“DISPUTE RESOLUTION AND REDRESSAL OF CONSUMER GRIEVANCES IN TELECOM SECTORS”

MANJUL BAJPAI
Agartala – 06.02.2010
Who / what is TDSAT?
- Jurisdiction over all telecom disputes.
- Exclusive jurisdiction over telecom matters.
- Court of first instance - wide powers – can settle “any dispute”.
- Both Appellate and Original jurisdictions.
Original Jurisdiction – dispute between:
- Licensor and Licencee;
- Service Providers inter-se;
- Service Providers and Group of Consumers.
  (Specified Persons)

Appellate Jurisdiction:
- Over any direction, decision or order of TRAI.
Individual Consumer – TDSAT - No jurisdiction

☐ Consumer Forums Jurisdiction saved.

☐ Arbitration under Section 7-B of Telegraph Act saved.

☐ A Supreme Court Judgment recently held - since special remedy under Section 7-B is provided therefore remedy before Consumer Forums barred.

☐ 7-B Arbitration is between Telegraph Authority and Consumers.

☐ Private Service Providers are not Telegraph Authority for Billing issues etc.

☐ Therefore, Consumer can neither have remedy of 7-B Arbitration nor before Consumer Forums.
TRAI

- TRAI Act Preamble - protect interest of Consumers.
- TRAI issued Regulations to Service Providers – provides for procedures for redressal of consumer grievances:
  - Establishment of institutional mechanism.
  - Call Centre: registers complaint; intimates action taken; intimates contact details of Nodal Officer
  - Nodal Officer
  - Appellate Authority
  - Publish a “Manual of Practice for handling consumer complaints”; make it available for reference at every office and Website. Provide copy or its abridged version to each consumer at the time of his subscription for service.

No Adjudicatory Powers with TRAI
Grievances against TRAI’s Directions / Regulations
- These can be appealed before TDSAT.
- Even individual consumer can challenge TRAI’s Directions / Regulations.

Civil Courts
- Civil Court’s jurisdiction is expressly barred. Specified categories of persons cannot approach Civil Courts.
- Individual Consumers can approach Civil Courts.

High Courts
- High Court has writ jurisdiction but generally they send telecom cases to TDSAT.

Arbitrator
- Specified categories of persons cannot.
- Individual Consumer can.
SOME SUGGESTIONS

- To maintain the advantages of a Specialised Tribunal, continuity in the knowledge and expertise gained during litigation needs to be passed on to the succeeding Chairperson and Members.

- To avoid plethora of litigation, important aspects of telecom issues should be codified with clarity to avoid ambiguity and uncertainty.
THANK YOU