

**No.: 404/DoT/2022-23/ACTO**

**Dated: 10<sup>th</sup> November, 2022**

**Shri Naveen Kumar**  
**Director (Restg)**  
Department of Telecommunications  
Ministry of Communications  
Sanchar Bhawan, 20 Ashoka Road,  
New Delhi – 110 001

Ref: **ACTO's Response to DoT's Draft Indian Telecommunication Bill 2022**

Dear Sir,

With reference to the *Draft Indian Telecommunication Bill 2022* issued by Department of Telecommunication, Association of Competitive Telecom Operators (ACTO), is pleased to provide our comments.

We hope that our comments (enclosed as Annexure - I) will merit consideration of the DoT.

Thanking you,  
Respectfully submitted

Yours sincerely,  
for **Association of Competitive Telecom Operators**



**Tapan K. Patra**  
**Director**

Encl: As above

## Annexure-I

### ACTO's response to DoT's Draft Indian Telecommunication Bill 2022

#### Introduction:

ACTO appreciates Department of Telecommunications (DoT) for releasing the draft '*Indian Telecommunication Bill 2022*' (the "**Draft Telecom Bill**") that seeks to replace existing legal framework for the telecommunications sector while ensuring the regulatory certainty, relaxing the penal provisions with a proportionate penalty approach and also through forward looking approaches such as the Regulatory Sandbox, etc. for public comments.

We are very encouraged with the Hon'ble Minister of Communication remarks made during the press conference on the Draft Bill, that the Government's aim is to make the proposed legislation simple to understand and easy to implement. However even though the Draft Bill is simplified, the existing licensing conditions/implementation guidelines are very complex. In ACTO's considered view, the Draft Bill is one of the steps to ensure the license conditions can be simplified, as a major overview of the licensing reforms is also needed on an urgent basis to be jointly implemented along with the legislation. During the consultation process, inputs on legal framework reforms were sought by the DoT and were also provided by the stakeholders. However, there is an urgent need to reform the licensing conditions in addition to the legal framework review for a meaningful legal and regulatory approach

ACTO had provided inputs during the consultation process and would like to provide some comments on the draft Telecommunication Bill and these are as given below:

#### 1. Need to have focus on enterprise business segment

The Draft Bill rightly notes that the legal framework needs to be future proof to align with the emerging technologies/services trends such as 5G, AI, SDN, NFV and ML. As per industry estimates much of the innovation and investment in emerging technology space will come from the enterprise sector use cases. However, the Draft Bill doesn't recognize the specificity of these services which are very different from the retail/consumer services. The services can be provided in many ways in different name / technologies. So, there should not be any restriction of underlay connectivity (private lease link or internet link) to provide the emergence services the way technology permits. Such restrictions curtail the efficiency of delivery of service, innovation, and growth. It is required that the Act / Policy may allow to offer the services in hybrid way. It could be internet, private lease line or LTE or 4G or 5G etc.

Enterprise communications services are very critical to the functioning of the modern, globally interconnected economy. Not just voice communications, enterprise services enable business enterprises to harness the power of high-speed and reliable data connections, hosting and storage tailored to their specific needs. These communications services are often combined with security, managed IT, and other services essential to modern business. They ensure that multinational companies whose operations span the globe can stay connected 24 hours a day, enabling continuous and uninterrupted global operations that contribute to competitiveness and innovation.

**ACTO Recommendation:** We recommend that bill and resultant legislation should contain adequate provisions to demarcate the specificity of the enterprise vs consumer services and a different approach to the compliance requirements for retail & enterprise segment which is a necessity in the present scenario. The enterprise offerings should not be mandated to follow the same compliances/ regulatory regime applicable to the mass market /consumer service providers, as this only adds to the cost and ease of doing business of the former without any significant benefits to any stakeholder.

## 2. Allocation of funding for security related measures under the USO fund

Expanding the scope of the USO fund to R&D towards self-reliance is a welcome step. Considering the importance and growing threat of cyber security/ network security, the bill should have a provision for government funding to make sure the network is more secure and safe. Over the last several years, Government has issued directives to the telecom services providers to implement network & information security related measures which in turn has resulted in exponential increase in regulatory and compliance cost of doing the business for the telecom providers. To achieve best outcomes, these security measures should be aligned with other horizontal/sector specific obligations, not result in duplication to the extent possible and should be implemented by a single agency of the Government to ensure consistency.

