2G Spectrum Case

by

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Introduction

What is 2-G?

2G is short form of second-generation cellular network. 2G cellular networks were commercially lunched on the GSM standard in Finland by Radiolinja in 1991. 2G technologies enabled the various networks to provide services such as text messages, picture messages and multimedia messages (MMS).

What is Spectrum?

Spectrum is collection of electromagnetic waves that allows transmission of sound and data. Spectrum is a natural resource and national asset. The government allocates frequencies of these electromagnetic waves to telecom and communication companies to operate their voices and data services.

The 2G Spectrum case in ongoing alleged scam that the politicians and private officials of the United Progressive Alliance coalition government in India are accused of selling or allotting 122 2G spectrum licenses on conditions that provided benefit to specific telecom operators. Andimuthu Raja popularly know as A. Raja was telecom minister in 2007 is being accused to sell 2G Spectrum licenses at very low cost resulting in loss of 176000 crore rupees on Indian Government. Series of allegations were made on allotting 2G Spectrum licenses including allegations from Central Bureau of Investigation, CBI after investigation the case alleged minister A. Raja for intentionally advancing the cut-off date (from 01/10/2007 to 25/09/2007) to favor some specific firms which were also ineligible for applying for telecom licenses in return for bribes.

Case Findings / Facts of Case.

India is divided into 22 telecommunications zones, with 281 zonal licenses. In 2008, 122 new 2G (second-generation) Unified Access Services (UAS) licenses were granted to telecom companies on a first-come, first-served basis at the 2001 price. According to CBI charge sheet, serval laws were violated, and bribes were paid to favor certain firms in granting 2G spectrum licenses. According to Comptroller and Auditor General (CAG) audit, licenses were granted to ineligible corporations, those with no experience in telecom sector.

On 25 September 2007 the Department of Telecommunication (DoT) announced on its website that applicants filing between 3:30 and 4:30 pm that day would be granted licenses. Although the policy for awarding licenses on first-come, first-serve basis, which was introduced during Atal Bihari Vajpayee Government, A. Raja changed the rules so to applied to compliance with conditions instead of the application itself. On 10 January 2008, companies were given only a few hours to supply letters of Intend and payments, some executives were allegedly tipped off by A. Raja. Although the corporation was ineligible, Swan Telecom was granted a license for 15.37 billion rupees and sold 45% share to the UAE-based Etisalat for 42 billion rupees. Unitech Wireless a subsidiary of Unitech Group obtained license for 16.61 billion rupees, selling 60% share to Norway based Telenor, for 62 billion rupees.

The list of companies who received 2G licenses during Andimuthu Raja’s term as telecom minister and the licenses were later cancelled by Supreme Court.

<table>
<tr><th>Company</th><th>Telecom Regions</th><th># Of licenses</th><th>Remarks</th></tr>
<tr><td>Adonis Project</td><td>Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, Uttar Pradesh (East)</td><td>6</td><td rowspan="6">Adonis Projects, Nahan properties, Aska Projects, Volga Properties, Azare Properties & Hudson Properties were acquired by Unitech Since Unitech Infrastructure and Unitech Builders & Estates were subsidiaries of Unitech Group, in 2008 Unitech had 22 2G licenses. Later that year, Telenor bought majority share in the telecom company from the</td></tr>
<tr><td>Nahan Properties</td><td>Assam, Bihar, Northeast Orissa, Uttar Pradesh (East), West Bengal</td><td>6</td></tr>
<tr><td>Aska Properties</td><td>Andhra Pradesh, Kerala, Karnataka</td><td>3</td></tr>
<tr><td>Volga Projects</td><td>Gujarat, Madhya Pradesh, Maharashtra</td><td>3</td></tr>
<tr><td>Azure Properties</td><td>Kolkata</td><td>1</td></tr>
<tr><td>Hudson Properties</td><td>Delhi</td><td>1</td></tr>
</table>

Unitech Builders & Estates	Tamil Nadu (including Chennai)	1	Unitech Group and provided services as Uninor with 22 licenses.
Unitech Infrastructures	Mumbai	1	
Loop Telecom	Bihar, Gujarat, Himachal Pradesh, Kerala, Kolkata, Punjab, Rajasthan, Uttar Pradesh, West Bengal, Andhra Pradesh, Delhi, Haryana, Karnataka, Maharashtra, Orissa (Odisha), Tamil Nadu (including Chennai), Assam, Jammu & Kashmir, Madhya Pradesh	21	
Datacom Solutions	Andhra Pradesh, Assam, Bihar, Gujarat, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Kolkata, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu (including Chennai), Uttar Pradesh, West Bengal, Delhi, Mumbai	21	Operates as Videocon Telecom
Shyam Tele link	Madhya Pradesh, Kerala, Kolkata, Punjab, Uttar Pradesh, West Bengal, Andhra Pradesh, Delhi,	17	Shyam Tele link & Shyani Tele link have a combined 21 licenses. In late 2008 Russia based Sistema

