

14.15 hrs.

STANDING COMMITTEE ON HUMAN RESOURCE  
DEVELOPMENT

THIRTY-FOURTH REPORT

[English]

DR. VASANT NIWRUTTI PAWAR (Nasik) : Sir, I beg to lay on the Table, the Thirty-fourth Report (Hindi and English Versions) of the Standing Committee on Human Resource Development on India's Performance in International Sports.

14.15½ hrs.

RE- ISSUE OF NOTIFICATION BY GOVERNMENT  
FOR ENFORCEMENT OF DELHI RENT ACT, 1995

[English]

SHRI HARI KISHORE SINGH (Sheohar) : Sir, I beg to present a petition signed by Shri H.D. Shurie, Director of Common Cause, a registered society, West End, New Delhi, for issue of notification by Government for enforcement of Delhi Rent Act, 1995.

[Translation]

SHRI RAM NAIK (Bombay North) : Sir, I am on a point of order.

Sir, my point of order is that since 12th December, an item on agenda was being shown as the Statement of the Minister.

[English]

That Shri Balram Singh Yadav was to make a statement regarding release of the second instalment of the MPs Local Area Development Scheme.

MR. SPEAKER : Now that is not there because the Minister is not available here.

SHRI RAM NAIK : Sir, we would like to know what is happening to the amount of Rs. 50 lakh. Nothing has been told so far about that.

MR. SPEAKER : There is no point of order here. Yet, I would be very happy to inform you that the amount of Rs.50 lakh for each MP is being sent.

SHRI RAM NAIK : Thank you, Sir...(Interruptions)

SHRI YAIMA SINGH YUMNAM (Inner Manipur): Mr. Speaker, Sir, women for Manipur have launched a hunger strike. They are on a hunger strike for the last eight days. Their condition is alarming. They are demanding the vacation of the Assam Rifles...(Interruptions)

MR. SPEAKER : We have some other things to do. Now, I call Mr. Sukh Ram to make a statement.

...(Interruptions)

SHRI SUDARSHAN RAYCHAUDHURI (Serampore) : What is the statement?...(Interruptions)

MR. SPEAKER : You may lay it on the Table. please.

THE MINISTER OF STATE OF THE MINISTRY OF COMMUNICATIONS (SHRI SUKH RAM) : I beg to place a statement regarding award of licences to private companies for operating basic telecom services on the Table of the House.

Sir, I have kept the files relating to the tender documents for basic telecom services in Room No.112.

14.16 hrs.

STATEMENT BY MINISTER

*Award of Licence to Private Companies for Operating Basic Telecom Services*

THE MINISTER OF STATE OF THE MINISTRY OF COMMUNICATIONS (SHRI SUKH RAM)

Hon'ble Speaker, Sir, I wish to lay a statement regarding the status of the tenders for the award of licences to private companies to operate Basic Telecom Services in various parts of the country. Such a statement has become necessary because of the critical observations made by some Hon'ble Members of the House, both inside and outside Parliament, during the past few days. Government has nothing to hide and is keen to place all the facts before Parliament.

In our country supply of telephone has always been far behind the demand. We have one telephone for every 100 persons as against the world average of ten telephones per 100. Even in the developing countries, tele-density is six per 100. As against around 10 million working telephones in the country we have more than two million people on the waiting list and in some cities and towns people have to wait for as long as 8-10 years to get a plain telephone connection.

After considering the matter for a number of years, Government came out with the National Telecom Policy on 13 May, 1994, a copy of which was placed on the Table of both the Houses of Parliament on that day itself. Some of the principal objectives of this historic document were :-

a) to bring about a situation by 1997 when a telephone will be available on demand;

b) to have a public telephone in every village of India by 1997. More than 2/3rd of 6,00,000 villages in the country are not on the telephone map.

c) to have a Public Call Office for every 500 persons in the urban areas by 1997.

In brief, the national task was to provide universal access to telecom services to the whole country at an affordable price.

Subsequent to the placement of National Telecom Policy on the Table of both the Houses of Parliament a number of questions (including starred and unstarred ones) on the National Telecom Policy as well as its various facets, were asked and answered. Hence it would not be quite correct to say that the National Telecom Policy was not discussed in the House in one form or the other. I wish to assure the House that the Government is always open to such discussions and in fact welcomes such a discussion which would be to the advantage of the Government. Further, it is the prerogative of each Member of the House to ask for a discussion and if this prerogative is not exercised the Government should not be faulted on this account. As a matter of fact discussion on the operative aspect of the National Telecom Policy did take place during the last monsoon session of the Parliament when a resolution to this effect was listed in the Legislative Business of the Rajya Sabha.

