

CHAPTER-II

DEPARTMENT OF TELECOMMUNICATIONS

2.1 Payment of subsidy on fictitious/duplicate claims

Controller of Communication Accounts (CCA), Rajasthan Telecom Circle allowed front loaded subsidy of ₹ 71.49 crore on the basis of claims submitted by M/s Tata Teleservices Limited (TTSL) during 2008-2010 without conducting any check regarding genuineness of Customer Application Forms (CAFs) before disbursement of subsidy. Further, CsCA at Odisha and Kerala circles paid subsidy on duplicate claims amounting to ₹ 0.82 crore to BSNL and Reliance Communication Limited.

Department of Telecommunications (DoT) in September 2003 delegated the work relating to disbursement of subsidy towards Universal Service Obligation (USO) to the Controllers of Communication Accounts (CsCA) of the respective Telecom Circles subject to the limit of the amount allotted and in conformity to the conditions of the Agreement. The CsCA were required to undertake monitoring with reference to the information furnished in the claims of the various Universal Service Providers (USPs) under the respective agreements.

(a) Payment of subsidy on fictitious claims

Department of Telecommunication (DoT) entered into agreements with various USPs for provision of Rural Household Direct Exchange Lines (RDELs) in a specified Short Distance Charging Areas (SDCAs). Under the agreements, one time Front Loaded Subsidy¹ was to be paid for net additions of RDELs in a local exchange area.

While granting extension of time period of installation of RDELs for one year from 1 April 2007 to 31 March 2008 to M/s Tata Teleservices Limited (TTSL), USP for eight service areas, DoT issued instructions (January 2008) to the USP to furnish a copy of Customer Application Form (CAF) either in hard or soft copy in support of claims for each number for which Front Loaded Subsidy had been claimed.

During test check of records at Office of the Controller of Communication Accounts (CCA) Rajasthan Telecom Circle (September 2013), it was observed that in most of the cases, either there were no soft or hard copies of CAFs or those were related to mobile subscribers instead of RDELs. Further, some of the soft copies of CAFs contained either blank forms or details of subscribers were without any telephone number. Moreover, CAF's supporting documents as well as signature and seal made

¹ Front loaded subsidy is the amount payable at the end of the quarter in which the connection is installed and made functional.

on ration cards in many cases were also found to have been forged. Surprisingly, in some cases the same photo was also found to have been affixed on different CAFs with different names and addresses. During test check by audit of the addresses mentioned in the CAFs, it was noticed that concerned subscribers were not found in most of the cases.

CCA, however, allowed front loaded subsidy of ₹ 71.49 crore to TTSL on the basis of claims submitted by them during 2008-2010 without conducting any check on CAFs before disbursement of subsidy.

Ministry stated in its reply (June 2016), that hard copies of CAFs for the period from 1 April 2007 to 31 March 2008 were available. The CDs submitted by the USP relating to financial year 2009-10 were burnt in fire incident that took place in May 2016. Further, there was no instruction to check the CAFs before or after payment of subsidy claims. It was further stated that during the physical verification of RDELs, all the RDELs were not found installed at their original locations as per claims and original CAFs and hence, were adjudged ineligible. Accordingly, demand notice of ₹ 137.99 crore (including interest) for the subsidy paid during 2007-08 to 2009-10 was issued to TTSL in June 2014. The matter is presently disputed before the sole arbitrator.

Reply of the Ministry confirms deficiencies in verification and payment mechanism for RDEL subsidies. It is also indicative of weak monitoring mechanism on the part of DoT in verification of subsidy claims.

(b) Payment of subsidy on duplicate claims

Test check of records in offices of CsCA at Odisha (BSNL) and Kerala (Reliance Communication Limited) circles revealed instances of payment of subsidy for same RDEL number under different RDEL agreements and subsidy claimed twice for same connection with different installation dates amounting to ₹ 0.65 crore by USPs under the scheme for provision of RDELs.

In the scheme for provision of wire-line broadband connections in rural and remote areas, it was observed in Odisha Circle that BSNL showed same broadband connection as re-allotted either to the same subscriber or to a new subscriber before permanent closure of the first connection. Consequently, duplicate payment of ₹ 0.17 crore was made by the CCA.

Ministry stated in reply (June 2016) that action was being taken to recover the same.

Thus, there was payment of subsidy amounting to ₹ 72.31 crore² to the USPs on the basis of fictitious as well as duplicate claims.

