**Ethics Essay on 2G Spectrum Scam**

|  |  |
| --- | --- |
| **Name:** | Nikhil Mittal |
| **Student Number:** | 19210509 |
| **Programme:** | MCM in Computing(Data Analytics) |
| **Module Code:** | CA640 |
| **Assignment Title:** | Ethics Essay |
| **Word Count:** | 2513 |
| **Submission Date:** | 15th November 2019 |
| **Module Coordinator:** | Dr. Renaat Verbruggen |

|  |  |
| --- | --- |
| |  | | --- | |  | |

I declare that this material, which I now submit for assessment, is entirely my own work and has not been taken from the work of others, save and to the extent that such work has been cited and acknowledged within the text of my work. I understand that plagiarism, collusion, and copying are grave and serious offences in the university and accept the penalties that would be imposed should I engage in plagiarism, collusion or copying. I have read and understood the Assignment Regulations. I have identified and included the source of all facts, ideas, opinions, and viewpoints of others in the assignment references. Direct quotations from books, journal articles, internet sources, module text, or any other source whatsoever are acknowledged, and the source cited are identified in the assignment references. This assignment, or any part of it, has not been previously submitted by me or any other person for assessment on this or any other course of study.

I have read and understood the referencing guidelines found at <http://www.dcu.ie/info/regulations/plagiarism.shtml>, <https://www4.dcu.ie/students/az/plagiarism> and/or recommended in the assignment guidelines

Name: Nikhil Mittal Date: 15/11/2019

**Introduction**

2G (or 2-G) is short for mobile telecommunications technology of the second generation. Telephone conversations can be encrypted electronically. On the spectrum, systems are significantly more efficient to enable far higher levels of penetration of mobile phones.2G enabled mobile data services, beginning with text messages from SMS [1].

In a band of frequencies defined as a spectrum allocated to each operator, cellular and other networks operate on specific frequencies. Each single mobile network will only operate on the frequencies allocated. Such an allowance is the government's responsibility. Another allocation of this kind in the 2 G network spectrum took place in India in 2008 under the skilled tutelage of the then Telecom Minister A. Raja, which we all know today as the 2 G spectrum scam.

The scam was made under the UPA Party by minsters and private officials. It was a big enough fraud of about $40 billion. that time, the government was criticized for undercharging frequency allocation licenses to mobile companies, which they used to establish 2 G spectrum services to cell phones. An $2.27 billion deal was made at an e-auction that was a first-of - a-kind crafted by the government chosen NM Rothschild and Sons. India's Comptroller and Auditor General(CAG) estimated the disparity between the amount of money raised and the amount authorized to be collected was approximately $25 billion. The loss was in the charge sheet filed by the Central Investigation Bureau (CBI) on April 2, 2011, around $45 billion . The Telecom Regulatory Authority of India (TRAI) responded to CBI on 19 August 2011 that the government had a gain of $30 billion by selling the 2 G spectrum. On March 2018, respectively, the enforcement Directorate and CBI appealed against this verdict at the Delhi High Court. In February 2019, the judge ordered the perpetrator to plant 3,000 trees each to seek more time to file their answers to the appeal of rewarding their acquittal in a 2 G scam case.[2] As a result, this was India's biggest scam, which TIME magazine named the second-largest abuse of executive power.

**Literature Review**

When allocating the 2G spectrum, the government was responsible. The government entrusted Mr. A.Raja with the task of allocating the allocation to the network firms. Moreover, these allocations culminated in a 2G scam. The 2G Spectrum Scandal involved officials in the Indian government unlawfully undercharging mobile telephone providers for frequency allocation licenses that they would use to establish 2G cell phone subscriptions. The difference between the received revenue and the amount collected is calculated at US$ 39 billion based on 3 G auction prices.[3]

Licensing took place in 2008, but when the Indian Income Tax Department were investigating the political lobbyist Nira Radia, the fraud came to public notice. The inquiry and responses by the government to the results were the subject of discussion, as were the essence of the reactions of the Indian media. The analysis of the responses to the 2 G spectrum scam was known in the press as the uproar over Nira Radia Tapes.Much of the credit for bringing this whole scam into the public light goes to Subramanian Swamy, who is the chief prosecutor in court for this case. [3]

