Regulatory Shifts in India's Satellite Communication Landscape

There is a rising interest in satellite-based connectivity in the Indian market among internet service providers. Eutelsat OneWeb India, Jio Satellite Communications, Elon Musk's Starlink and Amazon's Kuiper are in the process of obtaining the requisite licenses to provide satellite communication services in India. Satellite communications represent an inevitable technological development in response to a continued demand for better network quality and higher capacity.

In this background, the Telecommunications Act, 2023 ("**Telecommunications Act**") which received the President's assent on December 24, 2023 and provides for administrative allocation of satellite spectrum as well as liberalization of the FDI policy applicable to the space sector further spurs the gaining momentum in satellite-based communication technology in India. This note explores the regulatory shifts in the Indian satellite communications landscape.

REGULATORY FRAMEWORK

The Government of India has recently introduced certain regulatory changes and proposed measures aimed at development of the Indian satellite communications sector discussed below.

FDI policy

Under the existing FDI policy, foreign investment of up to 100% is permitted in satellite establishment and operations with the prior approval of the Government, subject to sectoral guidelines issued by the Department of Space/Indian Space Research Organization. This essentially meant that approval of the Government is

required for any foreign participation in the establishment and operation of satellites.

Recently, on February 21, 2024, the Union Cabinet approved amendments to the FDI policy applicable to the space sector. Pursuant to such amendments to the FDI policy notified on March 5, 2024 (to be effective from the date of amendment notification under the Indian exchange control regulations), 100% foreign investment has been permitted in the space sector, with varying sub-limits applicable to the three different sub-sectors as set out below:

Activity	Sectoral Cap and Entry Route
Satellites - manufacturing and operation, satellite data products and ground segment and user segment	Up to 74%, automatic route (i.e., without Government approval) Beyond 74% and up to 100%, subject to approval of the Government
Launch vehicles and associated systems or subsystems, creation of spaceports for launching and receiving spacecraft	Up to 49%, automatic route (i.e., without Government approval) Beyond 49% and up to 100%, subject to approval of the Government
Manufacturing of components and systems/sub-systems for satellites, ground segment and user segment	100%, automatic route (i.e., without Government approval)

By clarifying the limits on foreign investment applicable for various space-related activities, the amendments to the FDI policy are expected to promote foreign investment in the space sector, including satellite communications.

Telecommunications Act

The Telecommunications Act was published on December 24, 2023, with the actual date for enforcement of the different provisions of the Telecommunication Act yet to be notified.

Licensing regime: Under the Telecommunications Act, satellite network has been included in the definition of "telecommunication network".[1] Any person intending to establish, operate, maintain or expand the telecommunication network is required to obtain an authorization from the Central Government.

[1] "Telecommunication network" has been defined to mean a system or series of systems of telecommunication equipment or infrastructure, including terrestrial or satellite networks or submarine networks, or a combination of such networks, used or intended to be used for providing telecommunication services, but does not include such telecommunication equipment as notified by the Central Government.

Satellite-based communication services can be provided within the scope of existing licenses/authorizations under the Indian Telegraph Act, 1885, which includes global mobile personal communication by satellites ("**GMPCS**") license, commercial very small aperture terminal ("**VSAT**") CUG service license, in-flight and maritime connectivity ("**IFMC**") service authorization, captive VSAT CUG license, national long distance ("**NLD**") and other authorization under the unified license.

Certain entities, such as Eutelsat OneWeb India, Jio Satellite Communications and Starlink have already obtained the GMPCS license to provide satellite communication services in licensed service areas.

Spectrum allocation: With respect to satellite spectrum allocation, the Telecommunications Act provides that spectrum for certain satellite-based services will be allocated by administrative process, i.e., without holding an auction for spectrum assignment.

Satellite-based services for which spectrum would be administratively allocated include GMPCS, NLD, international long distance ("**ILD**"), mobile satellite service in L and S bands teleports, television channels, direct-to-home ("**DTH**"), headend-in-the-sky ("**HITS**"), digital satellite news gathering ("**DSNG**") and VSAT.

