

**DEPARTMENT OF SPACE**

**CHAPTER IX**

**Antrix Corporation Limited**

**Performance of the Company**

*Highlights*

- Company specific guidelines/procedures for accounts, investments, personnel *etc.*, had not been developed even 15 years after its creation and Government of India's directive.  
*(Para 9.7.1.1)*
- The functional distinction between the Company and the Department of Space (DOS) was ambiguous since the officers of the DOS were also executives of the Company. Proper delegation of powers consistent with good governance, structure and growth of the Company had not been drawn up (November 2007).  
*(Para 9.7.1.2)*
- The Company's interest earnings averaged around 50 *per cent* of the profit after tax during the years 2002-03 to 2006-07 which would suggest that the Company was being used as a special purpose vehicle for parking of unutilised funds by the DOS. Despite having substantial cash balances, the Company had not developed proper procedures to increase its yield from the surplus cash retained by it.  
*(Para 9.7.1.3)*
- The Company credited the DOS share of revenue to the Indian Space Research Organisation (ISRO) instead of the Consolidated Fund of India. Remittances were also not prompt even though the relevant moneys were shown as accrued to the DOS in the Accounts. Periodical reconciliation of amounts due and payable to the DOS had not been carried out.  
*(Para 9.7.1.4)*
- Though the Company was set up as the commercial arm of the DOS, several commercial contracts like with Prasar Bharati, New Sky Satellite, Netherlands and INTELSAT were not entrusted to the Company.  
*(Para 9.7.3)*
- Absence of a deemed supply clause in 16 contracts led to loss of revenue of Rs.27.45 crore.  
*(Para 9.7.4.1)*
- There were delays in revenue recognition/raising bills; and important contractual provisions in respect of performance bank guarantee, surrender or termination of leased capacity were not followed.  
*(Para 9.7.4.2)*

- The Company extended undue benefit to Space TV (Tata Sky) by reducing the rates originally accepted to by the customer while entering the long form agreement.

(Para 9.7.4.3)

- There were delays in recovery of quarterly recurring charges and service charges on foreign transponders were voluntarily reduced resulted in recurring loss of revenue of Rs.8.30 crore in seven cases.

(Paras 9.7.5.1 and 9.7.5.2)

- While Service Tax for INSAT operations was being collected, the same was not being collected in respect of foreign hired transponders resulting in a likely liability of Rs.16.77 crore to the exchequer.

(Para 9.7.5.4)

#### *Summary of recommendations*

1. *The Company should formulate and issue guidelines and procedures for all aspects of its operations.*
2. *The Company should prepare a table of authorities ensuring that there is proper segregation of duties among officers and staff having authorising, approving or paying responsibilities in the Company.*
3. *The Company should devise suitable ways to maximise returns from its surplus cash balances.*
4. *The Company should credit the DOS's share of revenue directly to the Consolidated Fund of India instead of through ISRO. Remittances should be made promptly and periodical reconciliation should be carried out to enable a fair assessment of balances reflected in the Accounts.*
5. *The DOS should establish norms for entrustment of commercial contracts to the Company consistent with its assigned role and article of establishment of the Company.*
6. *The Company should ensure inclusion of a suitable clause in the contracts to avoid idle capacity and loss of revenue due to delay in compliance of various formalities by the customers. The Company should proactively interact with various regulatory agencies and discharge its mandated role as a facilitator.*
7. *The Company should raise bills as per the terms of the contract and take suitable steps for prompt collection and enforce the terms of the contracts for collection of performance bank guarantee and for surrender or termination of lease.*
8. *The Company should ensure that suitable provisions are made in the contracts requiring payment of interest for delay in payments and that the contractual terms are not to the disadvantage of the Company.*
9. *Even in cases where the applicability of certain taxes or duties are pending clarification, the Company should initiate recovery so as to offset any future liability.*

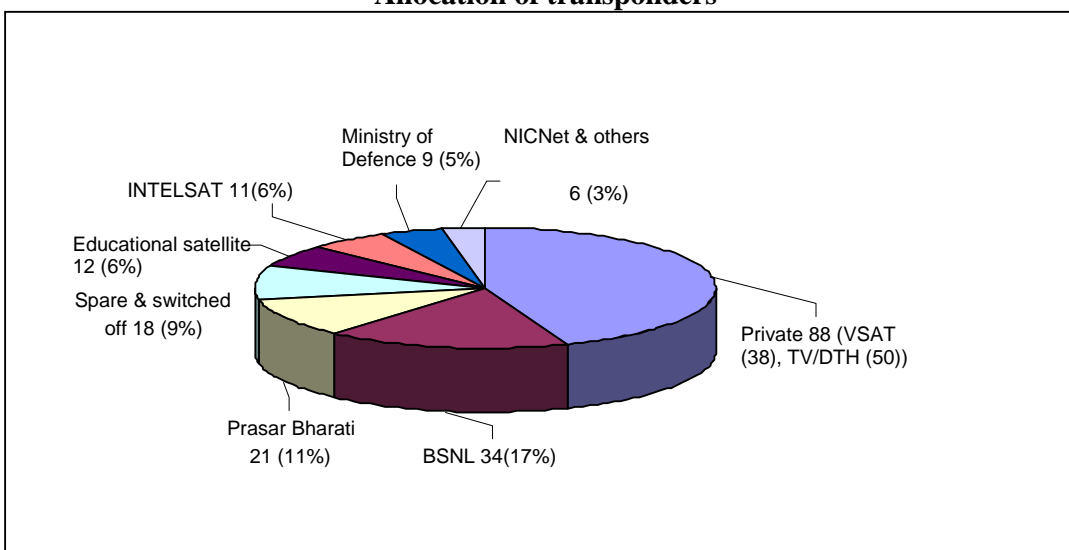
### 9.1 Introduction

The Indian National Satellite (INSAT) system, a joint venture of the Department of Space (DOS), Department of Telecommunications (DOT), All India Radio (AIR), Doordarshan and Indian Meteorological Department (IMD) was established in 1977 primarily to cater to the telecommunication, broadcasting and meteorological needs of the nation. Overall coordination and management of INSAT system rests with INSAT Coordination Committee (ICC) and the DOS was identified as the administrative authority in all matters relating to space systems. Antrix Corporation Limited (Company) was incorporated in September 1992 to function as a commercial arm of the DOS with access to resources of the DOS and Indian Space Research Organisation (ISRO) to promote the commercial exploitation of space products and to transfer the technology developed by ISRO.

