

No. 16-3/2012-O&M
Government of India
Ministry of Communications & IT
Department of Telecommunications

20, Ashoka Road, Sanchar Bhawan,
New Delhi-110001

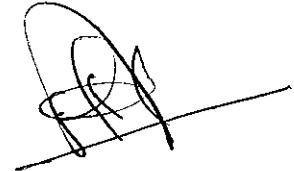
Dated: 14th March, 2014

OFFICE MEMORANDUM

Subject: Policy on pre-legislative consultation – regarding.

The undersigned is directed forward herewith a copy of O.M. No. 8/01/2014-
Restg., dated 20th February, 2014 along with enclosures received from Restructuring Section
on the above cited subject for information and necessary action.

Encl: As above.



(A.K. Singh)

Under Secretary to the Govt. of India

To

1. Member (F)/Member(T)/Member(S)/Administrator, USOF
2. DDGs/JS(A)/JS(T)/CVO/Wireless Advisor, WPC

Copy to –

ADG (IT-II) for posting under 'Knowledge Management' section of e-office module.

No. 8/01/2014-Restg.
Government of India
Ministry of Communications & IT
Department of Telecommunications
20, Ashoka Road, Sanchar Bhawan, New Delhi.

Date 20.2.2014

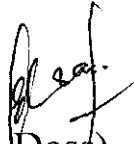
OFFICE MEMORANDUM

Subject :-Policy on pre-legislative consultation-regarding.

The undersigned is directed to forward herewith Ministry of Law & Justice, Legislative Department D.O. letter No. 11(35)/2013-L.1 dated 5.02.2014 (in original) on the subject mentioned above for intra-departmental circulation. A copy of this letter has been forwarded to TRAI for necessary action.

Encl: as above.

223/2014/02M
21/2


(Ek. Dass)
Under Secretary(Restg.)
Ph. 6586

To, ~~US(C&A), DoT.~~

31/US(C&A)
25/2/14

~~20/2/14~~
~~US(C&A)~~

प्रेम कुमार मल्होत्रा
सचिव
P. K. Malhotra
Secretary



भारत सरकार
विधि और न्याय मंत्रालय
विधायी विभाग
GOVERNMENT OF INDIA
MINISTRY OF LAW & JUSTICE
LEGISLATIVE DEPARTMENT

D.O. No.11(35)/2013-L.I

Dated the 5th February, 2014

Dear Shri Farooqui,

In the modern context, pre-legislative consultative policy as a process supports many of the legitimate and growing expectations for transparent and better informed Government. The process tends to resolve contentious and complex policies and the areas where Government is seeking a policy to build consensus.

2. The effectiveness and importance of pre-legislative scrutiny was under consideration of the Government for quite some time. Briefly, the pre-legislative scrutiny takes place before the final drafting of a Bill has been decided and it is introduced in Parliament. As per past practice, only a limited number of Bills were published in draft form and scrutinised this way.

3. While following this process, the Government sets out clearly the policy problem that is to be addressed through the provision of supportive evidence and analysis, the options that it has considered and the reasons for the choices the Government have made in bringing forward a legislation. The process also involves the study of social and financial costs, benefits and the key challenges that required to be settled before undertaking the legislation. Looking into all these aspects facilitate formation of perfect policy objectives which a Bill intends to achieve and improve the efficacy of any Act in its implementation.

4. Taking into consideration the recommendations of the National Advisory Council, the National Commission to Review the Working of the Constitution and the practice followed in other countries, the Committee of Secretaries has formulated a policy on pre-legislative consultation which should invariably be followed by every Ministry/ Department of the Central Government before any legislative proposal is submitted to the Cabinet for its consideration and approval. This policy should also guide and govern the handling of subordinate legislations. The details of such legislative process are given in the Appendix to Facilitate systematic compliance and adherence with the policy so laid down. It is requested that the policy document be given wide publicity in your Ministry/Department for strict adherence.

With regards,

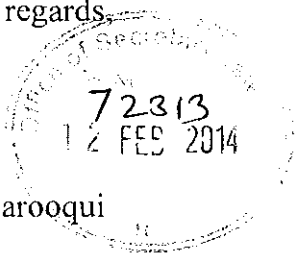
Yours sincerely,

Shri M. F. Farooqui
Secretary
Department of Telecommunications
Sanchar Bhawan, Rafi Marg
New Delhi - 110001

Forwarded for n.a.

(P. K. Malhotra)

P.P S. to Secretary (T)



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JS (T)
Dir (P)

APPENDIX

1. Every Department/Ministry shall proactively publish the proposed legislations both on the internet as also through other means; the detailed modalities of such publication may be worked out by the Department/Ministry concerned.
2. The Department/Ministry concerned should publish/place in public domain the draft legislation or at least the information that may *inter alia* include brief justification for such legislation, essential elements of the proposed legislation, its broad financial implications, and an estimated assessment of the impact of such legislation on environment, fundamental rights, lives and livelihoods of the concerned/affected people, etc. Such details may be kept in the public domain for a minimum period of thirty days for being proactively shared with the public in such manner as may be specified by the Department/Ministry concerned.
3. Where such legislation affect specific group of people, it may be documented and disclosed through print or electronic media or in such other manner, as may be considered necessary to give wider publicity to reach the affected people.
4. As a matter of practice, a provision regarding the previous publication of rules should be made in all new principal legislations.
5. Every draft legislation or rules, placed in public domain through pre-legislative process should be accompanied by an explanatory note explaining key legal provisions in a simple language.
6. The summary of feedback/comments received from the public/other stakeholders should also be placed on the website of the Department/Ministry concerned.
7. The Department/Ministry concerned might, in addition to placing the proposal in public domain, also hold consultations with all stakeholders. However, the degree of participation and mode of consultations may be decided by the Department/Ministry concerned and may vary according to the nature of the subject and the potential impact on those who will be affected by such legislation.
8. The Bill should be referred to the Ministry of Law and Justice for vetting after the pre-legislative consultation as well as inter-ministerial consultations are over. The Ministry of Law and Justice shall also, at the time of examination of the draft legislation or rules, ensure that the concerned Department/Ministry has complied with the process of pre-legislative consultation.