

Government, Governance and Corruption : The Case of 2G Spectrum Scam *

B.P. Patra¹

Abstract

Corruption at the high levels of government offices has been depressingly upsetting the national economy. The ineffective governance process is harming the country's exchequer and also has been observed that the corrupt practices have been detrimental to the economy and the society at large. The recent actions of the Telecom minister of the Government of India and Telecom firms have exposed the corruption in government at various levels. Indian telecommunications industry, which has witnessed unprecedented growth in recent years has also been accompanied by allegations that the government manipulated its rules and policies and selectively interpreted the recommendations of the regulator, the Telecom Regulatory Authority of India (TRAI) to benefit a few firms, some of which had no prior industry experience. Such high level of corruption in the government is adversely affecting the economic growth of the country. Bureaucrats at the behest of ministers organize corrupt activities in collusion with private agents. This paper focuses, using 2G Scam, on corruption at the industry and at the national level and its adverse consequences. One of the significant learning from the case is that failure of governance has led to a massive scam, huge loss to the exchequer, and loss public trust in the government system.

Keywords: 2G, Scam, Governance failure, Corruption, Greed, Transparency, Accountability

1.0 INTRODUCTION

1.1 2G: An Overview

The second-generation wireless telephone technology is popularly known as 2G. The fundamental difference between 1G and 2G is that 1G is Analogue and 2G is Digital. 2G is considered to be quicker, dependable, and free of error because digital has greater capacity over analog which permits numerous people to use the same base station (tower) at one time. 2G technologies comprise Integrated Digital Enhanced Network (IDEN) or Global System for Mobile communications (GSM), which has been successfully functioning globally.

The 2G systems are found to be much more efficient on the spectrum and permit far greater mobile phone access levels. Besides this, the phone conversations were digitally encrypted. 2G is very popular in various parts of the globe.

1.2 Deliberate Violation of the Procedure in 2G Spectrum Allocation

Former Union Minister for Communications and Information Technology, Adimuthu Raja is accused for the government decision for maneuvering the rules and policies selectively to allot 2G spectrum to some specific telecom companies. It is alleged that he deliberately ignored

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1. Associate Professor, Xavier Institute of Management, Bhubaneswar, email: bibhu@ximb.ac.in

recommendations of the Telecom Regulatory Authority of India (TRAI), intentionally violated the procedure of spectrum allocation and distributed it in a non-transparent and unfair manner. He ignored recommendations made from time to time not only by senior officials within the Department of Telecommunication (DoT), but also by officials of the union ministries of law and finance. According to the Comptroller and Auditor General (CAG) of India the gross irregularities led to the gigantic scam.

According to CAG, the root cause of the scam are: a) pricing second generation (2G) spectrum, b) allowing companies to use two competing technologies – the global system of mobile (GSM) communications and the code division multiple access (CDMA) technology – with the same license, and c) allocating more spectrum to companies than what was specified in their licenses. This led to the total “presumptive” losses to the government to the tune of more than Rs 1, 76,000 crore.

2.0 BACKDROP OF THE SCAM: SMELL OF INSIDER TRADING

The DoT on January 10, 2008 published in its website that letters of intent for issuance of licenses bundled with the electromagnetic spectrum would be given to private companies between 3.30 pm and 4.30pm. The publication further stated that application fees would have to be paid immediately by demand draft, along with supporting documentation. It was made clear that the Letter of Intent (LoI) would be issued to those who deposit their fees

first i.e. on First Come First Served basis. The CAG report states that many applicants had advance information about the issue of this notification by the DoT, which enabled them to move ahead of others to draw the demand drafts (DDs) and prepare other relevant documents needed to comply with the LoI conditions.

Thus, a company like Swan Telecom, which had submitted its application on March 2, 2007, was given a license with spectrum for the Delhi service area on August 28, 2008, while Spice Communications which had submitted its application in August 2006 has still not been given spectrum for the same Delhi service area.

3.0 POLITICIANS, BUREAUCRATS AND CORPORATES INVOLVED IN 2G SPECTRUM SCAM

The 2G spectrum scam involved officials of the government of India who illegally charged less to mobile telephony companies for frequency allocation licenses, which they used to create 2G subscriptions for cell phones. According to a report submitted by the Comptroller and Auditor General (CAG) based on money collected from 3G licenses, the loss to the exchequer was estimated as Rs176,379 crore (US\$ 38.27 billion). The issuing of the 2G licenses occurred in 2008, but the scam came to public notice when the Indian Income Tax Department investigated political lobbyist Niira Radia and the Supreme Court of India accepted Subramanian Swamy's complaints on testimony.

3.1 The Radia Tapes Controversy

In 2008, the Income Tax department, after orders from the Ministry of Home and the PMO, began tapping the phones of Niira Radia. This was done to help with an ongoing investigation into a case where it was alleged that Niira Radia had acted as a spy.

Some of the many conversations recorded over 300 days were leaked to the media. The intense controversy around the leaked tapes became known in the media as the Radia tapes controversy. The tapes featured some explosive conversation between politicians, journalists and corporate houses. Politicians from Karunanidhi to Arun Jaitley, journalists like Barkha Dutt and Vir Sanghvi and Industrial groups like the Tata's were either participants or mentioned in these explosive tapes.

