

**4**

**STANDING COMMITTEE ON  
COMMUNICATIONS  
(1996-97)**

**ELEVENTH LOK SABHA**

**MINISTRY OF COMMUNICATIONS  
(DEPARTMENT OF TELECOMMUNICATIONS)**

**Telecom Regulatory Authority of India Bill, 1996**

**FOURTH REPORT**



सत्यमेव जयते

**LOK SABHA SECRETARIAT  
NEW DELHI**

*November, 1996/Kartika, 1918 (Saka)*

# FOURTH REPORT

## STANDING COMMITTEE ON COMMUNICATIONS (1996-97)

(ELEVENTH LOK SABHA)

MINISTRY OF COMMUNICATIONS  
(DEPARTMENT OF TELECOMMUNICATIONS)

Telecom Regulatory Authority of India Bill, 1996

*Presented to Lok Sabha on* ~~21 NOV 1996~~ **21 NOV 1996**

*Laid in Rajya Sabha on* ~~20 NOV 1996~~ **26 NOV 1996**



LOK SABHA SECRETARIAT  
NEW DELHI

*November, 1996/Kartika, 1918 (Saka)*

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**CORRIGENDA**  
**TO**  
**THE FORTH REPORT OF STANDING COMMITTEE ON**  
**COMMUNICATIONS (1996-97)**

<b>Page</b>	<b>Para/Column</b>	<b>Line</b>			<b>PAGE</b>
					<b>(iii)</b>
					<b>(v)</b>
5	8(ii)	4	<u>for</u>	"than five, but not exceeding seven members."	1
			<u>read</u>	"than four, but not exceeding six members."	15
6	8(ii)	9	<u>delete</u>	"Cabinet"	47
6	8(ii)	11	<u>for</u>	"Opposition his"	50
			<u>read</u>	"Opposition is"	52
6	8(ii)	19	<u>for</u>	"TRAI that one"	54
			<u>read</u>	"TRAI and"	56
8	8(v)	4	<u>for</u>	"Government in grant"	64
			<u>read</u>	"Government in the matter of grant"	70
8	8(v)	5	<u>for</u>	"licences to"	
			<u>read</u>	"licences; to"	
8	8(v)	6	<u>for</u>	"term"	
			<u>read</u>	"terms"	
8	8(v)	8	<u>for</u>	"compliance of terms"	
			<u>read</u>	"compliance with terms"	
8	8(v)	9	<u>for</u>	"leaving" <u>read</u> "leving"	
9	8(v)	25	<u>for</u>	"compliance of terms"	
			<u>read</u>	"compliance with terms"	
9	8(v)	27	<u>for</u>	"non-compliance of terms"	
			<u>read</u>	"non-compliance with terms"	
10	8(v)	1	<u>for</u>	"levy fee" <u>read</u> "levy fees"	
10	8(v)	8	<u>for</u>	"different rules"	
			<u>read</u>	"different rates"	
11	8(vi)	2	<u>for</u>	"department" <u>read</u>	
				"Department"	

P.T.O.

<i>Page</i>	<i>Para/Column</i>	<i>Line</i>		
11	8 (vii)	11	<u>for</u>	"parties, pass" <u>read</u> "parties may pass"
12	8(ix)	8	<u>for</u> <u>read</u>	"two lakhs rupees" "two lakhs of rupees"
12	8(x)	1	<u>for</u>	"provide" <u>read</u> provides"
12	8(x)	19-20	<u>for</u> <u>read</u>	"on these provisions." "on the provision."
13	8(xii)	9	<u>for</u> <u>read</u>	"one lakh rupee" "one lakh of rupees"
13	8(xii)	11-12	<u>for</u> <u>read</u>	"two lakhs rupees" "two lakhs of rupees"
13	8(xii)	14	<u>for</u> <u>read</u>	"two lakhs rupees" "two lakhs of rupees"
13	8(xiv)	1	<u>for</u> <u>read</u>	"Clause 25" "Clause 35"
14	8(xiv)	5	<u>delete</u>	"for the telecom Sector,"
14	9	1	<u>for</u>	"13" <u>read</u> "9"
14	9	2	<u>for</u> <u>read</u>	"year. The" "year, the"
14	10	1	<u>for</u>	"14" <u>read</u> "10"
14	11	1	<u>for</u>	"15" <u>read</u> "11"
14	11	3	<u>for</u>	"these acts" <u>read</u> "these Acts"
14	11	4-5	<u>for</u> <u>read</u>	"consider desirability of undertaking review" "consider the desirability of undertaking a review"

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COMPOSITION OF THE STANDING COMMITTEE ON  
COMMUNICATIONS  
(1996-97)

Shri Somnath Chatterjee — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri K.L. Sharma
3. Shri Harin Pathak
4. Dr. S.N. Jatiya
5. Prof. Rasa Singh Rawat
6. Smt. Sheela Gautam
7. Smt. Bhavna Chikhalia
8. Shri Mahesh Kanodia
9. Shri Pankaj Chaudhary
10. Shri Harpal Singh Sathi
11. Shri Tarachand Bhagora
12. Shri Th. Choaba Singh
13. Shri Girdhar Gamango
14. Smt. Sukhbuns Kaur
15. Shri Somjibhai Damor
16. Shri Mrutyunjaya Nayak
17. Shri Mohanbhai Delkar
18. Shri Thomas Hansda
19. Shri M.P. Veerendra Kumar
20. Shri Dinesh Chandra Yadav
21. Shri T. Veera Bhadram
22. Shri R. Devadas
23. Dr. Shafiqur Rehman Barq
24. Shri V.P. Shanmuga Sundram
25. Shri Kothapalli Subbarayudu
26. Shrimati Geeta Mukherjee
27. Shri Budh Sen Patel

(iv)

28. Shri Keshab Mahanta
29. Shri Joachin Baxla
30. Shri Churchill Alemao

*Rajya Sabha*

31. Shrimati Veena Verma
32. Shri Iqbal Singh
33. Shri S.S. Ahluwalia
34. Shri Ahmed Patel
35. Shrimati Jayanthi Natarajan
36. Shri Govindram Miri
37. Shri O. Rajagopal
38. Shri Shatrughan Prasad Sinha
39. Shri Narendra Pradhan
40. Dr. Ramendra Kumar Yadav Ravi
41. Shri Md. Salim
42. Shri S. Austin
43. Shri Ish Dutt Yadav
44. Shri Satish Pradhan
45. Shri R.K. Karanjia

SECRETARIAT

1. Dr. A.K. Pandey — *Additional Secretary*
2. Shri J.P. Ratnesh — *Joint Secretary*
3. Shri Ram Autar Ram — *Deputy Secretary*
4. Shri S. K. Sharma — *Under Secretary*



## INTRODUCTION

1. I, the Chairman, Standing Committee on Communications (1996-97) having been authorised by the Committee to submit the Report on its behalf, present this Fourth Report, on the Telecom Regulatory Authority of India Bill, 1996 relating to Ministry of Communications (Department of Telecommunications).

2. The Telecom Regulatory Authority of India Bill, 1996 was introduced in Lok Sabha on 23 July, 1996. The hon'ble Speaker referred it to the Committee on 25 August, 1996 for consideration and Report. The Committee took oral evidence of the representatives of the Ministry of Communications (Department of Telecommunications) on 4.9.1996 and 11.9.1996.

3. The Committee also heard views of Shri Devendra Kumar Sangal and Shri N. Vittal former Secretaries of the Department of Telecommunications on 4th and 12th September, 1996 respectively and sought clarifications on certain clauses of the Bill. The Committee also invited comments/suggestions of the Industrial Credit and Investment Corporation of India (ICICI) which has conducted studies on the Telecom Regulatory Body for India.

4. The Committee wishes to express its thanks to the representatives of the Ministry of Communications (Department of Telecommunications), Ministry of Law and Justice (Legislative Department) and S/Shri Devendra Kumar Sangal and N. Vittal former Secretaries, Department of Telecommunications for appearing before the Committee and also placing before it detailed written notes on the subject that the Committee desired in connection with the examination of the Bill. The Committee also expresses its thanks to the Industrial Credit and Investment Corporation of India for furnishing the information required by the Committee.

5. The Report was considered and adopted by the Committee at its sittings held on 7 & 8 November, 1996.

NEW DELHI;  
November 8, 1996  
Kartika 17, 1918 (Saka)

SOMNATH CHATTERJEE,  
*Chairman,*  
*Standing Committee on Communications.*

# TELECOM REGULATORY AUTHORITY OF INDIA BILL, 1996

## REPORT

### *Introductory*

National Telecom Policy, 1994, envisages telecommunication for all and within the reach of all. This necessitated ensuring availability of telephone on demand. Another objective is to achieve universal service covering all villages. The quality of telecom services has to be of world standard. Removal of consumer complaints, dispute resolution and public interface will have to receive special attention. The objective will be provisions of wide range of services to meet the customers' diversified needs at reasonable price. It also envisages that India emerges as a major manufacturing base and major exporter of telecom equipments. In view of it, a need was felt to separate regulatory functions from service providing functions of Department of Telecommunications which will also be in keeping with the general trend the world over.

In the multi-operator situation arising out of opening of basic as well as value-added services in Telecom Sector in which private operators will be competing with DOT, there is a pressing need for an independent telecom regulatory body for regulation of telecom services for orderly and healthy growth of telecommunication infrastructure apart from protection of consumer interest. Guidelines for the entry of private sector in basic telecom services (issued in September, 1994) indicated setting up of Telecom Regulatory Authority of India (TRAI) at an early date. Tenders for basic services and for cellular telephones (issued in January, 1995) also conveyed a similar understanding to the industry. Several private operators are already providing various services, whilst others are expected to commence shortly their operations in basic services. The country now has several operators providing radio paging, cellular mobile phones, E-Mail, data communications, etc. Licences for basic services have also been issued, creating a set of circumstances which makes the establishment of TRAI an urgent necessity.

2. Earlier it was proposed to set up an independent Telecom Regulatory Authority as a non-statutory body and for that purpose the Indian Telegraph (Amendment) Bill, 1995 was passed by Lok Sabha on 6 August, 1995. However, this Committee in its 22nd Report (Tenth Lok Sabha) and Members of Rajya

Sabha at the time of consideration of the aforesaid Bill were of the view that statutory status to the authority would enable it to function independently and effectively. TRAI, as a statutory body, would thus be the cornerstone of the edifice of the National Telecom Policy.

