

New Delhi, the 30th September, 2000.

OFFICE MEMORANDUM

Subject:- Transfer and assigning of existing and subsisting contracts, agreements and Memoranda of Understanding of the Department of Telecommunications, Department of Telecom. Services and Department of Telecom. Operations to Bharat Sanchar Nigam Limited.

In pursuance of New Telecom Policy 1999, the Government of India has decided to corporatise the service provision functions of Department of Telecommunications (DoT). Accordingly, the undersigned is directed to state that the Government of India has decided to transfer the business of providing telecom services in the country currently run and entrusted with the Department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) as was provided earlier by the Department of Telecommunications to the newly formed Company viz., Bharat Sanchar Nigam Limited (the Company) with effect from 1st October 2000. The Company has been incorporated as a company with limited liability by shares under the Companies Act, 1956 with its registered and corporate office in New Delhi.

2. The Department of Telecom. Services and Department of Telecom. Operations concerned with providing telecom services in the country and maintaining the telecom network/telecom factories were separated and carved out of the Department of Telecommunications as a precursor to corporatisation. It is proposed to transfer the business of providing telecom. services and running the telecom factories to the newly set up Company, viz., Bharat Sanchar Nigam Limited w.e.f. 1st October 2000. The Government has decided to retain the functions of policy formulation, licencing, wireless spectrum management, administrative control of PSUs, standardisation & validation of equipment and R & D etc. These would be responsibility of Department of Telecommunications (DoT) and Telecom Commission.

3. Government of India has decided to transfer all assets and liabilities, (except certain assets which will be retained by Department of Telecommunications required for the units and offices under control of DoT, to be worked out later on), to the Company with effect from 1st October 2000. All the existing contracts, agreements and MoUs entered into by Department of Telecommunications, Department of Telecom Services and the Department of Telecom Operations with various suppliers, contractors, vendors, companies and

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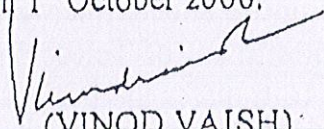
individuals in respect of supply of apparatus and plants, materials, purchase of land and buildings and supply of services, subsisting on date of transfer of business and/or required for operations of the Company and with subscribers of all types of services to be provided by the Company, will also stand transferred and assigned to the Company with effect from 1st October, 2000. The Company will be solely responsible for honouring these contracts, agreements and MoUs for their due performance and in case of disputes to sue and be sued as the successor/assignee under the contract, agreement and MoU.

4. The Company, Bharat Sanchar Nigam Limited will file suitable required appearances/memos in all pending cases before the Courts, Tribunals, Arbitrators, Adjudicators in all matters except issues of licensing; and policymaking which are with the Department of Telecommunications. The Company may get substituted or become an additional party as the case may be, or just conduct the cases as assigns or successor in interest of the Government/Department of Telecommunications, as permissible. This may, in so far practicable, be completed by 31st December 2000.

5. In respect of matters relating to personnel (Government servants) pending before various Administrative Tribunals, High Courts and Supreme Court the Company will defend as assigns or successor in interest as per existing rules till the time employees are on deemed deputation with the Company.

6. Any judgement/order/award delivered by an Authority/Tribunal/Court/Arbitrator in respect of all the matters described there shall be implemented in letter and spirit by the Company, in accordance with rules, regulations, directions and statutes.

7. These instructions will come into force with effect from 1st October 2000.


(VINOD VAISH)

Secretary to the Government of India

To

To

1. The Secretary DoT and Chairman Telecom Commission.
2. The Secretary, DTS.
3. The Secretary, DTO and Member(Prodn.) Telecom Commission.
4. Member(Finance) Telecom Commission.
5. Member(Services) Telecom Commission.
6. Member(Technology), Telecom Commission.
7. Additional Secretary(T) and Secretary Telecom Commission
8. Joint Secretary(T), DoT.