Indian Space Policy, 2023

The Indian Space Policy, 2023, which is applicable to any space activity to or from India, permits non-government entities to, *inter-alia*, (i) offer space-based communication services through self-owned or procured or leased Geo-Stationary Orbit ("**GSO**")/Non-Geo-Stationary Orbit ("**NGSO**") communication satellites; and (ii) use any GSO and/or NGSO slot along with the associated frequency spectrum and coverage to establish communication services, subject to guidelines prescribed by Indian National Space Promotion and Authorization Centre ("**IN-SPACe**").

Under the Indian Space Policy, 2023, the IN-SPACe has been designated as the single window agency for the authorization of space activities. So far, Eutelsat OneWeb India has received approval from IN-SPACe for satellite broadband services.

IN-SPACe has been empowered to authorize the use of space objects for communication services to or from India in coordination with other relevant departments of the Indian Government. For example, use of authorized space

objects for telecommunication services will also be governed by the rules, regulations and policies of the Department of Telecommunications ("**DoT**").

Satellite communication reforms 2022

In October 2022, the DoT issued guidelines for establishing satellite-based communication networks ("**Satcom Reforms 2022**"), aiming to simplify and streamline the application process and lower the compliance burden on the service providers to encourage private participation in the sector. These guidelines seek to reduce the processing timelines from 6-8 months to 6 weeks to enable the service providers to roll out satellite-based communication networks in a relatively shorter time.

In-principle clearance: The procedure set out in the Satcom Reforms 2022 contemplate that any entity which has obtained the requisite telecom license/authorization from the DoT (such as a GMPCS license) and seeks to establish and/or operate a satellite-based communication system in India is required to apply for an in-principle clearance to the Satellite Licensing Division of the DoT.

The proposal for establishment of a satellite-based communication network is then examined by the Inter-Ministerial Committee for Satellite Network Clearance ("**IMC-SNC**") to ensure compliance with technical as well as regulatory aspects. The IMC-SNC has been constituted by the DoT to provide a single platform to co-ordinate and enable the issuance of the in-principle clearance in a timely and effective manner and comprises of members from various units of the DoT, Department of Space ("**DoS**") and Ministry of Information and Broadcasting.

Other clearances: After obtaining the in-principle clearance, the licensee is required to approach the other relevant agencies or departments, including DoS/NewSpace India Limited or space segment provider duly authorized by DoS/IN-SPACe for assignment of satellite capacity (space segment) and Wireless Planning and Coordination unit of the DoT ("**WPC**") for frequency and spectrum assignment and related clearances. The Satcom Reforms 2022 have prescribed definite timelines within which the various units are required to issue their respective approvals.

CONCLUSION

India's developing satellite communication sector is not an isolated phenomenon. Several other developing nations in South-east Asia, Africa and Latin America are

witnessing similar transformations, recognizing the immense potential of this technology in helping bridge the digital divide.

For the purpose of deploying a network with wide coverage, satellite technology is well-suited since it is able to overcome the constraints of long distances and inhospitable terrain. Thus, even for remote and sparsely populated locations, broadband access could increasingly become viable through the use of satellites.

India's satellite communication sector is experiencing a dramatic upswing, promising to connect the unconnected. Despite this exciting trajectory, challenges remain. Streamlining regulations and ensuring efficient approval processes can further attract foreign investors – the recent amendments to the FDI policy for the space sector and clarity on method for spectrum allocation are welcome steps in this direction.

*This insight has been authored by **Rajat Sethi** (Partner), **Raya Hazarika** (Partner) and **Varun Yadav** (Associate). They can be reached at rsethi@snrlaw.in, rhazarika@snrlaw.in and vyadav@snrlaw.in, respectively, for any questions. This insight is intended only as a general discussion of issues and is not intended for any solicitation of work. It should not be regarded as legal advice and no legal or business decision should be based on its content.*
© 2024 S&R Associates