

2G scam: Panel proposes 99% rebate for licence violators

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Amid the debate over the revenue loss caused by the 2G spectrum scam, the government is planning to offer mobile operators a discount of over 99% on the maximum of Rs 3,000 crore in penalties to be levied on them for multiple violations of licence conditions.

A note from the department of telecommunications (DoT) for a meeting of the full Telecom Commission (TC) has recommended only Rs 28.85 crore be charged as penalty, which is less than 1% of the cumulative penalties of Rs 3,000 crore applicable under the licence agreement.

Telecom secretary R Chandrashekhar said the date for the Telecom Commission's meeting was yet to be finalized. Over the past three years, several companies have come under DoT's scanner for violation of conditions (such as the national numbering plan and providing mobile services in border areas), based on which an internal committee submitted a report in October 2008.

This report was considered by the Internal Telecom Commission (ITC) in December 2008. On December 24, 2008, a committee was formed by ex-telecom minister A Raja to evaluate the 'Scheme of financial penalty for violation of terms and conditions of licence agreement in respect of subscriber verification failure cases'.

In January 2009, the committee submitted its report recommending penalties for various violations by mobile operators. This report was placed before the ITC in February 2009. The ITC reduced the penalties to Rs 11.68 crore or less than half. The ITC consists of only DoT officials as against the full TC, which has secretaries from finance, industry, the Planning Commission and I-T as members.

Penalty discount may set precedent for violators

The matter was discussed at the July 7, 2010 meeting of the Telecom Commission. The commission directed that an Inter-Ministerial Committee (IMC) under the chairmanship of Member (Telecom), with representatives from all stakeholders, be formed to evaluate the penalties and reductions recommended by the ITC report.

These included middle and junior officials from the Planning Commission and ministries of commerce & industry, home and finance.

The IMC deliberated the issue in five meetings and invited presentations from the mobile industry. Meanwhile, Raja resigned and Kapil Sibal took over as telecom minister in December 2010. On December 31, 2010, the draft report of the IMC was circulated and finalized in its meeting of February 1, 2011. In this report, the IMC has decided to charge a penalty of roughly Rs 28.85 crore.

It is unclear from the DoT note whether there is a policy guideline in place to allow this 99% discount on penalties to private operators for licence violations or whether this is a use of discretionary powers based on the committee's internal decision.

The Planning Commission conveyed its concurrence with the report on January 27, 2011, while the department of industrial policy withdrew its membership from the IMC in November 2010. The MHA has not made any comments on the report.

If approved, this decision will set a new precedent for the manner in which penalties for licence violations are to be charged.