

le

No: 1-22/2016/LFP-I/Part
Government of India
Ministry of Communications
Department of Telecommunication
(Licensing Finance Policy Wing)
Sanchar Bhavan, Ashoka Road, New Delhi 110001

.....
Office Memorandum

13/03
Dated **-02.2019**

Sub: Clarification regarding Cumulative/Presumptive/Negative AGR

The Unified License provides three different methodologies of calculation of License Fee, namely

- a. Actual AGR based License Fee
- b. Presumptive AGR based License Fee
- c. Entry Fee based Minimum License Fee

The relevant clauses are reproduced as under:

18.2 License Fee:

18.2.1 *In addition to the Entry Fee, an annual License fee as a percentage of Adjusted Gross Revenue (AGR) shall be paid by the Licensee service-area wise, for each authorized service from the effective date of the respective authorization. The License fee shall be 8% of the AGR, inclusive of USO Levy which is presently 5% of AGR.*

Provided that from Second Year of the effective date of respective authorization, the License fee shall be subject to a minimum of 10% of the Entry Fee of the respective authorized service and service area as in Annexure-II.

18.2.2 *In case the Licensee obtains access spectrum for operation of any authorized service in a service area, a 'presumptive AGR' for that authorized service and service area shall be arrived at in accordance with the relevant provisions of the Notice Inviting Application (NIA) document of the auction of spectrum or conditions of spectrum allotment/LoI as the case may be. The License Fee based on presumptive AGR shall be applicable from the date of issue of Letter of Intent earmarking such spectrum or the effective date of the license/authorization, whichever is later. The Licensee shall, in such cases, pay the license fee on the presumptive AGR or actual AGR or the minimum license fee referred in condition 18.2.1, whichever is higher.*

In case, the Licensee obtains spectrum for any service and service area in different bids, the total presumptive AGR shall be the sum of the presumptive AGRs calculated on the basis of the respective Bid amounts

as prescribed in the respective NIA or conditions of spectrum allotment/LoI as the case may be.

Provided that, for the spectrum obtained in the auctions conducted in November 2012 and March 2013, the presumptive AGR, for Access services shall be equal to 5% of sum of the total bid amount by the Licensee for the respective Service Area.

2. The License Agreement mentions that the Licensee has to pay maximum of the three [Actual/Presumptive AGR based LF or Entry Fee based Minimum LF]. The License Fee is calculated on annual basis however the payment of License Fee has to be done on quarterly basis. Therefore, there is difference of interpretation as to whether the 'Maximum of three' principle is applicable on annual basis or for every quarter. References have been received from CsCA as well as TSPs for clarification.

3. The issue is clarified as follows:

- i. The UL mandates the Licensee to pay Annual License Fee, however the payment schedule is divided in 4 quarters. Therefore, the principle of 'Maximum of three' is to be applied to the whole year rather than individual quarters.
- ii. However, to ensure that Licensee pays the due amount, the concept of 'Cumulative AGR' will be applicable. Cumulative AGR means at the end of every quarter, respective AGRs (Actual or Presumptive) shall be cumulated for all the preceding quarters. Then the License fee based on Cumulative Actual AGR, Cumulative Presumptive AGR and Entry Fee based License Fee shall be compared and maximum of the three shall be the total License Fee payable till that quarter. The License Fee paid by the TSP up to preceding quarter shall be subtracted to arrive at the Quarterly amount of LF payable. [Annex-I]
- iii. This cumulation shall be within one financial year only. And the AGR figures of one financial year shall not be cumulated further to subsequent year.
- iv. For the treatment of Negative AGR, the principle of quarterly cumulation will be in effect to compare 'Maximum of Three' to arrive at the quarterly LF payable. It is reiterated again that the AGR figures of one financial year (whether negative or positive) shall not be cumulated to next year.
- v. The cumulation and comparison shall be applicable to all existing UL Licensees. In case of new UL Licensee or old Licensee migrating to UL regime, clause 20.3 shall remain applicable as far as effective

date for the LF based on comparison of 'maximum of three'. Clause 20.3 is reproduced as under:

"20.3 The minimum license fee or the license fee based on presumptive AGR, as may be applicable, as per conditions 18.2.1 and 18.2.2, for the above part-periods, shall be charged on pro-rata basis, based on actual number of days in the part period of the Quarter"

- vi. As per the UL terms and conditions, Entry Fee based Minimum LF shall be 10% of the Entry Fee of the respective authorized service and service area. Hence for quarterly comparison, the Quarterly Minimum LF shall be 2.5% of the Entry Fee of the respective authorized service and service area, as per the UL Agreement.
- vii. The Annual Presumptive AGR as defined by UL agreement shall be equal to 5% of sum of the total bid amount by the Licensee for the respective Service Area. Hence for quarterly comparisons, the presumptive AGR shall be 1.25% of the total bid amount by the Licensee for the respective service area.

This issues with the approval of Secretary (T).

Mandar
13/3/19
(Mandar Deshpande)
Director (LFP-II)

Enclosure: As above

To,

1. CGCA and all CsCA,
2. DDG (LFP)/DDG (LFA)/DDG (WPF)

Copy to:

1. PPS to Secretary (T), PPS to Member (F), PPS to Advisor (F)

(A) Comparison:

This case is for F.Y 2014-15 wherein Presumptive AGR and Minimum LF based on Entry Fee both are applicable from the start of the year:

- i. Bid Amount = 750000
Therefore, Presumptive AGR (5% of Bid amount) = 37500
Therefore, Quarterly Presumptive AGR = 9375
- ii. Entry Fee = 20000
Annual Minimum LF (10% of Entry Fee) = 2000
Quarterly Minimum LF = 500

No		Q1	Q2	Q3	Q4	Total
A	Presumptive AGR	9375	9375	9375	9375	37500
B	Cumulative Presumptive AGR	9375	18750	28125	37500	37500
C	Actual AGR (as given by TSP)	10000	12500	0	7500	30000
D	Cumulative Actual AGR	10000	22500	22500	30000	30000
E	Maximum of the Cumulative AGR for purposes of LF : Comparison between 'B' and 'D'	10000	22500	28125	37500	37500
F	License Fee based on maximum of actual/ Presumptive Cumulative AGR (8% of 'E')	800	1800	2250	3000	3000
G	Minimum LF based on Entry Fee	500	500	500	500	2000
H	Cumulative Minimum LF due	500	1000	1500	2000	2000
I	Quarterly LF Demand (Comparison between maximum of 'F' and 'H') - LF already paid up to previous quarter	800	1000	450	750	3000