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Public Policy Post

ON RECENT LEGISLATIONS & PUBLIC POLICY UPDATES

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IIAC (Conduct of Micro and Small Enterprises Arbitration) Regulations, 2024

India International Arbitration Centre

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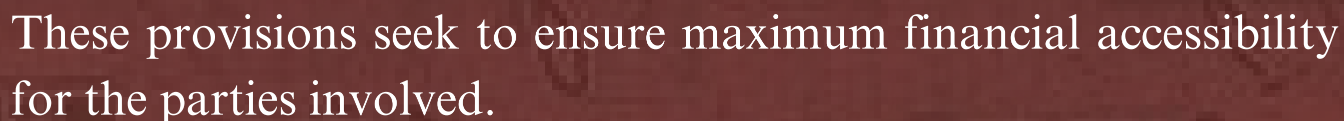
IIAC (Conduct of Micro and Small Enterprises Arbitration) Regulations, 2024

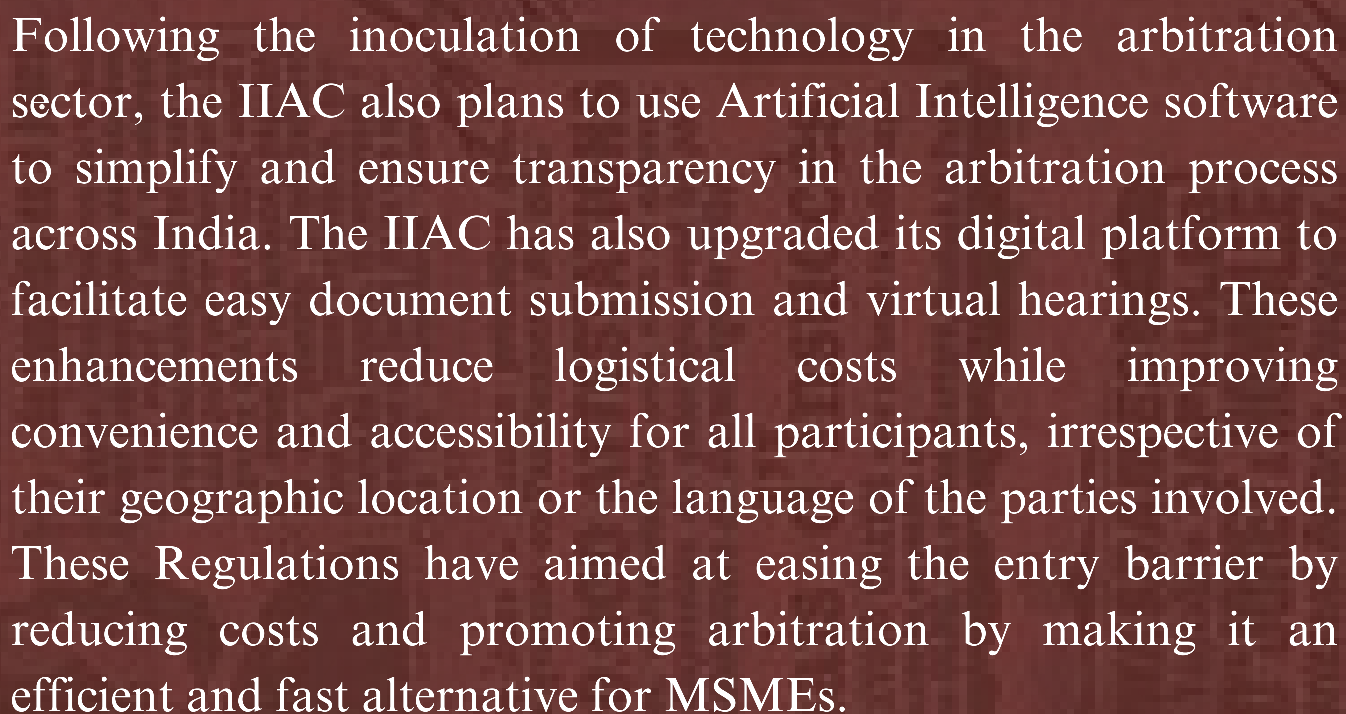
On June 07, 2024, the India International Arbitration Centre ("IIAC") introduced the IIAC (Conduct of Micro and Small Enterprises Arbitration) Regulations, 2024 ("Regulations") aimed at expediting dispute resolution for MSEs. This initiative aims to expedite dispute resolution for micro and small enterprises (MSEs), aligning with IIAC's broader efforts to make dispute resolution more accessible, efficient, and affordable. By promoting arbitration as a viable alternative to traditional litigation, these Regulations seek to enhance the business environment for MSEs in India, fostering a more conducive and supportive economic landscape.

