In September 2018, the cabinet approved the New Telecom Policy. This has been renamed the National Digital Communications Policy (NDCP), 2018, to reflect its broader scope as it covers several new areas. It is further proposed that the Telecom Regulatory Authority of India (TRAI) be renamed the Digital Communications Regulatory Authority of India and the Telecom Commission as the Digital Communications Commission.

The draft version of this policy was released in May 2018 for comments. It appears to have been approved without any major changes. Once the new policy is adopted, it will replace the National Telecom Policy, 2012.

The industry has high hopes that the NDCP will ease the business environment and enable the sector to regain its financial health while realigning the policy framework to accommodate new trends and technologies such as fibre-to-the-home, 5G and internet of things (IoT). The policy incorporates concepts such as privacy and security as India implements a data protection law. There is a focus on the privacy of individuals.

The policy does seem to cover most of these aspects in some detail and it is encouraging to see that it suggests the restructuring of levies and charges to reduce the financial burden on cash-strapped telecom service providers. Besides, it aims to provide broadband for all and create an additional 4 million jobs in the sector, apart from enhancing the sector's contribution to India's GDP from the prevailing 6 per cent to 8 per cent by 2022.

Telecom minister Manoj Sinha, has stated, "The upcoming NDCP will be a forward-looking policy and will enable the sector to have a successful future. Emerging technologies like 5G, artificial intelligence, machine-to-machine (M2M) communication and IoT called for a new consumer- and application-centric policy. The government aims to improve the reach of telecom services and applications riding on the network."

Sinha also stated that implementation will start within a year of the policy being placed before Parliament. Unfortunately, as elections draw closer, there is a real chance that this will be side-tracked, since Parliament is likely to be disrupted and distracted by electoral politics.

The NDCP has to be implemented quickly in order to keep up with global changes in the telecom environment, given the evolution of 5G networks and the increasing penetration of IoT and M2M communication. India is looking to target 5G roll-outs by 2020.

A look at some specific areas highlighted in the policy and their potential impact on the industry...

Broadband

The NDCP hopes to push the country into the “top 50 nations” club on the Information and Communication Technologies (ICT) Development Index of the International Telecommunication Union (ITU). India is currently ranked 134th. One salient point is that 2022 has been set as a target date for achieving broadband availability for everyone in the country. Achieving the desired target in the set timeline might be a daunting task, given the current state of broadband services in the country. As of July 2018, the total broadband subscribers in the country stood at 460 million, translating into a teledensity of about 35 per cent. Uptake of home broadband services was even worse, with the subscriber base standing at just 18 million, or roughly 10 per cent of the households.

The NDCP aspires to change this scenario and projects that a high level of broadband penetration would aid in the creation of new jobs in digital communications, apart from attracting investments of $100 billion or more. The Broadband Mission will be driven at the rural level by the BharatNet, GramNet and JanWiFi initiatives, and in urban areas by NagarNet. It is envisaged that these initiatives will be run via public-private partnerships and funded by the Universal Service Obligation (USO) Fund. Financial assistance from the USO Fund is likely to support private telcos’ growth, as it would broaden the customer base and improve internet adoption, particularly in rural areas.

The policy also talks about giving telecom optic fibre cable the status of a public utility. Apart from fiberisation of 60 per cent of tower base stations, the NDCP will also mandate telecom and cable installations in office and home spaces by amending the National Building Code. Further, a national fibre authority will be formed for coordination among central, state and local authorities to remove barriers to approval and create open access next-generation networks. There will be acceleration in right-of-way permissions for towers on government premises and in the promotion of green energy for towers. Access charges and regulatory hurdles will be reduced for international cable landing stations. Relevant legislation will be amended to enable

convergence in the IT, telecom and broadcasting sectors.

Satellite communications

The policy has a section on satellite communications (satcom). It proposes to review the regulatory regime and revise the regulatory conditions that limit the use of satcom. It proposes to expand the scope of permitted services under unified licensing. It will prioritise international engagement with the ITU on spectrum management issues and make available additional transponders and new spectrum bands (such as Ka band) for satellite-based commercial communication services. It will also rationalise the transponder and spectrum charges payable to the Wireless Planning and Coordination wing of the Department of Telecommunications (DoT). It also aims at promoting local manufacturing and the development of satcom systems.

Financial impact

The NDCP, 2018 has outlined a roadmap for de-stressing telecom businesses. This is vital given the financial turmoil triggered in the sector by high spectrum charges and the ongoing price war, which has led to enforced consolidation and massive losses for most service providers. The policy suggests a review and rationalisation of taxes and levies including licence fee, USO Fund levy and spectrum usage charges; and says that, the spectrum usage charges (SUC) should ideally only reflect the administrative costs. Currently, the industry faces around 4 per cent SUC and 8 per cent licence fees, which includes a 5 per cent USO Fund levy. Together, these add substantially to operators' financial burden. Rationalisation of these charges would mean that DoT would cease to be a mere revenue collector and would become an enabler of businesses instead.

