

Telecommunication Policy, 2060 (2004)

1. Background

Even though policies undertaken after the restoration of the Multi Party Democracy in Nepal appear to have moved forward the right direction, it is not found that the achievements gained in the economic and social sectors could have met the expectations of the majority of the people. Even though achievements appear in such some sectors as education, health and social sectors particularly in the last decade, Nepal falls under the group of the countries ranked as the lowest of the world from the human development point of view. His Majesty's Government has, by realizing such situation, taken the poverty alleviation as the principal goal of the national development. For the attainment of this goal, His Majesty's Government has taken broad and sustainable economic growth, social sector development, targeted programmes and good governance as the principal foundation of development strategy. In this context, His Majesty's Government is of the opinion that the telecommunication sector must play significant role for the overall development of the country.

2. Necessity of Telecommunication Policy

His Majesty's Government has accepted the telecommunication service as the basic prerequisite of the development. In order to promote private sector's participation in the telecommunication sector, the Telecommunication Policy, 2056 (1999 A.D.) has created favorable environment to some extent. The government has made commitment to maintain full competition by keeping the telecommunication sector open since 2004 A.D. through this policy.

The telecommunication is more significant in comparison with the other infrastructures in the context of difficult geographical structure of Nepal. The technological development rapidly taking place in the telecommunication sector and dynamic change also taking place in its structure has opened up new opportunities in this sector. It would be possible that the Nepalese peoples may be benefited from the gradual depreciation universally taken place in the tariff of the telecommunication service. In this context, the necessity of timely and dynamic policy is realized to utilize the additional possibilities and opportunities to be appeared in the telecommunication sector in future for the prosperity and welfare of Nepalese peoples by utilizing the achievements gained in telecommunication sector to the maximum extent and the Telecommunication Policy, 2060 (2004 A.D.) has, therefore, hereby been formulated for substitution of the Telecommunication Policy, 2056 (1999 A.D.).

3. Objectives

The main objective of the Telecommunication Policy is to create favorable environment in order to make the telecommunication service reliable and accessible to all people at the reasonable cost throughout the Kingdom in collaboration with the private sector et.al in order to support the social and economic development of the country. The following objectives have been determined in order to give support for accomplishment of this paramount objective.

- 3.1 In order to bring the access of general public of rural and urban areas of the Kingdom to the telecommunication service, arrangement shall be made in a manner that the telecommunication service shall be available within the shouting distance in the inhabited areas.
 - 3.2 The telecommunication service shall be made available to meet the demand in the urban areas of the Kingdom. Arrangement shall be made in a manner that the corporate telecommunication service shall be available to the business areas.
 - 3.3 Opportunity shall be provided to the consumers of the urban areas to choose service from various providers. Arrangement of opportunity to choose service accordingly shall be gradually extended in the rural areas also.
 - 3.4 Arrangement shall be made for getting opportunity to use appropriate information and communication technology for poverty alleviation and development of the rural areas.
4. **Strategy**
- 4.1 **Universal Access to the Telecommunication Service:**
The telecommunication service shall be extended in a manner that there shall be universal access to the service. The telecommunication service shall be made available to the consumers through the shared telephone. Emphasis shall be given to extend telephone as fixed, mobile, etc. therefor. The satellite system may also be applied for extension of service. Other services pertaining to information and communication shall be made available through the Community Centre.
 - 4.2 **Universal Service Obligation:**
The telecommunication service provider shall be required to provide service to any consumer of the urban areas immediately after ordering therefor.
 - 4.3 **Development of Corporate Service:**
Arrangement shall be made in a manner that the leased line, data and other similar corporate service shall be available to the government bodies and private business sector in the urban areas through more than one service provider.
 - 4.4 **Liberalization of the Telecommunication Sector:**
The telecommunication sector is kept open for the service providers. However, the number of the service providers may be limited by virtue of radio spectrum. While providing directory service, the service provider shall be required to provide such service covering all costumers consuming the service.
 - 4.5 **Open Licensing Regime to Be Applied:**
The open licensing regime system shall be applied for providing opportunity to all service providers to enter into the telecommunication sector. Transparent methods shall be applied upon granting such license. Moreover, an environment for healthy competition shall be created.
 - 4.6 **Private Sector's Participation to Be Encouraged:**

The private sector's participation shall be encouraged for the telecommunication sector. Foreign investment shall be attracted. Arrangement shall be made to regularly inform private sector about the particular of reform taken place in the telecommunication sector and about the opportunity available in this sector also.