The National Telecom Policy also stipulated that in order to create a situation of telephone on demand and to connect every village of this large country, the private sector should be invited to supplement the resources and efforts of the Government. It was estimated that the resource gap in this connection for the remaining years of the Eighth Five Year Plan will be as high as Rs.23,000 crores. The resource gap for the subsequent years, particularly with a view to catching up with the developing and the developed world, would obviously be many times more and would clearly be beyond the means of the Government.

In order to operationalise the National Telecom Policy, tenders were invited in January, 1995 for the purpose of selecting private companies to operate basic telephone service in various States and Union Territories. The main eligibility conditions for participating in the tender were :

a) The applicant should be an Indian Company registered as such under the Indian Companies Act, 1956.

b) It should have an experience of operating a network of not less than 5 (five) lakh lines.

c) Foreign equity in such a Company should be restricted to a maximum of 49%.

d) The net-worth of the bidder company and of its promoters, both Indian and foreign, should not be less than Rs.300 crores for 'A' Category Circles, Rs. 200 crores for 'B' Category Circles and Rs. 50 crores for 'C' Category Circles.

It may be mentioned that the operations of the DOT are presently organised in the country into 20 Circles and the National Capital Territory of Delhi. There was to be a private operator in each of these territories in addition to the DOT. These Circles were categorised as 'A', 'B' and

'C' in relation to their business potential and order of investment required for providing basic telephone service.

Sixteen bidder companies applied for participation in the tender. Their Indian and foreign promoters included some of the leading companies of the Indian corporate world as well as the major telecom companies of various parts of the globe.

The technical and commercial bids of all the 16 Companies were evaluated by a Tender Evaluation Committee (TEC), which is chaired by a Member of the Telecom Commission, who is an ex-officio Secretary to the Government of India and included financial and technical experts. The evaluation was done with reference to the terms and conditions contained in the tender, particularly, the ones relating to eligibility. All the companies were found eligible. One of these Companies M/s.Himachal Futuristic Communications-Bezeq Telecom Limited is the subject of the present controversy. Its Indian and foreign partners had a network of Rs.4622 crores and possesses experience of 21 lakh lines as against the prescribed minimum of 5 lakh lines.

The particulars of members of this consortium along with their equity share and net-worth are given below :

| Name of the Company |  | Equity | Net-worth<br>(Rs. crores) |
|---------------------|--|--------|---------------------------|
| 1                   | 2  | 3      | 4                         |
| 1.                  | M/s. Himachal Futuristic Communications Ltd. (HFCL)                        | 44%    | 62.35                     |
| 2.                  | M/s. Khandelwal Jain Management Consultancy (KJMC) Financial Services Ltd. | 10%    | 20.98                     |
| 3.                  | M/s. Kotak Mahindra Finance Ltd.   | 5%     | 179.54                    |
| 4.                  | M/s. Bezeq The Israel Telecom Corp. Ltd.                                   | 26%    | 4116.26                   |
| 5.                  | M/s. Shinawatra International Public Company Ltd.                          | 15%    | 242.92                    |
|                     |  | 100%   | 4622.05                   |

M/s. HFCL is not doubt a small company but for the purpose of this tender the net-worth and the experience was to be counted in respect of all the members of the

consortium. It may be mentioned that M/s. Bezeq is a very large company, majority of which is owned by the Government of Israel, with a paid up capital of Rs. 3038.75 crores and it is the principal operator of basic telecom services in Israel.

It is relevant to mention here that out of 41 Indian Companies who were members of these 16 bidder consortia as many as 14 are smaller than M/s. HFCL in terms of their networth. Similarly, networth of as many as eight bidding consortia is lower than that of M/s. HFCL - Bezeq Telecom Ltd.

Allegations have been made that I have some interest in this company. I consider such a charge very unfortunate and motivated and would like to take this opportunity to totally deny it. I challenge any one to make such a charge outside the House, so that I am able to exercise my right as a citizen of this country to initiate defamation proceedings against him. It is quite extra-ordinary that just because M/s. HFCL has its production units in Himachal Pradesh and its name carries the name of my home State, some Members have chosen to link me with this Company. I do hope that it is no one's case that just because the Minister in-charge of Communications comes from Himachal Pradesh, the State should be deprived of investment in the telecom sector. Moreover, the system does respect the legitimate aspirations of a small company to grow as long as it is doing so by legal means and in the present case meets the prescribed terms and conditions of the tender and competes with other Companies on equal terms.

