

## Regulatory Updates

### **Draft Telecom Regulatory Authority of India Repealing Regulations, 2023**

The Telecom Regulatory Authority of India (“TRAI”), through its notification dated April 3, 2023, released the draft TRAI Repealing Regulations, 2023 (“**Draft Repealing Regulations**”), repealing the erstwhile regulations on Quality of Service of Dial-Up and Leased Line Internet Access Service, 2001 (“**2001 Regulations**”).

The 2001 Regulations were notified by TRAI on December 10, 2001, with the objective of ensuring customer satisfaction by laying down norms of network performance, measuring the quality of service and comparing it with the specified norms to monitor the level of performance and to protect the interests of subscribers of the internet services.

However, TRAI is of the opinion that the 2001 Regulations are no more relevant in the present context, as it was released at a time when the dial-up service was the only service available for accessing low-speed internet, and at present, the leased line access services are generally offered by internet gateway service providers holding an internet service provider license, to enterprises, which is a Service Level Agreement (“**SLA**”) based service. Being an SLA-based service, the agreement among the contracting parties has sufficient provisions to safeguard concerns regarding service quality.

### **Recommendations on improving telecom coverage and backhaul infrastructure in far-flung areas of Ladakh**

TRAI, through its notification dated April 24, 2023, released its recommendations on “Improving Telecom Coverage and Backhaul Infrastructure in far-flung areas of Ladakh” (“**Coverage Recommendations**”).

The Coverage Recommendations were released in light of the recent media reports highlighting the challenges faced by the people living near the Line of Actual Control (“**LAC**”) in accessing high-speed internet and on the gap analysis and evaluation of the government-sponsored Universal Service Obligation Fund (“**USOF**”) schemes.

The Coverage Recommendations broadly cover the following:

1. The need for USOF to ensure that 3 (three) villages in Ladakh are included under the ‘*Saturation of 4G Mobile Services*’ project;

2. The need to ensure that the government funds the capital expenditure and the operating expenditure to be incurred for upgrading the existing non-4G based cellular mobile infrastructure for 19 (nineteen) villages in Ladakh, which neither have 4G coverage nor are included in the ongoing schemes for providing 4G coverage;
3. The need to ensure telecom service providers (“TSPs”) in Ladakh provide fair and non-discriminatory access to their spare backhaul transmission media resource capacity via lease/ rent or on mutually agreeable terms and conditions to other TSP;
4. The charges paid by the lessee (a TSP) to any lessor TSP for the use of spare backhaul media transmission resource capacity be reduced from the gross revenues of the lessor to arrive at applicable gross revenue;
5. The USOF to fund the backhaul connectivity on optical fiber from Rupshu Block Headquarters to Nyoma/ Chumathang;
6. The need to maintain a waiting list of service demand by all licensed TSPs;
7. The need for the Department of Telecommunications (“DoT”) to establish a mechanism to obtain, examine, and analyze the data on the waitlist from all TSPs;
8. The need to ensure that electricity is provided to telecom sites as a priority at utility/industrial tariff, waiving off last mile installation charges for extending the electric connection to telecom sites;
9. The need for DoT to formulate a scheme along with relevant to fund the installation of solar panels at important strategic telecom sites in remote hilly areas;
10. The need for DoT along with relevant authorities to undertake all road construction, road widening, or other related works with prior coordination involving TSPs;
11. The need to also explore the possibility of constructing utility ducts in all future road widening and new road construction projects.

## **DoT amends guidelines and license agreements**

DoT, through various notifications dated April 18, 2023, has amended the (a) Unified License (“UL”) guidelines; (b) UL (Virtual Network Operator) (“VNO”) guidelines; (c) UL agreement; and (d) VNO agreement, to rationalise the application processing fees (“Fees”).

Subsequent to the amendment, the Fees for the various service categories available under the UL and VNO agreements have been reduced to INR 10,000 (Indian Rupees ten thousand). Further, the Fees for the UL and VNO licenses for All Services have been reduced to INR 1,00,000 (Indian Rupees one lakh).

## **Recommendations on Ease of Doing Business in Telecom and Broadcasting sector**

TRAI, through its notification dated May 2, 2023, released recommendations on Ease of Doing Business in Telecom and Broadcasting Sector (“**May Recommendations**”).

