

## **BUZZBY'S BAD NEWS**

Focusing was commenced focusing upon one of the major privatisations undertaken by the present government that is, the privatisation of Sri Lanka Telecom. A 35% equity shareholding of Sri Lanka Telecom has been sold to a strategic partner, chosen by the government, namely Nippon Telegraph and Telephone Corporation [NTT] of Japan. This 35% equity shareholding of Sri Lanka Telecom had been reportedly sold to NTT for a sum of US \$ 225 million [SL Rs. 13,200 million].

Being one of the major privatisations, that too, a public utility in the vitally important telecommunications sector, the issues involved in such privatisation had not been subjected to adequate public disclosure and discourse, as it ought to have been done. On the contrary, in the context of the government's high profile policies pronounced on transparency, why was such a major transaction closeted away from the public glare ? Surely, ought not the sale of such public property and that too, of a public utility, have been disclosed for public discourse, to ensure that national and public interests are well protected ?

### **CSE SHUNNED !**

The previous regime, whose privatisation programme had been severely criticised by the present government, had anyhow put up for sale, on the established trading floor of the Colombo Stock Exchange [CSE], the majority shareholdings of almost all the major state owned enterprises, that were disposed of under such privatisation programme i.e. Asia Hotels Corporation, Trans Asia, Lanka Milk Foods, Sri Lanka Distilleries, Lanka Canaries had been some of them. In fact, in the case of Trans Asia, when the expected price was not realised, it had been withdrawn several times from the trading floor and re-introduced till the price expected, in keeping with professional valuation, had been realised.

Putting up such majority shareholdings for open competitive bidding on the established trading floor of the CSE, made such sale transparent and open and the interested parties had to transparently and openly compete with each other, outbidding and counter bidding each party's bids, whereby the seller, in this instance the government, would get the highest possible price. The question pointedly arises, as to why such established practice and procedure had been abandoned and not been pursued in most cases of privatisations carried out by the present government, moreso importantly, in the case of Sri Lanka Telecom, a public utility? Can any rational explanation be given for abandoning such established practice of open competitive bidding on the established trading floor of the CSE?

Even in such instances, a policy of obtaining professional valuations for such majority shareholdings put up for sale on the CSE had been pursued and such majority shareholdings had been put up with a minimum reserve floor price and could have been sold only at a bid above such minimum reserve floor price, as was seen in the case of Trans Asia Hotel. Ought not such procedure have been followed in the case of Sri Lanka Telecom? Why was such healthy and transparent procedure not pursued? In the public interest, could those of the Public Enterprise Reform Commission [PERC], who carried out such a transaction, explain as to why?

## **PROFESSIONAL VALUATION?**

A cogent and pertinent question that arises, is as to whether, a professional valuation, with knowledgeable and competent expertise, had been carried out of Sri Lanka Telecom, to establish what the valuation would be of a 35% equity shareholding thereof and not a mere traditional asset valuation by the government valuer. There are established norms and standards in carrying out valuations in the telecommunications industry. Ought not such a valuation have been carried out, obtaining such technical expertise, moreso particularly, it having been reported, that the World Bank had provided funding and technical assistance for the privatisation programme carried out by PERC.

If such professional valuation had been carried out, as it ought to have been in such a major privatisation of a public utility, ought not disclosure of such valuation have been made, particularly in this professed era of transparency and accountability?

Would it not have been, only on the basis of such an expert professional valuation and open competitive bidding on the established trading floor of the CSE, that one could have justified the sale of 35% of Sri Lanka Telecom at US \$ 225 million [SL Rs. 13,200 million] - How could one be carried away by the mere value volume of such transaction, simply because it is in the range of US \$ 225 million, in the absence of such pragmatic and rational justification? Would not the exuberance that was exhibited at the time of announcing the conclusion of such sale, only be reflective of inexperience and amateurism?

Furthermore, unlike in the case of competition prevalent in the industry, as was the case with Trans Asia Hotel, Sri Lanka Telecom is said to enjoy monopolistic lines of business. The Shareholders' Agreement between the Secretary to the Treasury, NTT and Sri Lanka Telecom, at Clause 26 stipulates the protected business lines of Sri Lanka Telecom, describing them as "as basic fixed wire line telephony, basic WLL telephony, public telegraph, telex, data transmission, maritime mobile, facsimile, international television, IDS, INMARSAT etc." Would not such monopolistic privileges, with their considerable future potentials, influence to enhance the valuation of Sri Lanka Telecom?