9. Joint Secretary(A), DoT.
10. OSD Corporatisation (DoT) with request to bring it to the notice of the Board of Directors of Bharat Sanchar Nigam Limited.
11. All Chief General Managers of Telecom Circles, Metro Districts, Project Circles, Maintenance Regions, Telecom Stores, Railway Electrification Projects with request to communicate these orders to all units working under their administrative control.
12. All Principal Chief Engineers / Chief Engineers – Civil and Electrical Wings, with request to communicate these orders to all units working under their administrative control.
13. Chief Architects – Chennai, Calcutta and Mumbai, with request to communicate these orders to all units working under their administrative control.
14. All Chief General Managers – Telecom Factories, with request to communicate these orders to all units working under their administrative control.
15. Sr.DDG(TEC)
16. Sr.DDsG- (BW)/(ARCH.)/(ELECT.)
17. Sr.DDG(ML) - with request to communicate these orders to all PSUs working under their administrative control.
18. Sr.DDG(IC & A)
19. Executive Director, C-DOT.
20. Sr.DDG(Vigilance), DoT
20. DDG(Pers.)

Copy to:-

1. PS to Minister of Communications
2. PS to Minister of State for Communications
3. All Advisers, DoT.

Copy also to:-

1. Bharat Sanchar Nigam Limited.

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AGREEMENT FOR TRANSFER

THIS AGREEMENT made on this day of September, 2000 BETWEEN the President of India, (acting through the Secretary to the Government of India, Ministry of Communications, Department of Telecommunications, Government of India), hereinafter called the "VENDOR" (which term shall, wherever the context so admits, mean and include his successors in office) of the ONE PART, AND BHARAT SANCHAR NIGAM LIMITED, a Government Company incorporated under the Companies Act, 1956, having its Registered Office at New Delhi, within the National Capital Territory of Delhi, hereinafter called "BSNL" (which term shall, wherever the context so admits, mean and include its successors and assigns) of the OTHER PART :

W H E R E A S

- A. In pursuance of the New Telecom Policy 1999, the Government of India (hereinafter called "Government") has now decided to corporatise certain services and operations carried on by the Department of Telecommunications (hereinafter called DOT), and pending such corporatisation, recently created two temporary Departments viz. the Department of Telecom Services (hereinafter called "DTS") and Department of Telecom Operations (hereinafter called "DTO") in Ministry of Communications, inter alia, to provide Telecom services and manufacturing facilities, carving out the same from the Department of Telecommunications.
- B. The Government has decided to achieve the corporatisation by forming a Company, wholly owned by the Government of India, incorporated under the Companies Act, 1956, to take over the business of providing telecom services and operations being presently carried on by DTO and DTS.



- C. Accordingly, BSNL has been set up with the objects, inter alia, "Pursuant to an agreement to be entered into with the Union of India, to acquire or to take over the management, control, operations and maintenance of communications network, manufacturing, research and development and other facilities hitherto being undertaken by the Department of Telecom Services and Department of Telecom Operations, Government of India, with all rights, assets and liabilities including contractual rights and obligations and on such terms and conditions as set out in the said agreement."
- D. The VENDOR and BSNL are accordingly entering into this Agreement as hereinafter appearing.

NOW THIS AGREEMENT WITNESSETH AS UNDER:

1. On and from the 1st day of October 2000. (hereinafter referred to as the "Effective Date"), the business of the VENDOR of providing telecom services and telecom network, inter alia, comprising of management, control, operations and maintenance of communications network and services spread all over India, manufacturing, research and development and other facilities, some being also spread all over India, which business (hereinafter also referred to as the "Business"), recently entrusted to, and being currently carried on by, DTO and DTS. shall stand transferred to and vest in BSNL. who has taken over or deemed to have taken over the same, as running concern, subject to the provisions and stipulations of this Agreement.
2. The Business of the VENDOR transferred and taken over as aforesaid shall include the items/matters particularly described in Part-A of Schedule-I hereto but exclude the items/matters described in Part-B of Schedule-I hereto.



3. On and from the Effective Date, but subject always to the provisions of Clause-2 above, all the properties and assets which are identified to be comprised in the Business including the VENDOR's movable and immovable properties, assets, including lease-hold rights, tenancy rights, factory/industrial and other licences, permits, authorisations, quota rights, trade marks, patents and other industrial and intellectual properties, important quotas, telephones, vehicles, telex, facsimile and other communication facilities and equipments rights and benefits of all agreements and all other interests, rights and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages, benefits and approvals, excluding however the properties and assets belonging or pertaining to the DOT and/or the items/matters described in Schedule-I aforesaid.

