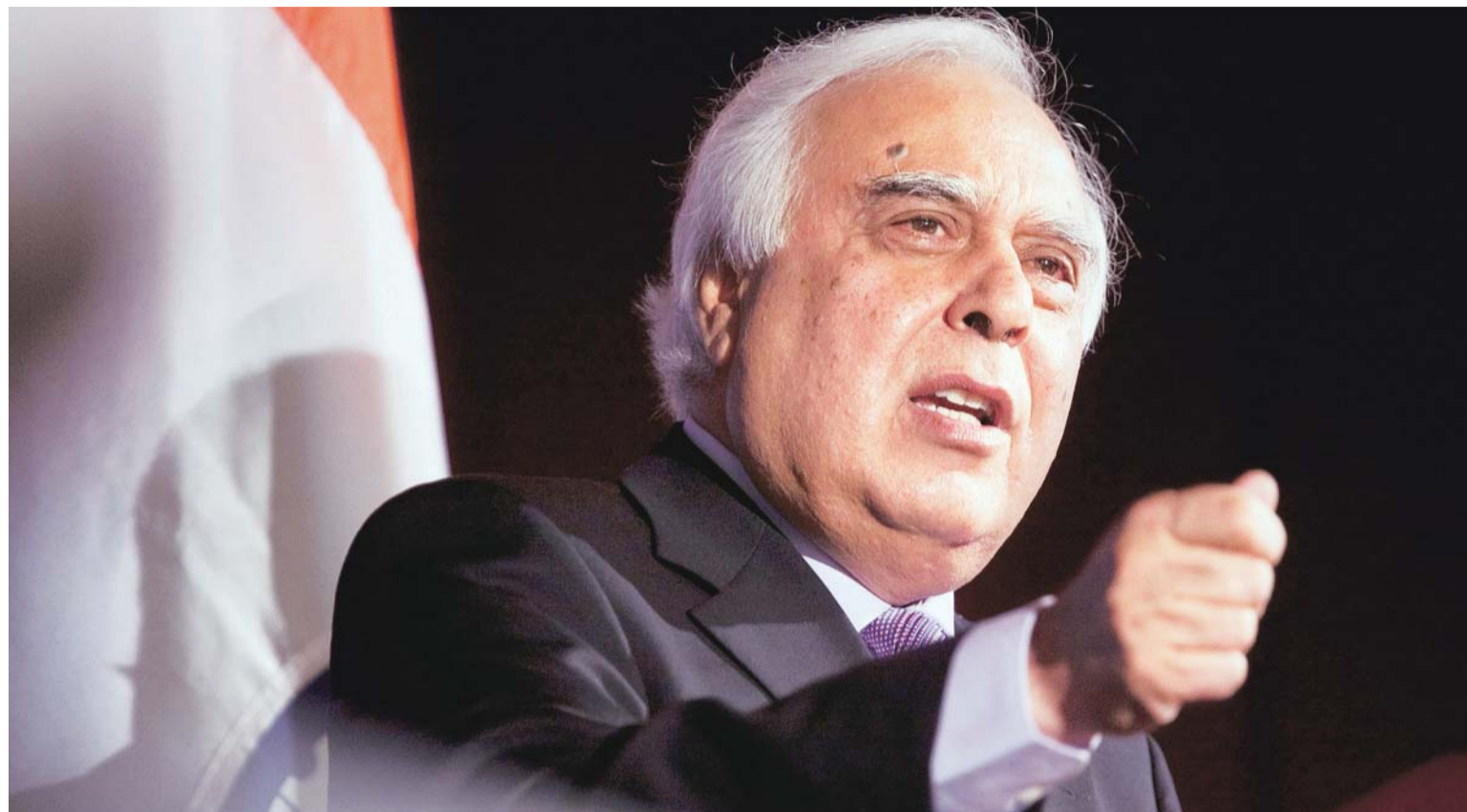


SIBAL'S REPORT CARD: A MIXED BAG

Kapil Sibal has been criticised for 3G roaming and number portability fiascoes, amongst others. He says that the criticisms are either misplaced or premature



Telecom Minister Kapil Sibal's defenders say that taking over an embattled ministry after Raja's unceremonious exit would not be an easy proposition for anyone

MANSI TANEJA
New Delhi, 29 November

Kapil Sibal's scorecard after one year as telecom minister is one that undoubtedly evokes sharp responses in certain quarters, but on the whole, does not stand out as being noteworthy in either a positive or negative way. In other words, a decidedly mixed bag. His detractors say that his tenure has seen a virtual policy paralysis—he could not cancel licenses of erring operators despite the recommendations of the regulator for not having met their roll out obligations, was unable to get more spectrum (5 MHz) slot vacated for another broadband wireless access (BWA) license, or finalise the pricing policy for excess 2G spectrum.

