

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 6 | Issue 1

2024

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Navigating Telecommunication Billing Regulations: A Legal Analysis

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ABSTRACT

The Telecom bill of 2023 was presented by the public authority considering cancelling the accompanying laws of pilgrim period that are the Indian Telegraph Act of 1855; the Indian Wireless Telegraphy Act of 1930; and the Indian Wireless Telegraphy (Unlawful Possession) Act of 1950. The advantages of the act are it consolidates the network services offered by Internet Service Providers and it grants satellite Internet service freedom through bidding through spectrum. The Indian government can permit specific administrations to offer for range with next to no sale except for there are still a few administrations which should have managerial authorisation. The satellite internet service provider, which includes Space X and Bharti Airtel-backed One Web, has thanked the government for providing services without auction and spectrum and by administrative authorisation because it will help in enhancing competition, increased global cooperation of India, and by providing employment opportunities and startups. Other examples of these include scientific research, crime prevention, disaster management, and defence security. It prevents bulk purchasing of sim cards and also levies a penalty of approximately 50 lakhs along with three years of imprisonment when caught doing Main pressing issues that the bill presented makes the biometric filter obligatory for buying sim cards which is an infringement of Right to Privacy and there will be unpredictable capture of messages by the public authority which will likewise bring up issues in regards to the admittance to the information of normal residents who are not engaged with any sort of danger to public safety. This will likewise bring up issues with respect to the independence of the public authority.

Keywords: Telecommunication, digital India, Indian Telegraphy act.

I. INTRODUCTION

The Telecommunication act of 2023 (2023 act) addresses a colossal update of India's regulative construction in the transmission correspondences region. It displaces the Indian Telegraph act, 1885, the Indian wireless telegraph Act, 1933, and the telegraph Wires (Unlawful possession)

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Act, 1950³, signifying an uncommon accomplishment in the country's true turn of events. This comprehensive act is designed to encourage growth and functional proficiency in media communications. The study examines the demonstration's aversion to Over-The-Top (OTT) stages from the perspective of "telecom administrations." This excusal, requested by Hon'ble minister Ashwini Vaishnaw, infers an undeniable course for district express principles. Notwithstanding, there could be gambles with that conflict with what the Demonstration planned assuming the Demonstration's expansive meanings of "media transmission" and "message" are deciphered to incorporate OTT stages. This unplanned consideration's likely effects on the advanced environment are the subject of the investigation. Besides, the Show's extension of a past Indian district keeps an eye on a striking improvement from its ancestor, tending to certified openings in the extraterritorial utilization of transmission correspondences rule. The evaluation moves into the regulatory realm and examines the Showing's ever-increasing step of establishing a managerial sandbox, collaborating with development, and carrying out capable projects in the telecom sector. The foundation of the Mechanized Bharat Nidhi, which replaces the General Assistance Responsibility Resource (USOF), suggests a move toward redesigning access to broadcast communications in underserved areas. While staying aware of the public power's wide control over media transmission organizations and associations and simultaneously growing disciplines for opposition, the 2023 Exhibit moves from the current approving system to an authorisation structure. The rule of unequivocal messages, biometric conspicuous confirmation requirements, and the need of giving exact information are totally analysed in the last portion of the assessment as per the perspective of the client. These parts of the demonstration are especially important because of the growing digital scene in India, which is characterized by widespread financial fraud⁴. The evaluation also looks at encryption standards, message catch, the Show's method for managing public prosperity and security, and the need for clear legal definitions and checks to protect individual opportunities and security. In addition, the analysis concludes with an analysis of the reevaluated offenses and disciplines, particularly those that are practically identical to SIM card Rules and threatening to coercion measures. The analysis also includes the Show's creative mechanized banter objective construction, demonstrating a guarantee to modernizing protest redressal in the telecom sector. Overall, this review provides an in-depth analysis of the Media Communications Act of 2023, including its achievements, challenges, and anticipated paths to

³ Department of Telecommunications. The Indian Telegraph Act, 1885. India Code. Retrieved December 26, 2023, from https://www.indiacode.nic.in/bitstream/123456789/13115/1/indiantelegraphact_1885.pdf

⁴ Telecommunications Bill, 2023: The changes it seeks in the telecom sector, why some have raised concerns, The Indian Express (Dec. 19, 2023), <https://indianexpress.com/article/explained/explained-sci-tech/telecommunications-bill-2023-significance-9074099/>.

convincing implementation, thereby contributing to a more nuanced understanding of this landmark achievement in India's transmission communications history.⁵ The act stays as a central piece of rule, set to modernize the media correspondences locale, but with new difficulties and ambiguities that require cautious thought and further explanation.

