

CONSUMER PROTECTION IN TELECOM SECTOR

OVERVIEW:

The telecom industry is regulated by the Telecom Regulations Authority of India, which was established on 20th February 1997. It was established to maintain uniform tariffs in India. The law which regulates this sector is Telecom regulations authority of India Act, 1997. The TRAI has introduced various schemes to protect the consumers from scams; Mycall app, Myspeed app and do not disturb (DND 2.0) were launched in order to promote transparency and allow the consumer to have knowledge about the actual payment made by the customers to the operators.

FILING A COMPLAINT TO THE SERVICE PROVIDER:

The complainant has to register a complaint with the service provider via the toll free number, an e-mail or in person. The link directs the complainant to the addresses of the service provider with respect to their jurisdiction <http://tccms.gov.in/Queries.aspx?cid=1>

If the issue is not resolved within a period of 3 to 7 days, the complainant can escalate the matter to the appellate authority of the respective service provider. The appellate authority addresses the issue by considering the advice of the advisory committee. The link directs the complainant to the contact details of the respective appellate authority <http://tccms.gov.in/Queries.aspx?cid=3>.

In the below mentioned link, pg. no. 19 gives the complaint form's format which is to be filed before the appellate authority.

<http://www.trai.gov.in/sites/default/files/201205301239017822962regulation4may07%5B1%5D.pdf>

TELECOM DISPUTES SETTLEMENT AND APPELLATE TRIBUNAL:

If the consumer's complaint has been rejected by the service provider, they can further appeal to the appellate authority. It is an adjudicatory body which settles the disputes between consumers and the service providers in order to protect the interest of the consumers and ensure the development of the telecom sector. It was established in 29th May of 2000. It can settle the disputes:

- (i) Between a licensor and a licensee
- (ii) Between two or more service providers
- (iii) Between a service provider and a group of consumers¹.

The below mentioned site enables the users to check the status of their cases, cause lists etc.

<http://www.tdsat.gov.in/Delhi/Delhi.php>

PROCEEDINGS TO BE OPEN TO PUBLIC:

The proceedings before the tribunal are open to the public. But if the tribunal feels a proceeding is to be kept private it has the power to do so.

¹ <http://www.ijlt.in/pdf/files/TRAI-Act-1997.pdf>

THE METHODOLOGY FOLLOWED BY THE TRIBUNAL FOR THE DISPOSAL OF APPEALS²:

- The tribunal if it feels so can direct the parties to go for mediation.
- The tribunal encourages mediation as it would cut short the expenditure of cost and time involved.
- If the dispute is not settled via the mediator, it can be further directed back to the tribunal.
- The mediation sessions won't be public. Privacy would be maintained.
- If the dispute is settled the tribunal fixes a date to record the statement and pass a decree.

ETHICS TO BE FOLLOWED BY THE MEDIATOR³:

- Follow and observe these Procedures strictly and with due diligence
- Not carry on any activity or conduct which could reasonably be considered as conduct unbecoming of a mediator
- Uphold the integrity and fairness of the mediation process
- Ensure that the parties involved in the mediation are fairly informed and have an adequate understanding of the procedural aspects of the process
- Satisfy himself/herself that he/she is qualified to undertake and complete the assignment in a professional manner
- Disclose any interest or relationship likely to affect impartiality or which might seek an appearance of partiality or bias
- Avoid, while communicating with the parties, any impropriety or appearance of impropriety
- Be faithful to the relationship of trust and confidentiality imposed in the office of mediator
- Conduct all proceedings related to the resolutions of a dispute, in accordance with the applicable law
- Recognize that the mediation is based on principles of self-determination by the parties and that the mediation process relies upon the willingness of parties to reach a voluntary agreement
- Maintain strict confidentiality
- Refrain from promises or guarantees of results.

² Refer the chapter A TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL (TDSAT) MEDIATION PROCEDURES of the Amendment 3 of 2014 to the TDSAT Procedures, 2005 (procedure I – xxvii)

³ Refer the chapter A TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL (TDSAT) MEDIATION PROCEDURES of the Amendment 3 of 2014 to the TDSAT Procedures, 2005 (procedure xxx)

PROCEDURE FOR FILING A COMPLAINT⁴ (If the issue is not settled by the mediators):

The complainant can't file a complaint by themselves; they would require assistance from an advocate. The proceeding via the TDSAT is similar to that of the proceedings in the court.

