

The Telecom Regulatory Authority of India Act, 1997

February 25, 2013

Preamble

[ACT No. 24 OF 1997]

[28th March, 1997]

An Act to provided for the establishment of the ¹[Telecom Regulatory Authority of India and the Telecom Disputes Settlement and Appellate Tribunal to regulate the telecommunication services, adjudicate disputes, dispose of appeals and to protect the interests of services providers and consumers of the telecom sector, to promote and ensure orderly growth of the telecom sector] and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:-

1. Substituted by Act 2 of 2000, for "Telecom Regulatory Authority of India to regulate the telecommunication services " (w.r.e.f. 24-1-2000).

Section 1. Short title extent and commencement

(1) This Act may be called the Telecom Regulatory Authority of India Act, 1997.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 25th day of January, 1997.

Section 2. Definitions

(1) In this Act, unless the context otherwise requires,-

(a) "Appointed day" means the date with effect from which the Authority is established under sub-section (1) of section 3;

¹[(aa) "Appellate Tribunal" means the Telecom Disputes Settlement and Appellate Tribunal established under Section 14;]

(b) "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3;

(c) "Chairperson" means the Chairperson of the Authority appointed under sub-section (3) of section 3;



(d) "Fund" means the Fund constituted under sub-section (1) of section 22;

(e) "Licensee" means any person licensed under sub-section (1) of section 4 of the Indian Telegraph Act, 1885(13 of 1885) for providing specified public telecommunication services;

¹[(ea) "licenser" means the Central Government or the telegraph authority who grants a licence under Section 4 of the Indian Telegraph Act, 1885;]

(f) "Member" means a member of the Authority appointed under sub-section (3) of section 3 and includes the Chairperson and the Vice-Chairperson;

(g) "Notification" means a notification published in the Official Gazette;

(h) "Prescribed" means regulations made by rules made under this Act;

(i) "Regulations" means regulations made by the Authority under this Act;

(j) "Service provider" means the ²[Government as a service provide] and includes a licensee;

(k) "Telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio tex services, video tex services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means but shall not include broadcasting services.

¹[Provided that the Central Government may notify other service to be telecommunication service including broadcasting services.]



(2) Words and expressions used and not defined in this Act but defined in the Indian Telegraph Act, 1885(13 of 1885) or the Indian Wireless Telegraphy Act, 1933(17 of 1933), shall have the meanings respectively assigned to them in those Acts.

(3) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall in relation to that State be construed as a reference to the corresponding law, if any, in that State.

1. Inserted by Act 2 of 2000, sec. 3 (w.r.e.f. 24-1-2000).

2. Substituted by Act 2 of 2000, sec. 3, for "Government" (w.r.e.f. 24-1-2000)

Section 3. Establishment and incorporation of Authority

(1) With effect from such date as the Central Government may, by notification appoint, there shall be established, for the purposes of this Act, an Authority to be called the Telecom Regulatory Authority of India.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

¹[(3) The Authority shall consist of a Chair-person, and not more than two whole-time members and not more than two part-time members, to be appointed by the Central Government]

(4) The head office of the Authority shall be at New Delhi.

1. Substituted by Act 2 of 2000, sec. 4, for sub-section (3) (w.r.e.f. 24-1-2000).

Section 4. Qualifications for appointment of Chairperson and other members

¹[Qualifications for appointment of Chairperson and other members. The Chairperson and other members of the Authority shall be appointed by the Central Government from amongst persons who have special knowledge of, and professional experience in, telecommunication, industry, finance, accountancy, law, management or consumer affairs:

Provided that a person who is, or has been, in the service of Government shall not be appointed as a member unless such person has held the post of Secretary or Additional Secretary, or the post of Additional Secretary and Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a period of not less than three years.]

1. Substituted by Act 2 of 2000, sec. 5, for section 4 (w.r.e.f. 24-1-2000).

Section 5. Term of office conditions of service, etc., of Chairperson and other members

(1) Before appointing any person as the Chairperson or member, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such member.

¹[(2) The Chairperson and other members shall hold office for a term not exceeding three years. as the Central Government may notify in this behalf, from the date on which they enter upon their offices or until they attain the age of sixty-five years, whichever is earlier.

(3) On the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, a person appointed as Chairperson of the Authority and every other person appointed as member and holding office as such immediately before such commencement shall vacate their respective offices and such Chairperson and such other members shall be entitled to claim compensation not exceeding three months pay and allowances for the premature termination of the term of their offices or of any contract of service.]