3. A comprehensive Bill titled Telecom Regulatory Authority of India Bill, 1995 was prepared by Government and a notice for introduction of the Bill in the Lok Sabha was given on 23 November, 1995 which however could not be introduced. Thereafter, since both the Houses of Parliament were not in session, and the President was satisfied that circumstances existed which rendered it necessary for him to take immediate action, the Telecom Regulatory Authority of India Ordinance, 1996 (Ordinance No. 10 of 1996) was promulgated on 27 January, 1996.

4. A comprehensive Bill to replace the Ordinance No. 10 of 1996 promulgated on 27 January, 1996 was introduced in Lok Sabha on 27 February, 1996 (Ordinance No. 20 of 1996). However, the Bill could not come up for consideration and passing in the Sixteenth Session of 10th Lok Sabha. The President was pleased to promulgate the Telecom Regulatory Authority of India (Second) Ordinance, 1996 (No. 20 of 1996) on 27 March, 1996. The Ordinance has since lapsed and no authority was constituted thereunder.

*Telecom Regulatory Authority of India Bill, 1996 (TRAI Bill, 1996)*

5. TRAI Bill 1996 was introduced in Lok Sabha on 23 July, 1996. The hon'ble Speaker referred it to this Committee on 25 August, 1996 for consideration and report. The Bill, *Inter-alia*, provides that the proposed Authority will consist of a Chairperson and a minimum of two and maximum of four Members. A person who is or has been a judge of the Supreme Court or Chief Justice of a High Court, will be eligible to be appointed as Chairperson of the Authority. A Member shall be a person who has held the post of Secretary or Additional Secretary to the Government of India or an equivalent post in the Central Government or the State Government, for a minimum period of three years.

Under the Bill, the Chairman and Members will enjoy security of tenure and they can be removed from office under certain circumstances :—

6. The powers and functions of the proposed Authority, as provided in the Bill, *inter-alia*, are —

- (a) To protect the interest of consumers of telecommunication services;
- (b) To settle disputes between service providers;
- (c) To ensure compliance of licence conditions by all service providers;

- (d) to ensure technical compatibility and effective inter-connection between different service providers;
- (e) to regulate arrangements amongst service providers in respect of sharing of revenue derived from providing telecommunication services;
- (f) to levy fees at such rates and in respect of such services as may be determined by regulations;
- (g) To facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth of such services; and
- (h) to ensure effective compliance of universal service obligations.

The proposed Authority would be entrusted with, *inter-alia*, the following powers :—

- (a) to seek information on all aspects of service provider's activities;
- (b) to seek information, advice and inputs from any source it deems necessary;
- (c) to investigate, *suo moto*, any matter which in its opinion constitutes public interest; and
- (d) to inspect facilities, books and records of operators/service providers.

7. As per the Bill, the Authority will have an in-built dispute settlement mechanism including procedure to be followed as well as a scheme of punishment/fine in the event of non-compliance of its orders. It will adjudicate on matters such as technical compatibility and effective interconnection, revenue sharing arrangements, quality of services, etc., falling within its jurisdiction. The Authority will have to maintain transparency while exercising its powers and functions to perform the role of watch-dog for the telecom sector in an effective manner.

8. The Committee called representatives of the Department of Telecommunications on 4 and 11 September, 1996 to hear their views and also to seek certain clarifications. The Committee heard the views of Shri Devendra Kumar Sangal and Shri N. Vittal, former Secretaries of the Department of Telecom also on 4 and 12 September, 1996 and sought clarifications from them on certain clauses of the Bill. At their sitting held on 10 October, 1996, the Committee undertook clause-by-clause consideration of the Bill. A copy of the Bill is annexed as Annexure-I. In the light of discussions the Committee recommend the following amendments to the Bill.

*Definition*

(i) Clause 2 is the definition clause.

The Committee note that expressions of "Licencee", "Service providers" and "Commercial employment" have not been defined in clause 2. The Committee are of the opinion that the statutory definition of these expressions will be useful in proper understanding of the same and of the scope of the Bill and therefore, recommend the following amendments to be made in Clause 2 :—

At page 2, —

(a) After line 5, insert —

‘(e) "licencee" means any person licensed under sub-section (1) of Section 4 of the Telegraph Act, 1885, or section 5 of the Indian Wireless Telegraphy Act, 1933;

‘Commercial employment’ means employment in any capacity including that of an agency under a company, cooperative society, firm or individual engaged in trading, commercial, industrial, financial or professional business in telecom sector and includes also a directorship of such company and partnership of such firm. It also includes setting up practice either independently or as partner of a firm, as an adviser or consultant.’

As a result, the consequential changes would be as under :—

(b) in line 6, for "(e)", substitute "(f)"

(c) in line 8, for "(f)", substitute "(g)";

(d) in line 9, for "(g)", substitute "(h)";

(e) in line 10, for "(h)", substitute "(i)";

(f) after line 10, insert—

(g) "service provider" means a licencee or the Government or any other person or body engaged in providing telecommunication services. Therefore the consequential change would be

(h) in line 11, for "(i)", substitute "(1)".

(ii) Clause 3 (3) provides for the composition of the Authority.

The Bill provides that the Authority will consist of a Chairperson, and minimum of two members and maximum of four members. The Committee are of the opinion that Authority with such a meagre strength, may not be able to achieve

the objectives. The Committee desire the composition to be more comprehensive and broad based with representation to various interests. The Committee, therefore, recommend that Authority should consist of a chairperson and not less than five, but not exceeding seven members. The following amendment may therefore be made :—

At Page 2, for lines 32 and 33, Substitute—

"(3) The Authority shall consist of a Chairperson, and not less than four, but not exceeding six members."

(iii) *Clause 4* prescribes qualifications for appointment as chairperson and members of the Authority.

The existing clause restricts the choice of persons for appointment as Members of TRAI exclusively to government servants, working or retired as Secretary or Additional Secretary. Even their field of experience has not been defined.

Commenting upon the desirability of having a man of eminence as Chairperson, the Secretary, DOT informed the Committee during evidence that Chairman will be a serving or a retired Judge of the Supreme Court or serving or retired Chief Justice of a High Court. The intention is stated to be that this Authority should be headed by a person who would instill confidence among the people, the Government and amongst the various service providers. He further clarified that the members would be persons who have held the post of Secretary or Additional Secretary or an equivalent post in Central Government or State Government for a period of at least three years. He further added that in the scheme of things prevailing at present, it would be only those who have worked in the Government would be eligible for appointment as the members of TRAI as in our country telecommunications have been a Government monopoly over the years.

The Committee note that under the Bill members of the Authority will be appointed exclusively from amongst the Government Servants working or retired as Secretary or Additional Secretary and even their field of experience has not been defined but are of opinion that if suitable experts are available outside Government whose credentials and status are quite up to the mark and acceptable, then the choice should not be restricted to the present or ex-officers of the Government only.

The Committee therefore are of the view that Chairperson and Members should be drawn from both within and outside Government to ensure transparency, specialised knowledge, experience and understanding of certain disciplines and therefore, the members should be drawn from the

**fields of Telecommunications, Industry, Finance, Accounting, Law and Consumer affairs having varied experience, in public utility services. This is considered essential to provide the necessary knowledge and experience for effective discharge of the functions entrusted to the Authority.**

**In order to impart transparency in selection procedure for the post of Chairperson of TRAI and to avoid any controversy, the Committee are of the view that it is desirable that the Government should appoint the Chairperson of the Authority, on the recommendations made by a Committee consisting of Chief Justice of India, Speaker Lok Sabha, Cabinet Minister of Communications and the Leader of Opposition in Lok Sabha (and in case no Leader of Opposition his available, the consultation should be with the leader of the largest opposition group in the Lok Sabha) and Dy. Chairperson, Rajya Sabha with the Chief Justice as the Chairman. Before incorporating this provision the Government are advised to obtain the consent of the present incumbents of the respective offices and it is hoped that in national interest such consent will be available.**

**The Committee are of opinion that the Members of the Authority should be appointed by the Central Government in consultations with the Chairperson of TRAI that one of the Members should be an expert on Telecom technology, another expert on financial matters while others should be representatives of consumers, industry, Government etc.**

Thus, the following amendments be made to Clause 4 of the Bill. At page 2, for lines 37 to 40 substitute :—

"(2) The members referred to in Sub-section (3) of section 3 shall be appointed from amongst persons who have special knowledge of, and professional experience in the fields of telecommunication, industry, finance, accountancy, law and consumer affairs.

(3) The Chairperson shall be appointed by the Central Government after obtaining the recommendation of a Committee consisting of :—

- (a) Chief Justice of India;
- (b) Speaker of the House of the People;
- (c) Cabinet Minister Incharge of the Ministry of Communications;
- (d) Leader of the Opposition in the House of the People;
- (e) Deputy Chairperson of the Council of States;

*Explanation* — (If in case no Leader of the Opposition is available, the consultation should be with the leader of the largest opposition group in the Lok Sabha).

The members shall be appointed by the Central Government in consultation with the Chairperson."

(iv) *Existing Clause 5* of the Bill provides for term of office, conditions of service etc. of Chairperson and Members. Clause 5(3) provides that :—

A member shall hold office for a term of five years from the date on which he enters upon the office or until he attains the age of sixty-two, whichever is earlier.

The Committee feel that in order to ensure uniformity and adequate tenure, there should be uniform retirement age at sixty-five years or a term of 5 years from the date on which one enters upon his office, whichever is earlier.

*Clauses 5(5) and 5(6) Salary, allowances and other conditions of service*

The Committee feel that the salaries and allowances of the chairperson should be that of a judge of a Supreme Court and for the Members they should be the same as that of a Judge of High Court. The Committee also feel that salaries and allowances of Chairperson and Members and other administrative expenses and pension etc. should be defrayed out of the Consolidated Fund of India.

The Committee also feel that vacancy caused by resignation or removal, of the Chairperson or Member(s) may be filled up by fresh appointment within a period not in any case exceeding two months from the date on which such vacancy occurs so that the function of the Authority is not impaired. The Committee further recommend that Chairperson or any other member ceasing to hold office should not hold any commercial employment in any company, firm or concern in telecommunication sector for a period of two years from the day he ceased to be the member of the Authority.

In view of the above, the Committee recommend that following amendments be made in clause 5:—

*Clause 5*

At page 3 —

(a) In line 2, for "sixty-two", substitute "sixty-five",



(b) for lines 6 to 10 substitute "shall be same as that of Judge of the Supreme Court."

(c) for lines 18 and 19, substitute—

"(6) The salary, allowances and other conditions of service of the members shall be the same as that of a Judge of the High Court.

(7) The salaries and allowances payable to the Chairperson and members and the administrative expenses, including salaries, allowances and pension payable to or in respect of the officers and employees of the Authority shall be defrayed out of the Consolidated Fund of India."

