

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

UNSTARRED QUESTION NO:3040  
ANSWERED ON:12.12.2012  
VIOLATION OF 3G LICENCING NORMS  
Annayagari Shri Sai Prathap

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

- (a) whether some telecom companies in the country are indulging in violation of 3G licencing norms frequently;
- (b) if so, the details and the nature of violations thereof, operator-wise; and
- (c) the action taken by the Government against erring operators, operator-wise?

**Answer**

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

(a) to (c) Violations related to provisioning of 3G services by some of the CMTS/UAS Licensee(s) without specific authorization came to the notice of Government. The licence(s) of these CMTS/UAS Licensee(s) have neither been amended for use of 3G spectrum nor 3G spectrum have been allocated to them. On examination, it came to notice that such licensee(s) are providing 3G services to their customers by entering into a commercial agreement called Intra Service Area Roaming Agreement with such CMTS/UAS Licensee(s) whose licences have been amended for use of 3G spectrum and 3G spectrum has also been allocated to them in that service area(s).

Instructions were issued on 23.12.2011 to such licensee companies who are providing 3G services under the above mentioned so called Intra Service Area Roaming arrangements without any specific authorization / amendment in their license(s) for use of 3G spectrum and without any allocation of 3G spectrum for rollout of the 3G network, in those particular service areas, for immediate stoppage of provisioning of 3G services. The details of such licensee(s) are given in the Annexure.

These companies impugned the instructions issued vide above referred letter dated 23.12.2011 before Hon'ble Telecom Disputes Settlement & Appellate Tribunal (TDSAT). TDSAT in its interim orders dated 24.12.2011 has inter-alia directed that Department of Telecommunications (DoT) is restrained from taking any coercive steps against these companies to enforce the impugned order dated 23.12.2011. The judgment pronounced in the matter by Hon'ble TDSAT is split in the ratio of 1:1. As per judgment, Chairman TDSAT has inter-alia concluded that the impugned orders dated 23.12.2011 are set aside with liberty to the Department of Telecommunications (DoT) to pass appropriate orders upon giving due opportunity of hearing to these companies. However, Member TDSAT in his judgment has inter-alia concluded that the companies who have not got 3G spectrum allotted by the licensor in certain circles, cannot provide 3G services to its customers in those circles by way of making intra circle arrangement with the service providers having 3G spectrum.

As these companies have not submitted the compliance of DoT instructions dated 23.12.2011 even after the pronouncement of split judgment by Hon'ble TDSAT, Show Cause Notice (SCN) to M/s Bharti Airtel Limited has been issued to show cause within 60 days as to why financial penalty is not imposed for violation of the license conditions and Licences of 7 Licensed Service Areas (LSAs) are not terminated where the company is providing 3G services without any specific authorization. Simultaneously, in the same notice, the company has also been asked again to stop provisioning of 3G services in these 7 LSAs within 3 days from the date of issue of notice.

The company impugned the above said SCN dated 28.09.2012 before Hon'ble High Court of Delhi. While disposing of the petition, Hon'ble High Court inter-alia ordered that the company would file a reply to the impugned show cause notice dated 28.09.2012. On receipt of the reply, the concerned authority will adjudicate upon the issues raised before it, after according the company, through its representative, a hearing in the matter. Pending the adjudication, the DoT will not take any coercive measures against the company.

Similar SCNs to remaining CMTS/UAS Licensee companies who are in violation of similar license conditions are under consideration for issue, keeping in view, the above mentioned order of Hon'ble High Court in the matter.