(4) The employee of the Government on his ²[selection as the Chairperson or whole-time member] shall have to retire from service before ³[joining as the Chairperson or a whole-time member, as the case may be].

(5) The salary and allowances payable to and the other terms and conditions of service of the Chairperson and ⁴[whole-time members] shall be such as may be prescribed.



(6) The salary, allowances and other conditions of service of the Chairperson or of a member shall not be varied to his disadvantage after appointment.

⁵[(6A) The part-time members shall receive such allowances as may be prescribed.]

(7) Notwithstanding anything contained in sub-section (2) or ⁶[* * *], a member may-

(a) Relinquish his office by giving in writing to the Central Government notice of not less than three months; or

(b) Be removed from his office in accordance with a provisions of section 7.

(8) The Chairperson or any ⁴[whole-time member] ceasing to hold office as such, shall-

(a) Be ineligible for further employment under the Central Government or any State Government; or

(b) Not accept any commercial employment, for a period of ⁷[one year] from the date he ceases to hold such office.

⁵[Provided that nothing contained in this sub-section shall apply to the Chairperson or a member who has ceased to hold office under sub-section (3) and such Chairperson or member shall be eligible for reappointment in the Authority or appointment in the Appellate Tribunal]

(9) A vacancy caused to the office of the Chairperson or any other member shall be filled up within a period of three months from the date on which such vacancy occurs.

Explanation

For the purposes of this section, "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

1. Substituted by Act 2 of 2000, sec. 6, for sub-sections (2) and (3) (w.r.e.f. 24-1-2000).

2. Substituted by Act 2 of 2000, sec. 6, for "selection as member" (w.r.e.f. 24-1-2000).

3. Substituted by Act 2 of 2000, sec. 6, for "joining as member" (w.r.e.f. 24-1-2000).

4. Substituted by Act 2 of 2000, sec. 6, for "other member" (w.r.e.f. 24-1-2000).

5. Ins. by Act 2 of 2000, sec. 6 (w.r.e.f. 24-1-2000).

6. The words "or sub-section (3)" omitted by Act 2 of 2000, sec. 6, (w.r.e.f. 24-1-2000).

7. Substituted by Act 2 of 2000, sec. 6, for "two years" (w.r.e.f. 24-1-2000).

Section 6. Powers of Chairperson and Vice-Chairperson



(1) The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and functions of the Authority and shall discharge such other powers and functions as may be prescribed.

(2) The Central Government may appoint one of the members to be a Vice-Chairperson of the Authority who shall exercise and discharge such powers and functions of the Chairperson as may be prescribed or as may be delegated to him by the Authority.

Section 7. Removal and suspension of member from office in certain circumstances

(1) The Central Government may remove from office any member, who, -

(a) Has been adjudged an insolvent; or

(b) Has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) Has become physically or mentally incapable of acting as a member, or

(d) Has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) Has so abused his position as to render his continuance in office prejudicial to the public interest.

¹[(2) No such member shall be removed from his office under clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.]

1. Substituted by Act 2 of 2000, sec. 7, for sub-sections (2) and (3) (w.r.e.f. 24-1-2000).

Section 8. Meetings

(1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairperson or, if for any reason, he is unable to attend a meeting of the Authority, Vice-Chairperson and in his absence, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority vote of the members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding, shall have a second or casting vote.

(4) The Authority may make regulations for the transaction of business at its meetings.

Section 9. Vacancies, etc., not to invalidate proceedings of Authority

No act or proceeding of the Authority shall be invalid merely by reason of-

- (a) Any vacancy in, or any defect in the constitution of, the Authority; or
- (b) Any defect in the appointment of a person acting as a member of the Authority; or
- (c) Any irregularity in the procedure of the Authority not affecting the merits of the case.

Section 10. Officers and other employees of Authority

(1) The Authority may appoint officers and such other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The salary and allowances payable to and the other conditions of service of the officers and other employees of the Authority appointed under sub-section (1) shall be such as may be ¹[prescribed]:

²[Provided that any regulation, in respect of the salary and allowances payable to and other conditions of service of the officers and other employees of the Authority, made be-fore the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, shall cease to have effect immediately on the notification of rules made under clause (ca) of sub-section (2) of Section 35.]

