

**ITU-TRAI TRAINING ON CONSUMER PROTECTION**  
**21 - 23 March 2016**  
**New Delhi, India**



**Session 1**  
**"Consumer Protection in Telecom**  
**Services :**  
**Indian Perspective and framework"**

## **Consumer Issues**

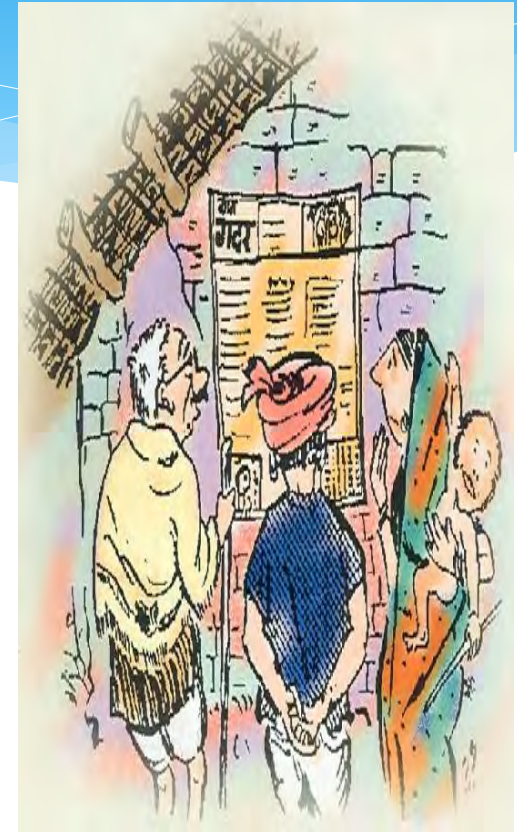
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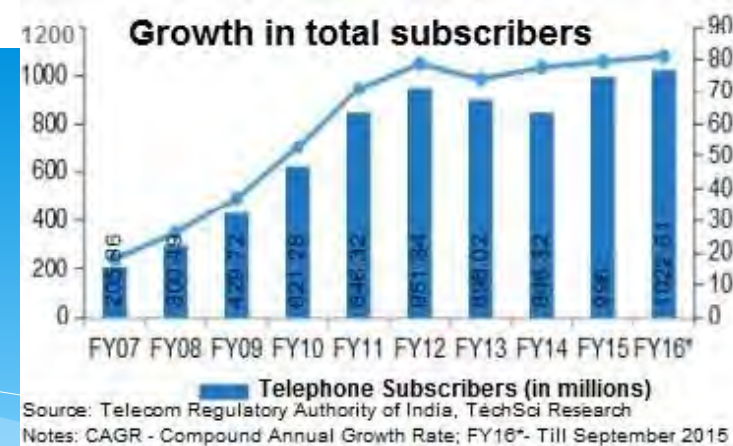
**March 21, 2016**

# About CUTS

- Consumer Unity & Trust Society (CUTS International) is a registered Indian NGO established in 1983, “Pursuing Social Justice and Economic Equity Within and Across Borders”. CUTS serves on several policy-making and regulatory bodies as TRAI, CCPC, CERC, RERC etc.
- In 1983, CUTS began its journey with a rural development communication initiative, a wall newspaper *Gram Gadar* (Village Revolution)
- CUTS has headquarters in Jaipur, India; 3 resource centers in Kolkata, Chittorgarh and Delhi and overseas resource centers in Nairobi, Lusaka, Hanoi, Accra and Geneva.



# Current Scenario in Telecom Sector



## Telecom subscriber base expands substantially

- India has the fastest growing telecom network in the world with its high population and development potential
- India is currently the second-largest telecommunication market and has the third highest number of internet users in the world
- In November 2015, total telephone subscription stood at 1,035.18 million, while teledensity was at 81.82 percent
- The wireless segment (97.46 per cent of total telephone subscriptions) dominates the market, while the wireline segment accounts for the rest
- Urban regions account for 58.58 percent of telecom subscriptions, while rural areas constitute the remaining

# Basic Consumer Rights in Telecoms

Fix our phone rights!



