.1, 6.2.1B, 7.2.2, 8.2.1)

(iii) Understatement of GR/AGR by netting-off of discounts/waivers given to postpaid subscriber

Audit noticed that discounts/waivers given to post-paid subscribers by Airtel, Vodafone, Idea, Tata and Aircel was deducted from their revenue. Such discounts/waivers, over and above the tariff plan submitted to TRAI, granted to post paid subscribers are in nature of business expense and their deduction from revenue for reporting GR/AGR for computation of revenue share is not in accordance with the license agreements. Audit worked out understatement of GR/AGR on this account as ₹ 1622.18 crore resulting in short payment of LF and SUC by ₹ 148.94 crore and ₹ 66.66 crore respectively.

(Para 3.2.2, 4.2.7, 6.2.2, 7.2.3, 8.2.1A)

(iv) Understatement of GR/AGR by netting of discounts from revenue pertaining to roaming services.

PSPs have arrangements with other International Operators for roaming services. It has been noticed that the Inter Operator traffic (IOT) discounts paid/credited to the accounts of these Operators were debited/deducted from the roaming revenue by Airtel, Vodafone and Idea. Having roaming arrangement with other national/ international operators is a matter of mutual agreement between two operators and giving discounts over and above the agreed charges for roaming is part of overall commercial strategy to enhance business between the two operators. As such, these discounts are in the nature of expenses and hence, in terms of license agreements, should not be deducted from revenue. Audit worked out understatement

of GR/AGR for computation of revenue share on this account as ₹ 437.02 crore resulting in short payment of LF and SUC by ₹ 41.41 crore and ₹ 18.66 crore respectively.

(Para 3.2.3, 4.2.3, 6.2.3)

(v) Understatement of GR/AGR by netting of revenue from infrastructure sharing

UASL agreements provide that GR shall be inclusive of revenue from infrastructure sharing without setting off of any related item of expenses. PSPs have arrangements with other PSPs for sharing of their passive infrastructure. Audit has noticed that amount received towards infrastructure sharing in the case of Airtel, Vodafone, Idea, Tata and Aircel has not been taken to revenue in full, instead, part of it has been credited to expenses. This has resulted in understatement of revenue from infrastructure sharing for computation of GR/AGR for the purpose of revenue share. Understatement of GR/AGR on this account was worked out by audit as ₹ 1175.45 crore resulting in short payment of LF and SUC by ₹ 101.60 crore and ₹ 46.36 crore respectively.

(Para 3.2.4, 4.2.5, 6.2.4, 7.2.5, 8.2.5)

(vi) Understatement of GR/AGR due to short/non-inclusion of forex gain by all PSPs

In terms of definition of GR, forex gain should be included in GR/AGR for computation of revenue share. Audit noticed that all the six PSPs have included forex gain in GR/AGR for computation of revenue share in initial years. However, subsequently all the six PSPs either stopped including forex gain in GR/AGR for computation of revenue share or partially included forex gain in GR/AGR for computation of revenue share. Audit worked out amount of non-inclusion of forex gain (realized) in GR/AGR as ₹ 2095.86 crore resulting in short payment of LF and SUC by ₹ 174.48 crore and ₹ 51.19 crore respectively.

(Para 3.2.5, 4.2.6, 5.3.1, 6.2.7, 7.2.6, 8.2.6)

(vii) Understatement of GR/AGR by all PSPs by non- inclusion of interest income

License agreements expressly provide that interest income should be included in GR/AGR for computation of revenue share. Audit noticed that the six PSPs have included interest income in GR/AGR for computation of revenue share in initial years. However, subsequently all PSPs either stopped including interest income in GR/AGR for computation of revenue share or partially included interest income in GR/AGR for computation of revenue share. Audit worked out amount of non-inclusion of interest income in GR/AGR as ₹ 6299.90 crore resulting in short payment of LF and SUC by ₹ 535.23 crore and ₹ 204.32 crore respectively.