Up to August 2007, ISRO had launched nine satellites with an aggregate capacity of 199 transponders<sup>1</sup>(Annexure-XXXI) catering to Broadcasting/TV/DTH (83 transponders), telecommunication-Very Small Aperture Terminal (VSAT) (98 transponders) and balance (18 transponders) as spare and switched off. The allocation of transponders among the users was as shown in the chart below:

**Chart-9.1**

**Allocation of transponders**



According to the working arrangement between the DOS and the Company, while individual contracts in respect of lease of transponder capacity were entered into by the DOS, the Company was designated as the contract manager. However, there was no formal agreement between the DOS and the Company laying down specific responsibilities of both entities. In an internal note of August 2003, the Company was designated as the contract manager to carry out activities like billing, collection and monitoring of dues, drafting amendments to contracts for the augmentation/surrendering

<sup>1</sup> *Transponder (derived from 'transmitter + responder) on board a satellite transmits signals automatically when it receives predetermined signals and consists of a chain of electronic communications equipment, which receives, filters, amplifies and transmits a signal.*

of space segment capacity and accounting for revenues earned and expenses incurred from contract management. Included in this note was that revenue realised would be shared between the DOS and the Company in the ratio of 80:20 for transponders relating to telecommunication (VSAT) and 85:15 for transponders relating to television.

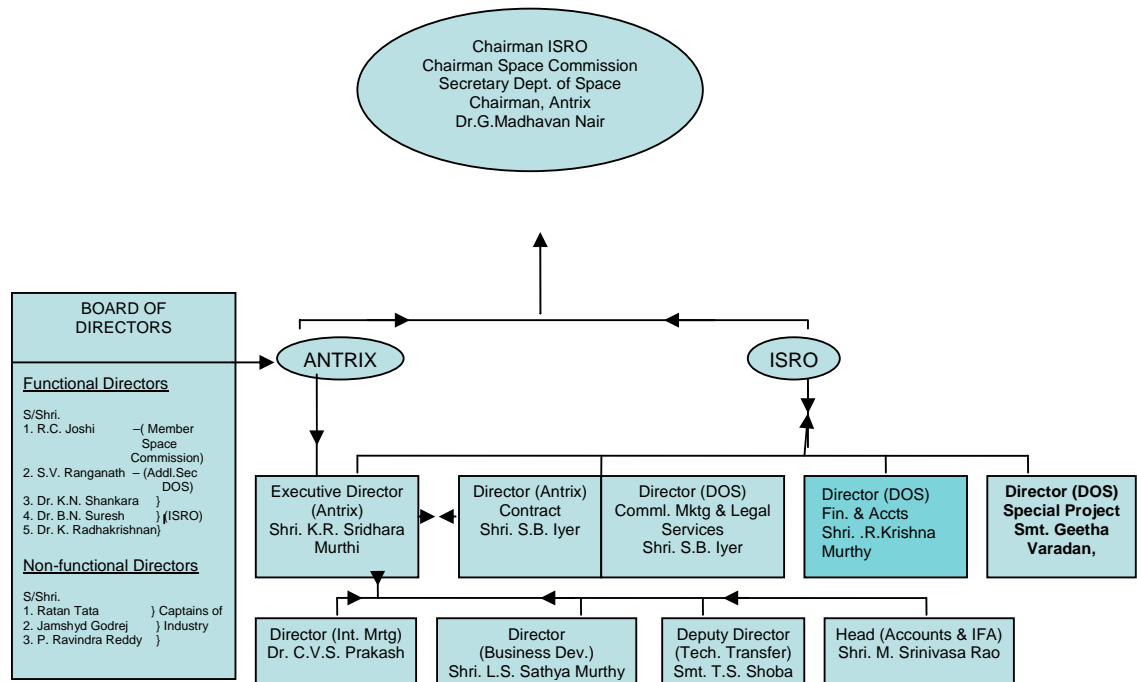
Out of 199 transponders, the Company was assigned to manage contracts for 131 transponders used both for commercial and non-commercial purposes. The Company also directly entered into contracts with Americom Asia Pacific (AAP) in August 2001 and New Sky Satellite, Netherlands (NSS) in May 2004 for hiring space capacity and leasing it to Indian customers to augment INSAT capacity.

The Company was also the nodal agency in respect of six remote sensing satellites for reception, archival, processing and dissemination of Indian Remote Sensing (IRS) data (*Annexure-XXXII*). In addition, the Company was managing/entering contracts for launch services, support services and contracts for foreign supply and installations.

### 9.2 Organisational set up

The Secretary, DOS is the *ex-officio* Chairman of the Company. The Chairman as well as the functional Directors and the non-functional Directors on the Board were all part-time. The multiple responsibilities discharged by the senior management as on 30 September 2007 are brought out in the organisation chart shown below:

Chart 9.2



It would be seen that all the executives including the Executive Director constituting the senior management in the Company were on transfer<sup>2</sup> from the DOS and drew a part of

<sup>2</sup> Not on deputation

their pay and allowances from their parent departments namely DOS/ISRO<sup>3</sup>. The three crucial functions of Finance, Special Projects, Commercial Marketing and Legal services, in the Company were held by ISRO officers merely in an *ex-officio* capacity, and their entire salary was being paid by DOS/ISRO. There were only two permanent employees in the Company.

### **9.3 Audit Objective**

Audit assessed the efficiency and effectiveness of the Company in its assigned role as the contracts manager for the DOS and particularly reviewed the authorities and accountabilities established and defined in the Company for it to carry its designated role.

### **9.4 Audit Criteria**

Audit was carried out with reference to the following criteria

- (i) Company's assigned role as a contract manager of contracts.
- (ii) Company's policy on deployment of advances received for various contracts.
- (iii) Agreements entered into with the DOS, Ministry of Defence (MOD) and other customers.