4.0 VIOLATION IN POLICY IMPLEMENTATION

4.1 The valuation of 2G Spectrum in 2008 at 2001 prices

Keeping in mind objectives affirmed in the Telecom Policy, formulated in 1999, a new policy was formulated in November, 2003. In the new policy there was an arrangement for implementation of a Unified Access Service License (UASL). The new policy had two stages viz. first phase of six months assigned for migration of the already existing Basic Service Operators (BSOs) and Cellular Mobile Service Providers (CMSPs) to the new regime, and the second phase which was to start after the first phase in which a nominal entry fee for the license and separate charges for Spectrum will

be charged. While the first phase was smoothly implemented, the second one was overlooked and the valuation of 2G Spectrum in 2008 was made at 2001 prices. One of the most important objectives of the new policy decision was that additional entry fee be paid by the existing service provider for migration to UASL. Because of the violation in allocation formula appropriate price for Spectrum could not be achieved. For details of Additional Entry Fee to be paid by the existing Basic Service Operators (BSO) for migration to UASL (see Annexure – 1).

4.2 Superceding the Alarm of Ministry of Finance

The Department of Telecommunications (DoT) did not consult the Ministry of Finance while taking decision for efficient allocation of Spectrum. Although the Finance Ministry and the Cabinet in 2003 participated in discussions and allowed the price fixing they were not taken in to confidence at the time of final allocation. Similarly, the advice of the Finance ministry in November, 2007 to review the matter of price fixation of Spectrum on 2001 basis was overlooked by the DoT. Not only that, the role of the GoM was confined to issues concerning vacation of Spectrum, leaving out the two other terms of references viz. judicious allocation and appropriate pricing of Spectrum, in flouting the policy decision of 2003.

4.3 Overlooking the Advice of the Ministry of Law and Justice

The opinion of the Ministry of Law and Justice, at the level of the Minister, to refer the entire issue of Spectrum

allocation to an Empowered Group of Ministers (EGoM) and in the process obtain the legal opinion of the Attorney General was ignored by DoT, although the said opinion was expressed in response to the request of the Department itself in October, 2007.

4.4 Non-adherence to the Prime Minister's Suggestions

The Prime Minister's advice in November, 2007 to reconsider the price discovered in 2001 for a fair and transparent method of Spectrum allocation with an eye on revenue generation was not heeded to on the plea of providing a level playing field to the new applicants.

4.5 Not Consulting the Telecom Commission

The High Powered Telecom Commission which also includes part time members from the Ministries of Finance, Industry etc. and Planning Commission was not apprised of the TRAI recommendations of August, 2007 nor were they consulted at the time of grant of 122 licenses to service providers under UASL regime in 2008.

4.6 Arbitrary Changes in the Cut-off Date

Circumventing the recommendations of TRAI on 'no cap' on the number of licenses in any service area, the DoT's Press Release of September, 2007 stated that applications for issue of licenses would be accepted only up to October 1, 2007, which in effect put an artificial cap on the number of licenses to be awarded. Not only was that, the cut off date of October 1, 2007 was arbitrarily advanced to September 25, 2007.

4.7 Not following the First Come First Served (FCFS) Policy in letter and spirit

The First Come First Served (FCFS) Policy an internally and earlier adopted Policy in the Department of Telecom which was extended for issue of new UAS licenses was not followed in letter and spirit as would be corroborated from the fact that applications submitted between March, 2006 and September 25, 2007 were issued Letters of Intent (LoI) on a single day viz. January 10, 2008.

4.8 Issue of License to ineligible Applicants

Eighty five out of the 122 licenses issued in 2008 were found to have been to Companies which did not satisfy the basic eligibility conditions set by the DoT and have suppressed facts, disclosed incomplete information and submitted fictitious documents for getting UAS licenses and thereby access to Spectrum. Alleged favoured companies are:

1. Unitech Infrastructure Pvt. Ltd. (brand name Uninor)
2. Unitech Builders & Estates Pvt. Ltd. (Brand name Uninor)
3. Azare Properties Ltd (Brand name Uninor)
4. Hudson Properties Pvt. Ltd. (Brand name Uninor)
5. Nahan Properties Pvt. Ltd. (Brand name Uninor)
6. Adonis Projects Pvt. Ltd. (Brand name Uninor)
7. allocations Aska Projects Ltd. (Brand name Uninor)

8. Volga Properties Pvt. Ltd. (Brand name Uninor)
9. Shipping Stop Dot Com (India) Private Limited and No Loop Telecom Pvt. Ltd.
10. Allianz Infratech (p) Ltd. (merged with Etisalat DB)
11. Datacom Solutions Pvt. Ltd. (Changed to Videocon Telecommunications Ltd.)
12. S Tel Ltd.
13. Swan Telecom Private Ltd?

Out of the above 13 companies, six newly incorporated applicant Companies namely Unitech Builders & Estates Pvt. Ltd, Hudson Properties, Pvt. Ltd, Nahan Properties Pvt. Ltd. Aska Projects Ltd, Volga Properties Pct. Ltd and Adonis Projects Pvt. Ltd which belonged to Unitech group having Brand name as Uninor had declared the business activity in the main object clause of Memorandum of Association (MOA) as real estate instead of telecom as the resolution effecting the alteration was not yet registered on the date of application.