It is proposed to award to M/s. HFCL-Bezeq Telecom Ltd. the licences for four Circles - Delhi, Haryana, Orissa and U.P. (West). It will be paying a licence fee of Rs.27,790 crores over a period of 15 years for these licences. The Hon'ble Members of the House may kindly note that the licence fee quoted by this bidder Company for these four Circles is two and a half times the reasonable price determined by the Tender Evaluation Committee

M/s. HFCL has strong Indian and foreign partners. One of the Indian partners, M/s. Kotak Mahindra Finance Ltd. is one of the leading non-banking finance companies of our country. A mention has been made by some Members about the criminal charges being faced by one of the Directors of another partner M/s. Shinawatra of Thailand. Government has nothing on record on the subject. The Tender Evaluation Committee has gone by the financial statements and annual accounts of the Company. Although I am not sure whether the alleged criminal charges against one of the present or former Directors of the Company is really relevant to the disposal of these tenders, we have now taken the care of checking with our Embassy in Thailand and the first report received from that end suggests that they have no such information. However, they have been requested to make a further check.

M/s. HFCL-Bezeq Telecom Ltd. had won 9 out of 20

Circles. In all the 9 Circles their bids were uniformly much higher than the bids of all other companies as the following figures show :

| Name of the Circle | Levy quoted by M/s HFCL | Levy quoted by H2 bidder | Reasonable levy calculated by TEC. |
|--------------------|-------------------------|--------------------------|------------------------------------|
|                    | (Rs. crores)            | (Rs. crores)             | (Rs. crores)                       |
| Andhra Pradesh     | 15365.00                | 3528.00                  | 4035.80                            |
| Delhi              | 15085.00                | 11200.00                 | 6088.37                            |
| Gujarat            | 15085.00                | 2835.00                  | 3369.93                            |
| Haryana            | 4060.00                 | 3150.00                  | 1312.76                            |
| Kerala             | 9555.00                 | 1260.00                  | 7880.58                            |
| Orissa             | 2065.00                 | 8.40                     | 692.46                             |
| Punjab             | 9065.00                 | 3675.00                  | 2287.33                            |
| U.P. (West)        | 6580.00                 | 2698.00                  | 2767.01                            |
| West Bengal        | 9065.00                 | 1165.50                  | 4226.77                            |

The result of the bidding and its evaluation therefore was that one single company would have been operating in 9 out of 20 Circles. The Government had taken the care of stipulating in the tender that it reserves the right to restrict a Company to a maximum number of Circles to operate basic services. Clause 4.6 relating to basic telephone services reads as follows :

"Telecom Authority is free to restrict the number of service areas for which any one company can be licenced to provide service".

This position was reiterated in the clarifications vide clause 12.4 of Tender Document of Basic Services which reads :

"The Telecom Authority reserves the right to restrict the number of service areas for which any one company can be licenced to provide the service".

Therefore, in order to curb the emerging monopolistic trend and in order to distribute investment over a large number of companies, and to reduce the chances of failure in an infrastructural services like basic telephone service, Government decided to invoke this power and decided to impose a 'Cap' of three licences in 'A' and 'B' Category Circles. In terms of networth and experience and other related eligibility conditions, this Company was entitled to have licences for all the nine Circles. However, the Government did not consider such a development in public interest and restricted the Company to three category 'A' and 'B' Circles and one Category 'C' Circles.

The idea of a 'Cap' was not conceived by way of an

after thought and therefore it is wrong to allege that the rules of the game were changed after it had started. The original tender document itself stated very clearly that Government was free to restrict the number of licences to be awarded to one single operator.

The question of mentioning a ceiling on the total number of Circles that can be awarded to one single bidder Company was considered in the Department of Telecommunications at the time of formulation of the tenders. It was decided not to prescribe any number for at least three reasons. Firstly, it was felt that each Indian or a foreign Company has been allowed to be a part of one bidding consortium only which itself will act as a kind of a constraint on the number of Circles for which they will be bidding. Secondly, there was a perception that any such ceiling would constrain competitive bidding. Thirdly, a right was being reserved in any case to place a cap in case the circumstances emerging out of the tenders so required.

It may be mentioned that in the tender for licensing of private companies for Cellular Mobile Telephone Services a similar provision had been made and the concerned Companies were given choice of the Circle they wished to retain within the prescribed ceiling. Both the tenders mentioned that in case a bidder won in more Circles than it was entitled to in terms of its network, its options will be ascertained. This provision was actually used in the Cellular tender where such a situation arose.

The cap of three Circles was conceived and imposed wholly in public interest and I deny the allegation that it was intended to bail M/s. HFCL-Bezeq Telecom Ltd. out of a difficult situation. In fact, I am afraid, had we given all the nine out of 20 licences to one Company the Government would have been subjected to lot of criticism both inside and outside Parliament for having favoured one individual Company.

