

Background

The services provided by Inter Governmental Organisations by the use of satellite systems are different from those provided by country specific domestic satellites, captive or public e.g. V-Sat etc. In the former case the spectrum ownership vests with that organisation and not with any individual country. Having said that and undoubtedly, their use over sovereign territories is governed by ITU coordination. Therefore, one fallacy of payment for spectrum by users is misplaced. Those are subsumed in the space segment charge for usage, why the additional toll by DOT/WPC? **INMARSAT is a treaty Organisation.**

The user is contracting out a service by INMARSAT satellites, by using either their own earth station or by a third-party earth station. This is a demand assigned service and not pre-assigned, where dedicated spectrum is assigned, regardless of use. Neither DOT, nor WPC nor BSNL has ownership of that demand assigned spectrum, why the charge per hand set? **With that analogy, why not on every SIM card or cellular hand set sold?** The ownership of that spectrum by INMARSAT is as per treaty while setting up these international organisations.

The second issue is about "Sui Generis" dispensation permitted to INMARSAT, because of the provision of **GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM (GMDSS) SERVICES FOR SAFETY OF LIFE AT SEA (SOLAS)**. What is "Sui Generis", something which is unique? Indeed INMARSAT system has that uniqueness, which the consultation paper has eloquently described in Para 1.22 to 1.24, but does BSNL have that capability to make use of that uniqueness; the answer is "NO" at the present time. I refer to the diagram in Para 1.24 of the CP. The earth station has only Global Satellite Phone (GSP) Service.

Whereas BSNL and INMARSAT got few dispensations for those very reasons, but not having the capability defeats the very nature of "Sui Generis" category. The plain vanilla services of voice calling, **Global Satellite Phone (GSP) Service**, could have been provided by any satellite system for a hand-held device for use in our remote hilly terrains, islands etc. That incapability, at present, deprives the exchequer entry and license fees, which they would have paid for GMPCS license. BSNL must be well advised to either acquire the capability to be a "Sui Generis" category service provided or until then the dispensations offered to them should be withdrawn.

This lapse begets an explanation and tantamount to an abuse of the "Sui Generis" category dispensation, which got them the waiver from various fees from the Government/DOT. **Be that as it may:**

Issues for Consultation

Q1. Do you agree that the formula based spectrum charges should be replaced with AGR based SUC in respect of provision of services by BSNL under its license for 'Provision and Operation of Satellite based services using Gateway installed in India' under 'sui-generis' category? If yes, what percentage of AGR should be the spectrum usage charges?

WE agree that the formula based spectrum charges are preposterous regardless of 'sui-generis' category, because WPC has neither an ownership of these frequencies nor are these frequencies allocated for exclusive use. **With that analogy, why not on every SIM card or cellular hand set sold?** The system is demand assigned and not pre-assigned. The charging should be replaced with AGR based SUC in respect of provision of services by BSNL under its license for 'Provision and Operation of Satellite based services using Gateway GMPCS license conditions installed in India and not under 'sui-generis' category, say either 5% of AGR for SUC and 8% as license fee.

Q2. In case your response to Q1 is negative, what should be the spectrum charges and how should it be calculated?

Not applicable, since answered Q1 in the affirmative. **WE** agree that the formula based spectrum charges are preposterous. Any Charges should be linked with AGR only, no upfront loading to price out a service. There is no economic rationale.

Q3. In your opinion, while determining the AGR for the purpose of levy of license fee and SUC, whether the cost of handsets (which is separately identifiable) should be allowed as deduction from the Gross revenue of BSNL's Satellite based services under 'sui-generis' category?

WE are concerned about the 'sui-generis' category of BSNL services using INMARSAT satellites. It is crass abuse of the 'sui-generis' category. Regardless, the cost of handsets (which is separately identifiable) should be allowed as deduction from the Gross revenue of BSNL's Satellite based services.

Q4. If there are any other issues/suggestions relevant to the subject, stakeholders may submit the same with proper explanation and justification.

We are concerned about the lapse of non-availability of the **GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM (GMDSS) SERVICES** FOR SAFETY OF LIFE AT SEA (**SOLAS**). Who is responsible for this lapse, INMARSAT or BSNL? Both of them have miss-represented facts to gain a foothold to provide Global Satellite Phone (**GSP**) Service, which is in the scope of an entirely different licensing regime under GMPCS. "Sui Generis" category has been erroneously and fraudulently obtained both by INMARSAT or BSNL, because the "Sui Generis" category services are not provided by them in the Indian context, defeating the raison d'être of installation of an expensive earth station out of USO fund, in turn the tax payer. Both of them must be ordered to provide the **GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM (GMDSS) SERVICES** FOR SAFETY OF LIFE AT SEA (**SOLAS**) at earliest possible to continue to enjoy the provisions under **Sui Generis**" category. **Someone either INMARSAT or BSNL must explain this lapse and compensate for the losses to GOI.**

Finally, DOT/WPC must either explain the rationale for this exorbitant upfront spectrum charge, making service unaffordable/unattractive or understand the economics of the product of volume and tariff. The higher the volumes, the faster would be cost recoveries. Let them not put these unrealistic upfront spectrum charges, as a deterrent, making the services expensive, stunting the growth in volumes, thus usage. That is a very vicious whirlpool.