The Consequential changes in the Bill will, therefore, be as under :—

At page 3 :—

(d) in line 20, for "(7)" substitute "(8)"

(e) in line 22, for "(8)" substitute "(9)"

(f) after line 26 insert—

"(10) A vacancy caused by resignation or removal of the Chairperson or any other member shall be filled up by fresh appointment within a period not in any case exceeding two months from the date on which such vacancy occurred."

(g) in line 27, for "(9)" substitute "(11)";

(h) for lines 30 to 32, substitute "(b) not hold any commercial employment in any company, firm or concern in telecommunication sector before the expiry of a period of two years from the day he ceased to be the member of the Authority."

(v) *Clause 11* of the Bill lays down the powers and functions of the Authority.

**The Committee feel that to make the Authority more meaningful as well as effective, it should be entrusted with certain other functions that mentioned in the Bill. The Committee are of the view that regulation of operations of service providers; advising Central Government in grant of licences to determine the need and timing for introduction of new service provider; term and conditions of licence to a service provider; ensuring compliance of terms and conditions of licence, revocation of licence for non-compliance of terms and conditions of licence; approval for equipments used in the network and leaving of fee and other charges should be included in**

**clause 11. The Committee are of the opinion that in order to ensure that quality service is provided by a service provider, TRAI, should be entrusted with monitoring of such services and should also undertake or commission periodical surveys of quality of service achieved by different service providers and take such action as it deem fit to ensure compliance with the standards of quality service prescribed in the license or which may be prescribed by the Authority from time to time.**

**The Committee are of the opinion that power should be conferred on the Authority to fix different rates for different classes of consumers and where different rates are fixed for similar services, the Authority should record the reasons, therefor. It may be necessary to provide relief to individual consumer or for community interest.**

**The Committee are also of the view that a copy of the order proposed to be notified under Sub-Section (2) should be laid before each House of Parliament and the Parliament should have the authority to modify or amend the same.**

**In view of the above, the Committee recommend the following amendments may be made in clause 11 :—**

**At page 4, —**

- (a) after line 34, insert "(a) recommend the need and timing for introduction of new service provider ; (b) recommend the terms and conditions of licence to a service provider".
- (b) in line 35, for "(a)", substitute "(c)".
- (c) in line 37 for "(b)", substitute "(d)";
- (d) for line 39, substitute - "(e) ensure compliance of terms and conditions of licence : (f) recommend revocation of licence for non-compliance of terms and conditions of licence,"
- (e) in line 40, for "(d)", substitute "(g)" ;
- (f) in line 42, for "(e)", substitute "(h)"

**At page 5, -**

- (a) in line 1, for "(f)", substitute (i) ;
- (b) in line 2, for "(g)", substitute (j) ;
- (c) in line 3, for "(h)", substitute (k) ;
- (d) in line 15, for the word "notify" substitute the words "notify in the Official Gazette" ;

- (e) in line 6, for "(i) levy fees", substitute "(1) levy fee and other charges;"
- (f) in line 8, for "(j)", substitute "(m)" ;
- (g) in line 9, for "(k)", substitute "n" ;
- (h) after line 20, insert

Page 5, after line 15 *add*

Provided that the Authority may notify different rates for different persons or groups for similar telecommunication services and where different rules are fixed as aforesaid the Authority should record the reasons therefor in the order itself.

At page 5 after line 20 insert -

### *Clause 11*

"(5) Every notification issued under sub-section (2), shall be laid, *as soon as may be* after it is published in the Official Gazette, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the notification or both Houses agree that notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so; however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the notification."

*Clause 11(3) Protection of Sovereignty :*

**In Section 11(3) of the Bill, it is provided TRAI shall not act against the interest of the sovereignty and integrity of India etc. The Committee desire that it may be modified as "the Authority shall uphold the sovereignty and integrity of India."**

The necessary changes may be incorporated accordingly.

(vi) *Clause 12 Powers to Authority to call for information, conduct investigation etc. :—*

**The Committee feel that "every officer of the Government Department if such service provider is department of Government," may be inserted in clause 12 (2) to encompass within its ambit Government departments providing services. It may now reads as under :—**

At page 5,— (a) after line 29. insert— "(a) every officer of the Government Department, if such service provider is a department of the Government;

(b) in line 30, for "(a)", substitute "(b)",

(c) in line 32, for "(b)", substitute "(c)" ;

(d) in line 34, for "(c)", substitute "(d)" ;

(e) in line 35, for "clause (a) and (b)", substitute "clauses (a) to (c)".

(vii) *Clause 15* Contains detailed provisions for filling of application by any aggrieved person for settlement of disputes by the Authority and procedure for passing orders thereon by the Authority.

The Committee note that on receipt of an application made under Sub-section (1), the Authority after giving an opportunity to the parties, pass such orders as it thinks fit. At present, no time limit has been prescribed for the Authority to pass orders on the application, the Committee feel that some time limit may be prescribed for early settlement of the case. The Committee, therefore, recommend following amendment may be made :

8. At page 6 for lines 40 to 42 *substitute*

"(2) On receipt of an application made under sub-section (1), the Authority may, after giving the parties an opportunity of being heard, pass such orders as it thinks fit preferably within a period of six months from the date of filing of such application and shall record reasons in writing if final order cannot be passed within the said period."

(viii) *Clause 18* contain provisions for filing an appeal to the High Court by any person aggrieved by any decision or order of the Authority.

The Committee note that as TRAI is to be chaired by a person who is or has been a Judge of Supreme Court or who is or has been the Chief Justice of a High Court, the propriety demands that an appeal against the order of the Authority should lie to Supreme Court and not High Court. Thus, *Clause 18* should be amended as follows :—

At page 7, in lines 24, 26, 29, 31, 35 for "High Court" substitute "Supreme Court".

(ix) *Clause 20* provide for penalty for wilful failure to comply with the orders of the Authority or the High Court.—

The Committee feel that penalty for wilful failure to comply with the orders of the Authority or Supreme Court needs to be made more stringent. The existing clause may therefore, be substituted as under :—

At page 7, for lines 34 to 36 *substitute*

20. If any person wilfully fails to comply with the orders of the Authority or any order of the Supreme Court as the case may be, he shall be punishable in the case of first offence with imprisonment for a term which may extend to one year or with fine which may extend to one lakh of rupees or with both and in case of a second offence with imprisonment for a term which shall extend to one year and with fine which may extend to two lakhs rupees and in the case of continuing contravention, with imprisonment for a term which may extend to two years and with fine which may extend to two lakhs of rupees for every day during which the default continues."

(x) *Clause 22* provide constitution of Telecom Regulatory Authority of India General Fund to meet expenses of TRAI. It further provide for grants/fees and charges to be credited thereto.

The Committee has recommended in clause 5 ante that the salaries and allowances payable to Chairperson and members and the administrative expenses including salaries, allowances and pension payable to or in respect of the officers and employees of the Authority shall be defrayed out of the Consolidated Fund of India. The provision made in 22(2) (a) may therefore, be omitted and the amendment may be as under :—

At page 8, —

- (a) omit lines 4 and 5;
- (b) in lines 6, for "(b)", substitute "(a)";
- (c) in line 7, for "(c)", substitute "(b)"

(xi) *Clause 25* provides for power of the Central Government to issue directions.

There was discussion in the Committee about powers of the Central Government to issue directions as provided in Clause 25. As there was no unanimity in the views of the Members, the Committee decided not to make any comments on it and leave it to the Houses to take a view on these provisions.

(xii) *Clause 29* provides for penalty in contravention of the directions of the Authority.

Clause 29 makes provision for first offence, second and subsequent offences and the penalties therefor. But there is no provision in the case of

**habitual offender. The Committee therefore, recommend in the case of continuing contravention, imprisonment for a term which may extend to two years or with additional fine which may extend to two lakh rupees for every day during which the default continues. The amendment will read as under:—**

At page 9 for lines 10 to 14 substitute —

"29. If any person violates the directions of the Authority, such person shall be punished in the case of first offence with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupee or with both and in case of a second offence with imprisonment for a term which may extend to eighteen months or with fine which may extend to two lakhs rupees and in case of continuing contravention with imprisonment for a term which may extend to two years or with additional fine which may extend to two lakhs rupees for every day during which the default continues."

**(xiii) The Committee note that no provision has been made in the Bill regarding offences by Government Departments. Since a large segment of Telecom Services will remain in Government in the foreseeable future, the Committee feel that a new clause may be inserted to make provision about offences committed by Government Departments and the Head of the Department should be deemed to be guilty of the offence. The Committee therefore, recommend inclusion of New Clause which may read as under :—**

At page 9, *after line 33, insert—*

30A. (1) Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall also deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly."

**(xiv) Clause 25 empowers the authority to make regulations with the previous approval of Central Government consistent with the Bill.**

The Committee note that Section 35 requires the prior approval of the Central Government for any regulations that TRAI may make. The Committee are of the view that this would substantially curtail the independence of TRAI and if the objective of the Bill is to establish an Authority independent of the Executive, for the telecom Sector, the requirement of previous approval should, therefore, be deleted. The Committee also recommend that in 35(2) (d) the words "and other charges" may be added after "fees". The amendments may read as under :—

At page 10, in line 31, for "fees"  
substitute "fees and other charges."

13. In view of the fact that constitution of the Telecom Regulatory Authority of India has already been delayed for more than a year. The Committee recommend that it should be constituted at an early date and in no case it should take more than six months.

14. Further the Committee desire that appropriate regulations may be made regarding maintenance of a Register by TRAI similar to the Registers maintained by Registrar of Companies, so that all particulars entered therein in respect of Intereconnect Agreements, Recognition given to Type Approvals etc. may be kept open for inspection by public on payment of a fee. For registration with TRAI and for giving recognition to Type Approvals a fee or charge may also be prescribed.

15. The Indian Telegraph Act, 1885 has undergone amendments at numerous occasions as also the Indian Wireless Telegraphy Act, 1933. Both these acts provide for issue of licences by the Government. The Committee are of the opinion that Government may consider desirability of undertaking review of the provisions of these two Acts in the context of the developments in Telecom Sector and the proposed constitution of Telecom Regulatory Authority of India Bill, 1996 so that a comprehensive legislation may be enacted.

NEW DELHI;  
November 8, 1996.  

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Kartika 17, 1918 (Saka)

SOMNATH CHATTERJEE,  
Chairman,  
Standing Committee on Communications.