5.0 PEOPLE RESPONSIBLE FOR THE SCAM

5.1. Raja, the Ex-Minister of Communications and Information Technology

Basically the questionable allocations of second round of spectrum took place during the term of Telecom Minister, A. Raja an MP of the Dravida Munnetra Kazhagam (DMK) party from the Nilgiri constituency of Tamilnadu. DMK at that time was the ruling party in Tamilnadu and alliance partner of congress led

coalition (UPA) in the centre. He was asked to resign from the ministry following the public protest about the scam.

Subramaniam Swamy, former Janata Dal leader social activist, lawyer and politician, wrote letters to the Prime Minister demanding action and affidavits and cases in the Supreme Court brought the issue into the public limelight.

Arun Shourie, the then minister for Telecom in 2003 in the BJP led NDA government had launched the contentious technology neutral “Unified Access Service License” (UASL). During that time he permitted fixed line operators who had paid much lower license fees to render mobile phone services. Initially they were allowed to operate in the limited Wireless in Local Loop (WLL mode) and later with full mobility. At that time there was an out of court settlement between mobile operators and the BJP government. This gave benefit to players like Reliance and Tata Teleservices who managed to get mobile spectrum without paying the hefty fees that earlier operators like BPL Mobile had paid.

The preceding minister for Telecom Pramod Mahajan, (between 1999 and 2003 in the BJP Government), had taken the niggling decision to shift from a license fee based regime to a revenue sharing model which was considered to be disastrous by political parties and by economic experts. The Comptroller and Auditor General also filed adverse reports citing a loss of over Rs. 64,000 crore (US\$ 13.89 billion) caused by this

decision. The biggest beneficiary of this abrupt shift in policy was Reliance Info com. who gained thousands of crores of spectrum without paying any additional license fees. Pramod Mahajan and his cronies are reported to have received benami shares of Reliance Industries as “gifts.” A. Raja’s in his defense referred to the previous Telecom ministers and asserted that he was only following a policy of 2G allocations put in place by the BJP Government. His contention was that it would be unfair to levy prices based on 3G spectrum to 2G licenses.

6.2 Bureaucrats Involved

Siddharth Behuria, former telecom Secretary who served in the DOT at the time of the 2G allocation, allegedly signed documents that allowed selling spectrum licenses at rates much lower than the market, which resulted in huge financial losses to the national exchequer.

Pradip Baijal, a bureaucrat heading the TRAI is alleged to have implemented policies that favored certain Telecom companies.. Post retirement, Baijal joined Noesis, a consulting firm promoted by Niira Radia. A. Raja has made references to Baijal’s decisions in 2003 as the basis for his decisions in 2008. The houses and offices of the bureaucrat, Pradip Baijal, were raided by the Central Bureau of Investigation (CBI) as part of their investigations.

6.3 Corporations Involved

Unitech Group, a real estate company entering the telecom industry with its 2G bid sold 60 percent of its company stake at huge profit to Telenor after

buying licensing (including land value of properties for towers).

Swan Telecom sold 45 percent of its company stake at huge profit to Emirates Telecommunications Corporation (Etisalat) after buying licensing. Enforcement Directorate filed cases against companies for alleged foreign exchange violation. These companies were Swan Telecom, Loop Telecom and Loop mobile, S Tel, Videocon Telecommunication Ltd., Reliance communications, Sistema Shyam Mobile (MTS) , Sistema Mobile (Russia), and Tata Communication.

6.4 Media Persons & Lobbyists Involved

Niira Radia, a former airline entrepreneur turned corporate lobbyist, whose conversations with politicians and corporate entities were recorded by the government authorities and leaked, was the key person in the creation of Nira Radia tapes controversy.

Barkha Dutt, an NDTV journalist was alleged to have lobbied for A. Raja’s appointment as minister and Vir Sanghvi, a Hindustan Times editor similarly has been alleged to have edited articles to reduce blame in the Nira Radia tapes (see details in the Annexure-2).

6.5 Major Issues

1. Some applicants had advance information about the issue of the notification by the Department of Telecommunications (DoT).
2. Letter of Intent (LoI) was issued to those who deposited their fees first

i.e. on First Come First Served basis, which was not desirable.

3. The importance of (the) date of submission of (the) application was altogether removed by giving precedence to the date of compliance to the LoIs.
4. The arbitrary manner in which the DoT changed its cut-off date for applications was highly controversial.
5. In section 17 of the guidelines, the DoT curiously dropped the word “acquisitions” and retained only the word “mergers” which allowed the DoT to permit operators to sell their stake to certain multinational companies.
6. The CAG found that as many as 85 licenses out of the 122 new licenses issued to 13 companies in 2008 did not satisfy the eligibility conditions prescribed by the DoT.

7.0 LOSS OF MONEY TO GOVERNMENT EXCHEQUER

Raja arranged the sale of the 2G spectrum licenses below their market value. Swan Telecom, a new company with few assets, bought a license for Rs. 1,537 crore (US\$333.53 million). Shortly thereafter, the board sold 45 percent of the company to Etisalat for Rs. 4,200 crore (US\$011.4 million). Similarly, a company formerly invested in real estate and not telecom, the Unitech Group, purchased a license for Rs. 1,661 crore (US\$360.44 million) and the company board soon after sold a 60 percent stake in their wireless division for Rs. 6,200 crore (US\$1.35 billion) to Telenor. The nature of the selling of

the licenses was that licenses were to be sold at market value, and the fact that the licenses were quickly resold at a huge profit indicates that the selling agents issued the licenses below market value.

