TELECOM CUTS LINE ON LOCALS

Privatisation of the telecommunications sector is generally carried out internationally by formulating, in the first instance, an overall privatisation plan and appropriate strategies for the entire telecommunications sector, which comprises of several channels/mediums of communications, that are rapidly developing technologically in the contemporary world today.

An overall policy framework, with defined strategies for the entire telecommunications sector, including the feature of competition to be encouraged amongst carriers in the different channels/mediums of telecommunications, is a pre-requisite prior to embarking upon a programme of privatisation of the telecommunications sector.

POLICY FRAMEWORK & STRATEGIES?

It is within such a well defined policy framework and defined strategies for the telecommunications sector, that the privatisation of existing carriers and the licensing of new carriers to enter into the telecommunications sector, ought to have been embarked upon, to create free and open competition in the various types of telecommunication services, such as telephone, facsimile, data communication, etc. The objective of such policy framework would be, to facilitate alternative choices of services, at the cheapest possible prices, to the consumer public.

The question of permitting a single telecommunications carrier, with protected lines of business and/or a monopolistic status is an important integral issue, that ought to have been considered in the context of the overall policy framework and defined strategies for the entire telecommunications sector. The question arises, as to whether, an overall policy framework and defined strategies for the growth and development of the entire telecommunications sector had been formulated and finalised, prior to embarking upon the privatisation of Sri Lanka Telecom, that too with protected business lines and/or a monopolistic status being afforded to Sri Lanka Telecom, even after privatisation.

In the context of such protected business lines and/or a monopolistic status afforded to Sri Lanka Telecom, the question naturally arises, as to whether such an overall policy framework and defined strategies for the growth and development of the entire telecommunications sector, had in fact been formulated and if so, what it is and how is it, that Sri Lanka Telecom is being given and has been assured of protected business lines and/or a monopolistic status? Would this not be a patent contradiction to the policy of free and open competition, which would provide alternative choices to the consumer public of several competitive carriers, affording the consumer public a selection of choices at the cheapest possible prices?

Public disclosure of such overall policy framework and defined strategies for the telecommunications sector, a vital sector for the process of national development, ought to have been to made known publicly, so that private enterprise can transparently seek to provide telecommunication services, on a free and open competitive basis, characteristic of the true functioning of a market economy, for the ultimate benefit of the consumer public and the growth and development of the telecommunications sector.

The telecommunications sector, being a vital sector for the growth of the national economy, ought not such an overall policy framework and defined strategies have been pre-formulated and made known publicly, to disclose as to how this vital telecommunications sector is designed to grow and to be developed, to take this country into the next millennium and to the future era of communications. Telecommunications has come to play a vitally important role and is evolving as a new dimension in contemporary society of today.

IMPEDIMENT TO DEVELOPMENT?

Given this scenario, one begins to wonder, as to how the privatisation of Sri Lanka Telecom had been embarked upon and as to how and why protected lines of business and/or a monopolistic status had been afforded to the privatised Sri Lanka Telecom?

Is such privatisation with such monopolistic commitment, an integral part of a well thought out policy framework and defined strategies for the rapidly growing and technologically developing telecommunications sector or on the contrary is it an adhoc approach, of a mere hasty sale or privatisation of a very valuable state owned enterprise, to raise funds to replenish state coffers, whether to meet expenditure or to retire public debt?

Given such fait accompli situation, would not the desire and need to free from the shackles, as it were, of a control economy and to open up the telecommunications sector, to facilitate a multiplicity of competitive carriers in the immediate future, be stifled and stultified, by the monopolistic status and protected business lines already committed and afforded to Sri Lanka Telecom ? Would this not be an impediment to progress, development and growth of the telecommunications sector?

An integral feature of an overall policy framework and defined strategies for the growth and development of the telecommunications sector would be a well designed and formulated regulatory framework of laws, rules and regulations and the effectuation of same through the functioning of an effective regulator.

Ordinarily and normally such regulatory framework would be formulated, in the context of such overall policy framework and defined strategies for the entire telecommunications sector, to ensure the effective functioning of several carriers, providing competitive services in the growing technological complexities of several channels/mediums of telecommunications, for the ultimate benefit of the consumer public and thereby facilitating national economic development and growth through a vibrant telecommunications sector.

QUESTIONABLE TARIFF REVISIONS?

