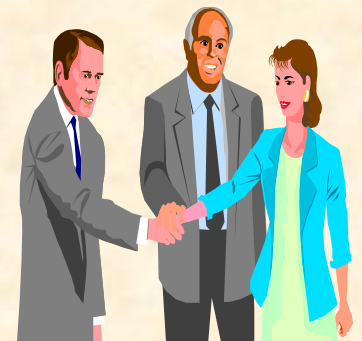




*“REGULATORY FRAMEWORK AND
DISPUTE RESOLUTION IN TELECOM,
BROADCASTING AND CABLE
SERVICES SECTORS”*

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CHANDIGARH – 01.10.2011*



TRAI ACT

- § The TRAI Act was enacted in the year 1997. Originally, TRAI itself had both regulatory and limited adjudicatory functions.

TDSAT

- § The TRAI Act was amended in the year 2000 and TDSAT was created as a statutory body.

EXCLUSIVE JURISDICTION

- § TDSAT is empowered to entertain all telecom disputes.
- § Its jurisdiction was extended to Cable and Broadcasting industry also in January, 2004.
- § It has exclusive jurisdiction to entertain all disputes whether it is telephony, cable or broadcasting.

NO OTHER COURT HAS JURISDICTION

§ Civil Court

Civil Court's jurisdiction is expressly barred under the TRAI Act with respect to cases / matters, which the TDSAT is empowered to determine.

§ TRAI

TRAI was divested of its adjudicatory powers in the year 2000 and it does not have adjudicatory powers.

§ Arbitrator

Arbitrator does not have jurisdiction in Telecom matters.

§ High Court

High Courts have the power to deal with even telecom matters under their writ jurisdiction, but generally, the High Courts have preferred to send telecom cases to TDSAT, even if these are agitated in writ jurisdictions.

APPELLATE AND ORIGINAL JURISDICTIONS – TDSAT's POWERS

- § TDSAT has both Appellate and Original jurisdictions.
- § Under its original jurisdiction, TDSAT is empowered to adjudicate upon any dispute between the Licensor and a Licensee; two or more service providers; and between a service provider and a group of consumers.
- § In its appellate jurisdiction TDSAT can hear and dispose of appeals against any direction, decision or order of TRAI. The Appeal must be filed in 30 days of the impugned order.

POWER TO REVIEW – REGULATE OWN PROCEEDURES - NATURAL JUSTICE - DECREE

- § TDSAT is a Court of first instance and its powers are very wide
- § TDSAT has power to review its own orders.
- § Provisions of CPC do not apply to TDSAT.
- § Empowered to regulate its own procedures.
- § It has to follow principles of natural justice.
- § Orders of the Tribunal are executable as a decree of a civil court.

EXCLUSIONS FROM TDSAT's Jurisdiction

§ Individual Subscriber

Complaints of an individual consumer maintainable before District, State or National Disputes Redressal Forum under the Consumer Protection Act of 1986.

§ Arbitration under Section 7B of Indian Telegraph Act, 1885

A dispute under Section 7B of the Indian Telegraph Act, 1885 between the Telegraph Authority and a consumer. In my opinion, Section 7B has become redundant because its now BSNL which is providing services and not DoT / Government.

Interim Orders

§ TDSAT pass an Interim Order / grant interim reliefs.

Penalty

§ On willful failure to comply with order of TDSAT, the violator is liable to pay fine upto one lakh rupees. It increases in case of subsequent / continuing defaults.

Appeals

§ Appeal from TDSAT's Final Orders lie directly to Supreme Court.

§ But only on substantial Questions of Law.

§ No appeal can be filed against interim Orders of TDSAT.

With this birds eye view of the
general law on the subject, I thank
you for your patient listening.

THANK YOU