Why is the Telecommunication Bill 2023 needed?

- Transformation of Sector: The telecommunication sector has witnessed significant transformations in the past decade, including changes in its nature, usage, and underlying technologies. For example, 5G technology and its application.
- Patch up of Antiquated regulations: For internet and telecom companies, India is a huge market. The telecom industry in India, on the other hand, was largely governed by three laws, two of which were enacted during colonial rule and the third in 1950. The Telecommunication Bill 2023 establishes a legal and regulatory framework that places safety and security of telecommunication networks first and encourages digital growth for all.⁶

II. KEY FEATURES

- Approval for Media communications Exercises: The impending regulation commands earlier approval from the focal government for the accompanying telecom-related tries: Establishment, operation, maintenance, or expansion of telecommunications networks Possession of radio equipment Provider of telecommunication services
- Speculation Allocation: Range task will prevalently be led through barter, with exemptions made for explicit use situations where portion will be taken care of authoritatively. The public authority has recognized 19 administrations/substances in the principal plan qualified for authoritative range designation, bypassing the closeout cycle. National security, defense, public broadcasting, disaster management, and satellite services include BSNL, MTNL, and license holders of global mobile personal communication by satellite services (GMPCS). Except for those recorded in the main timetable, range allotment ought to be led through sell off.

⁵ 'First Read: The Telecom Bill, 2023 Is on Santa's Evil List' (Internet Freedom Foundation, 20 December 2023) <https://internetfreedom.in/first-read-telecom-bill-2023/>

⁶ Amal Chandra, *Decoding the Implications of India's Telecom Bill*, The News Minute (2023), <https://www.thenewsminute.com/news/decoding-the-implications-of-indias-telecom-bill>.

- **Communication Interception:** Messages traded between at least two people might be dependent upon interference on indicated grounds, including: Security of the state Counteraction of induction of offenses Upkeep of public request.
- **Services of communication are suspended:** As per the Telecom Bill of 2023, the focal government is enabled to briefly take command of telecom administrations in case of crises considered significant for public safety or other basic circumstances.
- **Instructions for Press Communications:** Unless expressly prohibited by applicable regulations, press messages accredited to the Central Government or a State Government will not be intercepted or detained.
- **Conventions for Unused Range:** The Telecommunications Act of 2023 includes provisions for spectrum sharing, trading, and leasing as well as the authority for the government to reclaim underutilized spectrum. It offers the choice for substances to give up unused range with no pay from the public authority intentionally. In addition, a voluntary disclosure mechanism has been established to facilitate regulatory compliance and encourage the reporting of accidental violations.
- **Mechanisms for Resolving Grievances:** A methodical procedure for resolving disputes brought about by violations of contractual terms and conditions is outlined in the Telecommunications Bill. This incorporates a various levelled system involving a mediating official, a redrafting panel, and the Telecom Questions Settlement and Re-appraising Court (TDSAT).
- **Online protection Measures:** Regulations aimed at safeguarding the cybersecurity of communication networks and services are authorized by the central government. The collection, analysis, and dissemination of traffic data generated, transmitted, received, or stored within telecommunication networks may be included in these measures.
- **Power to Lay out Guidelines:** The focal government is engaged to present principles and assessments concerning broadcast communications gear, framework, organizations, and administrations. Acquirement of telecom gear is ordered solely from legitimate sources.
- **Transitional experience:** To work with the establishment of broadcast communications foundation, suppliers might demand access over open or confidential property. Freedoms of way should be conceded in a way that is both non-oppressive and non-restrictive to the furthest reaches practical.
- **Client Assurance:** The focal government might establish measures pointed toward defending clients, which include: requiring prior consent for certain messages, like

promotional ads, to be received. o Laying out components for clients to report examples of malware or assigned messages.

