

New Regulatory Telecom framework: Individual Telecom Dispute Resolution in India

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Abstract-

Purpose- To show scrutiny of individual consumer complaint redressal in the Indian telecom regulatory framework. This research gives an understanding of how consumer dispute resolution is structured in India and a different insight to the resolution of grievances of telecom individual consumers, and there is a modification in the framework that may provide satisfactory dispute resolution for individual consumers in the telecom arena.

Methodology- Primary analysis of data from 60 respondents using an analytical tool reveals some facts about telecom consumer redressal status in India. A qualitative approach is used for the investigation of primary data. A questionnaire is built to collect primary data.

Findings- Analysis says that lack of comprehensible role outline for dispute resolution entity. “Department of Telecom (DoT)” and the “Telecom Regulatory Authority of India (TRAI)” “is responsible for ensuring a healthy environment in the telecom sector. It is ambiguity in dispute regulatory roles and the nonexistence of sole authority. “TRAI” should be empowered to take dispute resolution fees from TSP's for the resolution of disputes. The Indian dispute resolution framework shows that India has accepted TSP controlled regulations by setting up the TSP -led consumer redressal process which is not an adequate approach for a satisfactory resolution. However online dispute resolution (ODR) approach is more relevant for consumer dispute resolution which is also a cost-effective and less time-consuming approach.

Scope of study- This study will be useful for the researchers, telecom professionals, service providers, policymakers, and think tanks.

The originality of work- This research is a comprehensive assessment of TRAI's progress in consumer Redressal.

Keywords- consumer Redressal in telecom, telecom dispute resolution, telecom policy, telecom regulation

1. Introduction

The rapid change in the telecom business landscape has also shaped regulatory governance and administrative arrangements in the Indian telecom service sector

which facilitates an opportunity to deep dive into noteworthy aspects of telecom regulations. The way telecom regulations have evolved and have become well-thought-out in India by the efflux of time and some opening assumptions of governance of the sector. The Telecom revolution was an important event in post-liberalization in India which is the large size telecom market ranked second in the globe having a large subscriber base. This quick and persistent growth has given rise to many prospects as well as disputes in the sector including vigorous regulatory policy. Regulations and norms in the sector got impacted due to different significant court decision; apt telecom case regulation like 2G verdict, AGR related cases. The systems of the authority of TRAI and the fashion in which its performance has affected the arrangement of incentive in the regulatory area. Regulatory systems, deregulation of the sector, construction of inside authority questions in-licensing of telecom, allocation of the spectrum have affected significantly on telecom sector regulations and norms.“ World trade organizations” basic agreement in 1997 on telecom was the best moment in the evolution of monopoly telecom sector to competitive sector. The new role in this context of telecom regulation was also significant. In India, moves from the opening sector to private players, and the transition from a monopoly market to a competitive one started in ninety's. “National Telecom Policy -NTP 1994” was an opening guiding principle for the privatization in the telecom sector. The telecom environment changed the landscape of telecom giving rise to NTP 1999. Technology did impact policies and regulations changing the focus of regulations and norms. The transition of the market from delivering the service to landline phones to mobiles has shaped the telecom market facilitating the new structural design of regulations in India. Indian telecom sector regulation has evolved from different models taking parts and pieces from a different set of principles, and theories making it hybrid in nature. Transition in technology and its ongoing progression have created new challenges and a new set of objectives for policymakers. Achieving all targets set by policy and cross-checking policy strategies correctness and its implementation part remains always crucial. The development of technology has made the sector progressive making it dispute prone at the same time. The number of individual disputes is growing in numbers and also there is growing complexities of disputes, dispute management is always important. It is crucial that dispute resolution systems tag on a comprehensive approach. This research examines what are types of individual disputes, how are they handled, how they impact the sector, how individual disputes are handled, and what conflict handling processes are used. The interplay between individual dispute resolutions in telecom, its subsystems of government, court of law, telecom service providers processes of resolution on one hand and consumer Redressal regulations by TRAI, its evolution, its significance and customers satisfaction and perception of consumer redressal in telecom is the focus of this study.

