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**STANDING COMMITTEE ON
INFORMATION TECHNOLOGY
(2005-2006)**

FOURTEENTH LOK SABHA

**MINISTRY OF COMMUNICATIONS AND
INFORMATION TECHNOLOGY
(DEPARTMENT OF TELECOMMUNICATIONS)**

THE INDIAN TELEGRAPH (AMENDMENT) BILL, 2006

THIRTY-FOURTH REPORT



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

July, 2006/Sravana, 1928 (Saka)

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(DEPARTMENT OF TELECOMMUNICATIONS)

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Presented to Lok Sabha on 31.07.2006

Laid in Rajya Sabha on 31.07.2006



LOK SABHA SECRETARIAT
NEW DELHI

July, 2006/Sravana, 1928 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON INFORMATION
TECHNOLOGY (2005-2006)

Shri Nikhil Kumar — Chairman *

MEMBERS

Lok Sabha

2. Shri Nikhil Kumar Chaudhary
3. Shri Mani Charenamei
4. Shri Sanjay Shamrao Dhotre
5. Kunwar Jitin Prasad
6. Shri Kailash Joshi
7. Shri P. Karunakaran
8. Dr. P.P. Koya
9. Shri P.S. Gadhavi
10. Vacant ***
11. Smt. Nivedita Sambhajirao Mane
12. Smt. P. Jayaprada
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14. Shri Sohan Potai
15. Shri Ashok Kumar Rawat
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18. Shri Tathagata Satpathy
19. Shri K.V. Thangka Balu
20. Shri P .C. Thomas
21. Shri Ram Kripal Yadav

Rajya Sabha

22. Shri Vijay J. Darda
23. Shri Rajeev Chandrasekhar *****
24. Vacant ***
25. Shri Praveen Rashtrapal****
26. Shri Dara Singh
27. Shri A. Vijayaraghavan**
28. Shri N.R. Govindrajar
29. Shri Ravi Shankar Prasad****
30. Shri Motiur Rahman
31. Shri Ekanath K. Thakur

(iv)

SECRETARIAT

1. Shri P. Sreedharan	—	<i>Joint Secretary</i>
2. Shri Raj Shekhar Sharma	—	<i>Director</i>
3. Shri Cyril John	—	<i>Under Secretary</i>
4. Smt. Geeta Parmar	—	<i>Executive Officer</i>

* Appointed w.e.f. 10.05.2006

** Nominated w.e.f. 27 September, 2005

*** Vice Shri Ajay Maken, Shri Chandra Sekhar Sahu and Shri Ashwani Kumar have been appointed as Ministers of State w.e.f. 29 January, 2006

**** Nominated w.e.f. 06.06.2006

***** Nominated w.e.f. 08.06.2006

INTRODUCTION

I, the Chairman, Standing Committee on Information Technology (2005-06) having been authorised by the Committee to submit the Report on their behalf, present this Thirty-Fourth Report on “The Indian Telegraph (Amendment) Bill, 2006” relating to the Ministry of Communications and Information Technology (Department of Telecommunications).

2. The Standing Committee on Information Technology (2005-2006) was constituted on 5 August, 2005. One of the functions of the Standing Committee, as laid down in Rule 331 E of the Rules of Procedure and Conduct of Business in Lok Sabha is to examine such Bills pertaining to the concerned Ministries/ Departments as are referred to the Committee by the Speaker, Lok Sabha and make a Report on the same to the House.

3. The Indian Telegraph (Amendment) Bill, 2006 was referred by the Hon'ble Speaker to the Standing Committee on Information Technology on 19 May, 2006 for examination and Report. The Committee invited the representatives of the Bharat Sanchar Nigam Ltd. (BSNL), the Cellular Operators Association of India (COAI), the Association of Unified Service Providers of India (AUSPI) on 29 June, 2006 to depose and place their views before the Committee on the proposed amendment in the Indian Telegraph (Amendment) Bill, 2006. The Committee also called the representatives of Telecom Regulatory Authority of India (TRAI) on 28 June and 18 July, 2006 and the representatives of Ministry of Law and Justice, Department of Legal Affairs and Legislative Department on 18 July, 2006 to project their views on the proposed amendment in the Indian Telegraph (Amendment) Bill, 2006. The Committee also called the representatives of the Department of Telecommunications 28 June and 18 July, 2006 to seek their clarifications.

4. The Committee considered and adopted the Draft Report on the Bill at their sitting held on 27 July, 2006.

5. The Committee wish to express their thanks to the Bharat Sanchar Nigam Ltd. (BSNL), the Cellular Operators Association of India (COAI) and the association of Unified Service Providers of India (AUSPI) for appearing before the Committee and placing their views before the Committee.

6. The Committee also express their thanks to the Officers of the Department of Telecommunications, Telecom Regulatory Authority of

India (TRAI) and Ministry of Law and Justice, Department of Legal Affairs and Legislative Department for tendering evidence before the Committee and placing before them the detailed information that the Committee desired in connection with the examination of the subject.

7. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in Part-II of the Report.

NEW DELHI;
28 July, 2006

6 Sravana, 1928 (Saka)

NIKHIL KUMAR,
Chairman,
Standing Committee on
Information Technology

THE INDIAN TELEGRAPH (AMENDMENT) BILL, 2006

REPORT

I. Introductory

(i) Amendment Proposal

As per Clause (1A) of Section 3 of the said Act, “Universal Service Obligation” means the obligation to provide access to basic telegraph services to people in rural and remote areas at affordable and reasonable prices. Section 9A of the Indian Telegraph Act, 1885 provides for the establishment of Universal Service Obligation Fund (USO Fund) for meeting the Universal Service Obligation. The Act was amended by the Indian Telegraph (Amendment) Act, 2003 (No. 8 of 2004) to establish the Universal Service Obligation Fund effective from 01.04.2002. At present, the USO Fund provides support only to the basic telegraph services, including wire-line and fixed wireless terminals in rural and remote areas.

2. The Indian Telegraph (Amendment) Bill, 2006 (Appendix-I) was introduced: in Lok Sabha on '19.05.2006. It was referred to the Standing Committee on Information technology by the Hon'ble Speaker under Rule 331 E of the rules of Procedure and Conduct of Business in Lok Sabha for examination and Report thereon.

3. The Indian Telegraph (Amendment) Bill, 2006 has been introduced to amend the Clause (1A) of Section 3 of the Indian Telegraph Act, 1885 by deleting the word “basic” to enable the USO Fund to provide support to cellular services for roll out of mobile network in the rural and remote areas.

