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Institute of South Asian Studies
Hon Sui Sen Memorial Library Building
1 Hon Sui Sen Drive (117588)
Tel: 68746179   Fax: 67767505
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PROMOTING FOREIGN INVESTMENT IN INDIA'S TELECOMMUNICATIONS SECTOR

Rahul Mukherji
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ABSTRACT

This paper explores the political economy of three significant policy decisions taken by the Congress – United Progressive Alliance (UPA) government between November 2005 and February 2006, which have improved the incentives for foreign investment in India's telecommunications sector. This was a notable departure from the past when policies had clearly favoured domestic investment over foreign investment. The paper argues that these decisions occurred due to the increasing sensitivity of the Department of Telecommunications (DOT) to the needs of the relatively smaller Indian service providers, who were dependent on foreign capital. They were not driven by a crisis of investment or foreign pressure to change policies in India's telecommunications sector. The political economy of this shift to foreign investment friendly regulations in the telecommunications sector suggests that economic reforms in India can occur in normal times. They depended to a large extent on the nature of the political economy that the ruling party was willing to support.

Visiting Research Fellow, Institute of South Asian Studies
Assistant Professor, Centre for Political Studies, Jawaharlal Nehru University

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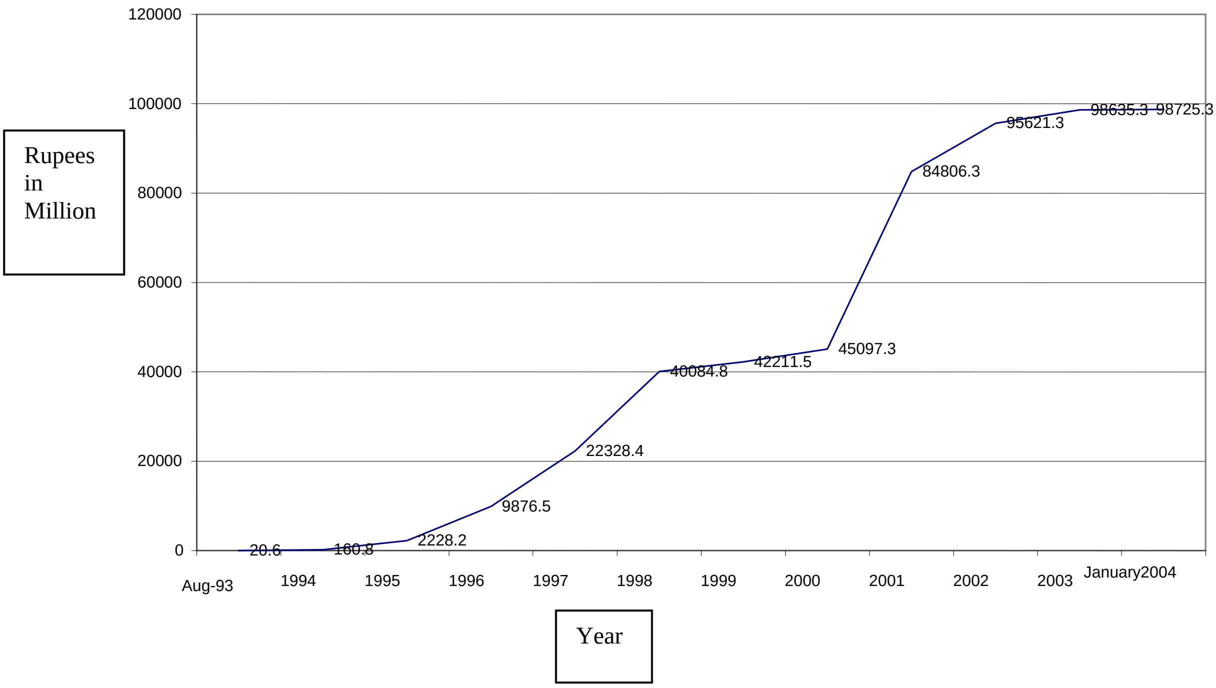
I. INTRODUCTION

This paper locates the reasons behind significant policy decisions favouring foreign direct investment (FDI) in India's telecommunications sector, which occurred between November 2005 and February 2006. These regulatory changes include, a reduction in the access deficit charge[1], which private industry viewed as an anti-competitive support to the government owned Bharat Sanchar Nigam Limited (BSNL); a reduction in the long distance license fees; and, an increase in the foreign investment equity limit from 49% to 74%. Taken together, these foreign investment friendly regulations were a notable departure from the past. India's shift to competition and export orientation, which helped it register the second highest GDP (8.1%) growth rate in the world in 2005-2006 (after China), did not depend significantly on foreign direct investment (FDI) in the past. Indian entrepreneurship, efficient capital markets and a reasonable protection of property rights, aided by competition orientation, had contributed towards this achievement (Huang and Khanna, 2003: 75-81).

This paper argues that the politics of regulation favouring foreign direct investment in Indian telecommunications was driven by internal constituencies like the Department of Telecommunications (DOT) and the business lobbies that represented smaller Indian corporations dependent on foreign capital, rather than foreign pressure at the time of a crisis.[2] The three regulatory decisions mentioned above rendered the regulatory environment favourable for GSM operators like Bharti Televentures Limited, Hutchison, and the smaller telecommunications service providers, whose commercial activities needed foreign capital for growth.[3]

FIG 1: FDI INFLOW YEAR-WISE [AUGUST 1991 TO JANUARY 2004]



Source: Department of Telecommunications (DOT), 2005: 105

Figure 1 tells the story of foreign investment in Indian telecommunications story rather eloquently. Foreign direct investment (FDI) gathered momentum after the National Telecom Policy of 1994, when competition was announced in basic telecom services. Investors hoped that the regulatory framework would improve, despite the government's favouritism towards its own service providers, and the pains associated with the birth of the Telecom Regulatory Authority of India (TRAI) in 1997. The first severe crisis of investment occurred in 1998 when it became clear that powers of the Indian regulator (TRAI) were inadequate to check the predatory behaviour of the government-owned service provider, the Mahanagar Telephone Nigam Limited (MTNL). The Government responded to this crisis by articulating the New Telecom Policy (NTP) of 1999. It empowered the regulator by enacting the TRAI Act of 2000, and, by setting up the Telecom Dispute Settlement Appellate Tribunal (TDSAT). The national long distance services were opened up for competition in 2000 and the Department of Telecom Services was corporatised into the government-owned Bharat Sanchar Nigam Limited[4], the very same year. These institutional and regulatory changes explain the surge in investor confidence between 2000 and 2003 (Athreya, 1996, 11-22; Gupta, 2002, 1779-1780; Dokeniya, 1999, 105-128; Mukherji, 2004, 284-289).

The second major crisis of investment occurred when the government offered concessions to a few domestic private players using the CDMA technology, which could jeopardise the business of the cellular operators using the GSM technology. Most of the foreign investment in India had betted on GSM technology. Section III describes how this crisis was resolved in the first round of the unified licensing policy. The second round of the licensing process, which involved the merger of the long distance service license with the basic and cellular services, saw greater benefits accruing to the GSM industry, which was dependent on foreign capital (Mukherji, forthcoming 2005; 80-81).