1.1 Political background from colonial days-

In colonial days, the labor party was back to power in the UK in 1945 and this government nationalized international telecommunication, railroads, coal, irons, and steel. Post-Indian independence, the liberalization process of telecom in the Indian telecom market began in 1981. At that time, Indira Gandhi signed an agreement with “Alcatel CIT of France” company to join together with the state possessing “Telecom Company (ITI)”, to set up 5,000,000 lines per year but that policy was paused because of political conflicts. It got continued in Rajiv Gandhi’s era. In 1986 “Mahanagar Telephone Nigam Limited (MTNL)” and “Videsh Sanchar Nigam Limited (VSNL)” was established out of DoT to provide the services of telecom in the metro cities. There was increasing demand for telephones in the 1990s. The government of India was beneath mounting stress to announce that the telecom sector was open for investments as a component of “Liberalisation-Privatization-Globalization” policies to tackle the severe fiscal crisis in 1991. In 1994, Narsinha Rao government introduced NTP 1994 which was an opening policy for privatization. The political authority changed in 1999 and the new management in the leadership of “Atal Bihari Vajpayee” was pro-reforms and they set up other “liberalization policies “. NTP 1999 was considered a significant milestone in the telecom journey. In the year 2000, the Government formed the “Telecom Disputes Settlement and Appellate Tribunal (TDSAT)” in the course of a revision of the TRAI Act, 1997. In the Year 2007, “Telecom Consumers Protection and Redressal of Grievances Regulations, 2007” came into force with three-tier architecture for Redressal in telecom. In 2012; during Manmohan Singh-led government NTP-2012 was released. Telecom complains Redressal regulation 2012 came into force this year with two-tier architecture for Redressal in telecom. After this policy, the release of the National Digital Telecom policy -NDCP 2018 under Narendra Modi government was released which is considered as starting for the new digital era. DoT is planning to set up a telecom ombudsman for the Redressal of telecom complaints. The “telecommunication ombudsman” entity suggested by TRAI in late 2017 year, after which the telecom commission had cleared the proposal in the year 2018, however, there has been no further advancement

1.2. Research Framework

A political, legal, telecom service provider level and government level matrix are proposed as an institutional matrix which will be proposed as a framework for redressal of complaints in the telecom sector. Technological challenges and problems create additional complexities in the way regulation functions. There are a different array of players that take part in regulation entities – market forces, policy mesh, political background evolving regulatory norms, sector-specific regulations, consumer expectations, and technological progress influence telecom regulations, telecom environment, and telecom governance. So it needs an hour to examine a set of movements to carve out a holistic solution for the consumer redressal architecture of telecom and its

implementation in regulatory governance. This research work attempts to investigate consumer redressal regulation in the Indian telecom sector at three levels i) at the macro institutional level where the study proposes to schoolwork telecom Redressal norms reconstructed as per time and to examine whether these rules have been effective or not in this regulatory game .ii) micro institution-level method of the authority of “TRAI” and how its norms have affected redressal regulation of telecom. iii) Primary data analysis about the perception of consumers about Redressal in telecom and what are their expectations and a proposed model from stakeholder’s feedback.

Table- 1

Level	Purpose
L1–Telecom Service Provider Level	A natural extension of service providers functioning
L2–Government Level	Redressal Service Government level
L3 Legal Level	Court of law

2. Literature Review

Literature review on telecom policies, telecom regulations in India and outside countries, telecom ombudsman, and consumer redressal in India in the telecom sector can be divided into four segments. The first section is about “ telecom policies in India “ which brings out telecom policies perspective as a tool for privatization and liberalization. (Chakravartty 2004); (Prasad 2008);(Mukherji 2009);(Kathuria 2000);(Dokeniya 1999); (Krishna and Machad, 2013);(Jayakar 2012). (Upadhyay, and Dwivedi 2020);(Gupta 2002);(Jain 2001).

