Executive Summary

1. Revenue share model in Indian Telecom Sector

The New Telecom Policy (NTP-99), which came into effect in April 1999, introduced the revenue sharing model in the Indian telecom sector. Under this system telecom licensees were required to share a percentage of their Adjusted Gross Revenue (AGR) with the Government as annual License Fee (LF). In addition, mobile telephone operators were also required to pay Spectrum Usage Charges (SUC) for the use of radio frequency spectrum allotted to them. The license agreements between the Department of Telecommunications and the service providers defined the components of the GR of the licensee company and the AGR was computed after allowing for certain deductions spelt out in the license agreements. The annual accounts of the service provider, audited by their Auditors appointed under Section 224 of the Companies' Act, 1956, are relied upon by DoT for assessing the revenue share due to the Government.

2. Audit by CAG on the correctness of revenue share paid by private telecom Service Providers

The revenue shared by Private Telecom Service Providers (PSPs) with the Government of India (GOI) as LF and SUC forms part of the Consolidated Fund of India. Section 16 of Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 make it obligatory on the part of CAG to satisfy himself that the Government of India has received its complete and correct share. Further, the 'Telecom Regulatory Authority of India, Service Providers (Maintenance of Books of Accounts and other Documents) Rules, 2002', promulgated by the Government in November 2002 contains enabling provisions for verification of all the accounting records and documents maintained by the service providers that has a bearing on the Gross Revenue (GR) of the service providers by the CAG of India. CAG had presented a report (Report No. 4 of 2016) on the Sharing of Revenue by six PSPs during the years 2006-07 to 2009-10 to the Parliament in March 2016 and the Report was considered by the Public Accounts Committee. Audit of five PSPs audited earlier (except M/s Tata Teleservices Limited and Tata Teleservices (Maharashtra) Limited) covering the period from 2010-11 to 2014-15 and in respect of M/s Sistema Shyam Teleservices Limited for the period from 2006-07 to 2014-15 was conducted in 2016 and audit findings are reported in a separate report (Report No. 11 of 2017).

The current Report presents the audit observations emanating from the verification of the accounting records of five[1] operators.

Structure of the Report

This report consists of six chapters and annexures. Chapter 1 gives an overview of the salient features of the revenue sharing regime and the arrangements in Department of Telecommunication (DoT) for collection of LF and SUC and their final assessment. It also explains the audit scope, methodology. Audit findings are narrated, operator wise in Chapters II to VI**.**

3. Summary of important audit findings

(i) Gross Revenue (GR)/AGR understated by all the PSPs by the amount of commission/discount paid to their distributors/dealers/agents/franchisees

PSPs employ distributors/dealers/agents/franchisees to sell their prepaid products as well as for customer acquisition. In return of these services, PSPs pay commission/discounts, etc. to them. All the PSPs whose accounts were verified had their GR/AGR reduced by the amount of commission/discounts, etc. paid to distributors/dealers/agents/franchisees.

Since commission/discounts etc. paid to distributors/dealers/agents/franchisees were in the nature of business expenses (marketing expenses), netting off or reducing it from revenue for the purpose of reporting GR/AGR was not in line with the conditions of license agreements. Amount of discount/commission etc. netted off from revenue worked out by audit was ₹ 3183.03 crore resulting in short payment of LF and SUC by ₹ 270.36 crore and ₹ 117.99 crore respectively.

(Paragraphs 2.2.1, 3.2.1, 4.2.1, 5.2.1)

(ii) GR/AGR understated by all the PSPs by the amount of promotional schemes like Free Talk Time/Free Air Time

Audit noticed that PSPs provide various offers like Free Talk Time/Free Air Time (FTT/FAT) to their prepaid subscribers on different occasions which were basically promotional schemes under various names. Unified Access Service Licence (UASL) agreements provide that operators should show service revenue (amount billable) gross and details of discount/rebate indicated separately. It was noticed that promotional offers were not recognised as revenue by the PSPs.