(Para 3.3.1, 4.3.1, 5.3.2, 6.3.1, 7.3.1, 8.2.7)

(viii) Understatement of GR/AGR by all PSPs by non-inclusion of profit from sale of investment

License agreements provide that income from investments should be included in GR/AGR for computation of revenue share. Audit noticed that Airtel, Reliance, Idea, Tata and Aircel have not included income earned from investments in GR/AGR for computation of revenue share. Audit worked out amount of non-inclusion of income from investments in GR/AGR as ₹ 3111.45 crore resulting in short payment of LF and SUC by ₹ 271.70 crore and ₹ 93.20 crore respectively.

(Para 3.3.3, 5.3.4, 6.3.2, 7.3.2, 8.2.8)

(ix) Understatement of GR/AGR by Reliance Communications Limited (RCL) through an arrangement with its subsidiary

RCL is a Unified Access Service (UAS) Licensee. Reliance Communications Infrastructure Limited (RCIL) which had got Category “A” ISP license, was a wholly owned subsidiary of RCL during 2006-07 to 2009-10. RCL and RCIL entered into agreements for providing Value Added Services (VAS) to RCL’s subscribers and selling/marketing products of RCL by RCIL. Consequent to the agreements between RCL and RCIL, revenue from VAS was accounted in the books of RCIL and only a portion of the total revenue was passed on to RCL. Also the revenue earned towards sale of handsets, SIM cards and installation charges from subscribers which should have been accounted in RCL’s books of accounts was booked in RCIL accounts. Thus revenue that should be the revenue of RCL as per UASL agreement had been accounted in the books of RCIL. Consequently, RCL did not pay the correct amount of the revenue share to the Government. Total understatement of GR/AGR by RCL owing to its arrangement with its subsidiary (RCIL) comes out to be ₹ 4424.12 crore. Its impact on short payment of LF and SUC comes out to be ₹ 405.08 crore and ₹ 114.86 crore respectively.

(Para 5.2.2 B to 5.2.2 F)

(x) Understatement of GR/AGR due to non-inclusion of miscellaneous revenue and profit on sale of fixed assets

License agreements provide that GR shall be inclusive of any other miscellaneous revenue, without any set-off for related item of expense, etc. Audit noticed that five PSPs (Airtel, Vodafone, Idea, Tata and Aircel) have included miscellaneous income/profit on sale of fixed assets in GR/AGR for computation of revenue share in initial years. However, subsequently they stopped including miscellaneous income/profit on sale of fixed assets in GR/AGR for computation of revenue share. Audit worked out amount of non/short inclusion of such income in GR/AGR as ₹ 640.76 crore resulting in short payment of LF and SUC by ₹ 54.99 crore and ₹ 20.44 crore respectively.

(Para 3.3.8, 3.3.9, 4.3.2, 6.3.3, 6.3.4, 7.3.3, 8.2.9, 8.2.10)

(xi) Understatement of AGR by claiming ineligible deductions from GR

UASL agreements provide specific deduction that can be made from GR to arrive at AGR. Accordingly, deduction of lease line charges and port charges is not permissible. However, Airtel claimed deduction for lease line charges in 2006-07 and Tata claimed deduction of lease line charges and port charges in the years 2006-07 to 2009-10. Amount of such ineligible deductions claimed came out to be ₹ 669.76 crore having impact on short payment of LF and SUC comes out to be ₹ 58.86 crore and ₹ 22.43 crore respectively.

(Para 3.4.2, 7.4.2)

(xii) Understatement of AGR by amount of bad debts written off claimed as deduction

Bad debts written off are not an eligible deduction to be claimed from GR to arrive at AGR. However, PSPs (Airtel, Vodafone, Idea, Tata and Aircel) have claimed deduction of bad debts written off from GR to arrive at AGR. Amount of such ineligible deduction comes out to be ₹1068.80 crore having impact on short payment of LF and SUC of ₹ 101.10 crore and ₹ 40.15 crore respectively.

(Para 3.4.1, 4.4, 6.4.1, 7.4.1, 8.3.1)

(xiii) Understatement of AGR for computation of SUC

In terms of UASL agreements, revenue from sale/lease of bandwidth should be considered in AGR for computation of SUC. Audit noticed that Bharti, Reliance and Tata, providing wireline services in addition to wireless services, have not included revenue from sale/lease of bandwidth for computation of SUC though the same was included for computation of LF. No such exclusion has been made for PSPs providing wireless services only. Amount of revenue not included in AGR for computation of SUC comes out to be ₹ 3092.14 crore having impact on short payment of SUC of ₹ 89.41 crore.

