

**TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL  
NEW DELHI**

**DATED 9<sup>TH</sup> MARCH,2006**

-  
-  
**M.A.No.36 of 2006**

**in**  
**PETITION No. 54(C) OF 2006**

Indusind Media and Communications Ltd.

...Petitioner

Vs

Star India Pvt. Ltd. & Anr.

...Respondents

**BEFORE:**

**HON'BLE MR. JUSTICE N. SANTOSH HEGDE,  
CHAIRPERSON**

For Petitioner : Mr.A.N.Haksar, Senior Advocate with  
Mr.Manjul Bajpai, Ms.Sandhya  
Singh, Advocates

For Respondent No.1/applicant in : Mr Rajiv Nayar, Sr. Advocate,  
M.A.No.36 of 2006 Mr.Gopal Jain, Ms.Kanika Agnihotri,  
, Ms Simran Brar, Mr Sarvesh Singh,  
Mr.Gaurav Vats, Advocates

For Respondent No.2 : Mr.Raghvinder Singh, Advocate

---

**ORDER**

**M.A.36 of 2006:**

This is an application filed by the respondent no.1 (applicant herein) alleging violation of the order of this Tribunal dated 22<sup>nd</sup> February,2006 by which the petitioner is receiving signals as an interim measure on conditions mentioned therein. In this application the applicant has contended that the parties are bound by the terms and conditions mentioned in the Term Sheet signed by the parties dated 14<sup>th</sup> February,2006 and as per the said Term Sheet the petitioner was bound to provide the list of cable operators along with their respective declared subscribers' number and areas of operation which the learned counsel for the applicant submits has not been done and contrary to the

contention of the parties and the provisions of the regulations the petitioner has been supplying signals unauthorisedly to the consumers who have not been covered by the Term Sheet.

2. Learned senior counsel for the petitioner in response to this particular complaint made by the applicant pointed out from paragraph-2 of the order of this Tribunal dated 22<sup>nd</sup> February,2006 that this very issue has been left open by this Tribunal to be decided at the time of hearing of the petition. The issue considered in that order was in regard to the rights of a signal provider to seek particulars of its subscribers. The learned senior counsel for the petitioner in support of this first complaint of the applicant contended that what is left to be decided by the Tribunal at a subsequent stage is the particulars of all the subscribers which was declared by the applicant but what the applicant is now seeking in clause-6 of the Term Sheet is the number of cable operators and their subscribers to whom the petitioner is giving the feed. This Tribunal does not think that is the correct interpretation of the order passed by it. The moot question whether a service provider has a right to get particulars of the subscribers, be they cable operators or the ultimate consumers, is the issue which is left open to be decided by this Tribunal at the time of final hearing. Therefore, I am of the opinion that there is no violation of the order of this Tribunal dated 22<sup>nd</sup> February,2006 on this count.

3. It was next contended by the applicant that there was an obligation under clause-3 of the Term Sheet to carry the signals of Star One on prime band on all India basis (excluding Hyderabad). It is complained that the petitioner has failed to give signals of Star One in Mumbai of that frequency consequent to which the Star One has not been received by many of the consumers of the city of Mumbai, in support of which, the applicant has produced certain e-mails. Learned senior counsel for the petitioner rebutted this argument by pointing out that the petitioner has, as a matter of fact, placed Star One signals on prime band as agreed to clause-3 of the Term Sheet, but the complaint of not receiving the same in some cases is because of the dispute that it has been obtaining the signals of the applicant in some areas which he has pointed out from the annexures produced by the applicant itself. The applicant itself, as a matter of fact, in a public notice issued by it, has denied that it has some dispute with the cable operators which in the opinion of this Tribunal substantiates the arguments of the learned counsel for the petitioner.

4. It is next contended by the learned counsel for the applicant that the petitioner is not paying the subscription as required under clauses 1,2 & 8 of the Term Sheet consequent to which there is a arrears of Rs.2,52,51,354.28 for the month of January,2006. According to those clauses the learned counsel for the applicant pointed out that the petitioner is liable to pay the amount within 45 days plus 15 days grace period to pay the subscription fee from the first day of the month. Payment has not been made according to the said schedule.

5. Learned counsel for the applicant submits that as per the directions of this Tribunal dated 22<sup>nd</sup> February,2006, apart from the Term Sheet referred to hereinabove, separate agreements have been signed by the parties on 24.2.2006 on negotiated basis and as per the said agreements the petitioner is entitled to a credit of 45 days plus 15 days grace period from end of the month and not from the beginning of the month. As per this schedule all payments have been made and nothing is due as on date. Therefore, it seems there is some dispute between the parties in regard to the starting of the payment for the subscription for the relevant month. Learned counsel for the applicant contended that the agreement relief upon by the petitioner is entered into by the applicant with the petitioner "without prejudice" basis because of the directions issued by this Tribunal in its order dated 22<sup>nd</sup> February,2006. Therefore, that clause which gives the benefit of extra 30 days to the petitioner could not be relied upon. This is an issue left open to be decided at the final stage whether the directions issued by this Tribunal could deny the right of the respondent during the pendency of this petition.

6. In view of the above, I find no merit in this M.A. and the same is dismissed.

7. The main matter will come up for hearing in its own turn.

.....J  
(N. Santosh Hegde)  
Chairperson