Ensuring Phone Rights of telecom consumers is based on:

1. Access to an affordable, reliable telecom services and provide what has been promised
2. Fair contracts explained in clear, complete and accessible language
3. Fair and transparent billing
4. Power over own information (data protection)
5. Simple, speedy and effective grievance redressal mechanism

# Access to an affordable and reliable service, and provide what has been promised

- \* Consumers want to be able to have access to affordable telecom services in order to communicate and to access information. It is only reasonable that they then expect those services to be consistent and of a high quality without drop outs in service.
- \* Provide consumers with their money's worth. **High fees and promises** from telecom providers encourage consumers to expect mobile connectivity at all times, yet despite technological developments, poor service continues to be a perennial concern.
- \* For sale and profit purpose, false promises are made by the company representatives.
- \* Limited period promotional statements should be clear.
- \* Change/modification being done in agreement with the consumer with an appropriate given time.

# Fair contracts explained in clear, complete, and accessible language:

Provide consumers with **fair contracts explained in clear, complete and accessible language**. A significant concern for consumers is the misleading, unclear and incomplete information that consumers are given, when they purchase mobile services. There are many reported cases in which consumers feel their contracts are unfair or where they are not provided complete info.

- \* Clear: The written contents are small in size, which can not be read by naked eyes.
- \* Complete: A jumble of different nature of information is provided to consumer to make them confuse.
- \* Accessible Language: Contract should not have technical and difficult language.



# Fair and transparent billing

Too often consumers are charged for services and products that they have not authorised or that are associated with free services. Consumer rights are also compromised when they are billed with products or services they did not purchase, products or services they did not receive or when they are charged at a higher fee than the fee that was advertised. These abuses are collectively known as 'cramming'.

- \* As promised keep up-to-date with promise and performing fair billing commitment without any twist or in between changes.
- \* Make easier to read, understand and responsive billings to consumers.
- \* Maintain a complaints procedure easier to allow consumer to complain if need.
- \* Provide and support by offering expert advice, along with fair and transparent payment plans.

# Consumers to have power over their own information (data protection)

The security of data that consumers provide when accessing mobile networks is a critical area that needs to be seriously addressed by mobile telecom providers. Consumer confidence in products and services is crucial to their success, but this requires the subscriber's identity and privacy to be well-protected against accidental exposure or attack.

- \* Telecommunication providers and regulators must both protect personal data consumers give in order to use mobile services.
- \* While giving consent to using personal data can enhance the experience of using a mobile phone, it can also compromise the consumer's right to safety.
- \* Consumers must be able to set the terms of how this data is used



# Self Regulation, and Speedy and Simple Grievance Redressal Mechanism

International guidelines for how telecom providers, mobile vendors and governments should work together to establish fair, effective, and transparent self-regulatory mechanisms, policies and procedures to handle and resolve consumer complaints and disputes, have been in place since 2008.

- \* Telecom service providers must have an effective complaint system and do their utmost to solve complaints;
- \* Many still do not know, who can help them, when they have a problem.
- \* Appellate authority to escalate the issue in case complaint have not been addressed satisfactorily by the telecom service provider.