2.2 Irregular payment of subsidy to Universal Service Provider

DoT entered into an agreement with BSNL for provision of wire-line broadband connectivity in rural and remote areas from existing telephone exchanges. BSNL provided 489 kiosks within telephone exchange premises in Tamil Nadu service area without provisioning of essential component of infrastructure setup in a kiosk. Principal CCA Tamil Nadu, however, released the subsidy amounting to ₹ 9.31 crore for these kiosks in contravention to the instructions issued in this regard by DoT.

Department of Telecommunication entered into an agreement with BSNL (January 2009) for provision of wire-line broadband connectivity in rural and remote areas from existing telephone exchanges for the purpose of implementing the scheme of subsidy disbursement from the USOF for rural telephony. The scope of the scheme included provision, operation and maintenance of broadband connectivity to individual and institutional users along with setting up of broadband internet kiosks in the specified rural and remote areas. The benchmarking cost of equipment required for kiosks included cost of UPS also. It was further clarified by the Ministry that the kiosks having all basic components as per benchmarking and fulfilling the envisaged objectives shall only be eligible for subsidy.

During the test check of records at Office of the Principal Controller of Communications Accounts (Pr. CCA), Tamil Nadu Circle, Audit observed that 489 numbers of kiosks were provided within telephone exchange premises of BSNL without provisioning of separate UPS which was subsequently confirmed by the BSNL Corporate Office also. However, Pr. CCA Tamil Nadu released the subsidy amounting to ₹ 9.31 crore during the period from November 2010 to December 2013 for these kiosks in contravention to the instructions issued by the Ministry in this regard.

Ministry on this issue stated (September 2014) that as per the agreement, the USP was obliged to keep the kiosk running efficiently and smoothly. The essential components of infrastructure setup in a kiosk are at least one workstation/computer, UPS, printer, scanner, ADSL modem/CPE, webcam and a DG set as a power backup. Thus no kiosk subsidy was payable to the USP, if any of the essential components were not provided. It was further stated that the matter was being pursued with Pr. CCA Tamil Nadu office to ascertain the excess paid subsidy on these lines.

² ₹ 71.49 crore on the basis of fictitious claims and ₹ 0.82 crore (₹ 0.65 crore plus ₹ 0.17 crore) on account of duplicate claims of connections made by USPs due to lack of proper verification of subsidy claim statements by the CsCA

This was further clarified by the USOF Headquarters (January 2015) that the agreement mandates that kiosk should be able to function despite power outages and hence gives BSNL freedom and flexibility in running the kiosk as long as it complies with various stipulated obligations and service parameters. It further clarified that the UPS for protecting the workstation/computer for kiosk from damage caused by voltage fluctuations must be for exclusive usage and in the absence of the same, kiosk subsidy would be inadmissible.

Ministry while accepting the facts and figures (May 2016) stated that Pr. CCA, Tamil Nadu has been directed to adjust the irregular payment of subsidy in accordance with the agreements and instructions issued thereunder against the pending bills of BSNL for non-provision of essential components. As such the amount of irregular subsidy on the 489 kiosks amounting to ₹ 9.31 crore was yet to be recovered.

The observations made in the para pertain only to one circle and similar lapses in other circles cannot be ruled out to which Ministry needs to take cognizance of and initiate corrective action.

Thus, payment of subsidy by the Ministry without ensuring installation of essential components by the USP in kiosks resulted in irregular payment of subsidy of ₹ 9.31 crore.

2.3 Unauthorized telecom service by M/s Sterlite Technologies Limited (STL)

STL, an Infrastructure Provider Category-I (IP-I) registered company, which was authorised only to provide infrastructure support to licensees of telecom service providers was functioning beyond the scope of the IP-I registration. Though the fact was brought to notice of DoT by TERM Cell, Pune, no action was taken against the company even after one year.

Infrastructure Provider Category-I (IP-I) registration is awarded to Indian companies for establishing and maintaining assets such as dark fibres³, right of way⁴, duct spaces and tower to provide infrastructure support to licensees of telecom service providers. In no case, the company registered as IP-I shall work and operate or provide telegraph services including end-to-end bandwidth as defined in Indian Telegraph Act, 1885 either to any service provider or any other customer. No entry fee and bank guarantee was required for the company to get registered as IP-I. M/s Sterlite Technologies Ltd. (STL) was one of such IP-1 registered companies that was registered in December 2010 for provision of services like dark fibre to telecom service providers in Pune and commenced services in December 2012.