(Para 3.4.3, 5.4.1, 7.4.3)

(xiv) Inconsistency in verification of deductions claimed by PSPs by Controllers of Communications Accounts

UASL agreements specify the deductions to be made from GR to arrive at AGR that includes Public Switched Telecom Network (PSTN) related call charges (Access Charges) actually paid to other eligible/entitled telecommunication service providers within India, Roaming revenues actually passed on to other eligible/entitled telecommunication service providers and Service Tax on provision of service and Sales Tax actually paid to the

Government if GR had included as component of Sales Tax and Service Tax. Verification of deductions claimed by PSPs was delegated to the CsCA from 2006-07 and on completion of the verification exercise, the CsCA convey their findings through 'verification reports' to the LF Wing of DoT. DoT has issued several sets of instruction to CsCA for verification of deductions.

Audit noticed that there was no uniformity amongst CsCA while making allowance/disallowance of deduction claims submitted by the PSPs. During the course of audit of records maintained by CsCA for verification of deduction claims, discrepancies on various issues were noticed among CsCA and also within the same CsCA. It was noticed that different yardsticks were adopted for different operators due to failure in co-ordination within CsCA/absence of proper monitoring of CsCA by DoT. It was also noticed that in some cases whole amount of deductions claimed have been disallowed by CsCA without proper justification. In a multi operator scenario, payment of access charges to other operators is a reality and disallowance of whole/substantial amount of deductions claimed by CsCA without proper analysis is not justified. Also, DoT's instruction on disallowing roaming deductions paid to international operators is not justified.

(Para 9.3, 10.2.6)

(xv) Discrepancies in assessment of revenue share by DoT and non-existence of appellate mechanism leading to high number of litigations

LF wing of DoT carries out assessment of license fee based on audited annual accounts, audited AGR statements, reconciliation statements submitted by the PSPs and verification reports received from CsCA. Audit noticed that certain items of revenue though disclosed by Vodafone were overlooked by DoT while assessing the GR of the Company. It was also noticed that certain items of revenue reported by Airtel were included in Delhi LSA alone instead of apportioning it among other LSAs while raising demands for 2006-07 and 2007-08.

Assessment of SUC is carried out by Wireless Finance Division of DoT based on Assessment of GR finalized by LF wing of DoT. However, audit noticed that there is lack of coordination among these two wings of DoT. Though the communications revenue collected by DoT contributes significantly to the total Non Tax revenue of GOI, there is no mechanism for appeal in the DoT which has led to increasing number of litigations by the PSPs. Consequently, demands raised by DoT remained unpaid for years together.

(Para 10.2.1, 10.2.2, 10.2.3, 10.2.7)

5. Consolidated statement of non-realisation of revenue noticed by Audit

Short/non-payment of LF as per the licence agreements is given in the following table:-

| Audit observations | Non-realisation of LF (₹ in crore) | | | | | |
|--|------------------------------------|---------------|----------------|---------------|----------------|--------------|
| | Airtel | Vodafone | Reliance | Idea | Tata | Aircel |
| Revenue netted off by the amount of commission/discount etc. paid to distributors/ dealers/ agents | 89.79 | 119.59 | 138.39 | 59.93 | 57.08 | 22.31 |
| Promotional Free Airtime given to subscribers not recognized as revenue for revenue share | 90.27 | 18.45 | * | 57.62 | 591.82 | 26.12 |
| Revenue netted off by the amount of waivers/discount given to post paid subscribers | 104.54 | 0.63 | - | 17.80 | 25.97 | |
| Roaming revenue netted off by discount given to other operators | 15.62 | 23.07 | - | 2.72 | - | - |
| Infrastructure sharing revenue netted off | 19.30 | 46.90 | - | 27.69 | 2.26 | 5.45 |
| Non-inclusion of forex gain | 17.46 | 14.19 | 107.63 | 4.45 | 29.52 | 1.23 |
| Non/short inclusion of interest income | 28.51 | 250.73 | 153.44 | 44.59 | 51.22 | 6.74 |
| Non-inclusion of profit on sale of investment | 42.45 | - | 7.30 | 33.36 | 187.69 | 0.90 |
| Revenue booked in subsidiary's accounts instead of its own books of accounts by RCL | - | - | 405.08 | - | - | - |
| Non-inclusion of miscellaneous revenue and profit on sale of assets | 8.85 | 19.45 | - | 2.24 | 14.52 | 9.93 |
| Ineligible deduction on account of lease line/port charges claimed | 28.03 | - | - | - | 30.83 | - |
| Ineligible deduction on account of bad debts written off claimed | 25.55 | 29.55 | - | 16.89 | 26.64 | 2.47 |
| Other issues | 249.09 | - | 313.56 | 22.70 | 1.61 | 0.65 |
| Total | 719.46 | 522.56 | 1125.40 | 289.99 | 1019.16 | 75.80 |

