

**GOVERNMENT OF INDIA  
COMMUNICATIONS AND INFORMATION TECHNOLOGY  
LOK SABHA**

UNSTARRED QUESTION NO:3276  
ANSWERED ON:25.04.2012  
ROLLOUT OBLIGATION  
Pakkirappa Shri S.

**Will the Minister of COMMUNICATIONS AND INFORMATION TECHNOLOGY be pleased to state:**

- (a) the number of companies which have concealed information to get license or did not start service on time;
- (b) the names of the companies among them which have been served notice by the Department of Telecommunications;
- (c) the companies which have been fined by the Department of Telecommunications and the companies which have paid amount of fine so far;
- (d) the reasons for not imposing fine on all the guilty companies; and
- (e) the steps taken/proposed to be taken by the Government on the erring operators?

**Answer**

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY ( SHRI MILIND DEORA)

(a) to (e) As per the Report of Comptroller & Auditor General of India (CAG) on "Issue of Licences and Allocation of 2G Spectrum by the Department of Telecommunications", tabled in the Parliament on 16.11.2010, 85 Licenses out of the 122 new Unified Access Services (UAS) licenses issued in year 2008 were issued to 13 Companies which suppressed facts, disclosed incomplete information and submitted fictitious documents to the Department of Telecom and thus used fraudulent means for getting UAS licenses and thereby access to spectrum. Accordingly, all the following 13 companies have been issued show cause notices for termination of the 85 UAS licences.

1. M/s Etisalat DB Telecom Private Limited ( formerly Swan Telecom Private Limited) 2. M/s Loop Telecom Limited 3. M/s S.Tel Private Limited 4. M/s Unitech Wireless (Delhi) Private Limited 5. M/s Unitech Wireless (Mumbai) Private Limited 6. M/s Unitech Wireless (Kolkata) Private Limited 7. M/s Unitech Wireless (Tamilnadu) Private Limited 8. M/s Unitech Wireless (North ) Private Limited 9. M/s Unitech Wireless (East) Private Limited 10. M/s Unitech Wireless (South) Private Limited 11. M/s Unitech Wireless (West) Private Limited 12. M/s Videocon Telecommunications Limited 13. M/s Allianz Infratech Private Limited

Reply of companies to the above said show cause notices are under examination of the Department in consultation with the Ministry of Corporate Affairs and Ministry of Law & Justice. Besides above, vide IA No. 27 of 2011 in Civil Appeal no. 10660 of 2010 in the matter of 'Centre for Public Interest Litigation & Ors. Vs UOI & Ors.' before the Hon'ble Supreme Court of India, it has, inter-alia, been brought to the notice of the Government that M/s. Sistema Shyam TeleServices Ltd. (old name - M/s Shyam Telelink Limited), on the date of its 21 applications for grant of UAS licences i.e. on 25.09.2007, was ineligible as the company did not meet the criteria of requisite network on 25.09.2007. The matter is being examined by the Department.

Further, the following companies who have been granted UAS Licence in the year 2008, have not met first year rollout obligations within stipulated time frame as per licence condition:

1. M/s Etisalat DB Telecom Private Limited (formerly Swan Telecom Pvt. Ltd.), 2. M/s Idea Cellular Limited, 3. M/s Loop Telecom Limited, 4. M/s S Tel Private Limited, 5. M/s Sistema Shyam Teleservices Limited, 6. M/s Spice Communications Limited, 7. M/s Unitech Wireless (Delhi) Private Limited, 8. M/s Unitech Wireless (Mumbai) Private Limited, 9. M/s Unitech Wireless (Kolkata) Private Limited, 10. M/s Unitech Wireless (Tamilnadu) Private Limited, 11. M/s Unitech Wireless (North) Private Limited, 12. M/s Unitech Wireless (East) Private Limited, 13. M/s Unitech Wireless (South) Private Limited, 14. M/s Unitech Wireless (West) Private Limited, 15. M/s Videocon Telecommunications & 16. M/s Allianz Infratech Private Limited.

Demand Notices for imposition of Liquidated damages (LD) had been issued to 107 licensees referred above. In addition to Demand notices for imposition of LD, Show-Cause Notices (SCN) for termination of licenses has also been issued to 27 licensees out of the above referred licensees. Many of them have approached Hon'ble Telecom Disputes Settlement and Appellate Tribunal (TDSAT) against the calculation of the delay in compliance of rollout obligation and imposition of LD. Vide various interim orders, Hon'ble TDSAT directed these licensees to deposit 60% of the demanded amount, subject to any or further orders. In some cases, Hon'ble TDSAT granted stay on the demand notices issued to licensees for imposition of LD. Department has received 240.96 crore out of 446.75 crore from the above referred licensees.

Hon'ble TDSAT pronounced its judgment on 22nd September, 2011, 5th December, 2011 and 13th January, 2012. Hon'ble TDSAT in its judgment dated 13th January, 2012, inter-alia, mentioned that:

The Respondents are directed to consider the issues afresh in light of the observations made heretofore, wherefor the Petitioners may be given an opportunity of hearing.

The Respondents are further directed for refund of the amount deposited by the Petitioner pursuant to our interim orders with interest at the rate of 12 percent per annum. The Petitioners shall, however, furnish Performance Bank Guarantees within two weeks from date

to the extent of the impugned demand, if the same has been reduced or directed to be reduced by orders of this Tribunal in any proceedings. The Respondent should return the amount within four weeks.

Observations of Shri P.K. Rastogi, Member, Hon'ble TDSAT are inter-alia as follows:

I agree with the draft judgment except the matter related to Issue 1 and 7 as well as conclusion prepared by Mr. Justice S. B. Sinha, Learned Chairperson, TDSAT. I have given my own findings with regard to these issues which were framed on 10.02.2011. These two issues are as follows:

What would be the meaning of start up spectrum within the meaning of the provisions of clauses 8.1, 34 and 35?

Whether Microwave Access and Microwave Backbone frequencies having regard to Clauses 43 and 18.3.2 are a sine qua non for meeting the rollout obligations?"

Therefore, I am of the opinion that start up spectrum should be read as initial spectrum allotted to the service provider and the date of allocation for MW access and backbone frequency should not be considered for the purpose of calculating the delay in roll out obligation by the petitioner.

The judgment of the Tribunal is split in the ratio of 1:1 in respect of start date (i.e date of allocation of start up spectrum) for the purpose of calculation of delay in compliance of rollout obligations as per license conditions. Therefore, the revised calculations as per directions of Hon'ble TDSAT for finding out the delay in compliance of rollout obligations cannot be carried out at present. Department has decided to file an appeal against the Hon'ble TDSAT judgment dated 05.11.2011 and 13.01.2012 in the Hon'ble Supreme Court of India. The decision regarding implementation of the TDSAT judgment dated 22 September, 2011 is pending as the legal opinion of the Law Officer(Conducting Counsel) is awaited.