Since the cap had been conceived purely in public interest and was not intended to benefit the individual Company, it was considered only fair, and the legal opinion also suggested, that the Company should be given the choice of selecting 3 out of 8 'A' and 'B' Category Circles that it had won. I would like to quote in full the legal opinion on the subject.

"The DOT has reserved a right to restrict the number of service area as per Clause 12 at page 13 of the tender document. With reference to the query, it was clarified at page 25 of the Clarifications that though no limit/restriction is imposed for the number of circles yet Telecom Authority reserves the right to restrict such number".

"The restriction in the number of circles can be justified on the jurisprudential theory ingrained in the restraint of trade. It is generally admitted that public interest is best served by competition and oligopolistic-consisting of only few competitors in the market system can be termed as violation of public policy".

"The Indian Telegraph Act creates monopoly in favour of the Central Government and to dilute the same, liberalisation in the form of licensing appears to have been attempted. The liberalisation is meant to have been attempted. The liberalisation is meant to prevent the telecom from becoming more concentrated than what it was. The action to restrict monopolising can only be based on the rule of reason. Hence, *it can be concluded that the Central Government can impose capping on the grounds of public policy and because such right has been expressly reserved in the tender*".

"It may be remembered that an agreement is an outcome of mutual consent. Every contract is based on *consensus ad Item* i.e. meeting of the minds of the parties. Hence, *no particular circle can be forced upon any bidder without his express preference obtained in this regard*. In case certain bidders have tendered H1 for more than one circle, then it becomes necessary to obtain a list of preference from such bidders and capping decision will have to follow such preference of the particular bidders. *The choice amongst restricted number of circles will be of the bidder and it cannot be decided unilaterally by DOT.*"

Even the commercial considerations dictated that the Company should be given the choice of selecting the Circles once the cap is to be applicable. Any effort on the part of the Government to impose its own choice on the Company could have been easily frustrated by the Company refusing to take up licences in the suggested Circles and forfeiting its earnest money. By giving the choice to the Company the Government had at least ensured the positioning of a private operator had at least ensured the positioning of a private operator in three major Circles and a licence fee of Rs.25,725 crores which, it needs to be emphasised, is two to three times the reasonable levy determined by the Tender Evaluation Committee and is much higher than the bids offered by other Companies in these very Circles. Some Hon'ble Members have argued that if the Government had imposed its own choice, it could have obtained a licence fee of around Rs.45,000 crores. In the background of what I have submitted above, the figures of loss of Rs. 20,000 crores being mentioned widely are only hypothetical. The Government has also taken effective measures to protect Government's interests as indicated in Annexure-A.

I may also like to apprise the House regarding foreign investments in telecom sector. The position in regard to the approvals of direct foreign investment in this sector upto 31.3.1995 is of the order of Rs. 2,230 crores. These approvals are under the heads of switching, transmission, terminal equipment, cables and value added services.

Before I part with the subject of cap I would like to bring to the notice of Hon'ble Members that even the representative All India associations of the telecom industry and service providers had also represented on different occasions for placing a cap of one or two Circles for the operation of basic service. Their concern was that most of the bidder Companies will not find it feasible to sustain

investment in more than one or two Circles. I am sure this august House does not wish that we should allow one single Company to take up operations in as many as 9 Circles and risk a monopoly situation and possibility of a failure in respect of a basic service.

The Tender Evaluation Committee had recommended the rejection of all the bids in the following ten Circles on the ground that the levy quoted by them was not reasonable.

1. Andaman & Nicobar Islands
2. Assam
3. Bihar
4. Himachal Pradesh
5. Karnataka
6. Madhya Pradesh
7. North-East
8. Rajasthan
9. Tamil Nadu
10. U.P. (East)

I would like to mention the figures of the highest bid in each of these Circles in comparison to the reasonable levy arrived at by the Committee to underline the point that some of the bids were ridiculously low.

| Circle                       | Highest Quoted<br>levy<br>(Rs. crores) | Reasonable levy<br>worked by TEC<br>(Rs.in crores) |
|------------------------------|--|--|
| 1                            | 2                                      | 3  |
| Andaman & Nicobar<br>Islands | 3.3<br>-                               | 81.80<br>-   |
| Assam                        | 4.41                                   | 294.22   |
| Bihar                        | 2.44                                   | 602.22   |
| Himachal Pradesh             | 1.785                                  | 323.84   |
| Karnataka                    | 5796                                   | 6528.47  |
| Madhya Pradesh               | 29.4                                   | 897.43   |
| North-East                   | 1.785                                  | 145.567  |
| Rajasthan                    | 1110                                   | 1700.67  |
| Tamil Nadu                   | 4520.25                                | 8208.20  |
| U.P. (East)                  | 13.65                                  | 1924.44  |

