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**STANDING COMMITTEE
ON COMMUNICATIONS
(1995-96)**

WITH LOK SABHA

**MINISTRY OF COMMUNICATIONS
DEPARTMENT OF TELECOMMUNICATIONS**

**THE INDIAN TELEGRAPH (AMENDMENT)
BILL, 1995**

TWENTY-SECOND REPORT



सत्यमेव जयते

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**LOK SABHA SECRETARIAT
NEW DELHI**

August, 1995/Sravana, 1917 (Saka)

TWENTY-SECOND REPORT
STANDING COMMITTEE ON
COMMUNICATIONS
(1995-96)
(TENTH LOK SABHA)
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF TELECOMMUNICATIONS
THE INDIAN TELEGRAPH (AMENDMENT)
BILL, 1995

Presented to Lok Sabha on.....

Laid in Rajya Sabha on..... 03 08 95



सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

August, 1995/Sravana, 1917 (Saka)

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COMPOSITION OF STANDING COMMITTEE ON
COMMUNICATIONS
(1995-96)

Kumari Vimla Verma — *Chairperson*

MEMBERS

Lok Sabha

2. Shri R. Jeevarathinam
3. Shri Shravan Kumar Patel
4. Shri Laeta Umbrey
5. Shri Surajbhanu Solanki
6. Shri N. Dennis
7. Shri Jagmeet Singh Brar
8. Shri Pawan Kumar Bansal
9. Shri Kodikkunnil Suresh
10. Shri B. Devarajan
11. Shri R. Anbarasu
12. Dr. B.G. Jawali
13. Shri Somjibhai Damor
14. Shri Mohan Lal Jhikram
15. Shri Mahesh Kumar Kanodia
16. Smt. Dipika H. Topiwala
17. Dr. Sakshiji Maharaj Swami
18. Shri Lalit Oraon
19. Shri Lal Krishna Advani
20. Shri Sharad Yadav
21. Shri Ram Pujan Patel
22. Shri Shivsharan Verma
23. Shri Rupchand Pal
24. Shri Satyagopal Misra

25. Shri A. Asokaraj
26. Shri G.M.C. Balayogi
27. Shri Raj Kishore Mahato
28. Shri Sanat Kumar Mandal
29. Shri Sultan Salahuddin Owaisi
30. Shri Chandrajeet Yadav

Rajya Sabha

31. Shri Prakash Yashwant Ambedkar
32. Shri Jalaludin Ansari
33. Shri M.A. Baby
34. Shri Virendra Kataria
35. Shri Aas Mohamad
36. Shri O. Rajagopal
37. Shri Mohammed Afzal *alias* Meem Afzal
38. Shrimati Jayanthi Natarajan
39. Shrimati Anandiben Jethabhai Patel
40. Shri G. Prathapa Reddy
41. Shrimati Sushma Swaraj
42. Shri Vizol
43. Shri V. Kishore Chandra Deo
44. Shri Janeshwar Mishra
45. Shrimati Veena Verma

SECRETARIAT

- | | | |
|-----------------------|---|-----------------------------|
| 1. Shri S.N. Mishra | — | <i>Additional Secretary</i> |
| 2. Shri G.C. Malhotra | — | <i>Joint Secretary</i> |
| 3. Shri O.P. Ghai | — | <i>Deputy Secretary</i> |
| 4. Shri S.K. Sharma | — | <i>Under Secretary</i> |

INTRODUCTION

I, the Chairperson of the Standing Committee on Communications (1995-96) having been authorised by the Committee to submit the Report on their behalf, present this Twenty-second Report on Indian Telegraph (Amendment) Bill, 1995.

2. The Indian Telegraph (Amendment) Bill, 1995 was introduced in Lok Sabha on 2 June, 1995. It was referred to the Committee for examination the same day under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee sought certain clarifications on the Bill from the Department of Telecommunications. Thereafter, the Committee held discussions with the representatives of the Department of Telecommunications on 11 July, 1995. The Report was considered and adopted by the Committee at their sitting held on 26 July, 1995.