The second section represents irregularities in Indian telecom regulatory circumstances(Levy and Spiller 1994);(Thatcher 2005);(Andonova and Diaz-Serrano 2009); Hindu Business Line, 2013);(Hallur and Sane 2018); This second section also consists of regulatory studies in other countries(Melody 1999);(ACMA 2005 Act); (Shin 2006);(Lindmark et al. 2006)(Clare Hall 2002) ;(Sappington and Weisman 2010).

The third section consists of literature on existing consumer redressal regulation in telecom India and its effectiveness in the current time (TRAI 2016); (Mujumdar, Prabhu, and Hallur 2019);

The fourth section consists of an explanatory study that explores the ombudsman regulatory structure, ombudsman regulatory procedure(Krishna R.J. 2013); (John Lawford 2005); (Sourdin and Liyanage 2012);(Aryan 2020).

2.1 Telecom policies in India

“The Indian telecom restructuring procedure from the year 1994 up to now has been researched very fine. Researchers have highlighted the political disagreements such as labor disputes, a large-scale corruption talk over the selling of basic service licenses in 1996, and a series of public interest litigations

against the state's handling of the terms of reform “(Chakravartty 2004). India's transformation is mainly outstanding due to the little time within which alteration has occurred. The National Telecom Policy of 1994 and the New Telecom Policy of 1999 founded a sturdy and self-determining regulatory instrument with definite supremacy and tasks. This regulatory system sustains aggressive surroundings in the services sector by launching guiding principles for service providers, monitoring compliance, and providing a structure for dispute settlement. Supplementary restructuring divided regulatory and adjudicatory tasks and created a dedicated committee that operates separately from the regulator, to resolve disputes(Prasad 2008). “Mukherji traces the history of India’s telecom liberalization and the dynamics of institutional change in a study in which he presents the involvement of The Prime Minister’s Office and the Ministry of Finance in pushing for privatization in 1994 against the resistance by the DoT” (Mukherji 2009).”The financial liberalization process initiated by the Narasinha Rao government in 1991 in telecom. “In 1994, the National Telecom Policy (NTP 1994) was announced. The policy gave the lion’s share of the nation’s telecommunications development to the DoT and its corporations” (Subramanian 2008).NTP 1994 was an opening policy for the privatization of the sector. It was intended with a perspective that services should be majorly provided by telecom operators which are aggressively dominating the market which was mentioned in guiding principles as well however when major policy targets were defined, resource allotment was not calculated. Another important aspect is convergence which created challenges by progressing technology on an ongoing basis and changing market structure which gave rise to the need for another policy and its guiding principles. NTP1999 opened the internet sector which is an appreciable attempt to improve this policy compared with the NTP1994 landscape (Kathuria 2000). The first NTP 1994 generated excitement in the press, public, and industry. The charisma of the Indian telecom market was a mediocre population with 250 million in numbers, low telecom density, high demand for telecom services, waiting list, and scope for expansion. The early excitement was not continued and the trust of investors in the Indian telecom market could not be won. Also, terms for operations for service providers were not clear in the first policy. Some confusing specifications and absence of specifications, absence of swift, transparent and structured dispute settlement reduced trust factor of investors(Dokeniya 1999).” "From 2013, the government allowed 100 percent FDI in the telecom, but there were very few investments, with industry observers stating that lack of regulatory clarity is keeping investors away from the telecom industry in India” (Krishna R.J. 2013). Liu and Jayakar compare the telecommunications policy-making process in the case of IPTV China and Conditional Access System (CAS) in India and conclude that both the arrangements show signs of somewhat related ministerial-bureaucratic decision-making replica and that India has witnessed an increasingly controversial atmosphere in case of policymaking” (Jayakar 2012). Paul, Upadhyay, and Dwivedi have revealed guiding principles of policymaking for the digitization of