- The advocate has to file a vakalat followed by a petition (with the form)⁵.
- The petition is to be filed properly (with the stamps and the requisite documents) a Xerox of the petition is to be given to the opposite parties.
- The pagination of the cases filed before the tribunal shall be in continuous manner beginning from the petition/ appeal followed by the annexures.
- If the number of pages exceeds more than 200, separate volume numbered as volume 2 is to be made.
- A fee for petition/ appeal is to be paid to the TDSAT. (Refer *4(ix) Computation of fees payable on petitions/appeals/misc. applications)⁶.

PROCEDURE FOR FILING AN APPEAL:

The appeal accompanied by the fees of Rs. 10,000 is filed if the respondents are four in number, if the respondents are more than four an additional amount of Rs.50 is to be paid to the TDSAT. The filing is done in accordance with procedure prescribed for the filing of an appeal. The form to be filled by the appellate is provided in the below mentioned website.

<http://www.tdsat.gov.in/admin/introduction/uploads/TDSATPROCEDURE.pdf>⁷.

FOUNDATIONS FOR COMPLAINT:

One can file a complaint, if their grievance falls into any one of the category, landline, mobile and internet services, including:

- Contracts.
- Connecting new services.
- Transferring services.
- SIM unlocking fees.
- Faults, dropouts and poor coverage.
- Billing mistakes.
- Billing and supply of mobile premium services.
- Debt collection.

⁴ <http://www.tdsat.gov.in/admin/introduction/uploads/TDSATPROCEDURE.pdf>

⁵ Refer pg no 16 of <http://www.tdsat.gov.in/admin/introduction/uploads/TDSATPROCEDURE.pdf>

⁶ <http://www.tdsat.gov.in/admin/introduction/uploads/TDSATPROCEDURE.pdf> refer page 4 Section 4(ix).

⁷ Refer page no 25 for the form in <http://www.tdsat.gov.in/admin/introduction/uploads/TDSATPROCEDURE.pdf>

References:

<http://www.tdsat.gov.in/Delhi/Delhi.php>

<http://www.tio.com.au/making-a-complaint/types-of-complaints-we-handle>

<http://www.tccms.gov.in/>

- Services provided over the National Broadband Network (NBN)
- Faulty equipment supplied as part of a service
- Faults on someone else's service
- Phone cards
- Interference with your privacy by a service provider or its representative
- White Pages listings
- Directory assistance
- Operator services
- Carriers accessing or using your land, either under their statutory powers or under a contract with you.
- Missed appointments from technicians
- Safety issues about telecommunications services
- Mass service disruptions
- Public mobile radio network
- Internet Pay TV
- Some compensation claims for loss of profits for businesses
- Some damage to property or telecommunications infrastructure issues
- Some issues relating to goods or services that are bundled or sold with a telecommunications service
- Some spam and telemarketing issues
- Some payphone issues
- Some unwelcome or life threatening communications issues.

ACTS WHICH GOVERN THE TELECOM SECTOR

1. **Telecom regulatory author of India act, 1997.**
<http://www.ijlt.in/pdf/files/TRAI-Act-1997.pdf>
2. **Telecom consumer's protection and redressal of grievances regulations, 2007. (3 of 2007)**
<http://www.trai.gov.in/sites/default/files/201205301239017822962regulation4may07%5B1%5D.pdf>

FAQS'

For further queries visit the below mentioned sites.

<http://www.indiaconsumercomplaints.com/sites/default/files/Consumer%20FAQ%20tel1%20by%20TRAI.pdf>

<http://www.trai.gov.in/consumer-info/telecom/faq-category-listing>

PROCEEDING IN ACCORDANCE WITH THE CONSUMER PROTECTION ACT 1986

One can file a case in the respective consumer forums/ commission either in case of getting relief or to appeal.

http://clap.nls.ac.in/?page_id=102