The May Recommendations have been released subsequent to the consultation paper issued on "Ease of Doing Business in telecom and Broadcasting Sector" on December 8, 2021. The May Recommendations broadly cover the following:

1. The need to set up a single window system which is user-friendly, transparent and responsive;
2. The need for every ministry and its department to establish a committee to review, simplify, and update the existing processes with a view to ensure ease of doing business;
3. The need for the Ministry of Information and Broadcasting (“MIB”) to specify stage-wise timelines for the process of grant of each license, registration, and permission;

4. The need for MIB to develop a simple mobile app for the registration of Local Cable Operators (“**LCOs**”). Request for cancellation of LCO registration before 5 (five) years to also be enabled on the online portal and mobile app.
5. The need to simplify the process of surrender of DoT license, issuance of NOC and release of Bank Guarantees to the service providers;
6. The requirement of additional Standing Advisory Committee on Radio Frequency Allocation (SACFA) clearance for same mobile network site/ tower location to be replaced with intimation on the saral sanchar portal.
7. The need for the Department of Space to publish a list of Indian satellite details and the capacity availability and approved foreign satellites/satellite systems, their orbital locations, transponders and frequency availability and their other technical and security parameters on the single window portal.

## **Directions to access providers to stop misuse of message templates, under TCCCPR-2018**

TRAI, through its notification dated May 12, 2023, released directions to Access Providers (“**APs**”) to stop the misuse of message templates, Under TCCCPR-2018 (“**AP Directions**”). These AP Directions have been issued in furtherance to the directions issued on February 16, 2023, in relation to the misuse of headers and content templates.

TRAI has issued these AP Directions pursuant to it having identified the need to review the maximum number of variables and their respective placements in content templates, in addition to the requirement to keep a check on the usage of variables.

The AP Directions direct all access providers to allow more than 3 (three) variables in content templates only with proper justification, a defined purpose, and a minimum of 30% fixed content. However, in the event the content a variable is unable to be accommodated in the above-mentioned limit, more than 1 (one) contiguous variable of the same type will be allowed which is supported by a sample message.

The access providers have also been directed to ensure that only those URLs, OTT links, and call-back numbers that have been whitelisted are used in the content templates. The Directions also state that the access providers are required to monitor the use of content templates and stop misuse thereof. The access providers are also required to update the code of practice and furnish a compliance report within 45 (forty-five) days from the date of issue of these Directions.

## **Reverification of headers and content templated by Principal Entities under TCCCPR-2018**

TRAI, through its notification dated May 25, 2023, directed entities such as banks, other financial institutions, insurance companies, trading companies, business entities, etc (“**Principal Entities**”) to complete the verification of Headers and Content Templates (“**Templates**”) as required under the Directions issued on February 16, 2023 (“**February Directions**”). According to the Telecom Commercial Communication Customer Preference Regulations (“**TCCCPR-2018**”), any commercial communication may only take place using Templates registered with access providers.

TRAI had mandated all Principal Entities to reverify registered Templates on the distributed ledger technology platform and block all unverified templates within 30 (thirty) and 60 (sixty) days respectively from the date of issue of the Directions.

Having noticed a delay in compliance with the above requirement, TRAI has warned the Principal Entities that the Templates may be blocked in case there is any further delay in the reverification process. Accordingly, TRAI will review the progress in the next 2 (two) weeks.

## Directions regarding implementation of digital consent acquisition under TCCCPR, 2018

TRAI, through its notification dated June 2, 2023, released Directions regarding the implementation of digital consent acquisition (“DCA”) under the TCCCPR, 2018 (“DCA Directions”).

The DCA Directions require all APs to ensure that no promotional messages are sent without scrubbing the consent and preference of the customers and are sent under the service message category.

The DCA Directions also require the APs to develop and deploy a DCA facility, within 2 (two) months from the date of issue of these Directions, to enable subscribers to record and revoke their consents, to ensure that a short code is used by all APs for sending consent-seeking messages, and to ensure that the scope and brand name is mentioned in such consent seeking message through the short code.

Further, the DCA is required to be developed and deployed to broadly ensure the following:

1. An SMS/VR/online facility is developed to register the unwillingness of customers to receive any consent-seeking messages;
2. Only whitelisted uniform resource locator/over-the-top links/call-back numbers are used in the consent-seeking messages;
3. No consent-seeking messages are initiated for a period of 90 (ninety) days if a customer has rejected or not responded to previous consent-seeking messages; and
4. Wide publicity through various media regarding the above is undertaken so that end users are aware of it.

The DCA Directions also mandate all APs to update their code of practice within fifteen days from the date of issue of these Directions and ensure compliance within the prescribed timelines and submit a monthly progress report.