Not only has the privatised Sri Lanka Telecom been assured of monopolistic status with protected business lines, but also startlingly, guarantees and commitments have been afforded, that there would be annual minimum upward tariff revisions, stipulating that such annual upward tariff revisions would not be less than a minimum of 25%, 25%, 20%, 15% and 15%, respectively, for the ensuing 5-years commencing from 1998, itself.

As to how such future annual minimum upward tariff revisions, amounting to such considerable proportions were determined, justified and committed is a cogent issue of public interest. Ought not the operational cost models and revenue levels on defined parameters, in relation to a fair and reasonable return on capital investment, have been formulated in the first instance for the ensuing years, to reckon such minimum annual upward tariff revisions and thereafter, to be monitored in actual operational performance by the regulator, to justify such tariff revisions ?

Ordinarily and normally, negotiations, if at all, would have stipulated, a maximum barrier, within which such telecommunications tariffs ought to be contained. Nevertheless, in this remarkably unique instance, the stipulation is that such future annual tariff revisions would be greater than stipulated annual minimum barriers. Quite clearly, such stipulation has to be interpreted necessarily to be in the interest of the carrier, Sri Lanka Telecom and that of its strategic partner Nippon Telegraph & Telephone Corporation [NTT], who has acquired a 35% shareholding thereof, with the exclusive right of management. This obviously could not be in the interest of the consumer public, for whose benefit and in whose interest privatisation normally is carried out.

The Shareholders Agreement between the Secretary to the Treasury, NTT and Sri Lanka Telecom at Clause 13 has provided, that after a period of 5-years, the Government of Sri Lanka could sell its shareholdings, without any restriction of holding a minimum of 51% shareholding of Sri Lanka Telecom and significantly, the first option to purchase such Government shareholdings has been given to NTT.

Such minimum stipulations of upward tariff revisions reveal, that within a span of 5-years, the telecommunications tariffs will increase in excess of 200% to 250% from the current levels, depending on how one interprets the stipulated annual upward minimum tariff revisions - that is, as to whether such annual upward tariff revisions are on a compounding or cascading basis or otherwise ? As to whether this would also end up as a controversy, as in the case of Colombo Gas, to be referred to the Attorney General after the event, is left to posterity !

TARIFF REGULATIONS?

Telecommunications Minister Mangala Samaraweera — why such warm treatment of SLT and NTT?

One of the key features in the functioning of a regulatory framework, in any public utility sector, that is being privatised, is the regulation of the price of such public utility service to the consumer public - in this instance telecommunication services. By stipulating such minimum annual price increases, would not the effectiveness of such regulatory framework be undermined and made meaningless and the consumer public interest compromised?

Would not the proper and correct process ought to have been, that the future telecommunications tariffs be determined, by the regulator on the basis of a defined regulatory framework and appropriately defined parameters? Is this not what is happening in Japan and globally elsewhere?

It would be quite interesting and revealing to know, as to whether, at the time NTT was privatised in Japan, such similar annual minimum upward tariff revisions had been guaranteed by the Japanese government to NTT? If not, why was such condition insisted upon and imposed in Sri Lanka? Why had this country to compromise and acquiesce thereto?

Similarly, was NTT after privatisation, afforded a monopolistic status and/or protected business lines by the Japanese government? On the other hand, was not healthy competition encouraged and permitted, to develop the telecommunications sector, to what it is today in Japan? If the answer is yes, why then was such monopolistic status and/or protected business lines insisted upon in Sri Lanka? Would this not stand to stifle and stultify the vibrant growth of the telecommunications sector of this country?

Private sector ownership of monopolistic public utilities necessitates a strong and effective regulatory role by government, to protect and safeguard the interests of the consumer public, moreso particularly, since it is a captive domestic market. Regulation of prices/tariffs would relate to the fair and equitable return on the capital investment and the reasonably allowable operational costs for the provision of such public utility services. This is inevitably necessary, particularly in the absence of vibrant competition.

SECURITY CONCERNS?

The cogent question that arises is, as to what extent had those, who embarked upon the privatisation of the Sri Lanka Telecom, examined the policy frameworks and strategies adopted in the privatisation of the telecommunications sector in other countries?