### **9.5 Scope of Audit**

The Performance Audit of the Company was taken up to review its performance as the commercial arm of the DOS and covered the period of five years from 2003-04 to 2006-07.

### **9.6 Audit Methodology and Acknowledgement**

**9.6.1** Audit was conducted in accordance with the Auditing Standards and the Performance Auditing Guidelines notified by the CAG of India. These standards and guidelines lay down the professional practices that government auditors should follow in planning, implementation, reporting and quality assurance in all performance audits. The audit was conducted on the basis of review of records, documented minutes of meetings, and discussion with senior executives. Audit objectives and criteria were discussed at the entry conference held with the management in May 2007 and audit findings and recommendations were discussed at the exit conference held in September 2007.

**9.6.2** Out of the total 225 contracts, 164 contracts were entered into by the DOS and 61 contracts were entered into by the Company for an aggregate contract value of Rs.586 crore during the period of review. Audit scrutinised 209 contracts having an aggregate contract value of Rs.533 crore covering 100 *per cent* in all segments except 92 *per cent* of broadcasting and 67 *per cent* of foreign supply & installations contracts (**Annexure-XXXIII**). Audit also reviewed all the seven foreign contracts entered into by the Company for hiring transponder capacity from AAP and NSS.

**9.6.3** Audit acknowledges the co-operation and assistance extended by different levels of the management at various stages of the Performance Audit.

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<sup>3</sup> 75 *per cent* of the salary cost of the Executive Director and three senior executives is reimbursed to ISRO by the Company under a cost sharing arrangement.

## **9.7 Audit Findings**

**9.7.1** The following weaknesses were noticed in the prevalent operating environment in the Company:

### **9.7.1.1 Non preparation of Company specific guidelines**

The selection and appointment of Board level functionaries including the Chairman of the Company was approved (May 1992) by the Government of India with directions to frame its own guidelines in line with Bureau of Public Enterprises (BPE) guidelines duly approved by the Space Commission. However, the same had not been put in place even after 15 years of grant of the special dispensation. The Company had also not prepared any manual on the procedures to be followed in the areas of accounts, investments, personnel, purchase, sales and internal audit.

The Management stated (November 2007) that most decisions were taken consistent with BPE guidelines and ISRO /DOS policy with respect to pay and allowances and therefore, the task of framing separate guidelines with the approval of Space Commission had not been taken up so far. The reply is not acceptable as absence of a written down Company specific guidance created risk for ad-hoc and variable work procedures. Moreover, there was also the attendant risk of diluted accountability, especially in view of blurred distinction between the DOS and the Company.

### **9.7.1.2 Delegation of Powers**

Detailed delegation of powers enumerating the additional powers to the Executive Director, consistent with the structure and growth of the Company decided by the Board in 2001, had not been drawn up (November 2007). Audit also noticed over-laps in the responsibilities and thereby unclear segregation of duties, exercised by the various executive officers of the Company as follows:

- The Company was an independent entity under the Companies Act and entrusted with contractual management of the DOS. However, it did not have a full-time independent executive for contract management. The Director (Commercial Management and Legal services) in the DOS was fully involved in the decision making prior to the finalisation of a contract and was also a signatory to some of the contract from the DOS side. The same officer in his capacity as Director (Contracts) of the Company was responsible for enforcing the conditions of the contract.
- The functional distinction between the executives of the Company and officers in the DOS was nebulous since the officers of the DOS were *ex-officio* executives of the Company.
- The responsibility for Finance and Accounts of the Company was vested with a relatively junior functionary, while the Internal Financial Advisor of the DOS was designated as Head of Accounts & Internal Financial Advisor in the Company.

The Management stated (November 2007) that manpower resources of the Company were to be strengthened substantially when additional delegation of powers would be taken up for approval with the Board.

### 9.7.1.3 Fund management

The working results of the Company during the five years up to 2006-07 are detailed in the table below:

**Table-9.1**  
**Working results**

(Rupees in crore)

Sl. No	Particulars	2002-03	2003-04	2004-05	2005-06	2006-07
I	Income (Operational)					
	(a) Foreign	30	15	19	55	76
	(b) Inland	69	279	330	331	530
	Income (Non-Operational)					
	(a) Interest	8	7	17	27	56
	(b) Others	2	1	1	1	3
	Total:	109	302	367	414	665
II	Expenditure					
	(a) Foreign	19	8	9	35	45
	(b) Inland	60	253	295	287	458
	(c) Others	<u>2</u>	<u>4</u>	<u>2</u>	<u>3</u>	<u>3</u>
	Total:	81	265	306	325	506
III	Profit before Tax	28	37	61	89	159
IV	Profit after Tax (PAT)	19	24	39	61	106
VI	Percentage of Profit to turnover	26	12	17	21	24
VI	Percentage of Non-operational income to Profit after tax	53	33	46	46	56

The profit before tax increased from Rs.28 crore in 2002-03 to Rs.159 crore in 2006-07. The steep increase in domestic revenue was due to substantial increase in non-operational revenue (interest income), which from a mere Rs.8 crore in 2002-03 increased to Rs.56 crore in 2006-07 (*Annexure-XXXIV*). The Company's interest earnings averaged 50 per cent of the profit after tax in all the years except 2003-04, which suggested that the Company was being used more as a special purpose vehicle for parking unutilised surplus funds by the DOS. As of March 2007, the Company had Rs.828 crore in term deposits in PSU banks.

Considering the substantial routing of funds through the Company that remained unutilised, an Investment Committee was constituted in January 2003. The Board of Directors authorised the Committee (March 2004) to invest without any ceiling which was initially Rs.300 crore in January 2003 and was increased to Rs.500 crore in January 2004. The Committee was also authorised (December 2005) by the Board of Directors to invest up to Rs.75 crore in an individual bank. The Committee, however, reduced (April 2006) the limit to Rs.65 crore based on its assessment of the performance and credit rating of the banks. Investments made in 19 cases revealed that the Company was deprived of income of Rs.4.54 crore by way of higher rate of return being offered by the individual PSU banks had the investments been made without any ceiling (*Annexure-XXXV*). It was also observed that huge amounts ranging from Rs.1 crore to Rs.380 crore were kept idle for periods ranging from 7 to 20 days (*Annexure-XXXVI*), resulting in substantial loss of interest.