## Directions regarding the implementation of UCC detect system under TCCCPR, 2018

TRAI, through its notification dated June 13, 2023, released directions regarding the implementation of the unsolicited commercial communication (“UCC”) detect system under the TCCCPR 2018 (“UCC Directions”).

Through the UCC Directions, TRAI aims to alleviate the public inconvenience caused due to UCC. Although complaints against registered telemarketers (RTMs) have reduced, unregistered telemarketers (“UTMs”) continue to send UCC, using fraudulent methods leading to loss of critical information and financial loss.

The UCC Directions lay down a framework for the access service providers (“ASP”) to implement a UCC detect system. To ensure uniformity TRAI directs all providers to deploy artificial intelligence (“AI”) and machine learning (“ML”) based UCC detect systems capable of adapting to new UTMs' signatures, patterns, and techniques. Moreover, providers are also required to share intelligence via the distributor ledger technology (“DLT”) platform and detect bulk UCC senders non-compliant with the regulations.

Further, the ASPs are directed to ensure the following:

1. Implement an AI and ML-based UCC detect system that can adapt to new signatures, patterns, and UTM-specific tactics on a continual basis;
2. Ensure that the UCC detect system will identify senders who are transmitting UCC in bulk and not complying with the regulations;
3. Ensure that the UCC detect system can perform reputation-based analysis of the message sender, considering various factors like age of subscription, authentication at the time of subscription, address verification method, and SMS sending/calling pattern, and sharing intelligence with other ASPs using DLT platform, which may be useful in avoiding false positives;

4. Ensure that action is taken by the originating access provider as per provisions of the regulations; and
  5. Share information with concerned law enforcement agencies, the Ministry of Home Affairs (“MHA”), and the DoT.
- The UCC Directions also mandate all the ASPs to comply with the above directions and submit an updated status on actions taken within 30 (thirty) days.

## **Forum of Indian regulators (FOIR)- Collaborative Regulatory Mechanism for Socio-Economic Development**

TRAI released a notification dated June 15, 2023, regarding the 24<sup>th</sup> (twenty fourth) annual general body meeting with the Forum of Indian regulators (“FOIR”) where discussions were held on faster adoption of 5G and associated technologies in different vertical sectors represented in FOIR.

At the 21<sup>st</sup> (twenty first) annual general body meeting at FOIR, a working group was constituted to submit its recommendations on “*Cross Sector Collaborative Regulation between TRAI and Electricity Regulators*” (“**Cross Sector Recommendations**”). The Cross Sector Recommendations of the working group resulted in the identification of action points including:

1. Regulations by the State Electricity Regulatory Commission (SERC) on revenue sharing between power distribution companies (DISCOMs) and consumers for non-core business income;
2. Issuing single bill for multiple connection to TSPs; and
3. Separate tariff slab for energy consumed by TSPs.

Subsequently, TRAI proposed the formulation of another working group with TRAI as the convenor and expert sector regulators as the members, to study and provide recommendations on faster adoption of 5G and associated technologies in different vertical sectors. Further, FOIR also agreed to establish a group to explore the opportunities and challenges associated with the adoption of 5G and related technologies such as artificial intelligence, machine learning, augmented reality, virtual reality, etc. in different sectors.

## **Recommendations on “Licensing Framework and Regulatory Mechanism for Submarine Cable Landing in India” by TRAI**

TRAI, through a notification dated June 19, 2023, released recommendations on the Licensing Framework and Regulatory Mechanism for Submarine Cable Landing in India (“**Cable Landing Recommendations**”).

Submarine communication cables laid on the seabed are considered critical assets in a fast-paced digital global economy and are imperative for any country's communication grid empowering its business and economic operations. The web of submarine communication cables traverses the maritime zones of several countries connecting people and businesses across the globe.

TRAI had sought recommendations from the DoT on licensing framework and regulatory mechanism for service providers that set up Cable Landing Stations (“**CLS**”) and lay submarine cables in India with existing International Long Distance (“**ILD**”) authorization under the UL and standalone ILD license (collectively referred to as “**ILD Operators/ILD O**”). In response, DoT had raised concerns that recently some Indian ILD operators who did not have any stake in submarine cable system were seeking clearance on behalf of the owners of submarine cable for laying/maintaining such cables in India and were also applying for setting up of CLS for such submarine cables.

The other issues that came to light were as follows:

1. The need for Indian flagged vessel for submarine cable operation and maintenance;
2. The necessity to bring about provisions for domestic submarine cable between 2 (two) or more cities on the coastline of India;



### 3. The need to have better clarity on terrestrial connectivity between different CLS.

Accordingly, TRAI issued a consultation paper on '*Licensing Framework and Regulatory Mechanism for Submarine Cable Landing in India*' on December 23, 2022, and based on the comments received from various stakeholders, TRAI released these Recommendations.