The policy shift towards attracting foreign direct investment occurred despite initial scepticism among investors about the ability of a Congress-Left Front alliance to promote a level playing field for private and foreign investment (Parbat, 17 May 2004)[5]. Significant investment decisions lend confidence to the foreign investment take-off story. Vodafone opted to come back to India in October 2005 after making an exit in June 2003. IT and telecommunications attracted $ 9 billion off the $ 10 billion foreign direct investment (FDI) pledged from September to December 2005. These figures are a contrast with the total FDI inflow of $ 3.3 billion in 2004-05. For the first time, FDI in India seemed to be poised to exceed portfolio investment. According to a recent AT Kearney Report, India displaced the US as the second most attractive destination for foreign investment after China (Financial Times Information, December 11 2005; AT Kearney 2004: 3-5).

What explains the political economy of regulatory changes that encouraged foreign investment in Indian telecommunications? The subsequent sections II, III and IV explain the political economy of regulatory shifts concerning the access deficit charge, long distance license fees, and, an increase in the foreign investment equity limit. These sections demonstrate how the policy changed to reduce advantages for the incumbents and domestically funded large Indian corporations. They encouraged foreign investors to work with smaller Indian telecommunications service providers. These regulatory changes benefited smaller Indian firms that needed to access foreign capital. They made it possible for foreign investors to have a greater say in the operations of Indian firms, which needed large doses of foreign investment.

II. REDUCTION IN THE ACCESS DEFICIT CHARGE (ADC) AND THE MOVE TO REVENUE SHARE

Telecommunications in India had been burdened by the legacy of long distance calls subsidizing local calls and rentals. The TRAI could not impose the discipline of cost-based tariffs on the government-owned service providers, who had carried a substantial proportion of the telecommunications traffic. The problem of below cost rentals in rural areas was particularly severe because the per capita capital expenditure in the less attractive rural markets was much greater than in urban areas with higher tele-density (Mukherji, forthcoming 2006: 82-86). The access deficit charge (ADC) was a tax, which would be used for subsidizing the below cost local calls and rentals in India.

The TRAI proposed an access deficit charge (ADC) in 2003 to deal with the problem of below cost rentals (TRAI, 15 May 2003). Private telecommunications companies like Bharti and Hutch, which were dependent on foreign capital, were to pay the ADC tax but would not derive benefit from it. They considered the ADC a weapon in the hands of the large government owned telecommunications companies like BSNL for indulging in anti-competitive behaviour. They argued for transparent and fair accounting practises, and the ultimate merger of ADC with the Universal Services Obligation Fund (COAI, 6 June 2003).[6] The TRAI notification of 23rd February 2006 has been viewed by foreign and private investors as a positive move towards creating an even playing field between the GSM industry, dependent of foreign capital, and the large Indian basic services operators like BSNL, MTNL, Reliance Infocomm and Tata Teleservices. This section will detail how a policy that favoured the government-owned service providers and private CDMA operators was made sensitive to the interests of the smaller GSM operators.[7]

The story of the ADC began with TRAI Consultation Paper of 15 May 2003. The consultation paper was severely criticized by GSM operators. The CDMA operators remained quiet, hoping that some benefits from the ADC regime would continue to accrue to them. The consultation paper imposed an ADC of Rupees 130 billion on the industry, which was about 30% of the telecom sector's revenue. The ADC tax was a per minute on every call. To give one example, the consultation paper proposed that the ADC on international long distance calls would be Rupees 5 per minute. ADC was to be charged on national and international long distance calls, and it would increase with the distance of a call (TRAI, 15 May 2003).

The best articulated criticism of the Consultation paper came from the GSM service provider's Cellular Operator's Association of India (COAI). COAI argued that the CDMA service providers with fixed WLL services should not receive ADC because their rentals at Rupees 200 per month were based on cost. Second, it was argued that the government owned BSNL, which served all of India except the metropolises of Delhi and Mumbai was a healthy profit making company that did not need the ADC tax.[8] In addition to the ADC tax, BSNL enjoyed a license fee and spectrum fee waiver, a loan in perpetuity worth Rupees 7.2 billion for meeting its village public telephone obligation, and, had been granted Rupees 8.0 billion under supplementary demand for grants for 2001-2002. Considering these facts, the COAI suggested the need for appropriate accounting separation of the cost based and below cost activities of BSNL, for calculating the precise ADC amount.

Third, the COAI proposed that a different methodology of accounting was required for calculating the ADC tax. It was argued that the ADC amount be calculated on the basis of costing models based on the most economical technology option, which would generate a lower ADC figure compared with the regulator's calculations based on historical cost. Since, most of BSNL's capital was substantially depreciated, the costing approach needed to take account of depreciation.

Fourth, the COAI argued that ADC should only be for rural below-cost operations and not for serving urban commercial centres like Delhi and Mumbai. All commercial activities where the regulator had permitted cost-based commercial tariffs should not be the beneficiaries of the ADC tax. Considering these factors, the COAI urged the government to meet the costs of rural telephony through the Universal Services Obligation (USO) Fund, and merge the USO Fund with the ADC regime (COAI, 6th June 2003: 12-15).[9]

These arguments suggested that the COAI was in favour of drastic reduction of the ADC. ADC could increase the competitiveness of the BSNL, MTNL and the CDMA operators at the expense of the GSM operators. Newspaper reports in June 2003 suggested that COAI was willing to pay Rupees 20.0 billion, which was much less than the TRAI's proposal to collect Rupees 130.0 billion as ADC tax (Financial Times Information, 21 June 2003). BSNL would be the major beneficiary of the ADC tax. Other fixed operators were hoping that some benefits would come their way. Consumer Advocacy Groups like the Bombay Telephone Users Association took a position closer to the COAI's position. They advocated accounting separation and worried about the impact of the ADC tax on tariffs (Financial Times Information, 29 June 2003).

The TRAI responded to these concerns in its notification of 29 October 2003. The regulator decided to bring down the proposed ADC amount from the Rupees 130.0 billion as suggested in the Consultation Paper of 15 May 2003 to Rupees 53.4 billion. Off this levy, Rupees 48.0 billion would subsidize the operations of BSNL while fixed services operators other than BSNL would receive Rupees 5.4 billion. ADC at Rupees 53.4 billion would amount to about 10% - 12% of the sector's revenue, down from about 30% of the sector's revenue as proposed in May 2003. Second, the levy was still to be on a per call basis with an increase in levy proportional to the distance of the call. Third, a gradual shift towards calculating the ADC amount based on models that assumed the most economical cost was proposed (TRAI, 29 October 2003; TRAI, 23 June 2004, p. 14; Financial Times Information, 10 November 2003).

