



Efficacy Of Dispute Resolution in Broadcasting & Cable Sector

© & Presented By: Ashok Nambissan

Note: Views expressed are
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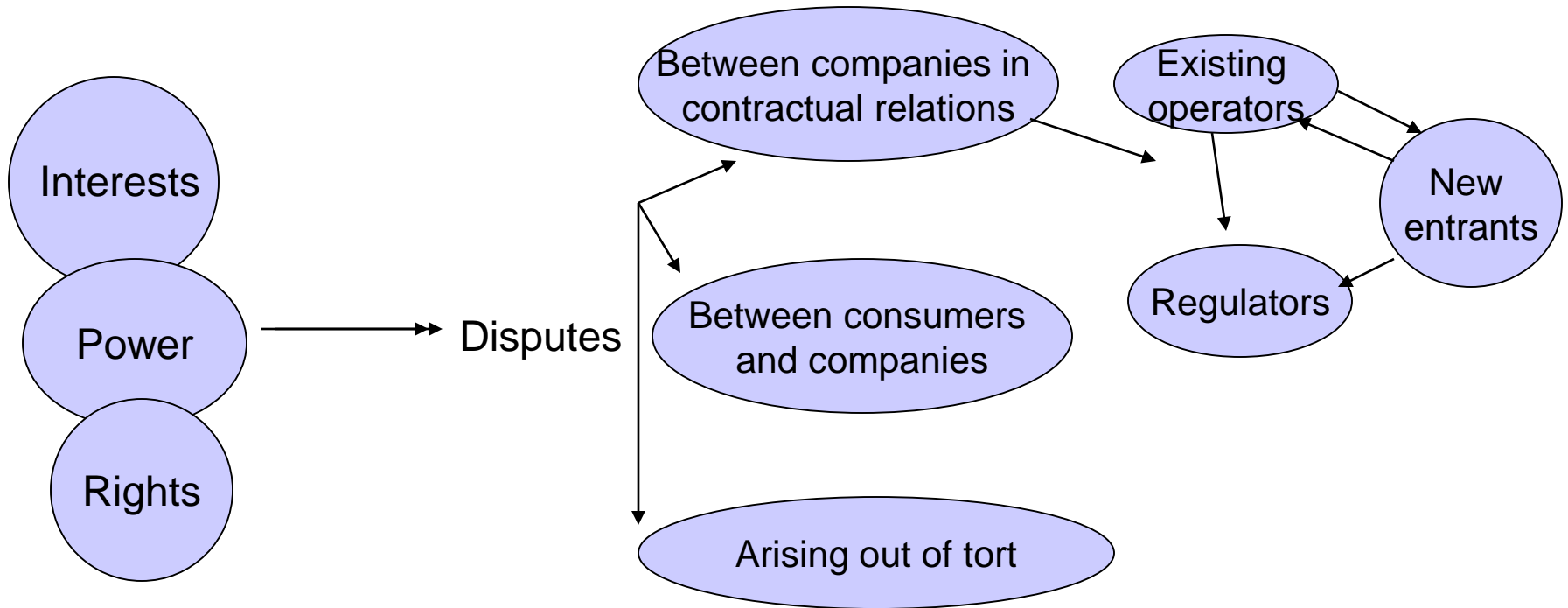
Achieving the “regulatory agenda”

- ◆ Regulatory agenda = development of a liberalised telecommunications and broadcast sector with stable and sustainable competition between operators delivering benefits to consumers.