*Not captured in financial system, eliminated at mediation level itself.

Short/non-payment of SUC as per the licence agreements is given in the following table:-

| Audit observations | Non-realisation of SUC (₹ in crore) | | | | | |
|--|-------------------------------------|---------------|---------------|---------------|---------------|--------------|
| | Airtel | Vodafone | Reliance | Idea | Tata | Aircel |
| Revenue netted off by the amount of commission/discount etc. paid to distributors/dealers/agents | 45.40 | 53.30 | 47.95 | 29.74 | 17.35 | 9.64 |
| Promotional Free Airtime given to subscribers not recognized as revenue for revenue share | 44.29 | 9.27 | * | 25.82 | 180.19 | 11.72 |
| Revenue netted off by the amount of waivers/discount given to post paid subscribers | 49.65 | 0.31 | - | 8.37 | 8.33 | |
| Roaming revenue netted off by discount given to other operators | 7.22 | 10.23 | - | 1.21 | - | - |
| Infrastructure sharing revenue netted off | 9.08 | 21.02 | - | 13.35 | 0.65 | 2.26 |
| Non-inclusion of forex gain | 6.74 | 6.12 | 26.93 | 2.00 | 9.09 | 0.31 |
| Non/short inclusion of interest income | 11.80 | 105.30 | 48.56 | 20.47 | 15.53 | 2.66 |
| Non-inclusion of profit on sale of investment | 17.45 | - | 3.94 | 14.49 | 56.95 | 0.37 |
| Revenue booked in subsidiary's accounts instead of its own books of accounts by RCL | - | - | 114.86 | - | - | - |
| Non-inclusion of miscellaneous revenue and profit on sale of assets | 2.57 | 8.72 | - | 1.01 | 4.48 | 3.66 |
| Ineligible deduction on account of lease line/port charges claimed | 12.63 | - | - | - | 9.80 | - |
| Ineligible deduction on account of bad debts written off claimed | 11.44 | 13.02 | - | 7.03 | 7.61 | 1.05 |
| Revenue included in AGR for LF but not for SUC | 20.70 | - | 40.66 | - | 28.05 | - |
| Other issues | 108.52 | - | 98.95 | 9.78 | 0.49 | 0.14 |
| Total | 347.49 | 227.29 | 381.85 | 133.27 | 338.52 | 31.81 |

* Not captured in financial system, eliminated at mediation level itself.

Short/non-payment of LF, SUC and interest due thereon as on 31 March 2015 as per the licence agreements is given in the following table:-

| | Bharti Airtel | Vodafone | Reliance | Idea | Tata | Aircel | Total |
|----------------------------------|----------------------|-----------------|-----------------|---------------|----------------|---------------|-----------------|
| LF | 719.46 | 522.56 | 1125.40 | 289.99 | 1019.16 | 75.80 | 3752.37 |
| SUC | 347.49 | 227.29 | 381.85 | 133.27 | 338.52 | 31.81 | 1460.23 |
| Total (LF+SUC) | 1066.95 | 749.85 | 1507.25 | 423.26 | 1357.68 | 107.61 | 5212.60 |
| Interest | 1584.94 | 915.54 | 2221.29 | 541.63 | 1857.71 | 155.22 | 7276.33 |
| Total (LF + SUC+Interest) | 2651.89 | 1665.39 | 3728.54 | 964.89 | 3215.39 | 262.83 | 12488.93 |

Thus, the verification of records of six PSPs by audit indicated total understatement of AGR of ₹ 46045.75 crore for the period from 2006-07 to 2009-10. Government of India was deprived of a total revenue of ₹ 12488.93 crore on account of short/non-payment of LF (₹ 3752.37 crore), SUC (₹ 1460.23 crore) and interest (₹ 7276.33 crore) due from the six PSPs for the years 2006-07 to 2009-10.