The Regulations provide for no charge to be levied on claims/counterclaims, minimal arbitrator fees (less than the rate specified in the Arbitration and Conciliation Act, 1996); and prescribe minimal administration fee payable by parties. A minimal fee structure would help facilitate the use of arbitration by MSMEs, which generally deter them from opting for alternative dispute resolutions due to the costs involved. A multi-faceted reduction would give a cost-efficient nature to arbitration instead of merely reducing a certain fee. Similarly, a tiered fee structure has been introduced, offering lower costs for smaller claims and flexible payment options. In addition, the Regulations provide financial aid for MSEs in need, including up to 50% fee waiver of the administration fee of the IIAC and no-cost counsel assistance, subject to tribunal decisions on arbitration costs. To seek such aid, an MSE may make an application to the IIAC along with supporting documents.



These provisions seek to ensure maximum financial accessibility for the parties involved.

To ensure speedy trials, the default procedure shall be based on written submissions, with oral hearings conducted only if requested by all parties or deemed necessary by the tribunal, unlike the traditional arbitration proceedings where oral hearings usually take place. The award shall be issued within six months from the date the Registrar informs the parties of the arbitral tribunal's constitution. Sole arbitrators shall be appointed by the IIAC Chairperson, advised by an Advisory Panel, ensuring independence and impartiality. Due consideration shall be given to ensure that the arbitrator has sufficient time, availability and competency to conduct the case promptly and efficiently.



Following the inoculation of technology in the arbitration sector, the IIAC also plans to use Artificial Intelligence software to simplify and ensure transparency in the arbitration process across India. The IIAC has also upgraded its digital platform to facilitate easy document submission and virtual hearings. These enhancements reduce logistical costs while improving convenience and accessibility for all participants, irrespective of their geographic location or the language of the parties involved. These Regulations have aimed at easing the entry barrier by reducing costs and promoting arbitration by making it an efficient and fast alternative for MSMEs.

RBI Releases 2nd Monetary Policy for 2024-25

The Reserve Bank of India ("RBI"), through its Monetary Policy Committee ("MPC") headed by Governor Shaktikanta Das, recently released its second monetary policy for the fiscal year 2024.

About MPC: The MPC is a 6-member panel, composed of 3 RBI officials and 3 external members nominated by the Government of India. It was constituted through an amendment in the RBI Act, 1934 and was brought forth to ensure more transparency and accountability in fixing India's monetary policy. The RBI Governor presides as the *ex-officio* chairperson of the MPC. The MPC meets at least 4 times in a year to assess the current economic scenario, focusing on key metrics such as inflation and growth figures. The MPC observes a 'silent period' of 7-days before and after the rate decision for 'utmost confidentiality'. The MPC is also responsible for fixing the benchmark interest rate in India, also known as the repo rate. This rate directly influences borrowing costs for banks and subsequently affects interest rates on loans for businesses and individuals, shaping the broader economic landscape.

The Policy: The current edition of the bi-monthly monetary policy marks the seventh consecutive time the rates have remained unchanged since February 2023. The repo rate remains unchanged at 6.5%, with a 4:2 majority vote. This majority decision reflects the ongoing stance adopted by the RBI of 'withdrawal of accommodation' due to ongoing food inflation concerns and global uncertainties.

‘Withdrawal of accommodation’ means reducing the money supply in the system, which will control inflation further. The growth projection for the financial year 2025 was raised to 7.2% from 7%, while maintaining the inflation forecast at 4.5%.

On the foreign exchange front, the policy notes that the Indian exchange reserves have touched a fresh high of $651.5 billion as of May 31, 2024. This position strengthens India’s financial position to bear external economic shocks. Additionally, the policy also announces several schemes to streamline financial operations, including but not limited to - 1) Raising the bulk deposit threshold from ₹3 crore to ₹2 crore to streamline financial operations and 2) Rationalising import and export regulations under the Foreign Exchange Management Act (“FEMA”). Further, the RBI plans to set up a Digital Payments Intelligence Platform, aiming to harness emerging technologies to mitigate payment fraud risks. Pursuant to this, the auto replenishment of balances in FASTag, NCMC, and UPI-Lite wallets has been brought under the e-mandate framework.