However, those who are more sympathetic towards Sibal say that following on the heels of the A Raja 2G scam hasn't been easy—he had no choice but to tread cautiously. KPMG Head of Telecom practice Romal Shetty said, "He (Sibal) took

the charge of the telecom ministry at a very difficult time when the sector was mired in controversies, investigations. Besides, the revenues of telecom operators were on decline; new players were impacted by bad financial position." Despite this, he has been able to bring the telecom operators and other stakeholders together to generate a new draft of a telecom policy which could be the harbinger of the next telecom revolution in the country.

Then, there's 3G mobile services and mobile number portability, launched under the aegis of Sibal but not having met their roll out obligations, was unable to get more spectrum (5 MHz) slot vacated for another broadband wireless access (BWA) license, or finalise the pricing policy for excess 2G spectrum.

100 DAY ACTION PLAN

Immediately after taking the charge, Sibal started the New Year with the announcement of a 100 day action plan, which sought to formulate new tele-

com policy-2011. The plan included having consultations with key stakeholders to evolve a clear and transparent telecom regime covering licensing, spectrum allocation, tariffs/pricing, flexibility within licenses, spectrum sharing, spectrum trading and, merger and acquisitions. "Three elements—reasonable revenue for government, affordable services to users and robust growth of the sector—would be kept in mind while framing the new policy," Sibal had said.

Rounds of meetings were held with the stakeholders and a draft of the NTP-11 was released in October this year, which called for no roaming charges, one nation-one license, pan-India MNP amongst other policy initiatives. Though the proposals in the draft NTP-11 are yet to be implemented, industry feels the proposals are in the right direction and will help the telecom sector going forward. The key, of course, will be the implementation of the proposals, KPMG's Shetty added.

One proposal in the draft—

no roaming charges—is sure to help subscribers but is expected to impact the already declining revenues of the telecom players. According to industry estimates, roaming charges account for 8 per cent of telecom operators. However, Fitch Ratings in a report said that no roaming charges will prove to be a negative for nationally-owned telcos and neutral for smaller telcos, as roaming revenue is much lower for these entities.

NTP-11 also talks about vacation of an additional 300 MHz of spectrum that will be made available by 2017, and another 200 MHz by 2020. "We will ensure adequate availability of spectrum and its allocation in a transparent manner through market-related processes. We will also prepare a roadmap for availability of additional spectrum every five years," Sibal said. DoT has already started discussions with the other ministries including Defence and Information and Broadcasting for vacation of spectrum.

There are a few minor issues that Sibal takes some flak for. The 3G subscriber base, for one, is a paltry 10-15 million. However, Cellular Operators Association of India (COAI) Director General Rajan Mathews says, "The issue with 3G services is more of availability of smartphones at a cheaper or affordable price point. The data services are expected to grow significantly in the coming time." MNP, too, hasn't exactly caught on fire. Mathews says that the Indian mobile market is more of a prepaid market, where people have multiple SIMs and they change numbers frequently for low tariffs.

FAILURES OF POLICY?

The most scathing critique of Sibal, however, is levied by Rajya Sabha MP Rajeev Chandrasekhar who shot off a letter to Prime Minister Manmohan Singh on the dismal performance of telecom sector under the tenure of Sibal. In the letter, Chandrasekhar says "various reports by TRAI/DoT and other news reports show that policy and decision-making failure have led to an increase in mobile tariffs, slowdown of the rate at which teledensity and networks were expected to be rolled out, market failure—with new entrants proving to be ineffective as competitive forces and failure to meet broadband targets at a broad level."

An independent analysis of the industry parameters in investments shows decline in FDI in the telecom sector. According to a PWC report, the FDI in telecom sector has come down to \$1,665 million in FY 2011 from \$2,554 million in FY 2010 and \$2558 million in FY 2009.

Till now, the new players have been able to make any significant impact in the telecom market. The Average Revenue per User (ARPU) of all GSM operators combined was Rs 118. This means the ARPU of Uninor (Rs 39), the best performer among the four, was one-third the industry average. Videocon's ARPU of Rs 8.50 was one-thirteenth the industry average. Experts say such low ARPU does not even cover the cost of acquiring a customer, which is Rs 300-400. All of these new entrants are under huge financial strain with low subscriber base and minimal market share. Some of the new ones have already asked for a way out to exit the sector.

PESKY CALLS

Another important milestone during the Sibal's tenure was the guidelines for curbing pesky calls and messages that were put in place on September 27, this year by telecom regulator TRAI as the earlier systems of Do Not Call Registry did not meet much success. According to experts, telemarketers have started sending messages from servers located in Africa and other regions, which will not come under the purview of TRAI. TRAI has received about 2500 complaints in a span of one month since the guidelines were put in place.