The Government would have been failing in its duty if it had not exercised its right as the tendering authority and as an issuing authority for the licences if it had not rejected such low offers. I am sure this august House

itself would have faulted the Government in case we had accepted such low bids. The general trend of bids received in the tenders for Radio Paging, Cellular Mobile Telephone and the Basic Telephone Service in a large majority of Circles suggested that the bids for Basic Telephone Service were higher than the bids for Cellular Mobile Telephone and those for the Cellular Mobile Telephone were higher than the bids for Radio Paging for the same area. This pattern has been determined by the market forces and not by the Tender Evaluation Committee or the Department of Telecom. It was noticed that in some of these Circles where the bids for Basic Telephone Service were rejected, the highest bid was lower than that for Cellular Mobile Telephone and in some cases even lower than that of Radio Paging. Again, I would like to quote the following figures to illustrate this important point :

| Name             | Total<br>Cellular<br>Levy for<br>10 years<br>(Rs. cr.) | Highest<br>quoted<br>Basic<br>Services<br>Levy for<br>15 years<br>(Rs. cr.) | Total<br>Radio<br>Paging<br>Levy<br>for<br>10 years<br>(Rs. cr.) |
|------------------|--|---|--|
| Assam            | 2.64   | 4.41  | 2.32   |
| Bihar            | 272.08   | 244.00  | 4.32*  |
| Himachal Pradesh | 29.92  | 1.785   | 7.02   |
| Madhya Pradesh   | 102.00   | 29.40   | 60.00  |
| North-East       | 3.80   | 1.785   | 1.32   |
| U.P. (West)      | 812.42   | 6580.00   | 208.00   |
| U.P. (East)      | 421.76   | 13.65   |  |

Note: Paging Levy includes all the cities and the operators.

\*Levy is only for Patna City.

The case of U.P. (East) is the most telling example of a very low bid. While the highest bid for U.P. (West) was Rs. 6580 crores, that for U.P. (East) was barely Rs. 13.65 crores.

Strangely enough the Government is being faulted for having decided to reject bids which are low. The criticism is that the criteria for reasonableness should have been indicated in advance in the tender itself. In this connection, I would like to submit that at the time the tender conditions were being formulated, and it is true today also both the Government and the industry were very upbeat about the investment opportunities in the telecom sector and it was felt that the market sentiment was running high and the competition will be very hot and fierce and there is no need for stipulating any reserve

price. It should be of interest to know that while the bidders sent hundreds of questions for clarification, not a single bidder raised the question of fixing a reserve price at the material time. It was only after the financial bids had been received and were under evaluation and it was observed that the bidding pattern in a larger number of Circles was very erratic that the Tender Evaluation Committee considered it necessary to work out a reasonable price in each Circle. The principal focus of any tendering process is to determine the price of goods or services which are acceptable both to the seller and the buyer. Therefore, it was the inherent right of the Government to decide whether the bids received in each Circle were reasonable or not. I would also like to submit that the absence of reserve price in the tender did not take away the inherent right of the Government to reject bids which were found unreasonably low. The whole exercise of determining a reasonable threshold and rejecting the low bids was intended to protect the financial interests of the country and does not need any detailed justification. Based on this experience in the first round of bids, reserve prices have been indicated now in the second round.

It is both unfortunate and ironic that where the Government has accepted high bids it is being accused of favouring a particular Company and where it has rejected very low bids it is being accused of being arbitrary.

A word of explanation is called for in respect of Karnataka and Rajasthan Circles which have not been included in the second round of financial bids. All the bids in these two Circles had also been rejected. But the highest bidders in both have represented to the Government that the Tender Evaluation Committee has made an error in evaluating their offer and they have contended that the levy quoted by them is higher than the reasonable level determined by the Committee itself. Government propose to consider their representations in detail and have, therefore, in the meanwhile, decided not to include these Circles in the second round of financial bids.

Some Hon'ble Members have wanted to know as to why the licence for Maharashtra has been awarded to M/s. Hughes Ispat instead of M/s. Tata Teleservices Ltd. The levy quoted by M/s. Hughes Ispat was higher than that of M/s. Tata Teleservices by Rs. 2,359 crores. However, the evaluation procedure contained in the Tender Notice required the evaluation of the financial bids on the basis of four factors, namely, the levy, percentage of telephone that will be provided in villages, use of indigenous equipment and the number of telephones to be provided every year in the first three years of the licence period. Different weightages have been attached to these factors. The Tender Evaluation Committee while evaluating the two bids with reference to the prescribed evaluation scheme came across a kind of a conflict between the obligation to provide Villages Public Telephones (VTPs) and the application of the factor of growth of telephones in the first three years. In an effort to resolve this conflict,

they evolved a formula which resulted in neutralising the benefit accruing to M/s. Hughes Ispat on account of higher levy quoted by them and M/s. Tata Teleservices were ranked as the highest bidder. However, when the matter was examined further by Member (Finance) and the Chairman, Telecom Commission, they did not agree with the manner in which TEC had tried to resolve the conflict between two parameters of evaluation and gave a unanimous recommendation that M/s. Hughes Ispat should be ranked as the highest bidder in Maharashtra Circle. Therefore, the Government decided to award the licence for this Circle to M/s. Hughes Ispat.