	Haryana, Karnataka, Maharashtra, Odisha, Tamil Nadu (including Chennai), Assam, Jammu & Kashmir, Northeast.		bought a majority share in the company, which now operates as MTS India.
Shyani Tele link	Mumbai, Bihar, Gujarat, Himachal Pradesh	4	
Swan Telecom	Andhra Pradesh, Gujarat, Haryana, Karnataka, Kerala, Maharashtra, Punjab, Rajasthan, Tamil Nadu (including Chennai), Uttar Pradesh, Delhi, Mumbai	13	Swan was a subsidiary of Reliance Telecom established to circumvent the one-company-one-license rule. In 2008, Swan merged with Allianz Infratech; late in the year Abu Dhabi's Etisalat bought about 45% of the company, renaming it Etisalat DB Telecom.
Allianz Infratech	Bihar, Madhya Pradesh	2	
Idea Cellular	Assam, Punjab, Karnataka, Jammu & Kashmir, Northeast, Kolkata, West Bengal, Odisha, Tamil Nadu (including Chennai)	9	Since Idea Cellular bought Spice Communication in 2008 for 27 billion rupees, of 122 spectrum licenses sold in 2008 Idea owns 13. Seven are in use by the company, and the remainder are overlapping licenses.
Spice Communication	Delhi, Andhra Pradesh, Haryana, Maharashtra	4	
S Tel	Assam, Jammu & Kashmir, Odisha, Northeast, Bihar, Himachal Pradesh	6	In January 2009, Bahrain Telecommunications agreed to buy 49% of S Tel for 225 million dollars. Chinnakannan Sivasankaran owns the

			remaining share. In May 2009, Sahara Group bought an 11.7% share in S Tel.
Tata Teleservices	Jammu & Kashmir, Assam, Northeast	3	In late 2008 Tata sold a 26% share to Japanese NTT DoCoMo for about 130.7 billion rupees, or an enterprise value of 502.69 billion rupees

Accused Parties

The selling of the licenses drew attention to three groups: politicians and bureaucrats, who had the authority to sell licenses; corporations buying the licenses; and professionals who mediated between the politicians and corporations.

Politicians

The following charges were filed by the CBI and the Directorate General of Income Tax Investigation in the Special CBI Court.

Andimuthu Raja

- **Political career**: Four-time DMK member of Parliament (currently member of Lok Sabha from Nilgiris, Tamil Nadu), former Union Minister of State for Rural Development (1999) and Health and Family Welfare (2003), former Union Cabinet Minister for Environment and Forests (2004) and Communication and Information Technology (2007 and 2009)
- **Allegation**: A joint investigative report by the CBI and the Income Tax Department alleged that Raja may have received a ₹30 billion (US$420 million) bribe for moving the cut-off date for spectrum applications forward. The changed deadline eliminated many applications, enabling Raja to favour a few applicants. The agencies also alleged that he used accounts in his wife's name in Mauritius and Seychelles banks for the kickbacks. A CBI charge sheet alleged that Raja conspired with the accused and arbitrarily refined the first-come, first-served policy to ensure that Swan and Unitech received licences. Instead of auctioning 2G spectrum, he sold it at the 2001 rate.
- **Charges**: Criminal breach of trust by a public servant (section 409), criminal conspiracy (Section 120-B), cheating (Section 420) and forgery (Sections 468 and 471); booked under the Prevention of Corruption Act for accepting illegal gratification.

- **Status**: Arrested by the CBI on 2 February 2011. Applied for bail on 9 May 2012, which was granted on 15 May.