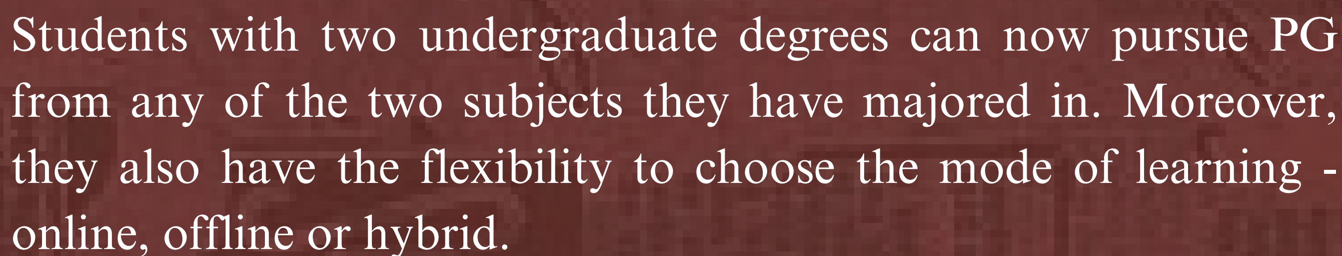
This monetary policy decision reflects the RBI's efforts to maintain the status quo in order to balance economic growth and keep inflation under check, while at the same time incorporating advanced technologies to modernize India's financial structure. The next monetary policy announcement will take place on August 8, 2024.

UGC issues new guidelines to overhaul Post-Graduate Education in India

On June 17, the University Grants Commission (UGC) unveiled new guidelines for post-graduate (PG) education across institutes in India, to convert the suggestions of the National Education Policy (NEP), 2020 into reality. The new guidelines aim to promote flexibility in the PG education structure and introduce a new credit system in India.

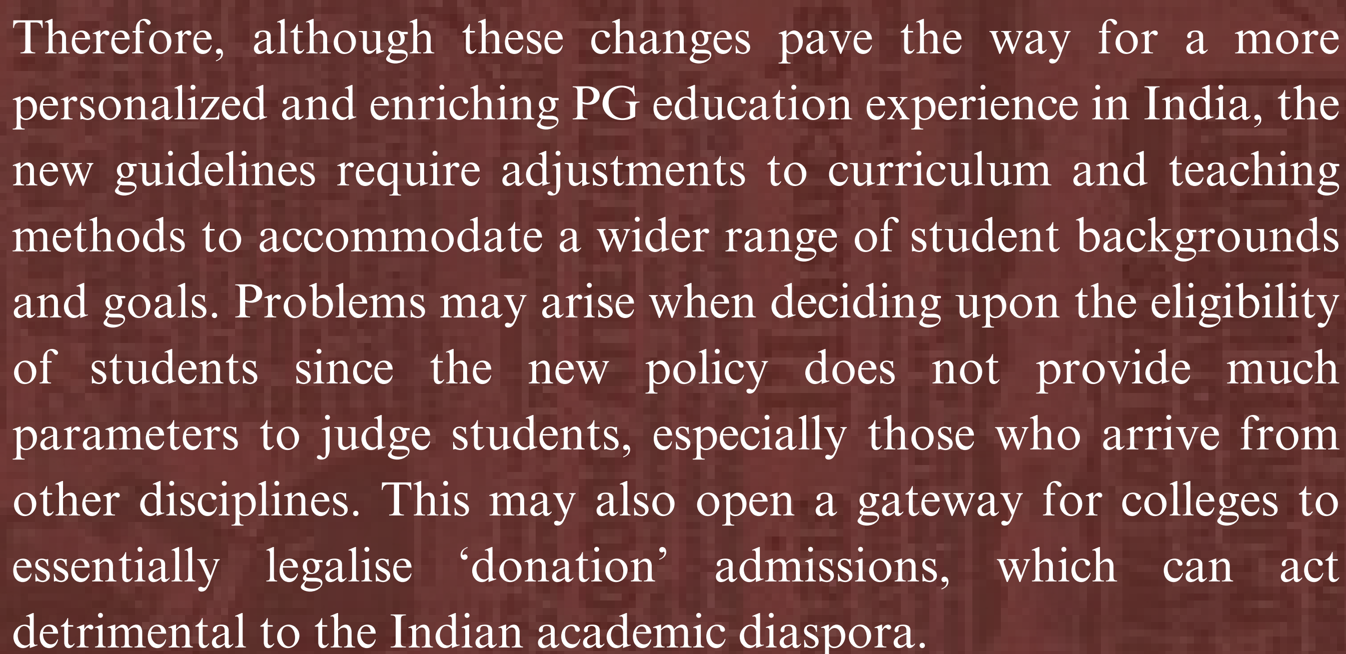
Earlier, most PG programs were conducted for only 1 year. Along with this, one could only pursue a PG program which correlated to their UG education - for instance, LLM being limited to LLB students. Little to no focus was put towards vocational studies and making the students employable, with an extremely theory-based pattern and a single seminal paper being followed. However, with these changes, the practicality of the course would be put to the forefront.