#### **9.7.1.4 Revenue sharing**

As brought out in para-9.1 (Introduction), there was no formal agreement between the DOS and the Company laying down specific responsibilities and revenue sharing arrangement of both entities. Further, the revenue sharing arrangements between the DOS and the Company had not been approved by the Member (Finance) of Space Commission. This issue was highlighted in CAG's Audit Report No. 9 of 2006 on Non-Tax Receipts. The DOS in its reply (July 2006) stated that would obtain the approval from Member (Finance). However, no such approval had been obtained as of December 2007.

As per the revenue sharing arrangement<sup>4</sup>, the revenue share of the DOS was to be remitted to the Government account<sup>5</sup> on an annual basis upto 2006-07 and on quarterly basis from June 2007. It was observed that the Company was remitting the DOS share of revenue to ISRO. There were no reasons on record for such re-routing and for not crediting directly into the Government account. As brought out in this review in para 9.7.4.2 (i) and (ii), the remittance of the DOS share of revenue to ISRO was not being done promptly as noticed in audit, and reconciliation of the amounts due and remitted between the DOS and the Company had also not been done (December 2007).

#### **Recommendation No. 9.1**

- (i) The Company should formulate and issue guidelines and procedures for all aspects of its operations.**
- (ii) The Company should prepare a table of authorities ensuring that there is proper segregation of duties among officers and staff having authorising, approving or paying responsibilities in the Company.**
- (iii) The Company should devise suitable ways to maximise returns from its surplus cash balances.**
- (iv) The Company should credit the DOS's share of revenue directly to the Consolidated Fund of India instead of through ISRO. Remittances should be made promptly and periodical reconciliation should be carried out to enable a fair assessment of balances reflected in the accounts.**

#### **9.7.2 Contract Management**

The various points noticed by audit in the contract management activities of the Company as brought out in subsequent paragraphs should be viewed in the background that the role of the Company was not clearly defined. Since the Company was mandated to manage only 131 transponders out of a total of 199 transponders, the Audit findings are grouped under three distinct headings:

- Contracts not entrusted to the Company;
- Contracts entered into by the DOS and managed by the Company; and
- Contracts entered into by the Company

<sup>4</sup> In the ratio of 80:20 for VSAT, 85:15 for DTH/TV and 40:60 for IRS operations.

<sup>5</sup> Major Head 1425-Other Scientific Research-102.



### **9.7.3 Contracts not entrusted to the Company**

Out of a total of 199 transponders, contract management of 68 transponders was retained by the DOS. Thirty two of these 68 transponders were leased by the DOS for commercial purposes. The management of these was, however, not transferred to the Company as highlighted below:

- The management of 21 INSAT transponders used for commercial purposes by Prasar Bharati since March 2004 was not transferred to the Company. Prasar Bharati also commenced its Direct to Home (DTH) service in December 2004 using four foreign (NSS) transponders. The DOS itself entered into contracts with NSS though in some other cases, the Company was empowered to enter into contracts with foreign service providers. The non entrustment of the billing contract in respect of Prasar Bharati deprived the Company of revenue of Rs.125.37 crore with Company's share of income of Rs.18.81 crore as lease charges from March 2004 to March 2007 and loss of service charges of Rs.0.69 crore (based on 4 *per cent* of the annual lease charges of US \$1 million per transponder charged by NSS).
- Similarly, a contract was signed by the DOS in 1995 with INTELSAT (Panamsat) for lease of 11 INSAT transponders for US\$ 9.0 million *per annum*. The commercial contract was, however, not transferred to the Company thereby depriving it of US\$ 9 million (Rs.38.63 crore) of revenue *per annum* with share of income of Rs.7.73 crore.

The Management stated (November 2007) that the transaction regarding transponder capacity allocated to Prasar Bharati and INTELSAT had not been assigned to the Company by the DOS, but did not provide any justification for non entrustment of these commercial contracts to the Company. In case of BSNL, which became a corporate entity from October 2000, the billing in respect of space segment charges was assigned (with effect from 1 July 2003) to the Company, which enabled the Company to earn 20 *per cent* of the revenue as its share of service charges.

#### ***Recommendation No.9.2***

***The DOS should establish norms for entrustment of commercial contracts to the Company consistent with its assigned role and article of establishment of the Company.***

### **9.7.4 Contracts entered into by the DOS and managed by the Company**

**9.7.4.1 Interaction with Government agencies**– Under the Company's business practice the DOS allocates the bandwidth requested by the customer and a lease agreement is entered into. The customers have to submit this agreement when they seek a license from Ministry of Information & Broadcasting (I&B). After obtaining the license the customer approaches the Network Operational Control Center (NOCC) for frequency allocation and certification of the antenna. Transponder services are activated only after obtaining clearance from NOCC. The Company has not fixed the date for commencement of the lease period.

As satellites have a limited life of 7 to 12 years, it is important to complete the process of regulatory clearances as early as possible to maximise their commercial availability.

Audit observed that though the Company was specifically vested with the responsibility to liaise with the regulatory authorities there were cases of delay in obtaining clearances and utilising the allocated transponder services by the customers, whereby revenue of Rs.27.45 crore had to be foregone by the Company (*Annexure-XXXVII*). Absence of a deemed supply clause after a specified period in the contract/agreement also led to non-collection of space segment charges after a reasonable period. Two such cases where despite similar delays the DOS/Company had amended the contract clause to bill for actual usage or agreed usage within the mutually agreed time are discussed below:

(i) An agreement was entered (September 2004) with Reliance Communications Limited (RCL) for lease of 162 MHz for VSAT (telecommunication) operations at Rs.1.65 lakh *per MHz per quarter* for a period up to 31 March 2006. The period of lease was to commence from 1 October 2004 or from the date of obtaining NOCC clearance. NOCC started giving clearance from April 2005 in small MHz. Due to absence of deemed supply clause, the Company billed the customer only for the actual bandwidth utilised. This resulted in loss of revenue of Rs.17.15 crore for the period October 2004 to February 2006.