4.7 To Enter into Information Society:

Arrangement of other necessary prerequisites such as extension of telecommunication service and Cyber Law shall be made and Nepal shall be got to effectively enter into the Information Society.

4.8 Appropriate Information and Communication Technology for the Users of the Rural Areas:

Appropriate information and communication technology shall be made available as per the capacity and need of the users of the rural areas. In this connection, the information and communication technology based on radio, television and telephone that do not require special training and literacy shall be made available in collaboration with the private sector et.al. The service of information and communication technology shall be made available to the rural users through the small service providers.

4.9 Persons Who Have Engaged in the Development Activities Shall be Caused to Use Information and Communication Technology Fully:

In order to bring effectiveness in the development activities as the rural development and construction of infrastructure, the governmental and non-governmental person and entity shall be caused to fully use the information and communication technology as Internet by developing necessary capacity up to the District and village level.

4.10 Commercialization of the Nepal Telecommunication Corporation:

In connection with commercialization of the Nepal Telecommunication Corporation, the Corporation shall be converted into a company and the ownership of His Majesty's Government shall be gradually decreased. In order to meet the increasing competition, various reform programmes shall be conducted to make the company competent.

4.11 Institutional Development of Implementation of Policy :

For successful implementation of the Telecommunication Policy, the institutional development shall be gradually made by increasing human resource and economic capacity of the Ministry of Information and Communication and the Nepal Telecommunication Authority. In connection with the formulation and implementation of policy and law pertaining to the information and communication technology, role and responsibility of the Ministry of Information and Communication and the Ministry of Science and Technology shall be clearly defined by avoiding duplication.

4.12 Economic Efficiency of the Telecommunication Sector:

Emphasis shall be given to increase economic efficiency of the telecommunication sector by creating an environment that promotes healthy competition among the telecommunication service providers.

5. **Working Policy**

5.1 **Universal Access to the Telecommunication Service**

- 5.1.1 The following Strategies shall be undertaken to provide the telecommunication service throughout the Kingdom by fiscal year 2063/64 (2006/2007).
 - 5.1.1.1 The existing service providers shall be caused to extend their service without subsidies.
 - 5.1.1.2 The mobile service providers shall be selected on the basis of the condition that the service shall be provided to the rural areas of the Kingdom without subsidies.
 - 5.1.1.3 The service shall be extended to the rural areas in the Eastern Development Region through the licensed service providers on the basis of the least subsidies in 2060 (2003/2004).
 - 5.1.1.4 The service shall be provided to the areas where the service is not available from the aforesaid measures through the service providers selected by means of tender on the basis of least subsidies in a manner that the amount shall be borne from the rural telecommunication fund for rural telecommunication development.
- 5.1.2 Arrangement shall be made to levy only one per cent customs duty on equipment to be imported by the telecommunication service providers to provide service to the rural areas. The Nepal Telecommunication Authority shall certify the equipment imported for providing service to the rural areas.
- 5.1.3 The telecommunication service shall be extended to the inhabited place scattered in the remote and rural areas except Municipality and the use of rural telecommunication shall be made intensive. The rural telecommunication providers whose annual income is less than Rs. 2,000,000/- shall be exempted from license fee and annual fee to encourage them for the said activities.
- 5.1.4 The universal accessibility to the telecommunication service shall be implemented through the shared telephone or other telecommunication media. System of providing common use of telephone and providing opportunity to the telephone holders to re-sell the service to the other shall be kept open to make universal accessibility to the service by using the available facility to the maximum extent.
- 5.1.5 The rural telecommunication fund shall be set up for the rural telecommunication development. The rural telecommunication fee to be compulsorily paid by all the service providers, subsidies from His Majesty's Government and amount received from the donors shall be credited to the rural telecommunication fund. This fund shall be operated by the Nepal Telecommunications Authority.
- 5.1.6 The Nepal Telecommunication Authority shall develop principle and procedures for operation of the rural telecommunication fund by fiscal year 2061/62 (2004/2005). The Authority shall fix annual telecommunication fee.