[1] 1. M/s Tata Teleservices Limited and Tata Teleservices (Maharastra) Limited (2010-11 to 2014-15), 2. M/s Quadrant Televentures Limited (2006-07 to 2014-15), 3. M/s Videocon Telecommunication Limited (2009-10 to 2014-15), 4. Telenor group (2009-10 to 2014-15) and 5. Reliance Jio Infocom Limited (2012-13 to 2014-15).

Since such promotional offers were in the nature of business expenses, in accordance with UASL agreements, they should be recognised as revenue for the purpose of GR/AGR for computation of revenue share to GOI. Audit worked out understatement of GR/AGR on this account at ₹ 3310.00 crore resulting in short payment of LF and SUC by ₹ 277.83 crore and ₹ 125.20 crore respectively.

(Paragraphs 2.2.2, 3.2.2, 4.2.2, 5.2.2)

(iii) Understatement of GR/AGR by netting-off of discounts/waivers given to post-paid/prepaid subscriber

Discounts/waivers given to post paid/prepaid subscribers over and above tariff plans submitted to TRAI which were in the nature of business expense were deducted from revenue in the accounts of Tata and Telenor. This practice was a deviation from the license agreement which stipulated recording of revenue without setting off related expenditures. This deviation led to understatement of ₹ 345.92 crore in GR/AGR reported by these companies resulting in short payment of LF and SUC by ₹ 29.06 crore and ₹ 13.25 crore respectively.

(Paragraphs 2.2.3, 3.2.3)

(iv) Understatement of GR/AGR by netting of discounts from revenue pertaining to roaming services

PSPs have arrangements with other International Operators for roaming services. It was observed that the Inter Operator traffic (IOT) discounts paid/credited to the accounts of these Operators were debited/deducted from the roaming revenue by Telenor. Having roaming arrangement with other national/ international operators is a matter of mutual agreement between two operators and giving discounts over and above the agreed charges for roaming is part of overall commercial strategy to enhance business between the two operators. As such, these discounts were in the nature of expenses and hence, in terms of license agreements, they are not permitted to be deducted from revenue. Audit worked out understatement of GR/AGR for computation of revenue share on this account as ₹ 3.27 crore resulting in short payment of LF and SUC by ₹ 0.32 crore and ₹ 0.11 crore respectively.

(Paragraphs 3.3)

(v) Understatement of GR/AGR by netting of revenue from infrastructure sharing

UASL agreements provide that GR shall be inclusive of revenue from infrastructure sharing without setting off of any related item of expenses. PSPs have arrangements with other PSPs for sharing of their passive infrastructure. Audit has noticed that amount received towards infrastructure sharing in the case of M/s Tata has not been taken to revenue in full, instead, part of it has been credited to expenses. This has resulted in understatement of revenue from infrastructure sharing for computation of GR/AGR for the purpose of revenue share. Understatement of GR/AGR on this account was worked out by audit as ₹ 107.09 crore resulting in short payment of LF and SUC by ₹ 9.15 crore and ₹ 3.85 crore respectively.

(Paragraphs 2.2.4)

(vi) Understatement of GR/AGR due to short/non-inclusion of forex gain in GR

In terms of definition of GR, forex gain was to be a component of the GR for computation of revenue share. We observed that forex gains were either excluded completely or only partially included in GR by the PSPs. The exclusion of forex gain in GR of all the PSPs worked out to ₹ 1484.17 crore leading to short payment of LF and SUC by ₹ 125.07 crore and ₹ 15.91 crore respectively.

(Paragraphs 2.2.5, 3.4, 4.3.2, 5.3.1, 6.6.1)

(vii) Understatement of GR/AGR by all PSPs by non- inclusion of interest income

License agreements expressly provide that interest income of the licensee company should be included in its GR for computation of revenue share payable. Audit observed that the PSPs did not include interest income in GR/AGR leading to short payment of revenue share paid. Understatement of revenue reported by the PSPs during the period of audit coverage was ₹ 687.59 crore and consequent short payment of LF and SUC was worked out at ₹ 59.23 crore and ₹ 23.78 crore respectively.