The Cable Landing Recommendations broadly cover the following issues:

1. The need to amend the ILD/Internet Service Provider Category 'A' ("**ISP-A**") authorization (with international internet gateway) of the UL to include 2 (two) categories of CLS locations, i.e., main CLS and CLS Point of Presence ("**CLS-PoP**").
2. The need to issue revised and detailed guidelines and applications for setting up main CLS and CLS-PoPs respectively, for submarine cables landing in India under the respective licenses and authorizations by incorporating the provisions in the Cable Landing Recommendations.
3. The need to constitute a committee to study and recommend the different financial viability models for Indian flagged repair vessels including possible incentives from the government. This committee is to be entrusted with the task of suggesting ways to facilitate and incentivize setting up of these cable depots.
4. The need to identify cable depots in the west and east coastline for storage of submarine cable and the necessary equipment/kit required for carrying out cable repairs.
5. The need for ILD and National Long Distance authorisations under the UL to explicitly mention that terrestrial connectivity is permitted between different CLSs;
6. The ILD licensee/authorisation is required to clarify that transit international traffic not meant to be terminated in India will be permitted to be transited to other submarine cables through terrestrial as well submarine cable links.
7. The need to accord the status of "essential services" to CLS and submarine cables operation and maintenance services.
8. The need to exempt custom duty and Goods and Services Tax on the goods and items required for CLS, submarine operation and maintenance.
9. The need to add a provision in the Indian Telecommunication Bill, 2020 to promote, protect and prioritize CLS and submarine cable development in India and to consider that the damage to sub-sea infrastructure as deemed damage to critical infrastructure of national importance and be strictly dealt under the Indian laws.

## **Response to the Ministry of Information and Broadcasting on 'Renewal of Multi-System Operators Registration'**

TRAI through its notification dated June 27, 2023 addressed the comments and suggestions given by the MIB. These comments and suggestions were in relation to the recommendations issued by TRAI on 'Renewal of Multi-System Operators ("**MSOs**") Registration' ("**Registration Recommendations**").

TRAI, in its Registration Recommendations, suggested that all registrations of MSOs that have either expired or are about to expire within a particular timeline should be deemed to expire after 8 (eight) months from the date of implementation of rules or guidelines for renewal.

As a suggestion to this recommendation, the MIB responded that it may seek requisite details such as number of subscribers to verify whether the MSO is operational and has filed a security clearance form to procure inputs from the MHA. Accordingly, MIB may grant temporary extension subject to the MSOs fulfilling necessary compliances and security clearances from the MHA.

TRAI has accepted MIB's suggested model and has recommended that MSOs, whose registrations have expired or are about to expire, are informed well in advance about the expiry date and the corresponding renewal process. The communication to the MSOs must also clarify the consequences of non-renewal.

Further, MIB suggested that instances of non-compliance with the terms and conditions of registration by an MSO, be shared with MIB. Based on such information, MIB may take action as per the provisions of the Cable Television Networks (Regulations) Act, 1995. Accordingly, TRAI has agreed to send details of non-compliance to the MIB at regular intervals.

## **Consultation paper on definition of International Traffic**

TRAI, through its notification dated May 02, 2023, released a Consultation Paper on the "*Definition of International Traffic*" ("**International Traffic Consultation Paper**").

Telecommunication traffic comprises of domestic traffic and international traffic. In the Indian context, domestic traffic comprises intra-circle traffic and inter-circle traffic which have been specifically defined in the UL. However, the term '*international traffic*' has not been defined in the UL and 'international SMS' is a type of 'international traffic'. Therefore, TRAI is of the view that instead of defining international SMS in the UL, it would be appropriate to define the term '*international traffic*', instead.

In the above background, TRAI has released the International Traffic Consultation Paper that seeks the views of the stakeholders broadly on the following:

1. Whether it would be appropriate to define the term 'international traffic' in the UL as 'the international long-distance traffic originating in one country and terminating in another country, where one of the countries is India';
2. An alternative definition for 'international traffic';
3. The need to define 'domestic traffic'.

## **Consultation paper on policy for issuance-renewal of NOC for import-sale in India, of SIM-eSIM cards or chips of foreign telecom service providers, for use in M2M-IoT devices-products meant for export only**

DoT, through its notification dated April 19, 2023, released a consultation paper on "Policy for Issuance-Renewal of NOC for Import-Sale in India, of SIM-eSIM cards or chips of Foreign Telecom Service Providers, for use in M2M-IoT devices-products meant for export only" ("**e-SIM Consultation Paper**").

