

**STATUS OF DISPUTE SETTLEMENT MECHANISM IN
TELECOM AND BROADCASTING SECTORS IN INDIA
RABINDRA BHAVAN, GUWAHATI, ASSAM
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**ORGANISED BY
TELECOM DISPUTES SETTLEMENT AND APPELLATE
TRIBUNAL (TDSAT)**

SCHEDULE

The seminar at Guwahati brought together a distinguished gathering of service providers, representatives of cable service providers and broadcasters of the North-East Region. They were made aware of the Dispute Resolution Mechanism and Redressal of Consumer Grievances of the redressal under the provisions of the TRAI Act, 1997 through this seminar.

The seminar was held at the Rabindra Bhavan in Guwahati on 18-12-2005, which was inaugurated by Hon'ble Mr. Justice H.K. Sema, Judge, Supreme Court of India. Hon'ble Mr. Justice H.K. Sema highlighted the need for speedy and effective settlement of disputes in a rapidly expanding sector like Telecom. He also stressed on the importance of effective resolution of such disputes that have tremendous relevance for the common man.

Legal luminaries like Chief justice of the Guwahati High Court, Hon'ble Mr. Justice B. Sudarshan Reddy, Hon'ble Mr. Justice Dr. Mukundakan Sharma, Judge, Delhi high Court, Mr. Nelay Dutta, Senior Advocate Guwahati High Court, participated in the inaugural session of the seminar.

Hon'ble Mr. Justice N. Santosh Hegde emphasized the importance of telecommunication services to the citizen and the development of the nation. He explained how tele-medicine could reach millions where expert medical help may not be available. And how video-conferencing could provide high quality education to remote rural schools.

He also informed the participants of cases at the TDSAT where groups of consumers had approached the TDSAT and who felt adversely affected. He requested the citizens and consumers through the media to take inspiration from such success stories and come forward with their grievances to the TDSAT.

He also told the audience that after the seminars at Jaipur and Hyderabad earlier this year, this was the first time that the TDSAT had held such a conference in the State of Assam in the North East and wanted the people of the North East to learn about their rights through the seminar and the work of the TDSAT.

Sri Vinod Vaish, Member, TDSAT, dwelt on the unique structure of the TDSAT which has been widely appreciated at the international for a, and the participants and stake holders of the telecom sector as the experience has shown through our interaction at the various seminars conducted by TDSAT in he past 3-4 years.

He also emphasized upon the challenges faced by the sector for the dispute resolution in the light of complex and ever-changing technology.

The first session was chaired by Mr. Neloy Dutta, Senior Advocate, Guwahati High Court. The proceedings of this session were as follows:

The speaker of the session, Mr. Manjul Bajpai, Advocate, categorized the settlement of disputes in the telecom sector into four phases. The “initial phase” where TRAI was envisaged to be an independent body or an adjunct to DoT, the “confused phase” where TRAI had adjudicatory power over the Licensor, the “unimplemented phase” where TRAI was to act as an arbitrator or adjudicator of disputes and finally the “current phase” i.e. after the January 2000 Amendment to the TRAI Act.

He was of the view that to maintain continuity in the knowledge and expertise gained during the litigation it needs to be passed on to the succeeding Chairperson and Members. And that in order to avoid plethora of litigation, important aspects of telecom issues should be codified with clarity to avoid ambiguity ad uncertainty.

This presentation was followed by that of the CMD, BSNL Mr. A. K. Sinha who began with a historical perspective on how the telecom industry in India was opened up for competition through the NTP-94 and NTP-99. He was of the view that vertical and horizontal integration of business through mergers and acquisitions was the need of the hour and felt that lowering of the entry fee for new NLD/ILD players would lead to disputes and litigation by existing operators for level playing field. He felt that as rural obligations under unified license have been done away with a strong policy in support of rural telecommunication growth, needed to be put in place.

With respect to disputes in the industry he felt that co-location of equipment of large number of operators in the premises of the incumbent was a bone of contention leading to many disputes. Other causes of dispute according to him were: Infringement of rights and obligations of one by

the other due to technological innovations; deliberate violation of the licensing and regulatory framework by some operators, bypass of Access Deficit Charges; allocation of adequate Spectrum and Spectrum interference; manipulation of Numbering Plan and under declaration of traffic and revenues to bypass the ADC and license fees; operators passing off more expensive schemes to the consumer as cheaper to attract the consumers;

He felt that for the dispute resolution mechanism to be effective it should not be overloaded and there should be clarity and transparency in regulation. He also felt that operators should provide for effective in house dispute resolution mechanism to provide relief for individual grievances, as such a system would also be easy to approach, faster and less expensive

While he felt that regulatory information was becoming very complicated and expensive., he was of the view that the TDSAT was doing extremely good work in resolving the disputes amongst the service providers, and vis-à-vis TRAI and Licensor for healthy growth of the telecom sector and protection of the interest of consumers.

Mr. Anuj Gandhi from SET Discovery Pvt. Ltd. gave the participants an overview of the Indian market and was of the view that there was huge business potential in the cable and broadcasting sector. He expressed the view that that the present regulations were ad-hoc, one-sided and did not take into account the realities on the ground and that such adhocism vitiates the investments and growth opportunities for the broadcasting business without meaningfully benefiting the consumer.

He proposed territory-wise licensing, voluntary CAS and phase-wise introduction of digital cable as possible solutions.