Here again, Rajeev Chandrasekhar says that the government decisions to introduce 'Do Not Disturb' (DND) and MNP proved entirely ineffective, with pesky SMSs and unsolicited commercial calls continuing till date on one hand and merely 2 per cent of the subscriber population making requests for porting numbers. Sibal's ministry had issued showcause notices to about 122 licensees on failure to meet rollout conditions and ineligibility, as recommended by telecom regulator TRAI. DoT had received all the replies but is now waiting for a legal opinion before taking a final decision.

Another damaging controversy: 3G roaming agreements between Bharti Airtel, Vodafone Essar, Idea Cellular and

Tata Teleservices and Aircel offering 3G mobile services in circles where they did not win 3G spectrum in the auction held in 2010.

3G ROAMING FIASCO

The department of telecommunications (DoT) units had said that a UASL (unified access service license) licensee cannot offer 3G services and declare a tariff plan or acquire customers in a circle where they have not been allocated 3G spectrum. It had said that the 3G roaming agreements entered between these three companies tantamount to becoming mobile virtual network operators (MVNO), which is not allowed under the current policy.

DoT Secretary R Chandrasekhar (not to be confused with MP Rajeev Chandrasekhar) told *Business Standard*. "The matter (the issue of 3G roaming agreements) is still being examined. There are 3-4 things which are being looked at. One is notice inviting applications (NIA) and the subsequent clarifications—all of this has to be read as a part of the contract that was entered into, second is license conditions—telecom is a regulated sector, third is the legal aspect of all these issues and lastly the financial implication for the government in terms of revenue."

Even TRAI clearly stated that after studying the issue (3G roaming) on legal, economic and technical grounds, it has prima facie come to the conclusion that such an arrangement is a "violation of the terms and conditions of the license." TRAI also opined that the action of the operators could have serious financial implications for the Government. That is because operators could provide 3G services in circles where they have not paid for spectrum. State-run telecom firm BSNL had also taken a strong objection to the 3G roaming agreement saying that such agreements will make BSNL's

Q&A WITH TELECOM MINISTER KAPIL SIBAL

Here are edited excerpts of Sibal's response to some of the criticisms levied against the telecom minister's first year in office

■ On Major Achievements in his first year

After I joined the ministry, the entire process of policy making has been revamped. From a closed door approach we have adopted an open, participatory and democratic approach where all stakeholders are consulted at various levels and at various times.

We have released a National Optical Fibre Network (NOFN) plan to connect all gram panchayat headquarters with 2 Mbps broadband connectivity.

National Postal Policy 2012 will be formulated by May 2012 by consulting stakeholders.

Another significant achievement is the introduction of MNP in the telecom sector.

■ On Rajeev Chandrasekhar's criticisms that 'Do Not Disturb' and MNP are ineffective

You will agree that there has been a drastic reduction in pesky calls after announcement of new policy. TRAI is working on the issue and I hope that in due course of time this also shall be taken care of.

The number of users opting for MNP is entirely dependent on market dynamics and competition. One of the major objectives of MNP is to put the service providers on their toes to improve their quality of service. Therefore, it is natural that the service providers will try to retain their customers. Thus, a number of customers opting for MNP is not an indication of its effectiveness or ineffectiveness.

■ On 3G Roaming Violations

Examination of the 3G roaming issue is in final stages. You will come to know of the final decision and action thereupon in due course.

■ On the new NTP Draft not giving an indication on how spectrum will be made available

The draft NTP lays down the vision for the next ten years or so. Secondly, you are also aware that the spectrum in question is held mostly by government agencies. We are in dialogue with the concerned agencies. Since vacation of spectrum requires the user agency to shift to alternate media, it is a time consuming exercise. However, through continuous dialogue with the agencies concerned, we hope to work out a possible time frame in due course.

Some of the spectrum will also become available as a result of rearming from the telecom service providers when their licenses become due for renewal from the year 2014 onwards.

■ On finding another 5 MHz for 3G auction this financial year as was stipulated earlier:

Release of 5 MHz spectrum is not expected from the defence this year

3G business unviable.

However, the operators claim that such a provision is allowed under the license conditions and was written specifically in the notice inviting ap-

plications (NIA) document for 3G auction. A final decision is still pending on the matter, as in whether the agreements are legal or in violation of the license conditions.

POST OFFER PUBLIC ANNOUNCEMENT TO THE EQUITY SHAREHOLDERS OF

HARI OM TRADES & AGENCIES LIMITED (HOTL)

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Tel: (02431) 251453/251659 /251165 Fax: (02431) 251879, E mail: corporate@hsteels.com

The following announcement is made by Fedex Securities Ltd., Managers to the Offer, in compliance with SEBI (Substantial Acquisition of Shares and Takeover Regulations) 1997 and subsequent amendments thereto, furnishing the details subsequent to the Public Announcement (PA) made on Wednesday, July 27, 2011, Corrigendum to PA on Wednesday, October 19, 2011 and closure of Open Offer to the Shareholders of HOTL.