4. A. All the debts, liabilities, duties and obligations incurred, all contracts entered into, all matters and things engaged to be done by, with or for the VENDOR immediately before the Effective Date relating to or in connection with the Business, particularly including the debts / liabilities particularly described in Schedule-II hereto, shall stand transferred and assigned to BSNL and shall be deemed to have been incurred, entered into, or engaged to be done by, with or for BSNL and be discharged by it and enure to its benefit.

B. As regards the contracts being assigned or transferred hereunder or pursuant hereto (particulars and details whereof are being substantially worked out and will be annexed hereto to form part hereof), it is expressly clarified that the same will include all contracts entered into by DOT, DTS and DTO with various suppliers, contractors, vendors, companies and individuals in respect of supply of apparatus and plants, materials, purchase of land and buildings and supply of services, pertaining to the

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Business and subsisting on the Effective Date including the contracts with subscribers of all types of services to be provided by BSNL. It is expressly declared and agreed that BSNL shall be solely responsible for honouring and performing these contracts and shall be fully liable for any defaults, delay or non-performance thereunder.

5. A. All the staff, workmen and other employees in the service of the VENDOR either (i) directly engaged in the Business being transferred and taken over under or pursuant to this Agreement, or (ii) belonging to common service staff / employees engaged in the work or rendering service in the VENDOR's Business, (excluding however those retained for DOT), shall be transferred to BSNL on the Effective Date on the terms and conditions being worked out and these guidelines and/or orders will be intimated by the VENDOR in due course of time.
- B. Until such time as the guidelines and/or orders as aforesaid are issued the staff, workmen and other employees will be engaged and render service to BSNL in accordance with the guidelines set out in Part-A of Schedule-III hereto.
- C. As regards any dues, pension, gratuity and retirement benefits payable to any staff, workmen or employee, the same will be governed by the guidelines which will be set out in the separate agreement to be entered into between the parties as provided in Part-B of Schedule-III hereto.
- D. BSNL shall be fully responsible for the payment of all salary wages and other dues of the staff, workmen and other employees as provided in A or B above.
- E. BSNL will be at liberty to employ or engage any further staff, workmen and other employees on such terms and conditions as evolved by BSNL.

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(16)

crores to the VENDOR or his nominees). Rs.1500 crores ways and means advance and the balance as a mix of long term debt, free reserves and preference share capital. The accounting treatment of this mix shall be notified later.

8. If any suit, writ petition, revision or other legal proceedings of whatever nature (hereinafter called the "Proceedings") by or against the VENDOR be pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer of Business of the VENDOR under or pursuant to this Agreement or of anything contained in this Agreement, but the Proceedings may be continued, prosecuted and enforced by or against BSNL in the same manner and to the same extent as it would be or might have been continued, prosecuted and enforced by or against the VENDOR as if the agreement had not been made. It is however clearly understood and agreed that in any case, wherever a substitution is not possible, BSNL alone will be responsible for prosecuting or defending any such Proceedings in the name and or on behalf of the VENDOR and or also by joining as additional party / co-plaintiff / co-defendant, as the case may be. It is also understood and agreed that BSNL alone will also be totally responsible for any costs, expenses or any award or decrees or orders made in any such Proceedings. On and from the Effective Date, BSNL may at its own risk, cost and expense also initiate any legal Proceedings as assigns/successor in interest.

9. BSNL shall, on and from the Effective Date be liable to bear, pay and discharge all rents, electricity charges, water charges, municipal taxes and assessments made or to be made hereafter under the Income-Tax Act, Sales Tax Act, levies, demands or arrears of duty of excise under the Central Excise Act and other allied Acts made or that may be made hereafter. All such payments, liabilities, demands or penalties including all taxes, levies, duties, rates & charges, fees etc. the payment whereof has been deferred under the aforesaid statutes or that may be raised or imposed hereafter including employees/workmen's dues,

statutory liabilities under any Act, Rules or Regulations enacted by the State Government or Central Government or local authorities as the case may be in relation to VENDOR's Business being transferred to BSNL as provided hereunder. from the Effective Date shall be borne by BSNL.

