



The Telecom Regulatory Authority of India Act, 1997



A Brief Introduction

- ▶ Telecom Regulatory Authority of India Act, (TRAI) was enacted in 1997. This Act established a Telecom Regulatory Authority of India (TRAI), whose Chairperson to be a sitting or retired Judge of Supreme Court or a Chief Justice of a High Court and the Members were to be persons having special knowledge of, personal experience in, telecommunication, industry, finance, accountancy, law, management and consumer affairs.
- ▶ Apart from regulatory functions, TRAI was also empowered to adjudicate upon disputes among Service Providers or between the Service Providers and a group of Consumers on matters relating to technical compatibility and interconnection between the Service Providers, revenue sharing arrangement between Service Providers and quality of telecommunication services and interests of consumers.
- ▶ TRAI was vested with the power to issue directions to the Service Providers. Appeals from the decisions of TRAI lay to the High Court and appeals therefrom lay to the Supreme Court. The jurisdiction of Civil Courts was barred.



Formation of TDSAT

- In order to bring in functional clarity and strengthen the regulatory framework and the disputes settlement mechanism in the telecommunication sector, the TRAI Act was amended in the year 2000 and the Telecom Disputes Settlement and Appellate Tribunal was setup to adjudicate disputes and dispose of appeals with a view to protect the interest of Service Providers and consumers of the telecom sector and to promote and ensure orderly growth of the telecom sector.
- In January, 2004, the Government included broadcasting and cable services also within the purview of TRAI Act.
- The jurisdiction of TDSAT stands extended to matters that lay before the Cyber Appellate Tribunal and also the Airport Economic Regulatory Authority Appellate Tribunal.



Scope & Object

- It is an Act to provide for the establishment of the Telecom Regulatory Authority of India and the Telecom Disputes Settlement and Appellate Tribunal to regulate the telecommunication services, adjudicate disputes, dispose of appeals and to protect the interests of service providers and consumers of the telecom sector, to promote and ensure orderly growth of the telecom sector and for matters connected therewith or incidental thereto.



Key terms

- "Appellate Tribunal" means the Telecom Disputes Settlement and Appellate Tribunal established under section 14.
- "licensee" means any person licensed under sub-section (1) of section 4 of the Indian Telegraph Act, 1885 (13 of 1885) for providing specified public telecommunication services.
- "licensor" means the Central Government or the telegraph authority who grants a licence under section 4 of the Indian Telegraph Act, 1885 (13 of 1885).
- "service provider" means the [Government as a service provider] and includes a licensee.

Establishment of Appellate Tribunal

- The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Telecom Disputes Settlement and Appellate Tribunal 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:

Provided that nothing in this clause shall apply in respect of matters relating to-

- (A) the monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of section 5 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969);
- (B) the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commission established under section 9 of the Consumer Protection Act, 1986 (68 of 1986);
- (C) the dispute between telegraph authority and any other person referred to in sub-section (1) of section 7B of the Indian Telegraph Act, 1885 (13 of 1885);



(b) hear and dispose of appeal against any direction, decision or order of the Authority under this Act.

(c) Exercise jurisdiction, powers and authority conferred on—

(i) The Appellate Tribunal under the Information Technology Act, 2000 (21 of 2000);

(ii) The Appellate Tribunal under the Airports Economic Regulatory Authority of India Act, 2008 (27 of 2008); and

(iii) The Appellate Tribunal under the Digital Personal Data Protection Act, 2023.

Brief Discussion on Section-14

- ▶ Section 14 of the Telecom Regulatory Authority of India Act, 1997 (Act No. 24 of 1997) provides for the establishment of Telecom Disputes Settlement and Appellate Tribunal (TDSAT) by the Central Government to perform three primary roles:
 - (i) **Adjudication:-** Resolving direct disputes between licensors (Government) and licensees, between different Service Providers or between a Service Provider and a group of Consumers.
 - (ii) **Appellate Review:-** Hearing Appeals against any direction, decision or order made by Authority (TRAI) under the act.
 - (iii) **Cross-sector Jurisdiction:-** It acts as the designated Appellate Tribunal for several other major acts including IT Act, 2000, Airports Economic Regulatory Authority of India Act, 2008 and Digital Personal Data Protection Act, 2023.