The guidelines primarily allow students to pursue a two-year PG course at institutes which might only offer a single-year PG course, with the second year being solely dedicated to research. This approach facilitates a deeper exploration of the chosen fields and foster a more research-driven environment. The policy also removes discipline-specific requirements for admissions in PG courses and provides students the option to opt-out of a PG course after completing one year, and change their discipline of study midway. Additionally, all universities have been asked to mandatorily employ the Academic Bank of Credits to streamline the credit-transfer process, helping students bypass bureaucratic delays. The new guidelines further provide greater autonomy to students by widening the range of learning styles and preferences.



Students with two undergraduate degrees can now pursue PG from any of the two subjects they have majored in. Moreover, they also have the flexibility to choose the mode of learning - online, offline or hybrid.

These guidelines represent a significant shift in the stance of UGC that aims to transform the Indian education system into a more-liberal US-like framework. This transformation could potentially result in simplifying the current system in place and granting greater freedom for candidates to choose the career of their liking. In furtherance of the same, a National Higher Educational Qualification Framework (NHEQF) has also been implemented with 6, 6.5 and 7 levels. Correspondingly, a 1-year degree course is at a level of 6, 3-year at 6.5 and 4-year and above at 7. This level-framework will help universities decide the candidate's eligibility for the course and whether the candidate has reached the pre-requisite credits to pursue the PG program.



Therefore, although these changes pave the way for a more personalized and enriching PG education experience in India, the new guidelines require adjustments to curriculum and teaching methods to accommodate a wider range of student backgrounds and goals. Problems may arise when deciding upon the eligibility of students since the new policy does not provide much parameters to judge students, especially those who arrive from other disciplines. This may also open a gateway for colleges to essentially legalise ‘donation’ admissions, which can act detrimental to the Indian academic diaspora.

The Government also needs to clarify whether courses taking admissions through pan-India examinations such as CAT and CLAT-PG would come under the ambit of this new policy, since there is no clarity in this regard.

Specific parts of Telecommunications Act, 2023 come into effect

On June 26, 2024, specific parts of the Telecommunications Act 2023, came into effect, marking a significant shift in India's telecom regulatory framework. The Act, introduced in the Lok Sabha on December 23, 2023 aims to modernize the country's telecom laws in response to the leaps in technological advancements occurring in the past decade. Replacing the Indian Telegraph Act, 1885, and the Indian Wireless Act, 1933, the Act introduces reforms to simplify regulations and reduce bureaucratic hurdles in the telecom sector. The remaining sections of the Act, such as those regarding the administrative allocation of spectrum for satellite services and adjudication mechanisms, will be notified at a later date.

The telecommunications sector in India has undergone a dynamic overhaul since the enactment of the erstwhile laws. The exponential growth in mobile phone usage, access to the internet, and emergence of 5G in India thereby necessitated a robust regulatory framework narrowly tailored to address contemporary challenges.