- TRAI appointments: The TRAI Act is modified by the Telecommunication Bill of 2023 to permit individuals with: No less than 30 years of expert experience to act as administrators. members must have at least 25 years of professional experience to serve.
- Need Transmission of Messages in Crises: During seasons of public crisis, either the focal government or a state government may briefly take command of media transmission administrations. A system that ensures that messages sent by authorized users for response and recovery purposes are prioritized for transmission is authorized by the government.
- Digital Bharat Nidhi: The legislation rebrands the Universal Service Obligation Fund (USOF) as the Digital Bharat Nidhi, permitting its utilization for research and development endeavours.
- Authority to Waive Fees: The bill confers upon the government the authority to waive entry fees, licensing fees, penalties, etc., in the best interest of consumers.

III. PERCEPTIONS OF EXPERTS ON THE BILL

- The Draft Bill as of now has one expansive class of administrations sorted as 'telecommunication services' under clause 2(21). Making classes of media transmission administrations will extraordinarily help guideline by empowering more designated guideline, making the way for an assistance explicit permitting system, permitting development and new participants by guaranteeing a sliding-scale for guideline; and making doing business easier. The Bill must include a classification scheme for telecommunications services.
- Similar service Same Rule standard should be refined by including a 'relevance criteria' in the norm, which considers the significance of both likenesses and dissimilarities, the hidden engineering of these administrations, and the idea of the specialist organization to decide the administrative system for these administrations. Under Clause 2(21), the requirements for notifying any new service as a telecommunication service must also be codified in the Draft Bill.
- The Draft Bill should set out different classes of licenses to administer the number of media communications administrations administered by it. Depending on whether a service is (a) general, interpersonal, or machine-to-machine, and (b) an access service or a reliant service, distinct classes of licenses may be defined. Classes of licenses may likewise have various terms and methods that might be set out in guidelines under the draft Bill. The development

of specific, precise, and sophisticated regulations regarding the administration of telecommunications services would be made possible by the establishment of classes of licenses.

- According to Clause 4(3) of the Draft Bill, any new terms and conditions for access services must adhere to the net neutrality principle, as may be outlined in the Bill. The securities for network lack of bias in India present under the Bound together Access administration licenses today may likewise be given legal sponsorship under the draft bill.
- Clauses 4(7) and 4(8) of the Draft Bill, without a trace of shields and limits on assortment, use and capacity of customer's information for KYC purposes also, clearness with respect to the points of interest of their character that might be revealed to meet guest id necessities, seem to think twice about clients' protection.
- The Draft Bill's clause 24(2) outlines the government's authority to order communications interceptions. Section 5(2) of the Telegraph Act of 1885 is replicated in this clause, which is inconsistent with subsequent jurisprudence, particularly in relation to the fundamental right to informational privacy. Also, the cooperation of this structure with the existing block attempts' system for electronic correspondences under the IT Rules, 2009 is indistinct and would prompt covering utilization of regulations.⁷

IV. MATTER OF CONCERNS FOR THE BILL

- **Privacy Concerns:** Organisations are required to conduct biometric user authentication to combat fraud. This gives rise to worries regarding user privacy.
- **Ambiguity in Definition:** Due to its broad nature, the new definition of "telecommunication services" is open to many interpretations. The definition of "telecommunication services" no longer includes a particular mention of over-the-top (OTT) communication services.
- **Network possession:** The government is authorised to "take temporary possession" of the network by the Telecommunication Bill 2023.
- Experts assert that the government must define "possession" and establish the duration of a "temporary" term.

⁷ Comments on the Draft Indian Telecommunication Bill, 2022, https://vidhilegalpolicy.in/wp-content/uploads/2023/01/221118_DITB-Comments_Vidhi_Final_v2-2.pdf.

- **Potential Abuse of Power:** The Telecommunication Bill 2023 gives the federal and state governments the authority to halt communications "in the interest of public safety" or "during any public emergency." This authority could be abused to silence critics.
- **Expansion of TRAI's Regulatory Authority:** The proposed amendment also contemplates the possibility of appointing corporate executives from the private sector to serve as the chairperson of TRAI. This change could potentially restrict TRAI's regulatory scope, as the absence of an industry watchdog with an impartial and independent stance is pivotal for nurturing progressive and constructive development within the telecommunications sector.
- **Spectrum Allocation:** There exists a division among private telecommunications companies regarding this issue. During TRAI's consultation process in June of this year, opposition to the allocation of satellite spectrum through auctions was voiced by Elon Musk's Star link, Amazon's Project Kuiper, and India's Tata Group and in contrast, Bharti Airtel and Reliance Jio expressed their support for spectrum auctions.