*ANNEXURE I*

*(Vide Para 8)*

**Bill No. 36 of 1996**

**THE TELECOM REGULATORY AUTHORITY OF INDIA  
BILL, 1996**

**ARRANGEMENT OF CLAUSES**

**CHAPTER I**

**PRELIMINARY**

**CLAUSES**

1. Short title, extent and commencement.
2. Definitions.

**CHAPTER II**

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4. Qualifications for appointment of Chairperson and members.
5. Term of office, conditions of service, etc, of Chairperson and other members.
6. Powers of Chairperson and Vice-Chairperson.
7. Removal of members from office in certain circumstances.
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10. Officers and other employees of the Authority.



CHAPTER III  
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CLAUSES

11. Functions of Authority.
12. Powers of the Authority to call for information, conduct investigations etc.
13. Powers of the Authority to issue directions.

CHAPTER IV  
SETTLEMENT OF DISPUTES

14. Authority to settle disputes.
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16. Procedure and powers of the Authority.
17. Right to legal representation.
18. Appeal to the High Court.
19. Orders passed by Authority and High Court to be executable as a decree.
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CHAPTER V  
FINANCE, ACCOUNTS AND AUDIT

21. Grants by the Central Government.
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CHAPTER VI  
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**CLAUSES**

26. **Members, officers and employees of the Authority to be public servants.**
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30. **Offences by Companies.**
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32. **Delegation.**
33. **Cognizance of offences.**
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35. **Power to make regulations.**
36. **Rules and regulations to be laid before Parliament.**
37. **Application of certain laws.**
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# ANNEXURE I

(Vide Para 8)

AS INTRODUCED IN LOK SABHA

**Bill No. 36 of 1996**

## THE TELECOM REGULATORY AUTHORITY OF INDIA BILL, 1996

A

### BILL

*to provide for the establishment of the Telecom Regulatory Authority of India to regulate the telecommunication services, and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the forty-seventh Year of Republic of India as follows :—

#### CHAPTER I

##### PRELIMINARY

- Short title, extent and commencement.      1. (1) This Act may be called the Telecom Regulatory Authority of India Act, 1996.      5
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.      10
- Definitions.      2. (1) In this Act, unless the context otherwise requires, —
- (a) "appointed day" means the day with effect from which the Authority is established under sub-section (1) of section 3;
- (b) "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3;      15
- (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;      20

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

5 (f) "notification" means a notification published in the Official Gazette;

(g) "prescribed" means prescribed by rules made under this Act;

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

10 (i) "telecommunication services" 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, visual or other electro-magnetic means.

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

20 (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.

## CHAPTER II

### TELECOM REGULATORY AUTHORITY OF INDIA

25 3. (1) With effect from such date as the 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.

Establishment and incorporation of Authority.

35 (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 properly, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

**(3) The Authority shall consist of a Chairperson, and not less than two, but not exceeding four members, to be appointed by the Central Government.**

Qualifica-  
tions for ap-  
pointment  
of Chairper-  
son and  
members.

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

**4. (1) The Chairperson shall be a person who is or has been a Judge of the Supreme Court or who is or has been the Chief Justice of a High Court.**

**(2) A member shall be a person who has held the post of Secretary or Additional Secretary, or the posts 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 three years.**

Term of of-  
fice, condi-  
tions of ser-  
vice, etc., of  
Chairperson  
and other  
members.

**5. (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.**

**(2) The Chairperson shall hold office for a term of five years from the date on which he enters upon his office.**

**(3) A member shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.**

**(4) The employee of the Government on his selection as member shall have to retire from service before joining as a member.**

**(5) The salary, allowances and other conditions of service of the Chairperson shall be,—**

**(a) if he has been a Judge of the Supreme Court, the same as that of a Judge of the Supreme Court;**

**(b) if he has been the Chief Justice of a High Court, the same as that of the Chief Justice of the High Court:**

**Provided that in the case of an appointment of a person as a Chairperson who has retired as a Judge of the Supreme Court or a Chief Justice of a High Court and who is in receipt of or has received or has become entitled to**

receive any retirement benefits by way of pension, gratuity or other forms of retirement benefits, the pay of such person shall be reduced by the gross amount of pension and pension equivalent of gratuity or any other form of retirement benefits, if any, drawn or to be drawn by him.

(6) The salary and allowances payable to and the other terms and conditions of service of the members shall be such as may be prescribed.

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

(8) Notwithstanding anything contained in sub-section (2) or sub-section (3), 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 the provisions of section 7.

(9) The Chairperson or any other member ceasing to hold office as such, shall—

(a) be ineligible for further employment either under the Government of India or under the State Government; or

(b) not hold any appointment in any private company in telecom sector in relation to which any matter has been the subject matter of consideration before the Authority.

6. (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.

Powers of  
Chairper-  
son and  
Vice-  
Chairper-  
son.

(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.

Removal of  
members  
from office  
in certain  
circum-  
stances.

7. (1) The Central Government may remove from office any member, who—

(a) has been adjudged as 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.

(2) Notwithstanding anything contained in sub-section (1), no member shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the Central Government, has, on an inquiry, held by it in accordance with such procedure as it may specify in this behalf, reported that the member ought, on such ground or grounds, to be removed.

8. (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.

Meetings.

9. 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.

10. (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 determined by regulations.

### CHAPTER III

#### POWERS AND FUNCTIONS OF THE AUTHORITY

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

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

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

(c) ensure compliance of licence conditions by all service providers;

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

(e) facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services;

Vacancies, etc., not to invalidate proceedings of the Authority

Officers and other employees of the Authority

Functions of Authority.



(f) protect the interest of the consumers of telecommunication service;

(g) Settle disputes between service providers;

(h) render advice to the Central Government in the matters relating to the development of telecommunication technology and any other matter relatable to telecommunication industry in general; 5

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

(j) ensure effective compliance of universal service obligations; 10

(k) perform such other functions including such administrative and financial functions as may be entrusted to it by the Government or as may be necessary to carry out the provisions of this Act. 15

(2) Notwithstanding anything contained in the Indian Telegraph Act, 1885, the Authority may, from time to time, by order, notify 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. 13 of 1885 20

(3) While discharging its functions under sub-section (1), 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. 25

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

Powers of the Authority to call for information, conduct investigations, etc. 12. (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 30

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

(c) direct any of its 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)—

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

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

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

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.

20 (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, for proper functioning by service providers.

25 13. 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. Power of Authority to issue directions.

#### CHAPTER IV SETTLEMENT OF DISPUTES

30 14. (1) If a dispute arises, in respect of matters referred to in sub-section (2), among service providers or between service providers and a group of consumers, such disputes shall be adjudicated by a bench constituted by the Chairperson and such bench shall consist of two members: Authority to settle disputes

Provided that if the members of the bench differ on any point or points they shall state the point or points on which they differ and refer the same to a third member for hearing on such point or points and such point or points shall be decided according to the opinion of that member. 5

(2) The bench constituted under sub-section (1) shall exercise, on and from the appointed day all such jurisdiction, powers and authority as were exercisable immediately before that day by any civil court on any matter relating to—

(i) technical compatibility and inter-connections between service providers; 10

(ii) revenue sharing arrangements between different service providers;

(iii) quality of telecommunication service and interest of consumers: 15

Provided that nothing in this sub-section 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; 20  
54 of 1969.

(b) the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or a National Consumer Redressal Commission established under section 9 of the Consumer Protection Act, 1986 : 25  
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

Filing of application to Authority and procedure for passing order by it.

15. (1) An aggrieved person may make an application in respect of matters referred to in sub-section (2) of section 14 within such period as may be prescribed. 30

*Explanation.*—For the purposes of this sub-section, the expression "aggrieved person" means— 35

(i) any service provider who has a dispute in respect of matters referred to in clauses (i) and (ii) of sub-section (2) of section 14;

5 (ii) where any loss or damage is caused to a group of consumers, any member representing such group of consumers.

(2) On receipt of an application made under sub-section (1), the Authority may, after giving the parties an opportunity of being heard, pass such orders as it thinks fit.

10 (3) While arriving at a decision, the Authority shall record in writing the reasons for such decision.

(4) Every decision of the Authority shall be published in the annual report of the Authority.

15 (5) The orders and directions of the Authority shall be binding on the service providers, Government and all other persons concerned.

16. (1) The Authority shall be guided by the principles of natural justice.

Procedure  
and pow-  
ers of the  
Authority

20 (2) The Authority shall have, for the purpose of discharging their functions under this Chapter, the same powers as are  
5 of 1908 vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

25 (b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;

30 (f) dismissing an application for default or deciding it *ex parte*;

(g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;

(h) any other matter which may be prescribed.

(3) Every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code and the Authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860  
5  
2 of 1974

**Right to legal representation.** 17. The application may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Authority. 10

**Appeal to High Court.** 18. Any person aggrieved by any decision or order of the Authority may file an appeal to the High Court within thirty days from the date of communication of the decision or order of the Authority to him:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days. 15

**Orders passed by Authority or High Court to be executable as a decree** 19. Every order made by the Authority under this Act or the order may by the High Court in any appeal against any order of the Authority shall, on a certificate issued by any officer of the Authority or the Registrar of the High Court, as the case may be, be deemed to be decree of the civil court and shall be executable in the same manner as a decree of that court. 20  
25

**Penalty for wilful failure to comply with orders of the Authority or High Court.** 20. If any person wilfully fails to comply with the orders of the Authority or any order of the High Court, as the case may be, he shall be punishable with imprisonment for a term which may extend to two years, or fine, or with both. 30

## CHAPTER V

### FINANCE, ACCOUNTS AND AUDIT

**Grants by Central Government** 21. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as that Government may think fit for being utilised for the purposes of this Act. 35

22. (1) There shall be constituted a Fund to be called the Telecom Regulatory Authority of India General Fund and there shall be credited thereto—

5 (a) all grants, fees and charges received by the Authority under this Act; and

(b) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

10 (a) the salaries, allowances and other remuneration of the members, officers and other employees of the Authority;

(b) the expenses of the Authority in the discharge of its functions under this Act; and

(c) the expenses on objects and for purposes authorised by this Act.

15 23. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts  
and audit.

20 (2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such auditor shall be payable by the Authority to the Comptroller and Auditor-General of India.