Nine companies purchased licenses and collectively they paid the Ministry of Communications and Information Technology’s telecommunications division Rs. 10,772 crore (US\$2.34 billion). The amount of money expected for this licensing by the Comptroller and Auditor General of India was Rs. 176,700 crore (US\$38.34 billion).

8.0 Investigations into the 2G Scam: The Role of CBI

Initially the people of India raised questions like: Is the CBI making genuine efforts to nail the guilty in the high profile 2G scam? Or is it just another eye wash? Is the CBI smartly dealing with the high profile people during the interrogations? If we look at the way the CBI investigated in the 2G scam issue, people alleged that the CBI barely took any major steps to punish the culprits in the 2G Scam. It is more than evident that the CBI hardly wanted to take the 2G Scam investigation to any genuine, logical conclusion. People believed that CBI was only interested in identifying vulnerable and easy scapegoats.

When full-blown investigation started, it was revealed that the loss to the exchequer was much more than estimated. These figures with varying numbers of zeroes were mind boggling. With the companies that CBI has named so far in its 2G scam charge sheets, it has only been able to account

for just about 20 percent of the national loss. What happens to the remaining 80 percent? And what happens to the many zeroes that have not yet been accounted for? Do we need to forget about them? Is the CBI content with solving just 20 percent of the case? And what prevents CBI from laying its hands on the remaining 80 percent. Is it because it involves surnames like Tata, Ambani, Ruia and Dhoot?

Just one days before CBI had filed its charge sheet of the 2G Scam it was revealed to the Supreme Court that two more companies were involved in the 2G Spectrum Scam. Elaborating further, the agency had said that the MD of one of the companies had already been arrested, and that the other company was linked to Vodafone in India, clearly indicating that the Essar family was to be named. One fails to understand, what transpired between parties that names of these families and officials were not mentioned in the first 2G Scam charge sheet.

If we take a close look at the witness statements that CBI had submitted as part of the 2G Scam charge sheet, there is a clear conjecture that Anil Ambani's name should have been there in the charge sheet. CBI informed the Supreme Court on September 27, 2011(Thursday) that three employees of Anil Dhirubhai Ambani Group (ADAG) were jailed in the 2G case. The agency told the court that it would investigate through them to find the real beneficiaries of the spectrum allocation in the case of Reliance ADAG.

Employees of ADAG were named in 2G scam charge sheet, despite

statement given by an ICICI Bank branch manager that only Anil Ambani and his wife were entitled to sign big cheques. The CBI has put forward a lame excuse in ADAG's defense that the transaction was done through multiple cheques signed by the employees. It is hard to believe that multiple cheques amounting to more than Rs 100 crore were issued when applying for the 2G spectrum licenses in a matter of hours, and Anil Ambani was not even aware? And who was the beneficiary? The three officers of ADAG, Gautam Doshi, Surendra Pipara and Hari Nair? Did CBI not have enough circumstantial evidence to even name ADAG in the 2G Scam charge sheet?

Courts have also taken cognizance of the shoddy nature of investigation and of the fact that the CBI could have been influenced by powerful houses. In fact, Justice Bharioke mentioned it in as many words, while pronouncing his judgment on the bail plea of corporate honchos.

Isn't there enough ground to suspect quid-pro-quo by Tatas in the part sale of the prime Voltas building in Chennai to Revathi Ammal at a throw away price? Infact, if the Kusegaon - Kalaighar transaction, (Which was an unsecured debt that was subsequently returned), can be treated as quid-pro-quo, what prevents CBI from applying the same logic, when it comes to the Voltas building transaction. In fact, in the Voltas transaction, there are far more blatant indications of quid-pro-quo, as it is an outright sale at less than 10percent of the market price.

From all the above instances, it is quite clear, that CBI is desperately trying to protect the old and powerful corporate houses. The common perception being sent out to the public at large is that CBI, for the first time in its history, is going after the rich and mighty. This is a farcical perception which is being created.

The reality is that 2G Spectrum allocation turned into a 2G Scam when corporate war was declared, where the big and old houses are on one side, and are colluding in an unholy conspiracy with the media agencies, to kill a whole new generation of entrepreneurs, who lack the political clout and might of these old time houses like Essar, Ambanis, Dhoots and Tatas.

The outcome of the 2G Scam, in the event that the CBI decides to wrap up the 2G Scam investigations with just 20 percent scapegoats, and gives clean chits to the rest of the 80 percent corporate big daddys (Essar, Ambanis, Dhoots and Tatas) who are as deeply involved, can be disastrous for the spirit of every entrepreneur, who is battling all odds to carve a niche for himself in the country.