the economy on micro level focusing on India highlighting issues in policymaking and they are the alignment of national policies, public trust, policy integration and coherence in e-government approach, societal engagement and partnerships, effective institutions to encourage the adoption of innovative technologies (Paul, Upadhyay, and Dwivedi 2020). Disappointed with the Indian government's bad managing of telecom deregulations, quite a lot of multinational corporations started to back off their funds and held responsible the government for having inhospitable telecom policies (Gupta 2002). Rekha Jain too has pragmatic in the context of spectrum auctions; there is no unambiguous division in DoT's everyday jobs for strategy, rule, and process which led to several setbacks and lessens the integrity of the government (Jain 2001).

2.2 Indian Telecom Regulation

“There exists study that examines the consequence of regulatory structure, regulatory-procedure, and institutional contribution on the growth of the telecommunications sector. These studies have made an effort to offer the circumstances for reasonable performance of telecom regulatory system” (Levy and Spiller 1994).

“The role played by TRAI so far as sub-department of the Telecom ministry is similar to that played by regulators during the initial years in Europe. However, during the later years, regulators have been empowered to take up functions like licensing, spectrum allocations, etc” (Thatcher 2005). “India under regulatory structure during the 2008-2011 eras has shown significant growth in cellular telephony. This magnificent performance may be recognized to the information that, in the early phases of cellular licensing in India, 2G spectrum was bagged with the license, ensuing in squat preliminary savings for businesses, and hence, the role played by political institutions seemed less important as capital investments were low” (Andonova and Diaz-Serrano 2009).” The participation of the Supreme Court of India in the 2G spectrum allocation case and the successive cancelation of 122 licenses by it in 2012 have further deteriorated the regulatory environment in India “(Hindu Business Line, 2013).” India has adopted the ministerial-bureaucratic procedures for policy process and accomplishment the regulatory process engross numerous entities in the regulatory system, The Telecom Commission, TRAI, the DoT, and Cabinet of Ministers in the central government” (Hallur and Sane 2018).

2.3 Telecom regulations in other countries-

“1998 characters a defining moment in the telecom restructuring process happening all through the globe. Each nation has its own pace for restructuring of norms and regulations, all nations are affected by technological progress, markets, and global economy (Melody 1999). All the countries have a convergent ICT regulatory framework combining the telecom and allied sector ministries and are keeping pace with a convergent regulator. The FCC in the USA, for example, has had responsibility for telecommunications and broadcasting since its inception. In 2005, in Australia, the Australian

Communications Authority and the Australian Broadcasting Authority were merged to form the Australian Communications and Media Authority” (ACMA 2005 Act).”The convergence of “broadcasting and telecommunications”, which is altering the regulatory and market environment presently, is progressing. Regulation and norms on convergence have to be clear, logical, comparative and differentiable between transport and content ”(Shin 2006). Telecom is vital for the economy of Sweden and efficient arrangement. The telecommunication sector is a vital constituent of the Swedish financial system and has been increasing; since the 1990s. The participation in economic expansion has enlarged to more or partially of the giving of the industry total in 2001. The magnify in value-added branch more often from the telecom equipment division of the commerce. The telecom area has been the major driver of growth in the R&D section of the Swedish national innovation system(Lindmark et al. 2006).To a large extent has been on paper on telecommunications regulation, but slight literature paying attention to the actual processes that have come into play in regulation. Using first-time-right to use to the important player inside the UK Office of Telecommunications (Oftel) this research see sights how telecommunications regulation mechanism is from the inside, facilitating a new approach into the dynamic processes of regulation in the United Kingdom. Telecommunications Regulation includes a noteworthy re-examination of major regulatory matters including: • the role of information in the regulation landscape • the interplay of regulators with others • accountability • the proportional position of persons and businesses within a regulation(Clare Hall 2002). Price Cap Regulation (PCR) is implemented broadly in the telecommunications segment in developed nations, including Argentina, Australia, Canada, Chile, Columbia, Denmark, Ecuador, France, Germany, Greece, Hungary, Ireland, Mexico, Pakistan, Portugal, Sweden, the UK, the United States (US), and Venezuela. , PCR also can find the money for the business substantial pricing discretion and facilitates well-built inducement for modernization(Sappington and Weisman 2010).