In the second round of financial bids, position regarding this aspect of evaluation has been clarified for the convenience of the bidders and the Tender Evaluation Committee.

Fears have been expressed in certain quarters regarding security aspect of operation of basic telephone service by private Companies. I wish to mention that the tender document and the draft licence agreement contain detailed provisions relating to security requirements which have been worked out by my Ministry in consultation with the Ministry of Home Affairs. These provisions stipulate that : (i) the licensee shall not normally employ bulk encryption equipment in its network; (ii) the licensee shall provide to the Government locational details of its infrastructure; (iii) routes of transmission lines will have the prior permission of the Government; (iv) the licensee is under an obligation to provide necessary facilities to the Government to counteract espionage, subversive acts, sabotage or any other unlawful activity; (v) the licensee is required to make available on demand to the agencies authorised by the Government, access to the switching centres, transmission centres, routes, etc. for technical scrutiny and inspection; (vi) all foreign personnel to be deployed are to be security cleared by the Government prior to their deployment; (vii) the licensee is required to ensure protection of privacy of communication and ensure that unauthorised interception of messages does not taken place; (viii) Government have the right to take over the service, equipment and network of a licensee in case of emergency or war or lowintensity conflict or any other eventuality in public interest; (ix) finally, the Government reserve the right to modify these conditions or incorporate new conditions in the licence which are considered necessary in the interest of national security.

I would like to emphasise that the tendering process for basic services has been open and transparent and no favour has been done to any individual Company. I wish to assure all sectors of this august House that Government will make all possible endeavour to ensure early conclusion of the on-going process in a transparent, fair and objective manner. I may also, with the permission of the Chair, appeal to the Hon'ble Members to be wary of disinformation by vested interests. What the Government and the country are handling has been described in various circles as the biggest telecom tender in the world. Stakes of the country and the bidders are very high. Therefore, the possibility of some interested parties wanting to

jeopardise this historic opening of basic services for providing universal telephony to the people of our country cannot be ruled out. It is not without significance that the attack on the objectivity and transparency of the on-going tendering process came to be made really after Government took the courageous and correct step of rejecting the bids in as many as in 10 Circles which are not found to be reasonable.

The Government have also taken effective steps towards setting up a Telecom Regulatory Authority for regulation of telecom services. It may be recalled that the National Telecom Policy focussed on the need to make suitable arrangements for protection and promotion of consumer interests and ensuring fair competition. The Government had also made its intention clear in this regard while announcing the guidelines in 1994 for participation of private sector in basic telecom services. In pursuance of the above, the Government approved on 4.5.1995 the proposal for setting up of a non-statutory Telecom Regulatory Authority of India (TRAI) and Bill namely, the Indian Telegraph (Amendment) Bill 1995 was introduced in Lok Sabha on 2 June, 1995. The Lok Sabha could not consider the Bill due to paucity of time. Thereafter a decision was taken on 3.7.1995 to go for an Ordinance for setting up of the Authority. However, in view of the summoning of the monsoon session of the Parliament the option of ordinance was not exercised. The Indian Telegraph (Amendment) Bill 1995 was passed by the Lok Sabha on 16.8.1995. However, when this Bill came up for consideration in the Rajya Sabha on 22 August, 1995, having regard to the sentiments expressed in the House and the hope expressed earlier in the report of the Parliamentary Standing Committee on Communications for a statutory Telecom Regulatory body, it was decided to bring a comprehensive bill for establishment of a statutory Telecom Regulatory Authority. However, keeping in view the urgency of the matter a decision was taken to constitute a statutory telecom regulatory authority through promulgation of an ordinance. Again in view of the summoning of the Parliament for the winter session the option of issue of an ordinance was not exercised and it was decided to constitute a statutory telecom regulatory authority through introduction of a comprehensive Bill on the subject in the Parliament. A notice was given to the Secretary General, Rajya Sabha on 22.11.1995 for withdrawal of the Indian Telegraph (Amendment) Bill 1995. When the matter came up for consideration of the Rajya Sabha on 28.11.1995 the Opposition did not allow the withdrawal of this Bill which is still pending before the House. The Government is committed to set up a statutory Telecom Regulatory Authority and a comprehensive legislation in this respect is also ready. A notice was also given to the Secretary General, Lok Sabha on 23.11.1995 for introduction of Telecom Regulatory Authority of India Bill 1995 during the current winter session of Parliament and but for the cussedness of the Opposition the Authority would have been functional by this time. The main functions to be entrusted to the proposed Telecom Regulatory Authority

would include the regulation of tariff and revenue sharing, inter-relationship between service providers, quality of services, protection of consumer interest and security interest, compliance with universal service obligations as also settlement of disputes amongst service providers, etc.