The Supreme Court issued the following directions (vide: Civil Appeal No.10660 of 2010, in the Supreme Court Of India Civil Appellate Jurisdiction, New Delhi, February 02, 2012)

1. The CBI shall conduct through investigation into various issues highlighted in the report of the Central Vigilance Commission, which was forwarded to the Director, CBI vide letter dated

12.10.2009 and the report of the CAG, who have prima facie found serious irregularities in the grant of licenses to 122 applicants, majority of whom are said to be ineligible, the blatant violation of terms and conditions of licenses and huge loss to the public exchequer running into several thousand crores. The CBI should also probe how licenses were granted to large number of ineligible applicants and who was responsible for the same and why the TRAI and the DoT did not take action against those licenses who sold their stakes/equities for many thousand crores and also against those who failed to fulfill rollout obligations and comply with other conditions of license.

2. The CBI shall conduct the investigation without being influenced by any functionary, agency or instrumentality of the State and irrespective of the position, rank or status of the person to be investigated/probed.
3. The CBI shall, if it has already not registered first information report in the context of the alleged irregularities committed in the grant of licenses from 2001 to 2006-2007, now register a case and conduct through investigation with particular emphasis on the loss caused to the public exchequer and corresponding gain to the licensees/service providers and also on the issue of allowing user of dual/alternate technology by some service providers even before the decision was made public vide press release dated October 19, 2007.

4. The CBI shall also make investigation into the allegation of grant of huge loans by the public sector and other banks to some of the companies which have succeeded in obtaining licenses in 2008 and find out whether the officers of the DoT were signatories to the loan agreement executed by the private companies and if so, why and with whose permission they did so.
5. The Directorate of Enforcement/ concerned agencies of the Income Tax Department shall continue their investigation without any hindrance or interference by any one.
6. Both the agencies, i.e., the CBI and the Directorate of Enforcement shall share information with each other and ensure that the investment is not hampered in any manner whatsoever.
7. The Director General, Income Tax (Investigation) shall, after completion of analysis of the transcripts of the recording made pursuant to the approval accorded by the Home Secretary, Government of India shall hand over the same to CBI to facilitate further investigation in to the FIR already registered or which may be registered hereinafter. A chronological order of events in 2-G Scam has been shown in Annexure-2.

9.0 PAVE THE WAY OF TRIAL

Initially not a single accused was able to get bail from any court at all. The

Delhi High Court and the Supreme Court had denied bails to the accused broadly on the same ground that the possibility of their influencing the witnesses and tampering with evidence. It is true, of course, that the denial of bail does not by itself prove an accused guilty. But under the prevailing circumstances it was probably indicated as a hardening of attitudes because the accused were all high profile individuals. It has been observed that freedom is often misused. Although denial of bail seems to contradict the individual right in a free society, in this case it would have an adverse effect on the society in the long run. It appears that the failure of our system to ensure justice in a timely manner, especially in cases involving the high and mighty, has led to a general cynicism and anger in large part of our society. It is widely believed that due to the deficiency in the legal procedure it may take years, and may not result in conviction of accused, so there is a hue and cry to put the accused behind the bars immediately. People memory is short, and nobody bothers about the eventual outcome of a case. But the scenario has changed. Indian community has been disillusioned by the governance process of the country. Public feeling is that the symbolic act of the rich and influential people suffering imprisonment in the interim is a good punitive measure for future generation beurocrates and politicians. This seems to provide a sense of satisfaction to a large number of people. Of course according to procedure, punishment must follow, and not precede, the trial.

The denial of bail to accused in the 2G scam case, by the CBI court, Delhi High Court, and the Supreme Court in quick succession has kindled the people's hope that there will be some relief from corruption at high places. Of course, nobody can argue that the courts are targeting the accused unfairly by denying them bail. Though some says that the decisions of the courts (including the Supreme Court) seem to be in strange consonance with the outraged public opinion as expressed in the popular media. However, the Supreme Court granted bail to Kanimozhi, Unitech's Sanjay Chandra, Swan Telecom's Vinod Goenka and Reliance ADAG senior executives Gautam Doshi, Hari Nair and Surendra Pipara on November 23, 2011 and honoring the Supreme Court the Delhi high court on November 28, 2011 granted bail to DMK MP Kanimozhi and four other accused. On 9.5.2012 the Supreme Court of India granted bail to former Union Telecom Secretary Siddharth Behuria. Honorable Supreme Court also granted bail to A Raja after 15 months on May 15, 2012

The trial of politicians and corporate bosses in 2G scam somewhat diminished the feelings of public anger and frustration at the prevailing social condition. General public now hope that the civil foundation of the Indian society is getting strong.

10.0 ETHICAL ANALYSIS

With the outbreak of the 2G spectrum scam, the following ethical issues on the part of the government, regulatory bodies, media and industry came into the forefront.

A. Failure of Governance at Government level

The essential characteristic of governance is to act with authority and accountability (Mallin, 2007). Particularly in government sector, the concerned ministers and beurocrates exercised power on behalf of the people. It is their responsibility to look after the public wellbeing and exercise their power to safeguard the interest of the nation. Governance encourages a trustworthy, moral, as well as ethical environment. It helps to ensure that an adequate and appropriate system of controls operates within the stipulated regulations of government departments so that public property may be safeguarded. It also prevents any single individual to have too much power and influence.

But in case of 2G spectrum scam too much of power was in the hands of a very few at the highest level. Will power to take care of tax payer's money by the government was lacking. The government did not behave in a responsible manner. This diminished the social utility.