The rural telecommunication fund may be closed after accomplishment of the main objective of the fund.

5.2 Universal Service Obligation:

5.2.1 The service obligation shall be applied to a incumbent service provider (incumbent) to provide the service to all the consumers of the urban areas of the Kingdom immediately after ordering for such service. The incumbent service provider shall not be allowed to refuse to provide the service.

5.2.2 The service obligation shall be applied to the dormant service provider to provide service to the other service provider ordering therefor. The incumbent service provider shall be required to provide the service so demanded within one month. If the incumbent service provider fails to provide such service within one month, he/she shall be required to give information about the reason of delay and about the additional time required for providing service. The dominant service provider shall be required to compensate other service providers for unreasonable delays, interruption or essential changes in the service without giving sufficient information. The other service provider shall also be required to compensate the incumbent service provider for loss and damage caused by the other service provider to the dominant service provider by irregularly using the service provided by the dominant service provider.

5.3 Development of Corporate Service:

5.3.1 Various data, broadband, PABX network, etc., shall be included for connecting leased line and corporate data network in the corporate telecommunication service. The open license shall be granted to the service provider to provide the corporate telecommunication service. However, number of such open licenses may be limited through the limited source as radio spectrum, etc.

5.3.2 The dominant service provider shall be required to provide broadband service as well as advanced technology including corporate telecommunication service.

5.3.3 License shall be granted authorizing the licensee to provide Internet and other data service through cable television and wireless technology.

5.4 Liberalization of the Telecommunication Sector:

5.4.1 An environment shall be created to make multi service providers (multi-operators) active and to operate multi-service. As per the same, any service provider may provide any service. However, the number of service providers may be limited through the limited source as radio spectrum, etc, in such circumstance.

5.4.2 Simple, transparent, stable and non- discriminatory regulatory regime which attracts investment and encourages healthy competition shall be activated.

5.4.3 Arrangement shall be made for interconnection to connect various service providers' network with each other. The new service providers may justifiably conduct service under this arrangement. The dominant service provider shall publish condition and procedures for interconnection and shall be

required to allow to connect its own network with the network of the new service providers without discrimination. The Nepal Telecommunication Authority shall frame rules relating to interconnection on the basis of reference paper of the World Trade Organization and the World best practice, which incorporates the dispute resolution mechanism also.

- 5.4.4 The price system guided by market and based on healthy competition shall be set up in the telecommunication service. However, in the event of unnatural and unhealthy competition taken place between the service providers or in the event of monopoly found in the price, the price may be regulated.
- 5.4.5 Same taxation rules shall be applied to all service providers.
- 5.4.6 His Majesty's Government shall keep its bodies open to use the service of the various service providers on the basis of price and quality.
- 5.4.7 Any telecommunication service shall not be classified using names such as basic, mobile and additional service of the telecommunication (value added). Various consumers shall have right to choose the service as per their need and interest.
- 5.4.8 The license fee and radio spectrum fee including other fee shall be collected only for sufficiently covering the overhead (operation) cost of the body working therefor.