**ACTO Recommendation:** We therefore recommend that the government may create a suitable provision in the bill and the resultant legislation that addresses the security related concerns for allocation of a separate funding from the USO fund for the security related measures instead of mandating the same for the Telecom Service providers.

## 3. Telecom Standards

This bill has made a provision in clause no 23 under chapter 6, that central government may from time-to-time issue standards related to telecom equipment, services, network, infrastructure etc. Telecom services/network caters to both domestic as well as global customers. Global standards like ITU and other international standard bodies are working for long time to ensure interoperability and wider acceptability. Therefore, it is highly critical that any domestic standards need to be aligned with the international standards.

**ACTO Recommendation:** We recommend that bill and the resultant legislation should take into consideration the said alignment of any such domestic standards with the international standards for telecom equipment/network/infrastructure etc.

## 4. Explanatory Notes

Detailed explanatory notes have been provided with the Draft Bill and it contains very important clarifications as well as reflects the intentions of the Government. Many of these points are very critical from a legal perspective.

**ACTO Recommendation:** We recommend the bill and resultant legislation should have reference to these notes or these may be embedded in the bill and resultant legislation itself in order to have legal clarity of these explanations.

## 5. International Bandwidth and Resilient Internet

Telecom Service Providers (TSPs) create infrastructure and network catering to the enterprise segment, this includes transport layer comprising of terrestrial cable (domestic and international), international submarine cable, cable landing stations and international gateways etc. There is a need for policy impetus for capacity creation and route diversity in the international bandwidth space (IPLC, MPLS, ILL, IP transit).

**ACTO Recommendation:** We recommend following to be incorporated in the bill and resultant legislation.

- The objective of this new section should be to facilitate creation of capacity and route diversity in International Bandwidth through policy measures
- The strategy to be adopted is Single window clearance for laying, maintenance and fault repair of international submarine cables and terrestrial cables coordinated by department of telecom. This should be monitored under the Gatishakti Yojana through ROW portal
- Provision of advance authorization for maintenance and fault repair of international cables (submarine and terrestrial) for ships, land vehicle, manpower and equipment
- Facilitate creation of new landing stations at diversified locations along the international land and sea frontiers of India
- Open access to facilities at the Cable Landing Station to Telecom Service Providers
- Encourage creation of independent infrastructure by Telecom Service Providers to be available for sharing by all other licensed service providers on equitable basis

We believe the above shall result on bringing down the end to end landing cost of International Bandwidth in India in comparison to other geographies. This shall also build resilience in the internet bandwidth at the infrastructure and network layer at the national level.

## 6. Legal Provision for prior stakeholder's consultation before any license amendment other than national security.

The stakeholder's consultation before making amendment in the license condition is an important fabric of participatory democracy. Any amendment in the licensee (other than important national security) by licensor should have a prior consultation with industry/licensees as a good practice.

**ACTO Recommendation:** We recommend that in order for a meaningful and effective policy implementation, a legal provision should be included in the bill and resultant legislation that requires prior stakeholder consultation before any license amendment other than national security is issued by the Government.

## 7. Scope of the telecommunications bill

**Broad and Specific Definitions:** The draft bill has definitions that are both broad that cover the entire digital space, from the internet, online applications while also very vague. We encourage the DoT to provide the necessary clarity in the terms especially those included under the definition of 'telecommunication services' to ensure policy framework remains light touch to

incentivize innovation and investments as envisaged in the objectives enshrined in draft bill. Rather than expanding outmoded, burdensome regulations to new technologies, domestic regulators should seek to streamline regulatory burdens even on the Licensed Telecom Service Providers to bring in parity and to enhance competition. Further, regulatory treatment for application service providers and network service providers should take a risk-weighted approach with consideration to structural differences between digital entities and network service providers. Telecommunication operators should have the flexibility to offer innovative communication services that are not encumbered by traditional telecommunications regulation, so long as the services are offered in a way that do not impede access to competitive alternatives.

Before adopting any new rules, domestic policymakers should first consider whether there is consumer harm, and whether there are existing legal and regulatory frameworks that address the matter at hand.

**ACTO Recommendations:** We recommend that the definition of “telecommunication services” and the scope of legislation and regulations should therefore be reconsidered in light of the above distinctions.

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