4. The Committee wish to express their thanks to the representatives of the Department of Telecommunications for furnishing the material and information which the Committee desired in connection with the examination of the Bill as well as for expressing their views freely and frankly on clarifications sought by the Committee in the course of evidence.

5. For facility of reference and convenience, the recommendations of the Committee have been printed in thick letters in the body of the Report.

NEW DELHI;
26th July, 1995
4th Shravana, 1917 (Saka)

KUMARI VIMLA VERMA,
Chairperson,
Standing Committee on Communications.

REPORT

The National Telecom Policy 1994, has *inter-alia* laid emphasis on achieving the universal service, bringing the quality of Telecom service to world standard, provision of the widest permissible range of services to meet the customer's demand at reasonable price and participation of the companies registered in India in the area of basic telecom services as also making arrangements for protection and promotion of consumers' interest and ensuring fair competition. The Department of Telecommunications feel that to achieve these objectives, there is need to separate regulatory functions from service providing functions which will be in keeping with the prevailing general trend in the world. It has, therefore, proposed to set up an independent Telecom Regulatory Authority to be called 'Telecom Regulatory Authority of India' which, to begin with, will be non-statutory in character but will have well defined functions and responsibilities and powers to play the role of a watch-dog body for the Telecom sector in an effective manner.

2. The Indian Telegraph Act, 1885 regulates the functioning of Telecommunications services in the country. Under Section 4 of the Indian Telegraph Act, 1885, the Central Government has the exclusive right of establishing, maintaining and working telegraphs and under the first proviso of this section, it may grant a licence on such conditions and in consideration of such payment as it thinks fit to any persons to establish, maintain or work a telegraph within any part of the country. Under Section 4(2) of the Act, the Central Government may by notification in the Official Gazette delegate to the Telegraph Authority all or any of its powers under the first proviso to sub-section (1). Section 3(6) of the Indian Telegraph Act, 1885 describes Director General (Posts and Telegraphs) as the Telegraph Authority and includes any officer empowered by him to perform all or any of the functions of the Telegraph Authority under the Act. Presently, the Secretary, Department of Telecommunications who has been notified as the Director General Telecommunications in his capacity as a Telegraph Authority exercises regulatory powers and performs regulatory functions as delegated by the Central Government under the Indian Telegraph Act, 1885. In order to vest the powers of the Telegraph Authority with the proposed Regulatory Authority in respect of certain assigned functional areas. It has become necessary to amend Section 3(6) of the Indian Telegraph Act, 1885 by including "any statutory or non-statutory authority".

3. The Secretary, Department of Telecommunications stated in evidence that at present all the regulatory authority under the Indian Telegraph Act is exercised by the Secretary, Department of Telecommunications. This power of the telegraph authority can be further delegated by him to another officer of the Government. It cannot be delegated to a statutory or a non-statutory authority as such. So, the basic purpose of the proposed amendment of Section 3(6) of the Indian Telegraph Act, 1885 is to delegate certain regulatory powers of the Telegraph authority to the proposed Telecom Regulatory Authority.

4. The Secretary, Department of Telecommunications further clarified that the reasons for not coming up with a comprehensive Bill to set-up a statutory authority with independent powers at this stage, are that the Government would like to watch the working of such an authority for a year or two and learn from such an experience. After getting the feed-back from the Chairman and Members of the authority and various interest groups *viz.*, operators and subscribers etc., it would frame a comprehensive law to make it a statutory authority. Then the authority will derive its powers directly from an Act of Parliament.

5. The witness further told the Committee that "the need for amendment is based not only on Government perceptions of the local market but also arises from the international experience that wherever there has been a situation of more than one player in the market scene, a need has been felt for an independent umpire. The current trend in the telecommunication sector the world-over is to distance policy making functions, operational functions and regulatory functions from each other and to entrust regulatory functions to an independent Regulatory Authority for regulating Telecom services."

