MA (Space and Telecommunication laws)

Module – II - TELECOMMUNICATION LAWS IN INDIA

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INTRODUCTION

‘Telecommunications’ falls under the legislative competence of the Union and not the states. Consequently, the legal framework governing the telecommunications sector is within the control of the Union Government and the Parliament.

THE INDIAN TELEGRAPH ACT, 1885

History of telecommunication laws in India begins with the introduction of 'telegraph.' The telegraph was the brainchild of a visionary inventor named William O'Shaughnessy, and it secured England's grip on India. After the bifurcation of the post and telegraph department in 1980s, telegram was merged into the telecommunication department.

OBJECTIVE OF THE ACT

1. Establishment, Maintenance and Working of Telegraph
2. Categorization of Telephones
3. Disconnection of Telephone
4. Compensation for Illegal Disconnections
5. Arbitration of Disputes
6. Deficiency in Service
7. Revocation of License
8. Power to Place Telegraph Lines and Posts
9. Penalties

RELEVANT PROVISIONS OF THE TELEGRAPH ACT

- Within the country, the central government has the exclusive privilege of establishing, maintaining and working of telegraph. Power to take possession of licensed telegraphs and to order interception of messages is also vested with the government.
- **Section 5,** on the occurrence of any "public emergency" or in the interest of the public safety, the central government may take temporary possession of any telegraph established, maintained or worked by any person licensed under the Act
- **Section 6** of the Act makes every railway company bound to permit the government to establish and maintain a telegraph upon any part of the land of the company.
- **Section 6A** empowers the central government to notify the rates, conditions and restrictions regarding transmission of messages to any country outside India.
- **Section 7** empowers the central government to regulate the conduct of all or any telegraphs established, maintained or worked by the government or by the licensed persons.

THE WIRELESS TELEGRAPHY ACT, 1933

- The Wireless Telegraphy Act, 1933 regulates the possession of wireless telegraphy apparatus in the country. The *"wireless telegraphy"* apparatus has been defined under section 2(2) of the Wireless Telegraphy Act as "any apparatus, appliance, instrument or material used or capable of use in wireless communication".
- **Section 3** of the Act accordingly prohibits the possession without license of all wireless telegraphy apparatus as may be prescribed by the central government.
- **Section 11** of the Act has made it clear that a license issued under it cannot be deemed as authorizing any to do anything for which a license under the Indian Telegraph Act, 1885 is necessary.
- The Indian Telegraph Act, 1885 is having an overriding effect on the Wireless Telegraphy Act, 1933.

NATIONAL TELECOM POLICY, 1994

This policy document represented the first attempt to codify policy objectives and provide a roadmap for telecom development in India. The policy document laid down specific targets, such as making telephone service available on demand by 1997, coverage of all villages by 1997, provision of PCOs in urban areas for every 500 persons by 1997 and introducing all value added services available internationally, preferably by 1996.

NATIONAL TELECOM POLICY, 1999

The enunciation of a New Telecom Policy 1999 responded to the far-reaching changes taking place in the telecom sector worldwide as well as to the inadequacies of NTP94. The NTP99 further liberalized the scope of cellular mobile service, fixed service, and cable service, including the terms and conditions of licenses and operational aspects.

SPECTRUM SALE IN INDIA AND IT'S GOVERNANCE

- The first auction was held in 1994.
- Spectrum auctions were held again in 1997 and 2000.
- The 2001 auction was the first time spectrum in a band other than 900 MHz was auctioned in India.
- The final allocation of 900 MHz took place in 2004

BEGINNING OF A NEW ERA IN INDIAN TELECOMMUNICATION

1. In 2010, 3G and 4G telecom spectrum were auctioned in a highly competitive bidding.
2. In 2012, the DoT auctioned 2G spectrum in both GSM and CDMA bands
3. The 2G Scam and the sale of
4. The AGR Issue

TELECOM REGULATORY AUTHORITY OF INDIA (TRAI), ACT 1997

- The main objective of the Telecom Regulatory Authority of India Act, 1997 (TRAI Act) was to establish the Telecom Regulatory Authority of India (TRAI) and Telecom Dispute Settlement Appellate Tribunal (TDSAT). The main purpose of these two institutions established under the TRAI Act is to regulate telecommunication services, adjudicate disputes, dispose appeals and protect the interest of the service providers as well as the consumers.