Fourth, the TRAI worried about grey market operations that resulted from differential ADC on international, national and local calls. There was an opportunity for arbitrage inherent in the possibility that operators could land international calls as local calls, which attracted a much lower ADC compared to international calls. Taking arbitrage opportunities into consideration, regulator reduced the ADC on international long distance calls from Rupees 5 per minute to Rupees 4.25 per minute. Fifth, fixed services operators other than BSNL continued to receive ADC. Last but not least, it was opined that the regime should move from a per call ADC methodology to a percentage of revenue share methodology, with the possible merger of the ADC regime with the Universal Services Obligation regime in three to six years (TRAI, 29 October 2003; Financial Times Information, 30 October 2003).

What were the gains for domestic capital in the TRAI Notification of 29 October 2003? The government-owned BSNL would receive the bulk of the resources from the ADC collection. The CDMA operators who were largely dependent on domestic capital continued to benefit from ADC. And, the burden of payments fell largely on GSM operators who were dependent of foreign capital. On balance, it could be argued that BSNL and the large integrated CDMA fixed services operators dependent on domestic capital had secured regulatory advantages on the ADC issue.[10]

The GSM operators raised their tariffs by 20% - 25% in early February 2006. They argued that an extra burden of the magnitude of Rupees 50.0 billion needed to be shared with the consumer (Subbu, 3 February 2004). The regulator shot back at this anti-consumer price rise. It opined that the GSM operators could make profits after paying ADC, even if they did not raise their tariffs (Financial Times Information, 3 March 2004). In April 2004, the cellular operators were further infuriated when BSNL lowered its tariffs on long distance calls, aided by the ADC payments of the GSM operators (Financial Times Information, 7 April 2004).

The TRAI Consultation Paper of 23 June 2004 tried to address a number of problems faced by the GSM operators. This consultation paper, however, could not be converted into policy till February 2006. First, it noted the arbitrage problem leading to a grey market in international long distance calls, and urged a shift from a per minute ADC regime to a revenue share regime. The revenue share could vary from 2.2% to 5.5% of revenue, depending on rental charges in a particular area. If this proposal were accepted, it would reduce the ADC support from Rupees 54.0 billion to less than Rupees 35.0 billion. Second, the revenue share regime would remove arbitrage opportunities inherent in the ADC regime on a per minute levy.[11]

Third, it was argued that only BSNL should be the beneficiary of ADC regime, given its singular contribution to rural telephony. This suggestion would hurt the CDMA operators and eventually draw them closer to the GSM industry. This became evident in September 2004, when the cellular industry and the CDMA operators jointly opposed the tariff cuts of the BSNL (Financial Times Information, 7 September 2004).

The political economy leading to the TRAI Notification of 6th January 2005 had some interesting departures from the past. First, the CDMA received adverse judgements from the Telecom Dispute Settlement Appellate Tribunal (TDSAT). The Tata Teleservice’s “Walky” service, which was marketed as a fixed service with limited mobility was declared a mobile services. The TDSAT ruling meant that this service would attract the ADC levy like any other mobile service. This ruling would affect other CDMA operators as well (Financial Times Information, 12 September 2005).

Second, the CPIM spokesperson Nilotpal Basu launched a sustained attack on the TRAI for not taking appropriate measures to check the grey market activities of long distance service providers like Reliance Infocomm. This activity was hurting BSNL's revenue collection. Requests were made to Prime Minister Manmohan Singh to have the TRAI Chair, Mr Pradeep Baijal removed. On the eve of the TRAI notification, the Supreme Court ruled that Reliance Infocomm pay Rupees 1.8 billion for its grey market operations (Financial Times Information, 5 January 2005; Financial Times Information 17 January 2005).

The BSNL successfully launched a campaign to secure its quantum of the ADC. Per minute ADC on international long distance calls would fetch higher revenues than a revenue share based model of ADC collection. It was urged that the per minute ADC regime continue for some time despite the problem of grey market operations. Both the DOT and the CPIM must have aided BSNL's efforts. The strength of the BSNL case was based on its substantial contribution towards rural telephony (Financial Times Information, 2 January 2005).

The TRAI Notification of 6th January 2005 was a missed opportunity for moving towards a revenue share regime. The revenue share idea proposed in the TRAI Consultation Paper of June 2004 could not be implemented. There was reduction in the ADC allocation on a per minute basis, owing to greater minutes of telephone usage. A revenue share regime would have produced a more substantial reduction in ADC than was envisaged in the notification. To give one example, a reduction in ADC for incoming international long distance calls came down from Rupees 4.25 per minute to Rupees 3.25 per minute. This would have marginally reduced the arbitrage opportunity. TRAI defended ADC on the grounds of the need generated by the rural operations of BSNL. Grey market opportunities, according to the regulator, needed to be dealt with more effective monitoring coupled with a reduction in the arbitrage opportunity.

Discrimination favouring BSNL as the single most important beneficiary of the ADC tax became more pronounced in this notification. All fixed operators other than BSNL could collect ADC on their outgoing calls but not on their incoming calls. This would negatively affect the interests of fixed operators like MTNL, Tata Teleservices and Reliance Infocomm. The price of the MTNL stock dipped by 7.26% in the immediate aftermath of the TRAI Notification. The Association of Unified Telecom Service Providers of India expressed displeasure at the reduction of ADC benefits for the fixed service providers (TRAI, 6th January 2005; Financial Times Information, 7 January 2005).

Reduction in ADC for long distance calls would benefit VSNL and Bharti. The GSM cellular operators wished more. They argued that the arbitrage opportunity had just been reduced from Rupees 425 million to Rupees 325 million. The COAI did not see any logic in continuing ADC privileges for fixed operators on outgoing calls, when the same had been withdrawn for incoming calls. The COAI expressed the view that the Notification of 6th January 2005 was not consistent with the TRAI Consultation Paper of 23rd June 2004, which had suggested a more drastic reduction in ADC and shift to revenue share.[12]

The period between 6th January 2005 and 23rd February 2006 witnessed a significant transformation in government policy in the direction of addressing the concerns of GSM operators. The TRAI Notification of 23rd February 2006 witnessed both a reduction in the ADC amount and a move to revenue share. This policy shift reduced the burden on GSM operators, as well as, the arbitrage opportunity for large integrated players who could land their long distance calls as local calls. A variety of processes produced this outcome.

First, the rerouting of international calls as local calls, which saved Reliance the need to pay a higher ADC was viewed not only as illegally depriving BSNL of funds, it was also viewed as being a threat to national security. Tampering with calling line identity could jeopardise India's national security. DOT, MTNL and BSNL had demanded that Reliance should pay back. The TDSAT panel headed by Justice Wadhwa condemned this act in its 2005 judgement on this issue. Reliance had to pay a penalty of Rupees 1.5 billion to the DOT. The Left Parties headed by the CPIM kept the pressure on the Prime Minster's Office, arguing that the Chair of TRAI, Pradeep Baijal had compromised his duties by not taking effective measures to reduce the arbitrage opportunity. An expert group to monitor traffic was set up in April 2005 (Financial Times Information, 17 January 2005; Financial Times Information, 1 April 2005; Financial Times Information, 3 June 2005). The problem of grey traffic would push regulation in the direction of reducing the arbitrage opportunity and greater reliance on a revenue share model.

