

## Draft Indian Telecommunications Bill 2022 requires a critical review: BIF

- *The entire Digital ecosystem of the country to be subject to Telecom License – will stifle innovations and affect investor sentiment!*
- *Curtailment of TRAI's role and powers not conducive for a stable Regulatory framework – would take us back to pre-1997 era!*

**New Delhi, 23 September 2022:** Broadband India Forum (BIF), the leading independent Think-Tank and Policy Forum for Digital Communications in the country, opined that the draft Indian Telecommunications Bill 2022, which was issued by the Government for Public Consultation on 21<sup>st</sup> September 2022, requires a critical review, and a balanced approach towards addressing the needs and concerns of the expansive and rapidly evolving digital ecosystem in the country.

On BIF's preliminary reading of the draft Bill, certain issues of grave concern for a large number of stakeholders have been noticed, some of which are given below:

1. Undermining of the Independent Telecom Regulator (TRAI) –
  - i. *The Draft Telecom Bill provisions propose to take away TRAI's statutory independence, and seeks to make it subservient to the Government.*
  - ii. The Draft Bill proposes to remove non obstante provision and provisos to Section 11(1) of the TRAI Act. These existing provisions pertain to regulatory safeguards and maker and checker balance, which have been instrumental in bringing the sector to where it is today.
  - iii. By curtailing the powers of the TRAI, the Authority will be reduced to one with extremely limited role and powers, which does not bode well for the sector to have a neutral and independent approach towards facilitating progressive and positive growth for the entire ecosystem.
  - iv. The implications of the draft Bill may prove to be a backward step, taking us to the pre-1997 era, by diluting the critical role and powers of the independent regulator.
2. The inclusion of OTT Communication Services (app-based) under the ambit of telecom services-
  - i. TRAI conducted a detailed consultation on the subject matter over 4 years, and came to the conclusion based on holistic feedback from all stakeholders and international best practices, that OTT Communication Services should not be regulated or licensed.
  - ii. The importance of these services in the socio-economic growth of the country cannot be undermined. They are the backbone of the Digital Economy and *by including such services as telecommunication services and subjecting them to Licensing, it could stifle the entire socio-economic ecosystem, kill innovation and stymie the GDP growth.*
  - iii. Majority of the OTT Communication Services ecosystem is being developed by a number of startups, SMEs, members from academia and professionals. *Subjecting such services to Licensing could harm the nascent startups ecosystem, leading to constricting the Hon'ble PM's flagship mission of 'Startup India'.*
3. Spectrum Management – There is insufficient clarity as regards:
  - i. Mode of assignment of Shared Spectrum for Satellite Communications applications;
  - ii. Unlicensed Spectrum for Public Wi-Fi Use;

iii. Use of Unlicensed Spectrum for innovative applications such as Short-Range Devices (SRDs), in line with international best practices.

These are extremely relevant areas if we are to propel the nation forward with 5G services and beyond.

4. **Investments:** The draft Bill provisions for the Government to take back spectrum after 5 years or withdraw existing exemptions through mere notifications, without any consultation/due process. This could adversely impact the investor sentiment and investment potential in the sector.
5. There is a significant amount of ambiguity in the draft Bill about services being currently provided under registration such as Public Wi-Fi/OSP services.
6. The proposed Bill defines Telecom Infrastructure as only consisting of towers and fiber, etc. and is not in tune with ITU's definition of digital infrastructure. In today's day and age, the current scope of digital infrastructure needs to be augmented to include all other elements such as data centers, undersea cables, content delivery networks, etc.
7. The proposed Bill will have wider and long-term implications on the future of other sectors as well – esp. with 5G being deployed soon and 6G in the offing. We firmly believe that *detailed consultations with all stakeholders is of paramount importance to take cohesive decisions which are based on national and consumer interest.*

**Mr. T.V. Ramachandran, President, Broadband India Forum**, commented, *"Some of the provisions of the draft Indian Telecommunications Bill 2022, unfortunately appear to be prohibitive rather than facilitating/enabling for the larger digital ecosystem in the country. The provisions seem to take us back to the pre-1997 era by diluting the powers of the Regulator viz. Section 11(1) of TRAI Act. This could lead to damage of investor confidence and undermining of the independence of the Regulatory Authority, owing to deletion of provisions which enable proper checks and balances. The bill, which should actually be forward-looking, is, on the contrary, taking us back to the older Telecommunications era. Even NDCP recognised this in 2018 and the Telecom Policy was renamed as Digital Communications Policy, which should reflect in the naming of the Bill as 'Digital Communications Act' ideally."*

While the above provides a preliminary view on the various provisions of the proposed India Telecommunications Bill 2022, BIF shall be studying the bill in a detailed manner and provide comprehensive inputs to the Government on the same.

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#### **About Broadband India Forum**

Broadband India Forum (BIF) functions as an independent policy forum and knowledge-based think-tank that works for the development and enhancement of the entire broadband ecosystem in a holistic, technology-neutral and service-neutral manner. BIF has established itself as a thought leader and a credible and effective voice, to help propel the nation to achieve the country's ambitious vision of creating a Digital India. To achieve this, BIF works to promote the rapid development of policies, so as to facilitate affordable and high-speed ubiquitous broadband throughout the country.

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