For the 2G spectrum disarray in which telecom minister A Raja acted unilaterally, his Cabinet colleagues are to be blamed. The principle of collective Cabinet responsibility is applicable here because the case of distribution of 2G licenses on a first-come-first-served basis should have been discussed in the cabinet (at least with the finance ministry). The disaster uncovered the key weakness in the governance process. Lack of ethics in governance process at the high level and

irresponsible behavior, erroneous attitude and lack of competence at individual level led to such a huge scam.

B. At the Industry Level

Business organizations function within the limitations of the constitution of the country. In advanced capitalist society, the culture of competition provides opportunities, motivation and rationalization for conducting business (Punch, 1997). But in case of 2G scam the dirty side of business came to limelight. Behind the scene, corporations behaved irresponsibly. What is witnessed was a rat race where manager lied cheated, manipulated, evaded and conned the society. Following tricks were applied:

1. Spirit of fair competition was not observed
2. Middle men used their access to those in power
3. Pure pursuit of profit from companies – Uninor & Swan were allowed.
4. Profit was the main driving force – no intention to serve consumers and community.
5. Manipulating the media not to disclose the questionable practices was resorted.

C. At Regulator's Level

Although the issue of good governance is primarily for corporations and its shareholders (in this case government and the public) the 2G scam confirmed that regulators must play a proactive role. Certainly, after the crisis, both public and the parliament understood

that regulators should have examined every aspect of the auction and arbitrated it more forcefully. But they were toothless with only advisory powers. Appointment process aids, conflict of interest and insufficient manpower worsened the situation.

D. Personal greed puts stakeholder's interest at stake

Greed and arrogance of A. Raja led to the scam and loss to the government exchequer. The government could have used the taxpayer's money to enhanced public utility like: schools, public health and other infrastructure. The two fundamentals of business i.e. fair dealing and transparency was completely kept aside to enjoy the false fruits. Transparency and objectivity of DoT was put to question because of some corrupt officials. Few senior officials supported the moves by Raja, some due to their willingness and some by the force of the higher authority. Many of the rules and policies of TRAI were violated in order to benefit the few. Miss-use of power led to a great turmoil. Raja being the Telecom minister, tried to influence the senior officials of DOT by all means. Those who didn't get influenced were either transferred or removed from their posts.

11.0 CONCLUSION

The case of 2-G scam involved a clear violation of the guidelines given by the TRAI. Tax payers' and the public interest were ignored for personal gains. The moral obligation of the society was also ignored. The proverbial statement that power corrupts and absolute power corrupts

absolutely became true in reality as concentration of power within and between interest group diminished public utility. Good governance takes care of holistic growth of the nation. Individual power vested in a single minded person destroyed efficiency and fairness of the governance process. According to Joseph Stieglitz (2004) "Good governance is public good". In a system of democracy, transparency and accountability are musts for efficient governance and for general welfare of the society. The case demonstrate that decision making process involving multiple stakeholders must be led by leaders as change agents who should keep in mind the interest of all sections of community. Politicians and bureaucrats indulging in corrupt activities and providing their support to private agents create a dangerous trend in which public trust in democratic institutions can rapidly

deteriorate and eventually lead to chaos and crisis in governance.

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ANNEXURE - 1

Additional Entry fees to be paid by the existing Basic Service Operators for migration to United Access Service License

Sl No	Name of the Operator	Service Area of BSO	Date of signing of licence agreements	Entry fee paid by BSO (in Rs. Crores)	Entry fee paid by 4 th Cellular Operation (in Rs. Crores)	Additional Entry fee to be paid for migration to UASL (in Rs. Crores)
01.	Reliance Infocom Ltd	Rajasthan	20.07.2001	20	32.25	12.25
		UP (East)	20.07.2001	15	45.25	30.25
		Maharashtra	20.07.2001	115	392.66	277.66
		Karnataka	20.07.2001	35	206.83	171.83
		Punjab	20.07.2001	20	151.75	131.75
		Andhra Pradesh	20.07.2001	35	103.01	68.01
		Haryana	20.07.2001	10	21.46	11.46
		Kerala	20.07.2001	20	40.54	20.54
		UP (West)	20.07.2001	15	30.55	15.55
		West Bengal	20.07.2001	25	78.01	53.01
		Madhya Pradesh	20.07.2001	20	17.4501	0
		Bihar	20.07.2001	10		
		Himachal Pradesh	20.07.2001	2	1.1	0
		Orissa	20.07.2001	5		
		Tamil Nadu	26.09.2001	50	233	183
		Delhi	20.07.2001	50	170.7	120.7
		Andaman & Nicobar	20.07.2001	1		0
02.	RTL	Gujarat	18.03.1997	179.0859	109.01	0
03.	Tata Tele Services Ltd.	Gujarat	31.08.2001	35	206.83	171.83
		Karnataka	31.08.2001	35	206.83	171.83
		Andhra Pradesh	04.11.1997	161.47 (old)	103.01	0
		Tamil Nadu	31.08.2001	50	233	183
		Delhi	31.08.2001	50	170.7	120.7
04.	TTL (Mah.) Ltd.	Maharashtra	31.08.2001	532.55 (Old)	392.66	0
05.	Bharti Telenet Ltd.	Karnataka	29.10.2001	35	206.83	171.83
		Haryana	08.10.2001	10	21.46	11.46
		Madhya Pradesh	28.02.1997	35.33 (Old)	17.4501	0
		Tamil Nadu	29.10.2001	50	233	183
		Delhi	29.10.2001	50	170.7	120.7
06.	Shyam Telelink	Rajasthan	04.03.1998	29.29 (Old)	32.25	2.96
07.	HFCL Infotel Ltd.	Punjab	07.11.1997	177.59 (Old)	151.75	0

- For BSOs in MH, WB and TN the entry fee of fourth cellular MH + Mumbai, WB+Kolkata and TN+Chennai has been taken.
- Now A&N is a part of WB service area for cellular.