Second, CDMA operators were trying to market their fixed wireless operations as limited mobility operations, which would not attract ADC. However, judgements of the TDSAT increasingly made this interpretation untenable. Tata Teleservices had announced the Tata Walky scheme and Reliance Infocomm had also announced a similar scheme, which was dubbed "unlimited cordless". Section III describes how the TRAI and the DOT had allowed limited mobility in the name of promoting rural telephony. This strategy did neither boost rural telecommunications nor could the service be kept limited within the geographical limits of the short distance charging area. The TDSAT ruled that the operations of the Tata's and Reliance were mobile services, which could not be viewed as fixed services for the purposes of ADC collection (Financial Times Information, 8 January 2005).

The TRAI concerned itself about how these limited mobile services should be treated for the purposes of ADC and raised this issue in its Consultation Paper of 17 March 2005 (TRAI, 17 March 2005). In a written response to the Consultation paper, the COAI opined that ADC should only go for BSNL's rural and fixed operations that were below cost. Since cost based tariffs had been allowed in other areas, there was no justification for ADC subsidizing the CDMA operators (COAI, March 2005). The TRAI urged all the CDMA operators to ensure that their fixed wireless telephone sets not be carried beyond their premises. ADC for fixed wireless services was an issue that would be resolved in next TRAI notification in February 2006.

Third, the DOT became keen to introduce a shift to revenue share regime somewhere between August and September 2005. The TRAI versus DOT debates suggested that the DOT had become genuinely inclined towards foreign investment and had begun to address the concerns of the GSM operators. The DOT's strategy was to increase tele-density and the overall revenue of the telecom sector. This would reduce the ADC burden as a proportion of revenues. Communications Minister Maran was discussing the India One uniform tariff plan even before the TRAI Notification of 23rd February 2006. There were debates not only about the amount of revenue share but also about the fact that ADC was a policy issue that needed to be wrested with the DOT rather than the regulator. A proposal in this regard was made to the Prime Minister's Office (Financial Times Information, 3 September 2005; Financial Times Information, 19 December 2005).

The COAI supported the Communications Minister in his quest to gain jurisdiction over the ADC issue. It argued that ADC was a policy matter just like the Universal Services Obligation Fund, which was administered by the DOT. The regulator had not managed the ADC issue deftly. Moreover, there was a conflict of interest between a regulator who was supposed to promote competition, and a regulator who could allocate subsidies that could promote anti-competitive practices. Last but not least, the administration of ADC required an engagement with policy issues such as the move to revenue share (Financial Times Information, 11 October 2005).[13] Policy issues such as ADC should therefore remain with the DOT.

Fourth, the TRAI was faced with a TDSAT that rarely agreed with its judgement. Its success rate in disputes that were taken to the TDSAT was less than 20%. TDSAT rulings were used by the COAI to argue that the TRAI should become more transparent about sharing commercial information that was needed to calculate the access deficit. The TDSAT ruled against the CDMA operators who were taking advantage of the ADC concession for their limited mobility services (Financial Times Information, 23 January 2006). These rulings pushed the TRAI to clarify this issue in the notification of February 2006.

The TRAI Notification of 23rd February 2006 was the regulator's first attempt to introduce a revenue share regime. First, ADC was pegged at 1.5% of the annual gross revenue of telecom companies. There would be no ADC on national long distance calls. Second, the ADC on outgoing international calls was reduced from Rupees 2.50 to Rupees 0.80, and the ADC on incoming international calls was reduced from Rupees 3.25 to Rupees 1.60. This would reduce the arbitrage opportunity to a considerable extent. Third, the ADC benefit for fixed wireless services was taken off. Almost all the ADC would go to BSNL. The only exception would be the ADC that would accrue to the fixed line connections of non-BSNL fixed services operators owing to their outgoing international calls. This was a neat resolution of the controversy over whether there should be ADC for the fixed wireless connections of the CDMA operators. It was pointed out in the Notification that while rural operations constituted over 37% of the BSNL's operations, almost all other operators had less than 1% of their operations in the rural areas. Hence, discrimination in favour of BSNL was justified (TRAI, 23 February 2006).

The regulator introduced an ADC regime caring for think needs of the GSM operators in February 2006, aided by a sympathetic DOT. The DOT's support from August-September 2005 was critical for obtaining an outcome closer to the GSM industry's concerns. This regime reduced the arbitrage opportunity for the large integrated players and increased the play of market forces. It brought greater transparency on issues such as who would be the beneficiary of the ADC regime.[14] Reduced ADC burden resulted in declining tariffs and price wars in the cellular market (Financial Times Information, 3 March 2006). This would contribute to the story of India's impressive growth in tele-density.[15] These features of the ADC regime, which favoured the GSM operators, contributed to the surge in foreign investor confidence in India telecommunications. The GSM cellular business was the area that had attracted most of the foreign investment in India.

III. THE UNIVERSAL LICENSING REGIME

The debate on unified licensing began as a dispute about the conditions under which the fixed services licenses could be merged with the cellular licenses. This debate took the turn of a contest between the GSM cellular operators who were dependent on foreign capital and basic services operators who had deep pockets within India. In stage 1 of the universal licensing process, GSM operators worried that universal licensing was the regulator and the DOT's attempt to legalise the conversion of CDMA licenses for fixed services into cellular licenses at a low price. In the second stage of the licensing process, the GSM cellular operators contested the high barriers to entry proposed for merging long distance services with basic and cellular services. The first stage, which concluded when the BJP government was in power, produced advantages for the home grown CDMA operators. The second stage with a Congress – UPA government in power, on the other hand, augured well for the smaller GSM operators who were dependent of foreign capital. The unified licensing saga demonstrates the centrality of the government's intentions expressed through positions taken by the DOT for understanding policy change in India.

The TRAI's first Consultation Paper on Unified Licensing for Basic and Cellular Services was shared on 16 July 2003 for the purposes of debate within the industry. The

Consultation paper argued that technology had advanced to such an extent that separate licenses for basic and cellular services had become meaningless. Wireless technology, especially the CDMA - Wireless in Local Loop (WLL) technology's optimal utilisation could extend to cellular operations as well. This was part of a larger process of convergence of voice, data and video, which had been treated as three separate modes of communication.

Second, such changes in license conditions had been permitted by the New Telecom Policy of 1999, if they served public interest or were in accordance with the requirements of national security. It was because of change in license conditions that GSM operators could migrate from a fixed license fee regime to a revenue share regime in 1999. Third, the consultation paper argued that this was consistent with the best practices followed in the EU, Malaysia, Australia and Singapore.