I may also seek the indulgence of the Chair and the House to mention some of the major achievements in telecom sector which are historical and would transform the telecom scene in the country.

- a) The production of telecom equipment has increased by more than four times in the last four years;
- b) The availability of telephones has more than doubled in the last five years;
- c) Cellular Mobile Telephone Services have started operating in Bombay, Calcutta, Delhi and Madras;
- d) Radio Paging has arrived in the country and as many as 23 major cities with 1 million plus population have access to this modern telecom service;
- e) The tenders for Radio Paging and Cellular Mobile Telephone Service have also been finalised for almost the whole of the country;
- f) Thirteen licences have been granted for E-Mail Service to private Companies, seven of whom have started their operation;
- g) Twelve Companies have been issued licences for operating Data Communication Services through VSAT (Satellite) and five of them have started their operation;
- h) Ninety-seven licences/letters of intent (LOIs) have been issued in respect of 68 locations for operating Radio Trunking Service.
- i) 'INTERNET' service has been introduced recently.
- j) A licence fee of around Rs. 18,000 crores has become payable in respect of licences for Cellular Phones over a period of ten years. Similarly, a licence fee of around Rs. 42,000 crores has become payable over a period of 15 years in respect of five Circles for which licences for basic services have been finalised. Government hope that an amount bigger than this will become payable for other Circles in respect of licences for basic services. All these figures of revenue are welcome but more importantly they represent an order investment which will be many times more.

By any standards, the nation should be proud of such a progress which will contribute to speedy economic and

social growth and massive increase in employment opportunities.

To conclude, I may mention that the various petitions regarding the National Telecom Policy and the award of tenders for Basic Telecom Services came up for hearing on 15.12.1995 before the Hon'ble Supreme Court. While ordering status-quo to be maintained in regard to award of contracts for the basic telecom services in the five telecom circles for which tenders have already been finalised, the Hon'ble Supreme Court has nevertheless permitted inviting and processing of tenders in relation to thirteen other Circles. However, the licences for all these Circles shall be granted after obtaining the Court's direction. The hon'ble Supreme Court has already fixed January 9, 1996 as the date of final hearing of the petitions and has clearly indicated that no adjournment would be allowed on any ground.

The Hon'ble Supreme Court is fully seized with the issues raised by the seven Hon'ble Members of Parliament - S/Shri (1) Nilotpal Basu, (2) Janeshwar Mishra, (3) Anantram Jaiswal, (4) Chaturanan Mishra, (5) T.N. Chaturvedi, (6) Kedar Nath Singh, & (7) Jaipal Reddy, in their petition, as well as all other matters relating to the basic telecom service tender for which the setting up a Joint Parliamentary Committee has been demanded. Under the circumstances I would like to submit that reposing full faith and confidence in the Hon'ble Supreme Court both the Houses of Parliament must be allowed to function. Also the Government must not be obstructed in placing before the Parliament the full facts of the case which have been grossly distorted as a result of the frivolous, politically motivated and totally unfounded allegations made by some Members belonging to the Opposition Parties. A full and complete debate in the Parliament which has so far been thwarted must take place forthwith so that the people at large become aware of the true facts of the case. The judgement of the Hon'ble Supreme Court shall be binding for all and is expected early. The Government on its part while being fully committed to total transparency and fair play shall honour in letter and spirit the decision of the Hon'ble Supreme Court. It is therefore my earnest plea that rising above partisan concerns and in accordance with the highest Parliamentary norms and practices we must bring normalcy to the functioning of the House and debate the issue in its entirety as responsible representatives of the people of India.

#### Annexure-A

##### Steps taken for protection of Government's Interests:

- (i) Staff entry conditions were prescribed to ensure that only serious and qualified Company bid for operating basic services.
- (ii) **Earnest Money** : The bidder company was required to furnish a Bank guarantee issued by any scheduled bank for each service area at the following rate :

| Category of Service Area | Earnest Money per service area bid |
|--------------------------|------------------------------------|
| 'A'                      | Rs. 50 crores                      |
| 'B'                      | Rs. 25 crores                      |
| 'C'                      | Rs. 5 crores                       |

Bank guarantee can be forfeited in case a bidder does not abide by his bid for the service area.