- 10. BSNL shall at all times indemnify and keep indemnified VENDOR from and against all claims and demands in respect of any liability as mentioned in clause 9 above and from and against all losses, damages, suits, actions, proceedings and all costs, charges and expenses that may have to be made or incurred or suffered by VENDOR in respect thereof.
- 11. The VENDOR shall be deemed to have handed over to the BSNL, all relevant records, administrative or otherwise, books of accounts, etc. already in its possession, as going concern, as made upon the Effective Date. In case of any differences in accounting policy between the Parties, the impact of the same will be quantified and adjusted in the books of account to ensure that the financial statements of the BSNL reflect the financial position on the basis of consistent accounting policy.
- 12. The parties agree to take all such steps, do all such things and execute all such deeds and writings as may be necessary to give full effect to the provisions of this Agreement. The Vendor shall, in particular, execute all further deeds / transfers/assignments as may be required to fully assure, assign, convey and transfer the Business or any part thereof as herein agreed, unto BSNL.
- 13. All costs, charges and expenses of the VENDOR and the BSNL respectively including stamp duties, registration charges, transfer duties, any other taxes, levies, duties or charges whatsoever in relation to or in connection with the agreement and of carrying out and implementing/completing the terms and provisions of the agreement and/or incidental to the completion of transfer of the

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said undertaking of the VENDOR in pursuance of the agreement shall be borne and paid by the VENDOR.

14. All disputes arising out of this agreement as to the implementation or interpretation of any of the clauses thereof shall as far as possible be resolved mutually between parties hereto. In the absence of mutual resolution, the dispute shall be referred to sole arbitration of a nominee of the Secretary to the Government of India. Department of Telecommunications. Ministry of Communications. whose decision shall be binding on the parties hereto. The venue of the arbitration proceedings shall be at New Delhi.

SCHEDULE - I

Part - A (Description of specific items / areas included in Business)

1. All apparatus and plants, lines and wires, cables, land and buildings and motor vehicles.
2. All matters relating to operations/ providing services (other than policy and licensing matters) in the areas of telephones, wireless, data, facsimile and telemetry and other like forms of telecommunications.
3. Execution of on-going works including purchase and acquisition of land pertaining to the Business.
4. Personnel Administration of the staff, workmen and employees being transferred to BSNL.
5. Procurement of stores and equipment required by BSNL.

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PART - B (Items / matters not included in Business being transferred)

1. C-DOT R&D Society.
2. Telecom Engineering Centre (TEC) - To be reviewed by an expert committee, within three months to determine the division.
3. Sanchar Bhawan, New Delhi
4. Existing Pension Payment Offices to be retained by the Department of Telecommunications.
5. All apparatus and plants, lines and wires, cables, land and buildings and motor vehicles belonging to Wireless Planning and Co-ordination Wing/Wireless Monitoring Organisation.
6. Assets jointly owned /held with Department of Posts. Present arrangements will continue till issue is settled with Deptt. of Posts.
7. Moveable assets of the Head Quarter at Sanchar Bhawan, New Delhi will be divided according to the Scheme to be prepared separately.
8. Any other assets, which in the opinion of the Vendor is not part of the business being transferred under the Agreement.

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SCHEDULE - II

(Debts/ borrowings being expressly transferred by Government of India to BSNL as part of Business)

1. Outstanding liabilities towards repayment of bonds issued by Mahanagar Telephone Nigam Limited on behalf of Department of Telecommunications/DTS/DTO.

SCHEDULE - III

PART - A (Guidelines applicable to staff, workmen, employees, during the interim period).

PART - B (Guidelines regarding dues / pension payable to staff, workmen, employees).

PART - C (Guidelines for dealing with pending proceedings before administrative tribunals/High Court/Supreme Court, relating to staff, workmen, employees).

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IN WITNESS WHEREOF the parties hereto have executed this Agreement in duplicate the day and year First Hereinabove Written.

SIGNED AND DELIVERED BY _____

For and on behalf of The President of India

WITNESS:

1.

2.

The Common Seal of

BHARAT SANCHAR NIGAM LIMITED

Has been hereunto affixed pursuant to the

Resolution passed at the meeting of the

Board of Directors held on _____ in

the presence of Mr. _____

and Mr. _____ Directors of the

Company who have signed these presents in

token thereof in the presence of:

1.

2.

WITNESS:

1.

2.