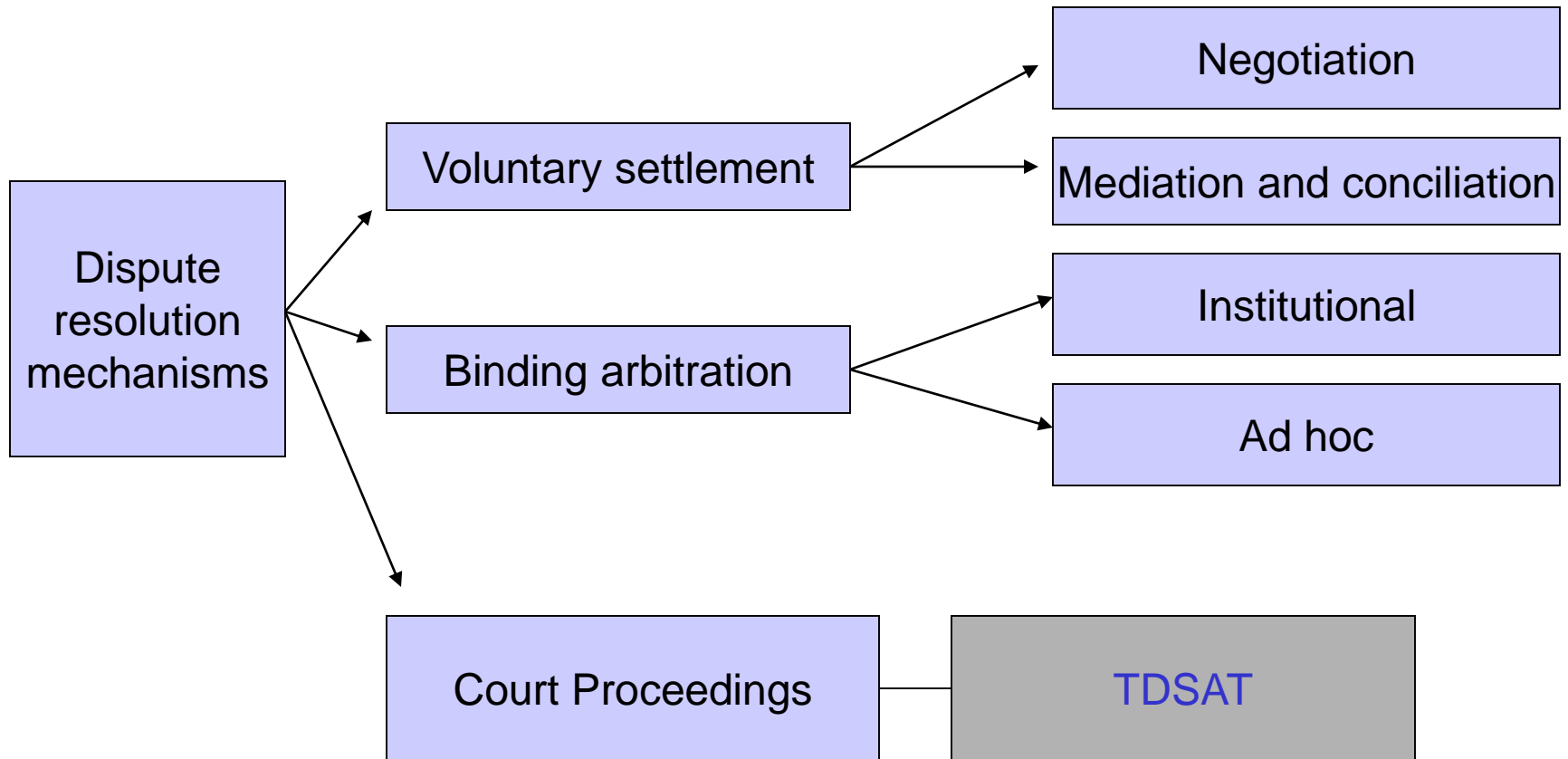


The increase and nature of disputes



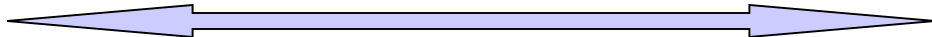


Dispute resolution framework






DISPUTES

LCO  Consumer

- Service Quality
- Billing/Price discrimination
- Interruption in cable services
- Change in channel placements
- Absence of effective consumer redressal system



DISPUTES

MSO  LCO

- Subscriber Nos.
- Signal piracy.
- Territory
- Non payment/under payment.
- Renewal of service agreements.
- Unpaid dues of LCO migrating to different MSO.



DISPUTES

Broadcaster  MSO

- Subscriber verification
- Territory
- Non payment of fees
- Renewal of service agreements
- Piracy /copyright protection
- Limited bandwidth capacity
- Channel placements
- Interruption of cable services