25 (3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has, in connection with the Audit of the Government accounts and, in particular,  
30 shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

35 (4) The accounts of the authority as certified by the Comptroller and Auditor-General of India or any other person

appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Furnishing of returns, etc., to the Central Government. 24. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the telecommunication services, as the Central Government may, from time to time, require. 5 10

(2) The Authority shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament. 15

#### CHAPATER VI MISCELLANEOUS

Power of the Central Government to issue directions. 25. (1) The Central Government may, from time to time, issue to the Authority such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign states, public order, decency or morality. 20

(2) Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time: 25

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section; 30

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

- 45 of 1860. 5 26. All members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 of the Indian Penal Code. Members, officers and employees of the Authority to be public servants
27. No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine. Bar of Jurisdiction.
- 10 28. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any officer of Central Government or any member, officer or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder. Protection of action taken in good faith.
- 15 29. If any person violates directions of the Authority such person shall be punished in the case of first offence with imprisonment for a term which may extend to two years or with fine which may extend to one lakh rupees or with both and in case of a second or subsequent offence, with imprisonment for 20 a term which may extend to two years or with fine which may extend to two lakh rupees for each day of default. Penalty for contravention of directions of the Authority.
- 25 30. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Offences by companies.
- 30 Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.
- 35 (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed



with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished 5 accordingly.

*Explanation.*—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the 10 firm.

**Exemption from tax on wealth and income.** 31. Notwithstanding anything contained in the Wealth-tax Act, 1957, the Income tax Act, 1961, or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived. 27 of 1957  
43 of 1961 15

**Delegation.** 32. The Authority may, by general or special order in writing, delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle dispute under Chapter IV and to make regulation under section 35) as it may deem necessary. 20

**Cognizance of offences.** 33. (1) No court shall take cognizance of any offence punishable under this Act or the rules or regulations made thereunder, save on a complaint made by the Authority. 25

(2) No court inferior to that of a metropolitan magistrate or a judicial magistrate of the first class shall try any offence punishable under this Act.

**Power to make rules.** 34. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act. 30

(2) In particular, and without prejudice to the generality of the forgoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances payable to and the other conditions of service of the members under sub-section (6) of section 5;

5 (b) the powers and functions of the Chairperson under sub-section (1) of section 6;

(c) the category of books of account or other documents which are required to be maintained under sub-section (3) of section 12;

10 (d) the period within which an application is to be made under sub-section (1) of section 15;

(e) the manner in which the accounts of the Authority shall be maintained under sub-section (1) of section 23;

15 (f) the time within which and the form and manner in which returns and report are to be made to the Central Government under sub-sections (1) and (2) of section 24;

(g) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules;

20 35. (1) The Authority may, with the previous approval of <sup>Power to</sup> the Central Government, by notification, make regulations <sup>make regu-</sup> consistent with this Act and the rules made thereunder to carry out <sup>lations.</sup> the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

25 (a) the times and places of meetings of the Authority and the procedure to be followed at such meetings under sub-section (1) of section 8, including quorum necessary for the transaction of business;

30 (b) the transaction of business at the meetings of the Authority under sub-section (4) of section 8;

(c) the salaries and allowances payable to and the other conditions of service of officers and other employees of the Authority under sub-section (2) of section 10;

35 (d) levy of fees under clause (i) of sub-section (1) of section II.

Rules and regulations to be laid before Parliament

36. Every rule and every regulation made under this act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of certain laws.

37. The provisions of this Act shall be in addition to the provisions of the Indian Telegraph Act, 1885 and the Wireless Telegraphy Act, 1933 and, in particular, nothing in this Act shall affect any jurisdiction, powers and functions required to be exercised or performed by the Telegraph Authority in relation to any area falling within the jurisdiction of such Authority.

Power to remove difficulties.

38. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty;

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

## STATEMENT OF OBJECTS AND REASONS

In the context of the National Telecom Policy, 1994, which amongst other things stresses on achieving the Universal service, bringing the quality of telecom services to world standards, provisions of wide range of services to meet the customers' demand at reasonable price and participation of the companies registered in India in the area of basic as well as value added telecom services as also making arrangements for protection and promotion of consumer interest and enmsuring fair competition, there is a felt need to separate regulytory functions from service providing functions which will be in keeping with the general trend in the world. In the multi-operator situation arising out of opening of basic as well as value-added services in which private operator will be competing with Government operators, there is a pressing need for an independent telecom regulatory body for regulation of telecom services for orderly and healthy growth of telecommunication infrastructure apart from protection of consumer interest.

2. Earlier it was proposed to set up an independent Telecom Regulatory Authority as a non-statutory body and for that purpose the India Telegraph (Amendment) Bill, 1995. was introduced and then passed by Lok Sabha on 6th August, 1995 Having regard to the sentiments expressed by the Members of Rajya Sabha the time of consideration of aforesaid Bill, and of the views of the Standing Committee on Communication which expressed a hope that steps will be taken to set up a Statutory Authority, it is proposed to set up the Telecom Regulatory Authority of India as a statutory authority.

3. The proposed Authority will consist of a Chairperson and a minimum of two and maximum four Members. A person who is or has been a Judge of the Supreme Court or Chief Justice of a High Court, will be eligible to be appointed as Chairperson of the Authority. A Member shall be a person who has held the post of Secretary or Additional Secretary to the Government of India or an equivalent post in the Central Government or the State Government for a minimum period of three years.

4. The powers and functions of the Authority, *inter-alia* are—

(i) ensuring technical compatibility and effective inter-relationship between different service providers;

(ii) regulation of arrangement amongst service providers of sharing their revenue derived from providing telecommunication services;

- (iii) ensuring compliance of licence conditions by all service providers;
- (iv) protection of the interest of the consumers of telecommunication service;
- (v) settlement of disputes between service providers;
- (vi) fixation of rates for providing telecommunication service within India and outside India.
- (vii) ensuring effective compliance of universal service obligations.

5. The Authority shall have an in-built dispute settlement mechanism including procedure to be followed in this regard as well as a scheme of punishment in the event of non-compliance of its orders.

6. The Authority will have to maintain transparency while exercising its powers and functions. The powers and functions would enable the Authority to perform a role of watch-dog for the telecom sector in an effective manner.

7. In order that the Authority functions in a truly independent manner and discharges its assigned responsibility effectively, it is proposed to vest the Authority with statutory status.

8. A comprehensive Bill titled Telecom Regulatory Authority of India (TRAI) Bill, 1995 was prepared and a notice for introduction of the Bill in the Lok Sabha was given on 23.11.1995, which however could not be introduced in the Lok Sabha. Thereafter, since both the Houses of Parliament were not in session, and the Hon'ble President was satisfied that circumstances existed which rendered it necessary for him to take immediate action, the Telecom Regulatory Authority of India Ordinance, 1996 was promulgated on 27.01.1996.

9. A comprehensive Bill to replace the Ordinance No. 10 of 1996 promulgated on 27.01.1996 was introduced in Lok Sabha on 27.02.1996. However, the Bill could not come up for consideration and passing, in the Sixteenth Session of 10th Lok Sabha. The President was pleased to promulgate the Telecom Regulatory Authority of India (Second) Ordinance, 1996 (No. 20 of 1996) on 27.03.1996. The Ordinance has since lapsed.

10. It is now proposed to establish a statutory Telecom Regulatory Authority of India.

11. Hence the Bill.

NEW DELHI;  
The 8th July, 1996.

BENI PRASAD VERMA.

## NOTES ON CLAUSES

*Clause 2* defines the various expressions occurring in the Bill

*Clause 3* provides for the establishment of the Telecom Regulatory Authority of India by the Central Government. The Authority shall consist of a Chairperson and minimum two members and maximum four members which shall be appointed by the Central Government. The head office of the Authority shall be at New Delhi.

*Clause 4* makes provisions regarding the qualifications to be fulfilled for appointment of Chairperson and members of the Authority.

*Clause 5* contains provisions regarding the terms of office, conditions of service, etc., of Chairperson and other members of the Authority. This clause *inter alia*, provides that the Chairperson shall hold office for a term of five years from the date on which he enters upon his office and the member shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier. This clause states that the Chairperson or the members ceasing to hold office in the Authority shall be ineligible for further employment under the Central Government, State Government and in any private company in Telecom Sector in relation to which any matter has been the subject matter of consideration before the Authority.

*Clause 6* contains provisions regarding powers of the Chairperson and Vice-Chairperson. This clause further provides that the Central Government may appoint one of the members to act as the Vice-Chairperson of the Authority.

*Clause 7* contains provisions for removal of members from office in certain circumstances.

*Clause 8* contains detailed provisions regarding conduct of the meetings of the Authority.

*Clause 9* provides that no act or proceedings of the Authority shall be invalid by reasons of any vacancy in, or any defect in the constitution, of the Authority or any defect in the appointment of a person acting as a member of the Authority.

*Clause 10* makes provisions for appointment of officers and other employees in the Authority and for determination of the salaries and allowances and the other terms and conditions of service of such officers and employees.

*Clause 11* lays down the powers and functions, of the Authority. The functions of the Authority, *inter alia*, shall be to—

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

(b) regulate arrangement of sharing revenue derived from providing telecommunication services;

(c) ensure compliance of licenece conditions by all service providers;

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

(e) facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services;

(f) protect the interest of the consumers of telecommunication service;

(g) settle disputes between service providers;

(h) fix rates for providing telecommunication service within India and outside India including the rates at which messages shall be transmitted to any country outside India;

(i) render advice to the Central Government in the matters relating to the development at telecommunication technology and any other matter relatable to telecommunication industry in general;

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

(k) ensure effective compliance of universal service obligations;

(l) perform such other functions including such administrative and financial functions as may be entrusted to it by the Government or as may be necessary to carry out the provisions of this Bill.

The Authority shall ensure transparency while exercising its powers and discharging its functions. This clause further states that 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 or decency or morality.

*Clause 12 inter alia*, seeks to empower the Authority to call information from any service provider, conduct enquiry in relation to the affairs of any service provider and direct any of its officers or employees to inspect the books of account or other documents of any service provider and to issue such directions to service provider as it may consider necessary, for proper functioning by service providers.

*Clause 13* seeks to empower the Authority to issue directions from time to time to the service provider for discharging of its functions.

*Clause 14* makes detailed provisions for settlement of disputes among service providers or between service providers and a group of consumers. This clause, *inter alia*, provides that such disputes shall be adjudicated by a bench consisting of two members constituted by the Chairperson. The provisions of this clause shall not be applied in respect of matters related to (a) monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject matter of the Monopolies and Restrictive Trade Practices Commission, (b) complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission, National Consumer Redressal Commission, and (c) disputes between Telegraph Authority and any other person referred to in sub-section (1) of section 7B of the Indian Telegraph Act, 1885.

*Clause 15* contains detailed provisions for filing of application by any aggrieved person for settlement of disputes by the Authority and procedure for passing order thereon by the Authority.