Kanimozhi Karunaidhi

- **Political career**: Youngest Daughter of five-time Chief Minister of Tamil Nadu M. Karunanidhi. DMK member of Parliament, representing Tamil Nadu in the Rajya Sabha till 2019, currently member of Lok Sabha from Thoothukudi.
- **Allegations**: According to the CBI charge sheet, Kanimozhi owns 20 percent of family owned Kalaignar TV; her stepmother, Dayalu Ammal, owns 60 percent of the channel. The CBI alleges that Kanimozhi was the "active brain" behind the channel and conspired with Raja to coerce DB Realty cofounder Shahid Balwa to funnel ₹2 billion (US$28 million) to Kalaignar TV. Kanimozhi was in regular contact with Raja about the launch of Kalaignar TV. Raja advanced the channel's cause, facilitating its registration with the Ministry of Information and Broadcasting and adding it to DTH operator TATA Sky’s line-up. Kanimozhi was charged with tax evasion by the Income Tax Department in Chennai.
- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant and criminal conspiracy (Section 120-B), cheating (Section 420) and forgery (Sections 468 and 471) and booked under the Prevention of Corruption Act.
- **Status**: Arrested by the CBI on 20 May 2011. Granted bail on 28 November 2011, after 188 days in custody. On 21 December 2017, she has been acquitted by a Special CBI Court.

Bureaucrats

Several bureaucrats were named in the CBI charge sheet filed in its Special Court.

Siddharth Behura

- **Position**: Telecom Secretary when the licenses were granted.
- **Allegations**: According to the CBI charge sheet, Behura conspired with Raja and several others. When the application deadline time was declared, from 3:30 to 4:30 pm Behura closed counters to block other telecom companies.
- **Charges**: Criminal breach of trust by a public servant (Section 409), criminal conspiracy (Section 120-B), cheating (Section 420) and forgery (Sections 468 and 471); booked under the Prevention of Corruption Act for accepting illegal gratuities.
- **Status**: Arrested by the CBI on 2 February 2011 and granted bail on 9 May 2012, and finally acquitted on 21 December 2017 by a Special CBI Court for lack of convincing evidence. On 10 July 2012 joint parliamentary committee deposition, Behura blamed Raja for most of the decisions related to 2G spectrum auctions.

RK Chandolia

- **Position**: Raja's private secretary when the licenses were granted.
- **Allegations**: According to the CBI charge sheet Chandolia, like Behura, conspired with Raja and several others; when the application deadline time was declared from 3:30 to 4:30 pm, Chandolia joined Behura in shutting counters to physically block other telecom companies.

- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120 B), cheating (Section 420) and forgery (Sections 468 and 471); booked under the Prevention of Corruption Act.
- **Status**: Arrested by the CBI on 2 February 2011. Although he was granted bail by the special CBI court on 1 December 2011, the following day the High Court took Suo motu notice of newspaper reports of the bail and stayed it. Chandolia appealed to the Supreme Court, and on 9 May 2012 the court upheld the bail grant. He was acquitted on 21 December 2017 by a Special CBI Court for lack of substantial evidence.

Executives

A few executives were accused in the CBI charge sheet.

Sanjay Chandra

- **Position**: Former Unitech Wireless managing director.
- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B), cheating (Section 420) and forgery (Sections 468 and 471); booked under the Prevention of Corruption Act.
- **Allegations**: Former CBI prosecutor AK Singh was implicated in a taped conversation sharing legal strategy and privileged information with Chandra.
- **Status**: Arrested by the CBI on 20 April 2011 and granted bail on 24 November. As of 21 December 2017, he has been acquitted by a special CBI Court.

Umashankar

- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B), cheating (Section 420) and forgery (Sections 468 and 471); booked under the Prevention of Corruption Act.
- **Allegations**: Former CBI prosecutor AK Singh was implicated in a taped conversation sharing legal strategy and privileged information with Umashankar.
- **Status**: Arrested by the CBI on 20 April 2008 and granted bail same day. As of 21 December 2017, he has been acquitted by a special CBI Court.

Gautam Doshi

- **Position**: Managing director, Reliance Anil Dhirubhai Ambani Group.
- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B), cheating (Section 420) and forgery (Sections 468 and 471); booked under the Prevention of Corruption Act.
- **Status**: Arrested by the CBI on 20 April 2011and granted bail on 24 November 2011. As of 21 December 2017, he has been acquitted by a special CBI Court.

Hari Nair

- **Position**: Senior vice-president, Reliance Anil Dhirubhai Ambani Group.
- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B), cheating (Section 420) and forgery (Sections 468 and 471); booked under the Prevention of Corruption Act.
- **Status**: Arrested by the CBI on 20 April 2011 and granted bail on 24 November 2011. As of 21 December 2017, he has been acquitted by a special CBI Court.

Surendra Piper

- **Position**: Senior vice-president, Reliance Anil Dhirubhai Ambani Group.

- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B), cheating (Section 420) and forgery (Sections 468 and 471); booked under the Prevention of Corruption Act.
- **Status**: Arrested by the CBI on 20 April 2011 and granted bail on 24 November 2011. As of 21 December 2017, he has been acquitted by a special CBI Court.

