



RAJEEV CHANDRASEKHAR
MEMBER OF PARLIAMENT
RAJYA SABHA

Member of Standing Committee on Information Technology
Member of Consultative Committee on Finance
Member of Parliamentary Forum on Youth
Co-Chairman, Vigilance & Monitoring Committee, Bangalore Urban District

Dear Shri Sebal

04 August, 2011

Sub: Your response D.O. No. 10/12/2011-Restg. dated 24th June 2011 to my letter dated 28th January 2011 regarding the public disclosure of two TRAI letters – dated 15th October 2007 and 19th October 2007

At the outset, I am deeply disappointed to receive your reply with regard to its content, its tone, and most importantly, your refusal to act in a transparent manner. While I am providing detailed responses to your letter of 24.06.2011 (enclosed herewith as an annexure) – affording you another chance to reconsider your views – here are some highlights for your consideration:

1. Delay of almost five months in providing a response:

It is unclear why there was a delay of almost five months in putting together this brief response to my letter.

2. You state that *"it is not appropriate for the Department of Telecommunications to make TRAI letters public"*, forgetting the fact that you have already made the letters public:

I would like to point out that between my letter dated 28 January and your response dated 24 June, 2011, you have, at a public press conference, released the Justice Shivraj Patil One-Man Committee report which includes as Annexures 40 and Annexure 41 the two TRAI letters of 15th October 2007 and 19th October 2007 - which you have now refused to disclose to me. This is a sad commentary on the approach and the quality of rigor that is being applied while responding to letters from Members of Parliament – whose responsibility it is to query the Government thus.



3. Your contention that the release of such letters would amount to interference with the independent functioning of the TRAI is weak and, in fact, yields the exact reverse results:

The scheme of the RTI Act and the transparency in releasing documents, especially which are on the DoT's files and impact its statutory functioning, is aimed at strengthening democratic and statutory institutions, and not weakening them or interfering with their functions.

4. Your unsolicited advice to directly take the matter up with the TRAI is disingenuous, a failed attempt at distracting from your responsibilities, and a tad patronizing:

The letters in question are on the DoT's files and were required to be acted upon by the DoT under the Statute – Section 11(1)(a), Fifth Proviso. You ought to have (having already released the same) sent me copies of the letters and put them on your website. Requesting me to reach out to the TRAI seems to question my wisdom on whether such an approach can be followed, and certainly is a tad bit patronizing by a Union Minister.

5. The TRAI letters dated 15th October 2007 and 19th October 2007 expose your misrepresentation, accusing the TRAI 'for not recommending auctions' thoroughly:

The letters in question challenge all decisions made by Mr. A. Raja, and the letter of 19th October 2007 was written within hours of the press release that was released by Mr. A. Raja on 19th October 2007. It is easy to see why you would be so reluctant to give me copies of these letters given the fact that you have failed to justify your misguided attempt at the 'zero loss from 2G' theory by accusing the TRAI of not recommending auctions – in a desperate bid to save Mr. A. Raja, at least till the time of his arrest in February 2011 – and then by accusing his predecessors for his wrongdoings while releasing the Justice Shivraj Patil OMC report, without realizing that the exact same information is included in that report.

6. If the TRAI had been formally consulted in response to its letter of 19th October 2007 and in pursuance of the Statute – Section 11(1)(a), Fifth Proviso – the 2G spectrum scam could have been avoided altogether:

This is one of the primary reasons why you are reluctant to hand over these letters me. Regrettably for you, however, the letter is now in the public domain and further blows holes into your failed attempt at blaming the TRAI for not recommending auctions rather than blaming Mr. A. Raja for ignoring the said letters of the TRAI and violating the TRAI Act with impunity.



7. The conclusions of the CAG are the reason why you refuse to release the TRAI letters:

You realize well that the same CAG that you have chosen to publicly criticize not only disagrees with your contention, but with the public release of these said letters, it would become clear that the TRAI did, in fact, vehemently object to Mr. A. Raja's cherry-picking and manipulation of its recommendations without the formal process of consultation – which is a statutory requirement that your government chose to violate. Given your aggressive, improper and certainly unsubstantiated charge against the CAG, it is clear why the lawyer in you would prevent you from putting further evidence against yourself through me even if it comes at the cost of questioning your ministerial function to drive transparency and bringing the guilty to the book – as you have so often claimed publicly and through press releases.

8. The conclusions of the Justice Shivraj Patil OMC is the reason why you refuse to release the TRAI letters:

Contrary to your claims of the government having followed or needing to follow the so-called TRAI recommendations of 'no auctions for 2G', the Justice Shivraj Patil OMC that you yourself set up explains the scheme of the TRAI Act which, consistent with the said letters of the TRAI, make it not just possible but statutorily empower your department to modify the recommendations even if your claim (which is far from true) was along the lines that you have attempted to perpetrate.

9. The conclusions and charges in the CBI charge sheet dated 2nd April 2011 with regard to the TRAI recommendations is the final nail in the coffin of lies and misrepresentation of accusing the TRAI of not recommending auctions, rather than blaming Mr. A. Raja for avoiding auctions:

The CBI charge sheet concludes the exact reverse of what you have perpetrated so far – by accepting Section 2.73 as a clear and undisputed recommendation to follow a market based mechanism to determine entry fee (which includes the price of spectrum even if it were bundled) and while dismissing your 'TRAI recommended no auctions' theory, accuses Mr. A. Raja of dishonestly and deliberately avoiding auctions while citing the relevant extracts from the TRAI recommendations, and additionally the Prime Minister's letter of 2nd November 2007 and the Finance Secretary's letter of 22nd November 2007 – all three recommending/directing either auctions or a market based mechanism or revision of entry fee to reflect current prices.



10. You chose to hide these letters from me because you realize that it will further embarrass the Prime Minister, who, following your line, has been ill-advised, in spite of overwhelming evidence, to accuse the TRAI of not recommending auctions – something that is entirely avoidable and opens him to unnecessary scrutiny:

These and several other reasons that I have stated in the annexure explain not just your reluctance to release the said letters of the TRAI, but also mark a sad commentary on the fact that you deny me these letters nearly three months after you have inadvertently released them in the public domain or simply don't think that consistency should be one of the hallmarks in a department that hopes to drive transparency while dealing with India's largest post-Independence scam and resulted in massive revenue losses to the exchequer.

I close by leaving you with another opportunity for introspection about the manner in which you are conducting the affairs of this department with regard to the 2G spectrum scam and the follow up actions.

Yours Sincerely,

RAJEEV CHANDRASEKHAR

Shri Kapil Sibal
Hon'ble Minister of Communications & IT
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