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WEBINAR REPORT ON **Navigating Changes: Comparative Analysis of the Telecommunications Act, 2023**

February 16, 2024 | 03:00 PM Onwards (IST)



Organised by:

Forum of Indian Regulators (FOIR) Centre,
Indian Institute of Corporate Affairs (IICA)

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Expert Speaker



Dr P D Vaghela

Former Chairperson

Telecom Regulatory Authority of India (TRAI)

Dr P D Vaghela was Chairperson, TRAI from October 2020 to September 2023. Prior to joining TRAI, Dr Vaghela was Secretary, Department of Pharmaceuticals, Ministry of Chemicals & Fertilizers. Dr Vaghela had graduated in Commerce in the year 1982. He did his M.B.A (Master of Business Administration) with specialization in Financial Management in 1984 and also obtained M.A in Development Studies (Public Policy & Management) from the Institute of Social Studies, the Hague in the Netherlands in the year 2005. He was decorated with a Doctorate in the year 2013 in Public Management and Policy by Sardar Patel University, Anand, Gujarat.

He joined Indian Administrative Service [IAS] in 1986. He has held various assignments starting from District level to State level, during which he had won a number of awards for excellence as best Collector & District Magistrate 86 District Development Officer. In his assignment as Chairman, Kandla Port (2008-2013), the port was awarded as the best port for five years of his tenure. He worked as Chief Commissioner of Sales Tax, in Gujarat, during which period he has played a major role in drafting GST law, its rules and fixing GST rates of goods and services as Convener of national level GST Law and GST Fitment Committees. He was closely involved in the GST implementation at national level as a key member of GST Implementation Committee.

As Secretary Pharmaceuticals, Dr Vaghela has launched four ambitious schemes to transform the sector. He also worked as Convenor of Empowered Group 3 (now EG2) which handled availability of critical medical supplies like PPE, N-95, Ventilators and testing kits. Today India is exporting these items for which India was otherwise dependent on imports during pre-covid time. In May, 2018 he was honoured by Hon'ble Prime Minister of India for excellence in Public Administration while appreciating his contribution in implementation of GST in India.

Convenor & Moderator



Prof (Dr) Naveen Sirohi

Director, FOIR Centre &

Founding Head, School of Finance & Management,

Indian Institute of Corporate Affairs (IICA)

Prof (Dr) Naveen Sirohi is the Director of the Forum of Indian Regulators (FOIR) Centre at the Indian Institute of Corporate Affairs (IICA) which is the knowledge, research and capacity-building hub for the Central and State Government regulators in India. Prof Sirohi is also the Founding Head of the School of Finance & Management at IICA, a think tank of the Government of India.

A former banker-turned-academician-cum-administrator, Prof Sirohi possess a unique blend of 20+ years of experience across corporate, academia and government/regulatory space enabling him to develop holistic view on policy issues considering multi-stakeholder perspectives.

He is also providing support to various priority initiatives of the Government of India like financial reporting, financial inclusion and financial literacy working closely with concerned government bodies/departments like Investor Education and Protection Fund Authority (IEPFA), India Post Payments Bank (IPPB) and National Financial Reporting Authority (NFRA). He contributed inputs in the Economic Survey 2021-22.

Prof Sirohi holds the additional charge of the Chief Financial Officer (CFO) at IICA. He is a visiting faculty in various reputed institutions, universities, and central and state training academies. Academically, Dr Sirohi holds post-graduate and PhD degrees in commerce with a first-class academic record.

Participants Profile

Officials from regulatory bodies across India, researchers, & FOIR Member Organization's representatives facilitated the session with their kind presence.

58 participants attended the webinar.



Program Outline

The Forum of Indian Regulators (FOIR) Centre, IICA organized the webinar of FOIR titled "Navigating Changes: Comparative Analysis of the Telecommunications Act, 2023" on February 16, 2024.

