



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Shahid Bhagat Singh Road
Mumbai - 400 001

Present

Shekhar Bhatnagar
Chief General Manager

Date: November 6, 2017
CA No 4406 / 2017

In the matter of

YOU Broadband India Limited
Plot No. 54, Marol Cooperative Industrial Estate
Makwana, Andheri East
Mumbai - 400059

(Applicant)

In exercise of the powers conferred under section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made there under, I pass the following

Order

The applicant has filed the application dated May 24, 2017 (received in the Reserve Bank on May 25, 2017), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contraventions sought to be compounded are (i) delay in reporting receipt of funds for issue of shares, (ii) delay in filing of form FC-GPR beyond the stipulated time period and (iii) acquiring shares through share-swap without prior approval of FIPB. The above amount to the contravention of Paragraphs 9(1)(A), 9(1)(B) and 3(c) (as then applicable) read with 2(4)(v) (as specified by FIPB in its post-facto approval



letter) of Schedule 1 of Foreign Exchange Management (Transfer or Issue of Security By a Person Resident Outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000 as amended from time to time (hereinafter referred to as Notification No. FEMA 20/2000-RB).

2. The relevant facts are as under: The applicant was incorporated as NetShastr Facilities India Private Limited on November 13, 2000 under the Companies Act, 1956 (CIN: U51909MH2000PLC139321). Its name was subsequently changed to BG Broadband Networks India Pvt. Ltd. on June 29, 2001 and further to YOU Broadband Networks India Pvt. Ltd. on December 21, 2006. The name was then changed to YOU Telecom India Pvt. Ltd. on November 23, 2007 and to YOU Broadband and Cable India Pvt. Ltd. on November 17, 2009. The name further changed to YOU Broadband and Cable India Limited on January 12, 2010 and to YOU Broadband India Pvt. Ltd. on August 27, 2013. The applicant's name was finally changed to YOU Broadband India Limited on December 21, 2015. The applicant is a subsidiary of YOU Telecom (Mauritius) Ltd. and is engaged in the business of providing broadband internet access to home and enterprise subscribers, internet telephony, sale and leasing of ducts etc. Its activities fall under the telecommunications sector and upto 49% FDI is permitted under automatic route. The applicant, and YOU Telecom India Private Limited, a company engaged in the business of internet service provider, which was merged into the applicant pursuant to an order of the Honorable High Court of Bombay, dated April 11, 2007, received the foreign inward remittances to the extent of Rs. 3,84,55,36,543/-, for the issue of shares. Out of these, the transactions in which there was a delay in reporting, are as follows:

S.No.	Name of remitter	Amount of remittance (INR)	Date of receipt of funds	Date of reporting to RBI by AD bank
1	British Gas Singapore	1,00,000	10.07.2001	21.09.2001



2	BG Energy Holdings Limited	8,92,54,880	06.08.2001	24.07.2002
3	BG Energy Holdings Limited	60,00,000	18.04.2002	24.07.2002
4	BG Energy Holdings Limited	70,00,000	10.06.2002	24.07.2002
5	BG Energy Holdings Limited	1,00,00,000	24.12.2002	27.02.2003
6	BG Energy Holdings Limited	1,50,00,000	16.01.2003	27.02.2003
7	BG Energy Holdings Limited	2,50,00,000	06.03.2003	18.06.2003
8	BG Energy Holdings Limited	1,50,00,000	20.03.2003	18.06.2003
9	BG Energy Holdings Limited	1,00,00,000	09.04.2003	18.06.2003
10	BG Energy Holdings Limited	1,00,00,000	17.04.2003	05.07.2003
11	BG Energy Holdings Limited	1,00,00,000	12.05.2003	05.07.2003
12	BG Energy Holdings Limited	1,00,00,000	04.07.2003	18.08.2003
13	BG Energy Holdings Limited	1,50,00,000	25.08.2003	09.12.2003
14	BG Energy Holdings Limited	1,50,00,000	15.09.2003	09.12.2003
15	BG Energy Holdings Limited	1,50,00,000	03.10.2003	09.12.2003
16	BG Energy Holdings Limited	1,00,00,000	24.10.2003	09.12.2003
17	BG Energy Holdings Limited	1,00,00,000	04.12.2003	23.05.2006
18	BG Energy Holdings Limited	2,00,00,000	17.12.2003	03.02.2004



