

New Telecom Policy, 2012

In the last few years the regulators have come down heavily on the players in the telecom industry and the industry has been marred with scams and controversies. However, the National Telecom Policy 2012 (“**Policy**”) recently approved by the Union Cabinet is ambitious and has the potential to revolutionize the telecom industry if implemented in accordance with the targets set under the Policy.

Some of the key features of the Policy are as follows:

- **One Nation - One License:** The Policy aims at achieving One Nation - One License plan across services and service areas. A new Unified Licensing regime will provide flexibility to operators to operate any or all segments of services of the total basket of services provided in the scope of license.
- **Delinking of Spectrum and Liberalization:** The Policy proposes to change the entire paradigm of spectrum allocation and delink it from licenses allocated to a telecom company. The proposed change would mean that a telecom company can buy a license and use it to roll out services in any part of the country, but would have to spend extra money for buying the spectrum resulting in additional costs to the operators. On the other hand, the move to liberalize spectrum has been welcomed by the industry as it will enable spectrum to be used in any band to provide any service in any technology. This gives more power and flexibility to the telecom operator to choose the spectrum and decide the technology they wish to implement, in order to provide services. The Policy also permits spectrum pooling, sharing and trading through appropriate regulatory framework. However, it fails to address key sensitive issues such as spectrum pricing and reserve price for the upcoming 2G auctions.
- **Spectrum re-farming:** The Policy seeks to re-farm spectrum and allot alternative frequency to service providers from time to time. In simple words spectrum re-farming is the process of re-deploying spectrum from available users and re-allocating it to others. The department of telecommunications has also proposed to introduce provisions pertaining to spectrum re-farming in the draft spectrum bill which is yet to be released for public consultation. This move has generated a lot of debate and controversies and the telecom operators believe that spectrum re-farming is impractical as it would involve huge costs and disrupt services apart from hitting the operator’s profitability adversely. The government is yet to provide a clear road map for implementation of this move without disrupting the functional networks.
- **Resale of services:** The Policy proposes facilitation of resale at the service level under the proposed Unified Licensing regime – both wholesale and retail, for example, by introduction of virtual operators – in tune with the need for robust competition at consumer end while ensuring due compliance with security and other license related obligations. In light of the recent Supreme Court judgment canceling almost 122 licenses of telecom operators, this facility of services resale is a way to increase competition without duplicating infrastructure or fragmenting the spectrum and would be an immense relief to the consumers.

- Abolition of roaming charges: The most consumer friendly proposition of the Policy is to review roaming charges with the ultimate objective of removing the roaming charge across the nation.
- Permitting number portability: The Policy also aims to extend Intra-circle mobile number portability facility on nationwide basis so that the users can retain their mobile number while shifting from one service area to another, irrespective of the service provider.
- Promoting state-of-the-art technology: The Policy encourages research and development in the telecom sector and promotes adoption of state-of-the-art technologies like cloud computing, next generation network IPV6 and also the convergence of network services and devices. The operators and the consumers are benefited by sophisticated technologies such as cloud computing that uses the internet and central remote servers to maintain data and applications. Cloud computing allows consumers and businesses to use applications without installation and access files at any computer with internet access. Despite its possible security and privacy risks, cloud computing is believed to be beneficial for participative governance and e-commerce on a much larger scale than the traditional technology solutions.
- Infrastructure Sector: In order to recognize the true potential of information and communications technology (ICT) for development, the Policy aims at providing recognition to the telecom sector as an infrastructure sector for both wire line and wireless services.
- Right of Way: The Policy promises to simplify the sectoral policy for Right of Way for laying cable network and installation of towers, etc. for facilitating smooth coordination between the service providers and the State Governments or local bodies.
- Preference to domestically manufactured telecom products: It is proposed to provide preference to domestically manufactured telecommunication products, (i) in the procurement of those telecommunication products which have security implications for the country and (ii) in Government procurement for its own use, consistent with India's commitments to World Trade Organization (WTO). The Department of Telecommunications is expected to notify specific guidelines for according preference to domestically manufactured telecommunication equipment and products in this regard. This provision in the Policy has been diluted in comparison to the provision in the draft policy to a great extent on account of opposition by foreign telecom equipment manufacturers across U.S., Europe and Asia on the draft policy for offering 'preferential market access' for domestic manufacturers, citing multiple violations of India's commitments to World Trade Organization ("WTO") and General Agreement on Tariffs and Trade ("GATT").
- Mergers & Acquisitions: The Policy proposes to put in place a simplified Merger & Acquisition regime in telecom service sector while ensuring adequate competition. A simplified merger and acquisition procedure could ensure better services at affordable prices to consumers and increase competitiveness in the market.
- Broadband: It is proposed to revise the existing broadband download speed of 256 Kbps to 512 Kbps and subsequently to 2 Mbps by 2015 and higher speeds of at least 100 Mbps

thereafter. This not a big leap in terms of international standards, where broadband speeds routinely touch 8 Mbps, but it is definitely a step in the right direction.

- Consumer protection: The Policy proposes formulation of a code of practice for sales and marketing communications to address security issues. As a relief to aggrieved customers, the Policy proposes formulation of legislative measures to bring disputes between telecom consumers and service providers within the jurisdiction of consumer forums under the Consumer Protection Act 1986.

The Policy envisages increasing penetration of telecom services in rural area from current level of around 39 to 70% by 2017 and 100% by the year 2020. The Policy is forward-looking but like most policies of the government it lacks in providing a clear road map for the implementation of the same. Furthermore, the Policy does not provide for any incentives to encourage foreign investments in the telecom sector considering the high costs involved in research and development in this space.