The webinar aimed to explore the provisions and possible implications of the Telecommunications Act 2023, providing participants with an interactive platform for exchanging ideas and questions on various aspects of the Act. Further, a comparison of the new law with several of the existing laws and guidelines governing the Telecom Sector was part of the expert talk, highlighting areas of similarities and dissimilarities.



WEBINAR



"NAVIGATING CHANGES: COMPARATIVE ANALYSIS OF THE TELECOMMUNICATION ACT, 2023"

FRIDAY, FEBRUARY 16TH, 2024 | 03:00 PM IST



Prof (Dr) Naveen Sirohi, Director, FOIR Centre



Dr P D Vaghela, Former Chairperson, TRAI



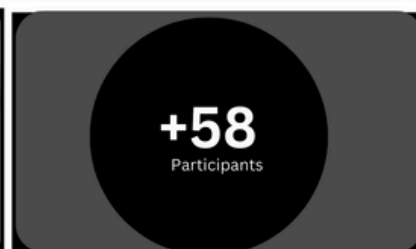
Ms Ankita Tiwari, Fellow, FOIR Centre



Mr Avanish Ranjan, Consultant, FOIR Centre



Ms Akanksha Choudhri, RA, FOIR Centre



+58
Participants

Introduction to the Webinar

The webinar began with the inaugural address by **Prof (Dr) Naveen Sirohi** (*Director, FOIR Centre, IICA & Founding Head, School of Finance & Management*). He welcomed **Dr P D Vaghela** (*Former Chairperson, Telecom Regulatory Authority of India*) - the esteemed guest speaker, and participants to the webinar.

Bringing attention to the significant shift within the telecom landscape driven by rapid technological advancements and evolving consumer needs, Prof Sirohi highlighted the importance of the Telecommunications Act 2023, a pivotal legislative milestone signed into law by the President of India on Dec 24, 2023. This landmark act makes a departure from antiquated regulation such as Indian Telegraph Act, 1885, and Indian Wireless telegraphy Act, 1933, ushering in a new era of governance in telecommunications.

Prof Sirohi gave a brief introduction of the key highlights of the Telecom Act 2023, including extension of the law's jurisdiction beyond national borders, redefined scope of telecommunication services, mandatory authorization for telecom activities and introduction of robust user verification measures. Additionally, the new law establishes innovative approaches to spectrum allocation, safeguards, public safety through emergencies, and bolsters digital initiatives through the digital bharat nidhi.

In his concluding remarks, Prof Sirohi opined that the Telecom Act 2023 represents a comprehensive and forward-thinking approach to regulating the telecommunications industry, and has the potential to drive positive change in the industry. He further emphasized the need for continuous evaluation of the Act as it is implemented and its effects are observed, providing room for making necessary adjustments to ensure that it continues to promote a fair and vibrant telecommunications market.

Lead Talk

Dr P D Vaghela (*Former Chairperson, Telecom Regulatory Authority of India, TRAI*) began his talk by setting the context for the **Telecommunications Act 2023**, pointing to the growing digitalization in recent years. With 800 million plus internet subscribers and 1 billion plus mobile subscribers, Indians are adopting a digital life at a rapid pace. The average data usage per day is 20GB, most of which is in the form of video consumption. The Government of India's **Digital India Initiative** is actively supporting this growing digitalization with a vision to transform India into a digitally empowered society.

A network of more than 5 lakh common service centres (CSCs) across India helps citizens avail of services like Aadhaar enrolment/updation, basic banking services, applying for licences/other documents online etc. The CSCs also act as nodal points for access to the internet in remote villages and far-flung areas. Additionally, the Government has brought various services online, aided by initiatives such as e-Kranti and BharatNet project. This is aimed at improving the quality of life for the common citizen

Dr Vaghela noted that as the proliferation of digital activities across all spheres of life continues, concerns around accessibility, affordability, digital literacy, and security also arise. Thus, a need for a modernised, consolidated telecommunications law that accounts for contemporary realities was felt, paving the way for enactment of the Telecommunications Act 2023 in December 2023. The new law, drafted after comprehensive stakeholder consultations, is expected to simplify things for regulated entities, spurring domestic and foreign investment into the sector. It replaces three statutes that hitherto governed telecommunications in India, namely:

- Indian Telegraph Act, 1885
- Indian Wireless telegraphy Act, 1933
- Telegraph Wires (Unlawful Possession) Act, 1950

UPGRADED FEATURES

Various provisions of the Telecom Act 2023 have been incorporated by updating already existing laws, rules, and guidelines keeping in mind the current market scenario and evolving needs of the Telecom Sector. The expert speaker proceeded to highlight the changes brought by the new law, as compared to already existing provisions. Thereafter, he gave a brief overview of the important chapters of the Telecom Act 2023, including power of authorisation; right of way for telecom infrastructure & network; Digital Bharat Nidhi; and regulatory sandbox. He highlighted the salient features of the law that are designed with the intent to improve ease of doing business, and facilitate sustained growth of the sector. These include:

Shift from Licensing to Authorization: The concept of ‘authorization’ has been introduced in the Telecom Act 2023 for providing telecom services, and establishing, operating, maintaining, expanding telecom networks. Separate authorisation is required for each of these activities. This shift from the earlier licensing system aims to remove confusion over different terms like licence, permission, registration and prevent litigation over the perceived permissions as to provision of services.

Clarification on installed Networks via Right of Way (RoW): The new law has adopted the existing RoW rules framed by the Department of Telecommunications (DoT) almost in entirety, with a new addition. Network installations erected by RoW are not to be considered as property for the purposes of property tax, fees etc. The new clause aims to cut down litigation on tax issues in various States, also reducing financial burden on service providers.

Biometric based Identification: Under the existing Know Your Customer (KYC) guidelines or Unified Licence, it is not mandatory to identify the subscriber through biometric based identification. The Telecom Act 2023 mandates this for the service provider. The provision is helpful for foolproof identification, especially in cases of financial frauds, identity theft etc. but also presents challenges for retention and management of sensitive personal data.

Provision for Cyber Security: The new law empowers the Central Government to frame rules for cyber security of Telecom networks and services, which may include collection, analysis, dissemination of ‘traffic data’ in networks. Notably, the Information Technology Act, 2000 also contains provisions for cyber security. Clarity with regards to jurisdictional matters will come as the new Telecom law is implemented.

Digital Bharat Nidhi (DBN): The existing Universal Service Obligation Fund (USOF) which funds telecom services access initiatives in rural and remote areas has been replaced by the DBN through the new law. With an expanded scope, the DBN can now also be utilised for initiatives in urban areas, research and development activities, and pilot projects. This opens the door for improved service in urban areas (such as slums) and innovation in the Telecom Sector.

NOVEL PROVISIONS

Besides upgrading the existing legal provisions to bring more clarity to the statutory framework, the Telecom Act 2023 also incorporates new provisions with the aim to increase the degree of policy certainty, create an enabling environment for innovations, and safeguard consumer interest. **Dr Vaghela** briefly explained the main features of such forward looking provisions, which include:

Spectrum Allocation: The mechanism for allocation of the primary telecom resource - spectrum, is now officially part of the law. As per the law, spectrum is to be allocated through auction except in certain cases determined by the Central Government, wherein spectrum will be assigned through administrative process. Additionally, unused spectrum may be terminated by the Government following a spectrum audit. This provision brings much needed policy clarity on the issue of distribution of spectrum.

User Protection: Dealing with the various offences such as impersonation and issuance of Subscriber Identity Module (SIM) by fraudulent means, this provision includes heavy monetary penalties and imprisonment as punishment. Further, the Central Government can issue rules, in consonance with regulations issued by TRAI, for user protection measures (e.g. blocking unsolicited commercial communication).

Dispute Resolution Mechanism: An elaborate three tier mechanism for dispute resolution has been embedded in the Telecom Act 2023. At the first level, an adjudicating officer (AO) inquires into contraventions and passes orders, which can then be appealed before the Designated Appeals Committee (DAC). Orders passed by the DAC can be appealed in the Telecom Disputes Settlement & Appellate Tribunal (TDSAT).