Source: The Government of India, Ministry of Communication and Information Technology, No. 808-26/2003-VAS. Dated 11th November, 2003.

ANNEXURE-II**Chronology of Events**

May 18, 2007	<i>A Raja takes over as Telecom Minister</i>
Aug 2007	<i>Process of allotment of 2G Spectrum for telecom along with Universal Access Service (UAS) Licenses</i>
Sept 25, 2007	<i>Telecom Ministry issues press note fixing deadline for application as October 1, 2007</i>
Oct 1, 2007	<i>DoT receives 575 applications for USA licenses of 46 companies</i>
Nov 1, 2007	<i>PM writes to Raja directing him to ensure allotment of 2G spectrum in a fair and transparent manner and to ensure license fee was properly revised. Raja writes, back to PM rejecting many of his recommendations.</i>
Nov 22, 2007	<i>Finance Ministry writes to DoT raising concerns over the procedure adopted by it. Demand for review rejected</i>
Dec 26, 2007	<i>Raja writes to PM informing him that he will execute the decision in line with existing policy and that he has consulted External Affairs minister and has received advice from Solicitor General of India</i>
Dec 29, 2007	<i>D S Mathur refuses to sign files. Then Maju Madhavan, member finance, proceeds on leave in protest. Take premature retirement in Feb 2008. D S Mathur retired on Dec 31, 2007</i>
Jan 1, 2008	<i>Siddharth Behura joins as Secretary DoT</i>
Jan 3, 2008	<i>PM acknowledges A Raja's letter dated 26th December 2007</i>
Jan 10, 2008	<i>DoT decides to issue licenses on first come first served basis, preponing the cut-off date to September 25, from October 1, 2007. Later on the same day, DoT posted an announcement on its website saying those who apply between 3.30 PM and 4.30 PM would be issued licenses in accordance with the said policy</i>
Jan 14, 2008	<i>Swan Telecom, Unitech and Tata Teleservices sell off a part of their stakes at much higher rates to etisalat, Telenor and Docomo respectively</i>
Nov 29, 2008	<i>Subramanian Swamy makes representation to the PM, seeks sanction to prosecute Raja under the Prevention of Corruption Act.</i>
May 4, 2009	<i>NGO Telecom Watchdog files complaint to CVC on illegalities in spectrum allocation to Loop Telecom</i>
May 4, 2009	<i>CVC Directs CBI to probe allocation of 2G spectrum</i>
July 1, 2008	<i>Delhi high court holds advancing of cut-off date as illegal on a petition of telecom company S-Tel</i>
Oct 21, 2009	<i>CBI lodges FIR against unknown persons including DoT officials under the IPC and the Prevention of Corruption Act.</i>

Oct 22, 2009	<i>CBI raids DoT offices</i>
Nov 16, 2009	<i>CBI seeks details of taped conversions of corporate lobbyist Niira Radia to find out involvement of middlemen in grant of spectrum to telecom companies</i>
Mar 31, 2010	<i>CAG reports large scale irregularities</i>
May 6, 2010	<i>Telephonic conversion between Raja and Radia made public</i>
May 10, 2010	<i>NGO Centre for public interest litigation moves Delhi HC seeking probe into scam either by SIT or CBI</i>
May 25, 2010	<i>Delhi HC dismisses the petition</i>
Aug 10, 2010	<i>The NGO moves SC against HC's verdict</i>
Aug 18, 2010	<i>Delhi HC refuses to direct PM to decide on Swamy's complaint seeking sanction to prosecute Raja or his involvement in 2G scam`</i>
Sept 13, 2010	<i>SC asks Centre, Raja to reply in 10 days t three petitions of CPIL and others on allegation there was a Rs 70,000 crore scam.</i>
Sept 24, 2010	<i>Swamy moves SC seeking direction to the PM to sanction Raja's prosecution</i>
Oct 8, 2010	<i>SC asks government to respond to CAG report about the scam</i>
Oct 21, 2010	<i>Draft reports of CAG placed before SC</i>
Oct 29, 2010	<i>SC pulls up CBI for tardy probe in the scam</i>
Nov 10, 2010	<i>CAG report says the scam caused a loss of Rs 1.76 lakh crore to exchequer</i>
Nov 11, 2010	<i>DoT files affidavit in SC saying CAG did not have authority to question policy decision on 2G licenses</i>
Nov 14, 2010	<i>Raja resigns as Telecom Minister</i>
Nov 14, 2010	<i>Swamy's plea on sanction to prosecute Raja becomes infructuous. He seeks guidelines on grant of sanction to prosecute public servants for offences under the Prevention of Corruption (PC) Act</i>
Nov 20, 2010	<i>PM files affidavit in SC, Rejects charge of inaction on Swamy's complaint</i>
Nov 22, 2010	<i>CBI tells SC that it will file charge sheet in the case within three months</i>
Nov 24, 2010	<i>HC reserves verdict on Swamy's plea seeking direction to PM for grant of sanction to prosecute</i>
Nov 25, 2010	<i>SC ticks off CBI for not questioning Raja</i>
Nov 29, 2010	<i>CBI files status report on probe in the case</i>
Nov 30, 2010	<i>SC question CVC PJ Thomas's moral right to supervise CBI's probe into 2G spectrum scam as he himself was Telecom Secretary at that point of time</i>
Dec 1, 2010	<i>SC seeks original tapes on conversation between corporate lobbyist Nira Radia and others</i>
Dec 1, 2010	<i>Raja questions CAG findings in SC</i>