(ii) Need for expansion of telecom growth in rural areas

4. Explaining the rationale for the proposed Amendment, the Department of Telecommunications in a note stated that the target set under the New Telecom Policy, 1999 was to achieve ‘telephone on demand’ in rural areas by the year 2002 and to increase the rural tele-density from the level of 0.4 to 4 by the year 2010. As on 30.04.2006, while the urban tele-density, largely spearheaded by mobile phones increased to 40.65 from 14.3 in March, 2003, the rural tele-density increased marginally to 1.86 from 1.5 in March 2003. It has been stated that as the definition of Universal Service Obligation includes the word ‘basic’, which is interpreted to exclude cellular services, it is not possible to

provide subsidy to cellular services in rural and remote areas. The Cellular Mobile Services which have brought about a revolution in the urban areas can be effectively used to provide services to the people in rural and remote areas also, at affordable and reasonable prices. The comparative figures of the cost of wire-line, WLL and Cellular mobile services in BSNL network are given as under:

(a) Wire-line	Rs. 26,000
(b) WLL including handset	Rs. 9,000
(c) Cellular Mobile without handset	Rs. 5,500

5. It has further been stated that the actual cost may vary depending upon a number of factors like existing network infrastructure, switching & transmission equipment, demand, areas to be covered etc. The operational expenditure for wire-line is stated to be Rs. 621/- per DEL per month whereas for cellular mobile services it is of the order of Rs. 205/-. The landline is a costlier option owing to difficulties of terrain, cost of laying of copper cable, OFC etc. Hence, to facilitate telecom penetration in the rural areas, which can effectively increase the teledensity, it becomes imperative to support new wireless technologies which are cheaper and which can be rolled out much faster. With the advancement of new technologies, the cost of mobile handsets, which was hitherto an inhibiting factor, has also come down.

6. The Committee asked whether landline phones still remained popular and whether the provision for such phones in the rural, remote and inaccessible areas would get affected if subsidy support from USO Fund was extended to the Cellular Service Providers. In reply, the Secretary, DoT submitted that facts and figures did not support the view that landline phones were still popular. He elaborated that the phenomenal growth in the telecom sector was primarily due to explosion in mobile telephony. He was of the firm view that if the telecom services were to be really expanded to the rural, remote and inaccessible areas, then support from the USO Fund to mobile service providers could not be ignored.

7. The Secretary, DoT assured the Committee that even if subsidy support was given to the cellular service providers from the USO Fund, the Department's landline programme in rural, remote and inaccessible areas would continue unabated.

8. The Committee then desired to know whether the funds in USO Fund would get reduced in case support was extended to the mobile services. In response, the Secretary, DoT stated that even if support was

extended to the CMSPs for expansion of rural telephony, there would be enough funds available with the USOF to continue the support for land line telephones.

9. Responding to a specific query of the Committee, the Secretary, DoT submitted that the available funds in USO Fund would be primarily utilized towards the uncovered rural, remote and inaccessible areas.

(iii) Views of Service Providers

10. Keeping in view the nature of the amendment proposed in the Indian Telegraph (Amendment) Bill, 2006 of the Indian Telegraph Act, 1885 and its implications, the Committee invited the representatives of the Bharat Sanchar Nigam Ltd. (BSNL), the Cellular Operators Association of India (COAI) and the Association of Unified Service Providers of India (AUSPI) to depose and place their views before the Committee on 29 June, 2006. The Committee also called the representatives of Telecom Regulatory Authority of India (TRAI) on 28 June and 18 July, 2006 and the representatives of Ministry of Law and Justice, Department of Legal Affairs and Legislative Department on 18 July, 2006 to hear their views on the proposed amendment. The Committee also called the representatives of the Department of Telecommunications on 28 June and 18 July, 2006 to seek clarifications.

11. The Committee desired to know the views of the Bharat Sanchar Nigam Limited on the proposed amendment in the Indian Telegraph Act, 1885. To this, the Chairman and Managing Director *inter alia* submitted as follows:

“..... The problem that we envisage is that we have already made our plans to go to the rural areas and as per our plan, we have proposed that we will cover the villages upto 5000 population by the end of this financial year and the villages upto the population of 2000 or more, we will cover by 2007-08. We are going in that direction. But the objective of achieving teledensity in the rural areas at the moment is about two. To make it four by 2010, seeing the popularity of the GSM mobile, it was thought that the rollout is faster. There are a lot of plus points for the mobile. So, it has been seen that if we provide the mobile services fast, then probably, it will be accelerating the growth rate or penetration in rural areas. Basically, in the rural areas, we are providing fixed line services and the roll out in fixed line services is slower and very costly. But when we go for mobile services, the rollout is faster. But since we are covering the rural areas, initially the capacity utilization will be

only 20 percent as regards the equipment which will be installed. That way, the cost will become more. If we penetrate the rural areas, the running cost of the logistic power supply system is also more. If we want it fast, then we have to increase the teledensity in the rural areas. GSM or the mobile service is the better option or any wireless service is a better option because of the faster rollout but the capital cost and the operational cost will be more. So, we thought that is we get some help from the USO Fund, it will be quicker to rollout the services. To that extent, some loss or heavy capital cost will be there because revenue is already very low and so the operational cost will be high. Thus, if we get some compensation, it will an added incentive for operators to go to the rural areas and give a faster roll out. With this view, we support the proposal for USO and support the wireless services for giving assistance for a faster roll out.”

12. The representatives of the Cellular Operators Association of India (COAI) also deposed before the Committee to project their view on the proposed amendment of the DoT. The Director General, COAI *inter alia* submitted as follows:

“..... What I would like to first and foremost state that we from the industry welcome the proposed amendment in the Indian Telegraph Act for providing support to cellular service for expansion to rural areas from the USO fund. We believe that it is necessary to modify this to remove the word ‘basic’ because like CMD, BSNL rightly pointed out, the Telegraph Act talks of basic telephony and in various documents defined over the years, basic telephone service or basic telegraph service has always referred to wire line. So, there could be problems in seeking to cover mobility under those. That is why, the simple amendment to remove the word ‘basic’ —which is what has been proposed. We fully and heartily support that. We firmly believe that this step will enable the spread of cellular mobile service to the uncovered and far-flung areas of the country..... “

13. Supporting the proposed amendment, the Secretary General of the Association of Unified Telecom Service Providers of India (AUSPI) *inter alia* stated during evidence that it would increase the growth of the telecom services much faster in rural areas than what it is now.

(iv) Views of TRAI

14. In a written reply furnished by the Department of Telecommunications, it has been stated that support for cellular services was considered even without the recommendations of Telecom

Regulatory Authority of India to provide for rapid expansion of telegraph services in rural and remote areas at affordable and reasonable prices. TRAI has also held that subsidy in the short run would be necessary to incentivise the creation of infrastructure. TRAI was, however, of the opinion that to cover mobile services under the ambit of USO Fund support, the amendment of Telegraph Act was not necessary and the objective could be achieved by defining basic services in Unified Access Service License (UASL) and cellular license agreements in accordance with WTD definitions. It has further been informed that a note was received from TRAI stating that cellular services are covered under basic services and therefore, only as an abundant precaution, there is a need for amendment of Indian Telegraph Act, 1885 to cover cellular service under USO.

15. In a separate note, the Department of Telecommunications enumerated the following reasons for amending the Act and not agreeing to the suggestions of TRAI:—

“It is submitted that the suggestions/recommendations of TRAI on this subject are not mandatory and the decision is to be taken by the Government.

- The Categories covered by basic telecommunications commitments unless otherwise specified are:
 - Local
 - Long distance
 - International
 - Wire-based (including e.g. all types of cables and, usually radio portions of fixed infrastructure)
 - Radio based (all forms of wireless, including satellite)
 - On a resale basis (non-facilities based supply)
 - Facilities based supply
 - For public use (i.e., services that must be available to the public generally)
 - For non-public use (e.g. services provided for sale to closed user groups).
- As per India's offer in WTO, separate offer is made for cellular mobile services-item 'O' under sub-head 'others' under telecommunication services.