*Clause 16* contains the procedure and powers of the Authority for the purpose of discharging its functions for settlement of disputes under Chapter IV of the Bill.

*Clause 17* provides for right to legal representation by an applicant before the Authority.

*Clause 18* contains provisions for filing an appeal to the High Court by any person aggrieved by any decision or order of the Authority.

*Clause 19* states that every order made by the Authority and the High Court shall be executable in the same manner as a decree of the Civil Court.

*Clause 20* seeks to provide for penalty for wilful failure to comply with the orders of the Authority or the High Court.

*Clause 21* contains provisions for grants of such sum of money as the Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority to be utilised for the purposes of this Bill.

*Clause 22* provides for constitution of the Telecom Regulatory Authority of India General Fund. It further provides for grants, fees and charges to be credited thereto and all payments should be made therefrom.

*Clause 23* provides for usual provisions regarding maintenance of proper accounts and other relevant records by the Authority as may be prescribed by the Central Government. The accounts of the Authority should be audited and certified by the Comptroller and Auditor-General of India which would be laid before Parliament by the Central Government.



*Clause 24* provides for furnishing of returns, statements and annual report by the Authority to the Central Government. A copy of the annual report shall be laid, as soon as may be after it is received, before each House of Parliament.

*Clause 25* confers powers on the Central Government to issue directions to the Authority.

*Clause 26* specifies that member, officers and other employees of the Authority shall be deemed to be public servants.

*Clause 27* specifies that no civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Bill to determine.

*Clause 28* provides for usual provisions relating to the protection of action taken in good faith.

*Clause 29* provides for penalty in contravention of the directions of the Authority.

*Clause 30* provides that any offence committed by a company and punishable under the Bill would cover the person in-charge of the company.

*Clause 31* provides the Authority with exemption from tax on wealth and income.

*Clause 32* provides for delegation of certain powers of the Authority.

*Clause 33* lays down that a court should take cognizance of offences punishable under the provisions of the Bill or any rules and regulations made thereunder on a complaint made by the Authority. This clause further states that no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable under the Bill.

*Clause 34* confers on the Central Government the power to make rules for carrying out the provisions of the Bill.

*Clause 35* empowers the Authority to make regulations with the previous approval of the Central Government consistent with the Bill.

*Clause 36* lays down that the rules and regulations made under the Bill would be laid before Parliament.

*Clause 37* provides that the provisions of the Bill are in addition to the provisions of the Indian Telegraph Act, 1885 and the Wireless Telegraphy Act, 1933 and nothing in the Bill shall affect any jurisdiction, powers and functions required to be exercised or performed by the Telegraph Authority in relation to any area falling within the jurisdiction of the Authority.

*Clause 38* seeks to empower the Central Government to remove difficulties which may arise in giving effect to the provisions of the Bill.

## FINANCIAL MEMORANDUM

As envisaged in the Telecom Regulatory Authority of India Bill, 1996, the Central Government proposes to set up an independent statutory Telecom Regulatory Authority under clause 3. Recurring expenditure towards pay and allowances, etc., of the Chairperson under sub-clause (5) and members under sub-clause (6) of clause 5 and of the officers and other employees under clause 10 is estimated approximately at Rs. 47 lakhs per annum. Rough estimation of non-recurring expenditure on items such as furniture, office equipment, vehicle, etc, would be approximately of the order of Rs. 75 lakhs.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 34 of the Bill empowers the Central Government to make rules to provide, among other matters, salaries and allowances and other conditions of service of the Chairperson and other members, powers and functions of Chairperson and Vice-Chairperson, the form in which the Authority may maintain its accounts and the manner of audit of accounts, the time within which and the form and manner in which returns and reports are to be made to the Central Government, the manner in which service providers shall maintain books of account and other documents and the time within which an aggrieved person may make an application before the Authority under Chapter IV of the Bill.

Clause 35 of the Bill empowers the Authority, with the previous approval of the Central Government, to make regulations to provide for the terms and conditions of service of officers and other employees of the Authority, the time and place of meeting of the Authority and the procedure to be followed at such meeting (including quorum), transaction of business at the meeting and the services in respect of which fee is to be levied as well as the rates of such fee.

The matter in respect of which rules and regulations may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, normal in character.

# LOK SABHA

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A

BILL

to provide for the establishment of the Telecom Regulatory Authority of India to regulate the telecommunication services, and for matters connected therewith or incidental thereto.

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*(Shri Beni Prasad Verma, Minister of State in the Ministry of Communications)*

# LOK SABHA

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## CORRIGENDA

to

### THE TELECOM REGULATORY AUTHORITY OF INDIA BILL, 1996

(To be/As introduced in Lok Sabha)

1. Page (ii),—
  - (i) *against* clause No. 15.,—  
*for* "applicaton" *read* "application"
  - (ii) *against* clause No. 19.,—  
*for* "and" *read* "or"
  - (iii) *against* clause No. 26.,—  
*for* "pubic" *read* "public"
2. Page 1, in the Enacting Formula,—  
*after* "Year of" *insert* "the"
3. Page 2, line 7,—  
*for* "Vice Chairperson;" *read* "Vice-Chairperson;"
4. Page 2, line 25,—  
*after* "as the" *insert* "Central"
5. Page 2, line 29,—  
*for* "scal," *read* "seal,"
6. Page 2, Line 30,—  
*for* "properly" *read* "property"
7. Page 3, line 31,—  
*for* "subject matter" *read* "subject-matter"
8. Page 6, in the marginal heading to clause 13,—  
*for* "Power of Authority *read* "Powers of the Authority"
9. (a) Page 6, line 1,—  
*for* "functiongs" *read* "functions"

9. (b) Page 6, line 27,—  
*for "or a the" read "or the"*
10. Page 7, line 12,—  
*for "reviweing" read "reviewing"*
11. Page 7, in the marginal heading to clause 18,—  
*for "to High" read "to the High"*
12. Page 7, line 29,—  
*for "order may" read "order made"*
13. Page 7, in the marginal heading to clause 21,—  
*for "Central" read "The Central"*
14. Page 8, line 23,—  
*for "of Indian" read "of India"*
15. Page 8, line 38,—  
*for "from to time" read "from time"*
16. Page 9, line 7,—  
*for "officer of Central" read "officer of the Central"*
17. Page 9, line 24,—  
*for "Nothwithstanding" read "Notwithstanding"*
18. Page 10, line 32,—  
*for "section II." read "section II."*
19. Page 12, line 4,—  
*for "provisions" read "provision"*
20. Page 12, line 6,—  
*for "value added" read "value-added"*
21. Page 12, line 11,—  
*for "operators," read "operator,"*
22. Page 12, line 16,—  
*after "passed by" insert "the Tenth"*
23. Page 12, line 17,—  
*after "Sabha" insert "at"*

24. Page 12, line 18,—  
*for "Communication" read "Communications"*
25. Page 12, line 19,—  
*for "expressed a" read "expressed the"*
26. In the docket page, —
- (i) *for "Telecom Regulatory Authority of Indian"  
read "Telecom Regulatory Authority of India"*
  - (ii) *for "Ministor of State in the Ministry of Communications"  
read "Minister of Communications"*

NEW DELHI;  
July 17, 1996

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*Asadha 26, 1918 (Saka)*

MINUTES OF THE NINTH SITTING OF THE COMMITTEE ON  
COMMUNICATIONS (1996-97)

The Committee sat on Wednesday the 4th September, 1996 from 1500 hrs. to 1700 hrs. in Committee Room 'E', Parliament House Annexe, New Delhi.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

*Lok Sabha*

2. Shri K. L. Sharma
3. Prof. Rasa Singh Rawat
4. Smt. Sheela Gautam
5. Shri Somjibhai Damor
6. Shri M. P. Veerendra Kumar
7. Shri R. Devadas
8. Dr. Shafiqur Rehman Barq
9. Shri Budh Sen Patel
10. Shri Joachin Baxla

*Rajya Sabha*

11. Shrimati Veena Verma
12. Shri S. S. Ahluwalia
13. Shri O. Rajagopal
14. Shri Md. Salim
15. Shri Ish Dutt Yadav

SECRETARIAT

1. Shri J. P. Ratnesh — *Joint Secretary*
2. Shri Ram Autar Ram — *Deputy Secretary*
3. Shri S. K. Sharma — *Under Secretary*



REPRESENTATIVES OF DEPARTMENT OF TELECOMMUNICATIONS

- \*1. Shri M. P. Modi — Chairman  
Telecom Commission and Secretary (DOT)
- \*2. Shri P. S. Saran, Member (Services)
- \*3. Shri Arun Bhatnagar, Addl. Secretary

REPRESENTATIVES OF MINISTRY OF LAW AND JUSTICE

- \*1. Dr. K. N. Chaturvedi, Joint Secretary  
Legislative Council, Legislative Department
- \*2. Shri V. K. Bhasin, Deputy Legislative Council  
(Legislative Department)

NON-OFFICIAL WITNESS

- \* 1. Shri D. K. Sangal, Former Secretary &  
Director General, Department of  
Telecommunications (DOT).

2. The Committee took up selection of subjects for the year 1996-97. After discussion the Committee selected the following subjects for examination during the year 1996-97 :—

I. *Department of Telecommunications*

- † 1. Privatisation of Basic Telephone Services.
- † 2. Expansion of Telephone Network including selection of Multi Access Relay Radio (MARR) and other contemporary technologies.

II. *Department of Post*

- † 3. Postal Network

III. *Ministry of Information & Broadcasting*

- † 4. Doordarshan – Production of Programmes in-house and by Outside Producers
- † 5. Quality of Electronic Media Programmes.
- † 6. Working of AIR Network.

3. Thereafter the representatives of Department of Telecommunications (DOT) took their seats. The Chairman welcomed them to the sitting of the Committee to brief the Members on Telecom Regulatory Authority of India

\*Were not present when the Committee discussed selection of subject.

† Priority subject.

(TRAI), Bill, 1996. After briefing the Committee sought certain clarifications. The Chairman thanked the officials of DOT for giving valuable information to the Committee.

4. Then, the Chairman welcomed Shri D. K. Sangal, Former Secretary and D. G., DOT to the sitting of the Committee as a non-official witness. After sometime the Chairman left the meeting and further sitting was chaired by Shri K. L. Sharma, M. P. The Committee heard the view of Shri Sangal on the proposed TRAI, Bill, 1996 and made certain clarifications on the points raised by members. Shri Sangal also submitted certain papers to the Committee for consideration. The Committee thanked Shri D. K. Sangal for appearing before the Committee and expressing free and frank views on the aforesaid Bill.