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MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING ("MOU") made this 30th day of September, 2000 BETWEEN the President of India, [acting through the Secretary to the Government of India, Ministry of Communications, Department of Telecommunications(DoT)], hereinafter called the "VENDOR" (which term shall, wherever the context so admits, mean and include his successors in office and assigns), of the FIRST PART;

AND

BHARAT SANCHAR NIGAM LIMITED, a Company incorporated under the Companies Act, 1956, having its Registered Office at New Delhi, within the National Capital Territory of Delhi, hereinafter called "BSNL" or the "Company" (which term shall, wherever the context so admits, mean and include its successors and assigns), of the SECOND PART.

Recording the understandings reached and agreed between the parties are as under:

1. In pursuance of New Telecom Policy, 1999, the Government of India has decided to corporatise the service provision functions of Department of Telecommunications (DOT). Consequently, Department of Telecom Services and Department of Telecom Operations concerned with providing telecom services in the country and maintaining the telecom network / telecom factories were separated and carved out of the Department of Telecommunications as a precursor to corporatisation. The Company namely Bharat Sanchar Nigam Limited, newly formed for the purpose, will take over the functions of providing telecom services currently with the Deptt. of Telecom Services and the Department of Telecom Operations.
2. The Government of India has decided to retain the functions of policy formulation, licensing, wireless spectrum management, administrative control of PSUs, standardization & validation of interface of networks and R & D etc. These would be responsibility of Department of Telecommunications (DoT).

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The Administrative Department of Government of India for Bharat Sanchar Nigam Limited will be DoT.

3. It is proposed to transfer the business of providing telecom. services and running telecom factories presently with the Department of Telecom. Services and Department of Telecom. Operations and the assets and liabilities of the said business to the newly set up Company, viz., Bharat Sanchar Nigam Limited w.e.f. 1st October, 2000.
4. It is therefore understood and agreed between the parties that on and from the 1st day of October, 2000, (hereinafter also referred to as the "Effective Date"):
 - (a) The said business of providing telecom services in the country and maintaining the telecom network / running the telecom factories presently carried on by Department of Telecom. Services and Department of Telecom. Operations and the assets and liabilities of the said business shall stand transferred to and vest in BSNL, to be taken over as running concern.
 - (b) BSNL is charged with the duty and obligation to and shall carry on the said business of providing telecom services and running the telecom factories, inter alia, comprising of management, control, operations and maintenance of communications network and services spread all over India, manufacturing, research and development and other related facilities, some also spread all over India.
5. The detailed terms and conditions of the transfer and take over of the said business are generally worked out and agreed to between the parties and shall be in the form annexed hereto as Annexure I, subject to such additions, deletions, modifications and variations as may be further mutually agreed between the parties.

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6. Pending the finalisation and execution of the said Agreement and in order to facilitate the smooth continuance of the business being transferred and taken over from the Effective Date as aforesaid, it is agreed that the relationship of the parties comprising, inter alia, of engagement of existing staff, workmen and employees concerned with the said business, by the Company will be broadly governed by the guidelines as issued by Government of India, Ministry of Communications, Department of Telecom Services/Department of Telecom Operations and Department of Telecommunications, from time to time, presently being those contained in the Office Memoranda, copies of which are annexed hereto as Annexures IIA, IIB and IIC respectively.

IN WITNESS WHEREOF the parties have signed this Memorandum of Understanding the day and year First Hereinabove Written.

SIGNED AND DELIVERED BY _____

1. Shyamal Ghosh
(Shyamal Ghosh)

Secretary DoT and Chairman Telecom Commission.
For and on behalf of The President of India

WITNESS:

1. HARISH KUMAR
Deputy Secretary (Restg) DoT.

The Common Seal of
BHARAT SANCHAR NIGAM LIMITED
has been hereunto affixed pursuant to the
Resolution passed at the meeting of the
Board of Directors held on 30 SEP 2000 in
the presence of Dr. DPS Seth and
Mr. B. R. Khurana Directors of the
Company and who have signed these presents in
token thereof in the presence of:

SIGNATURES

1. [Signature]
2. [Signature]

WITNESS:

1. [Signature] 30/9/2000 N. SRIRAMAN, Under Secretary (Restg), D.O.T
2.