- Unified access Service License includes basic services and mobile services. Basic services have got fixed services and limited mobile services.
- At the time of granting/migrating to Unified Access Service License, it was decided that no more new license will be issued for basic and cellular services. Cellular services have not been removed from the list of value added services. Only intention is that as no more license is to be issued for cellular services and it is made a part of unified access service license, it is not mentioned in the list of value added services requiring separate license.
- At the time of amendment to Indian Telegraph Act in 2003, it was never the intention to provide support for cellular services.
- World wide cellular services are treated separately from the basic telecommunication services, which are normally wireline services or Plain Old Telephone Service.
- Each country is governed by the Acts, Rules or License conditions of its own and not by the definition of WTO or even on the recommendations of ITU. Even in WTO, India has submitted offer separately for Basic & Cellular services.
- In case, the records are called for in the courts in case of litigation, it will not be possible to withstand legal scrutiny that there was any intention to provide support to the cellular services from the USO Fund.
- Therefore, Cellular Services are not covered under basic services in our country.
- The matter was examined and it was felt that the mobile services cannot be provided USO Fund support without the amendment of Indian Telegraph Act, 1885, Law Ministry was also consulted which has opined that the amendment of Indian Telegraph Act is required to cover cellular services within the ambit of USO Fund.”

II. Definition of the word “basic” and the need for its deletion

16. The Committee enquired whether the word ‘basic’ has been defined in either the Indian Telegraph Act or the Rules made thereunder. The then Secretary, DoT stated in evidence:—

“.....the word “basic” has not been defined in the Indian Telegraph Act or the Rules thereunder, “Basic” and “cellular” are words used since 1994-95. We actually started issuing licenses to two separate

services, basic and cellular. So by usage, in the telecom world the word basic meant landline. It was subsequently extended to FWT the limited mobile. It could not be used to cover the full mobile”.

17. The Committee pointed out that WLL too worked on the principle of wireless though it was meant for Short Distance Charging Area. In response, it was stated that it was basically meant for a very limited area with limited capabilities. On being further pointed out that the law did not stipulate distances anywhere, the witness submitted that ultimately they had to go by the way the licenses were issued.

18. The Committee asked the reasons for not extending support to cellular service providers at present from the USO Fund when the word basic has not been defined anywhere in the Indian Telegraph Act, 1885, implying thereby that there has been no bar to extend subsidy to the cellular service providers from the USO Fund. In reply, it has been stated that the words ‘basic’ and ‘cellular services’ were distinctively defined in the Policy in NTP 1994 and subsequently whole licensing regime has been based on such distinction. The two services are distinct worldwide. The basic and cellular services have got different Numbering, Routing and Charging plan. The basic service has got typically 6 to 8 digit numbering plan based upon Short Distance Charging Area link numbering scheme while cellular service has got a 10 digit numbering plan charging with numbers such as 92,93,94,98 and 99 based upon circle based link numbering scheme. At the time of amendment of Indian Telegraph Act in 2003 there was no intention to provide support to the cellular services from USO Fund wherein a subscriber can have the benefit of moving beyond the SDCA in respect of wireless services.

19. It has further been added that as Basic & Cellular Services are two distinct services, including cellular services in the definition of basic services may lead to litigation and it is felt that any subsidy to cellular services for connection in rural areas will not withstand judicial scrutiny without parliamentary approval by way of amendment of the Act.

20. To another query, it has been stated that the word ‘basic’ in the Department means provisioning of voice and data services over voice channel. This facility can be provided by using wire-line or wireless terminals in fixed or limited mobility modes. The word ‘basic’ does not include the facility for a subscriber to move around in a telecom service area which is typically a state or beyond that while availing roaming facility available in Cellular services.

21. From the information furnished to the Committee, it was seen that DoT prepared a Draft Note for the Cabinet for amending the Indian Telegraph Act, 1885 by promulgating an Ordinance under Article 123 of the Constitution on 06.09.2005 which was examined by the Department of Legal Affairs and the Legislative Department. The purpose of promulgating the proposed Ordinance was to provide support, *inter alia*, to cellular service, in addition to basic telegraph services (landline telephones), in rural and remote areas from Universal Service Obligation Fund for faster expansion of telecom services. The Department of Legal Affairs and the Legislative Department concurred in the said Note on 7.9.2005 and 29.9.2005 respectively and the same was approved by MSLJ and MLJ on 30.9.2005.

22. It was also seen from the information made available to the Committee that there has also been a view within DoT that the word 'basic' has not been defined in the Indian Telegraph Act, 1885 and it can be interpreted keeping in view the situation, circumstances and modern technology prevalent as on date. The main object of the USOF is to provide access to telegraph services to people in the rural and remote areas at an affordable and reasonable price and providing support for infrastructure for such services may be well within the existing provisions of the Act. It has also been stated that the number of cellular phones in urban areas has gone far beyond the number of fixed line telephones and it is an indication that cellular telephony is more acceptable. The competition in this sector has resulted in a major decline in the tariff charged by the companies for calls made and it is cheaper to extend connectivity in the rural areas through cellular telephony than through the conventional landline technology. The fixed lines being extended to rural areas will not bring succor to the people living there. It is also argued that in the telecom sector, where constant changes and developments are taking place. It would not be possible to frame an enactment which may take into consideration fast developments it is undergoing. The interest of public at large and the fact that steps taken are in consonance with the fundamental objective of the Act are of paramount interest. As the Telecom Policy of 1999 states that in addition to fixed service providers, other service providers shall also be encouraged to participate in USO provisions subject to technical feasibility and shall be reimbursed from the funds of Universal Access Levy, It is also argued that the principles of statutory interpretation recognise that general words are construed to include new inventions and technological advances. Accordingly, as per this view cellular telephone infrastructure in rural areas without amending the Act would not be violative of its provisions and there is no need to amend the Act.

23. However, the Ministry of Law opined that the second view within DoT that any amendment in the said Act may not be required on the ground that the principles of statutory interpretation recognise that general words are construed to include new inventions and technological advances did not appear to be tenable. The Hon'ble Supreme Court in *Empress Mills v. Municipal Committee, Wardha*, Air 1958 SC 341 and *Utkar Contractors & Joindery (P) Ltd. v. State of Orissa*, (1987) 3 SCC 279, observed that general words and phrases however wide and comprehensive they may be in their literal sense must usually be construed as being limited to the actual objects of the enactment. Therefore, the Ministry of Law advised DoT to amend the Indian Telegraph Act, 1855 as per their proposal contained in their draft Note for the Cabinet as approved by MLJ.

24. During evidence, the Committee raised various points arising out of the proposed amendment and asked the Ministry of Law to comment on the same. Responding to the same, the Law Secretary stated as follows:-

“.....Our legal difficulty arises from section 9(d) (2). There is a direction. The direction is: “The Fund shall be utilised exclusively for meeting the Universal Service Obligation”. The Universal Service Obligation has been defined to mean the obligation to provide access to basic telegraph services to people in rural and remote areas. I have been following what the hon. Members have been saying. Removal of the word “basic” is only meant to widen the scope of the application of Universal Service Obligation Fund. It is not to restrict it. But Members have very strong views on this. So, we can re-word it. If we can re-word it, all your concerns can be taken care of..... So, I would suggest that we will re-word this section. I will read out if you permit and it will take care of your concerns and our legal difficulties also. If you permit I will tell you how it should be re-worded. 1 (a) reads that Universal Service Obligation means obligation to provide access to basic telegraph services to people. This is how currently it is worded. Now, this word “telegraph services” is technology neutral. It is very wide. Current, and future technology is covered under this word “telegraph services”. We can now say the Universal Service Obligation means obligation to provide access to telegraph services including basic, cellular and other services to the rural people. So, this takes care of everything, your concern in retaining the word “basic” as well as other technologies for the sake of clarity. So, the words “basic telegraph services” restricts instead of expanding it and that causes a legal

difficulty. So, we will retain the word “basic” after the “telegraph services” because “telegraph services” is very wide. It is very wide. But by way of clarification we can say that “telegraph services” including basic, cellular and other services to the people in rural areas. This will take care of everybody’s concerns.”