The Act comprises of 11 chapters and 62 sections, out of which namely - Sections 1, 2, 10 to 30, 42 to 44, 46, 47, 50 to 58, 61 and 62 have been made operative from June 2024. The abovementioned provisions mainly include the process of acquiring permission, to be adopted by telecommunication network providers. Additionally, the provisions also entrust powers on the Central Government to notify standards regarding services and equipment. This has been both modified and extended, to include prescription of standards regarding

cyber security, encryption and identification, and intrusion in networks.

Notably, the Act ushers in a significant change by replacing the earlier license system with a system of authorization. Another significant change is the renaming of the Universal Service Obligation Fund, established under the Indian Telegraph Act, 1885, to "Digital Bharat Nidhi". Now, the sums received towards it shall be credited to the Consolidated Fund of India. The scope of this fund has also been expanded to include supporting universal services in underserved rural, remote, and urban areas; supporting research and development of telecommunication services, technologies, products and pilot projects. Furthermore, the Act establishes a new dispute resolution mechanism to redress consumer disputes more efficiently.

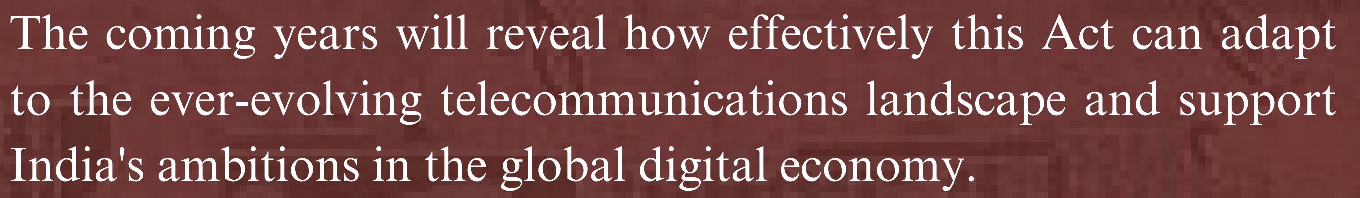
However, regardless of the revolutionary aims of the act, certain provisions have come under critical scrutiny and requires legislative attention. *Firstly*, Section 20 grants authorised officials the power to intercept communication, take temporary possession of services, or suspend the same. This could lead to potential misuse under the garb of national security. *Secondly*, Section 29 requires users to not furnish any false information while availing services. This can have a detrimental effect on whistleblowers and journalists, as effectively mean that one cannot use the services anonymously.

Thirdly, Section 42 classifies every offence resulting in criminal penalties as cognizable and non-bailable, with a graded system of penalties going up to Rs. 5 crore. It further increases the threshold of penalties for using unauthorised services from Rs. 50 in the Indian Telegraph Act, to a hefty amount of Rs. 10 Lakh. However, the phrase "having reason to believe so" in the provision places the burden on the users to prove that they were unaware of a service being unauthorised, putting them at a disadvantage.

Lastly, Section 51 states that 'no suit shall lie for an act done in good faith by any authority under the Act, in furtherance of the provisions under the Act'. This provision requires further clarification to prevent potential misuse as it protects the rights of the concerned officials, without considering the rights of the users and service providers making them prone to vulnerability.

To address these challenges, the legislature needs to consider a careful overhaul of the law. This includes clarifying the scope of these provisions to protect citizens against potential misuse. Such a measure would help strike a coherent balance between technological progress and individual rights vis-a-vis national security.

Therefore, while the Telecommunications Act 2023 represents a significant step towards modernizing India's telecom regulations, it also introduces complex challenges. Balancing national security concerns, technological advancement, and individual rights will be crucial as India navigates its digital



The coming years will reveal how effectively this Act can adapt to the ever-evolving telecommunications landscape and support India's ambitions in the global digital economy.

Draft Central Excise Bill, 2024 released for comments

On June 4, 2024, the Central Board of Indirect Taxes and Customs released the draft Central Excise Bill, 2024 ("draft Bill") for stakeholder consultation. The draft Bill comprises of 12 Chapters, 114 Sections and 2 Schedules. It seeks to replace the eight-decade-old Central Excise Act, 1944 ("the Act"), by enacting a comprehensive and robust excise law. The key focus areas aim to overhaul archaic and redundant provisions and enhance the Ease of Doing Business in India by digitizing the excise process. Pursuant to this, the Bill proposes mandatory digital signatures on invoices and electronic filing of annual returns.

