

# Legal Aspects Of Telecom Services In India

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Telecommunications, derived from the Latin "communicare" and the Greek prefix "tele," refers to the transmission of signals over a distance. With the increasing impact of telecommunication services on the economy, it has become a crucial factor for modernization and socio-economic development in India.

Initially, India's telecommunications industry was a government monopoly managed by the Department of Posts and Telegraphs. Later, reforms led to the establishment of Videsh Sanchar Nigam Limited (VSNL) and Mahanagar Telephone Nigam Limited (MTNL). The New Telecom Policy 1999 aimed to provide universal service to all regions and establish an effective communication infrastructure. The National Telecom Policy 2012 further emphasized One Nation - Free Roaming and One Nation-One License regime.

The liberalization of the Indian economy has opened doors for [mergers and acquisitions](#) in the telecom sector. However, with increased competition and market growth, legal and regulatory aspects have become increasingly critical. Companies must comply with telecom laws, policies, and regulations, including licensing, tariffs, quality of service, and security, while protecting consumers' rights.

Understanding the legal aspects of telecom services in India is crucial for

stakeholders, policymakers, and companies. This article delves into the legal and regulatory framework of the Indian telecom industry, covering its evolution, policies, laws, and key transactions that have shaped the sector's growth.

### **Few significant transactions that have occurred in the telecom industry in India:**

- Reliance Industries Limited purchased 95% of the equity shares of Infotel Broadband Services in order to access the BWA spectrum obtained by Infotel Broadband Services.
  - SingTel increased its stake in Bharti Telecom from 30.8% to 32.34% in 2013.
  - Providence investing in Aditya Birla Telecom in 2009;
  - Vodafone acquisition of Hutchison-Essar (2007).
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## **Telecommunication Laws And Rules:**

- **The Indian Telegraph Act, 1885:** This Act is one of the oldest legislations still in force in India. It empowers the Government of India to establish the necessary infrastructure for further telecommunication expansion in the country and take control of the existing telegraph lines. The Act also authorizes the government to grant telecom licenses to individuals for establishing, maintaining, and operating a telegraph in any part of India on specified terms and conditions.
- **The Indian Wireless Telegraphy Act, 1933:** This act was enacted to regulate the ownership of wireless telegraphy equipment. It mandates that only individuals with a license issued by the telecom authority may possess wireless telegraphy devices. The Act also prescribes penalties for possessing any wireless telegraphy equipment without a valid license.
- **The Telecom Regulatory Authority of India Act, 1997:** The TRAI Act, 1997 grants quasi-judicial powers to the Telecom Regulatory Authority of India (TRAI) for resolving telecom disputes. The TRAI (Amendment) Act, 2000 amended this law to clarify and differentiate between TRAI's regulatory and advisory roles. The amendment also established the

Telecom Disputes Settlement and Appellate Tribunal (TDSAT) with the crucial responsibility of separating TRAI's judicial responsibilities.

**The regulatory adjustments made are largely due to the goals and vision of the government as set forth in NTP 1999.**

- **Universal Service Obligations (USO):** The Universal Service Support Policy was formulated in accordance with NTP 1999 and the recommendations of TRAI regarding USO. The Indian Telegraph (Amendment) Act of 2003 gave legislative status to the Universal Service Obligation Fund ("USOF"). The USOF is intended to fund improvements to the rural telecom industry, such as expanding the wireless network, granting public access through public/community phones, and providing telephones to individual households.
- **Interconnection:** India offers a wide variety of service networks and service providers. Effective interconnection across a range of access networks is required to enable national and international connectivity. The Telecommunications Interconnection Usage Charges Regulation was established by TRAI in 2003 to establish the terms and conditions of interconnection between service providers and to regulate agreements among service providers for sharing their revenue earned from the supply of telecommunication services.
- **Unified License:** The DOT introduced the Unified License after NTP 2012. By combining license conditions for various telecom services in India under the purview of one license, the Unified License sets the way for the execution of the DOT's One Nation - One License concept. The Unified License replaced the previous system in which a telecom operator had to apply for separate licenses for each service that was intended to be delivered. All businesses looking to offer telecom services in India must obtain the Unified License, which functions as an umbrella document. A corporation is only permitted to have one Unified License, although it may seek authorization for more than one service and/or service area provided that all entry requirements are met concurrently or separately at various times.
- **Mobile Number Portability (MNP):** MNP allows mobile users to keep their current phone numbers when they switch from one telecom provider to another, regardless of mobile technology. In 2009, TRAI introduced the Telecommunications Mobile Number Portability Regulations. According to the rules, customers may transfer from one access provider to another, regardless of the mobile technology or platform, or from one cellular mobile technology to another of the same access provider, keeping their mobile number. One of the objectives of NTP 2012 is to establish One Nation - Full Mobile Number Portability. The TRAI had recommended that pan-India MNP be implemented by April 2014.
- **Anti-Spamming regulations:** The Telecom Commercial Communications Customer Preference Regulations, 2010 ("SMS Regulations"), which prohibit Unsolicited Commercial Communications ("UCC"), have been in force since 2011. All telemarketers are now required to register in accordance with the SMS Regulations. The TRAI has adopted a regulation

that requires anyone who transmits more than 100 SMS per day per SIM, excluding registered telemarketers and entities sending transactional messages, to pay an additional fee over the standard rate after the contested ceiling of 200 messages per day per sim.