## **TELECOMMUNICATIONS SECTOR**

Would not such stipulation of protected businesses imply monopolistic status without competition ? Furthermore, it is not disclosed, as to how long such monopolistic status of such protected business lines are to be the right and privilege of Sri Lanka Telecom. Given the macro concept and strategies of privatisation and consequent competition in the telecommunications sector, would this not be a cogent and relevant issue? Ought not such macro policy framework and strategy for the restructuring of the telecommunications sector have been designed in the first instance and subjected to public disclosure and discourse? Ought not the privatisation of Sri Lanka Telecom have been carried out in the background of such macro policy framework for the restructuring of the telecommunications sector or on the other hand, is it the decided strategy, that Sri Lanka Telecom will continue to indefinitely have protected monopolistic business lines?

Would not the objective of the privatisation of the telecommunications sector be not only to improve its productivity and efficiency, but also to achieve the objective of providing the consumer public a variety of diverse services, at the lowest possible prices, giving the consumer public alternative services to choose from.

Having now sold 35% shareholding of Sri Lanka Telecom to the Japanese giant NTT, with stipulation of several protected business lines of Sri Lanka Telecom in the Shareholders' Agreement, how could the country at a future point of time, move away from such monopolistic operations, towards a healthy free market-oriented competitive environment? Has such broad objective of economic restructuring been overlooked and/or abandoned in haste, to merely sell shareholdings in a state owned enterprise to desperately raise money to meet financial requirements of the government or to reduce debt levels as dictated upon, which otherwise could not be met by the generation of income? Is this privatisation in its real sense, or the mere sale of public assets to realise cash?

### **CAPITAL MARKET GROWTH**

Another fundamental and macro issue would be the development of the capital market, more pointedly, the strengthening and development of the CSE, not only to merely create a greater level of activity, but also to enhance the market capitalisation at this stage of its nascent growth and provide a broader spectrum of scripts, which will develop a greater interest and activity. In such context, moreso pertinently, with the pronounced commitment of the government to develop such capital market, ought not the process of privatisation have been a major factor augmenting the growth of the capital market?

The fundamental question that comes into focus, is as to why the major privatisations have been kept away from being put up for open competitive bidding on the established trading floor of the CSE. Can those who were responsible for carrying out such privatisations, give any rational explanation for not doing so. This has resulted in disastrous results of not obtaining the highest prices for majority shareholdings of state owned enterprises sold outside the trading floor of the CSE, such as in the case of the plantation companies, whose majority shareholdings could easily have been and ought to have been put up for open competitive bidding on the established trading floor of the CSE. Even if an option of first refusal was to have been made available to the plantation management companies, should it not have been at the highest bid price on an open competitive bid on the CSE? On the contrary, in this professed era of public accountability, no one has been held accountable and responsible for the disastrous losses caused to the country's exchequer, as a consequence of such irrational and unexplainable actions.

Ironically, on the other hand, the CSE activity and indices have steeply plunged since the government assumed office. Desperate and puerile strategies like the formation of the Plantation Investment & Management Co. Ltd., funded by government institutions, to bid against the private sector, smacks of amateurism and in essence operates against the very fundamentals of regulating the functioning of a free market mechanism, devoid of market manipulations. Had the majority shareholdings in major state owned enterprises privatised been put up for open competitive bidding on the established trading floor of the CSE, would it not have attracted greater interest, both local and foreign, creating greater propensity and activity and propelled the active promotion by the developing brokering houses to market such shareholdings. Ironically, on the contrary, how to quick start the CSE activity has been an issue pondered upon!

## **PRICE - KEY ISSUE**

One of the key issues in the privatisation of a public utility is the tariff - since it directly affects the consumer public. Privatisation of a public utility does not and could not absolve a government of its responsibility to provide the consumer public the services of such public utility, at requisite levels of service and at the cheapest possible prices, that would be acceptable to the consumer public. That is and always will be the responsibility of a government.

Mishandling of this all important fundamental basic issue in the privatisation of Colombo Gas led to unilateral price increases on the basis of pre-fixed percentages, resulting in an outbreak of public hue and cry and the privatisation deal being examined by the Attorney General after the event. For what purpose? Even PERC, who had carried out such privatisation, providing for such price increases, was so confused to question as to how?

Clause 18 of the Shareholders' Agreement between the Secretary to the Treasury, NTT and Sri Lanka Telecom stipulates that Sri Lanka Telecom shall have a monopoly on international services for 5-years, and thereafter, there would be no issue of international licenses, which results in unfair discrimination of Sri Lanka Telecom whatever this statement means !