III. Definition of the word “telegraph”

25. The word ‘telegraph’ has been defined in Section 3 Clause (1AA) in the Indian Telegraph Act, 1885 as follows:

‘any appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs. Signals, writing images and sounds or intelligence of any nature by wire, visual or other electro-magnetic emissions, radio waves or Hertzian waves, galvanic, electric or magnetic means.

26. The Department of Telecommunications further clarified that as wire as well as radio waves and electro-magnetic emissions are stipulated in the definition, it covers both wire and wireless services.

27. The Committee pointed out that the definition of “telegraph” was so comprehensive, dynamic and wide not only to cover the existing technologies, but also future ones. It has withstood the technological growth over the years. In the present context, the expression ‘Hertzian waves’ seemed clearly to cover mobile telephones. In the circumstances, the Committee desired to know the rationale for the proposed amendment. Responding to the same, a representative of DoT stated as follows:

“About definition, telecommunications is such a dynamic sector where almost everyday there is new technology coming in. Though the word ‘basic’ has not been defined in the Act, the word ‘telegraph’ has been defined in the Act. That definition is broad enough to include any type of technology. Even if we try and not remove the word ‘basic’ but add one or two adjectives, it may not be so comprehensive enough so as to include any new technology which may come tomorrow or day after. By dropping the word ‘basic’ what we are doing is, we are going back to the definition of telegraph services. ‘Telegraph’ is defined in the Act that is broad enough to cover not only what we call basic landline, but it would also cover cellular and other technologies which may come tomorrow or day after. So, there would be no need to amend the Act every time new technology comes in.....”.

28. While deposing before the Committee, the Secretary, Legislative Department commented on the issue as follows:—

“..... The telegraph services mean services of any description including electronic mail, voice mail, data services, audit text service, video text service, radio paging, cellular mobile services which is made available to users by means of any transmission or reception, sign, signal, writing image, sound or intelligence of any nature, by wire radio visual or other electro magnetic means, but shall not include broadcasting services. This is my point in regard to the word “basic”. I would like to mention here that so far as the word “telegraph” is concerned, it has been, in fact, very liberally interpreted not only in India but abroad also. In fact, certain general words like “telegraph” would include new inventions and technological advancement not known at the time when the Act was passed. In fact, the telephone was included in telegraph even when telephone was not included; broadcasting was also included in the word telegraph and radio broadcasting has also been included in the word telegraph. So, the word telegraph is very wide. It will include the basic like fixed line as well as the mobile. But the purpose of this amendment of 2006 is to make a correction over the amendments which were made in 2003.”

29. Offering his views on the subject, the Chairman TRAI on the definition of ‘telegraph’ responded as follows:—

“..... There is a big universe or technology which is basic telegraph service. In that universe, there is a basic telecom service. That comprises fixed telephony and mobile telephony..... the definition of “telegraph” includes mobile telephone or cellular telephony because these are words. It is the method of technology with which the telephone services are concerned. People who sort of argue for an amendment say that the need comes out of an earlier definition of universal service obligation in the same section. There the word is, “access to basic telegraph services.” It is because of that word basic, there are people who argue that basic means only what existed between 1947 and 1994. Our point of view is that basic means basic necessity. Therefore, it covers everything and if there is any lacunae in the license, that could be amended by the Department.....”

30. He further submitted:

“..... In the National Telecom Policy, it used the words in 1999 that the Government is committed to provide access to all people for

basic telephone services at affordable and reasonable prices. Here basic does not mean any special technology. They are just saying basic services. In NTP 1999 there was a provision subject to technical feasibility. The NTP 1999 envisaged that both these could qualify and could be eligible for funding. The objective is mentioned in the Bill. They used the word cellular. The objective of the Bill is that this means to cover cellular only. In future there may be WI-MAX service also. We would submit that a wider definition or interpretation as it exists in the telegraph definition is sufficient. This issue is expansion of telephone facilities to all kinds. There is some doubt about this in the Act. Our humble submission is we use the figures in the licensing conditions and that can be suitably amended without through the process of legislation.”

IV. Desirability of incorporating necessary provisions in the Rules

31. The Committee asked whether incorporating necessary provisions in the Rules framed under the Indian Telegraph Act, 1885 would not be a better proposition to achieve the intended objective behind the amendment if the Government felt that such a clarification was indeed necessary. In a note furnished to the Committee, DoT stated:—

“The incorporation in the rules could not be a better option, as in the law what is not permitted directly cannot be achieved indirectly”.

32. Expressing his views on the suggestion, the Chairman, TRAI stated that there is a Rule 526 in Chapter 10 of the Indian Telegraph Rules relating to Universal Service Obligation Fund which says about the eligibility criteria for taking money from the USO Fund. The explanation, which is stated to be most critical, is as follows:

“For the purposes of this Rule eligible operators, means the basic service operator as also mobile service provider and unified access service licence or any other entity as may be specified in this behalf by the Central Government from time to time”.

33. He further submitted as under:—

“So the point I am making is that the eligibility criteria itself says that a cellular mobile operator can also be eligible in addition to the basic service operator. Now one question will be asked that there is still some grey area and some people can dispute. Therefore, I now submit myself to the suggestion made by the hon. Chairman last time whether we can consider amending the rules of Universal Service Obligation Fund. We would submit that there are just two

changes which are required in the Chapter 10. There is rule 526 which is scope of support from Universal Service Obligation Fund. It says stream one and it defines it. It also defines stream 2. We would submit that a simple amendment defining stream 3 that it will also include provision of mobile telecom infrastructure and rural and remote areas could be taken up by the Central Government from time to time. So the scope of support then will cover it and it will become stream 3 and for this in chapter 2 another change which brought about in the rule itself for Chapter 10, rule 523 provides definitions which are specific to the Universal Service Obligation Fund. I would submit that we may define the basic telegraph services, fixed and mobile service it does not contradict any other chapters of the rules. It will not compromise with the licence conditions which are provided and it will meet the objectives of what we are looking for. That would cover both basic telephony—wire line and cellular which is wireless. This is my submission before you”

34. Commenting on the suggestion made by the Chairman, TRAI, the Law Secretary stated during evidence as follows:—

“..... I beg to differ from the submission made by Chairman, TRAI that rules can be amplified to provide definition of basic services. Now, the normal principles of interpretation, by subordinate legislation you cannot amplify or restrict the scope of the provisions of the Act. It would not be legally possible..... “

35. The Committee while questioning the aforesaid views of Law Secretary drew his attention to Section 7 of the Indian Telegraph Act which empowered Government to make rules for the conduct of telegraph. Therefore the proposal to make enabling provisions in the Rules would be very much within the legal competence of the Government. To this, the Law Secretary submitted:

“The powers cannot be used to amplify the main provisions of the Act,”

36. Asked whether rule making provisions were made in any substantive law to enable the administrative unit to lay down certain procedures the witness replied:—

“Rules should only supplement the details; it should not amplify”.

