RAJEEV CHANDRASEKHAR
MEMBER OF PARLIAMENT
RAJYA SABHA

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

17 July, 2012

Dear Thiru Chidambaram,

Sub. Need for strengthening the independent regulatory institution and framework by upholding TRAI's latest Recommendations on 'Analysis of Effects on Costs, Tariffs and Financial Returns' dated 21 June, 2012

This is further to my letter dated 11 July, 2012 on the issue of upholding the TRAI's recommendations on the reserve price for the upcoming 2G spectrum auctions.

With the TRAI having submitted its fresh response to the DoT Reference dated 29.05.2012, providing specific analysis of its original recommendations about reserve price for auction of 2G spectrum, it is further well established that the original reserve price of Rs.3,622 crores per MHz of pan India 2G spectrum recommended by the TRAI was accurate, well-analyzed, and deserves to be accepted.

I have argued on several occasions before, and here yet again, that the Government needs to strengthen the independent regulator and provide TRAI the respect its work deserves to re-establish its credibility. After a long time, the TRAI has done detailed work, including handling original and additional data provided by the industry (which has been included as annexures in its latest recommendations on "Analysis of Effects on Costs, Tariffs and Financial Returns" dated 21 June, 2012). It is, therefore, incumbent upon the Government to uphold TRAI's Recommendations and support its decision transparently with the detailed explanations – without prejudice or any fear of the same being overturned as a result of any legal action.

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New opposition to the reserve price recommended by the TRAI is expected yet again from the telecom industry, which is acting in its self interest to ensure that the reserve price is reduced to a bare minimum. In this regard, they would provide several reasons, which in my submission, now need to be discarded in face of such overwhelming evidence supporting the original TRAI recommendations.

Further, please consider the following:

1. **Tariff hike due to high reserve price is a myth**

   Apart from the fact that it is well established that the auction price paid by the operator is, and should be based on the benchmark value of the last auctions as well as its scarcity quotient – both the experience in the marketplace and TRAI's latest impact analysis titled "Analysis of Effects on Costs, Tariffs and Financial Returns" of 21 June, 2012 show that consumer tariffs will not increase in face of the reserve price suggested by TRAI. We already have the case of Vodafone who paid approx. US$12 billion to purchase the Hutch stake, and yet, kept tariffs competitive since 2006. More recently, in the case of 3G auctions, after paying ten times the price of 2G spectrum, each of the companies has launched voice services at a tariff which is equal to or lower than the prevalent 2G voice tariffs. This, coupled with the projected hike of 5-10 paise based on the new reserve price – provides conclusive evidence that tariff hike is not linked to the reserve price that has been recommended by the TRAI.

2. **TRAI has been consistent in its reserve price recommendations**

   Unlike in the past, the TRAI has refused to buckle to industry lobbying or even political pressure by not only keeping the reserve price at the same level across two different sets of recommendations and in response to a re-reference, but in fact, its impact analysis of 21 June, 2012 show that regardless of which view is taken, the reserve price deserves to be fixed at the level that has been originally recommended by TRAI. TRAI has also explained the distinction between the first exercise, which did not determine possible increase in tariffs, and this one, which focuses on the issue of tariffs by taking into consideration the representations of telecom industry associations that the reserve price was set too high and would, therefore, adversely impact tariffs. Further, the TRAI has also distinguished between the cost aspect and the tariff aspect in its current and latest set of recommendations.

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3. Industry viability will not be impacted with the TRAI-recommended reserve price

In its latest Impact Analysis of 21 June, 2012, the TRAI has done elaborate and detailed analysis on the issue of industry viability – an exercise that it admits was specifically left out of the previous recommendations. In contrast, the current recommendations specifically evaluate "profitability of operations", where revenue projections have been based on subscribers, minutes of usage and changing composition of voice and non-voice revenues to yield projections for system wide revenues. It has conducted analysis across tariff increases of 5 paise and 10 paise across the industry and included in it the analysis for return on capital employed, license fee and spectrum usage charge and tariffs collectable from outgoing minutes. It has finally concluded that a 5 paise per minute increase in tariff leads to a higher EBITDA and EBITDA margins post impact. Further, that the PBIT too is higher than in the base case.