**Liffick’s Analysis**

**Main Participants and Actions**

**Primary Participants**

* **A.Raja**
* 2 G spectrum financial scandal within the Ministry of Telecommunications and IT under A. Raja is notable in modern Indian history as the largest case of political bribery.[3]
* Finally, the financial scam led to the resignation of Raja on November 2010. More criminal investigation and action will take place on Raja with reports being filed by the CAG and the Central Bureau of Investigation (CBI).[3]
* **Kanimozhi**
* Transcripts of six conversations between lobbyist Nira Radia and Kanimozhi from May 2009 were released in Outlook in November 2010. India Today claims that these talks reveal that Kanimozhi filtered the information flowing to her father (Tamil Nadu's chief minister) and thus ‘tipped the scales’ for A.Raja.[3]
* On 2011, the special Central Bureau of Investigation (CBI) court in New Delhi ordered the arrest of Kanimozhi along with Kalaignar TV CEO Sharad Kumar after rejecting their bail pleas as Kanimozhi was in the Kalaignar TV board of directors which were involved the scam.[3]
* **Nira Radia**
* The Indian Income Tax Department taped Radia's telephone lines for 300 days in 2008-2009 as part of its investigations into possible money laundering, limiting financial practices and tax evasion.[3]
* The CBI announced 5,851 recordings of telephone conversations with Radia, some of which outline Radia's attempts to broker 2G spectrum sales deals.[3]

**Secondary Participants**

* **Unitech**
* Unitech Wireless, accused in the 2 G spectrum scam, defended itself in the trial court on the grounds that there was no evidence to suggest that it had influenced the controversial change in the 2007 cut-off date for license applications.[3]
* The counsel of the company, S.S. Gandhi said the allegation that the cut-off date had been changed so that no other company would be able to apply for licenses after Unitech had been wrong. Applications have been made for approximately 40 licenses.[3]
* **Ratan Tata**
* Surprisingly, CBI reported the loss of Rs. 8,448.95 crores from Tata's dual engineering licenses to the exchequer in the same charge sheet. Tata not only obtained 19 dual technology licenses, but also obtained 3 new licenses in 2008.[3]
* Tata's handwritten letter dated 13 November 2007 (personally delivered via Nira Radia) to the then Chief Minister of Tamil Nadu, praising A. Raja's conduct defying Tata's CBI tale as a suspect.[3]
* **Videocon**
* The Central Bureau of Investigation (CBI) questioned promoters of the Videocon group, Venugopal Dhoot and his brother and Rajya Sabha member Rajkumar Dhoot, about their alleged links to so-called 2 G scam.[3]
* The brothers were questioned on Datacom Solutions Pvt's shareholding history. In 2008, the official said, Ltd, which was awarded 21 licenses during spectrum allocation.[3]

**Implied Participants**

* **Anil Ambani**
* Anil Ambani, chairman of the Anil Dhirubhai Ambani Group (ADAG), was a suspect in the 2 G scandal. The investigators were not pleased with his responses at the CBI headquarters on Wednesday during the questioning session.[3]
* When Ambani was face-to-face with Raja and Balwa during the questioning on Wednesday, he said that his team had quit Swan Telecom when it secured a UAS license on 10 January 2008.[3]
* **Indian Media**
* The news gained prominence amid continued pressure against an alleged blackout organized by many influential Indian TV channels and newspapers on Twitter and Facebook social networking sites.[3]
* Initially, only a handful of India's mainstream newspapers, such as The Deccan Herald, had openly written about the tapes. [3]
* The Times of India, India's largest circulated English newspaper in India and the world, finally opened in 2010, giving an opinion that people are showing who the boss is. The power in their arsenal is the internet. [3]

**Reduced Lists**

It was not initially possible for a single accused to get bail from any court at all. The Delhi High Court and the Supreme Court had narrowly refused bails to the accused on the same ground that they could influence the witnesses and manipulate facts. On December 2017, the New Delhi Special Court acquitted all accused in the 2 G spectrum case including prime accused A Raja and Kanimozhi. This decision was since in those 7 years, CBI was unable to find any evidence against the accused. By artfully arranging a few selected facts and exaggerating things beyond recognition to astronomical levels, some people created a scam according to the judgment[4]. On March 2018, respectively, the enforcement Directorate and CBI appealed against this verdict at the Delhi High Court. In February 2019, the judge ordered the perpetrator to plant 3,000 trees each to seek more time to file their answers to the appeal of rewarding their acquittal in a 2 G scam case as explained above.[2]