6. The Secretary, Department of Telecommunications informed the Committee that in due course the proposed authority would be independent and autonomous; it would operate outside the Government, at arm's length from the Government so that it could inspire the confidence of various operators as well as the subscribers. He further added that for this purpose the intention of the Government is to ensure that it is manned by people of eminence and independent views. Therefore, the Cabinet has decided that it would be Chaired by a retired or a serving Chief Justice of a High Court or a retired or a serving Judge of the Supreme Court and it will have two members who should have worked in the State Government or the Central

Government in a position not lower than the position of an Additional Secretary to Government of India for a period of three years. These Members would enjoy the status of Secretary to Govt. of India. It was further stated that the tenure of the Chairman and the Members would be secure and protected. Their removal will require the same safeguards as are available to Judges of the Supreme Court. Similarly their emoluments and other terms and conditions of service would not be changed to their disadvantage. The Secretary Department of Telecommunications stated that the apparent idea was to send across a strong signal that there would be an authority who would act independently, impartially, in an objective manner to protect the interests of the operators as also of the subscribers.

7. Clarifying the position further in reply to a query by the Committee, the Secretary, Deptt. of Telecommunications stated that soon after the amendment of law, two things would follow. Firsts that Department of Telecommunications would set up this authority by means of a Resolution of the Government. Secondly the Department would issue a notification that the authority set up under that Resolution is vested with the powers of the Director-General of Telecommunications under Section 4 of the Indian Telegraph Act in respect of certain matters. Once that is done, the authority would be clothed with the powers of Telegraph Authority in relation to its are a of work. However, it would still be a creature of the executive arm of the Government. Later after an year or so it will come before the Parliament with a comprehensive Bill.

8. In reply to a query regarding the impact of Telecom Regulatory Authority after its inception on working of Telecom Network in the country, the Ministry informed that it was expected that the Telecom Regulatory Authority would have healthy impact on the working of telecom services in the country, since it will act as a watch dog for telecom sector, ensure level playing field as also monitor quality of services and protect and promote the consumer interest.

9. Asked whether after setting up the Authority, it would be possible for Government to set aside any decision of the proposed Authority, the Secretary Deptt. of Telecommunications replied in negative. He further added that the intention was that there would be no right of appeal to the executive wing of the Government. The orders issued by the proposed Telecom Regulatory Authority can only be challenged before the High Court or the Supreme Court.

10. In the light of the Government view known to the Committee, the Committee agree with the amendment of Section 3 (6) of Indian Telegraph Act, 1885 for inclusion of any statutory or non-statutory authority within the definition of Telegraph Authority and support the Bill. The Committee hope that steps will be taken to set up a statutory Authority.

NEW DELHI;
26th July, 1995
4th Sravana, 1916 (Saka)

KUMARI VIMLA VERMA,
Chairperson,
Standing Committee on Communications.

APPENDICES

MINUTE OF THE ELEVENTH SITTING OF THE STANDING COMMITTEE ON COMMUNICATIONS (1995-96)

The Committee sat on Tuesday, the 11 July, 1995 from 11.00 hours to 11.45 hours in Committee Room 'E', Parliament House Annexe, New Delhi.

PRESENT

Kumari Vimla Verma — *Chairperson*

MEMBERS

Lok Sabha

2. Shri Shravan Kumar Patel
3. Shri Surajbhanu Solanki
4. Shri Pawan Kumar Bansal
5. Dr. B.G. Jawali
6. Shri Somjibhai Damor
7. Shri Lal Krishna Advani
8. Shri Rupchand Pal
9. Shri Styagopal Misra
10. Shri G.M.C. Balayogi
11. Shri Raj Kishore Mahato
12. Shri Chandrajeet Yadav

Rajya Sabha

13. Shri Virendra Kataria
14. Shri O. Rajagopal

15. Shri Mohammed Afzal Alias Meem Afzal
16. Shri G. Prathapa Reddy
17. Shri V. Kishore Chandra Dev
18. Shrimati Veena Verma

Secretariat

- | | | |
|---------------------|---|-------------------------|
| 1. Shri O.P. Ghai | — | <i>Deputy Secretary</i> |
| 2. Shri S.K. Sharma | — | <i>Under Secretary</i> |

WITNESSES

Representatives of Department of Telecommunications

- | | | |
|-----------------------|---|--|
| 1. Shri R.K. Takkar | — | <i>Chairman (Telecom)
Commission-cum-Secretary</i> |
| 2. Shri P.S. Saran | — | <i>Member (Services)</i> |
| 3. Shri R.U.S. Prasad | — | <i>Additional Secretary</i> |

At the outset the Chairperson welcomed the Members as well as the representatives of Department of Telecommunications, Ministry of Communications.