## **MINIMUM PRICE INCREASES**



**Samaraweera: Why hidden price increase?**

What is more pertinently significant in such Clause, is that the government has guaranteed, that Sri Lanka Telecom's tariffs for telecommunication services would be annually increased and that such increases would be at a guaranteed minimum increase of 25% in the 1st year, 25% in the 2nd year, 20% in the 3rd year, 15% in the 4th year and 15% in the 5th year.

Such stipulation is startlingly shocking and would tantamount to the usurping and pre-empting of the effective functioning of the telecommunications regulatory framework in the future. Would it not be a part and parcel of the statutory duty and obligation of the telecommunications regulator to examine and consider price increases for telecommunication services at future points of time, particularly moreso, given the monopolistic protected status of Sri Lanka Telecom? Ought it not to have been Sri Lanka Telecom's responsibility to have justified future price increases to the regulator to obtain sanction and approval within the regulatory framework, that is so designed in the case of privatisation of a public utility, to protect the consumer public.

With the managerial and technical expertise, the Japanese giant NTT is possessed with, how could they have been incapable of making such professional justification, as prevalent in the international telecommunications industry, to a regulator. On the other hand, would not such pre-determination of such minimum annual price increases, undermine and make meaningless the function and role of the regulator and the regulatory framework?

Pointedly, it is not known, whether such minimum annual price increases to the consumer public of 25%, 25%, 20%, 15% and 15% are related to and based upon the current prices, or whether such annual price increases are to be on a compounding or cascading basis? If such annual price increases are all based upon and related to current price levels, then the minimum price to the consumer ought to go up as follows;

1st year	125%
2nd year	150%
3rd year	170%
4th year	185%
5th year	200%

On the other hand, if such minimum annual price increases, in the absence of proper pragmatic definition and clear understanding, would be interpreted to be on a compounding and cascading basis, then the minimum price increases to the consumer public would be as follows;

1st year	125.0%
2nd year	156.2%
3rd year	187.5%
4th year	215.6%
5th year	247.9%

This no doubt makes a material difference and would be of significance to the consumer public. Ofcourse, with such annual price increases, the greater would be the earnings of the Japanese giant NTT, particularly on its management fees, which are based upon a percentage of the revenue of Sri Lanka Telecom.

## **PUBLIC DISCLOSURE**

The confusion and controversy of annual/12 calendar month period for a similar 10% fixed price increase provided for in the privatisation of Colombo Gas is a cogent case in issue. Ought not the consumer public be entitled to know, as to what they are really in for ? Would not public disclosure and discourse, as is generally internationally prevalent in such major public utility privatisations, been a safeguard to ensure that such privatisations are carried out devoid of pitfalls and debacles,

as had been witnessed in several privatisations, in the absence of such public disclosure and discourses; that too notwithstanding that it is public property that is being so disposed of and in some instances, in addition, a public utility that provides services to such very public.

On the contrary, one could only deduce, that there is some reluctance to make such public disclosure and to have such public discourse, in that, the minimum tariff increases for the 1st two years of 25% p.a., given as 1998 and 1999, is stipulated to be increased in the case of domestic call charges, by effecting a reduction of the number of seconds per unit. In other words, the price per unit is to be kept constant, but the volume of time per unit being proportionately decreased, to effect such cognisable 25% p.a. price increases. Why such hidden mechanism ? Ought not the consumer public be transparently informed, that the telephone service charges are to be increased in the immediate 2 years by a minimum of 25% p.a. ?

In pre-determining such minimum annual price increases, ought not pragmatic and realistic operational cost modules have been formulated and projected, as a pre-requisite in the first instance, to justify such steep annual price increases ? Ought this not only have been done, but also made available and subjected to review and stipulations, in conformity with the regulatory framework by the regulator, whose responsibility and function it would be, to consider such annual price increases ?

On the contrary, the Management Agreement between the Japanese giant NTT and Sri Lanka Telecom at Clause 3 provides that NTT shall prepare and submit to the Board of Directors of Sri Lanka Telecom - a) an interim abridged business plan for 1997, as soon as practicable - b) annual business plan for each financial year thereafter, three months prior to the first day of such financial year. The annual business plan is stipulated to include projected network expansion, income statement, balance sheet, statement on expected expenditure and the projected staff and related expenses.

In the absence of such projected committed business plan, how were the minimum annual price increases of 25%, 25%, 20%, 15%, and 15% determined, justified and agreed upon ? The public not only ought to know, but legitimately have a right to know.

*- Published in The Sunday Leader on 16.11.1997 by Nihal Sri Ameresekere under the pseudonym 'Bismark'*