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To

Shri S.C. Mishra  
CMD, BSNL,  
New-Delhi.110001

**Subject:- BSNL Franchisee - Retailer network operation failure. Need for urgent intervention to resolve the crisis- Practical Suggestions to save the situation immediately.**

Respected Sir,

As you know that at present BSNL is facing a crisis, consequent to non-co operation on the part of franchisees, aggrieved by the implementation of applicability of TDS on discount scheme of BSNL S &D Policy-2009 under section 194H of Income Tax act 1961.

It is reported that the main organizers of the present non-cooperation of franchisees are some of the E-pin franchisees having SSA franchise-ship also. The idea behind this is to make BSNL feel that there is need for alternate distribution channels and to project the E-pin franchisees themselves as the alternative channel.

However, majority of the franchisees all over the country are now keeping themselves away from the business from 1st of April 2011 onwards resulting in total scarcity of BSNL products in the market. As you are aware more than 90% of business is through franchisee- retailer net-work.

Any further delay in settling the issue will simply ruin the entire business of the company as the customers are free to migrate to other operators through MNP scheme. In this context we would like to make the following suggestions:-

1) Even prior to the present TDS issue, all the franchisees/retailers were demanding for increase in discount/ commission. It is reported that some private operators are already giving 6.5% commission.

If the commission/ discount is enhanced to 6% the franchisees can pull on the business even with the liability of TDS. **Hence it is proposed that, the commission/discount to franchisees may be raised to 6% at par with other operators and restore the business immediately. Also for sale of SIM Rs. 100/- per new activations and for MNP Rs.200/- per case is to be paid as commission to franchises and DSAs. This will boost the total business and ultimate result will be, more profit.**

2) As per, latest instructions for sale of BSNL products, full MRP value has to be collected from the franchisees without paying them upfront commission (after deducting the TDS) and commission has to be paid subsequently. But the franchisee has to pay commission to the retailers. This is not in tune with the prevailing S&D policy-2009. It is also against the agreement with the franchisees. **Non-payment of upfront commission will aggravate the present condition and those franchisees who are not participating**

**in the present non-cooperation will also stop taking BSNL products. Hence the decision to stop upfront commission may be withdrawn immediately in the true interest of the company.**

**3) Applicability of written agreement for purchase and sale :** In the case of Franchises, since there is written agreement with BSNL, the recovery of TDS cannot be avoided. Likewise, in the case of DSAs, as there is an agreement executed before sale the same provision applicable to franchise will apply. Where as in the case of Sub/retail dealers there is no need for agreement and the dealings can be shown as purchase and sale, which attracts no provision of TDS advance recovery. For this purpose, all the sub/retail dealers' account in Sanchar Soft are to be de-linked and they should be brought directly under Franchises.

**4) Issues to be taken up with Finance Ministry:** The following issues may be taken up urgently with the Finance Ministry:-

**a).** The payment of TDS on arrears of the past years on discount received, an interim order is to be obtained for withholding remittance of arrears until the final settlement of the issue after the final assessment on submission of accounts by the franchises.

**b). Reduce the present TDS recovery rate:** Provision to reduce the rate of advance recovery of TDS from 10% to 2% may be sought, in order to avoid extreme hardship due to excess recovery on actual assessment of TDS, on submission of Annual Return by the franchises.

**c). A committee at Ministry level** may be constituted to solve the issue. BSNL franchises alone should not be penalized, but their cases should be considered at par with the franchises of Other Private Operators what ever be the their mode of operation for sales of RC/EC etc. (Now all the Private Operators are being served notice in this issue and for Airtel and Idea already served. The verdict of court was in favor of Income Tax Authorities.)

**d). Expert legal opinion** of the top tax consultants is to be obtained before finalizing the issue whether trade discount attracts TDS as decided by IT authorities.

**5)** It is further proposed that DSAs and shopees may be strengthened to take over as alternate channels and the trend to convert DSAs to retailers may be discouraged. This is to be achieved in a time-bound manner in the near future itself. But we cannot fully depend on this as an immediate alternate channel at present, in view of the fact that, TDS is applicable for DSAs too, and the same problem may recur here also.

We are of the opinion that, the decision of Corporate office regarding **immediate implementation of TDS, as well as, non-payment of upfront commission were untimely.** At least the competent authorities ought to have observed the nature of action taken by other operators. However, we would request you to kindly do the needful and take up the matter at appropriate level so as to **implement the suggestions cited above in the true spirit, which in turn will help to restore the sale of BSNL products in full swing.**

A very early action is anticipated.

With kind regards,

**Yours Sincerely,**  
**-sd-**  
**(Prahlad Rai)**  
**General Secretary**

**Copy to :**

- (i) Sh. R.K. Agarwal, Director(CM), BSNL Coporate Office, New Delhi-110001**
- (ii) Sh. N.N. Gupta, ED(CA), BSNL Coporate Office, New Delhi-110001**