

**No: 1-9/2019-LFP-I**  
Government of India  
Ministry of Communications  
Department of Telecommunication  
(Licensing Finance Policy Wing)  
Sanchar Bhavan, Ashoka Road, New Delhi 110001

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**Office Memorandum**

**Dated 09.10.2019**

**Sub: Clarification regarding Surplus Adjustment**

License Agreements (CMTS, UASL and UL) mandate payment of annual License Fee and Spectrum Usage Charges as a percentage of Adjusted Gross Revenue. LF and SUC dues are payable by TSPs quarterly based on self-assessment. However they attain finality after a detailed assessment by the Licensor. Different TSPs, their associations as well as CsCA have submitted representations to Department of Telecom regarding clarity on adjustment of surplus lying with DoT.

**2.** The relevant aspects are:

- a.** There is long standing dispute before the Supreme Court over the definition of AGR. Department of Telecom has submitted before the Court that it will continue to raise the demands for LF and SUC however the same will not be enforced. Therefore, the TSPs and DoT continue to calculate LF/SUC as per their own understanding, which have a significant variation.
- b.** The Assessments carried out by CsCA/LFA Wing keep getting reopened due to updated DVR reports, CAG reports, Special Audit reports and so on. Thus, the demand notices pertaining to LF/SUC dues keep getting revised.
- c.** In the absence of finality of the assessment and non-uniformity of the principle to arrive at AGR, it is not possible to conclusively establish the existence of 'Surplus/Excess' as claimed by the TSPs.
- d.** The TSPs may be allowed to submit their claims for adjustment of surplus in keeping with the principles of natural justice.

**3.** The following course of action has been approved to deal with the subject claims:

- a.** The Licensee may submit the claim for the adjustment of surplus. The date of adjustment of surplus, if any, shall be the date of the actual payment of the claimed surplus amount.



- b. The Licensor shall examine the claim and make determination of surplus amount admissible, if any, as per the license conditions with a caveat that the entire LF/SUC due amount is subject to re-assessment as per the outcome of Court cases or as determined by Special Audit/C&AG audit and finalization of accounts. In case of re-assessment, such adjustments may result in shortfalls for subsequent quarters, and the Licensee shall be liable to pay interest, penalty and interest on penalty, as applicable.
- c. CCA will be the authority to allow surplus adjustments of SUC/LF in all cases. However, only in the cases of centralized assessments which are being done at DoT HQ; DDG (LFA) will be the authority to allow surplus LF.
- d. Any adjustment based on the requests of TSPs shall however be limited to the same License and in the same Circle across subsequent quarters/financial years. Inter-License and Inter-Circle adjustments shall not be permitted.
- e. Surplus License Fee, if any, can be adjusted only against LF demands; and surplus Spectrum Usage Charge, if any, can be adjusted only against SUC demands.

This is in supercession of all the previous orders on the issue of surplus adjustment and issues with approval of Hon'ble Minister of Communications.

*Mandar*  
09/10/19  
-(Mandar Deshpande)  
Director (LFP-II)

**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)
2. COAI/ISPAI/VNOAI
3. All TSPs.