5. A verbatim record of discussions has been kept.

*The Committee then adjourned.*

MINUTES OF THE TENTH SITTING OF THE STANDING  
COMMITTEE ON COMMUNICATIONS (1996-97)

The Committee sat on Wednesday, the 11th September, 1996 from 1500 hrs. to 1645 hrs. in Committee Room 'E', Parliament House Annexe, New Delhi.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

*Lok Sabha*

2. Shri K. L. Sharma
3. Shri Harin Pathak
4. Smt. Bhavna Chikhalia
5. Shri Mahesh Kanodia
6. Shri Harpal Singh Sathi
7. Shri Girdhar Gamango
8. Shri T. Veera Bhadram
9. Shrimati Geeta Mukherjee
10. Shri Budh Sen Patel
11. Shri Keshab Mahanta
12. Shri Churchill Alemao

*Rajya Sabha*

13. Shrimati Veena Verma
14. Shri S. S. Ahluwalia
15. Shri Md. Salim
16. Shri Satish Pradhan

SECRETARIAT

1. Shri J. P. Ratnesh — *Joint Secretary*
2. Shri Ram Autar Ram — *Deputy Secretary*
3. Shri S. K. Sharma — *Under Secretary*

## WITNESSES

*Representatives of Department of Telecommunications, Ministry of Communications*

1. Shri M. P., Modi, Chairman, Telecom Commission and Secretary, (DOT).
2. Shri P. S. Saran, Member (Services) Telecom Commission.
3. Shri Arun Bhatnagar, Addl. Secretary, (DOT).
2. At the outset, the Chairman welcomed the Secretary, Department of Telecommunications and the officials accompanying him.
3. The Committee sought certain clarifications on the provisions/clauses of Telecom Regulatory Authority of India Bill, 1996 from the representatives of the Department which were replied by them.
4. The Chairman thanked the officials for furnishing valuable information to the Committee and for free and frank views given on various points raised by the Members.
5. A verbatim record of sitting has been kept.

*The Committee then adjourned.*

MINUTES OF THE ELEVENTH SITTING OF THE STANDING  
COMMITTEE ON COMMUNICATIONS (1996-97)

The Committee sat on Thursday, the 12th September, 1996 from 1630 hrs. to 1715 hrs. in Committee Room 'E', Parliament House Annexe, New Delhi.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

*Lok Sabha*

2. Shri K. L. Sharma
3. Prof. Rasa Singh Rawat
4. Smt. Sheela Gautam
5. Shri Harpal Singh Sathi
6. Shri Girdhar Gamango
7. Shri T. Veera Bhadrani
8. Shrimati Geeta Mukherjee
9. Shri Budh Sen Patel
10. Shri Keshab Mahanta
11. Shri Churchill Alemao

*Rajya Sabha*

12. Shrimati Veena Verma
13. Shri Govindram Miri
14. Shri O. Rajagopal
15. Shri Satish Pradhan

SECRETARIAT

1. Shri Ram Autar Ram — *Deputy Secretary*
2. Shri S. K. Sharma — *Under Secretary*

WITNESS

1. Shri N. Vittal — *Chairman, Public Enterprises Selection Board and Former Secretary, DOT.*

At the outset, the Chairman welcomed Shri N. Vittal, Former Secretary, Department of Telecommunications as a non-official witness.

2. The Committee heard the views of Shri Vittal on the proposed TRAI, Bill, 1996 as well as on "Privatisation of Basic Telephone Services" and sought certain clarifications on the points raised by the Members.

3. The Chairman thanked Shri Vittal for appearing before the Committee and for expressing his free and frank views on the subjects and desired that if the witness has to add anything further to what he has stated in meeting, the same may be furnished in writing to the Committee.

4. The verbatim record of the sitting has been kept..

*The Committee then adjourned.*

MINUTES OF THE TWELFTH SITTING OF THE STANDING  
COMMITTEE ON COMMUNICATIONS  
(1996-97)

The Committee sat on Monday, the 23rd September, 1996 from 1500 hrs. to 1750 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

*Lok Sabha*

2. Shri K. L. Sharma
3. Shri Harin Pathak
4. Shri Girdhar Gamango
5. Shri Somjibhai Damor
6. Shri Mrutyunjaya Nayak
7. Shri Thomas Hansda
8. Shri M. P. Veerendra Kumar
9. Shri R. Devadas
10. Shrimati Geeta Mukherjee
11. Shri Joachim Baxla

*Rajya Sabha*

12. Shrimati Veena Verma
13. Shri S. S. Ahluwalia
14. Shri Shatrughan Prasad Sinha
15. Shri Narendra Pradhan
16. Dr. Ramendra Kumar Yadav Ravi
17. Shri Md. Salim
18. Shri Ish Dutt Yadav
19. Shri Satish Pradhan

SECRETARIAT

1. Shri J. P. Ratnesh — *Joint Secretary*
2. Shri Ram Autar Ram — *Deputy Secretary*
3. Shri S. K. Sharma — *Under Secretary*

At the outset, the Chairman apprised the Members that the Committee has been divided into two Study Groups *i.e.* Study Group I and Study Group II to undertake an on-the-spot study tour to various places during the month of October, 1996 keeping in view the subjects selected this year for examination.

The Chairman then informed the members about the constitution of three Sub-Committees to consider the subjects selected by the Committee for examination during 1996-97 pertaining to the Department of Post, Department of Telecommunications and Ministry of Information & Broadcasting.

The Committee then took up clause by clause consideration of Telecom Regulatory Authority of India Bill, 1996 and considered it upto Clause 11 and deferred further consideration to next sitting to be held on 10 October, 1996.

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*The Committee then adjourned.*



MINUTES OF THE THIRTEENTH SITTING OF THE STANDING  
COMMITTEE ON COMMUNICATIONS  
(1996-97)

The Committee sat on Thursday, the 10th October, 1996 from 1100 hrs. to 1245 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

*Lok Sabha*

2. Shri K. L. Sharma
3. Prof. Rasa Singh Rawat
4. Smt. Bhavna Chikhalia
5. Shri Harpal Singh Sathi
6. Shri Girdhar Gamango
7. Shri Thomas Hansda
8. Shri M. P. Veerendra Kumar
9. Shri Dinesh Chandra Yadav
10. Shri R. Devadas
11. Shrimati Geeta Mukherjee

*Rajya Sabha*

12. Shrimati Veena Verma
13. Shri Iqbal Singh
14. Shri S. S. Ahluwalia
15. Shri Ahmed Patel
16. Shri Govindram Miri
17. Dr. Ramendra Kumar Yadav Ravi
18. Shri Md. Salim
19. Shri Satish Pradhan

SECRETARIAT

1. Shri Ram Autar Ram — *Deputy Secretary*
2. Shri S. K. Sharma — *Under Secretary*

## REPRESENTATIVES OF THE MINISTRY OF LAW AND JUSTICE

1. Shri K. N. Chaturvedi, JS & LC.
2. Shri D. P. Sharma, JS & LA.
3. Shri V. K. Bhasin, Dy. Leg. Counsel

At the outset, the Chairman welcomed the Members to the sitting of the Committee and informed the Members that representatives of Ministry of Law & Justice have been invited to the sitting to assist the Committee.

The Committee then took up the clause by clause consideration of TRAI Bill, 1996 which was adopted with amendments as shown in Annexure.

The Chairman then thanked the representatives of the Ministry of Law and Justice for giving valuable assistance.

*The Committee then adjourned.*

## STANDING COMMITTEE ON COMMUNICATIONS

*Amendments in the Telecom Regulatory Authority Bill, 1996.*

## Draft of Amendments

S. No.	Text of Amendments	Clause No.
1.	<p>At page 2, –</p> <p>(a) After line 5, insert –</p> <p>'(e) "licencees" means any person licensed under sub-section (1) of section 4 of the Telegraph Act, 1885 or section 5 of the Indian Wireless Telegraphy Act, 1933;'</p> <p>(b) in line 6, for "(e)", substitute "(f)";</p> <p>(c) in line 8, for "(f)", substitute "(g)";</p> <p>(d) in line 9, for "(g)", substitute "(h)";</p> <p>(e) in line 10, for "(h)", substitute "(i)";</p> <p>(f) after line 10, insert –</p> <p>'(j) "service provider" means a licensee or the Government or any other person engaged in providing telecommunication services.'</p> <p>(g) in line 11, for "(i)", substitute "(k)".</p>	2
2.	<p>At page 2, for lines 32 and 33, substitute—</p> <p>"(3) The Authority shall consist of a Chairperson, and not less than five, but not exceeding seven members."</p>	3
3.	<p>At page 2, for lines 37 to 40, substitute –</p> <p>"(2) The members referred to in sub-section (3) of section 3 shall be from amongst the persons who have special knowledge of, and professional experience in, telecommunication, telecommunication industry, finance, law or consumer affairs.</p>	4

(3) The Chairperson shall be appointed by the Central Government after obtaining the recommendation of a Committee consisting of –

- (a) Chief Justice of India;
- (b) Speaker of the House of the People;
- (c) Deputy Chairman of the Council of States;
- (d) Minister Incharge of the Ministry of Communication; and
- (e) Leader of the Opposition in the House of the People.

(4) Every member shall be appointed by the Central Government after consultation with the Chairperson."

At page 3 –

5

(a) in line 2, for "sixty-two", substitute "sixty-five";

(b) for lines 6 to 10, substitute –

"shall be same as that of Judge of the Supreme Court:";

(c) for lines 18 and 19, substitute –

"(6) The salary, allowances and other conditions of service of the members shall be the same as that of a judge of a High Court.

(7) The salaries and allowances payable to the Chairperson and members and the administrative expenses, including salaries, allowances and pension payable to or in respect of the officers and employees of the Authority shall be defrayed out of the Consolidated Fund of India.";

(d) in line 20, for "(7)" substitute "(8)";

(e) in line 22, for "8", substitute "9";

(f) after line 26 insert, –

"(10) A vacancy caused by resignation or removal of the Chairperson or any other member shall be filled up by fresh appointment not later than two months from the date of which such vacancy occurred.";

(g) in line 27, for "(9)", substitute "(11)";

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1	2	3
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(h) for lines 30 to 32, substitute –

"(c)" not hold any appointment in any company or concern in telecommunication sector for a period of two years from the day he ceased to be the member of the Authority."

5. At page 4, – 11

(a) after line 34, insert –

"(a) recommend the need and timing for introduction of new service provider;

(b) recommend the terms and conditions of licence to a service provider";

(b) in line 35, for "(a)", substitute "(c)";

(c) in line 37, for "(b)", substitute "(d)";

(d) for line 39, substitute –

"(e) ensure compliance of terms and conditions of licence;

(f) recommend revocation of licence for non-compliance of terms and conditions of licence;";

(e) in line 40, for "(d)", substitute "(g)";

(f) in line 42, for "(e)", substitute "(h)".