When the Company informed (February 2006) the customer that the unused capacity would be allocated to others, the latter proposed a staggered slab<sup>6</sup> of utilising the allocated capacity by 31 December 2006. Accordingly, the DOS/Company decided (February 2006) to bill the customer as per slab proposed or the actual usage whichever was higher. Even as of December 2006, the customer could obtain NOCC clearance on piecemeal basis for 98.58 MHz only.

(ii) Electronics Corporation of India Limited (ECIL) with allocated capacity of 9 MHz, requested (June 2003) the DOS/Company for an additional 18 MHz capacity to be utilised in two phase's of 9 MHz each from July 2003 and October 2003. Accordingly a lease agreement for 27 MHz was entered (June 2003) at a quarterly charge of Rs.22.73 lakh for each 9 MHz bandwidth. The Company instead of billing for 18 MHz from July 2003 and for 27 MHz from October 2003 agreed to the customer's request that the billing for the additional allocation could be done only from the date of clearance by NOCC. The NOCC clearance was obtained by the customer only in March/April 2004. Thus due to delay in obtaining/arranging for the NOCC clearance the Company lost the benefit of additional revenue of Rs.91.32 lakh.

The Management stated (November 2007) that:

- the processing/lead time taken by Ministries/Departments of Government of India for administrative clearances cannot be treated as delay, which was beyond the control of the DOS/Company.
- in case of RCL, the conduct of mandatory verification tests by NOCC was very important because the INSAT system has several hundreds of antennas operating at the same time and the presence of one or two bad antennas can create problems for the entire network.

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<sup>6</sup> 90 MHz by 31 March 2006, 120 MHz by 30 June 2006 and 162 MHz by 31 December 2006.

- delay of a few months (in case of ECIL) need to be looked into from a larger perspective where the customer would provide steady revenues for many years to come.

The reply is not acceptable as the Company failed to include proper incentives in the contracts for expediting clearances by including a clause in the contract for deemed supply if the customer failed to obtain the clearance within a reasonable period. Moreover, the Company should itself have taken some initiative with regulatory agencies in terms of the duties assigned to it by the DOS. Proper planning and networking would have allowed the Company to address the concerns of regulations promptly which in turn would have improved the commercial availability of satellites. The Company was not able to facilitate grant of *ad-hoc* licenses from I&B Ministry to its domestic customers whereas 53 foreign television channels were operating in India on the basis of *ad-hoc* licenses which were being renewed year after year.

***Recommendation No. 9.3***

- (i) *The Company should ensure inclusion of suitable clause in the contracts to avoid idle capacity and loss of revenue due to delay in compliance of various formalities by the customers.*
- (ii) *The Company should proactively interact with the various regulatory agencies and discharge its mandated role as a facilitator.*

***9.7.4.2 Terms of Contract***

Audit findings on delay in revenue recognition, delay in raising including facilitating the realise of bills and monitoring of receivables, non enforcement of contractual terms and periodicity of contracts are discussed below:

***(i) Delay in revenue recognition***

The Company follows a system of raising demand invoices in respect of amounts due from the customers towards milestone payments (stage-wise payments as per the contracts), advances and access/space segment charges. Such demands raised were not brought to the books of accounts pending confirmation by customers. The management stated that only when the customers accepted the Company's claim, the 'demand invoice' was formalised by issuing a 'commercial invoice' and the amounts in the commercial invoice were brought to the books of account.

The non-raising of commercial invoices in the first instance for certain and well defined claims such as space segment charges and access fees, services for which were already rendered, delays the realisation of payment and goes against the provisions of Accounting Standard-9 for revenue recognition prescribed under section 211 of the Companies Act 1956. The Company also did not have a system to monitor demand invoices raised and those converted into commercial invoices. The Management stated (September 2007) that the data relating to demand invoices converted into commercial invoices were under compilation.

The Management further stated (November 2007) that it was a general accounting practice to raise demand invoice.

The reply is not tenable as raising of demand invoices delays the accrual of claims where there is no material uncertainty regarding the propriety of the claim. This also encourages the customers to deny or defer the claim under some subterfuge or the other, as was attempted by BSNL discussed subsequently at para 9.7.4.4.

**(ii) Delay in raising of bills and monitoring of receivables**

The Company raises invoices for quarterly lease charges as per the contract. However, a sample check of 27 contracts, out of total 55 broadcasting/TV/DTH contracts and 53 VSAT (telecommunication) contracts as of March 2007, revealed that there were considerable delays in raising of commercial invoice of upto 385 days. And there was further delay in realising the payments which varied upto 608 days during the period 2003-04 to 2006-07.

The Management stated (November 2007) that it had demanded interest on outstanding payments as per the terms of the agreement and the outstanding cases were under constant correspondence. The Company demanded Rs.51.63 lakh as interest on delayed payments during 2006-07 but no payment had been received (November 2007).

**(iii) Non-collection of performance bank guarantee/cash security**

According to the terms of contract every customer was required to pay 25 per cent of the annual lease charges in the form of Performance Bank guarantee (PBG) or cash security. The Company, however, had not enforced the condition in the following cases:

- In case of broadcasting/TV/DTH contracts, out of 118 contracts (upto December 2007) necessary PBG or cash security was not obtained from 35 customers.
- In case of 53 VSAT customers, PBG was not obtained from 32 customers.

The Management stated (November 2007) that in the case of VSAT agreements, the Company insists on 25 per cent of the annual lease charges in the form of PBG or payment in advance in lieu thereof before commencement of the service. Non-receipt of PBG did not render an agreement as unsecured since the customer would make advance payment for transponder service.

The reply does not reflect the correct position as in case of VSAT operators the Company had changed (April 2005) the billing pattern from 25 per cent advance payment to payment before the end of the quarter. As a result the commercial services were being provided without adequate assurance of payment.

