

JOINT ACTION COMMITTEE OF ASSOCIATIONS / UNIONS OF BSNL EXECUTIVES & NON-EXECUTIVES

D-7, Telegraph Place, Gole Market, New Delhi – 110 001.

JAC/GL

08.05.2012

To

**Dr. Manmohan Singhji,
Prime Minister of India,
New Delhi -110 001**

Respected Sir,

Sub: - **Spectrum auction, compensation for the losses on rural wirelines and the financial viability of BSNL—Req.**

This is to request your for kind attention and favourable decision to the two urgent issues adversely affecting the financial viability of BSNL, which has been already facing losses continuously and increasingly since 2009-10.

(1) Spectrum Auction

As per news paper reports, the Cabinet Sub-Committee (E GoM) will take a final decision on the recommendations of the TRAI on spectrum auction by 18th May 2012. The recommendations of the TRAI are such that all the telecom companies will be compelled to pay a minimum Rs 18,000 crores for liberalizing their existing spectrum in the 1800 MHz band so that they will be allowed to provide any service in any technology whereas the present license conditions restrict their by the services to 2G using GSM technology. BSNL also has to pay such an amount for liberalizing its spectrum. Due to the non-implementation of the assurances given to BSNL at the time of corporatisation Government, BSNL has posted a loss of Rs. 1,823 crore in 2009-10 and Rs. 6,384 crore in 2010-11. In 2011-12 it is likely to post a loss of more than Rs. 8,000 crore. In such a situation, the payment of a large amount of Rs. 18,000 crore, even if it is in installments, will make BSNL bankrupt and indebted to banks. Payment of any amount by BSNL for the liberalization of spectrum is unwarranted. BSNL, the incumbent operator, is part of the State as per the Constitution and hence has to be allotted spectrum free of cost. In fact, while the private operators were provided spectrum bundled with a pan India license for Rs. 1,659 crore in 2001 and thereafter, no such amount was collected from BSNL while allotting 2G spectrum to it in 900/1800 MHz bands. When this is so, now the BSNL cannot be asked to pay the amount of Rs. 18,000 crore for liberalizing the use of its 2G spectrum.

Even as per the Supreme Court judgment dated 02.02.2012, the principle of equality is applicable while allotting the natural resource of spectrum to the private operators. The PSU operators BSNL and MTNL are not included in its ambit. Para 69 of the Supreme Court's judgment says that the doctrine of equality has two aspects: "first, it regulates the rights and obligations of the State-visa-vis its people and demands that the people be granted equitable access to natural resources and/or its products and that they are adequately compensated for the transfer of the resource to the private domain; and second, it regulates the rights and obligations of the State vis-à-vis private parties seeking to acquire /use the resource and demands that the procedure adopted for

distribution is just , non-arbitrary and transparent and that it does not discriminate between similarly placed private parties.”

Therefore, the doctrine of equality in allocation of spectrum is applicable for the allocation to the private parties and not in the case of allocation to BSNL/MTNL, which are not private parties. Allocation of spectrum to BSNL/MTNL is not a transfer of natural resource to private parties. It is the allocation by State to itself, in the interest of the people. Hence the spectrum be allotted to BSNL/MTNL free and avoid huge payment by BSNL/MTNL which they can not afford.

(2) Compensation to BSNL for rural wire lines

The wire line telephone services are commercially unviable, but are socially necessary and part of the commitment of the government to provide universal service. To compensate for the losses incurred by it on its wire line services, the BSNL was paid Access Deficit Charge (ADC) by the other operators for the calls originating in their net work and terminating on the wire line network of BSNL. But the TRAI recommended for abolishing the same saying that it is a transitory arrangement during which the BSNL has to adjust its tariffs suitably. While thus recommending for its abolition by July 2008, it recommended that an amount of Rs. 2,000 crore be paid to BSNL for three years during 2008-09 to 2010-11 to compensate for the losses incurred by it on the rural wire lines installed before 1-4-2002. Both these recommendations were accepted and implemented by the Government. Now the TRAI, in its consultation paper has proposed for a compensation of Rs. 1,500 crore for 2011-12 and Rs 1250 crore for 2012-13 from the USOF (Universal Service Obligation Fund) to BSNL for the losses incurred by it on the rural wire lines installed before 1-04-2002 and working now.

The abolition of the ADC on the assumption that it is a transitory phenomenon pending rebalancing of tariffs for wire lines is untenable, since such rebalancing of tariffs, that is, increase in their tariffs, is not possible in the era of competition and any increase in the tariff for wire lines will not be sustainable.

As per the calculations submitted by BSNL to TRAI in 2008, its losses on wire lines, both urban and rural was Rs. 14,000 crore and in that the loss on rural landlines was Rs. 8,000 crore. Ignoring this, the TRAI recommended Rs. 2,000 crore per year for 3 years and further reduced it to Rs. 1,500 crore for 2010-11 and Rs. 1,250 crore for 2012-13, in its proposal in the consultation paper.

The Private telecom companies and their Associations are now trying to see that no compensation is paid to BSNL on the plea that rural wire lines are no longer required and even broad band services can be provided on mobile phones. But it is only stretching the imagination since at present, most of the broad band connections in urban and rural areas are provided by the wire lines. In fact, as can be seen from the TRAI's Press Release No.86 of 2012 dated 3rd May 2012, as on 31.03.2012 the BSNL's share in the total broadband connections in the entire country was 64.6% and that of MTNL was 7.6%. Thus the market share of the PSUs in broadband connections is 72.2%. In case the BSNL closes its wireline business since it is a loss making business, what would have happened to the broadband services and spread of knowledge in the society? Since the wire lines are indispensable for the social development, but at the same time loss making, it is necessary to pay adequate compensation to BSNL for the losses incurred by it on its wire lines.

But it appears that the BSNL management, in its comments dated 03.05.2012 on the consultation paper of the TRAI dated 26.04.2012 has agreed with the estimate of TRAI on the losses to its rural wire lines, even though in 2008 it estimated its' loss on rural wire lines as more than Rs. 8,000

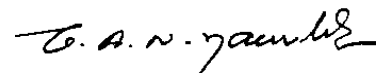
crore and it appears that the BSNL management was compelled to agree with this proposed drastic cut in the compensation for the losses on rural wire lines on the ground that the regulatory environment was so much against the PSUs that instead of further prolonging the argument it is better to take whatever will be given. But the point to be noted is that even in this comment dated 03.05.2012, the BSNL management made the point clear that the compensation from the USOF cannot be a replacement for ADC and, however, the withdrawal of the ADC was a trigger for considering support to rural wire line net work.

Thus the ADC was withdrawn without any justification, in spite of the fact that the tariff cannot be increased for the wire lines to meet their cost. On the other hand, the compensation to rural wire lines was drastically reduced by drastic reduction in the estimated loss on them on the basis of unfair calculations. The issue is whether the wire line net work of BSNL which it inherited from DoT, is actually necessary for the people or not and if necessary, whether the BSNL should be fully compensated for the losses incurred by it on the socially necessary, but financially unviable wire line services. The loss on wire lines should be estimated on the basis of the expenditure including the expenditure on staff and the expenditure on account of depreciation incurred actually on the entire wire line net work, and the estimate should not be restricted to the rural wire lines working now, but installed before 01.04.2002.

Hence the entire approach on this issue has to be reviewed so that adequate compensation is paid to BSNL in the place of the proposed amount of Rs. 1,500 crore and Rs. 1,250 crores.

It is, therefore, requested that the issues may be favourably considered and decisions taken in the matter providing the required assistance to BSNL/MTNL as mentioned above.

Yours faithfully



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