

# Cancel broadband spectrum held by Reliance Jio: CAG draft report

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NEW DELHI: The CAG has suggested cancelling nationwide broadband spectrum allocated to Infotel Broadband Services, now a Reliance Industries company, for allegedly rigging the auction and violating rules.

CAG in a draft report sent to the Department of Telecom for comments, said, "the DoT failed to recognise the tell-tale sign of rigging of the auction right from beginning of the auction" in which a small ISP, Infotel Broadband Services Pvt Ltd (IBSPL) emerged winner of pan-India broadband spectrum by paying 5,000 times of its net worth.

RIL, which acquired IBSPL within hours of it winning the spectrum and later renamed it Reliance Jio, said, "There is no final CAG report that we are aware of. That said we outrightly reject any suggestion whereby spectrum was acquired in any manner other than through a transparent bidding process duly supervised by Government of India."

According to the draft report, IBSPL, ranked 150th in the list of ISPs, submitted an earnest money deposit of Rs 252.50 crore "through the covert and overt assistance of third party/private bank", bid for Rs 12,847.77 crore (5000 times of its net worth) for pan-India spectrum and then sold the company on the day of completion of the auction.

These, according to the draft report, "indicated IBSPL's collusion and sharing of the confidential information with a third party in violation of auction conditions/rules."

RIL spokesperson said the auction for the BWA spectrum was one of the most competitive auction in the Indian telecom history which fetched final bid price more than six times the reserve price for the Pan-India spectrum.

"This was despite no visible evidence of any eco-system for the BWA spectrum at the time of auction. Any allegations of so-called collusion, sharing of the confidential information or rigging the auction are bizarre and completely rejected," the spokesperson said.

On bank guarantee, RIL spokesperson said that as per NIA bidders were required to submit Bank Guarantee for desired amount as Earnest Money Deposit (EMD) along with its application.

"EMD was based on specific deposit requirement for each telecom circle. Accordingly Infotel Broadband Services Pvt Ltd (IBSPL) submitted a Bank Guarantee of Rs 253 crore in format as prescribed in NIA. Since no money was deposited as EMD, the question of source of deposit does not arise," the spokesperson said.

The draft CAG report said, "Due to inclusion of inadequate eligibility criterion for participation in the auction, the promoters of the IBSPL enriched themselves and made unfair gain."

CAG rejected DoT response that the eligibility criterion for participation in the auction was finalised after due diligence and on sector regulator TRAI's recommendations saying it was department's responsibility to ensure that only serious ISPs participated in the auction.

DoT in its response admitted that there was no eligibility criterion with respect to minimum net worth or paid up capital for participation in the auction.

"Neither the top management of the DoT nor the important committees... could detect these tell tale signs of collusion and sharing of confidential information by the biggest bidder, a tiny ISP.



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"The IMC (inter-ministerial committee) did not satisfy itself as to how the IB SPL, a company with a net worth of Rs 2.5 crore, would be able to pay the bid amount of Rs 12,847.77 crore within ten days," it said.

CAG in the draft report said, "the government should get the matter investigated even at this juncture, fix responsibilities on the bidders, which violated the auction conditions/rules prescribed and cancel the allotment of the BWA spectrum along with exemplary punishment on the colluding firms."

The CAG estimated that decision of government to allow Internet service providers licence holder having BWA spectrum to provide voice services against payment of Rs 1,658 crore resulted in undue advantage worth Rs 22,842 crore to RJio.

The DoT has said the auction rules allowed all kind of telecom operators to participate in auction and there were no inherent limitation in providing voice service using BWA spectrum.

"Has the successfully bidder of pan-India BWA spectrum obtained UAS licence (permits held by mobile phone service providers), he would have become eligible to use BWA spectrum to provide any of the service permitted under UASL including full mobile service," the official source said.

Telecom operators like Bharti Airtel, Idea Cellular, Vodafone, Aircel etc hold Unified Access Service Licence (UASL) that allows them providing full mobile phone services as well.

The BWA auction rules gave option to participants to procure BWA spectrum under UASL against payment of Rs 1,658 crore as paid by other operators but there was no guarantee of giving them initial spectrum as was given to incumbents.

CAG has rejected logic of DoT saying that auction guidelines linking of BWA spectrum with UASL is "unfair and highly inappropriate."

According to the draft audit report, IBSPL promoter Director went on electronic media on June 11, 2010, to confirm that they had been in talks with RIL during the course of auction process.

The report said it was in "gross violation of the confidential clause of NIA which had prohibited bidders and insiders from conveying any confidential information to any other person, including any other bidder or its insiders".

Mahendra Nahata, the head of HFCL, the parent firm of IBSPL, denied allegation and said "No confidential information was ever conveyed to anybody."

The CAG has also indicted telecom regulator TRAI for not giving clear recommendation and remaining a passive observer when changes were made in its suggestion to reduce quantum of spectrum in auction.

Telecom Regulatory Authority of India in 2006 had recommended to make available spectrum available for entry of 12 players but finally only 2 blocks of spectrum were put for auction that restricted scope for entry to only two pan-India players.

The RIL spokesperson said voice service was always allowed using BWA spectrum provided one holds or obtains the relevant licence and there is no change in the position prevailing at the time of auction and now.

"Unified Licence acquired by Reliance Jio allows triple play including audio, data & video," the spokesperson said.

The spokesperson said that the spectrum was acquired in a transparent bidding process by investing more than Rs 12,800 crore.

"The auction was conducted by Government of India after following due process in which several operators participated. We fail to understand if the spectrum was purchased in transparent bidding process then how an advantage of Rs 23,000 crore has accrued to Reliance Jio," the spokesperson said.

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