6. Summary of recommendations:

- (i) It was noticed that verification of deduction claims at CsCA level was not done uniformly and CsCA have taken different approach in allowing/disallowing deduction claims submitted by the PSPs. During the course of audit of records maintained by CsCA for verification of deduction claims, discrepancies on various issues were noticed among CsCA and also within CsCA it was noticed that different yard stick was adopted for different operators due to failure in co-ordination within CsCA/absence of proper monitoring of CsCA by DoT. Hence it is recommended that proper monitoring of CsCA by DoT is required for uniform/systematic verification of deduction claims at CsCA level. DOT also needs to strengthen its internal audit mechanism to ensure that verification of deductions by CsCA are checked regularly.
- (ii) Though DoT had revised the rates of LF and SUC from time to time as detailed in Chapter I, the definition of GR/AGR was not reviewed despite disputes/litigation. It is recommended that the definition of GR/AGR be revisited considering the drastic change in the scenario since 1999 when spectrum was allocated administratively to the present era where spectrum is allocated through bidding process and where the PSPs have to pay considerable amount as one - time payment at the time of allocation of spectrum.

- (iii) To minimize the litigations on the demands raised by DoT, it is recommended that an appellate mechanism should be instituted to address the dispute between DoT and the PSPs on demands raised by DoT. The absence of an appellate/redress mechanism within DoT to address disputes with operators also contributes to the increasing number of litigations.

7. Response of DoT to the audit observations

Audit observations on the sharing of revenue by the six selected PSPs, after the verification of the accounting records at their premises, along with findings on the process followed at the various offices of CsCA for verification of proof documents submitted by the PSPs and the final assessment done by DoT, were communicated to DoT during the period May 2015 to November 2015. Response of the Ministry on the audit observations on Airtel, Vodafone and Reliance was received in January 2016.

DoT in its reply to audit observations on understatement of GR/AGR due to netting off related expenditures from prepaid and post paid revenues, netting of roaming revenue by inter-operator traffic discount paid to other operators, non inclusion of infrastructure sharing revenue in full, non inclusion of revenue/income from Forex gain, interest, sale of investment, miscellaneous revenue and profit on sale assets stated that, based on the report of Special Audit conducted in 2009, demands were raised on the three PSPs in 2012 for the years 2006-07 and 2007-08 . However, the demands were challenged by the PSPs in TDSAT/High Courts and action would be taken as and when the final court judgment would be pronounced. It was also stated that some of the licensees had filed (2012) writ petitions before various High Courts challenging the Section-4 of Indian Telegraph Act, 1885, as violative of the Art.14 and 19(1) (g) of the Constitution of India. In respect of observations not reported in the Special Audit but brought out in this Report, it was stated that responses of the PSPs on them were under examination.

The response of DoT agreed, in general with the audit findings that the PSPs were deviating from the conditions of mutually agreed licence agreement, in reporting their GR. The prolonged litigations at different Courts was given as the reason for the Department's inability to collect the correct revenue share as envisaged in the license agreement. It would be pertinent to mention here that when the Government decided to reduce the licence fee for all operators by two *per cent* effective from April 2004, DoT expected that the reduction would prompt operators to withdraw the legal litigation against the Government. However, the reduction in the rates of LF did not have the expected impact and the operators continue to institute litigations against the Government challenging the definition of GR/AGR and demand notes. Thus the PSPs got the benefit of reduction in rate of LF but the Government did not get the reciprocal benefit of reduction in litigations and receipt of full revenue due to it from PSPs.

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The response of DoT on the audit observations pertaining to Idea, Tata and Aircel was awaited (January 2016).

In conclusion, audit found that even after 16 years of the introduction of the revenue share regime, the correctness and completeness of revenue flowing into the Consolidated Fund of India could not be assured by DoT.