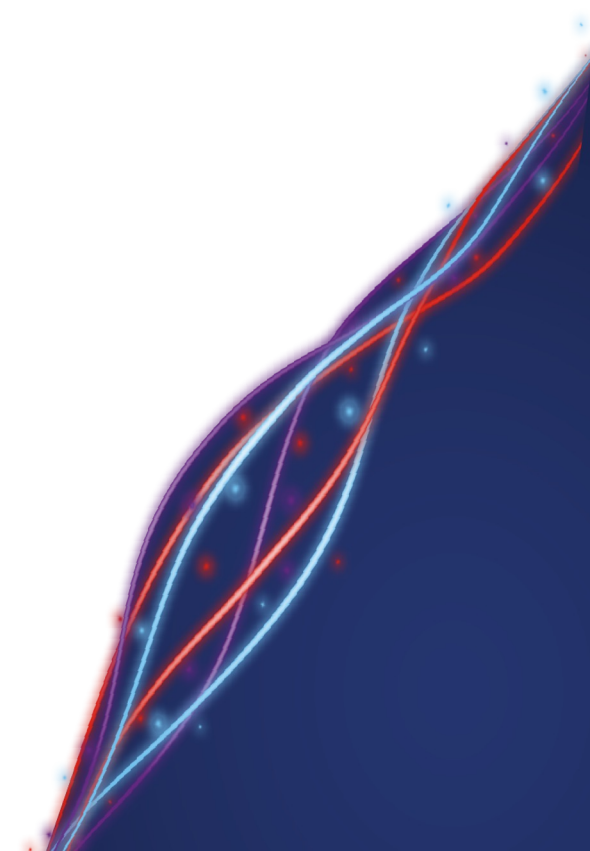


Discussion on New Telecom Bill 2022

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ABOUT ITU-APT FOUNDATION (IAFI)

ITU-APT Foundation of India (IAFI) is a non-profit, non-political registered society based in India

- IAFI is a nonpartisan Foundation and does not identify with any Industry sector or group. We support all telecom and IT sectors : 4G, 5G, GSO –NGSO Satellites, Wi-Fi, Broadcasting, Aviation, etc.
- IAFI is recognized by the ITU as an international/regional Telecommunications organization and granted sector Member of all the three ITU Sectors - ITU-R, ITU-T and ITU-D.
- We are working for the last 18 years with the prime objective of encouraging involvement of professionals, corporate, public/private sector industries, R&D organizations, academic institutions, and such other agencies in the activities of ITU and APT
- IAFI was founded in 2003 by a group of Telecom professional, with Padamshree P S Saran, retired secretary DOT as the first chairman.
- Our members include many stalwarts of the telecom sector including former telecom secretaries, members, advisors and DDGs of the DOT and Telecom Commission, former Wireless Advisors and other DOT and WPC officers. We also have many corporate members from India and other countries including R&D organizations, telecom operators, manufacturers and technology provider

Indian Telecom Legal Framework

Acts

S.No.	Title
1.	Indian Telegraphy Act, 1885
2	Indian Telegraph (Amendment) Act, 2003
3.	Indian Telegraph (Amendment) Act 2006
4	Indian Wireless Telegraphy Act, 1933
5	Telegraph Wires (Unlawful Possession) Act, 1950

Policies

S.No.	Title
1	National Telecom Policy (NTP) 1994
2	New Telecom Policy 1999
3	Addendum To NTP 1999
4	National Telecom Policy (NTP) 2012
5	National Digital Communication Policy, 2018

Rules

S. No.	Title
1.	Indian Telegraphy Rules, 1951
2.	Indian Wireless Telegraphy Rules, 1973
3.	Indian Telegraph Rules (Amendment) 2004, 2006, 2008, 2013, 2013-2 ND , 2014, 2015, 2017, 2017 (1-7), 2020, 2021 (5)

Definitions – 1 item vs. multiple items

Telegraph Act 1885

[(1) "telegraph" means any appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, visual or other electro-magnetic emissions, Radio waves or Hertzian waves, galvanic, electric or magnetic means.

Draft India Telecom Act

(17) **"telecommunication"** means a transmission, emission or reception of any messages, by wire, radio,

(18) **"telecommunication equipment"** means any equipment, appliance,

(19) **"telecommunication infrastructure"** means the infrastructure.....as listed in Schedule 5*;

(20) **"telecommunication network"** means a system or series of systems of telecommunication equipment,.....

