

Enabling Environment for the Growth of the Telecom Sector: Challenges and Prospects

Legal and Regulatory Challenges

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Historical Legal Framework

- The Telegraph Act, 1885
- The Wireless Telegraphy Act, 1933
- Bangladesh Telegraph and Telephone Board Ordinance, 1979
- Rules of Business
- National Telecom Policy, 1998



The Telegraph Act, 1885

- “Telegraph” means an electronic, galvanic or magnetic telegraph and includes appliances and apparatus for making, transmitting or receiving telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism”
- Section – 4 : Exclusive privilege in respect of telegraphs, and power to grant licenses.



The Telegraph Act, 1885

- Penalties for establishing, maintaining or working unauthorised telegraph – if the telegraph is wireless telegraph, with imprisonment which may extend to 3 years or with fine, or with both and in any other case, with a fine which may extend to one thousand taka.
- Bailable and non-cognizable



The Wireless Telegraphy Act, 1933

- “Wireless communication” means the making, transmitting or receiving or telephonic, telephonic or other communications by means of electricity or magnetism without use of wires or other continuous electrical conductors between the transmitting and the receiving apparatus.
- Prohibition of possession of wireless telegraphy apparatus without license.




The Wireless Telegraphy Act, 1933

- Section 4 : Power of Govt. to exempt persons from provisions of the Act
- Section 5 : Licenses – Director General, Bangladesh Post Office shall be the authority competent to issue licenses to possess wireless telegraphy apparatus.
- Offence – Taka 100 for the first offence and Taka 250 for a second or subsequent offence.



The National Telecom Policy, 1998

- ◊ Regulatory Framework :
- ◊ Commission by Act;
- ◊ Features of the Commission:
 - ◊ Independence
 - ◊ Transparency
 - ◊ Adaptability
 - ◊ Objectivity



The Bangladesh Telecommunication Act, 2001

- “Telecommunication” means transmission and reception of any speech, sound, sign, signal, writing, visual image or any other intellectual expression by way of using electricity or electro-magnetic or electro-chemical or electromechanical energy


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Licensed Activities

- Section 35 : No person shall, without a license
 - (a) Establish or operate a telecommunication system in Bangladesh or undertake any construction work of such system;
 - (b) Provide in Bangladesh or to any place outside Bangladesh any telecommunication service;
 - (c) Undertake any construction work for providing internet service or install or operate any apparatus for such service.

Licensing Requirement

- Section 35 (2) : A person commits an offence if he contravenes sub-section (1) and for such offence he shall be liable to be sentenced to imprisonment for a term not exceeding 10 years or to a fine not exceeding 10 lac or to both. (now proposed to be Taka 300 crore)
- Section 36 : The Commission shall have the exclusive authority to issue licenses for activities specified in clauses (a) to (c) of s-35 (1) (now proposed to be replaced by new section)



Fines, Penalties and Offences

- Administrative fine for discriminatory charges- administrative fine not exceeding Tk. 50 thousand and direction to pay compensation of up to Taka 50k. Proposed to be replaced by Tk. 3 crores and Tk. 1 crore.
- Fine for using radio apparatus without license – imprisonment for 10 years or fine not exceeding Tk. 10 lac or to both and if the offence continues then additional Tk. 20k for each day. Now proposed Tk. 300 crore and Tk. 1 crore per day



Fine, Penalties and Offences

- Selling and using apparatus without technical acceptance certificate – imprisonment for up to 5 years or fine up to Tk. 5 lac or both (now proposed Tk. 50 crore).
- Creating obstruction or providing misleading or information to the Inspector – imprisonment for 3 years or fine up to Tk. 3 lac (now proposed Tk. 100 crore).

Fine, Penalties and Offences

- Violation of any provisions of the Act, regulation or any condition of the license or procures the licence, permit or technical acceptance certificate by furnishing a false information – administrative fine up to Tk. 3 lac and if violation continues admin. fine of Tk. 30k for each day (proposed to be replaced by Tk. 300 crore and Tk. 1 crore for each day).

Fine, Penalties and Offences

- Injunction on current or probable violation – if violated such an order then admin. fine Tk. 1 lac if fails to pay within time then an offence up to 3 years imprisonment or fine up to Tk. 3 lac (proposed to be Tk. 100 crore, 5 years imprisonment and Tk. 300 crore). S-64
- Penalty for sending false message – up to 3 years imprisonment or fine up to Tk. 3 lac or both (proposed 5 yrs. And Tk. 100 crore)

Fine, Penalties and Offence

- Penalty for causing interference in radio and telecommunication – 3 yrs imprisonment or fine up to Tk. 3 lac (proposed 5 yrs. and Tk.100 crore);
- Penalty for misuse of radio apparatus by employee – Tk. 5 lac (proposed Tk. 1 crore).
- Penalty for trespass – 7 years imprisonment or fine up to Tk. 7 lac (proposed Tk. 100 crore and 5 yrs. Imprisonment)


Fine, Penalties and Offences

- Penalty for offences under s-73 – 5 yrs. imprisonment and fine of Tk. 5 lac or both and if continued Tk. 25k per day (proposed Tk. 300 crore and Tk. 1 core per day.)
- Other offence not specified in the Act – imprisonment for 2 years or fine of Tk. 2 lac (now proposed Tk. 100 crore and 3 yrs. imprisonment.)




Court's jurisdiction

- Session court shall have the jurisdiction for trial;
- Only 1st Class Magistrate or Metro. Mag. Shall have jurisdiction to take cognizance; S-77
- Proposed to be a Cognizable offence, triable by Magistrate or by Executive Magistrate under the Mobile Court Act, 2009



Exclusive Powers of the Commission

- ◊ Issuance of License
- ◊ Fixation of Tariff
- ◊ Renewal of License
- ◊ Spectrum Management
- ◊ Radio Apparatus License
- ◊ Certification Authority



Abrogation of Commission's Power

- ◊ Licensing Power
- ◊ Renewal of License
- ◊ Tariff Fixation Power
- ◊ Power to Impose Fine



THANK YOU

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