

**COMMENTS OF BSNL EMPLOYEES UNION ON THE DRAFT NATIONAL
TELECOM POLICY RELEASED BY THE COMMUNICATIONS MINISTER ON
10-10-2011 AND PROPOSAL OF THE FRAME WORK FOR AN
ALTERNATIVE TELECOM POLICY**

(Sri Kapil Sibal, the Minister for Communications & IT had released the Draft National Telecom Policy 2011 on 10th October 2011. The DoT, through its website, sought for feedback from all the concerned persons/organisations. BSNL Employees Union has sent its views on this draft policy, to the DoT, on 09-11-2011. BSNLEU is of the opinion that the draft national telecom policy is intended to allow absolute domination to the private companies and to destroy the public sector in the telecommunications. BSNLEU totally differs with this concept. It is of the view that since telecommunications is a public good, it should not be made subservient to the profit greed of the private companies and there should be the domination of the public sector in order to provide secure, modern telecommunications to all sections of the people and in all areas of the country without minding whether there will be profit in doing so or not. Hence it submitted the following feed back to DoT, containing criticism of the draft policy and proposing a frame work for an alternative policy. Wide publicity may be given to this document)

1. The Draft National Telecom Policy 2011 released by the MoC &IT appears to have been drafted without any underlying vision of where the telecom sector should go or the trajectory of such a transition. No analysis of past policies NTP 94 or NTP 99 has been done with regards to their goals and what has been achieved or not.
2. It appears that the need for NTP 2011 is to try and bail out private companies who are now in a crisis due to the mismanagement of the sector. However, instead of addressing the root cause of the current mess, which is the result of the scam ridden regime that has characterised the telecom regime under NDA and UPA, the attempt in NTP 2011 is to bail out the private sector telecom companies at the expense of the PSU's – BSNL and MTNL.
3. Any policy prescription for the telecom sector must be based on the following:
 - Telecom sector is a part of basic infrastructure of the economy: therefore, it has to provide low cost access to all – industry, commercial enterprises, domestic subscribers, and cover both urban and rural areas
 - Spectrum is a scarce resource and must be used efficiently and optimally
 - Basic services – or landlines – must be given importance for providing broadband Internet connectivity
 - Public Sector is the only guarantee of provision of universal access for voice and Internet, particularly in rural areas and for low-end consumers
4. Instead the policy talks about the private sector as the primary vehicle for developing the telecommunications and in the process it is aimed at destroying the PSUs. This orientation of the draft policy is wrong since telecommunications is a public good which cannot be made subservient to the profit greed of the private sector. Following is the experience with

the private companies in the telecom sector after the initiation of the liberalisation policies in 1991:

- a) They never followed the social obligation of rolling out their net work in loss making areas as specified in their license nor they rose to the occasion in providing telecom services in the aftermath of natural calamities and other emergencies
 - b) They have procured equipment from foreign manufacturers and hence domestic R&D and manufacture in telecom sector has been destroyed, resulting in complete dependence on imported equipment.
 - c) They have handed over the installation, maintenance and operation of their networks and services to foreign equipment manufacturing companies thus causing a serious threat to the national security
 - d) They have not implemented SC/ST/OBC reservations and thus the cause of social justice has suffered.
 - e) The workforce in such companies is largely contract labour or outsourced. So even though telecom sector has expanded enormously, employment has not. As per the report of the Information Company Dun & Bradstreet on Indian Telecom Industry, (see the web page "<http://www.dnb.co.in/IndianTelecomIndustry/default.asp>") in the year 2007 the Private operators as a whole had 134.47 million customers and had only 63,736 employees, whereas the PSUs BSNL and MTNL together had 71.39 million customers and had 3,69,035 employees. This proves the fact that the private sector is not helping much in the generation of direct, regular employment in spite of the enormous expansion in services. The total employment provided by the telecom operators thus in the year 2007 was 4,32,771, whereas there were about 6 lakhs employees in the telecom department during 1980s. Thus private sector domination lead to decrease in the employment in the telecom service companies as a whole.
 - f) They have violated the license conditions continuously and the Government has connived with them to make new policies to sanction such violations
 - g) They are the root cause of the infamous 2G spectrum scam
 - h) They reduced tariffs of mobile services only after the entry of the PSUs in mobile services. Even after this, whenever possible, they formed cartels and increased tariffs.
5. On the other hand the PSUs BSNL and MTNL have always fulfilled their social obligations in spite of facing losses, restored telecom services on emergency basis on the occasion of natural calamities and emergencies, encouraged domestic manufacture by placing orders to ITI etc, provided most of the broadband services, catered to the requirements of national security by maintaining and operating their networks on their own, provided services to rural/backward/hilly areas etc, provided much more employment with social justice compared to the private operators and maintaining the legacy landline network as a national asset in spite of facing losses. But the Government has adopted policies to stifle their growth and to help the private operators at their cost.
6. BSNL was estimated as having a market value of around \$100billion in 2008, which is very less compared to its actual value. Now, because of the polices of the Government and the