³ A dark fibre or unlit fibre is an unused optical fibre, available for use in fibre-optic communication.

⁴ A right of way is a type of easement granted or reserved over the land for transportation purposes, this can be for a highway, public footpath, rail transport, canal, as well as electrical transmission lines, oil and gas pipelines.

During the audit (December 2015) of Telecom Enforcement, Resource and Monitoring (TERM) Cell⁵, Pune it was observed that an inspection of STL was conducted by it in February 2015 wherein it was found that though STL was registered as an IP-I, none of its customers had hired/leased/utilized end-to-end dark fibres from the company. The Company's customers were utilizing fibre in conjunction with active equipment like Optical Line Termination (OLT), Optical Network Terminal (ONT), L3 switches etc., installed in the premises of the company. In fact STL was providing services using GPON⁶ with its own equipments or using the equipment of its wholly owned subsidiary M/s Sterlite Networks Limited (SNL)⁷, and the customers were being billed on the basis of bandwidth utilisation and not on the length and number of dark fibres utilized.

Based on this, TERM Cell concluded that STL was functioning as an IP-II service provider as it was selling bandwidth rather than dark fibre which was beyond the scope of the IP-I registration. Since IP-1 registration did not carry the load of entry fee and bank guarantee whereas IP-II licensee had to deposit a Performance Bank Guarantee of ₹ 100 crore in addition to annual license fee in the form of revenue share @ 6 per cent of Adjusted Gross Revenue (AGR)⁸, STL was causing revenue loss to the exchequer on account of annual license fee on AGR since the day it was carrying out activities under IP-II license which was not ascertainable in the absence of data.

TERM Cell submitted this inspection report to Department of Telecommunications (DoT) in August 2015 with recommendation to give an option to STL either to migrate to National Long Distance (NLD) license and pay annual license fee from the date of commencement of its operations in Pune and elsewhere along with a fine as deemed fit or if STL does not take this option, its IP-I registration may be revoked and shutdown of its operations may be ordered and it may also be prosecuted for unauthorised telecom operations. As there was no further communication from DoT, TERM Cell, Pune again requested (November 2015) DoT to initiate suitable action against STL as it was prima facie observed that the operator was providing services beyond the scope of registration. No action on the Company has yet been initiated by DoT.

Ministry in its reply (April 2016) stated that the investigation done by TERM Cell, Pune was centered around deployment of active infrastructure by IP-I company. Instructions issued by DoT in 2009 have allowed IP-I to create certain infrastructure

⁵ As the number of telecom operators in the country increased, in order to ensure that service providers adhere to the licence conditions and for taking care of telecom network security issues, the Government created Telecom Enforcement, Resource and Monitoring (TERM) Cell in the licenced service areas.

⁶ GPON stands for Gigabit Passive Optical Networks and can transport PSTN, ISDN, E1 and E3 traffic.

⁷ Speed on Network Limited (erstwhile Sterlite Networks Limited).

⁸ Revenue of a company after adjusting allowable deductions.

for/on behalf of UASL/CMSP Licensee. Accordingly, TERM Cell Pune has been asked to re-examine the entire case.

In this regard, Audit has following observations.

- As per instructions issued by DoT in 2009, the scope of active infrastructure was limited to antenna, feeder cable, Node B, Radio Access Network (RAN) and transmission system only for/on behalf of UASL/CMSP licensee. However, STL owned Optical Network Terminal (ONT) and L3 switches as confirmed by its customers such as Tata and Airtel which never reported that these equipments were installed for/on behalf of them. The fact that these equipments belonged to STL was in clear violation of the DoT's instructions.
- Guidelines were issued by DoT in 2009 and the inspection was conducted in February 2015. As such the TERM Cell was well aware of the guidelines. Further the scope of registration as IP-I does not provide for sale of bandwidth whereas STL was charging its customers on the basis of bandwidth utilization instead of the length and number of dark fibres. The sale of bandwidth was permissible only by the entity holding IP-II licenses.

Thus, STL violated the IP-I registration conditions and unauthorisedly provided services which were beyond the scope of IP-I category license. Further, there has been inaction on the part of DoT since even after bringing to its notice about violation by STL in August 2015, it has allowed it to continue the services without valid license.