IMPORTANT POINTS FROM THE CABINET NOTE DATED: 25TH SEPT 2000

While constitution of BSNL, Government of India has taken certain decisions for safeguarding interest of BSNL. We have listed out the points from Cabinet decision, which are not adhered in true spirit, causing direct impact on Financial condition of BSNL. The details are as follows.

A. **Clause 4.4: Pension Liability and Retirement Benefits:** As per this clause the pension contribution is to be paid by BSNL and leave encashment for DoT period is to be reimbursed by DoT. As per guidelines pension contribution is to be counted on minimum of basic but since inception of BSNL for period of 20 years, BSNL has forcefully collected the pension contribution of 3.83 lakh BSNL employees at higher basic. If on an average of Rs 1000 to 4000 per month per employee it comes to be Rs 3100 Crores.

Pension and Retirement benefits

(i) All employees will be entitled to Government's scheme of pension/family pension even after their absorption.

(ii) Technical resignation will not be required.

(iii) Payment of pension would be made by Government.

(iv) Arrangements would be worked out for obtaining pension contribution from the PSU to be deposited with the Government.

(v) Facility to carry over Earned Leave and Half Pay Leave would be provided.

(vi) The pension framework has been made part of the CCS Pension Rules by amending Rule 37 using powers under Article 309 of the Constitution of India.

Job Security

4.5 Any order of removal/dismissal from the PSU would be reviewed by the Administrative Ministry.

B. **Clause 4.6: Financial viability:**

I. Bharat Sanchar Nigam Ltd. **would be duly compensated for discharging obligations** in regard to rural telephony **or any other uneconomic service in accordance with any Government directive** for the implementation of NTP-99.

II. GOM has further decided that **under no circumstances Bharat Sanchar Nigam Ltd. would be allowed to become non viable** as this would be a

potent instrument in the hands of the Government for achieving its NTP-99 objectives.

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Financial viability

4.6 In regard to financial viability the GOM has in its interactive meetings with the Federations given them assurance that:-

(i) Bharat Sanchar Nigam Ltd. would be duly compensated for discharging obligations in regard to rural telephony or any other uneconomic service in accordance with any Government directive for the implementation of NTP-99.

(ii) GOM has further decided that under no circumstances Bharat Sanchar Nigam Ltd. would be allowed to become non viable as this would be a potent instrument in the hands of the Government for achieving its NTP-99 objectives.

Clause 5.1.4: Financial Issues: It is accordingly proposed to transfer the assets and liabilities to BSNL at this net provisional value of Rs. 63000 Crores.

5. Financial Issues

5.1 Transfer value of assets and liabilities

5.1.1 The assets and liabilities of Government, currently deemed to be held by the Department of Telecom Services (DTS)/Department of Telecom Operations (DTO) are proposed to be transferred to BSNL as on 1st October 2000 at book value. For this purpose, the Balance Sheet and Profit & Loss account of DTS/DTO would need to be prepared as on that date. However, at present, though the accounts are available upto 31.3.2000, these have not been audited yet. Beyond this period, the accounts are being compiled on a month to month basis.

5.1.2 Accordingly, it is proposed that transfer of assets and liabilities as on 1.10.2000 may at this stage be done at a provisional value, subject tc revision and finalisation subsequently. This provisional value may be taken as equivalent to the indicative net worth at book value of DTS/DTO as on 31.3.2000.

5.1.3 To calculate the net worth of DTS/DTO as on 31.3.2000, an indicative balance of assets and liabilities as on March 31, 2000 has been worked out. To this amount of Rs.67,867 crores, certain adjustments would need to be made. The main adjustments on the assets side would relate to the GOI/DoT investments in MTNL (Rs.354 crores – to be retained by GOI). On the liabilities side, the main adjustments would be on account of various deposits from customers and contingent liabilities (amount yet to be compiled, though not expected to be significant). On this basis (taking into account existing loans: MTNL-Rs.3,071 crores, GOI-Rs.2,034 crores), the net worth at book value of DTS/DTO as on 31.3.2000 is approximately Rs. 63,000 crores.

5.1.4 It is accordingly proposed to transfer the assets and liabilities to BSNL at this net provisional value of Rs.63,000 crores.

5.1.5 The accounts relating to DTS/DTO are to be closed as on 30.9.2000.The final figures of this closing after a 'due diligence', may be used as data for the balance sheet for BSNL as on 1st October, 2000. This will then determine the final value of transfer of assets and liabilities, for which Cabinet approval will be sought at that stage. In case this creates an impact on the capital structure of BSNL as against the capital structure proposed in this Note, any variation will also be reported to Cabinet for approval.