There are a few Indian manufacturers who export their products to international markets. These manufacturers are seeking foreign SIMs to be provided to them in India for integration into their products for internet of things ("**IoT**")/ machine to machine ("**M2M**") services for use outside India.

Presently, the DoT issues a no objection certificate ("**NOC**") for allowing of sale of international roaming SIM cards of foreign operators in India, for use of the same outside India. For establishing the authenticity of the customer before selling/ renting such cards, a copy of the passport of the customer including a copy of a valid visa and additional proof of identity and proof of address or alternate digital KYC process, for issuing new mobile connection as prescribed by DoT is required to be obtained.

Owing to the difficulties in incorporating the use case under the existing NOC policy, a separate policy for issue/renewal of NOC for import/sale in India, of SIM/E-SIM cards (or chips) of foreign telecom service providers, for use in M2M/ IoT devices/products meant for export only is proposed by DoT.

In the above background, the e-SIM Consultation Paper seeks the views of the stakeholders broadly on the following:

1. Whether firms registered under the LLP Act, 2008 and proprietors registered under the Shops & Establishments Act are allowed to apply for the NOC;

2. The need to appoint a custodian of the SIMs i.e. NOC holder or manufacturer company that embeds/fits the SIMs in their products, till export of the products;
3. The penalties to be imposed for non-compliance with the terms of NOC;
4. Whether manufacturers who want to embed/fit the foreign SIMs in their products would prefer obtaining NOC for themselves or would like to buy it from other NOC holders.

## **Consultation Paper on Encouraging Innovative Technologies, Services, Use Cases, and Business Models through Regulatory Sandbox in Digital Communication Sector**

TRAI through its notification dated June 22, 2023, released a Consultation Paper on the "Encouraging Innovative Technologies, Services, Use Cases, and Business Models through Regulatory Sandbox in Digital Communication Sector" ("**Regulatory Sandbox Consultation Paper**").

Sandbox frameworks have been established by many regulatory bodies across countries for the purpose of telecom technology innovation. These frameworks allow testing new concepts in controlled environments, granting exemptions, allowances, or time-bound exceptions. In its Consultation Paper, TRAI examines the possibility for a regulatory sandbox in the field of digital communications. The Regulatory Sandbox Consultation Paper discusses some of the regulatory sandbox frameworks that are working in digital communication sector globally and also details some of such frameworks working within the country in other sectors.

The Regulatory Sandbox Consultation Paper proposes a draft sandbox framework ("**Draft Framework**") and seeks feedback of stakeholders on the same. The Draft Framework includes the following:

1. information on the goals and scope of the Draft Framework;
2. participant eligibility requirements;
3. prerequisites for applicants;
4. supporting materials needed with applications;
5. application evaluation criteria, application and approval process;
6. waivers or modifications to the rules; and
7. funding of innovation for societal growth.



## Telecommunications & Broadcasting Practice

Our Communications practice is handled by a team with specific domain-expertise, and we advise various stakeholders in both Telecom & Broadcasting sectors on a wide range of transactions and assignments that involve constitutional, legal, contractual, commercial, regulatory and policy advice. We advise broadcasters, BPOs, internet service providers (ISP), operators and investors in the Global System for Mobile Communications (GSM) and the Code Division Multiple Access (CDMA) technologies, and new investors on diverse licensing issues, entry strategies, structuring, national security challenges, and other regulatory issues. We represent the interests of licensees and other stakeholders in interacting with the licensor and regulators with respect to reforms in the regulatory and policy framework to facilitate business growth drawing upon international best practices. We advise and represent investors, broadcasters, and telecom licensees on commercial transactions in this sector, including mergers, acquisitions, restructuring, divestment, licensing, and project financing. We advise telecom service providers and other corporate houses on all aspects of spectrum licensing and allocation, including fundamental issues relating to the scope of spectrum bands, the regulatory framework governing their allocation in India, and planning, strategising and following up on their application to the Government.

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17 Practices and  
24 Ranked Lawyers



16 Practices and  
11 Ranked Lawyers



7 Practices and  
2 Ranked Lawyers



11 Practices and  
39 Ranked Partners  
**IFLR1000 APAC  
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Banking & Finance Team  
of the Year

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Fintech Team of the Year

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Restructuring & Insolvency  
Team of the Year



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11 winning Deals in  
IBLJ Deals of the Year

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10 A List Lawyers in  
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