

A stylized illustration of a silver mobile phone with a green screen and keypad, set against a green circular background with floating green circles of various sizes.

# Dispute Resolution in the Telecom Sector

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**18<sup>th</sup> September 2010**

The present-day telecom sector is characterized by:

- 700 Million Telecom Subscribers.
- Overall Teledensity of around 60% out of which Rural Teledensity 24.29% as compared to Teledensity 0.6% in year 1991.
- Second Largest Telephone Network in the World next to China
- One of the LOWEST Tariffs in the World due to Tough Competition among Service Providers.
- Simultaneous existence of state and private owned multiple operators
- Fast changing technologies, convergence of ideas, services markets
- Liberalized and customer oriented regulatory regimes.
- Subscribers wanting Value Added Services using IP, wireless and broadband technologies rather than Plain Old Telephony Service(POTS)
- Countries wanting to attract private investment by providing favourable investment climate.



## ➤ INVESTORS

- ✓ Telecom sector needs huge capital investments.
- ✓ Investors need assurance about quick, fair and effective disputes resolution mechanism.

## ➤ SUBSCRIBERS

- ✓ Need new services at lower tariffs
- ✓ Delays in dispute resolution would deny them this benefit.

## ➤ ECONOMY

- ✓ Slower growth of telecom sector would retard general economic and technical development of the country.
- ✓ In order to avoid disruptions and delays in the development of telecom markets, disputes need to be resolved expeditiously.



## Successful dispute resolution:

- ✓ facilitates investment climate, stimulates growth and is of prime importance to developing countries targeting higher teledensities and even spread of telecom across all the regions.
- ✓ is increasingly important for introducing competition
- ✓ should be as speedy as the networks and technologies they serve.

**Official dispute resolution mechanisms are important as a basic guarantee that sector policy will be implemented.**

**TDSAT has been settling Disputes quite fast.**

**Number of TDSAT Judgement have been in public Interest which has led to competition and reduced tariff**

**FCC IS THE REGULATOR - interprets, co-ordinates and adjudicates on policy issues and disputes arising from them.**

- **FCC provides parties with a choice of ADR procedures as mandated under the Telecommunications Act of 1996.**
- **No separate appellate mechanism for telecom.**
- **FCC generally takes pro-consumer, anti-monopolistic stance in regulatory and dispute resolution functions.**
- **There is a provision of final decision to be given by a commissioner or panel of commissioners. It also admits review petitions.**
- **The decisions can be appealed in US Court of Appeal.**
- **Many of FCC orders are subject to review in Federal Courts.**
- **Unless “arbitrary and capricious” the courts generally don’t interfere in regulatory decisions.**

India has perhaps a unique model since year 2000

- Regulatory functions are vested with the telecom regulator Telecom Regulatory Authority of India (TRAI),
- Policy and licensing functions are retained by the Union Government's wing Department of Telecommunications (DoT),
- Adjudication function has been vested with a specialized high powered tribunal Telecom Disputes Settlement & Appellate Tribunal (TDSAT). TDSAT in India is the ONLY Tribunal of its kind in the World.



- **By TRAI Act, which is a special Act, Jurisdiction of civil courts has been ousted and for all telecom, cable and broadcasting sector related disputes, the jurisdiction has been vested only with TDSAT.**
- **High courts entertain telecom disputes if TDSAT is not sitting.**
- **HC has limited jurisdiction under Art 226 of constitution to correct gross errors of jurisdiction.**
- **TDSAT has the following powers i.e. to**
  - (a) adjudicate any dispute –**
    - (i) between a licensor and a licensee;**
    - (ii) between two or more service providers;**
    - (iii) between a service provider and a group of consumers**
  - (b) hear and dispose of appeal against any direction, decision or order of the Telecom Regulatory Authority of India.**



- **TDSAT does not hear individual consumer complaints. Consumer Group can however approach TDSAT.**
  
- **SUPREME COURT-**
  - **WLL Case- TDSAT powers are not limited to judicial review. It is creature of statute-an expert body created to determine correctness of an order passed by another expert body.**





# TDSAT - Its Different !

- It has wide original and appellate jurisdiction.
- As the only telecom adjudicator, it hears questions of facts and law.
- It blends law, commerce and technology.

Chairperson - serving or retired judge of Supreme Court or Chief Justice of a High Court.

Two members - well versed with technology, telecommunication, industry, commerce or administration or Secretary to Union of India for 2 years minimum.

- It can regulate its own procedures.
- Appeal lies only to the highest court i.e., Supreme Court of India.



# TDSAT - overcomes disadvantages of Regulatory Adjudication



- **It has gathered required expertise.**
- **Very few matters are pending.**
- **It passed orders on interconnection issues, license agreement interpretation, pricing, jurisdictional issues, policy interpretation, level playing field.**
- **Even complex matters like challenge to limited mobility service reached finality in less than 3 years, despite appeal to Supreme court.**





*Thank You*