discrimination, it is rapidly becoming sick and the Indian people are losing a valuable resource for the country. Contrast this with China, where the Government is supporting the state owned Telecom companies. China Unicom , China Telecom and China Mobile – the mobile telephony operators are “State-Owned Enterprises” with more than 70% of their shares owned by unlisted parent companies and ultimately the Ministry of Finance. China Mobile is the country’s most valuable enterprise and is now ranked in the Fortune 500 list. The major state-owned telecom companies in China today have a market worth of \$250-300 billion. It is important therefore that the policy of discrimination against BSNL and MTNL should stop and these companies made key to India's telecom development.

7. The Draft NTP 2011 has made one of its central objectives, the separation of the network from that of services. It proposes to have two kinds of licenses, those that will have the active network and hold network licenses and others who will have service licenses and use the active network provided by others. We find such an approach as completely at variance with the current developments in the telecom sector and can only create many more problems than it proposes to solve. It appears that this proposal stems from:
 - a) The need of certain parties who have licenses for only certain areas and now want to extend their services to other areas that they do not have licenses, e.g., the recent 3G violations being done by certain operators
 - b) The need of certain operators who hold 2G licenses but are not able to put up the network, therefore the need to ride piggy-back on other including BSNL's network
 - c) Plans to appropriate the huge copper cable network that BSNL has on the ground which is many times the size of any other private operators' networks
 - d) Plans by private operators to appropriate BSNL's active network without putting up any on their own.
8. A. Raja, the former MOC&IT had started this practice of private operators piggy-backing on BSNL's network by notifying so-called “intra-circle roaming” and forcing BSNL and MTNL to provide such roaming to private operators. The private operators did not build their networks, did not meet their roll-out obligations and yet made themselves attractive for selling their operations in the market as they could show that they had acquired subscribers. TRAI is on record on objecting to the legality of this “intra-circle roaming” saying it violated many provisions of the license and had serious security implications as well. It appears that NPT 2011 is seeking to legalise under policy what Raja had done illegally.
9. The concept of separating the network from delivery of services has many serious issues -- technical, legal and commercial. No serious study has been done by DoT before proposing such a policy. Neither has it been examined what the implications of this will be in terms of the licenses that have already been issued. Some of the issues are:
 - Will there be a mandatory separation of the Network Service Operators from the Service Delivery Operators? Does it mean that no party will hold both kinds of licenses?
 - What will be the interconnection requirement of such a regime?
 - Will it not lead to even more fragmentation of the existing telecom market, which according to the policy is already too fragmented?

