

F.No.2-2/2004-CN

Date: 3rd November, 2005

To,

Secretary,
Department of Telecommunications,
Ministry of Communication & IT
Sanchar Bhawan
Ashoka Road
New Delhi – 110 001.

Sub : Broadband Policy 2004 - targets and achievement

Dear Sir,

Government issued the Broadband Policy in October, 2004 wherein targets upto year ending 2010 for internet and broadband subscribers were set. For the year ending 2005, 3 million subscribers base for Broadband was to be achieved by all the service providers together, out of which 1.5 million was to be done by the PSU Operators (BSNL, MTNL). In the Broadband Policy there is a provision for quarterly review of performance of PSU Operators by the DOT to review their achievement and redefine future roadmap, if necessary.

2. As per the progress reports submitted by the various service providers, subscribers base of 0.61 million only for Broadband have been achieved, out of which 0.26 million belongs to PSU and 0.35 million to the private service providers together. From this it can be seen that the actual achievement by various operators together is much below the policy target of 3.0 million for December, 2005.

3. While recommending for Broadband Policy, TRAI had made many significant recommendations, few critical ones out of which were not accepted which are mentioned below:-

- i) Recommendations pertaining to Local Loop Unbundling (Para 3.4.2.13 to 3.4.2.22 of TRAI's recommendations)
- ii) Other Fiscal measures like tax concessions for Broadband equipments & services (paras – 5.5.5 to 5.5.9 of TRAI's recommendations)

4. While framing the recommendation for Local Loop Unbundling, TRAI had detailed discussions with the incumbents (BSNL & MTNL) as well as other service providers and considered the best international practices. It was suggested in the recommendations that Local Loop owners should be given an opportunity to decide the areas where they would make their own investments for providing the broadband services and also to decide on the type of unbundling depending on their commercial objectives. Also the local loops which were installed 5 years back only were recommended to be unbundled and those installed in last 5 years were left to be utilized by the owner themselves. It was also suggested that in case the broadband target is not achieved in the first year, review of above specified arrangement should be conducted.

5. It can be observed from the current trend that the incumbents (BSNL & MTNL) are not able to make full utilization of their infrastructure themselves and neither through franchisee option provided to them through Broadband policy. Because of this the existing local loops could not be utilized by incumbents as well as by the private operators.

6. During a meeting with Internet Service Providers during July, 2005, some of the competitive service providers mentioned that it will be difficult to achieve the Broadband Policy targets unless Local Loop Unbundling by incumbents is mandated by Government. Also urgent need for tax incentives for Broadband equipments & services was brought out. TRAI, considering the importance of LLU and Fiscal incentives for the growth of Broadband services had recommended the Unbundling of Local Loop and also providing Fiscal incentives to the service providers.

7. Authority would therefore recommend that Government should conduct a review of the various provisions of broadband policy and should have reconsideration on TRAI's recommendations pertaining to Local Loop unbundling and Fiscal incentives for Broadband (extracts of which are enclosed as **Annex A & B**) This can help owners of the Local Loops to generate extra revenue from Local Loops, whose capacity to carry high speed data is being idled and also the country to meet the targets of Broadband Policy.

With kind regards,

Yours faithfully,

(Rajendra Singh)
Secretary, TRAI

Encl. As above.

**EXTRACT OF TRAI’S RECOMMENDATIONS PERTAINING
TO LOAL LOOP UNBUNDLING**

3.4.2.13 To promote quick growth and create immediate competition in broadband services, nondiscriminatory local loop unbundling (LLU) should be executed in a time bound manner for both Shared Unbundling and Bit Stream Access. The owner of the local loop who is a unified access or basic services access provider (LL Operator) will have the opportunity to decide in which exchanges they want to make the investment to upgrade the infrastructure for their own use as well as for providing Bit Stream Access to access seekers. A list of such exchanges should be specified by the LL Operator for Bit Stream Access, with the expected date by which the facility would be provided. This list should be provided within one month of implementation of the LLU program. This information should be available in the public domain and regularly updated.

3.4.2.14 The Authority will undertake the LLU program in a time bound phased manner, with each phase being 3 months. For those exchanges in which the LL Operators choose not to provide Bit Stream Access (or are unable to provide) in the first phase of the LLU program, LL Operators should be mandated to provide Shared Unbundling and collocation facilities. The Authority will review the implementation during each phase and take action as appropriate to achieve the objectives.