2.4 Consumer redressal in telecom

“Existing complaint redressal system: Primary responsibility of resolving consumer complaints generally lies with the service provider and not with TRAI though TRAI has designed measures to protect the interest of consumers Vis specification of a broad framework for complaint resolution mechanism by TSPs. It also monitors from time to time for its effective implementation along with its public outreach programs. Consumer protection and grievance redressal regulation were first issued in 2007 which was three-tier architecture for grievance resolution. To make this architecture more effective and increasing awareness about it in consumers was an important aspect of this regulation. Necessary changes were made in this regard and consumer complaint redressal regulation 2012 was issued by TRAI after getting suggestions from stakeholders. It included a mechanism of two-tier for a more efficient and swift resolution

process. This system has been in place for more than 6 years (TRAI 2016). The total number of complaints registered depends upon the number of subscribers. However, number. Of appeals, vis-à-vis complaints received show a lot of difference amongst operators. This indicates inequality in the accomplishment of the redressal mechanism by TSPs. consumers had raised displeasure with TRAI about the right of entry of redressal system mainly, very limited precision in the appeal resolution, an enormous amount of time devoted for complaint resolution and quality of resolution. Sub-par performance of TSP managed redressal system has also led to, consumer grievances are sent to TRAI and Department of Telecom (DoT) by individual consumers” (Mujumdar et al. 2019).

2.5 Role of Ombudsman

Role of telecom ombudsman, its implementation in India is not clear and there are also intricacies involved in funding mechanism of ombudsman in telecom in India and there is no development on this front (Aashish Aryan 2020). The ombudsmen attempt to decide for disagreements unofficially, through mediation and conciliation, trying to come across equally satisfying results when such resolution cannot be accomplished, the problem may have to be adjudicated, either by the ombudsman or by another entity (John Lawford 2005). Making use of ADR in Australia is extensive and all Courts and boards now have the authority to mandatorily pass on disputes to ADR processes, many disputes are required to use ADR processes before initiation of Court or Tribunal proceedings and also a well pre-court ADR surroundings A healthy e-environment support to use of Online dispute resolution (ODR) (Sourdin and Liyanage 2012).

2.6 Research Gap

There is organized research that looks into the policies; policy-making processes in telecom, telecom regulations, and its evolution, spectrum management, the literature study above identify four gaps in the literature.

Firstly, discussion of regulatory mechanisms is present by and large; but the literature of the Indian telecom regulatory frameworks is scarce. The literature on individual consumer dispute resolution regulatory structures in telecom specific to India is less explored. Secondly, the Current architecture of consumer dispute resolution for individual consumers in telecom in India is not adequate. The third is the implementation of an ombudsman in the Indian scenario has a lot of intricacies. Consumer satisfaction and its relevance to redressal regulation in practice are untouched. So, this paper tries to fill up these research gaps.

2.7 Theoretical framework

This research work illustrates the ADR approach as it highlights the significance of ombudsman in the telecom sector and individual dispute settlement in the telecom sector in India. The new ADR approach is particularly appropriate in the background of policy formulation, which fits into place for

policy preparing organizations, regulators, and business contributors. As a result, it facilitates a principle framework for the study of dispute resolution structure, policy formulation, and implementation and independence, and the responsibility of the regulator in the telecom individual dispute resolution arena. The way forward is in the shift of the dispute resolution ecosystem to the changing demands of dispute resolution by using technology. At the front position of this revolution across the world has been Online Dispute Resolution (ODR) or e-ADR.