- 10.** Without such an examination, the only idea behind this separation seems to be to target BSNL and divest it of its physical network. Otherwise, the policy should talk of one common physical network to which others interconnect. Unfortunately, this route was not followed when a multiplicity of operators came up for local, long distance and international services. If it is sought to reverse this trajectory, much more studies should be done before this is even thought of. It cannot be done in this ad hoc and piece meal manner.
- 11.** While Self-Reliance has been a part of both NTP 1994 and 1999, Indian manufacturing has been completely destroyed in the last 20 years. India had a strong manufacturing sector with ITI manufacturing a major part of the high-end exchanges of 40,000 lines and above and a large number of manufacturers producing smaller sized exchanges using CDOT technology. CDOT had built up major R&D capacity and had produced exchanges with technological functionalities comparable to international majors and far more suited to Indian conditions. At one point the major demand for rural and other exchanges were met by CDOT technology.
- 12.** The last 2 decades has seen the destruction of CDOT and manufacturing PSUs like ITI, HCL and the telecom factories that were a part of DoT and now BSNL. The bankruptcy of the neo-liberal policies in telecom sector is fully evident in the R&D and indigenous manufacture of telecom equipment. In 1997 India had 1.75 crores telephone lines (1.7 crore wire-line and 5 lakhs wireless lines). It reached to 85 crores (82 crores wireless and 3 crore wire-line) on 31-3-2011. The internet services were launched in 1995 and as on 31-3-2011 there were 1.2 crore broadband connections. In spite of this spectacular growth in services, India has lost its self reliance in R&D and equipment manufacture in the telecom sector. During the years 2004-05 to 2008-09, equipment costing Rs 309,369 crores was utilised for telecom expansion in India and only 11% of this i.e 34,031 crores was the value created in India , Rs 2,75,338 crores accrued to foreign manufacturers. In this Rs 124,280 crores was for importing completely knocked down (CKD) equipment, and Rs 150,518 crores was for importing semi knocked down (SKD) equipment. ITI, the première equipment manufacturing PSU has become sick, while CDOT has virtually ceased to exist.
- 13.** While the Draft policy prescribes preferential treatment for procuring domestic products, it immediately puts a condition that such preferential treatment will be subject to international commitments in WTO etc., making clear that this provision will not be exercised in reality. In any case a simple price preference without any manufacturing base as exists now will not lead to any development of indigenous manufacturing. Such preferences already exist and has not yielded any results nor has any attempt been made to enforce indigenous procurement as laid down in the earlier policies.
- 14.** While the objective of increasing the share of domestically manufactured equipment in phased manner to the extent of 80% with a domestic value addition of 65% by 2020 as proposed in the draft policy is very much required, the question is how to achieve this. The draft policy is not clear about the ways and means for achieving this.

15. The other plank of the policy is to promote mergers, acquisitions and exit policies for existing private parties. It argues that the sector is currently too fragmented and needs therefore consolidation.
16. The issue is not how many parties there should be in order to provide competition and prevent monopoly. Mergers and acquisitions should be looked upon from the point of view of monopoly power due to such exercise and not some arbitrary number to which the players should be brought down. This appears once again a policy that seeks to provide parties that secured 2G licenses a way to sell their licenses without fulfilling their license obligations. It also appears to be geared to overlook the various violations and illegalities that have been committed by a very large number of parties that secured their licenses during Raja's 2G scam.
17. Recently TRAI proposed to revise Merger and Acquisition guidelines allowing maximum market share of 35% to the merged entity without any approval and to the extent of 60% with approval, in place of the earlier proposed 30%. This means Airtel, which is having 20% of the market share can acquire any of the new players or even those with market share up to 15%, without any approval. While 30% itself is nothing but a monopoly, increasing it to the extent of 35% and even up to 60% is atrocious. AT&T of USA is holding at present 27% share of the market. It proposed to acquire T-Mobile having 17% market share so that its market share will go up to 44%. The US Department of Justice filed a suit in the Washington DC District Court against this on the ground that it will lead to "higher prices, poorer quality of services, fewer choices and fewer innovative products for the millions of American consumers who rely on mobile wireless services in their everyday lives." In such case how in India the market share up to 30% or 35% can be accepted since it will not ensure sufficient competition.
18. The policy also talks about efficient utilisation of the spectrum and trading and sharing of spectrum. Any discussion on spectrum usage needs first an analysis of:
 - a) The quantum of spectrum that will be available for commercial purposes after completion of the process of diversion of spectrum from Defence Department and other users to alternative bands/alternative media
 - b) Technologies available for a more efficient use of spectrum
 - c) The norms for spectrum usage based on current technologies
 - d) The technological possibility of allotting the spectrum as per necessity based on time and place without any company owning it, by utilising technologies like Cognitive Radio Technology etc

Without such an analysis, it is premature to talk about a policy of trade in spectrum or sharing of spectrum.

19. Before deciding in favour of optimal utilisation of cable TV networks as an important source for providing broadband services, the question whether a better option is available by

utilising dish TV network etc is to be examined and in any case there should be no monopoly or oligopoly and enough competition should be ensured.