A method of working out the additional fee to be paid for converting a fixed license into a universal license covering fixed and cellular services was suggested. The fee charged for the basic fixed services licenses of the CDMA operators had been much lower than the fee for mobile licenses. It was suggested that the fee to be considered for converting the fixed license into a universal license covering fixed and mobile services was the fee paid by the fourth cellular operator in each circle. The rationale behind this approach was that the fourth cellular operator had been awarded a license after the CDMA licenses had been offered to the fixed operators (TRAI, 16 July 2003). The CDMA fixed services operators would have to pay this fee, if they opted for a cellular license.

In August, the Telecom Dispute Settlement Appellate Tribunal (TDSAT) gave a divided judgement on the legality of the WLL service. The majority opinion suggested that CDMA operations were legal. The minority of opinion of the chair of TRAI, on the other hand, went against the CDMA operators. Justice Wadhwa pointed out that the NTP of 1999 did not allow free mobility and that it would be impossible to restrict CDMA operations within the short distance charging area. He opined that the CDMA operators had not performed the very role for which they had obtained cheap licenses, which was fulfilling their rural obligations [TDSAT, August 2003 (A); TDSAT, August 2003(B); Mukherji, forthcoming 2006: 80-81)

The consultation paper and the TDSAT's opinion polarised the industry in a remarkable way. The GSM operators were vehemently opposed to the merger of the cellular and basic licenses. The CDMA operators, on the other hand, welcomed it. The Director General of the COAI - T V Ramachandran and the Chair of TRAI - Pradeep Baijal publicly shared their discomfort with each other's perspective (Financial Times Information, 18 July 2003). The COAI urged the TRAI to withdraw its consultation paper. In August and September 2004, the CDMA services industry titans, Ratan Tata - the Head of the Tata Group of industries, and Mukesh Ambani - the CEO of Reliance Infocomm, pressed Communications Minister Arun Shourie to push for unified licensing. In September, leaders of the GSM industry, Sunil Mittal (Bharti), Rajeev Chandrashekhar (BPL Mobile), Dilip Modi (Spice Communications) and Ravi Ruia (Essar Group) met Deputy Prime Minister, L K Advani and the Prime Minister's Principal Secretary Brajesh Misra to explain their point of view. Intense lobbying activity attracted the attention of Prime Minister Vajpayee (Financial Times Information, 2 September 2003).

The GSM operators represented by COAI argued that proposing universal licensing to combine a cellular license and a fixed license in one license, was a way of legitimising the WLL operator's illegal entry into cellular services. There was no competition between fixed services and mobile services. The competition was between the WLL service that had been introduced as a limited mobility service at the price of a fixed license, and a cellular license that was purchased for a higher price. The COAI worried that unification would lead to excessive competition in the cellular industry.

Second, the GSM operators argued that licenses were contractual agreements, which had earned them commercial rights. They did not wish to give up their hard earned rights. They pointed out that the migration package from a fixed license fee to revenue share regime (1999), which required a change in license conditions, needed to earn the acceptance of the GSM operators.

Third, the COAI argued that the cross national experiences mentioned in the consultation paper were a more thoroughgoing exercise in convergence than the one suggested by TRAI. Such a thoroughgoing exercise was occurring in the Indian Parliament where the Convergence Bill was being debated. It was the prerogative of the government rather than the regulator to initiate policy change. Last but not least, since the licensing conditions with respect to issues such service area and network layout were vastly different, it would be impossible to synergise them into a single license.[16]

The Government did not put much weight behind the COAI's point of view. A meeting of the Group of Minister's on telecommunications chaired by Finance Minister Jaswant Singh, and attended by Communications Minister - Arun Shourie, Defence Minister – George Fernandes, Law Minster – Arun Jaitley, in the presence of Deepak Parekh of the HDFC Bank gave an in principle go- ahead to universal licensing in October (Financial Times Information, 9 October 2003).

TRAI's Recommendations of 27 October 2003 and the DOT's Guidelines for Unified Access Services License in November were a victory for domestic investors over foreign investors. The Cabinet cleared the proposal for a unified license covering basic and cellular services but left the issue of raising the foreign investment limit in the telecommunications sector to 74% for the budget of 2004 (Financial Times Information, 1 November 2003). The recommendations and the guidelines pleased CDMA operators like Reliance Infocomm and Tata Teleservices but were a matter of grave concern for the GSM cellular operators. None of the issues raised by the cellular operators received either the sympathetic consideration of the TRAI or the DOT.

The TRAI and the DOT argued that unification was justified because there was a conflict of interest between what technology could offer and what a license permitted. Unification was justified considering international best practises, the needs of greater tele-density, consumer interest and investment. Greater domestic rather than foreign investment was stressed in the recommendation and the guidelines. The licenses were synergised by devising a unified license whose roll-out commitments, service area definition, performance bank guarantee and entry free requirements were to be the same as those that applied for the fourth GSM operator in each circle. There would be no compensation for GSM operators considering the earlier subsidies, which included the migration package of 1999 that had saved GSM operators license fees worth Rupees 45.6 billion.

The additional license fee for obtaining the merged cellular and fixed licenses that the basic operators would pay would be the difference between the license fee paid by the fourth cellular operator and what the basic operator had paid for their licenses. In circles where there was no fourth cellular operator there would be no license fee. And, it would be up to an operator to decide whether it wished to migrate to a universal access license. Reliance Infocomm would be penalised for using a fixed service license for cellular functions. It had to pay Rupees 10.1 billion for the migration and a penalty of Rupees 5.4 billion. Tata Teleservices would need to pay Rupees 5.4 billion for the migration (TRAI, 27 October 2003; DOT, 11 November 2003).

These regulatory developments won the support of Communications Minister Arun Shourie who had worked closely with the regulator to make a success of the first round of unified licensing. Reliance Infocomm, Tata Teleservices and the Association of Basic Telecom Operators representing the CDMA operators were satisfied with the unification.

Reliance had paid the migration fee plus the penalty of Rupees 15.4 billion by the second week of November. The COAI went to the Supreme Court to stay the DOT's Guidelines for universal licensing but the Supreme Court did not agree with the COAI's point of view. The main losers of this regulatory change were foreign telecommunications companies like Hong Kong's Hutchison Whampoa, AT&T of the US and Singapore Telecom, which had invested in the GSM cellular market (Financial Times Information, 14 November 2003) They understood that investors in India needed to take into consideration the likelihood of changes in licensing conditions that could affect profitability.

The TRAI did not lose much time in initiating step 2 of the universal licensing exercise covering activities like national and international long distance services. Four days after the DOT guidelines of 11 November 2003 the TRAI circulated a preliminary consultation paper on 15 November 2003 and a full-fledged consultation paper in March 2004. The draft recommendations of the TRAI were ready by 6 August 2004. This complex exercise generated a significant difference of opinion between the GSM cellular operators and the large integrated operators (TRAI 15 November 2003; TRAI, 13 March 2004; TRAI, 6 August 2004). The Association of Basic Telecom Operators (ABTO) representing the large integrated operators desired higher entry barriers for facilities like the national and the international long distance services (Financial Times Information, 11 December 2003). The relatively smaller GSM service providers dependent of foreign capital wished lower entry barriers and stressed the need to lift the FDI limit to 74% (COAI, 30 August 2004).