**(iv) Surrender or termination of leased capacity**

As per the terms of the contract, customers could surrender or terminate part of the leased capacity by giving three months notice. However, Audit observed that in seven out of eight such cases during the period April 2004 to March 2007, the Company did not enforce the condition of three months notice resulting in non-recovery of space segment charges of Rs.1.27 crore (*Annexure-XXXVIII*).

The Management stated (November 2007) that they would follow the terms of the lease agreement in future.

**(v) Periodicity of contract and revision of rates**

A uniform policy on the period for long term contracts had not been framed by the DOS/Company. The DOS/Company was generally following a five year cycle for renewal and there was no price revision clause in the contracts. As a result the Company ended up having a long drawn contract with little scope for any price revision. However, contracts with foreign satellite operators for VSAT (telecommunication) services, had duration of lease period of three years with a price revision clause up to a maximum of five *per cent*. It was seen that while renewing the contracts, AAP had increased the tariff by seven *per cent* after three years with effect from August 2007.

The Management stated (November 2007) that global industry practice was to have longest possible period of contract so that it could reduce non utilisation to the minimum.

The reply does not give the complete picture as there was no clause for revision in rates at the time of renewal in any of the contracts. Moreover, in the absence of a uniform policy, the Company conveyed an uncertain approach thereby giving confusing signals to its customers.

**Recommendation No. 9.4**

***The Company should***

- (i) raise bills as per the terms of the contract and take suitable steps for prompt collection. The Company should develop a system on the status of demand invoices raised and commercial invoices raised there against to monitor the correctness of accounting of all legitimate claims;***
- (ii) strictly enforce the terms of the contract for the collection of PBG or advance payment as security for the commercial services provided;***
- (iii) enforce the terms of the contract while accepting surrender/termination of lease; and***
- (iv) develop a uniform policy for long term contracts and should consider incorporating a clause in the contract for appropriate revision of rates.***

**9.7.4.3 Undue benefit by excluding conditions agreed upon**

Space TV (Tata Sky) required (March 2004), 12 high power KU band transponders in the INSAT System. The Secretary DOS/Chairman of the Company while approving (March 2004) the financial negotiations to be held with the customer stated that the DOS should conclude a comprehensive contract and negotiate the charges at Rs. five crore per transponder year. Accordingly, a 'Term Sheet' agreement was signed in June 2004, fixing lease charge at Rs. five crore per transponder year with two months free period. However, when the agreement in 'long form' was signed in November 2005, the lease charges were not only reduced to Rs.4.6 crore but a free period of three months was also offered to Space TV.

Due to this reduction in lease charge, there was a recurring loss of revenue of Rs.4.8 crore *per annum* for 12 transponders and revenue foregone by increase in free period for additional one-month worked out to Rs. five crore.

The Management stated (November 2007) that Space TV had intentions to lease only eight transponders whereas by the time the long-form agreement was signed, it increased the number of transponders to 12. The initial free period of three months after commencement was being offered to all the customers whenever requested.

The reply is not tenable since the 'term sheet' agreement which formed the basis for the initial commitment was for all the 12 transponders. Further there was no formal request from the customer for reduction of lease charges or for additional one month's free period after signing of the 'term sheet'.

#### **9.7.4.4 Contract with Bharat Sanchar Nigam Limited**

Bharat Sanchar Nigam Limited (BSNL) was using 34 transponders (31-C band and 3 KU band) under telecommunication (VSAT) segment. Management of all contracts of VSAT business including those of BSNL was taken over from DOT by the DOS and transferred to the Company in July 2003. As per the DOS directive (May 2003), the Company was to bill for the services availed by BSNL from July 2003. However, user charges for C band only were finalised through an MOU between the DOS and BSNL in May 2006 after a delay of three years.

The amount receivable from BSNL from July 2003 to March 2006 aggregating to Rs.229.18 crore was not recognised in the books (2006-07) as no commercial invoice was raised. The non-raising of commercial invoice deprived the Company of its income of Rs.40.82 crore. BSNL had been paying charges from April 2006.

Management stated (November 2007) that BSNL had taken up the issue with the Government of India for waiver of the transponder charges up to March 2006.

Reply is not tenable since as per the DOS directive, Company was to bill for the services availed by BSNL from July 2003.

#### **9.7.4.5 Contracts with Ministry of Defence**

Ministry of Defence (MOD) was using nine transponders, for which, eleven contracts were managed by the Company. Audit reviewed all the 11 contracts with some of the agencies of MOD and noticed that either there was absence of suitable clause in the agreement or there were no formal agreement/MOU with the customer as described below:

- An agreement was signed on 3 December 2003 with Defence Research Development Organisation, for leasing of 36 MHz. The customer was regular in making payments upto March 2005. However, the customer stopped further payments from April 2005 to till date (December 2007) on the ground that the allocated bandwidth was not utilised due to non-commissioning/installation of systems. Absence of a suitable clause in the agreement to ensure that payments would be made for the allocated bandwidth resulted in non-recovery of Rs.6.62 crore and the Company's share of income of Rs.1.32 crore.
- Director of Concept Studies (DICOST) of Air Force Headquarters was allocated space segment capacity of 2 MHz (October 2005) and 4 MHz (January 2006). The Company raised commercial invoices for Rs.58.73 lakh for the period up to March 2007 against which no payment was made by DICOST stating that the bandwidths were not made use of till February 2006, due to project delays. In the

absence of either an agreement or a MOU with the customer, the Company had to forego its share of income of Rs.11.74 lakh.

- Directorate of Naval Air Material (DNAM) was allotted (December 2005) 10 MHz. The agreement with DNAM was not formalised. The Company raised the commercial invoices for Rs.1.85 crore between February 2006 and August 2007, but no payment had been received (November 2007).

The Management stated (November 2007) that the DOS/Company had taken up the formalisation of all the MOUs with the MOD/MOD organisations.

