

## Modernizing Telecommunications in India: An Overview of the Telecommunication Act, 2023

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*The Telecommunications Act, 2023 aims to modernize India's telecom sector, enhance national security, and foster innovation by updating outdated laws and introducing new regulations. Key provisions include a simplified Right of Way framework, expanded user protections, and the establishment of Digital Bharat Nidhi for technological advancements. The Act also enforces stricter penalties for unauthorized operations and extends its reach to include offenses involving telecommunication services, networks, or equipment located in India.*

### Introduction

The Telecommunications Act, 2023 brings substantial reforms to modernize the telecom sector, bolster national security, and encourage innovation. By revising obsolete laws and instituting new regulations, the Act aims to establish a strong and progressive telecommunications framework for India.

### Implementation Timeline:

On 21 June, 2024, the Ministry of Communications, Government of India, through the Department of Telecommunications (DoT), issued a notification to enforce certain provisions of the Telecommunication Act, 2023. Such provisions are set to take effect from 26 June 2024.

### Scope of the Act

The Act marks a departure from previous legislation under the Indian Telegraph Act, 1885, and the Wireless Telegraphy Act, 1933, where licenses were granted for establishing, maintaining and owing a 'telegraphs.' The present act now defines 'telecommunication', 'telecommunication service' and 'telecommunication network' separately, preparing for the issuance of 'authorisations'. While the sections governing these authorisations are not yet active, the Act is expected to significantly broaden its scope.

### Extra-Territorial Applicability

The Act applies to any offence or violation committed outside India by any person if it involves using a telecommunication service, equipment, or network located in India.

### Right of Way Framework

Addressing challenges in telecommunication network expansion, the Act simplifies the Right of Way (RoW) framework. Entities authorised by the Department of Telecommunications (DoT) can now seek RoW permissions for both public and private properties, which must be granted in a fair and non-exclusive manner. Telecommunication networks installed on properties are distinct from the properties themselves for tax purposes, protecting them from coercive measures such as sealing or arbitrary shutdowns.

### Powers of the Department of Telecommunications

The Act empowers DoT to temporarily take control of telecommunication services or networks during public emergencies. Interception provisions remain similar to those in the IT Act, 2000, with intercepted messages

required to be disclosed to the government in an understandable format, potentially aiding decryption requirements. Additionally, DoT gains authority to set standards for telecommunication network protection, covering equipment, identifiers, manufacturing, import, encryption, and data processing.

## Protection of Users

In terms of user protection, the Act introduces measures to curb unwanted promotional messages, requiring consent mechanisms and avenues for reporting violations by authorised entities. These measures are in line with regulations from the Telecom Regulatory Authority of India. The Act also mandates an online grievance registration mechanism and potentially an online dispute resolution system overseen by DoT.

## Digital Bharat Nidhi and Regulatory Sandboxes

Under the Act, the Universal Service Obligation Fund is renamed as Digital Bharat Nidhi (DBN), broadening its role to support research, development, and pilot projects in telecommunication services and technologies. It also introduces regulatory sandboxes to foster technological advancements, with operational guidelines anticipated soon.

## Offences

Regarding offences, the Act imposes stricter penalties compared to previous laws. For instance, establishing a telecommunication network without authorisation can now lead to imprisonment for up to three years, a fine up to INR 2 crore (approximately USD 240,000), or both. All offenses under the Act are non-bailable and cognizable.

## Benefits and Changes for Users

The new Act brings several benefits and changes that will impact users directly:

- **Enhanced Security and Quality:** The government's ability to set standards and ensure compliance means users will experience improved security and higher quality in telecommunication services.
- **Increased Protection Against Unsolicited Communication:** The Act includes measures to protect users from unwanted commercial communication, enhancing the overall user experience.
- **Expanded Access to Remote Areas:** The broadened scope of the Universal Service Obligation Fund (USOF) ensures that even remote and underserved areas will receive essential telecommunication services.
- **Promotion of Innovation:** The introduction of the Regulatory Sandbox will encourage new and innovative telecommunication solutions, potentially offering users more advanced and superior services.

*The Telecommunications Act, 2023 promises significant improvements in the telecom sector by ensuring higher security, better protection against unsolicited communication, and enhanced access to services in remote areas. It supports innovation through regulatory sandboxes and research funding, ultimately benefiting users with more advanced and secure telecommunication services. The Act's comprehensive approach marks a pivotal shift in India's telecommunications landscape, aligning it with contemporary needs and global standards.*