	Holdings Limited			
19	BG Energy Holdings Limited	2,00,00,000	23.01.2004	15.04.2004
20	BG Energy Holdings Limited	1,50,00,000	30.01.2004	15.04.2004
21	BG Energy Holdings Limited	1,50,00,000	12.02.2004	26.11.2004
22	BG Energy Holdings Limited	1,50,00,000	25.02.2004	15.04.2004
23	BG Energy Holdings Limited	1,00,00,000	09.03.2004	02.06.2004
24	BG Energy Holdings Limited	1,00,00,000	16.03.2004	26.11.2004
25	BG Energy Holdings Limited	2,00,00,000	16.03.2004	26.11.2004
26	BG Energy Holdings Limited	1,00,00,000	25.03.2004	02.06.2004
27	BG Energy Holdings Limited	1,00,00,000	07.04.2004	26.11.2004
28	BG Energy Holdings Limited	1,00,00,000	19.04.2004	26.11.2004
29	BG Energy Holdings Limited	1,00,00,000	03.05.2004	07.06.2006
30	BG Energy Holdings Limited	1,00,00,000	24.05.2004	23.05.2006
31	BG Energy Holdings Limited	1,00,00,000	05.06.2004	27.11.2004
32	BG Energy Holdings Limited	1,00,00,000	09.06.2004	07.06.2006
33	BG Energy Holdings Limited	1,00,00,000	18.06.2004	27.11.2004
34	BG Energy Holdings Limited	1,00,00,000	28.06.2004	07.06.2006



35	BG Energy Holdings Limited	1,00,00,000	21.07.2004	27.11.2004
36	BG Energy Holdings Limited	1,00,00,000	27.07.2004	27.11.2004
37	BG Energy Holdings Limited	1,00,00,000	02.08.2004	07.06.2006
38	BG Energy Holdings Limited	3,00,00,000	26.08.2004	07.06.2006
39	BG Energy Holdings Limited	1,00,00,000	06.09.2004	27.11.2004
40	BG Energy Holdings Limited	2,00,00,000	10.09.2004	27.11.2004
41	BG Energy Holdings Limited	2,00,00,000	23.09.2004	27.11.2004
42	BG Energy Holdings Limited	1,00,00,000	29.09.2004	27.11.2004
43	BG Energy Holdings Limited	1,00,00,000	09.10.2004	27.11.2004
44	BG Energy Holdings Limited	1,00,00,000	20.10.2004	27.11.2004
45	BG Energy Holdings Limited	1,00,00,000	25.10.2004	23.05.2006
46	BG Energy Holdings Limited	1,00,00,000	09.11.2004	23.05.2006
47	BG Energy Holdings Limited	1,00,00,000	17.11.2004	23.05.2006
48	BG Energy Holdings Limited	1,00,00,000	02.12.2004	23.05.2006
49	BG Energy Holdings Limited	1,00,00,000	10.12.2004	07.06.2006
50	BG Energy Holdings Limited	1,00,00,000	24.12.2004	23.05.2006
51	BG Energy Holdings Limited	1,00,00,000	12.01.2005	07.06.2006



	Holdings Limited			
52	BG Energy Holdings Limited	1,00,00,000	08.02.2005	23.05.2006
53	BG Energy Holdings Limited	1,00,00,000	01.03.2005	23.05.2006
54	BG Energy Holdings Limited	1,00,00,000	19.03.2005	23.05.2006
55	BG Energy Holdings Limited	1,00,00,000	04.04.2005	07.06.2006
56	BG Energy Holdings Limited	1,00,00,000	30.06.2005	23.05.2006
57	British Gas Singapore	1,00,000	10.07.2001	19.09.2001
58	BG Energy Holdings Limited	4,00,00,000	25.09.2001	24.07.2002
59	BG Energy Holdings Limited	4,60,00,000	10.10.2001	24.07.2002
60	BG Energy Holdings Limited	4,00,00,000	05.11.2001	24.07.2002
61	BG Energy Holdings Limited	3,50,00,000	07.11.2001	24.07.2002
62	BG Energy Holdings Limited	3,00,00,000	23.01.2002	24.07.2002
63	BG Energy Holdings Limited	3,90,00,000	08.02.2002	24.07.2002
64	BG Energy Holdings Limited	3,00,00,000	30.03.2002	24.07.2002
65	BG Energy Holdings Limited	2,40,00,000	18.04.2002	24.07.2002
66	BG Energy Holdings Limited	2,30,00,000	10.06.2002	24.07.2002
67	BG Energy Holdings Limited	3,00,00,000	30.08.2002	11.10.2002