1. Substituted by Act 2 of 2000, sec. 8, for "determined by regulations" (w.r.e.f. 24-1-2000).

2. Inserted by Act 2 of 2000, sec. 8 (w.r.e.f. 24-1-2000).

Section 11. Functions of Authority

¹[(1) Notwithstanding anything contained in the Indian Telegraph Act, 1885 (13 of 1885), the functions of the Authority shall be to—

(a) make recommendations, either suo motu or on a request from the licensor, on the following matters, namely:—

- (i) need and timing for introduction of new service provider;
- (ii) terms and conditions of licence to a service provider;
- (iii) revocation of licence for non-compliance of terms and conditions of licence;
- (iv) measures to facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services;
- (v) technological improvements in the services provided by the service providers;
- (vi) type of equipment to be used by the service providers after inspection of equipment used in the network;
- (vii) measures for the development of telecommunication technology and any other matter relatable to telecommunication industry in general;



(viii) efficient management of available spectrum;

(b) discharge the following functions, namely:—

(i) ensure compliance of terms and conditions of licence;

(ii) notwithstanding anything contained in the terms and conditions of the licence granted before the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, fix the terms and conditions of inter-connectivity between the service providers;

(iii) ensure technical compatibility and effective inter-connection between different service providers;

(iv) regulate arrangement amongst service providers of sharing their revenue derived from providing telecommunication service;

(v) lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunication service;

(vi) lay-down and ensure the time period for providing local and long distance circuits of telecommunication between different service providers;

(vii) maintain register of inter-connect agreements and of all such other matters as may be provided in the regulations;

(viii) keep register maintained under clause (vii) open for inspection to any member of public on payment of such fee and compliance of such other requirement as may be provided in the regulations;

(ix) ensure effective compliance of universal service obligations;

(c) levy fees and other charges at such rates and in respect of such services as may be determined by regulations;

(d) perform such other functions including such administrative and financial functions as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act:

Provided that the recommendations of the Authority specified in clause (a) of this sub-section shall not be binding upon the Central Government:

Provided further that the Central Government shall seek the recommendations of the Authority in respect of matters specified in sub-clauses (i) and (ii) of clause (a) of this sub-section in respect of new licence to be issued to a service provider and the Authority shall forward its recommendations within a period of sixty days from the date on which that Government sought the recommendations:

Provided also that the Authority may request the Central Government to furnish such information or documents as may be necessary for the purpose of making recommendations under sub-clauses (i) and (ii) of clause (a) of this sub-section and that Government shall apply such information within a period of seven days from receipt of such request:

Provided also that the Central Government may issue a licence to a service provider if no recommendations are received from the Authority within the period specified in the second



proviso or within such period as may be mutually agreed upon between the Central Government and the Authority:

Provided also that if the Central Government, having considered that recommendation of the Authority, comes to a prima facie conclusion that such recommendation can-not be accepted or needs modification, it shall refer the recommendation back to the Authority for its reconsideration, and the Authority may, within fifteen days from the date of receipt of such reference, forward to the Central Government its recommendation after considering the reference made by that Government. After receipt of further recommendation if any, the Central Government shall take a final decision.]

(2) Notwithstanding anything contained in the Indian Telegraph Act, 1885(13 of 1885), the Authority may, from time to time, by order, notify in the Official Gazette the rates at which the telecommunication services within India and outside India shall be provided under this Act including the rates at which messages shall be transmitted to any country outside India;

Provided that the Authority may notify different rates for different persons or class of persons for similar telecommunication services and where different rates are fixed as aforesaid the Authority shall record the reasons therefor.

(3) While discharging its functions ²[under sub-section (1) or sub-section (2)], the Authority shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(4) The Authority shall ensure transparency while exercising its powers and discharging its functions.

1. Substituted by Act 2 of 2000, sec. 8, for "determined by regulations" (w.r.e.f. 24-1-2000).

2. Substituted by Act 2 of 2000, sec. 9, for "under sub-section (1)" (w.r.e.f. 24-1-2000).

Section 12. Powers of Authority to call for information, conduct investigations, etc

(1) Where the Authority considers it expedient so to do, it may, by order in writing,-

(a) Call upon any service provider at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require; or

(b) Appoint one or more person to make an inquiry in relation to the affairs of any service provider; and

(c) Direct of his officers or employees to inspect the books of account or other documents of any service provider.