Vinod Goenka

- **Position**: Managing director, DB Realty and Swan Telecom.
- *Charges*: Criminal conspiracy to cause criminal breach of trust by a public servant criminal conspiracy (Section 120 B), cheating (Section 420), forgery (Sections 468 and 471) and fabrication of evidence (Section 193); booked under the Prevention of Corruption Act.
- **Status**: Arrested by the CBI on 20 April 2011 and granted bail on 24 November 2011. As of 21 December 2017, he has been acquitted by a special CBI Court.

Shahid Balwa

- **Position**: Corporate promoter, DB Realty and Swan Telecom.
- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B), cheating (Section 420), forgery (Sections 468 and 471) and fabrication of evidence (Section 193); booked under the Prevention of Corruption Act.
- **Status**: Arrested by the CBI on 8 February 2011 and granted bail on 29 November 2011, acquitted on 21 December 2017, by a special CBI Court.

Asif Balwa

- **Position**: Director, Kusegaon Fruits and Vegetables.
- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B), cheating (Section 420), forgery (Sections 468 and 471) and fabrication of evidence (Section 193); booked under the Prevention of Corruption Act.
- **Status**: Arrested by the CBI on 29 March 2011 and granted bail on 28 November 2011. Acquitted on 21 December 2017, by a special CBI Court.

Rajiv Agarwal

- **Position**: Director, Kusegaon Fruits and Vegetables.
- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B), cheating (Section 420), forgery (Sections 468 and 471) and fabrication of evidence (Section 193); booked under the Prevention of Corruption Act.
- **Status**: Arrested by the CBI on 29 March 2011 and granted bail on 28 November 2011. Acquitted on 21 December 2017, by a special CBI Court.

Sharath Kumar

- **Position**: Managing director, Kalaignar TV.
- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B), cheating (Section 420), forgery (Sections 468 and 471) and fabrication of evidence (Section 193); booked under the Prevention of Corruption Act.
- **Status**: Arrested by the CBI on 20 May 2011 and granted bail on 28 November 2011. Acquitted on 21 December 2017, by a special CBI Court.

Ravi Ruia

- **Position**: Vice-chair, Essar Group.
- **Charges**: Criminal conspiracy (Section 120 B) and cheating (Section 420).
- **Status**: Acquitted on 21 December 2017 by a special CBI Court.

Anshuman Ruia

- **Position**: Director, Essar Group.
- **Charges**: Criminal conspiracy (Section 120 B) and cheating (Section 420).
- **Status**: Acquitted on 21 December 2017 by a special CBI Court.

Vikas Saraf

- **Position**: Director of strategy and planning, Essar Group.
- **Charges**: Criminal conspiracy (Section 120 B) and cheating (Section 420 of the Indian Penal Code)
- **Status**: Acquitted on 21 December 2017 by a special CBI Court.

Ishwari Prasad Khaitan

- **Position**: Corporate promoter, Loop Telecom.
- **Charges**: Criminal conspiracy under (Section 120 B) and cheating (Section 420)
- **Status**: Acquitted on 21 December 2017 by a special CBI Court.

Kiran Khaitan

- **Position**: Corporate promoter, Loop Telecom.
- **Charges**: Criminal conspiracy (Section 120 B) and cheating (Section 420)
- **Status**: Acquitted on 21 December 2017 by a special CBI Court.

Karim Morani

- **Position**: Corporate promoter and director, Cineyug Films.
- **Allegations**: According to the Income Tax Department charge sheet, Morani-owned Cineyug Films was a part of the route used by Shahid Balwa to funnel ₹2 billion (US$28 million) illegally to Kalaignar TV. DB Realty corporate promoters Shahid Balwa and Vinod Goenka transferred ₹2,092.5 million (US$29 million) to Kusegaon Fruits and Vegetables, where Balwa's younger brother Asif was a director. Kusegaon then transferred ₹2 billion (US$28 million) to Cineyug Films, and Morani transferred it to Kalaignar TV.
- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B), cheating (Section 420), forgery (Sections 468 and 471) and fabrication of evidence (Section 193); booked under the Prevention of Corruption Act.
- **Status**: Arrested by the CBI on 30 May 2011 and granted bail on 28 November 2011. Promptly acquitted on 29 December 2017 by a special CBI Court.

Corporations

Several companies were named in the CBI charge sheet.

Unitech Wireless

- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B), cheating (Section 420) and forgery (Sections 468 and 471)

- **Status**: The company was acquitted on 21 December 2017 of any wrongdoing by Special CBI Court.

Reliance Telecom

- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B) and cheating (Section 420)
- **Status**: As of December 2017, acquitted in 2G spectrum case.