***Recommendation No. 9.5***

***The Company should formalise all contracts with the MOD and bill accordingly.***

***9.7.5 Contracts entered into by the Company***

***9.7.5.1 Delay in recovery of quarterly recurring charges***

A contract was entered (August 2005) between the Company and Shin Satellite Public Company Limited of Thailand (Shin Sat), for the establishment and operation support of Radio Frequency Auto Track (RFAT) uplink station at Port Blair.

As per the contract, the quarterly recurring charge (QRC) of US\$ 95,000 was to be paid 30 days in advance. Shin Sat was not regular in making the QRC but the Company could not levy interest on delayed payments due to absence of penal interest clause in the agreement. There were delays in payment ranging a year in 2006 and QRC for 2007 was yet to be paid (August 2007).

The Management stated (November 2007) that in almost all cases of foreign contracts, the penal interest clause for levy of interest was not being agreed to by the foreign customers.

The reply is not tenable since it was observed that in the case of the international contracts for hiring of foreign transponders signed by the Company as customer, such interest clause was invariably included for delay in payment on the part of the Company.

***9.7.5.2 Voluntary reduction in service charge***

The Company hired space segments from AAP on monthly recurring charges (MRC). From April 2004 the MRC was brought down from US\$ 3500 to slab rates ranging between US\$ 1796 and US\$ 2083. As per the agreement with six customers using AAP transponders, the Company was to charge 10 *per cent* as service charges. In April 2004 the Company voluntarily reduced its service charges to four *per cent* though there was no demand from the customers. Similarly, for hiring transponder for one customer from New Sky Satellite (NSS) Netherlands (May 2004), the Company considered service charges at four *per cent* only instead of at 10 *per cent* it was collecting from AAP customers till April 2004. This resulted in loss of revenue of Rs.8.30 crore upto 31 March 2007 and consequent recurring loss of revenue of Rs.3.73 crore *per annum*.

The Management stated (November 2007) that measures like reduction of space segment charges and reduction of services charges of the Company, were required to be given from time to time as a business strategy to win the customer.

The reply is not tenable as the number of customers involved remained seven over the period April/May 2004 to March 2007 and there was no contractual obligation for reduction in service charges from 10 per cent to 4 per cent.

#### **9.7.5.3 Passing of free period**

The Company hired (May 2004) five foreign transponders on annual basis from NSS, Netherlands. As per the agreement with NSS, the Company was entitled to use the service at no charge for three months. Further, on hiring of two more transponders in January 2005, the Company was entitled to six and a half months free period. The Company was also entitled for free period of one month for all the seven transponders hired at the time of renewal of the agreement. The Company passed on the entire free period to its customer though the Company was not obliged to do so. This resulted in foregoing revenue of US\$ 2.32 million (Rs.10.09 crore).

The Management stated (November 2007) that the free period was normally part of the negotiation and a standard approach towards the free period did not work in this industry.

The reply is not tenable as the Company was not giving free period to its other customers under INSAT after the commencement of the contract.

#### **9.7.5.4 Non-collection of Service Tax**

Although the Company was collecting service tax from all INSAT customers, it did not collect service tax from customers using foreign transponders. The amount of service tax not collected was Rs.16.77 crore, as of March 2007.

The Management stated (November 2007) that the issue whether service tax needed to be collected for capacity leased on satellites had been taken up with the concerned authorities and the clarification was awaited. The Company should have recovered the amount in advance to avoid any risk that the Company would be required to pay for the tax liability from its own funds.

#### **Recommendation No. 9.6**

- (i) The Company should ensure that suitable provisions are made in the contracts regarding payment of interest for delay in payments; and that the contractual terms are not to the disadvantage of the Company.*
- (ii) The Company should initiate recovery even in cases where the applicability of certain taxes or duties are pending clarification so as to offset any future liability.*

#### **9.7.5.5 Marketing of Indian Remote Sensing data**

##### **(i) Agreements with Space Imaging**

The Company was vested with the international marketing rights for access as well as data sales for Indian Remote Sensing (IRS) constellation of satellites. In order to promote IRS system globally, the Company entered (February 1995) into a comprehensive long term cooperative agreement with Earth Observation Satellite Company (EOSAT), USA subsequently renamed as Space Imaging (SI), LLC, USA and now GEO EYE. The agreement was amended five times and the latest was in November 2003.



Audit noticed the following limitations in the implementation of the above contract:

- SI agreed to pay a royalty at 10 *per cent* to the Company on the sale price for the commercial data sales and for this purpose a quarterly statement of the products sold by SI and International Ground Station<sup>7</sup> (IGS) was to be provided to the Company. In the absence of suitable penal clause in the agreement the Company was not in a position to verify the IRS data sold by SI and IGS to determine the royalty due.
- As per the terms of the agreement, SI agreed for a minimum IGS access commitment of US\$ 3 million<sup>8</sup> from IRS P6 alone by March 2007. However, even in 2006-07 the total access fee from all the sources aggregated only to US\$2.9 million indicating absence of proper monitoring.

The Management stated (November 2007) that despite Company's efforts to obtain quarterly statements including customer data; it was not possible to realise such details. Further, in each case of IGS established by SI the minimum fee as specified in the agreement, was claimed.

The Company's admits to a weakness in dealing with international customers and inadequate contractual safeguards to protect its financial interests.

**(ii) Degradation of data**

Of the six IRS satellites in operation, three satellites had outlived their life. Audit observed that due to degradation of data from IRS 1C/1D the Company had to reduce the access fee for the year 2005-06 by Rs.1.80 crore from MOD. Request for waiver of access fee of Rs.3.80 crore for the year 2006-07 was pending with the DOS. In the absence of a proper mechanism to verify the period of access by the customer, reasonable assurance could not be obtained regarding the validity of the basics for deciding on the waivers.

The Management stated (November 2007) that the Company confirmed the periods of access through the schedules provided by the satellite control centers and the contract provides for negotiation in good faith and the right to terminate the contract if the degradations were incurable.

The reply is not tenable as the details of the access made by MOD for the last two years were not kept on record. For the degradation of data of IRS 1C/1D, the DOS was yet to take any decision on MOD's request for waiver of the access fee for the year 2006-07 as it did not appear to have proper system for verifying the correctness of the claim.

