

BI Explainer : Telecommunications Bill, 2023

BY S RONENDRA SINGH

What is the Telecommunications Bill, 2023, about and why is it needed?

The Telecommunications Bill, 2023, is aimed at amending and consolidating the law on development, expansion and operation of telecommunication services and networks, and assignment of spectrum. While it sets out to replace the 138-year-old Indian Telegraph Act of 1885, the new law contains many provisions of the archaic Colonial law.

The Bill focuses on user protection, reforms on right of way and optimal utilisation of spectrum. It also allows the government to temporarily take control of telecom services in the interest of national security. The Centre can take control and management of, or suspend the operation of, or entrust any authority of the Centre to manage any or all of any telecommunication services, or any telecommunication network or part, thereof, connected with such telecommunication services. It also mandates telecom operators use verifiable biometric identification (Aadhaar) for new Sim/ connections, which many felt, puts at risk the privacy of individuals.

Given that the Bill aims to protect consumers, it is important that users' sensitive personal information is not misused by any entity in the data processing lifecycle.

What are the main amendments of the new Telecom Bill?

The Bill clearly defines and mentions spectrum, which is absent from the 1885 Act. While it clearly states that the auction route is the preferred mode for assignment of spectrum, the administrative process can be used for three clearly defined purposes, namely, public interest (like Metro, Community Radio, Broadcasting); government functions (Defence, Railways, Police); and cases where auction is not the preferred mode of assignment for technical or economic reasons (backhaul, satellite). The approach on administrative assignment of spectrum for a range of telecommunications services, including many satellite-based services and in-flight and maritime connectivity, is a forward-looking initiative.

Has the Bill clarified on regulatory functions with the Central Government?

The Bill does not specify procedural safeguards with respect to powers to search premises and vehicles. It says procedure and safeguards related to interception will be prescribed by the Central Government, but there is no clarity on whether these should be provided by the Bill. It vests several regulatory functions with the Centre, which is distinct from other sectors such as Power or Finance, where these functions have been delegated to the regulators. Also, the Bill

says the government may add, modify or remove offences in the Third Schedule to the Bill by a notification, but does not mention whether such changes should only be made through an Act of Parliament. Also, telecom services, as defined under the Bill, may cover Internet-based services.

What are the other changes made in the Bill?

Apart from assigning spectrum for satellite services through the administrative route, it amends the legal framework for standards, cybersecurity and protection of the telecom network. The Centre may notify standards for telecommunication services, networks, etc, and measures to protect the telecom network and ensure cyber security. A trusted source regime and necessary measures, including taking over the telecom network in the interest of national security, in the event of war, have been also included. The new Bill also replaces the Universal Service Obligation Fund (USOF) by 'Digital Bharat Nidhi' expanding the scope to include research and development of telecommunication services, technologies, and products.