(TRAI 2016);(John Lawford 2005); (Sourdin and Liyanage 2012);(Gupta 2002). (Clare Hall 2002); (ACMA 2005 Act); (Niti Ayog policy Draft of ODR); (Economic times 2020) (MSEDCL 2020) have made the theoretical groundwork for this research.

2.8 Analytical Research questions

- How individual dispute resolution telecom framework of India should be structured to ensure the satisfaction of telecom consumers;
- Redressal of grievances of individual telecom consumers; and revision in its framework to provide better consumer experience in telecom

2.9 Research Methodology

Regulatory research involving the regulatory environment is based on different approaches. Qualitative research methods appropriately help to develop the dispute resolution regulatory system. The effort here is to emphasize the superior practices in dispute resolution regulatory framework structure so a qualitative approach has been used.

3. Discussion on Findings

3.1 Consumer's viewpoint for existing consumer redressal regulatory mechanism

It has become especially important to understand the pattern of use of services by telecom consumers. Important factors for the perception of telecom services are quality of service, network performance, efficient and robust OSS BSS systems for apt billing. They play an important role in analyzing customer satisfaction. India has three major telecom players Jio, Airtel, and merged entities Idea-Vodafone.

3.2 Primary Data Analysis

The following graphs indicate a percentage of dissatisfied consumers of different operators. 63% of consumers are not satisfied with the service. Complaints have been categorized and their scale is shown by the graphs.