C. Clause 5.2.4: capital structure of BSNL:

Particulars	Rs. Crores	% Share
Equity Share Capital	5,000	
Reserves	58,000	
Total Shareholder Fund	**63,000**	**92.5%**
Loans-MTNL	3,000	
Loans-GOI	2,000	
Total Debt	**5,000**	**7.5%**
Total Capital Employed	**68,000**	**100%**

D. Clause 5.4 Neutralization of Impact of Corporatization on BSNL's Resource Base: Under this clause, it was proposed that BSNL will be **exempted from Payment of Income Tax, Payment of Dividend, License**

fees, Sales tax, Wireless Spectrum Charges etc under general guidelines of Government under clauses 5.4.1, 5.4.2, 5.4.3, 5.4.4, 5.4.5

a. **Clause 5.4.1 Exemption from Payment of Income Tax:** As per this provision BSNL is given exemption form Income tax for first five years to find feet in competitive market and thereafter benefits of Section 8-IA are to be allowed to BSNL.

> 5.4.1 Exemption from Income Tax Liability or removal of the "anomaly" in tax payment vis-à-vis existing private operators:-
>
> DTS/DTO as Departments are not subject to Income Tax, which they would be in their corporatised PSU form. BSNL needs exemption from Income tax for the first five years to find its feet in the competitive market. Alternatively, BSNL should be allowed the benefit of Sec 80 IA enjoyed by private telecom operators for a level playing field. Under Section 80 IA of the Income Tax Act 1961, telecom undertakings are allowed tax deductions provided they had started providing telecom services between 1st April 1995 and 31st March 2000. Since BSNL would be commencing business with effect from 1st October 2000, it is proposed that the above concession be made applicable to it by extending the period upto 31.12.2000 or specifically declaring BSNL as eligible for this concession. If amendment of the Income Tax Act as suggested is not feasible, GOI should suitably reimburse BSNL for such tax.

b. **Clause 5.4.2 Dividend Payment and exemptions from General Government Guidelines:**

c. **Clause 5.4.3** BSNL be exempted from license fee on what may be termed " Legacy Services" ,i.e basic fixed service and NLDO where it is already an operator. In the case of new services such as Cellular, license fee may be reimbursed.

> 5.4.3 Reimbursement of Licence Fee:-
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> It is important to bear in mind that the existing vast telecom network has been developed over the years not as a purely commercial network, but in many cases which have major adverse revenue impact, as per the Government's policies, security requirements, Government's directions etc. It is therefore proposed that BSNL be exempted from licence fee on what may be termed 'Legacy services', i.e. basic fixed service and NLDO where it is already an operator. In the case of new services such as Cellular, licence fee may be reimbursed.

d. **Clause 5.4.4 Sales Tax:** It is therefore proposed thatBSNL should be appropriately reimbursed the additional amount which it will have to annually incur (approx. Rs 700-800 crores) in procurement of various telecom- related items and stores.

> 5.4.4 Sales Tax:-
>
> After corporatisation, BSNL will no longer be able to avail the 4% concessional sales tax under the Central Sales Tax Act, 1956 presently available to DTS/DTO as a Government Department; similarly, adverse impact may occur on account of local State sales taxes also. It is therefore proposed that BSNL should be appropriately reimbursed the additional amount which it will have to annually incur (approximately Rs.700-800 crores) in procurement of various telecom-related items and stores.

e. **Clause 5.4.5 Wireless Spectrum Charges:** The Department is the largest user of frequency spectrum since it has provided radio connectivity's to far flung areas including rural and unprofitable/remote areas. After the Departments corporatization as BSNL, it will be liable to pay Rs. 400-500 crores annually, as loyalty/licence fee for the spectrum utilized. It is proposed that BSNL may be exempted from payment of the spectrum charges for the systems already installed up to 30.09.2000, and future expansions of the basic network.

> 5.4.5 Wireless Spectrum Charges:-
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> The Department is the largest user of frequency spectrum since it has provided radio connectivities to far-flung areas including rural and unprofitable/remote areas. After the Department's corporatisation as BSNL, it will be liable to pay Rs.400-500 crores annually, as royalty/licence fee for the spectrum utilized. It is proposed that BSNL may be exempted from payment of the spectrum charges for the systems already installed upto 30.9.2000, and future expansions of the basic service network.

f. **Clause 5.4.6: Exemption from Stamp Duty:** The transfer of assets to BSNL could attract stamp duty and other local transfer charges. In case of BSNL also, the above charges should be agreed to be paid by the GOI.

