100% FDI ALLOWED IN TELECOM SECTOR

July 2013

In a meeting of the Department of Policy and Promotion chaired by Prime Minister on July 16, 2013, it was announced that FDI limit in the telecom sector has been increased to 100%. The earlier limit was 74%. As per latest announcements, investment up to 49% is allowed to come in through the automatic route and investment above 49% is required to be brought in through the government route i.e. approval of the Foreign Investment Promotion Board.

PSA view – The announcement is seen as a welcome change. However, the policy and implementation of these announcement is what is most awaited. The increased limits are set to bring in billions of investments in this sector. Fresh foreign investments would help catalyze growth and the process of proliferation in the telecom sector across the country.

India set to frame new testing norms for telecom equipment

The Department of Telecommunications with the Department of Electronics & IT and National Technical Research Organization are all set to frame new testing standards for telecom gear to shield networks from potential cyber attacks. The Common Criteria Recognition Arrangement (“CCRA”) clearance will no longer be enough to certify global telecom gear used in India, announced the National Security Council Secretariat, the apex agency looking into India’s political, economic and energy and strategic security concerns.

PSA view – CCRA was created ten years back by UK, US, Canada, France, Germany and the Netherlands, Australia and New Zealand, to define a common process to evaluate security-sensitive IT & telecom products and an objective to motivate global telecom vendors to find common processes to reduce equipment certification costs worldwide. But now India has started creating country-specific telecom gear testing standards and adopting several measures: (i) mobile phone companies have been mandated to use equipment deemed “safe” by an authorized testing lab in India from November 1, 2013; (ii) India is preparing a cyber security framework and a cyber security policy; (iii) India is setting up a National Cyber Coordination Centre to monitor metadata on cyber traffic flows; (iv) Establish a pilot lab and a full-fledged certification center and development system and (v) To adopt global approaches to its procurement policies, India is reviewing its Preferential Market Access policy designed to compel foreign companies to manufacture electronic products in India if they want to sell in India.

Decent Representation of Women in Media

India is all set to amend the Indecent Representation of Women (Prohibition) Act, 1986 to widen the scope of the existing law to include new forms of communication such as audio-visual media, internet, satellite based communications, material in electronic form etc. The bill seeks to enhance penalties and quantum of punishment for any violation for indecent representation of women as well as to deter the companies or persons from depicting women in any indecent form while advertising their brands under electronic medium. The amendment authorises police officers not below the rank of Inspector to carry out search and seizure, in addition to officer authorised by the State and Central Government.

PSA view – The existing legislation definitely lacks the focus that is necessary to protect women from exploitation, particularly in the face of the increasing use of advanced technology and communication devices in our everyday life. These amendments seek to ensure that more effective protection is provided against indecent representation of women by covering newer forms of communication like internet, multimedia messaging etc., beyond the print and audio-visual media.

ED issued notices on telecom companies on alleged FEMA violations

ED on July 10, 2013 issued show cause notices for alleged foreign exchange violations of INR 38.5 billion to telecom firms and other firms as part of its investigation into the 2G spectrum allocation case. The notices by the central probe agency have been issued against Loop Telecom Limited, New Delhi (“Loop Telecom”) for INR 5.49 billion, Loop Mobile (India) Limited (“Loop Mobile”), Mumbai for INR 260 million, DB Realty Limited Mumbai for INR 28.31 billion and ETA Star Property Developers Pvt Ltd, Chennai for INR 3.99 billion for a variety of alleged contraventions under FEMA. The ED has been investigating financial transactions and role of these firms in the 2G spectrum case for some time and the agency issued notices after going through all the evidence on record and information received from these respective firms.

The showcause notices issued to the aforesaid firms have cited various charges of violation of Reserve Bank of India (“RBI”) guidelines in place for receipt of FDI and routing of funds to and from foreign shores. With regard to Loop Telecom and Loop Mobile the showcause notices has been issued for alleged violation of FEMA with regard to failure to report to RBI of the receipt of FDI and issue of shares to foreign investors.

PSA view – ED along with Central Bureau of Investigation has been probing money laundering and forex violation instances against the firms involved in the 2G case and have earlier issued similar notices to the tune of INR 2,000 crore in the same case against various other firms. The companies can challenge the show cause notices issued to them before the appellate authority of FEMA which acts as a quasi-judicial court.

By:
Krishna Jhala
Neeraj Dubey
Jyoti Srivastava
Krishnakanth