Spectrum

Telecom service providers blame the overpricing of spectrum as a key reason for the high level of debt, which has held back the necessary investments in network infrastructure. The NDCP needs to address this issue in order to ensure that 5G roll-out is not inordinately delayed and telecom majors are not driven into another round of bankruptcy.

The NDCP says that the government plans to make available more spectrum bands for 5G deployment. It also plans further liberalisation of the norms for spectrum sharing, leasing and trading. Spectrum holding caps have been increased after several rounds of mergers and consolidation. The policy speaks of “optimal pricing” of spectrum for affordability. Industry analysts are of the view that telcos may opt out of the upcoming 5G spectrum sale if prices are “too high”. Recently, telecom secretary, Aruna Sundararajan hinted that a 5G spectrum sale is likely in the latter half of 2019. The 3 GHz to 24 GHz range is now being recognised as central to India’s strategy for next-gen networks.

The NDCP also mentions a simplification of the permission obtaining process. The government will, moreover, conduct spectrum audits of commercial and government bodies to ensure efficient utilisation. The annual royalty charges for microwave links will be rationalised to allow backhaul connectivity.

Net neutrality

DoT had also released a set of net neutrality provisions while the NDCP was still at the draft stage and that commitment to net neutrality has been reiterated and reinforced in the NDCP. The internet will remain an open platform, allowing individuals and micro, small and medium enterprises (MSMEs) to create and disseminate content without fear of being sidelined. On this subject, the NDCP considers amending licence agreements to incorporate the principles of non-discriminatory treatment of content. It also mentions introducing appropriate disclosure and transparency requirements for ensuring compliance with net neutrality.

Digital sovereignty, security, encryption

Another key focus of the NDCP, 2018 is digital sovereignty, alongside the safety and security of digital communications. The policy’s security goals seem to adhere to the recent Supreme Court judgment about “privacy being a fundamental right”, and the Srikrishna Committee’s recommendations on data protection. It speaks about safeguarding the freedom and choice of the individual, developing digital network security, building capacity and standards for security mechanisms, and addressing security-related issues in encryption and security clearance.

In this area, it is notable that there could be amendments to the licence terms and conditions to

ensure that new standards of privacy and data protection are met. There will also be an attempt to promote the use of indigenous communication products and services.

One aspect of this could be controversial in practice. The Draft Data Protection Legislation and recommendations lay emphasis on data localisation. The NDCP also places some emphasis on data sovereignty. According to the industry, this may add significantly to costs and could actually enhance risks if cloud-based services, for instance, have to be moved to Indian servers.

The NDCP would also lay the ground for formulating an encryption policy, and set new standards for data retention, borrowing from best global practices. It mentions the creation of a Telecom Testing and Security Certification agency for enforcing digital security. A lot of legislation would be required to amend or supersede the current Bureau of Indian Standards Act, the Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, and the Indian Telegraph Act.

Instead of the current surveillance regime, which operates in a legal vacuum, the policy recommends the establishment of lawful interception agencies with interception and analysis systems. It also suggests the creation of a “central equipment identity registry” for addressing security, data theft, reprogramming mobile phone identity, etc. The specifics in this area will be a real indicator of the possible impact on security.

Ombudsman

On the consumer side, there is provision for the formation of a telecom ombudsman for the protection of consumers’ rights. This comes after requests from the Bombay High Court and recommendations from TRAI. This would address the need for consumer complaint redressal. A centralised web-based complaint redressal system will be created.

Conclusion

Given the country’s growing digital aspirations, the NDCP, 2018 comes at an opportune time and with big promise. It seems to have the right look and feel, as it provides a broad roadmap

for steering the country into the digital era, by suggesting an overhaul of the existing policy and regulatory framework, acknowledging certain long-standing concerns and supporting services based on next-gen technologies.

Despite the NDCP's visionary theme, significant groundwork and a major change in the regulatory mindset would be required before this policy shows concrete and positive results. The regulator and government departments must work with the industry and take inputs from users to deal with the many challenges that will arise.

One of the most important and urgent requirements is to restore the financial health of the sector, for which the policy envisages a reduction in levies and changes in processes, while conducting spectrum auctions for 5G in particular. This will help the industry.

However, it remains to be seen if it is realistic to implement the envisaged framework within the given time frame.

Devangshu Datta with Akanksha Mahajan Marwah

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