A relevant issue that ought to have been considered in formulating the policy framework and defining strategies for privatisation is the differentiation between international and domestic telecommunications market segments, which several countries, have differentiated and separately dealt with under their respective privatisation programmes. Had those, who embarked upon the privatisation of the telecommunications sector, made conscious and deliberated strategy decisions in this regard or is it that, such issue had been left to ride, as it were, without any such conscious deliberation and defined strategy ?

Another very cogent and pertinent issue in the process of privatisation of the telecommunications sector is the very sensitive issue of communications in relation to national security and intelligence, and the utmost and strictest confidentiality and secrecy essential in such regard. This is particularly moreso crucially important in the currently prevalent situation of serious terrorist activities, that has gripped this country, and the ongoing counter-offensives and strategies that are being carried out by the valiant armed forces. What foolproof precautions and safeguards have been taken and provided for, by those who have embarked upon the privatisation of the telecommunications sector to protect the national interests ? Has this issue of grave national importance been given due consideration, as it ought to have been ?

PROFIT EXPLOITATION ?

The marked upward revisions of the telecommunications tariffs for the years 1998, 1999, 2000, 2001, 2002 and 2003, at minimum annual upward tariff revisions of 25%, 25%, 20%, 15% and 15% respectively, would obviously remarkably enhance the annual cashflow and profitability projections of Sri Lanka Telecom during these ensuing years. Accordingly, the commercial or business valuation of Sri Lanka Telecom, that would have been reckoned, on the basis of the net present value of the future cashflow and profitability projections of Sri Lanka Telecom, would consequently be enhanced appreciably, by such marked annual upward tariff revisions of the future telecommunications tariffs.

Furthermore, in such context, would not such factor have been a very relevant and cogent issue in negotiating the valuation to have been placed on a 35% shareholding of Sri Lanka Telecom, that was sold to NTT. Was such factor taken into account in reckoning the valuation of such shareholding ? Or was it that, such selling price negotiations were based on a share valuation of Sri Lanka Telecom, on a net present value of cashflow and profitability projections, prior to having imputed such marked annual minimum upward tariff revisions, that would have enhanced the cashflow and profitability projections and consequently, would have made a very cognisable and considerable enhancement on the such share valuation of Sri Lanka Telecom, based upon the net present value of such projected enhanced cashflow and profitability projections ?

The annual minimum upward tariff revisions of 25%, 25%, 20%,15% and 15% respectively, for the ensuing 5-years, would no doubt, have a very cognisable impact on the increase of profitability. For instance, as an example, if the current revenue is 100 and the profit after operational costs is 20, then a 25% increase in the revenue, would give a revenue of 125 and a profit after operational costs of 45, without making provision for incremental operational costs - an increase in profitability around 100%. This demonstrates the consequential impact on profitability by the upward revisions of the telecommunications tariffs. It also pointedly draws attention to the need to define reasonably allowable operational costs to be permitted by a regulator in determining tariff revisions.

IS IT A PROPER DEAL ?

On the other hand, ought not such government's agreement, to appreciably increase the annual telecommunications tariffs by such marked minimum percentages have been pre-defined and publicly made known, at the time offers for proposals to acquire 35% shareholding in Sri Lanka Telecom was in fact called for? Would not the announcement of such cognisable pricing policy of upward revision of telecommunications tariffs, have encouraged many others to have participated in the bid for privatisation, creating far greater competition and the consequential potential of a better deal for this country? Why was such pricing policy not publicly made known previously?

Would it mean, that having called for offers, that stipulations and specifications could be materially changed by negotiations through private treaty for the beneficial interests of a party making an offer? Ought this not have been transparently carried out in an equitable manner, providing a level playing field at the time of calling for offers, to have had free and fair competition amongst all parties on a basis with full disclosure ?

In terms of norms of proper procedure, moreso particularly in dealing with public property, after having called for offers, would it have been right and proper, to subsequently have had private negotiations with one party, to agree to such cognisable upward revisions of the telecommunications tariffs by such marked minimum annual percentages, thereby appreciably enhancing the profitability and consequently, the share valuation of such enterprise, in this instance, Sri Lanka Telecom ? This too has been in the context of protected business lines and/or an assured monopolistic status, which by itself guarantees the enhancement of future profits by such upward tariff revisions, thereby having a direct impact on the return of the investment made by NTT.

Significantly, NTT has also been afforded the first option to purchase the balance Government shareholdings. What does the future hold for the consumer public of this country on the telecommunications tariffs and what right and protection would they have ?

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