(Paragraphs 2.3.2, 3.5, 4.3.1, 5.3.4)

(viii) Understatement of GR/AGR by all PSPs by non-inclusion of profit from sale of investment

License agreements provide that income from investments should be included in GR/AGR for computation of revenue share. Audit noticed that M/s Tata did not include income earned from investments in GR/AGR for computation of revenue share. Amount of non-inclusion of income from investments in GR/AGR was ₹ 257.07 crore resulting in short payment of LF and SUC by ₹ 21.52 crore and ₹ 9.50 crore respectively.

(Paragraphs 2.3.1)

(ix) Understatement of GR/AGR due to non-inclusion of miscellaneous revenue and profit on sale of fixed assets

Definition of revenue in the license agreements stipulates that GR of the licensee company should include miscellaneous revenue without any set-off for related item of expense, etc. Audit noticed that M/s Tata, M/s Telenor and M/s Quadrant did not include miscellaneous income like profit on sale of fixed assets in their GR leading to its understatement. The GR understated totalled to ₹ 165.39 crore resulting in short payment of LF and SUC by ₹ 13.64 crore and ₹ 5.60 crore respectively.

(Paragraphs 2.3.3, 2.3.4, 3.6, 5.3.2, 5.3.5)

(x) Understatement of AGR by amount of bad debts written off, claimed as deduction

The license agreements permit only three items of revenue to be deducted from GR to arrive at the AGR of service providers. Bad debts written off were not eligible to be claimed from GR to arrive at AGR. However, M/s Tata claimed deduction of bad debts written off from their GR to arrive at AGR. A total of ₹ 1026.01 crore was found deducted which led to short payment of LF and SUC of ₹ 88.59 crore and ₹ 39.49 crore respectively.

(Paragraphs 2.4.1)

(xi) Understatement of AGR for computation of SUC

In terms of UASL agreements, revenue from sale/lease of bandwidth/sharing of infrastructure should be considered in AGR for computation of SUC. Audit noticed that M/s Tata and M/s Quadrant did not include revenue from sale/lease of bandwidth/sharing of infrastructure for computation of SUC though the same was included for computation of LF. No such exclusion, however was made by PSPs providing only wireless services. Revenue not included in AGR for computation of SUC worked out to ₹ 2988.59 crore which had the impact of short payment of SUC of ₹ 105.95 crore.

(Paragraphs 2.4.3, 5.3.3)

(xii) Compliance to license conditions

The Gross Revenue of the licensee operator, as per the license agreement with DoT prohibits any set-offs of related expenditure from revenue and norms for preparation of the accounts for payment of revenue share are built into the license agreement. We observed non-conformities with conditions of license agreement in the accounts prepared by all the five operators covered in audit due to which their GR computed for sharing revenue with the Government was understated. Even though computation of the GR was not in compliance with the licence agreement, the Statutory Auditors had always certified that the accounts were prepared in accordance with the guidelines/norms contained in the Licence Agreement and the companies always presented an affidavit to DoT affirming that their GR was as defined in the license agreements. These statements submitted by the operators appeared to be only a perfunctory practice as they consistently departed from the stipulations in the UASL agreements while computing GR/AGR. DoT on its part did not take any proactive steps to ensure that the licensees disclosed their revenue as stipulated in the licence agreements.