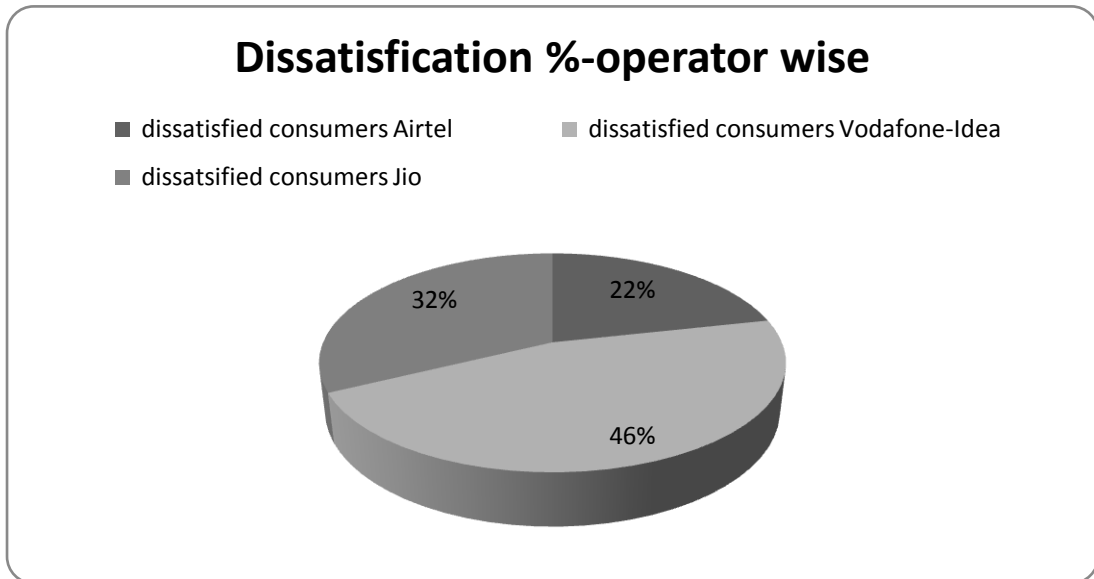


Figure 1: Dissatisfaction percentage of consumers

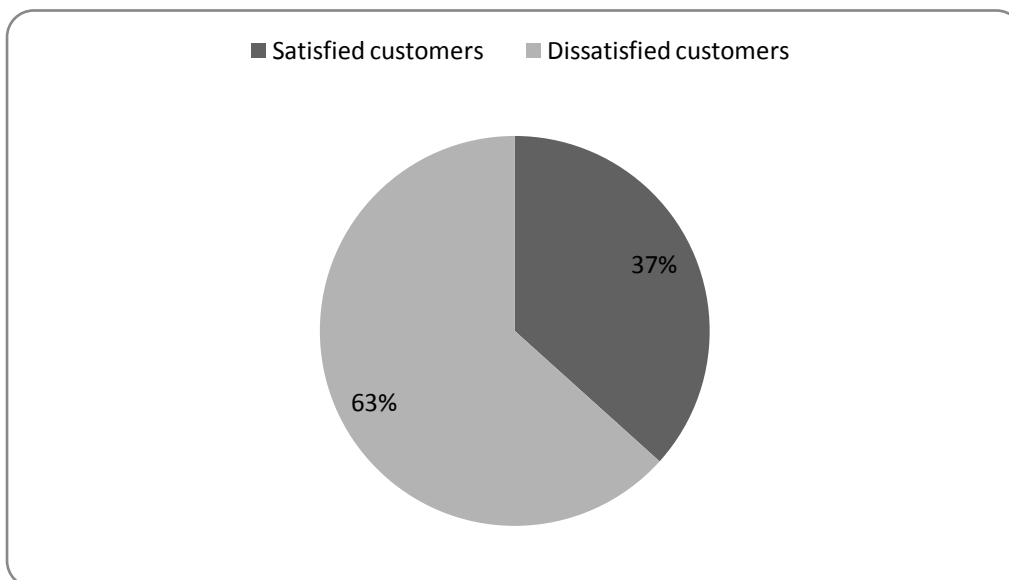


Figure 2: Satisfaction of consumers across all operators

3.3 Analysis from primary data reveals the following facts

- Most of the telecom consumers think that TSP calls centers and complaint redressal system takes a lot of time and it is not solved properly and satisfactorily.
- Most of the telecom consumers think that consumer redressal by TSP is a waste of time
- Most telecom consumers think there should be a third party with ease of access for resolution of complaints in Indian telecom and where TSP is answerable to some authority.

A new model is proposed where "Redressal cell" under the review of TRAI is proposed. This cell will exist on the district-level at each district for individual telecom complaints resolution in proportion to a subscriber base. This solution redressal cell model is shown below with the complaint life cycle when the complaint enters to redressal cell.

3.4 Individual telecom Consumer Redressal of India - proposed new regulatory framework

It is a proposed regulatory model for consumer redressal which is implemented for ease and effectiveness of consumer redressal in telecom in India. Tier 1 will be by TSP level; Tier 2 will be Appellate Authority set up by TSP. If consumers are still not satisfied with the resolution of TSP i.e. in the first 2 levels, then they can opt for the third level which is the Redressal cell under the purview of TRAI. This Grievance committee/cell will analyze the grievance thoroughly. The consumer will get a proper solution to his/her complaints. If the consumer is not satisfied at this level with the resolution they can opt to go to the technical cell under the review of TRAI which will be the highly expert technical team for investigating technical issues consumers are facing. This cell will give suggestions to TSP by taking some fixed fee and will give technical suggestions for improving TSP performance (For ex-it may suggest TSP erect a new tower in the particular area where network issues are more and frequent) avoiding same technical problems for other future consumers. Redressal cell and technical cell are coupled together at each district level considering subscriber base. Service will be free of cost to consumers TRAI is a government body with allocated funding from DoT which is ultimately a government entity there is no extra funding mechanism needed for the resolution mechanism proposed here.