**Primary Participants**

* A.Raja

**Secondary Participants**

* Videocon
* Ratan Tata

**Implied Participants**

* Indian media

**Possible Options for the Participants**

**Primary Participants**

* A.Raja
* Resigns as telecom minister after pressure from opposition
* Got acquitted after several years

**Secondary Participants**

* Videocon
* Wanted to file a damage claim after getting acquitted from the Supreme Court because of the scam.[5]
* Ratan Tata
* Gave a hand-written letter to the chief minister of the Indian state Tamil Nadu where he explained about powerful vested groups in the telecom industry.[3]

**Possible Justification for the Participants**

**Primary Participants**

* A.Raja
* He said that he had the approval from the PM on allocating the spectrum to the new players because there was enough spectrum available.[6]

**Secondary Participants**

* Ratan Tata
* According to Ratan Tata, Tata group didn’t bribe anyone for the license of 2g spectrum.[3]

**Legal Considerations**

Allegations levied against the participants were severe in the charge sheet by the CBI and the Indian laws that were broken in this scam.

**Telecommunications Laws** S. 11(1)(a) - TRAI recommendations - Conformity with constitutional principles, particularly public trust doctrine and relevant legislation - - TRAI recommendations dt. 28-8-2007 regarding 2G spectrum dispensation - Paras 2.78 and 2.79 - Spectrum allocation without auction recommended to provide 2G services in 800, 900 and 1800 MHz bands - Spurious argument of level playing field between incumbent service providers and new entrants, projected as reason for creating exception for these bands though TRAI favoured auction for other bands - Held, TRAI overlooked economic worth of spectrum and enormous growth in telecom sector - Recommendation was therefore contrary to public interest, (2012) 3 SCC 1-F .[7]

**Constitution of India Arts. 14, 298, 38, 39(b) and 19(1)(g)** - Distribution of State largesse/Government contracts - First-come-first-served policy (FCFS) - - - When it comes to alienation of scarce natural resources like spectrum, etc. it is burden of State to ensure that a non-discriminatory method is adopted for distribution and alienation, which would necessarily result in protection of national/public interest - A duly publicised auction conducted fairly and impartially is perhaps the best method for discharging this burden .[7]

**Constitution of India Arts. 151, 105(3), 32 and 226** - Audit reports of CAG - Avoidance of reference to, by Court when a report is under consideration of Parliamentary Committee - Institutional comity - Audit report on 2G spectrum allocation being considered by Public Accounts Committee (PAC) and Joint Parliamentary Committee (JPC) - Meanwhile PIL on 2G Scam case also coming up for hearing - Supreme Court in its judgment avoiding reference to audit report, (2012) 3 SCC 1-L.[7]

**Key Statements**

* **By A.Raja**
* “This allegation has been made by the CBI without even recording the statement of the Hon’ble PM. On what basis do they say he was misled? I hope the JPC will not commit the same blunder; if they wish to draw any conclusion on this issue, it is mandatory to record my statement and the statement of the Hon’ble PM.”[8]
* **By Kanimozhi**
* “The DMK party will come out clean in the CBI probe, stating that the law has to take its own course. It is a process to prove us not guilty”.[3]
* “The allegation was that I was Director of Kalaignar TV. I was a Director for 20 days before the launch of the channel. I wasn't present in any board meetings. CBI new all this. I had submitted my resignation in the ROC. There's more to it than meets the eye.”[9]

**Questions Raised**

* Why a big mess was made of this scam?
* Why did so many people were accused of this scam, but no one was put in the jail for this?

**Related Issues**

There were many scams done after the 2G spectrum scam like the Coalgate Scam ,CWG scam etc, but these were not at all related to one another, but it was related in the one manner because it done under the government of UPA.

**Analogies Employed**

This is unique type of scam that took place so there is no similar type of cases that took place.