68	BG Energy Holdings Limited	3,00,00,000	30.08.2002	21.11.2002
69	BG Energy Holdings Limited	3,00,00,000	05.10.2002	21.11.2002
70	BG Energy Holdings Limited	3,00,00,000	24.10.2002	28.11.2002
71	BG Energy Holdings Limited	2,00,00,000	24.12.2002	27.02.2003
72	BG Energy Holdings Limited	1,50,00,000	16.01.2003	27.02.2003
73	BG Energy Holdings Limited	50,00,000	06.03.2003	18.06.2003
74	BG Energy Holdings Limited	1,50,00,000	20.03.2003	18.06.2003
75	BG Energy Holdings Limited	2,00,00,000	09.04.2003	18.06.2003
76	BG Energy Holdings Limited	2,00,00,000	17.04.2003	30.05.2006
77	BG Energy Holdings Limited	2,00,00,000	12.05.2003	30.05.2006
78	BG Energy Holdings Limited	2,00,00,000	04.06.2003	30.05.2006
79	BG Energy Holdings Limited	2,00,00,000	04.07.2003	18.08.2003
80	BG Energy Holdings Limited	3,00,00,000	29.07.2003	30.12.2003
81	BG Energy Holdings Limited	1,50,00,000	25.08.2003	09.12.2003
82	BG Energy Holdings Limited	1,50,00,000	15.09.2003	09.12.2003
83	BG Energy Holdings Limited	1,50,00,000	3.10.2003	09.12.2003
84	BG Energy Holdings Limited	2,00,00,000	24.10.2003	09.12.2003



	Holdings Limited			
85	BG Energy Holdings Limited	2,00,00,000	06.12.2003	28.04.2006
86	BG Energy Holdings Limited	1,00,00,000	17.12.2003	30.01.2004
87	BG Energy Holdings Limited	2,00,00,000	23.12.2003	30.01.2004
88	BG Energy Holdings Limited	1,00,00,000	23.12.2003	30.01.2004
89	BG Energy Holdings Limited	1,00,00,000	23.01.2004	15.04.2004
90	BG Energy Holdings Limited	1,50,00,000	30.01.2004	15.04.2004
91	BG Energy Holdings Limited	1,50,00,000	12.02.2004	26.11.2004
92	BG Energy Holdings Limited	1,50,00,000	25.02.2004	15.04.2004
93	BG Energy Holdings Limited	2,00,00,000	09.03.2004	26.11.2004
94	BG Energy Holdings Limited	2,00,00,000	25.03.2004	03.06.2004
95	BG Energy Holdings Limited	2,00,00,000	07.04.2004	26.11.2004
96	BG Energy Holdings Limited	2,00,00,000	19.04.2004	26.11.2004
97	BG Energy Holdings Limited	2,00,00,000	30.04.2004	26.11.2004
98	BG Energy Holdings Limited	2,00,00,000	07.05.2004	26.11.2004
99	BG Energy Holdings Limited	2,00,00,000	14.05.2004	26.11.2004
100	BG Energy Holdings Limited	2,00,00,000	25.05.2004	28.04.2006