(2) Where any inquiry in relation to the affairs of a service provider has been undertaken under sub-section (1),-

(a) Every officer of the Government Department, if such service provider is a department of the Government;



(b) Every director, manager, secretary or other officer, if such service provider is a company; or

(c) Every partner, manager, secretary or other officer, if such service provider is a firm; or

(d) Every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (b) and (c),

Shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified.

(3) Every service provider shall maintain such books of account or other documents as may be prescribed.

(4) The Authority shall have the power to issue such directions to service providers as it may consider necessary to proper functioning by service providers.

Section 13. Power of Authority to issue directions

The Authority may, for the discharge of its functions under sub-section (1) of section 11, issue such directions from time to time to the service providers, as it may consider necessary.

¹[Provided that no direction under sub-section (4) of Section 12 or under this section shall be issued except on the matters specified in clause (b) of sub-section (1) of Section 11.]

1. Inserted by Act 2 of 2000, sec. 10 (w.r.e.f. 24-1-2000).

¹[CHAPTER IV

APPELLATE TRIBUNAL

1. Substituted by Act 2 of 2000, sec. 11, for Chapter IV (w.r.e.f. 24-1-2000).

Section 14. Establishment of Appellate Tribunal

The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Telecom Disputes Settlement and Appellate Tribunal to—

(a) adjudicate any dispute—

(i) between a licensor and a licensee;

(ii) between two or more service providers;

(iii) between a service provider and a group of consumers:

Provided that nothing in this clause shall apply in respect of matters relating to—



(A) the monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of Section 5 of the Monopolies and Restrictive Trade Practices Act, 1969;

(B) the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commission, established under Section 9 of the Consumer Protection Act, 1986 (68 of 1986);

(C) dispute between telegraph authority and any other person referred to in sub-section (1) of Section 7B of the Indian Telegraph Act, 1885 (13 of 1885);

(b) hear and dispose of appeal against any direction, decision or order of the Authority under this Act.

Section 14A. Application for settlement of disputes and appeals to Appellate Tribunal

(1) The Central Government or a State Government or a local authority or any person may make an application to the Appellate Tribunal for adjudication of any dispute referred to in clause (a) of Section 14.

(2) The Central Government or a State Government or a local authority or any person aggrieved by any direction, decision or order made by the Authority may prefer an appeal to the Appellate Tribunal.

(3) Every appeal under sub-section (2) shall be preferred within a period of thirty days from the date on which a copy of the direction or order or decision made by the Authority is received by the Central Government or the State Government or the local authority or the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be pre-scribed:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an application under sub-section (1) or an appeal under sub-section (2), the Appellate Tribunal may, after giving the parties to the dispute or the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the dispute or the appeal and to the Authority, as the case may be.

(6) The application made under sub-section (1) or the appeal preferred under sub-section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application or appeal finally within ninety days from the date of receipt of application or appeal, as the case may be:

Provided that where any such application or appeal could not be disposed of within the said period of ninety days, the Appellate Tribunal shall record its reasons in writing for not disposing of the application or appeal within that period.

(7) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness of any dispute made in any application under sub-section (1) or of any direction or order or decision of the Authority referred to in the appeal preferred under sub-section (2), on



its own motion or otherwise, call for the records relevant to disposing of such application or appeal and make such orders as it thinks fit.

Section 14B. Composition of Appellate Tribunal

(1) The Appellate Tribunal shall consist of a Chairperson and not more than two Members to be appointed, by notification, by the Central Government.

(2) The selection of Chairperson and Members of the Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India.

(3) Subject to the provisions of this Act,—

(a) the jurisdiction of the Appellate Tribunal may be exercised by the Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Appellate Tribunal with one or two Members of such Tribunal as the Chairperson may deem fit;

(c) the Benches of the Appellate Tribunal shall ordinarily sit at New Delhi and at such other places as the Central Government may, in consultation with the Chairperson of the Appellate Tribunal, notify;

(d) the Central Government shall notify the areas in relation to which each Bench of the Appellate Tribunal may exercise its jurisdiction.

(4) Notwithstanding anything contained in sub-section (2), the Chairperson of the Appellate Tribunal may transfer a Member of such Tribunal from one Bench to another Bench.

(5) If at any stage of the hearing of any case or matter it appears to the Chairperson or a Member of the Appellate Tribunal that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the Chairperson to such Bench as the Chairperson may deem fit.