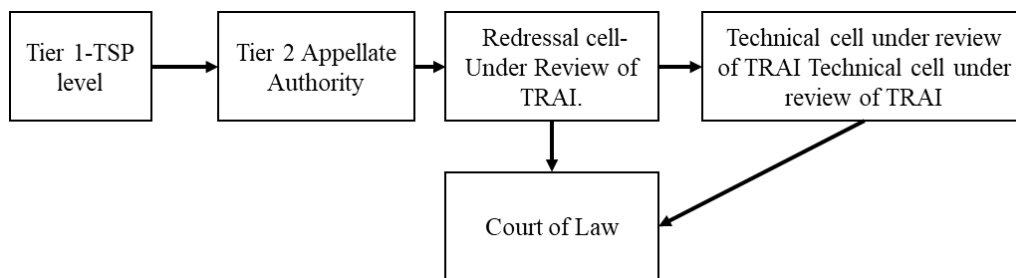


Figure 3: A new regulatory models for grievance settlement in telecom

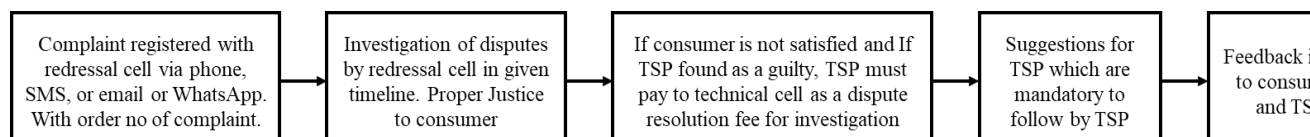


Figure 4: Complaint Processing in Redressal cell/Technical cell

This type of ODR (Online Dispute Resolution) model is already implemented in developed countries like Australia in the telecom sector (Sourdin and Liyanage 2012).and also in Other sectors in India like electricity where

formal technical teams are investigating complaints. MSEDCL (Maharashtra State Electricity Distribution Company Limited) has a consumer platform fully integrated with email through which consumers can file their issues regarding power services. Consumers can also directly lodge complaints online (M.S.E.D.C.L.R. 2010). Considering the COVID-19 stimulated pandemic, the numbers of disputes across India are likely to see a rise in numbers," the Ayog proposed online dispute resolution (ODR) policy for India. (Economic times 2020). In light of Covid19, adaptive and innovative solutions instead of physical dispute resolutions have come up in the dispute resolution arena. Both private solution centers and judiciaries have embraced technology. ODR is evolving concept and can be used without the physical presence of dispute resolution parties (Sekhri 2020). At the head of the revolution for dispute resolution across the globe is Online Dispute Resolution (ODR) or e-ADR (Kinhal 2020).

4. Conclusion

This study highlighted a novel approach to individual dispute resolution in the Indian telecom sector. The absence of an understandable role depiction for dispute resolution body and control mechanism on service providers by TRAI and what more is; without the involvement of TRAI, there is no actual solution to individual dispute resolution in the telecom arena.

Concerning principles, the fulfillment of dispute management, "TRAI" and "DoT" are assigned bodies ensuring ultimate consumer experience in the telecom sector however service providers-controlled mechanism leads to ambiguity and absence of a single authority for individual dispute resolution.

- TRAI entity should be empowered to collect fees for individual dispute resolution from industry stakeholders to ensure the quality of response telecom consumers get.
- Comparing Redressal cell with Ombudsman

There are differences between the two -

- Redressal cell and its functioning will come under review of TRAI.
- There is no funding mechanism needed as the cell will function as -sub-department under the government authority. No other funding mechanism exists in this model.
- As redressal cell coupled with technical cell will be government body which will be operating as the apex body for resolving disputes, due to which TSP will solve complaints rigorously and will avoid going complaints to redressal cell/technical cell for resolution.

- Redressal cell and Technical cell will handle all types of complaints of consumers from a granular level to complicated issues.
- The model was designed which has come up as a research output of this study. Its main purpose is the speedy and satisfactory settlement of a grievance where TSP will be answerable.

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