101	BG Energy Holdings Limited	2,00,00,000	05.06.2004	27.11.2004
102	BG Energy Holdings Limited	2,00,00,000	09.06.2004	23.05.2006
103	BG Energy Holdings Limited	2,00,00,000	18.06.2004	27.11.2004
104	BG Energy Holdings Limited	2,00,00,000	28.06.2004	07.06.2006
105	BG Energy Holdings Limited	2,00,00,000	20.07.2004	27.11.2004
106	BG Energy Holdings Limited	2,00,00,000	21.07.2004	27.11.2004
107	BG Energy Holdings Limited	2,00,00,000	27.07.2004	27.11.2004
108	BG Energy Holdings Limited	2,00,00,000	02.08.2004	23.05.2006
109	BG Energy Holdings Limited	2,00,00,000	13.08.2004	27.11.2004
110	BG Energy Holdings Limited	2,00,00,000	23.08.2004	23.05.2006
111	BG Energy Holdings Limited	2,00,00,000	06.09.2004	27.11.2004
112	BG Energy Holdings Limited	2,00,00,000	10.09.2004	27.11.2004
113	BG Energy Holdings Limited	2,00,00,000	23.09.2004	27.11.2004
114	BG Energy Holdings Limited	2,00,00,000	29.09.2004	27.11.2004
115	BG Energy Holdings Limited	2,00,00,000	09.10.2004	27.11.2004
116	BG Energy Holdings Limited	2,00,00,000	20.10.2004	27.11.2004
117	BG Energy Holdings Limited	2,00,00,000	09.11.2004	23.05.2006



	Holdings Limited			
118	BG Energy Holdings Limited	2,00,00,000	17.11.2004	23.05.2006
119	BG Energy Holdings Limited	2,00,00,000	02.12.2004	30.05.2006
120	BG Energy Holdings Limited	2,00,00,000	10.12.2004	07.06.2006
121	BG Energy Holdings Limited	2,00,00,000	24.12.2004	30.05.2006
122	BG Energy Holdings Limited	2,00,00,000	12.01.2005	07.06.2006
123	BG Energy Holdings Limited	2,00,00,000	08.02.2005	30.05.2006
124	BG Energy Holdings Limited	2,00,00,000	01.03.2005	30.05.2006
125	BG Energy Holdings Limited	2,00,00,000	19.03.2005	30.05.2006
126	BG Energy Holdings Limited	2,00,00,000	04.04.2005	07.06.2006
127	BG Energy Holdings Limited	2,00,00,000	03.05.2005	07.06.2006
128	BG Energy Holdings Limited	2,00,00,000	03.06.2005	07.06.2006
129	BG Energy Holdings Limited	2,00,00,000	30.06.2005	30.05.2006
130	BG Energy Holdings Limited	2,00,00,000	26.07.2005	30.05.2006
131	BG Energy Holdings Limited	2,00,00,000	22.08.2005	07.06.2006
132	BG Energy Holdings Limited	2,00,00,000	03.10.2005	07.06.2006
133	BG Energy Holdings Limited	3,00,00,000	07.11.2005	30.05.2006



134	BG Energy Holdings Limited	2,00,00,000	23.12.2005	30.05.2006
135	BG Energy Holdings Limited	2,00,00,000	16.02.2006	30.05.2006
136	BG Energy Holdings Limited	2,00,00,000	20.03.2006	07.06.2006
137	BG Energy Holdings Limited	3,00,00,000	05.04.2006	07.06.2006
	Total	245,94,54,880		

The receipt of these funds was reported with a delay beyond the stipulated time period of 30 days, in contravention of Paragraph 9(1)(A) of Schedule I of Notification No. FEMA 20/2000-RB.

The Form FCGPR was filed as follows (transactions in which there was a delay in reporting):

S.No.	Amount for which shares allotted (INR)	Date of allotment of shares	Date of reporting to RBI by AD bank
1	10,22,54,880	11.09.2002	28.12.2002
2	95,00,99,980	26.10.2007	13.12.2007
3	95,00,00,020	26.10.2007	13.12.2007
4	66,08,81,900	26.10.2007	04.01.2008
5	3,67,00,000	11.09.2002	28.12.2002
Total	269,99,36,780		

The allotment of shares under FDI route was not reported within the stipulated time period of 30 days, thus contravening Paragraph 9(1)(B) of Schedule I of Notification No. FEMA 20/2000-RB.



Further, the applicant entered into a share swap agreement with respect to acquisition of 100% stake in DOPL (an increase from 36.24%), for a consideration amount of Rs. 2,74,53,640/-, without prior FIPB approval, on March 20, 2015, in contravention of the then prevailing Para 3(c) of Schedule I of Notification No. FEMA 20/2000-RB. The mentioned regulation was repealed vide Notification No. 362/2016-RB, vide which para 2(4)(v) of Schedule I of Notification No. FEMA 20/2000-RB, was introduced. FIPB deemed the above share swap transaction in contravention of the new regulation introduced, namely, para 2(4)(v) of Schedule I of Notification No. FEMA 20/2000-RB, and issued a post-facto approval to the applicant vide letter dated March 28, 2017, subject to compounding of the said regulation.