> 5.4.6 Stamp duty on transfer of assets to BSNL:-
>
> The transfer of assets to BSNL could attract stamp duty and other local transfer charges. In case of MTNL, it was provided in the transfer deed that stamp duty has been agreed to be paid by the vendor (i.e. the President of India). Due to this no duty was paid by MTNL. In the case of BSNL also, the above charges should be agreed to be paid by the GOI. Thus there would be no financial implication for BSNL on this account.

E. **Clause 5.5 Financial support to BSNL for NTP-99 objectives:** A large resource gap of this magnitude will make it difficult for the corporate entity to meet the national priorities and objectives as shrined in the NTP-99 which will include a large component of unremunerative projects. Since pursuance of NTP-99 targets is a matter of national priority, requirement to fulfill these objectives will place an extra burden on BSNL finances. The receipts from USO fund net of BSNL contribution will not be very significant and therefore additionally of resources would become imperative. Even after this extra contribution in the form of a part of revenue share, BSNL will have to borrow considerable amounts from the market on a year to year basis.

> 5.5 Financial support to BSNL for NTP-99 objectives
>
> The above mentioned reliefs will specifically neutralize the extra cost attributed to corporatisation as referred to in paras 5.3.2 and 5.3.4. However, this would still leave a large enough resource gap amounting to over Rs.55,000 crores in the next 10 years which are attributable to changes in the telecom's operating environment such as, opening up of NLDO, tariff rebalancing etc. A large resource gap of this magnitude will make it difficult for the corporate entity to meet the national priorities and objectives as enshrined in the NTP-99 which will include a large component of un-remunerative projects. Since pursuance of NTP-99 targets is a matter of national priority, requirement to fulfill these objectives will place an extra burden on BSNL finances. It has been estimated that receipt of licence fee dues from private operators in the form of revenue share during the next 10 years would be of the order of Rs.33,000 crores. It is suggested that at least 50% of the likely receipt may be earmarked for being retained by the DoT which in turn will release it in favour of BSNL for developmental projects as per NTP-99. The receipts from USO fund net of BSNL contribution will not be very significant and therefore additionality of resources would become imperative. Even after this extra contribution in the form of a part of revenue share, BSNL will have to borrow considerable amounts from the market on a year to year basis.

F. **Clause 6: Financial and Administrative Power with BSNL:** As per Cabinet Note The interim BSNL Board is authorized to sanction its plan Projects and Procure materials without any monitory limits. But it has been seen in the past that then Ministry of Communications Shri D Raja has stopped the procurement of BSNL, BSNL is not allowed to select the LSAs for Spectrum allotment, private operators were allowed, over the period entire control of BSNL Board is taken by DoT and now each and every activity is monitored by DoT.

6. Financial and administrative powers for BSNL

The proposed conversion of the complex and country wide operations spread throughout the length and breadth of the country, and involving transfer of more than three and a half lakh staff is without parallel. In terms of DELs, the Department has added 45 lakhs DELs during 1999-2000. As of end Aug. 2000, the total number of DELs is 238 lakhs, making this one of the largest telecom systems in the world. The revenue earned in 1999-2000 was Rs.18,250 crore, the capital expenditure was Rs. 12,532 crore, and the cumulative capital outlay as on 31.3.2000 was Rs. 75,729 crore. It is therefore imperative that the Government agrees to conferring "Navratna" powers on the Board of BSNL immediately. Since exercise of "Navratna" status is dependent upon fulfillment of certain conditions, it is also necessary that in the interim BSNL Board is authorized to sanction its Plan projects and procure materials therefor without any monetary limits.

G. **Clause 10: Functions and Powers of DoT defined as Administrative Ministry:** As per the Cabinet Note role of DoT is defined as Administrative Ministry for all PSUs under it including BSNL, but each and every issue of BSNL from operations to Procurement are being continuously looked into directly by DoT or by the officers of DoT on Deputation.

10. Functions of the Department of Telecommunications after the corporatisation of DTS/DTO

10.1 The Telecom Commission (TC) was constituted in April 1989, "in order to promote rapid development in all aspects of telecommunications including technology, production and services....". It has thus functioned as a 'single window' decision maker, which has enabled the extremely rapid growth witnessed in this sector during the last few years. In the post corporatised scenario, the TC will necessarily have to continue to ensure achievement of the already announced NTP-99 policy objectives, and those to be announced from time to time. This task will be all the more challenging now, with the increasing involvement and participation of the private sector. The TC will accordingly have to function like a 'think tank', to quickly evolve new policy initiatives to deal with the emerging and rapidly changing domestic and global telecom scenario, and also act as a final decision making body in this regard.