Mr. D.P.S. Seth, Member, TRAI through figures and statistics pointed out that the growth of telecom services in India had been dominated by cellular mobile and fixed wireless connections. He explained that the digital divide between urban and rural areas has increased due to the absence of adequate incentives to service providers to go to rural areas. He pointed out that 30% of the country's population was exposed to wireless at present with practically no rural area coverage. He said TRAI expected growth through greater exposure to wireless based services and content rich services and that IP based technologies were expected to provide requisite cost economies to achieve attractive business cases.

He was of the view that as technologies were evolving at a scorching pace and that "Converged Licensing Options" could also be viewed as there was need for flexibility and adopting a new licensing framework. He also emphasizes that such an option would ensure a level playing field among all operators.

Mr. Srivals Kumar from Legal Department of Tata Teleservices Ltd. in his presentation enunciated the view that a successful dispute resolution mechanism was increasingly relevant to attracting investment, competition and development of the sector. He felt that dispute settlement mechanisms in the telecom & broadcasting sector had to be as speedy as the networks and technologies that they serve. He also pointed out that the Indian model in this sector was unique and innovative where the regulatory functions were vested with the telecom regulator (TRAI), the policy and licensing functions were retained by the Union Govt. through the Department of Telecommunication (DoT) and the adjudicatory function was vested with a specialised tribunal i.e. the TDSAT.

The second session was presided over by Hon'ble Mr. Justice P.C. Phukan, President, State Consumer Dispute Redressal Commission, Assam and the problems of the consumers were taken up for discussion. The proceedings of this session were as follows:

Mr. Upamanyu Hazarika, Advocate, Supreme Court of India, presented the view that telecommunication, broadcasting and cable sectors have seen an exponential growth over the last decade and that every dispute in this sector had major implications for the telecom service providers and consumer as it was a major medium for mass communication and a tool to ensuring effective exercise of fundamental right to speech as well as right to know.

He was of the view that with its current disposal standards TDSAT had a unique opportunity to institutionalize time standards, implement modern case/Court management practices that can be an example for the rest of the country.

Mrs. Roop Sharma President, Cable Operators Federation of India (COFI) in her presentation pointed out how cable viewership was earlier based on the initiative of the friendly local entrepreneur who could provide value for money as compared to the neighborhood video library, and that after the down-linking of channels how the field has become extremely competitive. She was of the view that though regulations have been made in this sector they were very one sided and favoured only the broadcasters. She also presented some of the difficulties faced by the industry i.e. problems faced by MSOs, problems faced by cable operators due to MSOs, and the hardship caused to the consumer / LMO / MSO by the broadcasters. She was of the view that Conditional Assess System (CAS) could drastically improve the plight of all the stakeholders.

Mr. B.K. Sinha, CGM, Assam Telecom Circle, BSNL, took the participants through the various provisions of the TRAI Act, 1997, and the relevant provisions within the Act that are envisaged

to protect consumer rights. He also educated the participants on the provisions within the above Act that were relevant to the TDSAT. He explained to the participants the Quality of Service (QoS) norms for Basic and Cellular Telephone Services, QoS parameters for Wireless and Mobile services.

The important directives that had relevance to the consumer according to him were; refund of security deposit for closed connection within 60 days; standard format for publication / advertisement of tariff by service providers; provision of complete details of the tariff plans to the customer; formulation of common charter of Telecom Services; all service providers to set up consumer grievance redressal mechanism at call center level and also to form an appellate authority within the company, all service providers to nominate a senior executive as the nodal officer to attending to consumer complaints and give wide publicity to the same.

He provided figures and statistics with respect to BSNL in Assam explain how these norms were being followed by them.

Mr. Atulananda Goswami, Founder President, Grahak Suraksha Sansthan, Guwahati, was of the view that telecommunication services had come a long way in our country from being perceived as a privilege to a “public utility implement in a developing society”. He narrated instances where consumers had been put to hardship due to the laxity of some BSNL official and felt that BSNL should take up the challenge of competition and tighten its belts. He laid emphasis on the fact that subscriber satisfaction should be the top priority of BSNL.

Lt. Gen. D. P. Sehgal (Retd.), Member, TDSAT, summed up the deliberations of the seminar conducted during the course of the day and explained the role of the TDSAT and the benefits accruing to the citizens through the existing dispute settlement mechanism in the telecom, broadcasting and cable sectors.

The Registrar, TDSAT, Sri A. K. Agnihotri, proposed a vote of thanks at the conclusion of the seminar.

PRESENTATIONS OF PARTICIPANTS

1. [Mr. Manjul Bajpai, Advocate](#)
2. [Mr. A. K. Sinha, CMD of BSNL](#)
3. [Mr. Anuj Gandhi from SET Discovery Pvt. Ltd.](#)

4. [Mr. D.P.S. Seth, Member, TRAI](#)
5. [Mr. Srivals Kumar from Legal Department of Tata Teleservices Ltd.](#)
6. Mr. Upamanyu Hazarika, Advocate, Supreme Court of India
7. [Mrs. Roop Sharma President, Cable Operators Federation of India \(COFI\)](#)
8. [Mr. B.K. Sinha, CGM, Assam Telecom Circle, BSNL](#)
9. Mr. Atulananda Goswami, Founder President, Grahak Suraksha Sansthan, Guwahati,