Dec 2, 2010	<i>Government places recorded tapes in the SC</i>
Dec 2, 2010	<i>SC comes down on Raja for overruling PM's advice to defer allocation of 2G spectrum by a few days</i>
Dec 8, 2010	<i>SC favours probe into spectrum allocation since 2001</i>
Dec 8, 2010	<i>SC orders setting up of a special court to try 2G spectrum scam case</i>
Dec 8, 2010	<i>ED submits report.Says money trail covers 10 countries, including Mauritius</i>
Dec 14, 2010	<i>Another PIL in SC for cancellation of telecom licences granted by Raja</i>
Dec 15, 2010	<i>Swamy, in complaint, says Raja favoured 'ineligible' companies like Swan Telecom and Unitech</i>
Jan 4, 2011	<i>Swamy also seeks cancellation of 2G licenses</i>
Jan 10, 2011	<i>SC notice to Centre on the plea seeking cancellation of 2G licenses. It also seeks responses from 11 firms for not fulfilling rollout obligations</i>
Feb 2, 2011	<i>Raja, former Telecom Secretary Siddhartha Behura and Raja's former Personal Secretary R K Chandolia arrested</i>
Feb 8, 2011	<i>Shahid Usman Balwa, promoter houses, arrested</i>
Feb 10, 2011	<i>SC asks CBI to probe corporate houses, alleged beneficiaries of the 2G scam</i>
Mar 1, 2011	<i>CBI tells SC that 63 persons were under its scanner</i>
Mar 14, 2011	<i>Delhi HC sets up special court for 2G case</i>
Apr 2, 2011	<i>CBI files first charge sheet in the case</i>
Apr 25, 2011	<i>CBI files second charge sheet and Kanimozhi, Sharad Kumar and Karim Morani summoned</i>
May 20, 2011	<i>Court rejects bail pleas of Kanimozhi and others and orders their arrest</i>
July 25, 2011	<i>Arguments on charge framing begin. Raja seeks to make PM and P Chidambaram as witnesses</i>
Aug 23, 2011	<i>Swamy moves SC for making Chidambaram as accused</i>
Sept 8, 2011	<i>SC asks Swamy to submit his correspondences with CBI in connection with his plea to probe Chidambaram for his alleged role in the 2G scam</i>
Sept 8, 2011	<i>SC agrees to hear CPIL's plea for setting up of a Special investigating Team (SIT) to monitor probe</i>
Sept 15, 2011	<i>Swamy moves special CBI court to make Chidambaram a co-accused</i>
Sept 2, 2011	<i>CBI defends Chidambaram in SC, blames DoT</i>
Sept 29, 2011	<i>CBI says role of Anil Ambani being probed, gives a clean chit to Tata and Videocon group</i>
Oct 10, 2011	<i>SC reserves order on Swamy's plea for a probe into the alleged role of Chidambaram in the 2G scam</i>

Oct 22, 2011	<i>Special court frames charges against Raja and 16 others in the 2G case</i>
Nov 23, 2011	<i>Five top Corporate Executives get bail</i>
Dec 12, 2011	<i>CBI files third charge sheet. Names Essar promoters Anshuman, Ravi Rulia, Essar Group director (Strategy and Planning) Vikas Saraf, Loop Telecom promoters Kiran Khaitan and her husband IP Khaitan as accused Three companies-Loop Telecom Pvt. Ltd, Loop Mobile India Ltd and Essar Tele Holding also names as accused</i>
Jan 31, 2012	<i>SC says filing complaint under the PC and the competent authority should take a decision on giving the sanction within four months</i>
Feb 2, 2012	<i>SC cancels 122 licences granted during Raja's tenure. Directs auctioning of licenses in 4 months</i>
Feb 2, 2012	<i>SC leaves it to the special court to decide on Chidambaram within 2 weeks Asks CBI to give status report on probe to CVC, making it a virtual SIT</i>
May 9, 2012	<i>SC grants bail to Siddharth Behura, upholds bail of RK Chandolia. A Raja too moves court for bail.</i>
May 11, 2012	<i>Behura walks out of Tihar jail.</i>
May 15, 2012	<i>Special CBI court grants bail to former Telecom Minister A Raja.</i>

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