

ILLUSTRATION: AJAY MOHANTY



A telecom crisis, once again

An implosion of the sector will have economy-wide ramifications. This is the last thing India needs now

October 2019: The Supreme Court (SC) upholds the government's definition of gross revenues (GR) and directs telcos to cough up trillions of rupees in arrears, interest and penalty. On February 14, 2020, the SC fulminates at non-compliance of its orders. The government scurries for cover and asks telcos to pay their dues by midnight. Telcos make some payments over the next week. A flurry of meetings between telecom chieftains, ministers and top government officials follows. Four months have elapsed and no solution appears to be in sight.

Senior journalists, lawyers and telecom sector experts have criticised the SC rulings as flawed and erring grievously. The judgment is perceived to be plain unfair because: (a) it takes a legalistic view of the licence conditions altogether ignoring the "arbitrary" and patently unfair definition of GR; (b) it presumes that telcos signed the "contract" willingly (as if they had any choice but to sign); (c) there was a genuine dispute between the telcos and the government — till 2011, the SC did not question the genuineness of the dispute; (d) the Telecom Disputes Settlement and Appellate Tribunal (TDSAT), always headed by an eminent retired SC judge, had repeatedly ruled in favour of the telcos, so it was reasonable for the telcos to believe that they had a cause of action; (e) the imposition of interest, penalty and

interest on penalty goes too far as the presumption that there was a wilful disobedience of the law is ill-founded. Moreover, there are unintended consequences that the SC appears to have overlooked, viz. arrears of dues from non-telcos such as GAIL, Power Grid and OIL.

It is useful to get a sense of the magnitude of the problem. Updated estimates suggest that the total dues are ₹3.9 trillion to ₹1.4 trillion (telcos) and ₹2.5 trillion (non-telcos). That means barely 10 firms have dues amounting to 2 per cent of gross domestic product (GDP); in fact, just two firms have arrears amounting to 0.75 per cent of GDP. The dues amount to 20 per cent of the Central government's total revenue receipts for 2020-21. That is the staggering amount involved.

First, look at the telcos. The sector's total annual adjusted gross revenues (AGR, their net revenues) amount to 100 per cent of the dues. That's right; the entire sector's annual AGR would be needed to pay off the government's dues. The sector's profitability has been seriously strained these past three years. There is no internal resource accrual for fresh investment. How are a handful of firms going to stump up sums of this order?

Now, turn an eye to the collateral damage to the non-telcos. Three companies account for 75 per cent of the ₹2.5 trillion dues, namely, GAIL, Power Grid

and OIL. The ratio of the company's dues to its total annual revenues is as follows: GAIL (160 per cent), Power Grid (88 per cent) and OIL (330 per cent). To gauge the impact on the firm's finances, consider this: The ratio of their dues to reserves and surplus is: GAIL (300 per cent) and OIL (150 per cent). Complying with the SC's order will, in a trice, wipe out all their reserves; and, they will still have to borrow huge sums to meet the balance.

Much has already been written about the economic impact of these rulings. The telecom sector will be reduced to a duopoly — possibly, a monopoly. New investment in telecom will dry up; the planned spectrum auction for 5G will struggle to succeed; and, one telco major will go belly up. The adverse direct and indirect employment impact is obvious. Some non-telcos — all in the public sector — will be effectively bankrupt; forget about investment by these public sector units. The spillover effects on the banking sector will cause the greatest harm. Brace yourself for a new round of non-performing assets (NPAs). The banking system had barely dug itself out of the NPA mess; it will be clobbered back into that hole. Senior bankers have already aired their serious concern (read jitters). Exhortations to shed risk-aversion will fall on deaf ears. The revival of investment demand and credit flows? Forget it.

Here are some options that ought to be considered. First, waive the interest, penalty and interest on penalty. This amounts to 73 per cent of all dues. It preserves the "principle" upheld by the SC; however, it also recognises that there was no wilful defiance of the law that is an essential ingredient to attract the levy of penalty. Second, convert all the dues into an interest-free loan to be repaid in 15 equal annual instalments. At a discount rate of 9 per cent, this translates to a grant component of 46 per cent. That is to say in terms of their net present value (NPV) all firms get a relief of 46 per cent. Third, accept the Telecom Regulatory Authority of India's recommendations of January 2015 on the definition of GR and applicable GR; this will end the agony of the non-telcos (at least prospectively). A fourth option doing the rounds is to declare a licence fee/spectrum usage charge holiday for five years. This entails an NPV loss of roughly ₹0.8 trillion. The hitch is that this does not address the immediacy of the problem; firms have to stump up the dues first and then wait for the relief! And, everyone knows what happens in the long run.

Central Bank governors are, by nature, cautious and reticent. Recently, the Governor of RBI said that the overhang of NPAs "remains relatively high...weighing on credit growth". In the same breath he added banking will "encounter challenges from events...around the telecom sector". Harken to his words.

An implosion of the telecom sector with economy-wide ramifications is the last thing India needs right now. The government cannot afford to dither. It is time to step up.



RAHUL KHULLAR

The writer is former chairman, Trai