Swan Telecom

- **Charges**: Criminal conspiracy to cause criminal breach of trust by a public servant, criminal conspiracy (Section 120-B) and cheating (Section 420)
- **Status**: The company was acquitted on 21 December 2017 of any wrongdoing by a Special CBI Court that was appointed for the purpose of acquitting the accused.

Analysis of the Case

In 2007 A. Raja became telecom minister, allotment of 2G spectrum and UAS licenses begin by DOT. DOT received 575 applications for UAS licenses from 46 different companies. Prime Minister asked A. Raja to ensure the allotment of 2G spectrum to be in fair and transparent manner. But Raja rejects many of the prime minister’s recommendations.

In the year 2008, DOT decides to issue licenses on first-come, first-served basis, advancing the cut-off to 25 September from 1 October and announcing on its website that those applying between 3:30 and 4:30 pm would be granted licenses in accordance with policy. Total collection from sale of 122 licenses was around 9200 crore and companies like Swan Telecom, Unitech and Tata services sold share at much higher price to Etisalat, Telenor, and DoCoMo respectively.

Next year, in 2009 a telecom-watchdog NGO files a complaint with the Central Vigilance Commission (CVC) on illegalities in allotment of 2G spectrum. Another complaint was filed with CVC by Arun Agarwal regarding the low-cost spectrum allotment to Swan Telecom. The CVC directs the CBI to investigate irregularities in the allocation of 2G spectrum. Responding to a petition from S-Tel, the Delhi High Court rules the advancement of the cut-off date illegal. The CBI registers a case, filing a FIR against unknown officers of the DoT and unknown private persons and companies under provision of the Indian Penal Code and the Prevention of Corruption Act. The Directorate General of Income Tax Investigation raids

DoT offices. The CBI investigates a wiretapped conversation by corporate lobbyist Niira Radia to learn the involvement of middlemen in the grant of spectrum to telecom companies.

In 2010 the Supreme Court also upholds the Delhi High Court's decision of advancement of cut-off date was illegal. Telephone conversation between A. Raja and Niira Radia recorded by Directorate General of Income Tax Investigation were made public and Centre for Public Interest Litigation (CPIL) petitions the Delhi High Court for a special investigation of the case. The Supreme Court asks the government and A. Raja to reply within 10 days to the petitions filed by CPIL and others alleging 70000 crore rupees scam in granting telecom licenses in 2008. Case was on in 2011 till 2017. Many major politicians were arrested during the year 2011. 122 licenses were cancelled in 2012 and a fine of 50 million rupees. On 21 December 2017, a Special CBI Court acquitted all the persons accused in the case.

On 2 February 2012 the Supreme Court ruled on petitions filed by CPIL challenging allotment of 2G licenses, cancelling all 122 spectrum licenses granted during the A. Raja's term as communications minister. The Supreme Court also imposed a fine of 50 million rupees on Unitech Wireless, Swan Telecom and Tata Tele services and 5 million rupees fine on Loop Telecom, S Tel, Allianz Infratech and Sistema Shyam Tele services.

Companies affected by cancellations of licenses

Company	**Parent Company**	**Licenses Cancelled**
Unior	Joint venture of Unitech Group of India and Telenor of Norway Unitech Group	22
MTS India	Joint Venture of Shyam Group of India and Sistema of Russia	21
Loop Mobile	Khaitan Holding Group	21
Etisalat-DB	Joint venture of Swan Telecom of India and Etisalat of UAE	15
Videocon Telecom	Videocon	21
Idea Cellular	Aditya Birla Group (49.05%), Axiata (Malaysia, 15%) and Providence Equity Partners (U.S., 10.6%)	13

S Tel	Joint Venture of C Sivasankaran of India and Batelco of Bahrain. After Supreme Court ruling, Batelco sold its 42.7% share to Sivasankaran – owned Sky City Foundation for 65.8 million Bahraini dinar.	6
Tata Tele services	Tata Group	3

In addition to Batelco's exit, on 21 February 2012, Telenor the majority shareholder in Uninor terminated its agreement with Unitech and sued it for indemnity and compensation. On 23 February 2012, Etisalat of Etisalat – DB Telecom sued DB Realty corporate promoters Shahid Balwa and Vinod Goenka for fraud and misrepresentation.

After the special CBI Court verdict on 21 December 2017 acquitting all the accused parties, the government faces compensation claims worth 17000 crore rupees from telcons like Videocon Telecom, Loop Telecom and S Tel who suffered loss of business after Supreme Court cancelled 122 licenses in 2012.

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