**(iii) Failure to discontinue access to defaulters**

The Company entered (October 2002) into an agreement with a foreign customer for accessing data from IRS 1C/1D stipulating that the access would be renewed every year by the customer. The customer did not request for renewal of the agreement from 2005-06 and had also not make annual payments to the Company. The Company, however, did

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<sup>7</sup> *International Ground stations are established at various countries for downloading imageries from remote sensing satellites whenever the satellite's foot print passes over that particular country.*

<sup>8</sup> *12 IGS sales/upgrades during the first three years at an annual access fee of US\$250000 per IGS*

not deny access to the customer and instead raised the invoices for user charges for the years 2005-06 and 2006-07 amounting to Rs.3.47 crore (Rs.2.09 crore Company's share of revenue). The Company paid corporate tax of Rs.0.71 crore in anticipation of the receipts. Failure to include a clause in the contract to monitor the access by the customer and deny access in case of default, led to merely raising of invoice.

The Management stated (August 2007) that the matter of verification of having availed the access by the foreign customer was referred to controlling centres of ISRO/DOS.

The reply is not tenable since as a contract manager, the Company had not link the access time availed by the customer at the time of billing, more so, when the same senior officers of ISRO were also the *ex-officio* executives of the Company.

**Recommendation No. 9.7**

- (i) *The Company should incorporate suitable clause in the contracts to ensure that the royalty paid by the customers was assessed correctly.*
- (ii) *Verification of access by the foreign customers should be referred promptly to controlling centers of ISRO/DOS and remedial action initiated periodically to avoid accumulation of the receivables.*

**9.7.6 Other Points of interest**

**9.7.6.1 Loss of opportunity to supply satellite due to non pursuance**

In the backdrop of policy measures adopted by the GOI to allow private operators to own satellite systems, M/s Agrani Satellite Services Limited approached (September 2003) the Company for a communication satellite with a capacity of 12 transponders with a design life of 15 years. The satellite was to be manufactured by ISRO and launched by GSLV launch vehicle within a period of two years at an estimated cost of Rs.320 crore. The customer was ready to pay Rs.32 crore being 10 *per cent* of the project cost as non-refundable deposit and the balance in 8-10 years after which the ownership would be transferred to them. The Board of Directors accorded (September 2003) in principle approval. The Company carried out the cost analysis in consultation with ISRO and submitted a proposal through the DOS to the Government for necessary authorisation. It was decided to submit a detailed proposal to the Board as soon as the Government position was clear. No further development was reported to the Board.

The Management replied (May 2007) that due to slow progress in obtaining the orbital slot for its satellites through DOT, the Company had kept the matter on the back burner.

Thus, due to non pursuance at appropriate levels by the Company to secure necessary clearance from the DOT, the Company lost the opportunity of earning service charges of approximately Rs.16 crore in supplying the satellite to M/s Agrani Satellite Services Limited, who had since moved to a foreign manufacturer.

**Recommendation No. 9.8**

*The Company should establish procedures and define staff responsibilities to facilitate and as necessary to proactively interact with various regulatory agencies in the manufacture of satellites as an opportunity to earn income and also to fulfill its mandated role.*

### **9.7.6.2 Societal obligations**

The DOS allocated (June 2003) two transponders for internet education. The rates fixed for the first transponder was Rs.1.80 crore *per annum*, while the second transponder was given free of cost for use by the Ministry of Information and Technology. However, a dedicated satellite exclusively for educational services was already available since September 2004 with the launch of “EDUSAT” having 12 transponders and allocation of Internet education services could also have been under EDUSAT.

The Management stated (November 2007) that they would take up the matter with the DOS.

### **9.7.6.3 Gifts to Government servants**

To commemorate its 15th anniversary, the Company gifted four gram gold coins to 15631 Government employees of the DOS, and other subordinate organisations such as ISRO, Vikram Sarabhai Space Centre, National Remote Sensing Agency, ISRO Satellite Tracking Centre, Master Control Facility, etc. involving an expenditure of Rs.7.36 crore (including fringe benefit tax of Rs.37 lakh) as an acknowledgement of the support received from these organisations. Audit observed that since the ISRO/DOS employees were permanent Government servants who were also eligible for special cash incentives at the time of every ‘successful launch’ of satellites, the giving of gifts to government employees was not justified.

The Management stated (November 2007) that it was a small gesture shown by the Company to ISRO/DOS personnel to continue their contributions in this area and the Company felt that such an action was justified.

The reply of the Management should be seen in the light of the fact that the value of gifts constituted approximately seven *per cent* of the profit after tax. Further, the Central Vigilance Commission had clearly stipulated (September 2004) that no gifts should be given to Government servants by PSUs.

## **9.8 Conclusion**

The Company credited the DOS share of revenue to the ISRO instead of directly crediting it to the Consolidated Fund of India. Remittances were also not done in a prompt manner and periodical reconciliation of amounts due and payable to the DOS was not being carried out. The Company’s interest earnings were on an average, 50 *per cent* of its profit after tax, which suggested that the Company was being used as a special purpose vehicle for parking of unutilised funds of the DOS. The Company specific guidelines/procedures for accounts, investments, internal audit, personnel, etc. had not been developed even 15 years after Government of India’s directive. The functional distinction between the Company and the DOS was ambiguous since the officers of the DOS were also executives of the Company. There was no clear chart of delegation of powers and segregation of duties consistent with good governance, structure and growth of the Company. Owing to ambiguities in the operating environment of the Company, several control weaknesses were observed in the management of funds and contracts in the Company. Instances were noticed of non-adherence to the conditions of contract and absence of appropriate provisions in the agreements; performance bank guarantee/cash securities were not collected, and savings on free period were passed on to customers.

Service tax was not collected for hired foreign transponders and service charges were reduced in favour of private customers.

The matter was reported to the Ministry in January 2008; reply was awaited.

New Delhi  
The

**(BHARTI PRASAD)**  
**Deputy Comptroller and Auditor General**  
**cum Chairperson, Audit Board**

**Countersigned**

New Delhi  
The

**(VINOD RAI)**  
**Comptroller and Auditor General of India**