37. When pointed out that there were several instances where an undefined matter has been included in the rules, the Law Secretary further stated:—

“There may be an interpretation that you cannot make use of this Universal Service Fund for cellular services. There may be a point of view like that. Otherwise, we have no difficulty with this. But that is the only possibility.”

38. On being pointed out that a cellular operator operates through radio waves or Hertzian waves and electro-magnetic waves which are covered under the definition of “telegraph” under Section 3 Clause (1AA) of the Indian Telegraph Act, 1885 and that nothing new was proposed to be amplified, the witness stated:—

“I concede that. It is for the Committee to take view on this...”

39. When asked to comment on the views of the Law Secretary on the desirability of incorporating an enabling provision in the Rules framed under the Indian Telegraph Act, 1885 to cover extension of the USO Fund facility to the mobile operations in rural and remote areas, the Chairman, TRAI stated during evidence:—

“I can only say that even if my senior colleague the Law Secretary has some reservation on defining basic telegraph services in the rule, we need not do that. The only thing is rule 525, which has scope of support from the USO Fund, mentions about basic services Streams I and II. The only thing that we need to do is we just add Stream-III and say “Provision of mobile telecom infrastructure in rural and remote areas.” That is all.”

V. Collection and Release of Funds for Universal Service Obligation

40. In response to a query, it has been informed that various telecom service licensees are paying license fee to the Government @ 6 percent to 10 percent of Adjusted Gross Revenue (AGR). Out of this, 5 percent of the AGR is towards USO Fund contribution. This license fee is charged except for pure value added service providers like Internet, Voice Mail. The contribution to USO Fund is through parliamentary approval from the Consolidated Fund of India. The balance to the credit of the Fund does

not lapse at the end of the financial year. The USO Fund position and activity wise disbursement of USO Fund as on 31.3.2006 is given as under:

Rs. in Crore

Year	Opening Balance	Funds collected as Universal Service Fund Levy in FY	Funds allocated and Disbursed	Balance at the end of the year
2002-03	0	1653.61	300	1353.61
2003-04	1353.61	2143.22	200	3296.83
2004-05	3296.83	3457.73	1314.58	5439.98
2005-06	5439.98	3533.29	1766.85	7206.42

41. The Committee desired to know the reasons for only a meagre amount of Rs. 3581.43 crore being allotted and disbursed so far though the Universal Service Obligation Fund was established w.e.f. from 1.4.2002. In reply it has been stated that every year the USOF has been getting lesser amounts than demanded but whatever allotted, has been utilised. The Secretary, DoT further supplemented:

“Yes, Sir. Every year we write to them that we are entitled to have this kind of money and we make a provision. I think, this year we had initially asked for Rs. 3500 crore whereas we have got about Rs. 1500 crore. Therefore, during the course of the year, they will raise that amount a little, but the fact of the matter is that what was the will of the Parliament is not being honoured and what was collected as USO levy has not been so far given to the Department for the purpose of the USO Fund.”

42. To a specific query of the Committee regarding adequacy of the USO Fund in the event of cellular service providers being given support from the Fund. The Secretary, DoT replied as follows:

“... I do not know whether we will continue to get less and less because the figures do show that slight increase is there but what we get is definitely inadequate to our needs. More importantly, not only it is inadequate to our need, but it is also less than what is collected for the purpose “

43. The Committee wanted to know the approximate yearly burden on the USO fund if the cellular services are given subsidy support for their expansion in rural and remote areas. In reply, it has been stated

that while the exact outgo on supporting the infrastructure for mobile services will depend upon the final shape of the scheme and the actual bids received. It is anticipated that approximately Rs. 4000 to Rs. 5000 crore could be the outgo spread over more than one year.

44. The Committee learnt that the Government has envisaged a target of 250 million subscribers by the end of 2007 i.e. a tele-density of 22.98 percent, of which 200 million (80 percent of the total) are likely to be mobile. Total number of telephones provided in the country as on 31.05.2006 is stated to be 148.4 million, out of which, the number of rural telephones is 14.8 million (excluding mobile phones provided in the rural areas). When asked, it has been informed that a target has been fixed to provide one phone per three rural households by the year 2007. Further it is envisaged that a majority of the new connections will be mobile connections. It has been stated that what is more important than the numbers is the fact that the infrastructure for giving additional connections would have been created and thereafter the demand position would dictate further augmentation.

PART -II**RECOMMENDATIONS/OBSERVATIONS**

1. The Committee note that Section 9A of the Indian Telegraph Act, 1885 provides for the establishment of the Universal Service Obligation Fund (USO Fund) for meeting the Universal Service Obligation. As per clause (1A) of Section 3 of the said Act, Universal Service Obligation means the obligation to provide access to basic telegraph services to people in rural and remote areas at affordable and reasonable prices. At present, support from USO Fund is being provided only for the wire line and fixed wireless terminals in rural and remote areas. The target set under the New Telecom Policy, 1999 was to achieve telephone on demand in rural areas by the year 2002 and to increase the rural teledensity from the level of 0.4 to 4 by the year 2010, At the end of 2005, the urban teledensity was 31.2, whereas rural teledensity increased very marginally from 1.5 in 2003 to 1.77 in 2005. According to the Department of Telecommunications (DoT), the, cellular mobile services which have contributed to the impressive growth in the urban areas can be put to use to provide cellular services to the people in rural and remote areas also at affordable and reasonable prices. However, as the definition of Universal Service Obligation includes the word 'basic', it is not possible to provide support for cellular services. Accordingly, DoT have now introduced the Indian Telegraph (Amendment) Bill, 2006 to Lok Sabha proposing amendment to clause (1A) of Section 3 of the Indian Telegraph Act, 1885 by deleting the word "basic".

2. The Committee have time and again emphasised the need to improve the tele-density in rural India. They, however, are deeply concerned to note that as on 30.04.2006, the rural tele-density is around 1.86 only as against the urban tele-density of 40.65. Undoubtedly, the impressive growth of urban tele-density was largely spearheaded by mobile phones. The Committee are, therefore, convinced that the cellular mobile services which have brought about a revolution in the urban areas can be effectively used to provide cellular services to the people in rural and remote areas also at affordable and reasonable prices. The Committee, therefore, fully endorse the proposal for extension of support from the Universal Service Obligation Fund for provision of cellular services in rural, remote and inaccessible areas.

3. While the Committee are entirely in agreement with the stated intention behind the proposed amendment, they are not at all satisfied with the plea given by the Department that as the definition of Universal Service Obligation includes the word 'basic', it is not possible to provide subsidy support for cellular services. They informed that basic and cellular services are two distinct services and including cellular services in the definition of basic services may lead to litigation. According to DoT, any subsidy to cellular services for spreading their connections in rural areas will not withstand judicial scrutiny without parliamentary approval by way of amendment of the Act. The Committee, however, wish to point out that the amendment proposed is to delete the word 'basic' from the words 'basic telegraph services' used in the USO definition and not to include cellular services in the definition of basic services. The words 'basic services' and 'cellular services' may have been defined in National Telecom Policy, 1994 and the word 'basic' has not been defined exclusively. The Committee are of the strong opinion that there is no need to define the word 'basic' as the word 'basic' in its own does not have any meaning. It always qualifies the word(s) that follows. In the USO definition also the word 'basic' qualifies the words 'telegraph services'. It in no way indicates basic services. Further, the proposal to delete "basic" would seem to give an impression that the Government is consciously trying either to water down its responsibility in providing basic services or promote a certain type of service.