3. According to Para 9(1)(A) of Schedule 1 of Notification No.FEMA.20/2000-RB dated May 03, 2000 as amended from time to time, “An Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of receipt of the amount of consideration received by Indian company for issue of shares and convertible debentures, a report in form specified in Annex C to this Schedule along with a copy/ies of Foreign Inward Remittance Certificate/s (FIRC), Know Your Customer (KYC) report on the non-resident investor and details of the Government approval, if any”.

Further, Para 9(1)(B) of Schedule 1 of Notification No.FEMA.20/2000-RB dated May 03, 2000 as amended from time to time states that “An Indian company issuing shares or convertible debentures in accordance with these Regulations shall submit through AD bank to the Regional Office concerned of the Reserve Bank under whose jurisdiction the Registered office of the company operates, not later than 30 days from the date of issue of shares, a report in the Form FC-GPR as specified by the Reserve Bank from time to time....”.

According to Para 3(c) of Schedule 1 of Notification No.FEMA.20/2000-RB dated May 03, 2000 as amended from time to time, and as then applicable, “An Indian company intending to issue shares to a person resident outside India in accordance with these regulations.....shall obtain prior approval of the Foreign



Investment Promotion Board (FIPB) of Government of India, if the Indian Company, proposes to issue shares.....against share swap...”

4. The applicant was given an opportunity for personal hearing vide letter No. FE.CO.CEFA/2109/15.20.67/2017-18 dated September 08, 2017 for further submission in person and/or producing documents, if any, in support of the application. The personal hearing was held on October 06, 2017, during which Ms. Lakshmisree Chakraborty, Company Secretary, YOU Broadband India Limited, Shri Shabbir Motorwala, Partner, BSR and Associates LLP, and Ms. Mitali Pakle, Associate Director, BSR and Associates LLP, represented the applicant. The representatives of the applicant submitted that the applicant had inadvertently failed to comply with the FEMA regulations and requested that a lenient view may be taken in the matter. The application is, therefore, being considered on the basis of the averments made in the application, the documents produced and submissions made during the personal hearing.

5. I have given my careful consideration to the documents on record and submissions made by the applicant during the personal hearing. It was observed that the applicant has contravened the provisions of Paragraphs 9(1)(A), 9(1)(B) and 3(c) (as then applicable) read with 2(4)(v) (as specified by FIPB in its post-facto approval letter) of Schedule 1 of Notification No.FEMA.20/2000-RB dated May 3, 2000, as amended from time to time. The amount of contravention is as follows:

(i) Para 9(1)(A) of Schedule 1 of Notification No.FEMA.20/2000-RB – Amount of contravention – Rs. 245,94,54,880/- and Period of contravention – ranges from one month to three and a half years approximately.

(ii) Para 9(1)(B) of Schedule 1 of Notification No.FEMA.20/2000-RB – Amount of contravention – Rs. 269,99,36,780/- and Period of contravention – ranges from one month to three months approximately.

(iii) Para 3(c) (as then applicable), read with para 2(4)(v) (as specified by FIPB in its post-facto approval letter) of Schedule 1 of Notification No.FEMA.20/2000-RB – Rs. 2,74,53,640/- and Period of contravention is two years approximately.



6. In terms of section 13 of the FEMA, any person contravening any provision of the Act shall be liable to a penalty up to thrice the sum involved in such contravention upon adjudication. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs. 52,27,703/- (Rupees fifty two lakh twenty seven thousand seven hundred and three only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Paragraphs 9(1)(A), 9(1)(B) and 3(c) (as then applicable) read with 2(4)(v) (as specified by FIPB in its post-facto approval letter) of Notification No.FEMA.20/2000-RB dated May 3, 2000, as amended from time to time, on payment of a sum of Rs. 52,27,703/- (Rupees fifty two lakh twenty seven thousand seven hundred and three only), which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at 'Mumbai' within a period of 15 days from the date of this order. In case of failure to deposit the compounded amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 dated May 3, 2000 shall apply.

The application is disposed accordingly.

Dated this the sixth day of November, 2017

Sd/-

Shekhar Bhatnagar
(Chief General Manager)