

**GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF TELECOMMUNICATIONS**

**LOK SABHA
UNSTARRED QUESTION NO. 3197
TO BE ANSWERED ON 14th MARCH, 2018**

CALCULATION OF LICENCE FEE AND SPECTRUM USAGE CHARGE

3197. DR. KAMBHAMPATI HARIBABU:

Will the Minister of COMMUNICATIONS be pleased to state:

- (a) whether the current method of calculating licence fee and spectrum usage charge is around twenty years old and has not been reviewed by the Government so far;
- (b) if so, the details thereof and the reasons therefor; and
- (c) whether the Government has received any complaints pertaining to gross revenues and adjusted gross revenues of telecom companies and if so, the details thereof and the action taken by the Government thereon?

ANSWER

**THE MINISTER OF STATE (IC) OF THE MINISTRY OF COMMUNICATIONS &
MINISTER OF STATE IN THE MINISTRY OF RAILWAYS
(SHRI MANOJ SINHA)**

(a) & (b) The New Telecom Policy (NTP) 1999 gave an option to the licensees to migrate from fixed license fee to revenue sharing fee. This change from fixed to revenue share was also as per the demands of the majority of the Telecom Industry. Accordingly, letters dated 22.07.1999 were sent to different licensees offering them a change over to NTP-99 regime, which *inter alia* stated:

“the license fee as percentage of gross revenue under the license shall be payable w.e.f. 01.08.1999. The Government will take a final decision about the quantum of the revenue share to be charged as license fee after obtaining recommendations of the Telecom Regulatory Authority of India (TRAI).”

After receipt of the TRAI recommendations on the issue, the definition of Gross Revenue and Adjusted Gross Revenue was finalized by the Government.

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The current method of calculating the License Fee and Spectrum Usage Charges is based on a percentage of revenue share as introduced by the New Telecom Policy, 1999. The Adjusted Gross Revenue for this purpose would be the total revenue of the licensee company excluding:

- I. PSTN related call charges actually paid to other eligible/entitled telecommunication service providers within India,
- II. Roaming revenue actually passed on to other eligible/entitled telecommunication service providers and,
- III. Goods and Services Tax (GST) paid to the Government if gross revenue had included a component of Goods and Services Tax.

The Revenue Share Regime has resulted in the stabilization and growth of the Telecom Sector and has also generated significant revenues for the Government. While the basic principles of the regime have not changed, clarifications have been issued from time to time in consultation with the stakeholders i.e. Telecom Service Providers.

(c) The Telecom Service Providers have filed cases before the various legal fora since 2003 challenging the definition of Adjusted Gross Revenue in the license agreement. They have contended that Adjusted Gross Revenue can only relate to the revenue directly arising out of telecom operations licensed under Section 4 of the Indian Telegraph Act, 1885 and should exclude revenue from non-telecom related activities. The matter was decided in the favour of Government by the Hon'ble Supreme Court in 2011. In its decision, the Hon'ble Supreme Court upheld the provisions of the License agreement. However, subsequently the operators challenged various demands raised by DoT in the TDSAT. The TDSAT gave a Judgement in April 2015, which has been challenged both by the Department and Telecom Service Providers in the Hon'ble Supreme Court where the matter is still pending.