Regulatory Sandbox: The Central Government has been empowered to create a testing environment for a specified period where new products, services, processes and business models can be deployed. The provision is aimed at encouraging innovation and technological advancement in the Sector.

Mandate for Common Ducts: This provision allows the Central Government to notify a class of infrastructure projects that are mandated to provide common ducts for installation of telecom networks. This creates potential for utilization of infrastructure projects such as national highways to support national telecom networks, which may also reduce capital costs for the telecom industry.

Question/Answer Round

Post the expert talk, Dr Vaghela responded to questions raised by participants surrounding various pertinent issues such as satellite communication, net neutrality, network slicing, regulation of over the top (OTT) platforms, performance of public sector telecom enterprises were discussed.

On the topic of satellite communication, Dr Vaghela noted its usefulness in effective communication during disasters. Responding to slicing of 5G networks, he reiterated that slicing does not pose challenges as long as public networks are not disrupted as a result. In response to the query on net neutrality, he discussed TRAI's recommendation on an industry body for managing traffic, highlighting that stakeholder-led management gives flexibility to the industry and helps with effective traffic prioritization (for instance, prioritizing traffic flow to a low latency surgery assisted by machines/computers).

While answering the question about regulation of OTT platforms, the difference between OTT and broadcasting services with regards to fees/levies was brought out. Whilst the former is out of regulatory ambit at present, the latter are required to pay fees for obtaining licenses. In response to the performance of public sector enterprises, it was noted that implementation of 4G and 5G was slower when compared to private players, mainly due to appropriate infrastructure constraints (for example, infrastructure needed for switching from a 2G network to a 4G network).

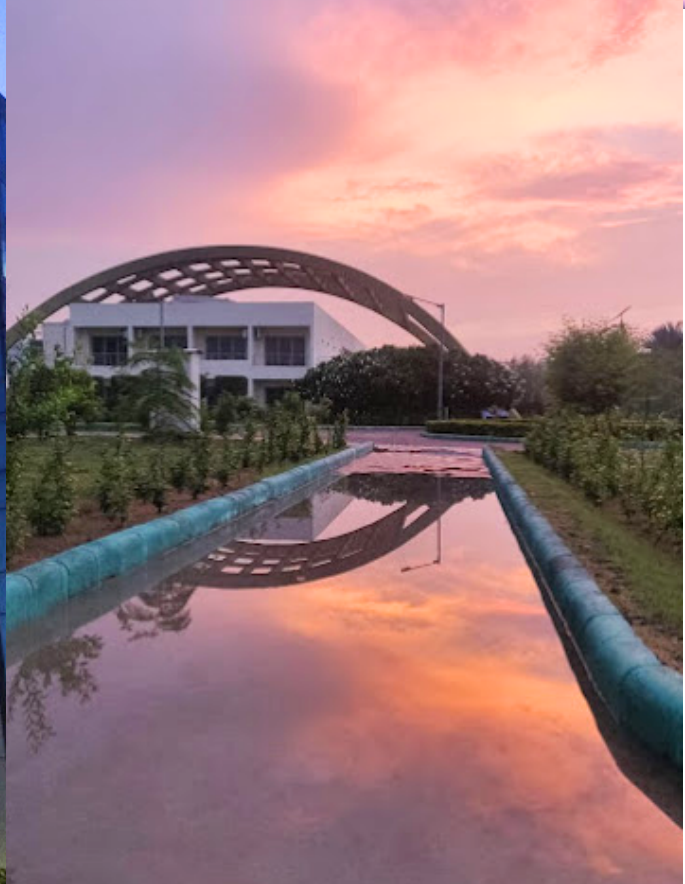
Vote of Thanks

The webinar ended with a vote of thanks by Prof (Dr) Naveen Sirohi. He thanked the esteemed speaker and participants for sharing their knowledge and their experiences.

The efforts of FOIR and IICA for the conference were much appreciated by the speaker and the participants.

For Queries and Feedback:

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