- (iii) The licensee is required to pay yearly licence fee in advance through a demand draft.
- (iv) Within one month of signing of licence agreement the licensee shall establish a separate bank account with a scheduled bank in India to which all revenues accruing from the operations under this licence shall be credited. The Telecom Authority shall have a lien of 30% on the amount of funds credited to this account.
- (v) The licensee shall furnish a financial bank guarantee to the Government till the above account has adequate funds available in it at the following rate :

| Category of Service area | Amount of Bank guarantee for each service area |
|--------------------------|--|
| 'A'                      | Rs. 50 crores                                  |
| 'B'                      | Rs. 25 crores                                  |
| 'C'                      | Rs. 15 crores                                  |

- (vi) The successful bidder shall be required to submit and maintain during the period of licence a performance bank guarantee of the amount as shown below :

| Installed Capacity range in licensee network | Bank guarantee amount in Rs. per service area |
|--|---|
| Upto 50,000 lines                            | 25 crores                                     |
| 50,000 to 1 lakh lines                       | 50 crores                                     |
| for every additional 1 lakh lines            | 25 crores                                     |

##### (vii) Entry conditions for prequalifications for Basic Services :

- (a) The bidder must be an Indian Company registered under the Indian Companies Act, 1956.



- (b) The total foreign equity in the bidding company must not exceed 49% of the total equity.
- (c) Networth of the company should not be less than Rs. 300 crores for 'A' Category Circles, Rs. 200 crores for 'B' category Circles and Rs. 50 crores for 'C' Category Circles.
- (d) The Bidder must have an experience of Basic Telephone Lines of not less than 5 lakh lines.

For the purpose of eligibility with regard to experience, the experience of a promoter company which has an equity of 10% or more in the bidder company will be counted.

- (e) Any number of Indian companies as well as foreign companies can combine to promote the bidder company. However, an Indian company cannot be a part of more than one such joint venture. The same restriction applies to a foreign company.

14.16¼ hrs.

UTTAR PRADESH STATE LEGISLATURE  
(DELEGATION OF POWERS) BILL\*

MR. SPEAKER : Now, we shall take up the Legislative business.

The first Bill, which we would like to take up is Uttar Pradesh State Legislature (Delegation of Powers), Bill. I think, this has to be first introduced and then considered at three stages and passed.

THE MINISTER OF HOME AFFAIRS (SHRI S.B. CHAVAN) : I beg to move for leave to introduce a Bill to confer on the President the power of the Legislature of the State of Uttar Pradesh to make laws.

MR. SPEAKER : The question is :

"That leave be granted to introduce a Bill to confer on the President the power of the Legislature of the State of Uttar Pradesh to make laws."

*The motion was adopted*

SHRI S.B. CHAVAN : Sir, I introduce\*\* the Bill.

MR. SPEAKER : Now, the Minister may move that the Bill be taken into consideration.

SHRI S.B. CHAVAN : Sir, I beg to move :

"That the Bill to confer on the President the power of the Legislature of the State of Uttar Pradesh to make laws be taken into consideration."

MR. SPEAKER : The question is :

"That the Bill to confer on the President the power of the Legislature of the State of Uttar Pradesh to make laws be taken into consideration."

*The motion was adopted.*

MR. SPEAKER : The House will now take up clause-by-clause consideration of the Bill.

*Clause 2 and 3*

MR. SPEAKER : The question is :

"That clause 2 and 3 stand part of the Bill."

*The motion was adopted.*

*Clause 2 and 3 were added to the Bill*

MR. SPEAKER : The question is :

"That clause 1, Enacting Formula and Long Title stand part of the Bill".

*The motion was adopted.*

*Clause 1, the Enacting Formula and the Long Title were added to the Bill.*

SHRI S.B. CHAVAN : I beg to move :

"That the Bill be passed."

MR. SPEAKER : The question is :

"That the Bill be passed."

*The motion was adopted.*

14.20 hrs.

SUPPLEMENTARY DEMAND FOR GRANT-(RAILWAYS)

1995-96

[English]

MR. SPEAKER : It was very graciously agreed that the Supplementary Demand will also be passed.

[Translation]

SHRI NITISH KUMAR (Barh) : Mr. Speaker, Sir, there should be an explanation about Rs.60,000. There is a demand of Rs.1300 crore and he is demanding Rs.60,000. This amount can be raised through donations as well. It is a mockery...*Interruptions*)

[English]

MR. SPEAKER : Please understand...

[Translation]

SHRI NITISH KUMAR : An understanding was reached

\* Published in the gazette of India, Extra ordinary Part II, Section 2, dated 22-12-95

\*\* Introduced with the recommendations of the President.