4. The Committee were informed that the word "basic" has nowhere been defined either in the Indian Telegraph Act or the Rules framed thereunder. The Committee were also informed that it is by usage that the word basic meant landline. The words "basic" and "cellular" are used since 1994-95 and licenses are issued for separate services, basic and cellular. The Committee are further informed that USO Fund was subsequently extended to Fixed and Wireless Telephony (FWT), the limited mobile. However, it could not be used to cover the full mobile. The Committee are of the view that since WLL too works on the principle of wireless and though it is meant for Short Distance Charging Area, it is nevertheless through wireless and the law does not stipulate distances anywhere, USO Fund could very well be extended to cellular mobile services in rural and remote areas also, without deleting the word "basic".

5. The Committee further note that as per clause (1AA) of Section 3 of Indian Telegraph Act, 1885, 'telegraph' means any appliance,

instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing images and sounds or intelligence of any nature by wire, visual or other electro-magnetic emissions, radio waves or Hertzian waves, galvanic, electric or magnetic means. As wire as well as radio waves and electro-magnetic emissions is stipulated in the definition, it covers both wire and wireless services. Clearly, this definition has successfully encompassed the evolving technologies and withstood the tests for more than a century. In the circumstances, the Committee are fully satisfied that the definition of telegraph is comprehensive and is sufficiently wide enough to include any type of technology. The Committee, therefore are of the view that there is no bar even now for extending the subsidy support to the cellular mobile service providers as well.

6. While the Committee are convinced that there is no need to delete the word “basic” from the relevant provision of the Indian Telegraph Act, they are not averse to the Department’s taking recourse to other methods as are legally sustainable to clarify the intention to extend the subsidy support to cellular services as well. During evidence it was suggested by the Committee that it could be easily done by incorporating necessary enabling provisions in the Rules framed under the Indian Telegraph Act, 1885. Agreeing to the Committee’s suggestion, the Chairman, TRAI admitted during evidence that necessary amendments on the desired lines could be incorporated in Chapter 10 of the Rules.

7. Expressing his point of view on the suggestion for incorporating necessary provision in the Rules for amplifying the definition of “basic service”, the Law Secretary stated during evidence that by subordinate legislation, one cannot amplify or restrict the scope of provisions of the Act. The Committee, however, are not inclined to agree with this view. They wish to point out that Section 7 of the Indian Telegraph Act clearly empowers the Government to make rules for the conduct of telegraphs. Since the scope of definition of the expression, “telegraph”, as used in Clause 1(AA) of Section 3 is so wide, the Committee are of the considered view that the Government will be within their legal competence to make necessary enabling provisions in the Rules in this behalf.

8. To sum up, the Committee endorse the proposal for extension of support from the Universal Service Obligation Fund for promotion of cellular services in rural, remote and inaccessible areas. However, they do not agree with the Indian Telegraph (Amendment) Bill, 2006 seeking to amend clause (1A) of Section 3 of the Indian Telegraph Act, 1885 by deleting

the word 'basic' from the expression "basic telegraph services". On the other hand, the Committee are of the view that if the Department wish to further clarify the definition of "basic services", it could appropriately be done by making suitable enabling provisions/amendments in the Rules framed under the Indian Telegraph Act, 1885.

9. During examination of the subject under reference the Committee observed certain disquieting aspects about the contribution made to the USO Fund. The Committee observe that the USO Fund was established w.e.f. 01.04.2002. They note that various telecom service licensees are paying licence fee to the Government @ 6% to 10% of Adjusted Gross Revenue (AGR). Out of such licence fee, 5% of the AGR is towards USO Fund contribution. The amount so collected is credited to the Consolidated Fund of India. The contribution to USO Fund is through parliamentary approval from the Consolidated Fund of India. The balance to the credit of the Fund does not lapse at the end of the financial year.

10. The Committee have been informed that an amount of Rs. 10787.85 crore has been collected as Universal Service Fund Levy as on 31.03.2006. Surprisingly, out of the same, an amount of only Rs. 3581.43 crore has been allotted and disbursed and the balance amount to the tune of Rs. 7206.42 crore has not been released so far. The DoT maintained that the amount allocated to the service providers are grossly inadequate to meet their needs. The Committee cannot but express their dissatisfaction over the inadequate release of money to the USO Fund for meeting the Universal Social Obligation. They strongly support the views expressed by DoT and are of the opinion that the very purpose of creating USO Fund is defeated when the amount needed for providing basic telephone facilities in rural and remote areas is not provided for. The Committee, therefore, recommend that all out efforts should be made for releasing the full amount to the USO Fund so that the Department of Telecommunications are able to discharge the functions of Universal Service Obligation in an effective manner.

NEW DELHI;
28 July, 2006
6 Sravana, 1928 (Saka)

NIKHIL KUMAR,
Chairman,
Standing Committee on
Information Technology.

ANNEXURE-I

AS INTRODUCED IN LOK SABHA

Bill No. 46 of 2006

THE INDIAN TELEGRAPH (AMENDMENT)
BILL, 2006

A

BILL

further to amend the Indian Telegraph Act, 1885.

Be it enacted by Parliament in the Fifty-seventh Year
of the Republic of India as follows:—

1. This Act may be called the Indian Telegraph (Amendment) Bill, 2006. Short title.

^{13 of}
^{1885.} 2. In section 3 of the Indian Telegraph Act, 1885, in clause (1A), for the words “obligation to provide access to basic telegraph services, the words “obligation to provide access to telegraph services” shall be substituted. Amendment of section 3.

STATEMENT OF OBJECTS AND REASONS

Section 9A of the Indian Telegraph Act, 1885 provides for the establishment of a Fund, called the “Universal Service Obligation Fund” (USO Fund) for meeting the “Universal Service Obligation”. As per clause (1A) of section 3 of the said Act, “Universal Service Obligation” means the obligation to provide access to basic telegraph services to people in the rural and remote areas at affordable and reasonable prices. At present, support from USO Fund is being provided only for the basic telegraph services, that is, wire-line and fixed wireless terminals.

2. The National Telecom Policy, 1999 has set the target of achieving rural teledensity from the level of 0.4 in 2002 to 4.0 by the year 2010. The rural teledensity has increased to 1.77 by the year 2005. In order to facilitate telecom penetration in the rural areas, it is considered desirable to support new wireless technologies which can be rolled out much faster. Therefore, cellular mobile service is to be deployed for rapid expansion of telegraph services in rural and remote areas at affordable and reasonable prices. Accordingly, the financial support from USO Fund is required to be provided for cellular services in such areas.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 16th May, 2006

DAYANIDHIMARAN.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 16-13/2004-BS-II/Vol. III dated 17th May, 2006 from Shri Dayanidhi Maran, Minister of Communications and Information Technology to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the Indian Telegraph (Amendment) Bill, 2006, has recommended the introduction and consideration of the Bill under article 117 (1) and (3) of the Constitution of India.

FINANCIAL MEMORANDUM

The proposed amendment is for enhancing coverage and widening the scope of services under Universal Service Obligation (USO) fund. There will be an increase in the recurring and non-recurring expenditure. It is not possible to quantify the expenditure involved at this stage. The expenditure that will be incurred would be met from the existing funding mechanism of USO Fund as already laid down, in the Indian Telegraph Act, 1885, and the administration of the Fund shall continue to be governed by the provisions of that Act.

