

To

November 7, 2022

**Shri Ashwini Vaishnaw,**  
**Hon'ble Minister of Communications and IT**  
**Sanchar Bhawan**  
**New Delhi-110001**

Dear Sir,

We welcome and support your recent announcements regarding the new Telecom law to replace the three existing telecom Laws. We hope that the new Telecom law will help to promote robust development of the country, help and support faster growth of the economy and promote innovations, R&D and exports: In this context, our comments on the draft bill are enclosed

We draw your kind attention to the following highlights from our comments, to be suitably addressed in the new telecom bill:

1. Separate category of Local Telecommunications Service Providers (with minimal license fees) and Rural Telecommunications Service Providers (with no license fees) should be introduced in the bill to encourage small local /rural entrepreneurs.
2. Use of Telecommunications for captive purposes within the premises owned or occupied by any person should not be covered by the privilege of the central government and should be fully exempted from licensing under section 3 of the act.
3. All types of Information services (Including OTT services<sup>1</sup> in the draft bill) should not be governed by this act and a specific exclusion should be provided in the bill. For this purpose, specific exclusion See the definition of information services in the attachment.
4. Inclusion of Satellite Communications under the definition of Telecom infrastructure and Inclusion of active infrastructure under the purview of digital infrastructure in addition to traditional passive infrastructure without any additional license.
5. More focus on delicensing and easy spectrum approvals:
  - a. *Easy licensing of spectrum for Satellite Services and captive/ Non-Public Networks without any auctions*

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<sup>1</sup> As an example, how will the law differentiate between the “iPhone-facetime”, “Zello”, “Yahoo”, “telegram”, “Instagram messenger”, Shadi Chat”, etc. etc. etc.....and “WhatsApp”. Obviously, there is no way to license them all, even a simple license raj

*b. Full exemption and delicensing of spectrum needed for R&D, Innovations and hardware/software design – without any time limit*

*c. Delicense 6GHz for WiFi and 60 GHz for Wi-gig and NFC*

6. Jurisdiction of the Law should cover not only the territory of India but also the territorial waters and the airspace above India. This is particularly important to cover maritime and aeronautical telecom activities.
7. All definitions should be in one section only (rather than in multiple sections and attachments as in the current draft of the bill). Creation of multiple definitions, in different sections will lead to numerous litigations. See some recommended definitions in the attachment.
8. There should be a single, all pervasive definition of “Telecommunications” and all other definitions – services, infrastructure, network, etc. - should draw from this definition.
9. Definition of Entity – In the new bill, the “person” in the ITA1885 has been replaced by “Entity” with a limited definition (e.g. it does not include State Governments). We suggest to retain the word “person” as it has wider and legally accepted definition.
10. Provision of Regulatory Forbearance – The law should have a section in which the government may, from time to time, forbear, from applying any provision of this Act or any rule under the act, to a telecommunications , or to a class of telecommunications Even TRAI follows the principle of Regulatory Forbearance
11. Role and powers of TRAI and TDSAT should not be amended through this bill. Any changes in those should be considered separately and after detailed consultations only.

Further detailed comments on the bill are in attachment 2. We will be happy to make a detailed presentation

Warm Regards,

**Bharat B Bhatia,**

**President, ITU-APT Foundation of India (IAFI)**

**Vice Chairman, Asia Pacific, World Wireless Research Forum(WWRF)**

## **Attachments**

### **1. Recommended Definitions**

### **2. IAFI Recommendations**

**Recommended Definitions**

**TELECOMMUNICATIONS**

The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

**TELECOMMUNICATIONS SERVICE**

The term 'telecommunications service' means the offering of 'telecommunications' for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

**TELECOMMUNICATIONS SERVICE PROVIDER (TSP)**

The term 'TELECOMMUNICATIONS SERVICE PROVIDER (TSP)' - means any provider of telecommunications services

**TELECOMMUNICATIONS EQUIPMENT-**

The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a Telecommunications service provider (TSP) to provide telecommunications services, and includes software integral to such equipment (including upgrades).

**CUSTOMER PREMISES EQUIPMENT-**

The term 'customer premises equipment' means equipment employed on the premises of a person (other than a TSP) to originate, route, or terminate telecommunications.

**INFORMATION SERVICE**

The term 'information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information using telecommunications services.

**LOCAL ACCESS AREA**

The term 'local Access area' means a small contiguous geographic area served by a telecommunications exchange or an telecommunications exchange system and which is co-terminus with Short Distance Charging Area (SDCA) or where the telegraph authority has declared any area served by an exchange system to be the local area for the purpose of telephone connections.

**LOCAL TELECOMMUNICATIONS SERVICE**

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The term `LOCAL TELECOMMUNICATIONS SERVICE- means telecommunications between two or more points located within a 'local access area'.

### **RURAL TSP**

The term `RURAL TSP means a telecom service provider that

- a) provides telecommunications services to any local access area that does not include any area covered by a municipal authority or a cantonment board
- b) provides telecommunications service to fewer than 1000 subscribers

### **Telecommunications Infrastructure**

The term `telecommunications Infrastructure' means active and passive infrastructure, facilities or equipment used in the provision of telecommunications services. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including satellites, earth stations, spectrum, subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service

### **NUMBER PORTABILITY**

The term `number portability' means the ability of users of telecommunications services to retain the existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one TSP to another