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# Telecommunications Act, 2023: New Authorisation Framework and India's Evolving Telecom Regulatory Regime

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## Recent Developments:

- The Central Government has notified three major rules under the **Telecommunications Act, 2023**, marking the operational rollout of the new **authorisation-based telecom regime**:
- **Telecommunications (Authorisation for Provision of Principal Telecommunication Services) Rules, 2026**
- **Telecommunications (Authorisation for Captive Telecommunication Services) Rules, 2026**
- **Telecommunications (Authorisation for Provision of Miscellaneous Telecommunication Services) Rules, 2026**
- The **Department of Telecommunications (DoT)** has also launched an online portal for grant of authorisations and migration of existing licence holders to the new framework.

## Telecommunications Act, 2023:

### *Background and Objectives:*

- The **Telecommunications Act, 2023** replaces the colonial-era **Indian Telegraph Act, 1885** and substantially supersedes the **Indian Wireless Telegraphy Act, 1933**, creating a unified legal framework for telecommunications.
- The Act seeks to modernise telecom governance, simplify regulatory processes, strengthen digital infrastructure, improve spectrum management, and address emerging technologies such as satellite communications.
- The Act primarily reforms the legal framework and does not significantly alter day-to-day telecom services for consumers.

## Major Features of the New Telecom Regime:

### *Shift from Licence to Authorisation:*

- The traditional **licence-based system** has been replaced by an **authorisation-based framework** for providing telecommunication services.
- The new framework simplifies regulatory procedures and standardises authorisation conditions across different telecom services.
- Existing telecom operators and **Internet Service Providers (ISPs)** may either migrate immediately to the new framework or continue under existing licences until expiry before seeking fresh authorisation.
- Anti-spam compliance has been incorporated as a statutory obligation under the new framework.

### *Categories of Authorisation:*

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- The new rules classify telecom authorisations into:
- **Principal Telecommunication Services**
- **Captive Telecommunication Services**
- **Miscellaneous Telecommunication Services**
- Separate authorisation conditions have been prescribed for each category to improve regulatory clarity.

#### ***Migration Framework:***

- Existing licensees are permitted to migrate voluntarily to the new authorisation regime.
- Migration ensures continuity of operations while gradually replacing the earlier licensing architecture.
- The process is implemented through the **DoT Telecom e-Services Portal**.

#### **Important Provisions of the Telecommunications Act, 2023:**

##### ***Expanded Definition of Telecommunication:***

- The Act adopts a broad definition of **telecommunication**, enabling regulation of evolving communication technologies.
- The wider definition has generated debate regarding its possible application to **internet-based messaging platforms** and other digital communication services.

##### ***Spectrum Management Reforms:***

- Spectrum continues to be assigned primarily through auctions.
- The Act also permits **administrative allocation** of spectrum for specified public interest purposes such as:
  - National security.
  - Public broadcasting.
  - Disaster management.
  - Satellite communication.
  - Scientific research.

##### ***Digital Bharat Nidhi:***

- The **Universal Service Obligation Fund (USOF)** has been renamed as the **Digital Bharat Nidhi**.
- The fund supports expansion of telecommunication infrastructure in rural, remote, and commercially unviable regions.
- The scope has been expanded to support digital connectivity and emerging communication technologies.

##### ***Government Powers:***

- The Act empowers the Central Government to:
  - Temporarily take possession of telecom infrastructure during public emergencies, disasters, or war.
  - Suspend or intercept telecommunications under specified legal circumstances.
  - Notify standards relating to telecommunication security, encryption, and network resilience.
  - These provisions have generated debate regarding privacy, surveillance, and proportionality of executive powers.

#### **Satellite Communication under the Act:**

##### ***Recognition of Satellite Internet:***

- The Act formally recognises satellite-based telecommunication services within India's telecom framework.
- However, operational guidelines for satellite internet remain under development.

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- Earlier draft rules specifically referred to **Global Mobile Personal Communications by Satellite (GMPCS)**, but the final notified rules omit explicit references.

### ***Pending Regulatory Issues:***

- Licensing and operational approvals for satellite internet providers remain incomplete.
- National security, lawful interception, and operational control continue to be major regulatory concerns.
- Final technical standards and compliance requirements are yet to be notified.