- 20.** In view of the above detailed facts, it is necessary to re-orient the policy envisaging the dominant role to the Public Sector in R&D, production and the services in the telecommunications. It is to be noted that China which was behind India in telecom sector prior to 1990s has now achieved tremendous development compared to India in all the fields-(R&D, production and services), mainly due to the domination of the Public Sector.
- 21.** Therefore we propose that the proposed National Telecom Policy 2011 should be redrafted with the following main points as its frame work:
- a) The dominant role in R&D, production and services sectors in telecommunications should be given to the Public Sector.
 - b) BSNL and MTNL should be paid Access Deficit Charge to compensate for the losses incurred on the landline network. It may be noted that Access Deficit occurs as low-end consumers do not generate enough revenue to cover access cost of providing telephone connections. The private operators do not provide telephone demand restricting their services to only high-end consumers and commercial areas.
 - c) The PSUs BSNL and MTNL should not be discriminated in the matter of procuring equipment by imposing the condition not to procure it from certain vendors and at the same time allowing the private operators to procure from the same vendors. The procurement policy should be uniform for both PSU and private operators.
 - d) Adequate compensation should be granted from USO fund for the rural landline network. There should be independent provision of funds under the USO program for cellular and landlines to rural and difficult areas under the USO provision.
 - e) The National Optic Fibre Cable (OFC) network should be installed, owned and maintained by BSNL since it is already having a large OFC network compared to other operators and laying the network by this single agency will be more cost effective. The funds for this network should be provided from USOF as well as by the Government. Since it is the backbone network, it should be owned by a single entity to avoid duplication of costs, and in view of national security. Such a monopoly should be with the Government only, hence it should be owned by BSNL.
 - f) The licenses should be unified licenses allowing both network and service operations and the concept of separate licenses for network operations and services delivery should be dropped.
 - g) The mergers, acquisitions and exits should not be facilitated without meeting the role out obligations. Otherwise it will be a trade in the licenses. Further, the mergers, acquisitions and exits should not result in monopoly or oligopoly and there should be enough and fair competition.
 - h) The spectrum should be allotted free of cost to PSUs and at market based rate to private operators. Granting spectrum free of cost to the PSUs is necessary in view of the social obligations being carried out by them and not by others. Today, 90% of the landlines in rural areas have been provided by BSNL with all the private operators put together providing only 10% of such lines.

- i) The trading and sharing of spectrum should not be allowed at this stage in view of the reasons given at para 19 above.
- j) The licenses of those Operators involved in the 2 G spectrum scam should be cancelled and the spectrum allotted to them should be taken back.
- k) Resale of services should not be allowed as it will lead to anarchy and more burden on the customers with intermediaries.
- l) Achieving the objective of increasing the share of domestically manufactured equipment in phased manner to the extent of 80% with a domestic value addition of 65% by 2020 by:

- Encouragement of indigenous R&D(Research and Development) and creation of IPRs(Intellectual Property Rights) by the Government earmarking investments and funds for CDOT and PSUs for this.
- Creation of necessary conditions for compelling technology transfer from foreign equipment manufacturers to PSUs like ITI, HCL etc and the telecom factories under BSNL which are having sufficient experience in telecom equipment production. China used its internal market forcing all telecom majors to transfer technology to indigenous companies. India, in contrast, has lost its indigenous manufacturing capacity in the same period while having a spectacular growth of telecom services
- Restructuring the customs, duties and taxes in such a way that it encourages domestic products and discourages imports. (The current duty regime is the opposite; it has higher duties for raw materials and intermediate goods and lower duties on the finished products. It is not surprising that under such a duty regime, imports are favoured instead of local manufacturing.)
- Making provisions for overcoming the hurdles created by the commitments given by the Government in WTO etc against preferential treatment to domestic products.

22. To ensure national security in the communications sector the private operators should be mandated to stop outsourcing the maintenance and operation of their networks to foreign companies and to mandate the foreign equipment suppliers to provide source code.

23. The private sector telecom companies, whether in manufacture sector or in service sector should implement SC/ST/OBC reservations and also labour laws.

24. There should be a national wage policy for the entire telecom sector and the wages in private sector should be based on the wages in the public sector.
