



CyberPeace
— Foundation —

Indian Telecommunication Bill, 2022



About CyberPeace Foundation

CyberPeace Foundation is a global, nonpartisan, non-government organization working to fight cybercrimes, stop cyber warfare, and promote the ethical and responsible use of the internet through education, awareness, and advocacy. The vision then as now is to unite leaders and change-makers to build a global initiative designed to address technology governance, policy review and advocacy, capacity creation, and development through collaborative initiatives that stop cybercrime and promote peaceful use of the Internet.



Our work is aligned with the United Nations' six sustainable development goals, including ensuring good health and well being; achieving gender equality and female empowerment; developing industry, innovation, and infrastructure; making our world's cities safer, more inclusive, and more resilient and sustainable; promoting peace and justice through strong and ethical institutions; and keeping alive a vision for sustainable development through global partnerships. We believe these goals are within reach when the Internet is a safer, more secure, and more equitable place of peaceful knowledge transfer, ideation, and connection.

THE MISSION

The CyberPeace Foundation (CPF) is a nonpartisan, nonprofit initiative that works to fight cybercrimes, stop cyber warfare, and promote the ethical and responsible use of the internet through education, awareness, and advocacy. Our global think tank was founded by concerned citizens alongside visionary experts and leaders who share a common vision for a more peaceful Internet. Working in tandem with other individuals and institutions whose goals align with ours, we spearhead innovative outreach, research and development, training with a goal to build collective resiliency against cybercrimes and cyber warfare as we work to achieve sustainable CyberPeace.



To promote responsible online behavior toward a more stable and peaceful cyberspace that empowers, educates, and inspires.



To make the Internet a more equitable and secure place for peaceful connection, ideation, knowledge transfer, and the sustainable sharing of resources to make our world a better place.

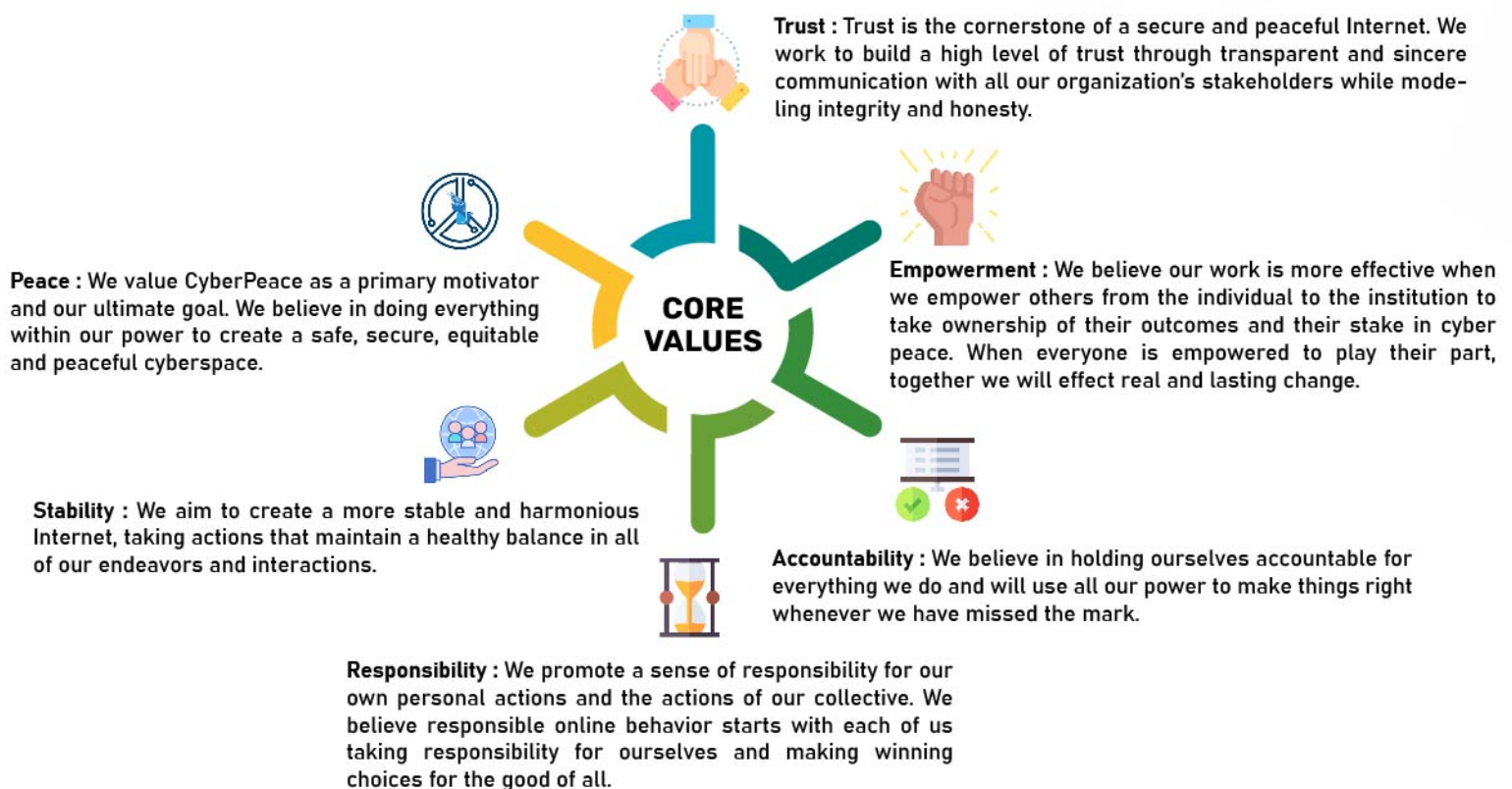
THE VISION

Our vision is of a safe and peaceful Cyber Space that supports and sustains better lives for everyone with the power of the Internet, together in harmony.