4. There will be sufficient bidders, or else spectrum should be held back

To the ongoing threat that there may not be sufficient bidders at the current reserve price, there is a simple solution for the Government to restrict the number of slots further. India has 7-8 existing operators, and the task of managing competition and its impact on the consumers should be left to TRAI. Since spectrum is a valuable, scarce natural resource that belongs to the nation, it is entirely acceptable that all spectrum does not have to be auctioned at this stage – just as DDA would never auction all land in Delhi in one day. Government should assess the demand based on its rollout of auction details and restrict the number of slots further to ensure that demand always exceeds supply, and therefore, the reserve price is appropriately applied by way of valuable government revenue.

5. TRAI should regulate tariffs

The Government must ensure that the spectrum reserve price and auction proceeds are linked to the scarcity of spectrum, and in fact, the tariffs should be market determined only if there is no unusual hike. The TRAI should be given appropriate policy directions (for which there is sufficient scope within the TRAI Act) to ensure that it exits the 'forbearance' mode and regulates tariffs, especially if the tariffs increase higher than the pre-auction levels. There is absolutely no merit in the TRAI continuing with its 'forbearance' plan in case of a tariff hike beyond TRAI's own analysis of a minimal tariff hike of 5-10 paise per minute. The stature has sufficient scope for protecting consumer interest and keeping tariffs low, which should be put to good use at this time.

6. **International precedent shows that reserve price can well be equal to the auction price**

TRAI's Impact Analysis of 21 June, 2012 exhibit through a 19-country data, that in several instances, the reserve price becomes the actual auction price (6 countries out of 19, or 30%). This would mean that if the price was lower than the reserve price, then that would become the final auction price. In effect, once the TRAI has determined the value of spectrum based on advance analysis, the Government may well have to settle for the reserve price becoming the final auction price, and for that reason alone, lowering the reserve price would be grossly against the Exchequer's interest. In the worst case scenario, if fewer bids are received, the Government can reduce either the number of slots, or reject the bids and hold auctions yet again. The Hon'ble Supreme Court has advised that the Government hold auctions, but has given no instructions wherein spectrum needs to be given away at a price lower than what the market can determine – as has been indicated by the TRAI in its multiple recommendations since April 2012.

7. **Liberalized spectrum is far more valuable, justifying the reserve price**

Finally, a crucial element linked to spectrum pricing, and by consequence, reserve price, is the significant policy shift wherein spectrum has been liberalized, and therefore, can be used by several different operators using multiple technologies to provide a range of services that was impossible hitherto. Such an increase in the possibilities and business generation from the next round of 2G spectrum must be seen as different from all other spectrum that has been allocated in the past, including 3G spectrum in 2010. Consequently, this is an additional and critical reason why the reserve price recommended by the TRAI needs to be upheld.

Finally, I am sure the EGoM is ably assisted and will consider the appropriate steps as it concludes on the reserve price – keeping in mind the need to uphold the recommendations of the TRAI, and re-establishing its credibility by supporting wholly its excellent and well-argued analysis. In fact, this might be the Government's first big opportunity, after the 2G scam, to move away from arbitrary decision making by supporting the fact-based, scientifically analyzed and economically well-argued positions of the TRAI. Building strong, credible, independent institutions must be an absolutely critical objective for the Government.

Yours Sincerely,

RAJEEV CHANDRASEKHAR

Thiru P. Chidambaram
Hon'ble Minister of Home Affairs and
Chairman - Empowered Group of Ministers (EGoM) on Telecom
Government of India
New Delhi

Copy to Hon'ble Members of EGoM on Telecom :

1. Shri A. K. Antony, Hon'ble Minister of Defence
2. Shri Sharad Pawar, Hon'ble Minister of Agriculture
3. Shri Kapil Sibal, Hon'ble Minister of Communications & IT and HRD
4. Smt. Ambika Soni, Hon'ble Minister of Information & Broadcasting
5. Shri Salman Khurshid, Hon'ble Minister of Law Affairs
6. Shri V. Narayanaswamy, Hon'ble Minister of State in the Prime Minister's Office
7. Shri Montek Singh Ahluwalia, Deputy Chairman, Planning Commission