6. At page 5, – 11

(a) in line 1, for "(f)", substitute (i);

(b) in line 2, for "(g)", substitute (j);

(c) in line 3, for "(h)", substitute (k);

(d) in line 5, for "notify", substitute "notify in the Official Gazette";

(e) in line 6, for "(i) levy fees", substitute "(1) levy fee and other charges;";

(f) in line 8, for "(j)", substitute "(m)";

(g) in line 9, for "(k)", substitute "n";

(h) after line 20, insert –

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1	2	3
	<p>"(5) A copy of every order proposed to be notified under sub-section (2), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both House agree in disapproving the issue of the order or both Houses agree in making any modification in the order, the order shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses".</p>	
7.	<p>At page 5, –</p> <p>(a) after line 29, insert –</p> <p>"(a) every officer of the Government department, if such service provider is a department of the Government;";</p> <p>(b) in line 30, for "(a)", substitute "(b)";</p> <p>(c) in line 32, for "(b)", substitute "(c)";</p> <p>(d) in line 34, for "(c)", substitute "(d)";</p> <p>(e) in line 35, for "clause (a) and (b)", substitute "clauses (a) to (c)".</p>	12
8.	<p>At page 6 for lines 40 to 42 substitute</p> <p>"(2) On receipt of an application made under sub-section (1), the Authority may, after giving the parties an opportunity of being heard, pass such orders as it thinks fit within a period of six months from the date of filing of such application."</p>	15
9	<p>At page 7, in line 24, for "High Court" substitute "High Court having jurisdiction in the matter".</p>	18
<p>10. Penalty for wilful failure to comply with orders of the Authority or High Court.</p>	<p>At page 7, for lines 34 to 36, substitute –</p> <p>20. If any person wilfully fails to comply with the orders of the Authority or any order of the High Court as the case may be, such person shall be punished in the case of first offence with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees</p>	20

1	2	3
	or with both and in case of a second offence with imprisonment for a term which may extend to one year with fine which may extend to two lakhs rupees and in the case of continued contravention with imprisonment for a term which may extend to two years or with additional fine which may extend to two lakhs rupees for every day during which the default continues."	
11.	At page 8, – (a) omit lines 4 and 5; (b) in line 6, for "(b)", substitute "(a)"; (c) in line 7, for "(c)", substitute "(b)".	22
12.	At page 8, for lines 31 to 33, substitute – "(2) The Authority shall prepare once every year in such form and within such time as may be prescribed – (a) an annual report giving a summary of its activities; and (b) memorandum of action taken on the recommendations made by the Authority and the reasons for non-acceptance, if any, of any of such recommendation,	24
	during the previous year and the copies of the report together with memorandum shall be forwarded to the Central Government."	
13.	At page 9 for lines 10 to 14, substitute – "29. If any person violates the directions of the Authority, such person shall be punished in the case of first offence with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupee or with both and in case of a second offence with imprisonment for a term which may extend to one year or with fine which may extend to two lakhs rupees and in case of continuing contravention with imprisonment for a term which may extend to two years or with additional fine which may extend to two lakhs rupees for every day during which the default continues."	29
14.	At page 9, after line 33, insert – 30A. (1) Where an offence under this Act has been committed by any Department of Government, the Head of	
"Offences by Government Departments.		New Clause

the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in subsection (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly."

15. At page 10, - 34
- (a) omit lines 4 and 5;
  - (b) in line 6, for "(b)", substitute "(a)";
  - (c) in line 8, for "(c)", substitute "(b)";
  - (d) in line 10, for "(d)", substitute "(c)";
  - (e) in line 12, for "(e)", substitute "(d)";
  - (f) in line 14, for "(f)", substitute "(e)";
  - (g) in line 17, for "(g)", substitute "(f)";
16. At page 10, in line 31, for "fees" 35  
substitute "fees and other charges".



MINUTES OF THE SIXTEENTH SITTING OF THE STANDING  
COMMITTEE ON COMMUNICATIONS (1996-97)

The Committee sat on Thursday, the 7th November, 1996 from 1100 hrs. to 12.45 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Somnath Chatterjee—*Chairman*

MEMBERS

*Lok Sabha*

2. Shri K. L. Sharma
3. Prof. Rasa Singh Rawat
4. Smt. Sheela Gautam
5. Smt. Bhavna Chikhalia
6. Shri Harpal Singh Sathi
7. Smt. Sukhbuns Kaur
8. Shri Somjibhai Damor
9. Shri Dinesh Chandra Yadav
10. Shri R. Devadas
11. Shrimati Geeta Mukherjee
12. Shri Keshab Mahanta
13. Shri Joachim Baxla

*Rajya Sabha*

14. Shrimati Veena Verma
15. Shri Iqbal Singh
16. Shri S. S. Ahluwalia
17. Shri Govindram Miri
18. Shri O. Rajagopal
19. Shri Shatrughan Prasad Sinha
20. Shri Narendra Pradhan

SECRETARIAT

1. Shri Ram Autar Ram — *Deputy Secretary*
2. Shri S. K. Sharma — *Under Secretary*

At the outset, the Chairman welcomed the Members to the sitting of the Committee.

The Committee then took up for consideration the draft Report on TRAI Bill upto clause 20 and adopted it with amendments as shown in Annexure.

The Chairman decided to consider the remaining clauses of the Draft Report on 8.11.1996 at 11.00 hrs.

*The Committee then adjourned to meet again on 8 November, 1996.*



1	2	3
7.	(ii)/1	of the same and the scope of the Bill and" for Clause 3 . . . . . Set up'.
9.	(iii)/7	Read Clause 3(3) provides for the composition of the Authority."
	(iii)/11	for the Committee . . . . . strictly"
10.	(iii)/1	Read the Committee note that under the Bill members of the Authority will be appointed"
	(iii)/1	Add at the end "but are of opinion that if
10.	(iii)/1	For the existing para "In order to . . . . DOT" read "In order to impart transparency in selection procedure for the post of Chairperson of TRAI and to avoid any controversy, the Committee are of the view that it is desirable that the Government should appoint the Chairperson of the Authority, on the recommendations made by a Committee consisting of Chief Justice of India, Speaker Lok Sabha, Cabinet Minister of Communications, the Leader of Opposition in Lok Sabha (and in case no Leader of Opposition is available, the consultation should be with the leader of the largest opposition group in the Lok Sabha) and Dy. Chairperson Rajya Sabha with the Chief Justice as the Chairman. Before incorporating this provision the Government are advised to obtain the consent of the present incumbents of the respective offices and it is hoped that in national interest such consent will be available."
10.	(iii)/9	Add before the sentence "The Committee are of the opinion that".
10.	(iii)/20	Add after finance, "accountancy"
11.	(iii)/	Adds "after (e) Explanation – (If in case no Leader of the Opposition is available, the consultation should be with the leader of the

1	2	3
11.	(iv)/4	largest opposition group in the Lok Sabha). Add after years "from the date on which he enters upon the office"
11.	(iv)/7-9	for "fixed . . . . . be kept" Read "uniformity in and adequate tenure there Should be uniform retirement age"
13.	(iv)/18	for appointment not later than" read "appointment within a period not in any case exceeding two months".
14.	(v)/1	for "The Committee . . . . . as" Read "The Committee feel that to make the Authority more meaningful as well as effective, it should be entrusted with certain other functions than mentioned in the Bill. The Committee are of the view that"
	(v)/10	for the "incorporated in . . . . . in." Read "included in Clause 11. the Committee are of the opinion that in"
14.	(v) 19-23	For the existing para "The Committee. . . . both the Houses." Read "The Committee are of the opinion that power should be conferred on the Authority to fix different rates for different classes of consumers and where different rates are fixed for similar services, the Authority should record the reasons therefor. It may be necessary to provide relief to individual consumer or for community interest. The Committee are also of the view that a copy of the order proposed to be notified under Sub-Section (2) should be laid before each House of Parliament and the Parliament should have the authority to modify or amend the same.
16	(v)/1	For the existing para (5) a copy . . . . both the Houses"

Add "Page 5, after line 15 *add*

Provided that the Authority may notify different rates for different persons or groups for similar telecommunication services and where different rules are fixed as aforesaid the Authority should record the reasons therefor in the order itself.

At page 5 after line 20 insert –

*Clause 11*

"(5) Every notification issued under subsection (2), shall be laid, *as soon as may be* after it is published in the Official Gazette, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the notification or both Houses agree that notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so; however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the notification."

17. (vii)/18

Add "after such application "and shall record reasons in writing in final order cannot be passed within the said period."

18. (vii)/6-8

for "This step . . . . . stage."

read "Thus, Clause 18 should be amended as follows :

18. (vii)/11

for "such person"

read "he"

## MINUTES OF THE SEVENTEENTH SITTING OF THE STANDING COMMITTEE ON COMMUNICATIONS (1996-97)

The Committee sat on Friday, the 8th November, 1996 from 1100 hrs. to 12.00 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

### PRESENT

Shri Somnath Chatterjee—*Chairman*

### MEMBERS

#### *Lok Sabha*

2. Dr. S. N. Jatiya
3. Prof. Rasa Singh Rawat
4. Smt. Sheela Gautam
5. Shri Harpal Singh Sathi
6. Shri Somjibhai Damor
7. Shri Dinesh Chandra Yadav
8. Shri R. Devadas
9. Shrimati Geeta Mukherjee
10. Shri Girdhar Gamango
11. Shri Mrutyunjaya Nayak
12. Shri Joachim Baxla

#### *Rajya Sabha*

13. Shrimati Veena Verma
14. Shri Govindram Miri
15. Shri Shatrughan Prasad Sinha

### SECRETARIAT

Shri Ram Autar Ram — *Deputy Secretary*

Shri S. K. Sharma — *Under Secretary*

The Committee took up further consideration of draft Report on TRAI Bill, 1996 (*i.e.* for clause 22 onwards) and adopted the same with amendments/modifications as shown in Annexure.

Thereafter the Committee authorised the Chairman to finalise the draft and Report and present the same to the Parliament.

*The Committee then adjourned.*



## APPENDIX

Page	Para/Line	Modification/addition
19-20	(ix)	delete full para.
21	(ix)/15	for "one year" read "eighteen months"
22-23	(xii)	delete full para.
23	(xii)/18	delete full para xii.
23	(xiii)/last	for "done away with" read "deleted".