5.5. Open Licensing Regime to be Applied :

- 5.5.1 The open licensing regime shall be applied to the new service providers. Arrangement shall be made for standard licensing and individual license in the open licensing regime. Separate license shall be required to be obtained for the source as radio spectrum, numbering capacity and right of way.
- 5.5.2 The standard license shall be granted to any applicant possessing minimum qualification to meet the specified requirement. Person obtaining standard license may operate any service except the service that used the scarce spectrum. However, person obtaining standard license may take service with the assistance of scarce spectrum of any other service provider. If the person obtaining standard license wishes to obtain individual license, he/she shall be required to be selected by taking part in competition through tender as referred to in Section 5.5.3.
- 5.5.3 The individual license shall be granted to the service provider who has been selected through tender. The telecommunication service providers shall be selected in the limited number by virtue of the limited spectrum. While selecting service providers for individual license, ground of providing service to the maximum population of rural areas and similar other grounds shall be taken into account. The person / agency obtaining individual license shall be required to obtain standard license to provide other services not mentioned in the individual license.
- 5.5.4 The procedure for fixing license fee shall be the same for the similar types of the service providers. The Nepal Telecommunication Authority shall fix the annual fee at the rate of certain percent based on the annual income certified by the auditor.
- 5.5.5 The previous license shall be converted into new regime.

- 5.5.6 While granting open license, principle of neutral technology shall be undertaken. The service provider may choose any telecommunication technology. Equipment selected by the service provider for the technology shall be required to be internationally recognized (as per the international specification), advanced and field proved. The previous service provider shall be required to enter into the open licensing regime and compulsory provision relating to technology stipulated in his/her license shall remain as usual until entering into this regime.
- 5.6 Private Sector's Participation to Be Encouraged
- 5.6.1 Private sector's participation shall be encouraged to attract investment in the telecommunication sector.
- 5.6.2 Foreign investment shall attracted in the telecommunication sector. Minimum 20 (twenty) per cent native participation shall be required for such investment.
- 5.6.3 The private sector shall be regularly informed on the reform to be made in the telecommunication sector. In this connection, the Ministry of Information and Communication and the Nepal Telecommunication Authority shall give information on the running telecommunication sector reform and study from time to time.
- 5.6.4 The private sector shall be informed on the open and neutral technology, licensing procedure, method and other necessary subject matters.
- 5.7 To enter into Information Society
- 5.7.1 The infrastructure of telecommunication shall be developed to effectively enter into the information society.
- 5.7.2 Other necessary arrangement including cyber law shall be made from the collective effort of the concerned Ministries, bodies and the private sectors.
- 5.8 Appropriate Information and Communication Technology for the Users of Rural Areas:
- 5.8.1 The users of the rural areas shall be encouraged to utilize information and communication technology useful to them. The network of information and communication technology based on radio, television and telephone that do not require training and literacy shall be comprehensively extended. Access of community shall be brought to the national radio and television broadcasting through the surface of the earth in the places, where possible, and through the satellite in other places.
- 5.8.2 Arrangement shall be made to transmit information relating to development as well as the attractive programme relating to information and communication technology through radio and television.
- 5.8.3 Small service providers shall be mobilized to provide information and communication technology that require special training and literacy.
- 5.8.4 The favorable environment shall be created to provide facility of information and communication technology to the general public through the private sector.

5.9 Persons Who Have Engaged in the Development Activities Shall Be Caused to Use Information and Communication Technology Fully:

5.9.1 All the central bodies of His Majesty's Government shall be connected to the internet by the end of fiscal year 2061/62 (2004/2005) Documents published as well as all other information shall be made available in the websites of these bodies. The employees who gained education up to secondary level and are working in those governmental bodies as agriculture, health, education, Post Office that deliver direct service to the general public shall be made e-mail and internet literate by the end of fiscal year 2062/63 (2005/2006) and they shall be got to be oriented towards e-governance by causing them to be used the technology.

5.9.2 Competent focal point shall be designated to cooperate and coordinate for the application of information and communication technology and the capacity of those bodies shall be built up. It shall inspire the comprehensive use of information and communication technology in line with the local need.

5.9.3 The body acting as the focal point shall give assistance to the various governmental and non-governmental agencies for the common use of information and communication technology for development of the rural areas. It shall maintain the updated data of the development project that may benefit the general public. It shall gather appropriate materials pertaining to the various information and communication technology and make available through the medium of CD-ROM, Internet, etc.