CORE VALUES


At The CyberPeace Foundation (CPF), we are grounded by the following core values :



CyberPeace Foundation's work towards Internet Governance and Cyber Security is aligned towards 6 UN's Sustainable Development Goals (SDGs).




Ensuring good health and well being




Achieve gender equality and empower all women and girls




Develop industry, innovation, and infrastructure



Make cities inclusive, safe, resilient and sustainable



Peace, Justice & Strong Institutions



Revitalize the global partnership for sustainable development





MEMBER OF





CyberPeace
— Foundation —

IMPACT



Impacted **200 Million** Netizens

108919

Total Reach Through
Competitions

132750

Total Reach Through
Volunteer Initiative

Total Reach : **112 COUNTRIES**

32850

Cybercrime Victims
Assisted

700

Research &
Publications

Indian Telecommunication Bill, 2022

The Indian telecommunication Bill, 2022 is a clear example of how the Govt is taking a keen interest in the latest technologies and simultaneously addressing the same in the form of legislation to regulate the new technologies. This bill will be instrumental in opening new doors of possibilities and opportunities for the Indian netizens. The bill introduces new procedures and definitions to address the shortcomings in the previous bill and the legislation. The following proposals and suggestions will assist in maximising the extent and scope of the bill.

Section / Clause	Issues	Comments / Suggestions	Rationale
2(10)	NFAP time intervals	The National Frequency Allocation Plan should mention a proper time interval in order to make sure that use of spectrum is maximised.	Having defined time periods will also help in avoiding cyber crimes as the spectrum will be upgraded regularly and new guidelines and SoPs can be issued.
2(17)	Definition of Telecommunication	Elaborated definition	The definition of Telecommunication under the section is more on the technical aspect which will cause a differentiation in the interpretation of the same, hence the terms in the definition can be defined further in an additional schedule.

Section / Clause	Issues	Comments / Suggestions	Rationale
3	Exclusive Privilege	An overlooking committee should be set up	In order to maintain the separation and check of power, an overlooking committee should be set up in order to keep a check on TRAI and the issued licences and defaulters in order to prevent any misuse of infrastructure or the spectrum. The term exclusive privilege sends a chilling effect to the provision, instead it could be rephrased as 'Functions of the Central Government'
4(1)	Ambiguous charges	The fees and charges to be fixed	The bill can add another schedule which can illustrate the fees and charges under the spectrum and remove any ambiguity and the paid fees and charges should be brought to public knowledge as well.

Section / Clause	Issues	Comments / Suggestions	Rationale
4(4)	Registration prior to the bill	The entities already holding the registration might cause monopoly.	The bill needs to specify a certain quota in the spectrum for new or small business owners to avoid monopoly and anti competition practices, thus empowering indigenous entrepreneurs.
5(6)	Refarming	Registration for refarming	The bill needs to clarify if 'refarming' would require new licence or registration under the new spectrum
5(9) & 7	Cent Govt Powers	Courts out of the picture	The principle of natural justice is being partly followed. A provision regarding telecom regulators taking up matters to be heard and then presented to the Central Government for further actions.
11 & 18	ADR	Predefined mechanism	The bill should provide for the basic rules and mechanism for the ADR procedure. The qualifications

Section / Clause	Issues	Comments / Suggestions	Rationale
			of presiding officer and arbitrators along with the maximum time limit can be provided in the bill.
12(2)	Public Entity	Respective State Governments	The bill reads 'respective state governments', thus creating an ambiguity of the role of State Governments.
13(4)	Substantive grounds for rejection	Substantive grounds to be mentioned	The bill mentioned rejection of application under substantive grounds, if the bill could mention the substantive grounds, it will ensure clarity for the applicants.
20	Insolvency and Bankruptcy of assignees	Scope of bank loan defaulters	The possibilities of bank loan defaulters to enter the market and later declare bankruptcy, thus creating an issue in public interest.
32	Regulatory Sandbox	Time frame for such testings	The bill can entail a time frame for testing of various innovations in order to be in congruence with the time.

Section / Clause	Issues	Comments / Suggestions	Rationale
37	Amateur station and services	Disruption between amateurs and unskilled individuals.	The bill can provide for a differentiation between amateurs, skilled, semi-skilled and unskilled individuals
43	Power to remove difficulties	Power of courts to judge the legislation	A provision providing for the powers of the court to verify and constitutionality of the bill
47(2)	Provisions related to offences	Bailable offences	All the offences under the act are bailable, however any offence in contradiction of public interest and national security should not be made available to combat anti state actors.
Schedule 2	Broadcasting services	Add OTT	The Over The Top (OTT) services can be added in the 2nd schedule in order to maintain the bill's relevance to today's technology.

Additional Suggestions

- Preamble- The bill has been elaborated in terms of various technical terms and new technologies like OTT, hence it is important to have a Preamble with the spirit of Public law doctrines and also add the aspect of the functions of the court and TRAI.
- Difference between OTT and telecommunication services- The telecommunication services and the Over The Top (OTT) services differ from each other in terms of services provided and accessibility hence the keeping the same under the same ambit will cause legal implications in terms of interpretation and execution of the law.
- Separation of Carriage & Services- The bill needs to inculcate the separation between carriage and services as they now lie in different ambits and content should be separated from carriage.
- Free Rider- The OTT services if brought under the ambit of telecommunication, the bill will have to provide for a free rider policy as the user will be paying twice for the services.
- The regulatory definitions- Regulatory terms in the definitions are too generic in nature and hence the interpretation of the same will cause a grey area to exist for the courts and the litigants leading to prolonged and pending cases.



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