V. OFFENCES AND PENALTIES

The telecommunications act of 2023 imprints a huge shift towards stricter administrative consistence, clear in the heightened seriousness of punishments contrasted with the 2022 Draft Bill. The Demonstration forces brutal ramifications for unapproved broadcast communications exercises, endorsing detainment of as long as three years and fines as high as INR 2 Crore. Notwithstanding this thoroughness, the Demonstration's categorisation of offenses, which range from minor to major according to the Subsequent Timetable, needs clear outline into extreme or non-serious classes. This equivocalness, combined with the wide scope in discipline from reviewed alerts to fines to INR 5 Crore - raises implementational concerns. Moreover, the Demonstration presents explicit guidelines for Subscriber Identity Modules (SIM cards), setting a fine of INR 50,000 for surpassing the allowed furthest reaches of SIM cards per individual, raising to INR 2 Lakh for ensuing offenses. This moves lines up with the public authority's August 2023 guidelines pointed toward checking deceitful calls and exercises. Under these guidelines, Telecom Specialist co-ops should go through rigid police check for SIM card hands, with a significant resistance punishment. The principles additionally reclassify business-related SIM card associations, requiring nitty gritty enlistment and individual representative KYC. For individual clients, as far as possible the quantity of SIM cards to nine for every ID and restricts the reissuance of deactivated SIMs for 90 days⁸. Moreover, the

⁸ Livemint, *New SIM Card Rules to Be Applicable from Today. A Look at What Will Change*, mint (2023),

Division of Broadcast communications' sendoff of the 'Sanchar Saathi' entrance upgrades versatile association the board and gives systems to extortion revealing and hindering lost or taken handsets. It is commendable that the government is working to improve the regulatory framework and address violations in the telecom industry. Nonetheless, while the Demonstration presents harder punishments, the requirement for lucidity in the order of offenses is apparent. Guaranteeing a harmony between rigid requirement and commonsense application is fundamental in the powerful scene of media communications regulation, where accuracy and decency are pretty much as basic as solidness.

VI. CONCLUSION

In conclusion, the ongoing examination of the telecommunications bill signifies a pivotal moment in shaping the future trajectory of communication services. A meticulous review of its provisions reveals a concerted effort to address the dynamic needs of consumers, foster competition, and stimulate innovation within the telecommunications sphere. Through the enhancement of regulatory frameworks, promotion of infrastructure investment, and facilitation of stakeholder collaboration, the bill lays a robust groundwork for enhancing the accessibility, affordability, and quality of telecommunications services.

However, alongside the promising opportunities presented by the bill, it also poses significant challenges, particularly concerning the delicate balance of stakeholder interests and ensuring equitable access to communication resources. As policymakers navigate the implementation and refinement of the bill, diligent oversight of its impact on consumer welfare, market dynamics, and technological advancement is paramount.

The enactment of the Act, incorporating amendments and retentions from the bill, including regulatory sandbox mechanisms, facilitation of corporate transactions such as mergers and acquisitions, and the establishment of the 'Digital Bharat Nidhi,' underscores a legislative commitment to fostering rapid industry growth and innovation. The effectiveness of these measures, however, hinges on the forthcoming rules, which must align with the legislative intent of simplicity and clarity. Short, precise authorizations, tailored to specific purposes—such as minimal restrictions on infrastructure providers and exclusions for purely private infrastructure—hold the potential to unlock remarkable growth within the sector.

This recent legislative development reflects a proactive approach to adapting to technological advancements and ensuring a modern and comprehensive regulatory framework for India's

<https://www.livemint.com/industry/telecom/new-sim-card-rules-to-be-applicable-from-december-1-heres-a-look-at-what-will-change-11701320163500.html>

evolving telecom landscape. While the exclusion of Over-the-Top (OTT) services grants them greater operational freedom, it also raises considerations regarding potential breaches of societal norms. In essence, this legislative endeavour signifies a decisive step towards fostering an inclusive, resilient, and sustainable telecommunications ecosystem in India.