The COAI representing the GSM operators presented the following arguments against the draft recommendations of the TRAI of 6 August 2004. It noted that long distance services had attracted only four national long distance and five international long distance players. Hence, step 2 of the unification process needed to promote competition in this area. The long distance license fee of Rupees 1.07 billion would not encourage competition. The previous fee of Rupees 1.25 billion was amortized over 20 years, whereas the fees recommended by TRAI at Rupees 1.07 billion, needed to be amortized over a period of five years.

Second, by bundling the national and international long distance service fees into one fee, the earlier opportunity for smaller operators to opt for either license did not exist. This should have been possible under the proposed methodology because a number of services like Internet telephony enjoyed a separate "class" license. Third, since the operators with a long distance license were cash rich investors, the COAI was keen to have the foreign direct investment limit raised to 74% (COAI, 30 August 2004).

In addition to the high entry barriers to long distance services, increased benefits for the existing long distance operators would reinforce the status quo rather than promote competition. The revenue share license fee for existing long distance operators was to be reduced from 15% of annual gross revenue to 6%. Second, a waiver in the roll out commitment for long distance operators was proposed, and there was to be a reduction in the level of performance guarantees. Third, COAI alerted the regulator about the need for greater monitoring of anti-competitive practices under a unified license. Big players could use the profits in the long distance service to subsidize basic services to the detriment of smaller players.[17]

The TRAI's final recommendation on universal licensing in step 2 of the process in January 2005 did not diverge significantly from its draft recommendation in August 2004. An all India license covering basic, cellular, national long distance service, international long distance service, global mobile personal communication by satellite, cable television, direct to home satellite television, Internet telephony, and, TV and broadcasting services could be purchased for Rupees 1.07 billion, plus a component that would vary with the area where the service was being provided. The GSM operator's objections continued to focus on the entry barrier to national long distance services, as a result of a bundled license fee of Rupees 1.07 billion covering national and international long distance services (TRAI, 13 January 2005).[18]

The period between March 2005 and November 2005 witnessed a dramatic change in the attitude of the DOT towards initiating competition in the telecommunications sector. Even in February 2005, when GSM operators were arguing that the Rupees 1.07 billion license fee was too high for promoting competition, the DOT was keen to secure the prevailing license fee at Rupees 1.25 billion (Financial Times Information, 14 February 2005). The Press Note of 10 November 2005, which pronounced the policy for the second round of the licensing process, respected the concerns of the GSM operators. It disregarded the regulator's recommendations of 13 January 2005. This would be a major benefit for the smaller GSM players dependent on foreign direct investment.

There were significant regulatory gains for smaller players who could have been deterred by entry barriers and license conditions suggested by the regulator in January 2005. The license fee for the national long distance service was reduced from Rupees 1 billion to Rupees 25 million and the license fee for the international long distance service was reduced from Rupees 250 million to Rupees 25 million. The licenses for international and national long distance services were unbundled and the total license fee was reduced from Rupees 1.25 billion to Rupees 50 million. Second, the requirements of net worth and paid up capital, which were Rupees 25 billion and 2.5 billion respectively, were each brought down to Rupees 25 million. Third, the annual revenue share license fee was brought down from 15% to 6% (DOT, 10 November 2005).

The two step licensing story had significant lessons for understanding the nature of regulatory dynamics in India. In the first step, when the basic and cellular licenses were unified, the advantages accrued to the CDMA players dependent on domestic capital. The regulator and the Department of Telecommunications (DOT) pursued this objective together.

In the second step, involving further unification of the long distance license, the recommendations of the regulator were largely disregarded and the policy changes engineered by DOT seemed more sympathetic towards the GSM operators, who depended on foreign capital. In both the cases DOT had its way on policy matters. The political economy that the DOT was willing to support was central to understanding regulatory dynamics in India.

IV. THE FOREIGN EQUITY LIMIT

The cabinet decision to increase the foreign equity limit from 49% to 74% in February 2005 and the press note sanctifying policy change on 3 November 2005 were landmark events favouring the GSM industry and foreign investment in India. The evidence presented in section III suggests that the BJP government could not improve the regulatory environment for foreign investors in the telecommunications sector till April 2004. How did this situation change between May 2004 and November 2005 under a Congress – UPA government with left support?

Section III discussed the cabinet meeting in November 2003 that approved the implementation the TRAI recommendations on unified licensing for basic and cellular services. The issue of raising the foreign equity limit from 49% t0 74% was discussed in that meeting. The Cabinet took the decision to merge cellular and basic licenses but left the FDI limit decision for the budget of February 2004. The merger of the cellular and basic licenses was confirmed by the DOT guidelines on 11 November 2003. Dissatisfied by the conditions of merger, the GSM industry, which was dependent on foreign capital, took the matter of universal licensing to the Supreme Court. The CDMA operators dependent on Indian capital, on the other hand, expressed their satisfaction about the merger of the two licenses. The guidelines of 11 November 2003 reflected both a political will to strengthen the domestically funded telecommunications operators like Reliance Infocomm and Tata Teleservices, as well as, a lack of attention to the needs of the GSM operators dependent on foreign capital.

The Congress - UPA Government that came to power in May 2004 worked hard to obtain Cabinet approval to raise the FDI limit to 74% in early February 2005. The Left Parties, who were initially opposed to this decision, needed some convincing. National security considerations provoked a debate among various ministries (Financial Times Information, 18 February 2005). These issues needed to be addressed. There is evidence to suggest that the Department of Telecommunications would not take the lead on this issue until mid-2005.[19] This decision was pursued initially by the Ministry of Finance. The DOT began to take active interest in raising the FDI limit in May 2005 (Financial Times Information, 21 May 2005). The GSM industry represented by the COAI was actively pushing for raising FDI limit to 74%, ever since the TRAI proposed the merger of the long distance license in the second round of the licensing process in August 2004 (Section III). The GSM industry needed better access to foreign capital for overcoming the high barriers to entry proposed in the long distance services.

The cabinet decision of February 2005 earned the appreciation of industry players and associations with the exception of Reliance Infocomm. The GSM industry represented by the COAI, which was dependent on foreign capital, hailed this decision as a good one. The Federation of Indian Chambers of Commerce and Industry, the Associated Chambers of Commerce and Industry, and the Punjab, Haryana, Delhi Chambers of Commerce and Industry were supportive of the increase in the FDI limit [Financial Times Information, 3 February 2005 (A); Financial Times Information, 3 February 2005 (B)].

The FDI limit was to be raised to 74%, subject to certain constraints. First, the top management would need to be Indian citizens. Second, 26% of the capital would be with Indian citizens and companies, and there needed to be at least one promoter owning 10% of the stake. Third, there were considerations related to remote access of equipment that needed to be worked out for national security reasons [Financial Times Information, 3 February 2005 (A)].