- **Audiotext/Voicemail/Ums License:** To offer Audiotext, Voicemail, or UMS services, a separate license for Audiotext, Voicemail, or UMS is required as Audiotext license is an evident omission from the scope of the Unified License. An applicant can offer the aforementioned services after they have obtained the necessary "Audiotext/Voicemail/UMS" license from the DOT, which allows for 100% foreign investment.
- **Other Service Providers:** Other Service Providers (OSPs) are exempt from specific license requirements. Call centers (domestic and foreign), BPOs, Network Operation Centers, Vehicle Tracking Systems, and services related to tele-banking, tele-medicine, and tele-education are allowed to operate (with 100% FDI) upon registration as "OSP" with the DOT

## **Dispute Settlement Mechanism In Telecom Industry:**

The Telecoms Dispute Settlement and Appellate Tribunal (TDSAT) was set up in 2000 to safeguard the interests of service providers and customers in the Indian telecommunications sector and to promote and ensure its sustainable growth.

The TRAI Act was amended in 2000 to strengthen the regulatory framework and the dispute resolution process in the telecommunications industry, to bring functional clarity, and create the TDSAT. Overtime, the TDSAT's jurisdiction was expanded to include cases that were pending before the Airport Economic Regulatory Authority Appellate Tribunal and the Cyber Appellate Tribunal.

With the exception of cyber cases, the Tribunal is the Court of First Instance. For the purposes of sections 193, 196, and 228 of the Indian Penal Code, every proceeding before the Tribunal is regarded as a judicial proceeding. The Tribunal is regarded as a civil court, and its orders may be carried out in accordance with a civil court's order.

## **Global View**

With 1.16 billion subscribers, India is the second-largest telecoms market in the world and has experienced rapid expansion in recent years<sup>[1]</sup>. According to research conducted by the GSM Association and Boston Consulting Group, India's mobile economy is expanding quickly and will have a significant impact on the country's Gross Domestic Product.

## **Recent Developments And The road Ahead**

The Indian government has introduced two significant reforms in the telecom sector - the Indian Telegraph Right of Way (Amendment) Rules and the Wireless Licensing Reforms of 2022. These reforms have facilitated the development of the country's telecom infrastructure and reduced the processing cost from INR

1,000 to INR 100, making it easier and faster to obtain the SACFA certificate clearance. The government has also deployed digitalization processes on several fronts, making it simpler to do business in India.

The Indian Telecommunication Bill, 2022, addresses many issues that the telecom industry has suffered from over the years. The bill aims to provide regulatory clarity, guarantee a level playing field, and implement the legislation prospectively. It includes key provisions on KYC, protection from unwanted messages, and the need for accurate KYC to solve issues that directly affect the general public, such as security, fraud, and unsolicited telemarketing calls and texts.

India is predicted to have 920 million unique mobile customers, including 88 million 5G connections, by 2025, making it the second-largest smartphone market in the world. The adoption of 5G technology is expected to boost the Indian economy by \$450 billion between 2023 and 2040.

To realize a new variety of options, business models, and employment potential, the government intends to establish 100 laboratories for creating applications implementing 5G services in engineering universities under the Union Budget 2023. The Department of Telecommunications (DoT) hopes to have 70% of towers fiberized, average internet speeds of 50 Mbps, and a rollout of 50 lakh km of fiber optic cable across India by December 2024. These efforts will improve connectivity, boost the economy and create job opportunities.

## **Conclusion**

As the complexity of connections between telecom and the internet grows, it is essential to pay attention to the potential for misuse of information and communication technology. The regulator's goal should be to safeguard, promote, and account for consumer choice and quality, with a focus on openness and responsibility to consumers. In order to foster further growth in the telecom industry, it is important to build digital infrastructure and acquire digital skills simultaneously, as internet access and digital literacy are interrelated.

To maintain the smoothness and security of digital communication across India, sector-specific data management and grievance redressal standards must be established, prioritizing individuals' interests and protecting their autonomy and choice. Additionally, the TDSAT must swiftly and promptly resolve disputes. By implementing these measures, the telecom industry can continue to grow while ensuring the protection of consumers and the smooth operation of digital communication.

## **FAQs**

### **What is unified license?**

The Unified License sets the way for the execution of the DoT's One Nation - One License by combining license conditions for various telecom services under the purview of one license. The Unified License replaced the previous

system in which a telecom operator had to apply for separate licenses for each service that was intended to be delivered. All businesses looking to offer telecom services must get the Unified License, which functions as an umbrella document.

### **What are the laws governing Telecom services in India?**

1. The Indian Telegraph Act, 1885
2. The Indian Wireless Telegraphy Act, 1933
3. The Telecom Regulatory Authority of India Act, 1997

### **Which authority is responsible for hearing telecom dispute matters?**

The Telecoms Dispute Settlement and Appellate Tribunal (TDSAT) was established in the year 2000, to protect the interests of service providers and customers in the Indian telecoms industry.

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[\[1\]https://www.ibef.org/industry/telecommunications](https://www.ibef.org/industry/telecommunications)

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