5.10. Commercialization of the Nepal Telecommunication Corporation:

5.10.1 The Nepal Telecommunication Corporation shall be immediately converted into a company. The ownership of His Majesty's Government shall be gradually decreased in the company so converted and the ownership of the private sector shall be increased.

5.10.2. The Company shall be commercialized to undergo competition in open and liberal environment and to hike up the value of share.

5.10.3 The Company shall be restructured to increase productivity and to make it more competent, effective and efficient in the act of providing service.

5.11 Institutional Development of Implementation of Policy:

5.11.1 Arrangement of expert human resource and other necessary resources shall be made for the Ministry of Information and Communication and the Nepal Telecommunication Authority to the adequate extent for successful implementation of the Telecommunication Policy.

5.11.2 The timely information shall be regularly made available to the general public to increase the realization of positive impact on the concerned party. The Nepal Telecommunication Authority shall publish an annual statement containing the situation of providing service, service fee, international service standard international comparison and other necessary information. The Ministry of Information and Communication and the Nepal Telecommunication Authority shall regularly publish various study report including useful information.

- 5.11.3 The Nepal Telecommunication Authority shall publish manual for the service providers and the consumers. It shall protect the interest of the consumers by implementing dispute resolution mechanism and other appropriate procedures.
- 5.11.4 The role of the Ministry of Information and Communication and the Ministry of Science and Technology shall be made clear and the policy formulation and implementation shall be gradually made prompt, convenient, simple and transparent.
- 5.11.5 Term and conditions for appointment for the Nepal Telecommunication Authority shall be fixed in a manner that it shall be attractive to the persons possessing high-level professional expertise.
- 5.11.6 The exemplary practice shall be undertaken for such matters as protection of the provision of competition based on the principle of World Trade Organization, interconnection, universal service obligation, open licensing regime, independent and fair regulators and utilization of limited source.

5.12. Economic Efficiency of the Telecommunication Sector :

- 5.12.1 Economic efficiency shall be achieved in the telecommunication sector by encouraging fair competition among the telecommunication service providers. In this context, provision relating to the competition shall be immediately incorporated in the Telecommunication Act until separate legal provision relating to competition has been enacted. The best measure undertaken by the World Trade Organization shall be followed to prevent such unfair and unhealthy practices as to provide cross subsidy to the dominant service provider against the principle of competition, to fix price with the objective of causing loss to other competitors and bringing them to an end, to abuse information from the competitor and to withhold information relevant to the competitor.

6. Legal Provision for Policy Implementation:

In order to implement the provision laid down in the Policy, necessary legislations shall be enacted. The legal provision immediately required in this regard shall be enacted by the end of fiscal year 2060/061 (2003/2004). The act of reviewing law relating to the telecommunication shall be continued, as and when required.

7. Monitoring and Review

- 7.1 The following High-level Monitoring Committee shall be constituted to coordinate and monitor the implementation aspect of this Policy. The first meeting of this Committee shall be held within six months after coming into force of this Policy. Act of regular monitoring shall be undergone by holding meetings, as and when required thereafter.

Monitoring Committee

- 1. Minister/State Minister for Information and Communication _____ Chairperson
- 2. Member (Information and Communication),

	National Planning Commission_____	Member
3.	Secretary, Ministry of Finance_____	”
4.	Secretary, Ministry of Industry, Commerce and Supplies_____	”
5.	Secretary, Ministry of Science and Technology_____	”
6.	Secretary, Ministry of Information and Communication_____	”
7.	Chairperson, Nepal Telecommunication Authority_____	”
8.	Representative, High-level Commission for Information Technology_____	”
9.	Representative, Federation of Nepal Chamber of Commerce and Industries_____ -	”
10.	Chief, Incumbent service provider_____	”
11.	Joint-secretary (Policy/Plan) Ministry of Information and Communication _____	Member-secretary

7.2 His Majesty's Government has brought the Telecommunication Policy, 2060 (2003) into operation by realizing the need of gradually and regularly reviewing this Policy taking into account the rapid development taking place in the telecommunication sector. The Act of review of the Telecommunication Policy shall be timely continued.