Bharti Televentures Limited would be the major beneficiary from a hike in the FDI limit. It needed large doses of external capital to compete with larger business groups like the Tatas and Reliance. Bharti had acquired more than 65% foreign holding, through a holding structure, which was permitted in the current regime. This could be easily consolidated once permission was granted for 74% foreign equity [Financial Times Information, 3 February 2005 (E)].

Smaller players stood to gain if the FDI limit were raised. Hutchison, an important GSM player would benefit from an infusion of foreign capital. Like Bharti its FDI had crossed the 65% range owing to a holding pattern similar to Bharti's. Hutchison Telecommunications International had investments in Hutch Essar. Smaller players like Spice Telecom, Shyam Telecom and Idea Cellular would gain from an infusion of foreign capital. BPL mobile could also gain if it sorted out its internal problems [Financial Times Information, 3 February 2005 (C); Financial Times Information, 3 February 2005 (D)].

The DOT began taking an active interest in the FDI policy in May 2005. It sought clarifications from the Ministry of Finance on the issue of whether the equity held by nationalised public sector banks and Indian private banks could be considered Indian equity. The Finance Ministry gave its opinion in June 2005. The DOT also clarified its thinking on appropriate national security safeguards, which needed to be in place when foreign players would wield more power within the Indian market. The DOT then approached the government for the second time. The government cleared the proposal for raising the FDI limit to 74% was on 20 October 2005 (Financial Times Information; 21 October 2005).

The Press Note of 3 November 2005 allowed a total composite FDI up to 74%. This definition of foreign capital now included foreign institutional investors, non-resident Indians, foreign currency convertible bonds, American depository receipts, global depository receipts, convertible preference shares, and proportionate foreign investment in Indian promoters or investment companies including their holding companies. The last item was not being counted as foreign capital in the earlier regime. The 74% FDI limit included almost all aspects of foreign capital invested in an Indian company. For GSM operators like Bharti Televentures, this would mean an easier way of raising capital. The 74% FDI regime would attract the attention of foreign investors who were discouraged by the lack of powers enjoyed by foreign investors in the 49% FDI regime.

The remaining 26% of the equity would stay with Indian citizens or Indian companies. 10% off the 26% Indian equity needed to be with a single Indian promoter. Proportionate foreign investment in an Indian company would be counted as part of the 74% foreign equity limit. In the 49% FDI regime, this item was considered a part of Indian capital. This aspect of the 49% FDI regime had allowed Bharti and Hutch to go beyond the 49% FDI limit. The holding of Indian public sector banks and financial institutions would be considered a part of Indian equity, even if they had raised capital from abroad. Indian laws would govern foreign investors. The status of foreign holding needed to be disclosed on a six monthly basis.

National security considerations were deemed important. The Chairman, Managing Director, Chief Executive Officer and a majority of the Directors needed to be Indian citizens. Any investment beyond 49% needed the approval of the Foreign Investment Promotion Board, which would scrutinize whether or not the investment was coming from a friendly country. There were stringent safeguards to deter sharing of user and accounting information, or the details pertaining to the design of infrastructure with a location outside

India. Remote access to an equipment manufacturer would only be provided in the case of a catastrophic software failure, with appropriate safeguards in place. Companies would need to adjust to these guidelines within four months of the date of issue of the guidelines (Secretariat for Industrial Assistance, 3 November 2005).

These regulatory changes inspired a major investment decision by the world's fourth largest telecommunications player, Vodafone in Bharti's telecommunications business. Vodafone invested Rupees 67 billion ($ 1.48 billion) to buy a 10% stake in Bharti Televentures Limited. At $ 978 per subscriber this was the highest deal in 2005, if measured on that basis. Vodafone became Bharti's fifth foreign investment partner after Vivendi, Telecom Italia, British Telecom and Sing Tel. This decision came a week after the government cleared the foreign direct investment limit to 74% on 20 October 2005. Other notable acquisitions were Malaysia's Maxis Communication's $ 1.08 billion investment in Aircell, and Orascom's $ 1.3 billion investment in Hutch. The manufacture of telecommunications equipment gained momentum with foreign players like Nokia, Flextronics, Siemens, Motorola, Foxcon, Ericsson, and LG firming up plans, aided by lowered customs duties and the promise of India's booming tele-density (Financial Times Information, 31 December 2005; Financial Times Information, 1 January 2006).

Indian firms, which did not need a 74% foreign equity, were dismayed by regulations proposed by the Press Note of 3 November 2005. The Chairman of the Tata Group of Industries - Ratan Tata, objected to several provisions in the Press Note, which applied to companies that had not exceeded 49% foreign equity limit. The two provisions of special concern related to the nationality of the top management and conditions imposed on remote access to equipment manufacturers. The Chief Executive Officer of Tata Teleservices was a foreigner. The government responded to these concerns by extending the adjustment period to the conditions mentioned in the Press Note to 2 July 2006. The Press Note had suggested a four month adjustment period that ended on 2 March 2006 (Asia Pulse Limited, 18 January 2006; Asia Pulse Limited, 27 March 2006).

The FDI limit in the telecommunications sector was raised by a Congress government with the support of left parties within a year and half of coming to power. This was a reversal of the policy of the BJP government. It signalled a greater consideration for the financial needs of the GSM industry, which depended on foreign capital.

V. CONCLUSION

This paper explains the political economy of three decisions that rendered the regulatory environment favourable for the GSM industry in India, which was dependent on foreign capital. The decision to reduce ADC increased the competitiveness of the GSM industry because it paid most of the ADC tax. The gains from the ADC accrued largely to BSNL, and to a lesser extent to other large fixed services operators like MTNL, Tata Teleservices and Reliance Infocomm. A reduction in ADC increased the competitiveness of the smaller but successful GSM operators like Bharti Televentures and Hutch, which needed foreign capital for growth.

Second, the first stage of the unified licensing process, which merged fixed and cellular licenses, favoured the large fixed domestically funded telecommunications service providers using the CDMA technology. The beneficiaries included Reliance Infocomm and Tata Teleservices. Stage two of the unification process, on the other hand, reduced the long distance license fee from Rupees 1.25 billion to Rupees 50 million in November 2005. The long distance business had been exploited by the large domestic operators to cross-subsidize their local operations. A drastic reduction in entry barriers to this profitable service was a significant victory for the GSM industry. Third, the government raised the FDI limit from 49% to 74% in the telecommunications sector in November 2005. These three policy decisions taken between November 2005 and February 2006 augured well for the smaller service providers in the GSM industry who depended on foreign capital. They were also welcomed by foreign investors looking for investment opportunities and a greater say in India's successful telecommunications story.

The dynamics of regulatory change favouring the GSM operators and foreign capital had a few interesting characteristics. First, the will of the Government expressed by the Department of Telecommunications (DOT) was more important than the recommendation of the regulator. When the DOT and the regulator supported the cause of the CDMA operators in the first round of the unified licensing process, the basic and fixed licenses were merged in a manner that caused dismay to the GSM operators. On the other hand, when the DOT disagreed with the regulator on reducing the ADC tax, the regulator had to come closer to the DOT's point of view after a heated debate in February 2006. And, when the DOT and the regulator could not find a common ground on the issue of reducing the long distance license fees, the DOT disregarded the regulator's recommendations in its policy guidelines of November 2005.

