

### Telecommunications (Procedures and Safeguards for Lawful Interception of Messages) Rules, 2024

On December 6, 2024, the Department of Telecommunications (“DoT”) notified the Telecommunications (Procedures and Safeguards for Lawful Interception of Messages) Rules, 2024 (“**Interception Rules**”), under the Telecommunications Act, 2023 (“**Telecom Act**”). The Interception Rules supersede Rules 419 and 419A of the Indian Telegraph Rules, 1951.

The Interception Rules broadly state the following:

1. the Interception Rules have introduced important definitions such as ‘authorised agency’, ‘competent authority’ and ‘interception order’;
2. the Central Government may issue an order specifying authorised agencies to intercept or receive any message or class of messages and the competent authority may direct interception of any message or class of messages through an interception order;
3. in situations where it is not feasible for the competent authority or officer specified to issue interception orders due to operational reasons, interception orders may be issued by the head or the second senior most officer of the authorised agency at the Central level, and head or the second senior most officer of the authorised agency not below the rank of Inspector General of Police at the State level. The copy of the interception order is to be submitted to the competent authority within 3 (three) working days of issuance;
4. the competent authority can confirm the interception order within 7 (seven) working days, if found appropriate. If the interception order is not confirmed within 7 (seven) working days, the interception will cease, and the messages intercepted may not be used in court as evidence. Additionally, all intercepted messages must be destroyed within 2 (two) working days and the confirmation of the destruction must be submitted in writing to the competent authority;
5. the Interception Rules outline the obligations for authorised agencies, requiring 2 (two) nodal officers not below the rank of Superintendent of Police or equivalent rank, to communicate an interception order issued to the nodal officer of the DoT or nodal officer of the telecommunication entity. The DoT must authorise 2 (two) nodal officers in every service area to receive and act upon interception orders. The telecommunication entities must also notify the Central Government of the contact details of 2 (two) senior employees in every service area for the implementation of interception orders;
6. the authorised agency, DoT and telecommunication entities must ensure that all matters relating to interceptions are handled only by nodal officers. The matters are to be handled with adequate and effective internal safeguards to prevent any unauthorised interception. Furthermore, confidentiality and extreme secrecy must be maintained, and utmost care and precaution must be taken in the interception of messages;

7. the records relating to interception are to be maintained with confidentiality and secrecy, and destroyed in a secure manner;
8. the Interception Rules mandate the constitution of review committees by both the Central and State Governments. The Central Government committee comprises the Cabinet Secretary (Chairperson), Secretary of Legal Affairs, and Secretary of Telecommunications. State Government committee comprises the Chief Secretary (Chairperson), Secretary of Law or Legal Remembrancer, and a Secretary other than the Home Secretary; and
9. the review committees are required to meet every 2 (two) months and record its findings as to whether the interception orders issued are in accordance with the Telecom Act. If the review committee finds that the interception orders are not in accordance with the provisions of the Telecom Act the committee may set aside the order and order for the destruction of the copies of the intercepted messages or class of messages.

## Conclusion

Lawful interception by the government authorities is important for maintenance of national security provided the grounds for interception are justified in the interest of the security of the country. The Interception Rules aim to ensure that there is no misuse of the procedure of interception and the privacy of citizens is not violated. The Interception Rules lay down the protocols for interception with clear timeframes of enforcement of the interception orders. The procedure, safeguards and precautions that are required to be followed for the lawful interception of messages aim to strike the balance between the legitimate grounds for lawful interception and government overreach in the right to individual privacy.

## 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 (ISPs), 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. Some of the main aspects handled / negotiated / advised by us include commercial arrangements; mergers & acquisitions (including FDI) and joint ventures; spectrum allocation; communication satellites; and regulatory compliances and strategic advice including handling regulatory proceedings. 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 restructuring, divestment, licensing, and project financing (vendor financing and corporate finance). 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. We advise and represent diverse entities in proceedings before the concerned licensing, regulatory, judicial and quasi-judicial authorities (including DoT, MIB, TRAI, TDSAT, various High Courts and the Supreme Court). In such proceedings we assist clients in developing strategies, render opinions, draft pleadings and lead/assist in the proceedings. We have a strong track-record of providing quality advice and concrete results to the above segments of the communications industry, and have been engaged in handling the key legal, regulatory and policy issues that have historically arisen in the industry.

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