Remarks:

The TDSAT has evolved into a **powerful specialized court** for digital economy, infrastructure and data-privacy ensuring that complex industrial disputes are handled by experts rather than general courts.



Application for settlement of disputes and appeals to Appellate Tribunal

- 1) The Central Government or a State Government or a local authority or any person may make an application to the Appellate Tribunal for adjudication of any dispute referred to in clause (a) of section 14.
- (2) The Central Government or a State Government or a local authority or any person aggrieved by any direction, decision or order made by the Authority may prefer an appeal to the Appellate Tribunal.
- (3) Every appeal under sub-section (2) shall be preferred within a period of thirty days from the date on which a copy of the direction or order or decision made by the Authority is received by the Central Government or the State Government or the local authority or the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed: Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.
- (4) On receipt of an application under sub-section (1) or an appeal under sub-section (2), the Appellate Tribunal may, after giving the parties to the dispute or the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

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- (5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the dispute or the appeal and to the Authority, as the case may be.
 - (6) The application made under sub-section (1) or the appeal preferred under sub-section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application or appeal finally within ninety days from the date of receipt of application or appeal, as the case may be: Provided that where any such application or appeal could not be disposed of within the said period of ninety days, the Appellate Tribunal shall record its reasons in writing for not disposing of the application or appeal within that period.
 - (7) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness of any dispute made in any application under sub-section (1) or of any direction or order or decision of the Authority referred to in the appeal preferred under sub-section (2), on its own motion or otherwise, call for the records relevant to disposing of such application or appeal and make such orders as it thinks fit.



Brief Discussion on Section-14A

- Section 14A of the Telecom Regulatory Authority of India Act, 1997 (Act No. 24 of 1997) provides the right to challenge any direction, decision or order made by Authority within 30 days from the date of its issuance.
- It also provides for the timely disposal of Appeals filed against the Tech and Telecom decisions by legally binding the Tribunal to resolve the entire case within 90 days.



Power of Chairperson to transfer cases

- On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairperson of the Appellate Tribunal may transfer any case pending before one Bench, for disposal, to any other Bench.



Members, etc., to be public servants

- The Chairperson, Members and other officers and employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).
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Procedure and powers of Appellate Tribunal

- (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure.
- (2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:-
 - (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) requiring the discovery and production of documents;
 - (c) receiving evidence on affidavits;
 - (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or a copy of such record or document, from any office;

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- (e) issuing commissions for the examination of witnesses or documents;
 - (f) reviewing its decisions;
 - (g) dismissing an application for default or deciding it, ex parte;
 - (h) setting aside any order of dismissal of any application for default or any order passed by it, ex parte, and
 - (i) any other matter which may be prescribed.

- (3) Every proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860) and the Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Right to legal representation

- The applicant or appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal.

Explanation.-for the purposes of this section,—

(a) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) "cost accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

Appeal to Supreme Court

- (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or in any other law, an appeal shall lie against any order, not being an interlocutory order, of the Appellate Tribunal to the Supreme Court on one or more of the grounds specified in section 100 of that Code.
- (2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.
- (3) Every appeal under this section shall be preferred within a period of ninety days from the date of the decision or order appealed against:

Provided that the Supreme Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.



Orders passed by Appellate Tribunal to be executable as a decree

- (1) An order passed by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.
- (2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.



Penalty for wilful failure to comply with orders of Appellate Tribunal

- If any person wilfully fails to comply with the order of the Appellate Tribunal, he shall be punishable with fine which may extend to one lakh rupees and in case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which such default continues.



Thank You

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