Explanations of policy change in India needed to comprehend the political economy that a particular government wishes to support. The BJP government supported domestic capital in the telecommunications sector by lowering entry barriers for large Indian corporations and making them high for smaller players that needed to depend on foreign capital. This was reflected in step 1 of the licensing process and the government's inability to increase the FDI limit to 74% till 2004. The Congress – United Progressive Alliance (UPA) government, on the other hand, supported a very different political economy. It reduced the entry barriers for the smaller but successful Indian firms that needed to work with foreign capital. Both the hike in the FDI limit to 74% and a reduction in the long distance license fee occurred in quick succession in November 2004. And, the ADC tax was reduced in February

2006. The Congress – United Progressive Alliance government, which came to power in May 2004, had invested considerable political capital to initiate these foreign investment friendly changes in regulatory policy.

The foreign investment friendly decisions occurred in the absence of a financial crisis or foreign pressure. The cases discussed in the paper describe the processes that empowered domestic constituencies that needed to work closely with foreign capital, in the absence of a financial crisis or foreign pressure. The GSM industry had been a powerful lobby all along. What changed with the advent of the Congress - UPA government was the DOT's reduced toleration for the illegal and often predatory practices of the large Indian basic services operators, whose interests were often at odds with those of the smaller GSM operators. For example, the Communist Party of India - Marxist's (CPIM)[20] attack on Reliance Infocomm for illegally rerouting international calls as local calls because international calls would attract a higher ADC tax, was a factor that pushed the government to reduce the ADC. The new ADC regime announced in February 2006 reduced the arbitrage opportunity, as well as, the tax on GSM operators. The DOT, under the Congress – UPA dispensation displayed greater sympathy for the concerns of smaller service providers, who needed to work with foreign capital.

ENDNOTES

1 Local calls and rentals in India have been subsidized by long distance calls. The access deficit charge or ADC is the deficit arising from below cost rentals and tariffs, which were cross-subsidized by national and international long distance calls in India.

2 For the classic argument suggesting that economic reforms in the developing world needed foreign pressure see Stallings, 1992: 41-88. For arguments suggesting a relationship between economic crises and economic reforms in India, see Desai, 2005, 160-166; and, Joshi and Little, 1994.

3 GSM is the acronym for Global System for Mobile. GSM technology competes with the CDMA or the Code Division Multiple Access Technology in various markets around the globe.

4 MTNL serviced the metropolitan areas of Delhi and Mumbai and the BSNL serviced the rest of the country.

5 Discussions with Rohit Sah, Portfolio Manager – Oppenheimer Funds (New York, May 2004).

6 The USOF is another tax, which is meant for spreading telecommunications in rural areas. It is conceptually different from the ADC tax, which was to subsidize the below cost rentals and local calls of telecommunications service providers.

7 India had three different kinds of telecommunications service providers at this time. There were the fixed operators who were serving fixed line connections (Example: BSNL and MTNL). Second, there were the fixed wireless service providers who were using the CDMA technology. They were allowed limited mobility but were not supposed to take their calls beyond the short distance charging area (Example: Reliance

Infocomm and Tata Teleservices). Third, there were the GSM operators who had licenses for cellular operations (Bharti and Hutch). The GSM operators were represented by the Cellular Operators Association of India (COAI); and, the CDMA operators were represented by the Association of Basic Telecommunications Operators (ABTO). ABTO was subsequently christened as the Association of Unified Telecom Services Providers of India (AUSPI) after the government announced the unified access license to solve the WLL crisis in 2004. The views expressed in this section have benefited from a personal interview with T V Ramachandran – Director General, Cellular Operators Association of India (New Delhi, 30 December 2005).

[8] The COAI reported that BSNL's accumulated profit between 1991-1992 and 2001-2002 was Rupees 534.5 billion, and, the profit for 2001-2002 was Rupees 63 billion. This was the sign of a healthy company and not one that needed subsidy.

[9] A letter from T V Ramachandran (Director General - Cellular Operators Association of India) to Pradeep Baijal (Chairman - TRAI), *COAI Response to TRAI Consultation Paper No. 2003/1on IUC Issues* (New Delhi, 6 June 2003) suggested these issues. COAI shared this letter with the author.

[10] This view is based on a short memo circulated by COAI in the aftermath of the TRAI Consultation Paper of 23 June 2003, titled: *Issues Related to ADC.* The COAI shared this memo with the author.

[11] The arbitrage opportunity arose because the per minute ADC charge increased with distance. An operator had the incentive of reporting an international call as a local call so that it would need to pay the lower ADC due for a local call, compared with what would be due for an international long distance call. This phenomenon was a matter of concern in the TRAI Consultation Paper of 23 June 2004. An alternative revenue share approach, which would mean a tax on gross revenue, could be one way to terminate this incentive.

[12] These views were expressed in a press note issued by COAI in January 2005, titled: *TRAI Announces Revised ADC Regime.* I am grateful to COAI for sharing this and other documents. These views were shared in a personal interview with T V Ramachandran – Director General, Cellular Operators Association of India (New Delhi, 30 December 2005).

[13] The COAI shared a policy note titled: *Input Note on ADC Related Issues*, which could be attributed to the period under discussion.

[14] The TRAI has initiated the accounting separation exercise, which would help to calculate the precise access deficit charge (New Delhi, TRAI Notification, 27 March 2006).

[15] In March 2006, India had a tele-density of 12.36 telephones per hundred people and 140 million telephone lines. 41.26 million telephone connections were added in 2005-2006. See www.trai.gov.in .

[16] These views are based on two policy notes shared by the COAI. The first was the immediate response to the consultation paper of 16 June 2003. The second was a letter written by COAI's Director General - T V Ramachandran to TRAI on the subject *TRAI Consultation Paper on Unified Licensing* (New Delhi, 30 August 2003).

[17] In addition to the COAI's comments on the draft recommendations referenced below (COAI, 30 August 2004), the COAI also shared its responses to the TRAI's Preliminary Consultation Paper on Unified Licensing dated 15 November 2003, and the consultation paper on the same subject dated 13 March 2004. These arguments have been incorporated in the text.

[18] These views are based on a letter written by T V Ramachandran – Director General, COAI to Dayanidhi Maran – Minister of Communications and Information Technology, titled: *TRAI's Final Recommendations on Unified Licensing* (New Delhi: 11 February 2005).

[19] In February 2005, news reports suggest that Finance Minister Chidambaram worked closely with other Ministries and the Left Parties to get the Cabinet to approve a hike in FDI limit from 49% to 74% (Financial Times Information, 3 February 2005).

[20] The CPIM was one of the members of the Congress – United Progressive Alliance government.

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