- The Act also aims at promoting and ensuring orderly growth of the telecom sector.

TELECOM DISPUTES SETTLEMENT AND APPELLATE TRIBUNAL (TDSAT)

In order to bring in functional clarity and strengthen the regulatory framework and the disputes settlement mechanism in the telecommunication sector, the TRAI Act of 1997 was amended in the year 2000 and TDSAT was set up to adjudicate disputes and dispose of appeals with a view to protect the interests of service providers and consumers of the telecom sector and to promote and ensure orderly growth of the telecom sector.

NATIONAL TELECOM POLICY, 2012

NTP-2012 is an initiative to create a conducive policy framework to address these issues and to touch lives of all citizens and transform India. By formulating a clear policy regime, NTP-2012 endeavors to create an investor friendly environment for attracting additional investments in the sector apart from generating manifold employment opportunities in various segments of the sector. Availability of affordable and effective communications for the citizens is at the core of the vision and goal of the National Telecom Policy – 2012.

PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) ACT, 1990

Prasar Bharati, is India's largest public broadcasting agency, headquartered in New Delhi. It is a statutory autonomous body set up by an Act of Parliament and comprises the Doordarshan Television Network and All India Radio, which were earlier media units of the Ministry of Information and Broadcasting.

REGULATION OF CABLE TELEVISION

The sudden emergence of cable television and cable networks in the early 1990s caught the Indian government unprepared. The DoT initially responded with new regulations targeting the fledgling networks, requiring all users and dealers of satellite equipment to obtain special operating licenses for their equipment.

1. **The Cable Networks Act, 1995**

The principal purpose of the Cable Networks Act was to introduce regulatory certainty to the cable market that had emerged in the early 1990s.

2. **Cable Television Network Rules, 1994**

The Programme Code of the Cable Television Network Rules lays down restrictions on the content of both programmes and advertisements that can be shown on cable TV.

3. **Indecent Representation of Women (Prohibition) Act, 1986**

It includes specific provisions relating to the representation of women on television,

INFORMATION TECHNOLOGY ACT,2000(ITA)

ITA and Telecom sector have been linked through 2008 amendments of the Act , to regulate Cyber terrorism and data protection. Due to unfettered power of intermediaries in the realm of wireless networking, it was need of the hour to bring such amendments to existing laws.

Sec 66A - ***communication device -*** cell phones, personal digital assistance or combination of both or any other device used to communicate, send or transmit any text video, audio or image.

Section 69-B of the ITA gives the Government the right to authorize any of its agencies to monitor and collect traffic data or information generated, transmitted, received or stored in any computer resource.

Section 79 - An intermediary is exempt from liability in relation to any third party information or communication link, with some exceptions

INFORMATION TECHNOLOGY(INTERMEDIARIES GUILINES) Rules, 2011

Under the rules ISPs , TSPs and other likewise intermediaries under such rules have to observe necessary due diligence while discharging its duties. For their protection, there also have been listed actions/inactons of intermediaries which will not amount to hosting/publishing or storing information.

DATA PROTECTION

There is no particular statute when it comes to data protection, but there have been several efforts for minimizing the evils of telecommunication, such as:

- ‘Personal Data Protection Bill, 2018’ (PDP Bill)
- ‘Recommendations on Privacy, Security and Ownership of the Data in the Telecom Sector’ (TRAI Recommendations)
- The ‘Indian Privacy Code, 2018’ (Citizens’ Law)

INFORMATION TECHNOLOGY(INTERMEDIARIES GUILINES) Rules, 2021

Key Rules. – for intermediaries, social media and OTT platforms.

- Appointment of Grievance Redressal Officer.(GRO)
- Appointment of **Chief Compliance Officer (CCO)**
- **Code of Ethics to be followed.**
- A **three-level grievance redressal mechanism** has been mandated

- Dellhi High Court on 28.07.2021 warned twitter of its non compliance of Rules 2021, as it appointed CCO and GRO as contingent person, to which twitter replied on 10.08.2021 , that said the company has appointed permanent officials for the posts of CCO, RGO and NCP