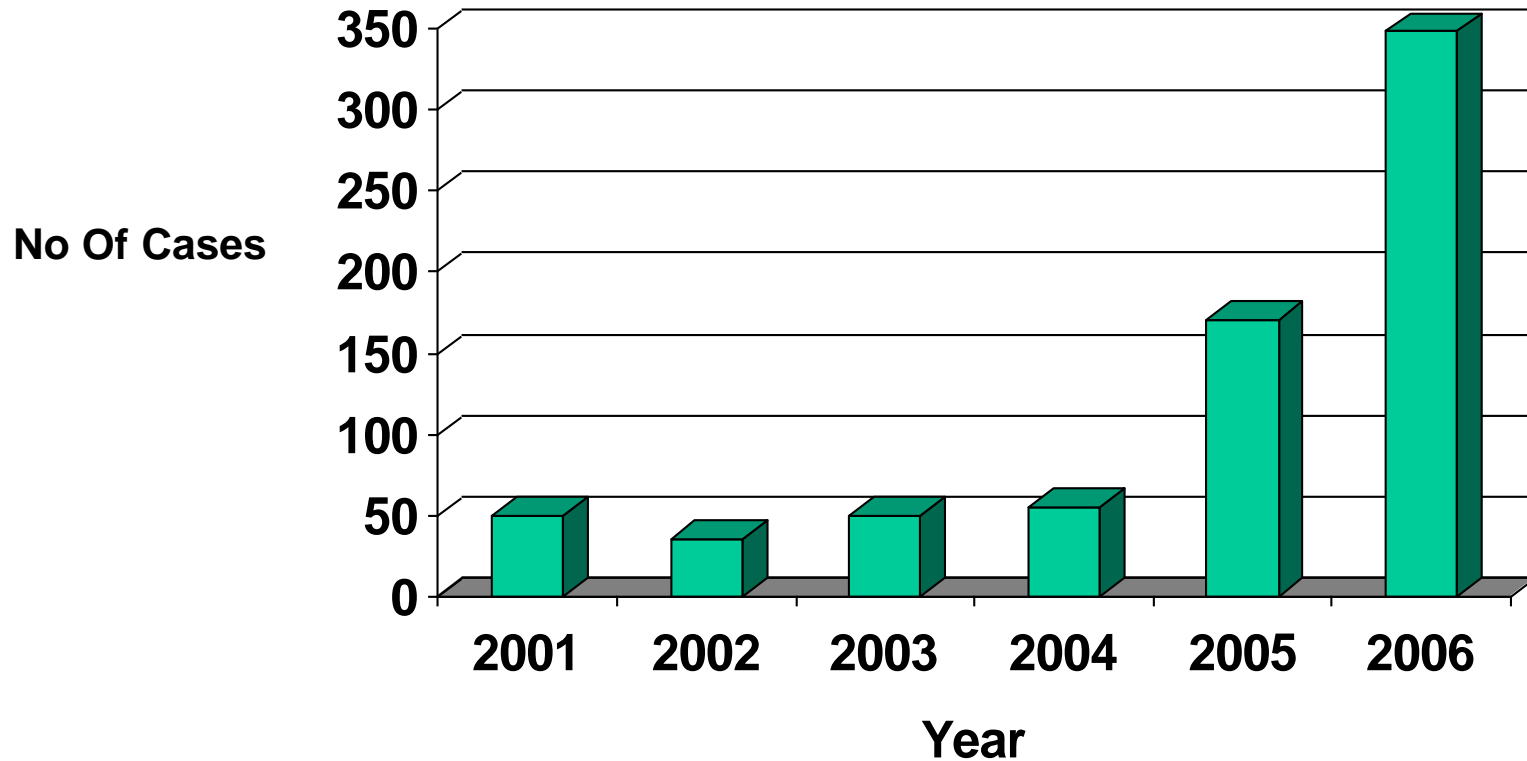


Dispute Resolution

- Major causes of disputes:
 - INTERCONNECTION
 - PAYMENT
 - SUBSCRIBER VERIFICATION
 - TERRITORY
 - PIRACY



Institution of Petitions/ Appeals before TDSAT





TDSAT – DISPOSALS OVERVIEW (2000 – 2008)

Description	Filed	Disposed	Pending
Petitions	1177	876	301
Review Applications	37	35	2
Appeals	120	93	27
Cases transferred from TRAI	16	16	0
On remand from Supreme Court	12	12	0
Execution Applications	58	54	4
MAs	1084	949	135
Grand Total	2504	2035	469