### **Implementation Challenges:**

#### ***Incomplete Regulatory Framework:***

- Notification of rules represents only the initial phase of implementation.
- Several operational guidelines required for full implementation remain pending.

#### ***Undefined Eligibility Standards:***

- The requirement of a "**sound track record**" for obtaining authorisation has not yet been objectively defined.
- Lack of measurable eligibility criteria creates regulatory uncertainty for applicants.

#### ***Unclear Exemption Criteria:***

- The Government has not specified thresholds determining which entities may be exempt from authorisation requirements.
- Smaller operators remain uncertain regarding their regulatory obligations.

#### ***Pending Technical Standards:***

- Detailed operational specifications relating to network architecture, compliance procedures, security requirements, interoperability, and technical standards are yet to be issued.
- Full implementation depends upon notification of these subordinate regulations.

### **Significance of the New Telecom Framework:**

#### ***Regulatory Modernisation:***

- Replaces fragmented colonial legislation with a unified legal architecture suited to modern digital communications.
- Simplifies compliance through a common authorisation framework.

#### ***Ease of Doing Business:***

- Reduces regulatory complexity and facilitates smoother entry and expansion for telecom service providers.
- Digital authorisation processes improve transparency and administrative efficiency.

#### ***Digital Infrastructure Development:***

- Strengthens expansion of broadband, fibre networks, rural connectivity, satellite communication, and future digital infrastructure.

#### ***Support for Digital India:***

- Provides the legal foundation for expanding digital public infrastructure, digital governance, and nationwide connectivity.

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### *National Security:*

- Strengthens statutory mechanisms for telecom security, cyber resilience, lawful interception, and emergency response.

### Concerns and Criticisms:

#### *Privacy and Civil Liberties:*

- Expanded interception and surveillance powers have raised concerns regarding the balance between national security and the **Right to Privacy**.
- Broad executive discretion may require stronger judicial and institutional safeguards.

#### *Regulatory Certainty:*

- Several operational provisions continue to depend upon future notifications, delaying full implementation.
- Businesses require greater clarity regarding compliance obligations and eligibility requirements.

#### *Technology-Neutral Regulation:*

- The broad statutory definition of telecommunication may create uncertainty regarding regulation of **Over-the-Top (OTT)** communication platforms.
- Clear sector-specific guidance will be necessary to prevent regulatory ambiguity.

### Way Forward:

#### *Complete the Rule-Making Process:*

- Notify remaining technical standards, exemption criteria, eligibility norms, and operational guidelines.
- Publish transparent compliance frameworks for all categories of telecom services.

#### *Strengthen Regulatory Predictability:*

- Clearly define objective parameters for authorisation eligibility and compliance evaluation.
- Ensure uniform implementation across telecom service categories.

#### *Promote Emerging Technologies:*

- Finalise regulatory frameworks for satellite internet, **6G**, private networks, machine-to-machine communication, and future telecom technologies.

#### *Balance Innovation and Rights:*

- Ensure that national security measures remain proportionate, transparent, and subject to appropriate legal safeguards.
- Strengthen accountability mechanisms while encouraging technological innovation.

### Value Addition for UPSC:

#### *Important Institutions:*

- **Department of Telecommunications (DoT)** – Policy formulation, licensing, spectrum administration, and telecom governance.
- **Telecom Regulatory Authority of India (TRAI)** – Independent regulator responsible for tariff regulation, consumer protection, interconnection, and policy recommendations. In **2026**, TRAI submitted

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recommendations on the terms and conditions governing network authorisations under the new Act.

- **Digital Bharat Nidhi** – Universal funding mechanism for expanding telecom connectivity and digital infrastructure.

*Constitutional Dimensions:*

- **Article 19(1)(a)** – Freedom of speech and expression through communication networks.
- **Article 21** – Right to Privacy, recognised as part of the Right to Life, has implications for surveillance and interception provisions.

**Entry 31, Union List (Seventh Schedule)** – Posts, telegraphs, telephones, wireless, broadcasting, and other forms of communication fall under the legislative competence of Parliament