**Code of Ethics Utilised**

With the emergence of the 2 G spectrum scandal, the government, regulatory bodies, press and industry came to the fore with the following ethical issues:-

* **Failure of Governance at Government level**

The essential characteristic of democracy is to behave with authority and responsibility and the greed of A.Raja[4]

* **At the Industry Level**

Business organizations function within the limitations of the constitution of the country .[4]

* **At Regulator’s Level**

Although the question of good governance is primarily a matter for companies and their investors, the 2 G scam demonstrated that regulators must be vigilant.[4]

* **Middle men used for access to those in power**

Company officials and other illegal channels used middlemen to reach the ministers.

Money has tempted people in power. Those who did not yield to money power were either moved or threatened.[10]

* **Neutrality of media questionable**

The media is trying to become the judiciary instead of providing valuable insights in the 2G Spectrum Scam Case. The media has chosen simple scapegoats, focusing their reports around a selected few because they know it's hard for them to hit any big names like the Tatas, Ambanis and Ruias.[10]

**Alternative Proposals**

**Pessimistic**

The 2G spectrum scam was not made public and the scam would be gone and done internally without people getting to know what could had happened. The loss that the taxpayers of the country would have to face because of this scam.

**Optimistic**

The law should be better so that such scams would not happen and strict laws would have made the accuse3d people worry of the consequences if they have were caught because of it.

**Compromise**

First, this scam shouldn’t have happened ,and happened because of greed. There should have been a middle road that benefitted all the people in the allocations of the 2G spectrum licenses from the government’s telecom industry .

**The Ethical Theory That Had Most Influence Over the Conclusions**

**Utilitarianism:** If we apply utility theory on the media then the cost of hiding the facts was that people wouldn't trust the media if they knew the facts were hidden from them, but the advantages were that they wouldn't spoil their relations with big politicians and big corporations. So, the advantages were more than the price, as the common man has very short memory and you can trick them. But as pressure began to build from the opposite party and there were allies in the media from the opposite party, the name of the major politicians came into the picture.[11]

**Conclusion**

It was the press that was supposed to expose the big people involved in the fraud. It was their duty to be fair and impartial to society. When it came to the issue of national security, it was the media's responsibility to raise awareness of the scam and the various parties involved. The media must view Tata as an equally responsible and accountable participant in the fraud that has robbed honest citizens and the Indian government on their cash. Whenever a scam comes up, the Indian government is coping with scams instead of motives behind them. A good policy making, and new political blood can only enable India to be out of the scam age.[3][12]

**Bibliography**

[1] <https://www.slideshare.net/Raviraj-Jadeja/2g-spectrum-scam-33504165>

[2] <https://en.wikipedia.org/wiki/2G_spectrum_case>

[3] <https://www.slideshare.net/amyberi/2g-spectrum-scam-casestudy>

[4]<http://eds.a.ebscohost.com/eds/detail/detail?vid=0&sid=c230de58-6ef8-40e9-8b46-c5fed0011c2c%40sessionmgr4007&bdata=JnNpdGU9ZWRzLWxpdmU%3d#AN=82530035&db=bth> (Page 9:Under PAVE THE WAY OF TRIAL and Page:10 under ETHICAL ANALYSIS)

[5]<https://www.livemint.com/Companies/MZV9oFsqBVjiZ0aRviftjI/2G-scam-verdict-Videocon-to-file-Rs10000-crore-damage-clai.html>

[6]<https://www.indiatoday.in/india/story/a-raja-s-new-book-ex-cag-vinod-rai-part-of-conspiracy-against-upa-2-manmohan-s-silence-palpable-1148884-2018-01-18>

[7]<http://www.supremecourtcases.com/index2.php?option=com_content&itemid=99999999&do_pdf=1&id=23811>

[8]<https://www.thehindu.com/news/national/raja-links-pm-to-all-key-2g-decisions/article4643417.ece>

[9]<https://www.businesstoday.in/sectors/telecom/2g-scam-verdict-a-raja-kanimozhi-cag-vinod-rai-spectrum/story/266449.html>

[10] <https://www.scribd.com/document/211983168/Ethical-Issues-in-2G-scam>

[11] <https://phdessay.com/ethics-and-values-and-2g-scam/>

[12] <https://www.slideshare.net/SHIVALICHANDEL3/2g-spectrum-in-india>