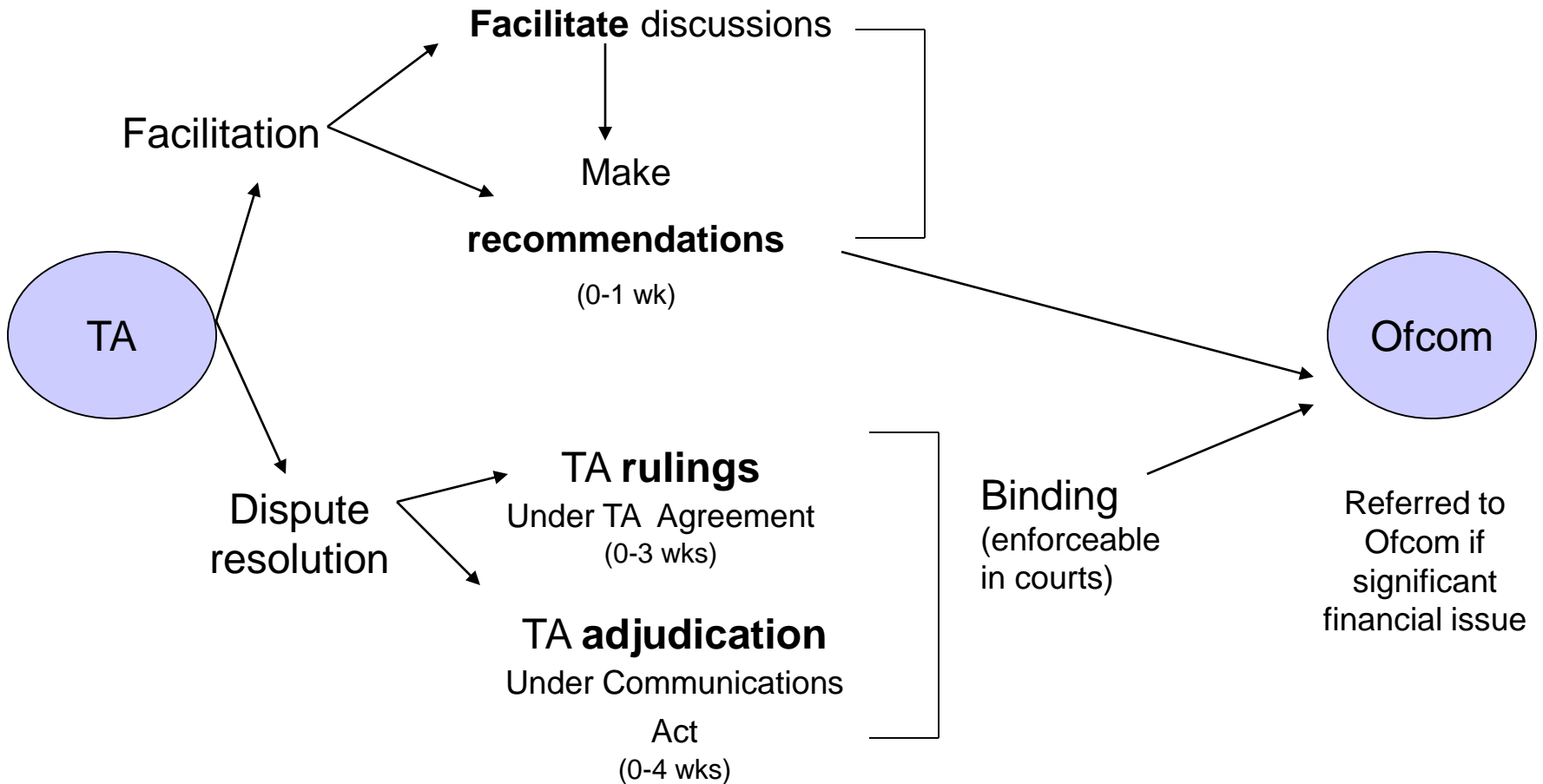
Source: TDSAT Registry



UK regulatory landscape – Dispute resolution mechanism



Telecoms Adjudicator (TA)





Also private dispute resolution organisations, approved by Ofcom

- Ombudsman-type negotiation e.g. OTELO:
 - Independent and impartial
 - User-friendly
 - Transparent
 - Effective
 - Free of charge to customer
 - Able to properly investigate disputes and award appropriate compensation.



Alternate Dispute Resolution



Important objectives for dispute resolution

- Speedy Redressal
- “Affordable”
- Efficacy in enforcement
- Certainty



Importance of effective mechanisms

- Dispute resolution integral part of TRAI Regulations.
- Efficient regulation and dispute resolution lead to 'equal' rights and obligations- 'Level Playing Field'.
- Consistency needed, to level the playing field and encourage further investment.
- Mediation and other ADR mechanisms to be encouraged.
- Cooperation of Judicial bodies to ensure consistency across the industry.



Ideal Model

- Reduces legal uncertainty.
- Provides regulators means and powers necessary.
- Ensures disputes resolved as **quickly** as possible, within statutory limits.
- Has clear rules on **confidentiality** of business secrets.
- Establishes effective appeals procedures.
- Establishes prompt review of admin decisions.
- Has clear rules on *locus standi* and 3rd party rights.
- **Limits appeals** on merits to one instance.



Suggestions

- Facilitation of alternate dispute resolution by use of Mediation.
- Disputes on subscriber base be determined on basis of data in public domain. E.g. Census data, IRS, NRS.



Sea TV Network Ltd. Case

- TRAI vide its recommendation dated 1.10.2004 mandated a register of subscribers to be maintained by LCO/MSO to identify and arrive at the correct number of subs-base, to be considered by TDSAT, in disputes regarding area of operation and subs-base.



CONCLUSION

“Discourage litigation; persuade your neighbours to compromise whenever you can. Point out to them how the normal winner often loses in fees, expenses, cost and time.”

Expanding the scope of dispute resolution will go a long way to facilitate constructive settlement of disputes by ensuring that the regulatory obligations of the Broadcasters and the MSO / LCO and other Platforms are being strictly followed in a fair and even handed manner.