

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

DATED 18th May, 2006

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PETITION No.8(C) OF 2006

X-Cable T.V. Network

... Petitioner

Vs.

1. Star India Pvt. Ltd.
205-206, Okhla Industrial Estate,
Phase III,
New Delhi – 110 020

2. Surya Entertainment
National Road,
Near Bhat Bala Chowk,
Ludhiana,
Punjab.

... Respondents

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BEFORE:

MR. VINOD VAISH, MEMBER
LT.GEN.D.P.SEHGAL(RETD.), MEMBER

For Petitioner : Mr.Vineet Bhagat, Advocate

For respondent : Mr.Prateek Jalan with Mr.Sarvesh Singh, Advocates
no.1/Caveator for Karanjawala & Co.

For respondent : Mr.Vibhav Srivastava, Advocate
no.2

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ORDER

The petitioner working in the name of X-Cable TV Network is a multi-system operator and has filed this petition under sections 14 and 14A of the Telecom Regulatory Authority of India Act,

1997. The Respondent No.1, Star India Pvt. Ltd., is the broadcaster and Respondent No.2, Surya Entertainment is its authorized distributor. It is contended by the Petitioner that Respondent No.1 appointed Respondent No.2 as its distributor on 6th July 2005. On having been appointed the distributor it is the case of the Petitioner that Respondent No.2 got a blank agreement form signed from it for supply of signals on payment of Rs.75,000/- per month, inclusive of service tax for both Package-1 and Package-2 (new channels). It also contends that at the time when new agreement was signed in August 2005, the Petitioner had requested Respondent No.2 not to charge for the new channels and he was willing to return the decoders for the new channels, which request was rejected by Respondent No.2 and it threatened that in that eventuality all channels broadcasted by Respondent No.1 shall be deactivated. The Petitioner contends that it had no choice but to succumb to the pressure and the demand. It states that it was receiving signals and regularly paying Rs.75,000/- per month till January 2006. It also states that under pressure from Respondent No.2 it had made some extra payment to the tune of Rs.1,59,000/-. It states that on 17.12.2005 a public notice in daily newspaper 'Punjab Kesari' was published by the respondents stating that channels of Star TV would be disconnected to the Petitioner network because of non-payment of outstanding dues. It further contends that this was a pressure tactics on the part of the Respondents to extract more money for signing the new subscription agreement for the year 2006 and therefore it came to this Tribunal praying for continuation of signals and for directing the Respondents not to disconnect the signals and asking for complete statement of accounts. It has also prayed for direction to the Respondents to withdraw the bouquet of new channels.

2. When the case came up before us for the first time, we directed the Respondents to continue the signals as hitherto fore on payment of monthly subscription which was being paid on that date.

3. On the issue of signature on blank agreement form, the learned Counsel for the Respondent contended that the Petitioner was misleading the Tribunal by showing a blank form signed by it, whereas the agreement was signed on 6th of July 2005 which has also been registered with the authority as per the Regulation. The Respondent made us go through the agreement at Annexure R-1 of the reply affidavit, which is complete in all respects and signed by both the parties. It is clear from the agreement that the agreement has been signed for both the bouquets. The learned Counsel for Respondent No.1 submitted that the signatures on two pages on the blank agreement for the year 2006 produced by the Petitioner were different from the signatures on the same pages on the

completed Agreement produced by the Respondent. It also brought to our notice that the PAN No. was not mentioned in the blank form submitted by the Petitioner, which is required to be filled by the affiliate itself whereas PAN No. is filled in the completed agreement (registered with TRAI) at Annexure R-1. It was therefore case of the Respondent that the blank form produced by the Petitioner is a fake one.

4. On the question of subscription fee, the Respondent contends that the agreement dated 6th July 2005 valid through 31st December 2005 is very clear where Bouquet-1 charges are Rs.32.10 per month for 4,400 subscribers and for Bouquet-2, Rs.22/- per month for 2,400 subscribers. While going through the statement of accounts at Annexure R-2, the Respondent contended that the outstanding amount shown is exactly worked out based on this subscription fee as per the Agreement less the amount paid by the Petitioner. It denied that Respondent No.2 had ever agreed for supply of signals at the rate of Rs.75,000/- per month for both the bouquets. The Respondent further contended that it was for this outstanding amount of approximately, Rs.7.14 lakhs that the public notice was given to the Petitioner for disconnection of signals. It is stated that the Petitioner is enjoying this supply of signals by paying Rs.75,000/- per month under the interim order of this Tribunal and in turn the outstanding amount has further increased consequent to the directions of this Tribunal. The Respondent also referred to a letter dated 16th December 2005 addressed to the Petitioner informing it about the outstanding amount of Rs.714503.19 which as per the Regulations is one month notice prior to disconnection of signal. This letter is at Annexure R-3 of the reply affidavit.

5. We have no reason to disagree with the arguments put forth by the Respondent wherein the agreement as also the statement of accounts besides the legal notice as per the Regulation have been referred to, all of which are fully tenable. On this account, therefore, the Petitioner does not have a case.

6. The Petitioner also stated that the invoices raised by the Respondent were all dated 17th January 2006 which were all dated after the petition had been filed, which the Respondent contested and stated that this date is the date of print-out of duplicate invoices. It contended that original invoices had been sent to the Petitioner.

7. The Petitioner also submitted that initially it was a partnership firm comprising two partners namely the Petitioner and one Mr.Pawan Kalia and subsequently Mr.Pawan Kalia got separated after dissolving the partnership and started running a rival Cable TV Network by the name of Kalia Communication by taking away half the subscription base of the Petitioner. It contended that the Respondents were now charging it in spite of the said separation, more than what was being charged from the erstwhile partnership firm, which according to it, is unfair. Since the agreement of 06.07.2005 has been executed subsequent to the separation we do not find any merit in this contention of the Petitioner.

8. The Respondent also quoted some judgements like *Him Mohini Communication Pvt. Ltd. Vs. Star India Pvt. Ltd.* in Petition No.128(C) of 2005 where TDSAT ordered that the fresh agreement for the year 2006 will be signed irrespective of the adjudication of the proceedings of the petitions pending in the Court. In view of the above, we direct the parties to enter into a fresh agreement for the year 2006 within 30 days from this date and the interim order given on 16.01.2006 will remain operative only for the period of 30 days from the date of this order. We also direct the Petitioner to discharge its liability for the period until 31.12.2005 at the rates agreed to in the Agreement of 06.07.2005 and for the period thereafter on the new terms to be decided mutually for entering into the Agreement for the year 2006.

The petition is disposed of accordingly.

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(Vinod Vaish)
Member

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(D.P.Sehgal)
Member