3.4.2.15 The Authority expects that LL Operators would most likely find it easier to focus on extending broadband services through their own efforts or their franchises. The Authority is of the view that for introduction of a competitive stimulus, it is also important to have non-discriminatory access by others to the above-mentioned unbundled local loop of LL Operators. The Authority would monitor the development in this regard, and expects that such opportunities would be provided by LL Operators to steadily increase the

presence of non-franchisee access seekers during each of the phases mentioned above.

3.4.2.16 The Authority appreciates that when operators lay infrastructure for access (local loop), they have a right to get returns on their investment. To ensure that infrastructure expansion continues through fresh investment and based on international experience in this regard, the Authority would like to adopt a balanced approach to LLU. Therefore, the Authority would not insist on unbundling of new infrastructure which is less than five years old.

It is therefore recommended:

3.4.2.17 To continue to promote roll-out of new broadband-capable infrastructure, LLU will be implemented only for lines that are five years old from 2004-2005, the fiscal year of implementation of the LLU program. The same principle shall apply for all installations in the future once they complete five years. Therefore, all installations that were completed before the 1999-2000 fiscal year will be subject to LLU, and at the end of the 2004-2005 fiscal year, lines installed during 1999-2000 will be subject to LLU rules. LL Operators will be required to submit to the Authority within 21 days of the date of issue of these recommendations a complete list of all lines and their associated year of installation into service. This will be used for public reference in implementing the LLU program. In the event that identifying the installation date of lines presents a problem in achieving the goals of the LLU program, the effective date for unbundled lines can be shifted to a later date. These parameters will be revisited in the future as the Authority performs its regular reviews on the progress of achieving the goals of the LLU program.

3.4.2.18 The Authority has specified its targets for broadband penetration in Table 2-2. The Authority is of the opinion that a successful launch of broadband would involve achieving more than one million broadband connections within the first year, with substantially larger additions in the following years.

It is therefore recommended:

3.4.2.19 If the broadband connections achieved in the first year are less than one million, then a review of the above specified arrangement would be conducted to consider other modes of local loop unbundling.

3.4.2.20 The Authority has also kept in view the problems that have arisen in certain countries regarding mandated pricing and access terms.

It is therefore further recommended:

3.4.2.21 The LL Operators are to provide the Authority their proposals on the appropriate conditions and parameters for access and collocation, including price and key performance indicators of service level agreements that will exist between the LL Operators and access seekers. This submission should be provided within 21 days of acceptance of these recommendations, and will be reviewed by the Authority in order to issue the final guidelines governing the details of LLU access and collocation. Additionally, the Authority will issue the details governing the system of allocating exchanges between the two types of local loop unbundling, including the timing for this process. The Authority will also include the terms and processes for converting an exchange declared by the incumbent to be of one type of LLU, but which the incumbent would later like to convert to another type. The issuance of these terms will mark the commencement of the LLU program.

3.4.2.22 The Authority also recommends that franchising arrangements between LL Operators and other parties should continue to be governed under mutual commercial agreements between the parties, as they are today, when the service that will be provided is provided under the brand name of the LL Operator. The Authority will allow levels of pricing for access and collocation in these franchising arrangements to be different from what is mandated for the terms of Shared Unbundling. In this sense, the Authority is not averse to brand name being treated as part of value.

**EXTRACT OF TRAI’S RECOMMENDATIONS PERTAINING
TO FISCAL MEASURES**

5.5.5 ISP’s should be exempted from the payment of service tax, which is 8% of the value of the service provided, for the next 5 years . This exemption will reduce immediately the cost of purchasing such services by 8% to the customer.

5.5.6 The service tax levied on the services that are used by ISP’s in the delivery of their service to internet and broadband customers should also be exempted.

5.5.7 The Government of India should also recommend to all State Governments to waive sales tax on goods and services that are transacted through electronic mode (e-commerce) for the next 5 years up to limits to be prescribed by the Government. This recommendation should be then followed with legislation to ensure execution by the State Governments.

5.5.8 A similar recommendation or legislation should also go from the Government of India to the State Governments to waive Entertainment Tax, currently approximately 30% in certain states, levied on broadband subscriptions and entertainment services, if they are provided through a broadband or internet platform. This recommendation should be then followed with legislation to ensure execution by the State Governments.

5.5.9 All corporations, whether public or private, should be allowed to give a Rs. 6,000 per annum allowance to employees for broadband services access at home. This allowance should be removed from taxable income for the corporation. The same facility should be extended to self-employed professionals so that they may also reap the benefits of broadband services.