Given the size of the telecom tower industry, zoning or systematic regulation of tower construction assumes importance. {K2Splitter}

Given the size of the telecom tower industry, zoning or systematic regulation of tower construction assumes importance. Zoning can have several dimensions including tower design and specifications (compliance with land and building laws and engineering codes); safety, health and environment standards; radiation levels (compliance with emission norms, interference with existing communications and lighting and screening); tower location and zones (airport, residential, tourist, etc.); aesthetics (location and design); and sharing and co-location (to minimise the number of towers).

In India, zoning or tower building and construction is governed by local laws as a common law pertaining to the same does not exist. In the absence of suitable regulations, vigilante groups tend to obstruct the construction of towers.

The Tower and Infrastructure Providers Association (TAIPA) has taken up this issue as one of its charters. It drew from the US Telecommunications Act, 1996. One of the guiding principles of this act is that zoning controls cannot prohibit or have the effect of prohibiting cellular telephone service. Further, zoning controls cannot regulate cellular towers on the basis of environmental concerns about their radio emissions.

TAIPA raised these issues in various courts and received some positive judgments on the same. Some of the rulings that have been in favour of tower operators are as follows:

•Bihar: The Supreme Court directed the Patna High Court to expedite the adjudication of TAIPA's writ petition in a timely manner. It also directed infrastructure providers to submit bank guarantees in respect of the directions of the Patna High Court to pay the registration fee and the current year's renewal fee.

•Rajasthan: While the Jaipur High Court directed that mobile towers be removed from schools, colleges and hospitals within two months, the Supreme Court has extended the time frame.

•Punjab and Haryana: Haryana amended the local municipal laws to divide the state into zones – high, medium, low – and accordingly impose levies. However, these fees were considered high and TAIPA took the matter to courts. Levying a fee on the basis of zoning was ruled out. The Supreme Court overruled the high court judgment wherein the latter had stayed the installation of telecom towers on residential premises.

•Uttar Pradesh: Another landmark judgment came from the Allahabad High Court which, in January 2012, directed that a committee be constituted to study the effect of electromagnetic fields (EMFs) on telecom towers. The 13-member committee submitted its findings to the government on January 20, 2014 and to the high court on February 10, 2014 and was taken on record. The committee observed that the Department of Telecommunications (DoT) had taken adequate steps in the form of guidelines for setting up towers, with effect from August 1, 2013, and enhancing the penalty for EMF violations.

The response to DoT's guidelines has been mixed. Some states like Kerala have adopted the DoT guidelines as is, while others like Goa have adopted them with certain modifications. A few state governments have also released notifications conflicting with the DoT guidelines. In the majority of the states, these guidelines are under review.

Currently, most state governments differ on the permission fee with some of them charging an exorbitantly high annual fee per tenancy. Further, most state governments expect multiple approvals, some as irrelevant as neighbour's approval, although the definition of neighbour itself is vague.

Some of the new zoning notifications released by certain states are as follows:

•Chandigarh has notified the draft Chandigarh Policy on Towers for Mobile Telephone and Data Services. The draft policy includes restrictions related to location, footprint and height. It has mandated that telecom tower installation be allowed only in open areas and/or atop stand-alone buildings. Further, tower companies have to pay a permission fee of Rs 500,000 for seven years for setting up a tower.

•As per the Setting up of Cell Sites Tower Policy Notification issued by Maharashtra, tower companies have been restrained from installing telecom towers in schools, colleges and hospitals. It mandates the removal of existing telecom towers in these institutions once their permits expire. As far as local levies are concerned, the policy proposes an administrative fee of Rs 10,000 to Rs 50,000, depending on the location, plus a development fee as per the government ready-reckoner rate.

Another key development has been the Ministry of Transport's guidelines for the installation of telecom towers on national highways. These address issues related to right of way, single-window clearances for permissions, and fees and licences.

While it will take time before all the states implement DoT's guidelines, with or without modifications, the good news is that there is now a common set of guidelines to work with. s

Based on a presentation by B. Ramanand, Chief Operating Officer, ATC India at tele.net's Eighth Annual Conference on Telecom Infrastructure in India on April 29-30, 2014 at The Leela Ambience, Gurgaon

About Us We are Hiring Contact Us

Subscribe Privacy Policy Advertise Terms & Conditions

Copyright © 2010, tele.net.in All Rights Reserved