The draft Bill is primarily introduced to align excise duty provisions with the GST regime, which was a long-standing demand from the industry. The Act imposed the Central Value Added Tax ("CENVAT") on goods produced or manufactured in India, such as tobacco products, cigarettes, petrol, diesel, and aviation turbine fuel. However, the draft Bill marks a significant shift towards a new regime, aimed at enhancing efficiency through a phased transition of excisable products to the GST system.

The Bill allows the manufacturers of excisable goods to self-assess the duty payable on such goods. According to the provisions of the Bill, the Central Government may specify the category of goods for which the Superintendent of Central Excise or Inspector of Central Excise will assess the excise duty payable. Currently, the self-assessment of excise duty is provided under the Central Excise Rules, 2017. Further, annual electronic returns must be filed within three years of the due date - though

the Government may exempt certain assessees from this requirement.

Appeals to High Court had been repealed from the 1944 Act in 2005. The Bill proposes that now, appeals against orders from the Customs, Excise and Service Tax Appellate Tribunal can be made to the High Court, provided they do not concern the rate of excise duty or value of goods for assessment. The High Court can then admit appeals on being satisfied that the case involves a substantial question of law.

Unlike the 1944 Act, the draft Bill subjects goods produced or manufactured in Special Economic Zones (SEZs) to excise duty. It proposes that SEZs will not automatically avoid excise duty if brought to the mainland, however it is still unclear if special incentives and tax benefits, including excise duty exemptions for SEZs, will continue through separate notifications. By this overhaul of the outdated pre-independence-era law, the new regime repeals redundant provisions, targets loopholes in the existing system and simplifies compliance.

The draft Bill aims to modernise the excise system by incorporating digital processes, enhancing efficiency, and providing clearer guidelines on duty payment, refunds, and penalties. The focus on digitiszation aligns with current IT practices, aiming to simplify compliance for businesses and improve administrative oversight.

Government culls third-lowest bids in Spectrum auctions

In the recent move by the Central Government where parts of the Telecommunication Act were made operative, the assignment of satellite spectrum based on an auction as per Section 4(4) of the Act was put up for debate. Many international companies, including Airtel's OneWeb and Elon Musk's Starlink, have pushed for an internationally-recognised method of "administrative allocation". An administrative allocation would essentially mean that the Government would itself assign spectrums to certain companies or operators it deems fit for the purpose. However, this could receive severe backlash - as the 2010 2G Spectrum Scam took place because of administrative allocation of telecom spectrums. Proponents of administrative allocation have stated that Satellite spectrums form a different category which cater to international audiences and are controlled and regulated by the UN Agency of International Telecommunications Union ("ITU") and therefore, a nationwide misuse seems unlikely.

Spectrum auctions gained their infamous popularity after the 2010 2G Spectrum Scam, in which various political personalities were involved. In a technical sense, a spectrum is range of radio waves used for communication which have a certain frequency. Simply put, a spectrum could be understood as the basis of FM Radios, Bluetooth and Wi-Fi technologies.

Presently, India is divided into 22 Circles for the Telecom Sector. Each of the Telecom operators are asked to submit a bid to obtain a spectrum license in all of these circles to be able to offer nationwide services. In case a company fails to acquire a

spectrum licence, it has to collaborate with an existing telecom provider in the circle to offer services, along with incurring roaming charges.

Following suit, the Government this time had offered 10,523.2 MHz of spectrum worth ₹96,320 crore on sale. However, it was only able to find buyers for a meagre 1.3% of the total offer, leading to the lowest culling since 2010. Naturally, the actual proceeds received by the government were the lowest in the decade of 2014-2024. The Minister of Communications has justified the low proceeds by stating that a large chunk of spectrum required for the operators was sold in 2022, leading to a low turnout this year. Citing the same reason, the Government has stated that this year's performance should not be considered as a benchmark and 5G Spectrums will see growth in the coming years.

In addition to a massive sellout in 2022, this auction fairly projects a promising picture despite having lower numbers. A large amount of Spectrum will lead to wider, better and superior services being provided to the consumers, and the Telecom giants have shown the same trends. Bharti Airtel, Vodafone Idea and Jio, the top three telecom companies in the auction, have purchased a further band of spectrum to enhance their services, despite fairly covering most of the regions. Consequently, a growth-specific mindset could be seen, and a better turnout than this year could be predicted for the next year.

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