ANNEXURE
EXTRACT FROM THE INDIAN TELEGRAPH ACT, 1885
(13 OF 1885)

* * * * *

Definitions. **3.** In this Act, unless there is something repugnant in the subject or context,—

* * * * *

(1A) “Universal Service Obligation” means the obligation to provide access to basic telegraph services to people in the rural and remote areas at affordable and reasonable prices;

* * * * *

LOK SABHA

A

BILL

further to amend the Indian Telegraph Act, 1885.

*(Shri Dayanidhi Maran, Minister of Communications and
Information Technology)*

NOTE OF DISSENT

Sh. A. Vijayaraghavan, M.P.

There is no justification to endorse the proposal for extension of , support from the Universal Service Obligation Fund for promotion of Cellular Services in rural, remote and inaccessible areas. The USOF is intended to increase the teledensity in the rural/remote areas by compensating for the loss in providing the same. In the case of landlines this is very much applicable since loss of thousands of rupees occur due to laying cable, wire etc. for long distances like 10 km., 20 km. But in the case of mobile services, due to the high technology used, there is no such loss. As such, the USOF is not required to be granted for providing mobile services. Providing USOF to mobile services will reduce the amount to be granted for providing landlines telephones, which incur a loss of large amount of money.

Sd/-

(A. VIJAYARAGHVAN)

NOTE OF DISSENT

Sh. P. Karunakaran, M.P.

There is no justification to endorse the proposal for extension of support from the Universal Service Obligation Fund for promotion of Cellular Services in rural, remote and inaccessible areas. The USOF is intended to increase the teledensity in the rural/remote areas by compensating for the loss in providing the same. In the case of landlines this is very much applicable since loss of thousands of rupees occur due to laying cable, wire etc. for long distances like 10 km., 20 km. But in the case of mobile services, due to the high technology used, there is no such loss. As such, the USOF is not required to be granted for providing mobile services. Providing USOF to mobile services will reduce the amount to be granted for providing landlines telephones, which incur a loss of large amount of money.

Sd/-

(P. KARUNAKARAN)

ANNEXURE-IV

MINUTES OF THE TWENTY FIRST SITTING OF THE STANDING
COMMITTEE ON INFORMATION TECHNOLOGY
(2005-06)

The Committee sat on the 28th June, 2006 from 1500 Hrs. to
1630 Hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Nikhil Kumar—Chairman

MEMBERS

Lok Sabha

2. Shri Nikhil Kumar Chaudhary
3. Shri Sanjay Shamrao Dhotre
4. Shri P. P. Koya
5. Shri G. Nizamuddin
6. Shri Ashok Kumar Rawat

Rajya Sabha

7. Shri Rajeev Chandrasekhar
8. Shri Praveen Rashtrapal
9. Shri Ekanath K. Thakur

SECRETARIAT

1. Shri P. Sreedharan — *Joint Secretary*
2. Shri Raj Shekhar Sharma — *Director*
3. Shri K.L. Arora — *Under Secretary*
4. Shri Hoti Lal — *Assitant Director*

Representatives of the Department of Telecommunications

1. Dr. J.S. Sarma, Secretary (T)
2. Shri A.K. Sawhney, Member (F)
3. Shri A.K. Saxena, Member (S)
4. Shri Yashwant Bhave, Additional Secretary (T)
5. Shri Shantanu Consul, Administrator USOF
6. Shri M. Sahu, Joint Secretary (T)
7. Shri P.K. Mittal, Dy. Director General (BS)
8. Shri Ashok Kumar, Jt. Administrator (T) USOF
9. Shri B.B. Singh, Jt. Administrator (F) USOF

2. At the outset, the Chairman welcomed the representatives of the Department of Telecommunications to the sitting of the Committee.

3. The representatives of the Department of Telecommunications then briefed the Committee on the salient features of the Indian Telegraph (Amendment) Bill, 2006 pertaining to their Department and other matters relating thereto.

4. The Committee sought certain clarifications on the issue relating to the Indian Telegraph (Amendment) Bill, 2006 of the Department. The representatives of Department responded to the same.

5. The witnesses, then, withdrew.

6. A verbatim record of proceedings has been kept.

The Committee, then, adjourned.

ANNEXURE - V

MINUTES OF THE TWENTY SECOND SITTING OF THE STANDING
COMMITTEE ON INFORMATION TECHNOLOGY (2005-06)

The Committee sat on the 29th June, 2006 from 1100 Hrs. to 1300
Hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Nikhil Kumar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Nikhil Kumar Chaudhary
3. Shri Mani Charenamei
4. Shri Sanjay Shamrao Dhotre
5. Shri P. P. Koya
6. Shri G. Nizamuddin
7. Shri Sohan Potai
8. Shri Ashok Kumar Rawat
9. Shri K. V. Thangka Balu

Rajya Sabha

10. Shri Praveen Rashtupal
11. Shri Ravi Shankar Prasad

SECRETARIAT

- | | | |
|----------------------------|---|---------------------------|
| 1. Shri P. Sreedharan | — | <i>Joint Secretary</i> |
| 2. Shri Raj Shekhar Sharma | — | <i>Director</i> |
| 3. Shri K.L. Arora | — | <i>Under Secretary</i> |
| 4. Shri Hoti Lal | — | <i>Assistant Director</i> |

REPRESENTATIVES OF BSNL, AUSPI & COAI

BHARAT SANCHAR NIGAM LIMITED (BSNL)

1. Shri A.K. Sinha, CMD
2. Shri G.S. Grover, Director (C&M)
3. Shri R.L. Dube, Director (Planning & NS)
4. Shri J.R. Gupta, Director (O)
5. Shri S.D. Saxena, Director (F)
6. Shri N. Sundaraman, DDG (CMTS)
7. Shri A.N. Rai, DDG (RN)

ASSOCIATION OF UNIFIED TELECOM SERVICE
PROVIDERS OF INDIA (AUSPI)

1. Shri S.C. Khanna, Secretary-General, AUSPI
2. Shri Ashok Sud, President, M/s Tata Teleservices Limited (M/s TTSL)
3. Dr. Rakesh Mehrotra, Chief Officer-Regulatory Affairs M/s TTSL
4. Shri B.B. Anand, President, Regulatory Affairs M/s Reliance Infocomm
5. Shri D. Singh, President, M/s Reliance Infocomm

CELLULAR OPERATORS ASSOCIATION OF INDIA (COAI)

1. Shri T.V. Ramachandran, Director General, COAI
2. Shri Satya Pat, Advisor, Hutchison Essar
3. Shri Rajat Mukarji, VP-Corporate Affairs, IDEA
4. Shri Satya Nayar, Sr. Director, COAI
5. Shri B.R. Khurana, Advisor, Spice Commns.
6. Shri Gopal Mittal, Manager, Finance & Commercial, COAI

REPRESENTATIVES OF TELECOM REGULATORY AUTHORITY OF
INDIA (TRAI)

1. Shri Nripendra Misra, Chairman
2. Shri Rajender Singh, Secretary
3. Smt. Indu Liberhan, Pr. Advisor
4. Shri A. Sinha, Pr. Advisor
5. Shri S.N. Gupta, Pr. Advisor
6. Shri M. Kannan, Advisor
7. Shri Sudhir Gupta, Advisor
8. Smt. Sapna Sharma, SRO (MN)

2. At the outset, the Chairman welcomed the representatives of BSNL, COAI and AUSPI to the sitting of the Committee. The representatives of BSNL, COAI and AUSPI expressed their views on Indian Telegraph (Amendment) Bill, 2006 and other matters relating thereto.