Details of Acquisition		Proposed in Letter of Offer	Actuals
1	Name of the Target Company	Hari Om Trades & Agencies Limited	
2	Name of the Acquirers, including PACs, if any	Main Acquirers Delma Investments LLC Smt. Ushadevi Pathiyil Person Acting in Concert for this Offer (PAC) None	
3	Name of the Manager to the Offer	Fedex Securities Ltd.	
4	Name of the Registrar to the Offer	Bigshare Services Pvt. Ltd	
5	Date of Opening of the Offer	Friday, October 28, 2011	
6	Date of Closure of the Offer	Wednesday, November 16, 2011	
a	Offer Price	Rs.200/- Partly Paid Up	Rs.200/- N.A.
b	Shareholding of Acquirers prior to Public Announcement (PA) (The % shown are as on date of PA)	0(0.00%)	0(0.00%)
c	Shares being acquired by Acquirers through Share Purchase Agreement (The % shown are as on date of PA)	1,84,450 (74.08%)	1,84,450 (74.08%)
d	Shares acquired in the Open Offer	49,800 (20%)	550(0.22%)
e	Size of open Offer (No of Shares X Offer price)	Rs.99,60,000/-	Rs.1,10,000/-
f	Shares if any acquired after PA (excluding Shares allotted upon exercise of Warrants as given under 'e' above) but 7 working days prior to closure of Offer		NIL
g	Post Offer Shareholding of Acquirers Fully Paid	2,34,250 (94.08%)	1,85,000 (74.297%)
h	Pre and Post offer Shareholding of Public Fully paid Shares	Pre Offer 64,550 (25.92%)	Post Offer 14,750 (5.92%) Pre Offer 64,550 (25.92%) Post Offer 64,000 (25.703%)
8.	Date of despatch of consideration and delay if any.	Completed on Monday, November 28, 2011. No delay. No interest is due and payable	
9	Position of Escrow Account	Rs. 1,15,000/- being less than 90% of the amount deposited in Escrow Account transferred to Special Account on 21-11-2011, towards payment of consideration. Balance retained with lien in favor of Manager to the Offer and will be released shortly.	

SIBAL'S SCORECARD

Month	Additions (mn)	Wireless base (mn)	MNP* requests (mn)	Additions in Broadband (mn)*	Wireless TD (%)	Rural TD (%)
Dec '10	22.62	752.19	NA	0.21	63.22	30.10
Jan '11	18.99	771.18	NA	0.29	64.74	31.05
Feb '11	20.20	791.38	NA	0.26	66.36	31.90
Mar '11	20.21	811.59	2.59	0.40	67.98	32.75
Apr '11	15.34	826.93	2.11	0.14	69.19	33.44
May '11	13.35	840.28	2.02	0.11	70.23	34.13
Jun '11	11.42	851.70	2.41	0.20	71.11	34.58
Jul '11	6.67	858.37	2.56	0.18	71.59	34.13
Aug '11	7.34	865.71	2.51	0.19	72.12	35.20

*Source: TRAI, data available till Aug '11

*Mobile number portability

THE YEAR'S HIGHLIGHTS

NOV 25 Mobile Number Portability was launched in Haryana circle

DEC-JAN Launch of 3G mobile services by private mobile players. Till now, there are only 10-15 million 3G users

JAN 100 day plan announced to formulate New Telecom Policy to replace NTP-99. Focus on 3 things—revenue for government, affordable services to users and robust growth of the sector.

JAN 20 Launch of MNP countrywide

MAR/APRIL Bharti Airtel, Vodafone Essar and Idea Cellular enter into 3G roaming agreements to offer 3G mobile services in circles where

they don't hold 3G spectrum. DoT's internal wings has already said that such agreements are violation of license norms but a final decision is still pending.

APRIL Key announcements by Sibal - Delinking of spectrum from license, liberalization of M&A norms with minimum of 6 operators in each circle including BSNL/MTNL. Proposals to be a part of new telecom policy

AUG End of low tariffs era after almost 2 years. Bharti Airtel increases mobile tariffs by upto 20 per cent, other major players such as Vodafone Essar, Idea Cellular and Reliance Communications follow suit.

SEP Launch of 'Do not call' registry to curb pesky calls and messages after a delay of almost a year.

OCT Draft of NTP '11 released. Calls for no roaming charges, pan-India MNP, one nation-one license, Industry comments sought on draft NTP in a month

NOV Time extended till Dec 9 for feedback on the draft. Policy to be ready by early 2012. Trai makes revised recommendations on M&As, mergers for entities with combined market share of 35 per cent allowed, 35-60 per cent on a case-by-case basis, Telecom Commission to take a final view by end of Nov. All approvals expected to come by Dec end