10.2 The functions presently being performed by the Department of Telecommunications (DoT) are as specified in the 29th November, 1999 notification allocating business between the DoT and the DTS. It has been stipulated in the Cabinet Sectt. notification dated 17th July 2000, against both Department of Telecom Services and Department of Telecom Operations, that "On corporatisation of this temporary Department, residual work, if any, will stand allocated to the Department of Telecommunications." Accordingly, post corporatisation, DoT will perform certain additional functions, which would include becoming the administrative Department for Bharat Sanchar Nigam Ltd. (i.e. the corporatised DTS/DTO), the existing PSUs of MTNL, VSNL and TCIL, the Centre for Development of Telematics (C-DOT), administration of the proposed Universal Access Levy, residual work of the erstwhile DTS/DTO (including issues such as pension settlement, cadre management) etc.

H. **Clause 12 (B) Approval sought for financial issues:**

(i) Transfer of assets and liabilities to BSNL on 01.10.2000 on a provisional Value of Rs. 63000 Crores subject to finalization of the transfer value by 31.03.2001, in consideration of equity of Rs. 5000 crores in favour of GOI, and the balance appearing as reserves in the books of BSNL.

(iii) BSNL is to be given following fiscal/monetary benefits

(a) **Exemption from IT Tax Liability for Five Years:**

> (a) Exemption from IT liability for a period of five years to be reviewe later. Or, remove the anomaly in tax payment vis-à-vis existing private operators either by amendment of the Income Tax Act (by extending general applicability c specifically exempting BSNL), or by reimbursement to BSNL of the difference arisin on account of payment of corporate tax without amendment to the Act (reference par 5.4.1 above).

(b) Exemption from Dividend payment for Ten Years:

> (b) Exemption from the application of Government guidelines on dividend payout for a period of ten years (reference para 5.4.2 above).

(c) Reimbursement, net of taxes of the annual license fee payable by it for all the telecom services provided by it, till 2010.

> (c) Reimbursement, net of taxes of the annual license fee payable by it for all the telecom services provided by it, till 2010 (reference para 5.4.3 above).

(d) Reimbursement of additional amount on enhanced Sales Tas on procurement of Telecom related items and Stores.

> (d) Reimbursement till 2010, the additional amount which it will have to annually incur on account of enhanced rate of sales tax, on procurement of various telecom-related items and stores (reference para 5.4.4 above).

(e) **Reimbursement of annual Spectrum Charges for rural/remote areas:** Exemption from payment of the annual spectrum charges for the systems already installed up to 30.09.2000. In addition, reimburse to BSNL the spectrum charges for providing radio connectivity's in the rural/unprofitable/remote areas in the future.

> (e) Exemption from payment of the annual spectrum charges for the systems already installed upto 30.9.2000. In addition, reimburse to BSNL the spectrum charges for providing radio connectivities in the rural/ unprofitable/ remote areas in future (reference para 5.4.5 above).

(f) GOI to bear stamp duty on transfer of GOI assets to BSNL.

> (f) GOI to bear Stamp Duty on transfer of GOI assets to BSNL (reference para 5.4.6 above).

(g) Reimburse BSNL for any non-commercial activity which GOI may direct it to perform

(g) Reimburse BSNL for any non-commercial activity which GOI may direct it to perform (reference para 5.5 above).

(h) Exemption from Income Tax on amount reimbursed on reliefs/concessions

(h) Exempt the amounts being reimbursed to BSNL on the above reliefs/concessions from Income Tax. For this purpose, necessary amendments to the Income Tax Act may also be carried out.

(i) Continuance of Relief/concessions till such time as BSNL Continues to be a Government Company.

(i) Continuance of these reliefs/concessions till such time as BSNL continues to be a Government Company.

(j) **Payment of Terminal Benefits by DoT:** The liability of payment of Terminal benefits of the Absorbed DoT Employees is with DoT and not with BSNL.

(iv) Authorise DoT to administer payment of terminal benefits (reference para 7 above).

11 (C) (ii) **Permission for Capital Expenditure without Monetary limit:** BSNL is permitted to undertake capital expenditure on purchase of new item or replacement.

(ii) BSNL be permitted to undertake, without any monetary ceiling, capital expenditure on purchase of new items or for replacement (reference para 6 above).

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