3. The Committee sought clarification on the issues relating to Indian Telegraph (Amendment) Bill, 2006. The witnesses responded to the same.

4. The Chairman thanked the witnesses for appearing before the Committee and tendering their views.

The witnesses then, withdrew.

5. Thereafter, the Chairman welcomed the representatives of the TRAI to the sitting of the Committee. The representatives then, briefed the Committee expressing their views on Indian Telegraph (Amendment) Bill, 2006 and other matters relating thereto.

6. The Committee sought clarifications on the issues relating to Indian Telegraph (Amendment) Bill, 2006. The witnesses responded to the same.

7. The Chairman thanked the witnesses for appearing before the Committee and giving their views.

8. A verbatim record of proceedings has been kept.

The Committee, then, adjourned.

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ANNEXURE - VI

MINUTES OF THE TWENTY-FOURTH SITTING OF THE
STANDING COMMITTEE ON INFORMATION TECHNOLOGY
(2005-06)

The Committee sat on the 18th July, 2006 from 1500 Hrs. to 1715 Hrs.
in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Nikhil Kumar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Nikhil Kumar Chaudhary
3. Shri Mani Charenamei
4. Shri Sanjay Shamrao Dhotre
5. Shri P. S. Gadhvi
6. Shri Sohan Potai
7. Shri Ashok Kumar Rawat
8. Shri K. V. Thangka Balu
9. Shri P .C. Thomas
10. Shri Ram Kripal Yadav

Rajya Sabha

11. Shri Vijay J. Darda
12. Shri Praveen Rashtrapal
13. Shri Motiur Rahman
14. Shri Ekanath K. Thakur

SECRETARIAT

- | | | |
|----------------------------|---|---------------------------|
| 1. Shri P. Sreedharan | — | <i>Joint Secretary</i> |
| 2. Shri Raj Shekhar Sharma | — | <i>Director</i> |
| 3. Shri Cyril John | — | <i>Under Secretary</i> |
| 4. Shri Hoti Lal | — | <i>Assistant Director</i> |

Representatives of Department of Telecommunications

1. Shri D.S. Mathur, Secretary (T)
2. Shri Yashwant Bhawe, Spl. Secretary
3. Shri A.K. Saxena, Member (S)
4. Shri Shantanu Consul, Administrator USOF
5. Shri P. K. Mittal, Dy. Director General (BS)

Representatives of Telecom Regulatory Authority of India (TRAI)

1. Shri Nripendra Misra, Chairman
2. Shri. A.K. Sawhney, Member
3. Shri Rajender Singh, Secretary
4. Shri A. Sinha, Pr. Advisor
5. Shri Sudhir Gupta, Advisor

*Representatives of Ministry of Law And Justice,
(Department of Legal Affairs)*

Shri T.K. Vishwanathan, Secretary

(Legislative Department)

1. Shri K.N. Chaturvedi, Secretary
2. Shri B.A. Agarwal, Additional Secretary

2. At the outset, the Chairman welcomed the representatives of the Department of Telecommunications, Telecom Regulatory Authority of India and Ministry of Law and Justice (Department of Legal Affairs) and (Legislative Department) to the sitting of the Committee.

3. The representatives of the Department of Telecommunications, TRAI and Ministry of Law and Justice (Department of Legal Affairs) and (Legislative Department) expressed their views on the issues relating to Indian Telegraph (Amendment) Bill, 2006 and other matters relating thereto.

4. The Committee sought certain clarifications on the issues relating to the Indian Telegraph (Amendment) Bill, 2006. The representatives responded to the same.

5. The Chairman thanked the witnesses for appearing before the Committee and tendering their views.

6. A verbatim record of proceedings has been kept.

The Committee, then, adjourned.

ANNEXURE - VII

MINUTES OF THE TWENTY-FIFTH SITTING OF THE STANDING
COMMITTEE ON INFORMATION TECHNOLOGY (2005-06)

The Committee sat on the 27th July, 2006 from 1500 Hrs. to 1620 Hrs.
in Committee Room No. 139, Parliament House Annexe, New Delhi.

PRESENT

Shri Nikhil Kumar—*Chairman*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shri Sanjay Shamrao Dhotre
4. Shri P. Karunakaran
5. Dr. P.P. Koya
6. Shri P. S. Gadhvi
7. Smt. Nivedita Sambhajirao Mane
8. Shri Ashok Kumar Rawat
9. Shri K. V. Thangka Balu

Rajya Sabha

10. Shri Dara Singh
11. Shri A. Vijayaraghavan
12. Shri N.R. Govindraj

SECRETARIAT

- | | | |
|----------------------------|---|---------------------------|
| 1. Shri P. Sreedharan | — | <i>Joint Secretary</i> |
| 2. Shri Raj Shekhar Sharma | — | <i>Director</i> |
| 3. Shri Hoti Lal | — | <i>Assistant Director</i> |

REPRESENTATIVES OF THE DEPARTMENT OF
TELECOMMUNICATIONS

1. Shri D.S. Mathur, Secretary (T)
2. Shri Shantanu Consul, Administrator, USOF
3. Shri Ashok Kumar, Joint Administrator, USOF

2. The Committee took up for consideration the Draft Report on 'The Indian Telegraph (Amendment) Bill, 2006 relating to the Department of Telecommunications. During the course of discussion, S/Shri A. Vijayaraghavan and P. Karunakaran submitted identical notes of dissent. The points contained in the dissent notes are as follows:

- (i) Whether the provision of USO Fund to fixed service providers in the rural, remote and inaccessible areas would be affected in the event of extension of subsidy support for cellular services?
- (ii) Whether the funds in the USO Fund would get reduced for landline telephone connections in case subsidy support was extended for the cellular services?

3. In the light of above points, the Committee considered it prudent to hear the view of the representatives of the Department of Telecommunications. Accordingly, the witnesses appeared before the Committee. The Chairman welcomed the representatives to the sitting of the Committee, apprised them about the apprehensions raised by the Hon'ble Members in their notes of dissent and desired to hear the Department's views on the points raised.

4. The representatives of the Department submitted that the facts and figures did not support the view that landline phones were still popular. He elaborated that the phenomenal growth that had happened in the telecom sector was primarily due to explosion in mobile telephony. He was of the firm view that if the telecom services were to be really expanded to the rural, remote and inaccessible areas, then support from the USO Fund to mobile service providers could not be ignored.

5. The Secretary, DoT assured the Committee that even if subsidy support was given to the cellular service providers from the USO Fund, still then Department's landline programme in rural, remote and inaccessible areas would continue unabated.

6. Responding to a specific query of the Committee, the Secretary, DoT submitted that the available funds in USO Fund would be primarily utilized towards the uncovered rural, remote and inaccessible areas.

The Chairman thanked the representatives of the Department for appearing before the Committee and clarifying the points.

The witnesses then withdrew.

7. The Committee again deliberated on the Draft Report and decided to include the points raised by the Hon'ble Members appropriately in the Draft Report. The Committee also decided to append the notes of dissent in its original form in the Report.

8. The Committee, then authorized the Chairman to finalise and present the above mentioned Report to the House in light of the factual verification received from the concerned Ministry/Department.

The Committee, then, adjourned.