

There is no point flogging a dead horse: BIF dismisses stakeholders' attempts to yet again confuse the settled issue on Satellite Communications

New Delhi, October 8, 2024: A couple of stakeholders have allegedly written to the Telecom Regulatory Authority of India asking them to revise their recently released 'Consultation Paper on Spectrum for Satellite-Based Services' to stipulate 'auctioning' spectrum for satellite communications. Broadband India Forum (BIF) **unequivocally dismissed these claims**, reaffirming the intent behind the Indian Telecommunications Act, 2023. Key highlights are below:

Demands Against the Law of Land

In a desperate attempt to confuse all, stakeholders' have questioned the regulator's preference or 'tilting of preference' on the administrative allocation of satellite spectrum, advocating for auctioning such airwaves. This seems to be a direct defiance of the Telecommunications Act passed by the highest legislative authority of the country, the Parliament and a reprehensible attempt to undermine the country's extant policy framework.

The legislative intent of Section 4(4) of the Telecommunications Act 2023 explicitly stipulates that the method of spectrum assignment of various commercial and others listed in the First Schedule, including Commercial Satcom Services, **must be done through an administrative process**. The law is absolutely crystal clear in stating that the First Schedule may be amended 'to service public interest' (Section 4(5)(a)(i) which would mean adding entries/services that make communications more affordable and connect the under-connected. We believe that the reading of the law, particularly Section 4 of the Telecommunications Act is being deliberately misinterpreted by a couple of stakeholders to demand auctioning of satellite spectrum and ultimately serve their commercial interests.

'Level Playing Field' a myth peddled for commercial interests

The argument for a 'level playing field' between satellite-based and terrestrial communication services is fundamentally flawed, demonstrating a profound misunderstanding of both the technologies and the law. The doctrine of a 'level playing field' is invoked based on Article 14 of the Constitution and, in the context of the fundamental right to carry a trade/business, is embodied in Article 19(1)(g) as well. This doctrine guarantees equal treatment only to persons who are similarly situated, not among those who are unequal.

The differences between satellite-based and terrestrial access-based services are as vast as the distance between heaven and earth, making them fundamentally unequal. In such circumstances, the plea for a 'level playing field' in an already clarified regulation/law is entirely erroneous and contravenes the legal principles established by the Hon'ble Supreme Court in *Onkar Lal Bajaj v. UoI* [(2003] 2 SCC 673] and *Govt. of AP v. Maharshi Publishers Pvt Ltd.* [(2003] 1 SCC 776].

BIF believes that it is imperative to expose this false narrative and prevent such malicious propaganda from influencing regulatory and legal processes and public perception. Hence the self-serving attempt to bend the law to suit commercial interests should be summarily dismissed. The authorities must continue supporting growth, innovation and inclusivity in Digital Connectivity to the unserved and underserved areas of the country through the nascent Satcom as it has immense potential to enhance digital connectivity and, crucially, bridge India's digital divide.

TV Ramachandran, President, BIF said- “As India moves towards reaping the benefits of a vibrant and enterprising satellite communications sector, it is imperative to expose false narratives and claims put forth by vested interests that subvert the due process of regulation and law. The enacted law, Telecommunications Act, 2023, is very clear on an administrative assignment of spectrum for Satcom services. Hence, any attempts to disregard the law and undermine the process is a disservice to the larger public interest”

About Broadband India Forum: Broadband India Forum (BIF) is an independent policy forum and knowledge-based think-tank that works for the development and enhancement of the entire broadband & broadcasting 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, to facilitate affordable and high-speed ubiquitous broadband throughout the country.