*Schedule – 5: Telecommunication Infrastructure 1. Telecommunication lines, including wire 2. Posts. 3. Telecommunication towers by whatever name called (including mobile towers). 4. Ducts. 5. Conduits. 6. Cable corridors. 7. Any civil, electrical, or mechanical infrastructure used or capable for use for telecommunication as may be notified.....

Definitions – 1 item vs. multiple items

Telegraph Act 1885

[(1) "telegraph" means any appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, visual or other electro-magnetic emissions, Radio waves or Hertzian waves, galvanic, electric or magnetic means.

Draft India Telecom Act

(20) **"telecommunication network"** means a system or series of systems of telecommunication equipment, or telecommunication infrastructure, or both, including terrestrial or satellite networks or submarine networks, or a combination of

(21) **"telecommunication services"** means service of any description (including broadcasting services, electronic mail, voice mail, voice, video and data communication services, audiotex services, videotex services, fixed and mobile services, internet and broadband services, satellite based communication services, internet based communication services, in-flight and maritime connectivity services, interpersonal communications services, machine to machine communication services, over-the-top (OTT) communication services) which is made available to users by telecommunication, and includes any other service that the Central Government may notify to be telecommunication services;

6 new terms and 1 schedule on definition as compared to a single term

Section 4 of the Telegraph Act vs. Section 3 of draft Bill

Telegraph Act 1885

4. Exclusive privilege in respect of telegraphs, and power to grant licenses.

(1) Within [India], the Central Government shall have exclusive privilege of establishing, maintaining and working telegraphs:

Telecom Equipment not covered by the Exclusive privilege

Draft India Telecom Act

3. Exclusive Privilege

(1) The Central Government shall have the exclusive privilege, within India, to:

(a) provide telecommunication services;

(b) establish, operate, maintain and expand telecommunication network and telecommunication infrastructure; and

(c) use, allocate and assign spectrum.

Licensing under the current Act and the draft bill

Telegraph Act 1885

- Provided that the Central Government may grant a license, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of [India]:
- [Provided further that the Central Government may, by rules made under this Act and published in the Official Gazette, permit, subject to such restrictions and conditions as it thinks fit, the establishment, maintenance and working
- (a) of wireless telegraphs on ships within Indian territorial waters [and on aircraft within or above [India], or Indian territorial waters], and
- (b) of telegraphs other than wireless telegraphs within any part of [India].

Draft India Telecom Act

- (2) The Central Government may exercise its privilege under sub-section (1) by granting to any entity, in the manner as may be prescribed:
 - (a) license for providing telecommunication services or establishing, operating, maintaining and expanding telecommunication networks;
 - (b) registration for providing telecommunication infrastructure;
 - (c) authorization for the possession of wireless equipment; or
 - (d) assignment of spectrum.
- (3) The Central Government, if it determines that it is necessary in the public interest to do so, may exempt from the requirement of license, registration, authorization or assignment under sub-section (2), in the manner as may be prescribed.

Changed from “person” to “entity” but the definition of entity is limited

New welcome provision for exemption

Telegraph Act 1885

- (2) The Central Government may, by notification in the Official Gazette, delegate to the telegraph authority all or any of its powers under the first proviso to sub-section (1).
- The exercise by the telegraph authority of any power so delegated shall be subject to such restrictions and conditions as the Central Government may, by the notification, think fit to impose.]

Draft India Telecom Act

(3) The Central Government, if it determines that it is necessary in the public interest to do so, may exempt from the requirement of license, registration, authorization or assignment under sub-section (2), in the manner as may be prescribed.

Penalty Provisions for possession of Wireless Equipment

Telegraph Act 1885

- (1) Whoever possesses any wireless telegraphy apparatus, other than a wireless transmitter, in contravention of the provisions of Section 3 shall be punished, in the case of the first offence, with fine which may extend to one hundred rupees, and, in the case of a second or subsequent offence, with fine which may extend to two hundred and fifty rupees.
- (1A) Whoever possesses any wireless transmitter in contravention of the provisions of Section 3 shall be punished with imprisonment which may extend to three years, or with fine which may extend to one thousand rupees or with both.

Draft India Telecom Act

Possessing wireless equipment without an authorization or exemption.

First Offence: Fine up to rupees fifty thousand.

Each subsequent offence: Fine up to rupees two lakhs for each such instance