(Paragraphs 2.4.6, 3.8, 4.5, 5.5)

4. Consolidated statement of non-realisation of revenue noticed by Audit:

Short/non-payment of LF as per the licence agreements is given in the following table:-

Audit Observations	Non realisation of LF (₹ in crore)				
	Tata	**Telenor**	**Videocon**	**Quadrant**	**Reliance Jio**
Revenue netted off by the amount of commission/ discount etc. paid to distributors/dealers	182.20	79.19	5.82	3.15	-
Promotional Free Airtime given to subscribers not recognized as revenue for revenue share	158.39	111.31	7.88	0.25	-
Revenue netted off by the amount of waivers/ discount given to subscribers	15.95	13.11	-	-	-
Roaming revenue netted off by discount given to other operators	-	0.32	-	-	-
Infrastructure sharing revenue netted off	9.15	-	-	-	-
Non inclusion of forex gain	115.22	1.89	1.38	1.48	5.10
Non/short inclusion of interest income	29.50	24.84	4.80	0.09	
Non inclusion of profit on sale of investment	21.52	-	-	-	-
Non-inclusion of miscellaneous revenue and profit on sale of assets	5.90	4.64	-	3.10	-
Ineligible deduction on account of bad debts written off claimed	88.59	-	-	-	-
Other issues	97.81	22.02	0.42	0.15	-
Total	**724.23**	**257.32**	**20.30**	**8.22**	**5.10**

Short/non-payment of SUC as per the licence agreements is given in the following table:-

Audit Observations	Non realisation of SUC (₹ in crore)				
	Tata	Telenor	Videocon	Quadrant	Reliance Jio
Revenue netted off by the amount of commission/ discount etc. paid to distributors/dealers	79.68	34.28	2.63	1.40	-
Promotional Free Airtime given to subscribers not recognized as revenue for revenue share	71.87	49.53	3.69	0.11	-
Revenue netted off by the amount of waivers/ discount given to subscribers	7.01	6.24	-	-	-
Roaming revenue netted off by discount given to other operators	-	0.11	-	-	-
Infrastructure sharing revenue netted off	3.85	-	-	-	-
Non inclusion of forex gain	14.16	0.85	0.43	0.47	0.00
Non/short inclusion of interest income	12.45	9.35	1.91	0.07	-
Non inclusion of profit on sale of investment	9.50	-	-	-	-
Non-inclusion of miscellaneous revenue and profit on sale of assets	2.54	2.05	-	1.01	-
Ineligible deduction on account of bad debts written off claimed	39.49	-	-	-	-
Revenue included in AGR for LF but not for SUC	104.26	-	-	1.69	-
Other issues	42.19	8.40	0.24	0.07	-
Total	**387.00**	**110.81**	**8.90**	**4.82**	**0.00**

Short/non-payment of LF, SUC and interest due thereon as on 31 March 2016 as per the licence agreements is depicted in the following table:-

	Short/non-payment of LF, SUC and interest (₹ in crore)					
	Tata	**Telenor**	**Videocon**	**Quadrant**	**Reliance Jio**	**Total**
LF	724.23	257.32	20.30	8.22	5.10	1015.17
SUC	387.00	110.81	8.90	4.82	0.00	511.53
Total (LF+SUC)	1111.23	368.13	29.20	13.04	5.10	1526.70
Interest	782.37	235.62	18.88	13.58	1.68	1052.13
Total (LF+SUC+ Interest)	1893.60	603.75	48.08	26.62	6.78	2578.83

To sum up the verification of records of five PSPs by audit indicated total understatement of AGR of ₹ 14813.97 crore for the period upto 2014-15 and consequent short payment of revenue share to Government of India to the tune of ₹ 1526.70 crore. The interest due on the short paid revenue share, for the period up to March 2016 was ₹ 1052.13 crore.

5. Response of DoT and the PSPs to the audit observations

Audit observations on the sharing of revenue by the five PSPs were communicated to DoT during December 2016/Janurary/Februrary 2017 with copies endorsed to the PSPs concerned. PSPs submitted their replies to Audit during January-March 2017. Responses of the Ministry (except in case of Reliance Jio) on various audit observations were received in February 2017. Same has been appropriately included in this Report. Responses of the Ministry in respect of Reliance Jio audit observations are awaited.