3. The Chairperson invited attention of the witnesses to the provisions contained in Direction 58 of the Directions by the Speaker.

4. After the Secretary, Department of Telecommunications explained the salient features of the Bill, the Members of the Committee sought further clarifications on the same.

5. Thereafter, the Chairperson thanked the representatives of Department of Telecommunications for giving valuable information to the Committee.

6. A verbatim record of the discussions was kept.

The Committee then adjourned.

MINUTES OF THE TWELFTH SITTING OF THE STANDING COMMITTEE ON COMMUNICATIONS (1995-96)

The Committee met on Wednesday 26 July, 1995 from 15.00 hours to 16.00 hours in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Kumari Vimla Verma — *Chairperson*

MEMBERS

Lok Sabha

2. Shri Surajbhanu Solanki
3. Shri Pawan Kumar Bansal
4. Shri B. Devarajan
5. Shri Somjibhai Damor
6. Shri Rup Chand Pal
7. Shri Satyagopal Misra
8. Shri A. Asokaraj
9. Shri Sanat Kumar Mandal
10. Shri Chandrajeet Yadav

Rajya Sabha

11. Shri Jalaludin Ansari
12. Shri Virendra Kataria
13. Shrimati Sushma Swaraj
14. Shri V. Kishore Chandra Deo
15. Shri Janeshwar Mishra

Secretariat

1. Shri O.P. Ghai — *Deputy Secretary*

2. Shri S.K. Sharma — *Under Secretary*

2. The Committee took up for consideration, the Draft Report on the Indian Telegraph (Amendment) Bill, 1995 and adopted the same with additions/modifications as indicated in Annexure.

3. Thereafter, the Committee authorised the Chairperson to finalise and present the Reports to Lok Sabha.

The Committee then adjourned.

ANNEXURE

AMENDMENTS/MODIFICATIONS AS CARRIED OUT BY THE COMMITTEE IN THE DRAFT REPORT

Page No.	Para No./ Line	Amendments/Modifications	
1	2	3	
1	2/4	For Read	"privilege" "right"
2	2/Last 5 Lines	Delete	"as such" " " " Authority"
2	3/1	For Read	"today" "at present"
3	3/3	For Read	"give" "delegate"
3	4/2	For Read	"the" "a"
3	5/3	For Read	"arose" "arises"
3	5/5	For Read	"there has been felt a need" "a need has been felt"
4	6/6	For Read	"For this purpose Government has every intention to ensuring" "the intention of the Government is to ensure"
4	6/11 to 13	Stat Substitute	"who would enjoy two persons" "who"
4	6/15	Delete	"which is"

1	2	3	
4	6/17	Add	after 'three years'—"These members would enjoy the status of Secretary to Government of India"
4	6/18-19	Delete	"It would.....that"
4	6/19-20	Delete	"They would..... removed"
4	6/25	Delete	(" ")
5	6/1-3	Delete	"who.....signal to"
5	6/1-2	Add	"as also of"
5	6/3-6	Delete	"that.....interests"
5	7/3	For Read	"One" "Firstly"
5	7/5	For Read	"Having done that" "Secondly"
5	7/12	For Read	"creation" "creature"
5	7/13-21	Delete	"for the.....year or so"
5	7/Last	For Read	"Then it would..... consideration." "Later, after a year or so it will come before the Parliament with a comprehensive Bill"
6	8/6	Delete	"It will"
6	8/6-9	Delete	(" ")
6	8/6	Add	"since it would"

1	2	3
6	10/1	<p>Before Add</p> <p>"The Committee" "In the light of the Government view known to the Committee"</p>
6	10/Last	<p>Add at the end of the sentence</p> <p>"The Committee hope that steps will be taken to set a Statutory Authority"</p>