

### **Salient Features of Draft Regulatory Reform Bill, 2013**

**(i) General:**

- a. The objective of the proposed regulatory Bill is orderly development of infrastructure services, enable competition and protect consumer interest in securing access to affordable and quality infrastructure.
- b. The Draft Bill is guided by the three general principles of separation of power, democratic accountability, and the federal principle. Accordingly, the rule-making and enforcement functions have been separated from judicial functions, which have been vested in Appellate Tribunals. To secure democratic accountability, the regulator has been made responsible to the legislature and to the people at large. The federal principle has also been followed through distribution of subjects of economic regulation between union and state competencies.
- c. The Draft Bill includes an overarching institutional framework for regulatory commissions and appellate tribunals, their role and functions, legislative, financial and judicial accountability and their interface with the market and the people.

**(ii) Constitution:**

Independence and autonomy are key considerations for constitution of regulatory commissions and appellate tribunals. In the Draft Bill, selection, appointment and removal of chairperson and members is insulated against any perceived interference or manipulation that may influence the outcome. The Draft Bill lays down a fair selection process where it proposes that the Chairperson and members of the regulatory commissions may be appointed by the President of India on the recommendation of the Prime minister who should choose from out of a panel of two or three names empanelled by a High Powered Selection Committee and approved by the Minister concerned.

**(iii) Tariff Regulatory Commission:**

The Government may also constitute tariff regulatory commissions for determination of tariffs in the provision of goods and services in public utility industries where competition is either restricted or the prices of such goods or services are determined by the government or an entity owned or controlled by the government.

**(iv) Tenure and other conditions:**

Tenure of members is proposed to be fixed at four years. It is proposed that qualifications and experience of members should be specified by law with a view to ensure a multi-disciplinary composition of the regulatory commissions and appellate tribunals. Further, at least one member may also be drawn from other than public sector background to enrich the functioning of the regulatory bodies

**(v) Removal and bar on employment:**

Removal of members can be initiated following an enquiry on grounds such as insolvency, physical or mental incapacity, failure to meet conditions for appointment, conviction for an

offence, misbehaviour and/or failure to discharge duties. Members once appointed are not eligible for reappointment in a regulatory commission or appellate tribunal and are also debarred for a period of two years from acquiring, holding or maintaining, directly or indirectly, any office, employment or consultancy arrangement or business with any entity or its associate dealing in matters under the jurisdiction of the concerned regulatory commission.

**(vi) Staff and Consultants:**

The regulatory commission is allowed a fair degree of independence in determining the staff necessary to efficiently carry out its operations and in determining the compensation payable to the staff. The regulator may also appoint expert staff on contract for upto three years on market-determined compensation.

**(vii) Finances:**

It is proposed that budget for the regulator should be presented by the concerned Ministry for seeking Parliamentary approval for grants from the Consolidated Fund of India. To ensure financial autonomy of the regulator, once approved the entire budgetary allocation is required to be transferred by the relevant ministry to the regulatory commission.

**(viii) Functions:**

The Draft Bill provides that in discharging its functions, the regulatory commission shall have due regard to the need for meeting all reasonable demands of the consumers with respect to the public utility industry and the need for securing that licensees are able to finance their activities for meeting such demands. Regulatory commissions shall perform their functions in a manner that is best expected to: protect the interests of all consumers, by ensuring quality of service and lowering of costs; promote competition, efficiency and economy, and prevent market domination, cartelization, and anti-competitive behaviour and for orderly growth of the relevant public utility industry; encourage market development and participation of private sector; promote an efficient allocation of resources in the public utility industry; benchmark, where feasible, the licensees against international standards and specify and enforce standards with respect to the quality, continuity and reliability of service provided by the public utility industry and licensees; and provide non-discriminatory open access to the carriage, owned or operated by a licensee, for use by any other licensee or consumer.

**(ix) Licensing:**

No person shall engage in provision of any service in a public utility industry unless he is authorized to do so by a license or is exempt from licensing.

**(x) Sectors:**

The sectors to which the draft Bill is proposed to be applicable include electricity, oil and gas, coal, telecommunications and internet, broadcasting and cable TV, posts, airports, ports, waterways, railways, mass rapid transit system, highways, and water supply and sanitation.

**(xi) Accountability:**

The Draft Bill proposes that the overall functioning of the regulator should be subjected to the scrutiny by the Parliament. The regulator may submit an annual Report to parliament setting out the regulatory approach that it proposes to adopt in the forthcoming year and the outcomes

it hopes to achieve in the context of the legislation and policy directives set by the Ministry. In addition to political accountability through legislatures, the Bill also proposes that regulators must be made legally accountable. Any person or entity aggrieved by a decision or any consumer association with an interest in the decision may file an appeal before the Appellate Authority.

**(xii) Transparent and Participatory Regulatory Process:**

The Draft Bill proposes that the functions should be standardized across regulators to ensure that opportunities for interventions are made available at every stage of the regulatory process. It ensures avenues for participation by stakeholders and allows all stakeholders, including consumer groups and citizens to interact with these institutions in a predictable and consistent fashion.

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