# Net Neutrality



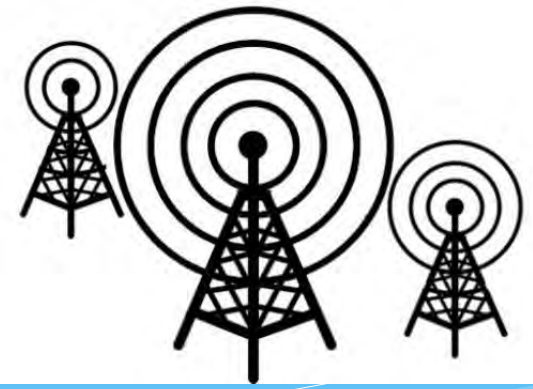
- \* Net Neutrality require that all Internet users be treated equally, without discriminating or charging differentially by user, content, site, platform, application, type of attached equipment, or mode of communication.
- \* There have already been a few violations of net neutrality principles by some Indian service providers
- \* TRAI on 8 February 2016 barred telecom service providers from charging differential rates for data services. The same will be reviewed after 2 years.
- \* **Key Concern:** There are no laws governing net neutrality in India. The Information Technology Act (2000) does not prohibit companies from throttling their service in accordance with their business interests. There has to be a Act/law dealing with the issue.

# Call Drop



- \* Call-Drop Rate (CDR) is a parameter to assess the performance of Telecom Service Provider (TSP) relating to call drop
- \* In view of complaints on call drops and other network issues, an independent Drive Test (IDT) was conducted by TRAI at various places throughout the country and for different networks.
- \* The average rate of call drop in India is at 4.73 percent as against the global standard of 3 percent.
- \* TRAI issued an amendment in telecom Consumers Protection Regulations on October 16, 2015 with a rule mandating mobile service providers to compensate their subscribers for calls dropped and automatically disconnected.
- \* The rules mandate telecom operators to provide Re 1 compensation for each call dropped, with a compensation cap of Rs. 3 per day, w.e.f January 1, 2016.
- \* **Key Concern:** The rule is difficult to implement. Consumer may not benefit in a big way. Supreme Court direction to TRAI to review the decision on penalty. What next?

# Fear about EMF Radiation from mobile towers



- \* Electro-Magnetic Field (EMF) Radiations are of two types, ionizing and non-ionizing.
- \* Ionizing radiation such as X rays, gamma rays, alpha particles, and beta particles has a lot of energy that gives it the ability to cause changes in atoms and break chemical bonds in human body, a process called ionization. They are yet safe because of controlled exposure.
- \* Radio waves emitted by cell phones and mobile tower antennae, are non-ionizing waves, thus do not carry enough energy to break and chemical bond within the human body. Thus they can't harm humans. There is no scientific data to indicate the existence of cancer risk from mobile tower emissions
- \* India has close to 450,000 mobile towers
- \* **Key Concern:** Apprehension about radiation from towers is one of the biggest challenges. It is slowing expansion and reducing telecom infrastructure, causing service quality issues, including network congestion and call drops.

# Blackout Days



- \* Blackout days' refers to the days on which the service providers do not allow free or concessional voice calls/ SMS offered by them under any plan/ package.
- \* TRAI regulation says:
  - \* The charges for calls or SMSs on 'blackout' days shall not exceed the rate in the tariff plan in which the consumer is enrolled;
  - \* Consumers shall be given intimation prior to start of every blackout day and the date/ occasion of the blackout day shall also be intimated;
  - \* List of blackout days applicable for the calendar year shall be displayed on the website of service providers.

**Key Concern:** In the case of a prepaid consumer, a particular pack is with validity for specific number of days. But if a black out day comes inbetween, when the consumer is charged for sms/calls, then the plan is valid only minus that day. This is unfair trade practice by the service providers.

# A2P sms & Compulsory Promotional Voice Messages



- \* Many people suffer from the unwanted marketing messages and calls. The same can be prevented by activating DND (Do Not Disturb), which now transformed to NCPR (National Consumer Preference Register) by TRAI.
- \* Previously, people who subscribed to DND had chances to receive the unsolicited promotions calls from their mobile network operators. With NCPR, the chances of receiving these unwanted messages is suppose to be zero.
- \* **Key Concerns:** Consumers complaint about receiving A2P sms, with display name with alphabets, (LM-EXOTEL), which can not be blocked.
- \* Compulsory promotional message from service providers before the call goes through - even if the consumer is not registered with DND, this is not proper, because this happens during midnight as well and it could be a women in distress trying to reach the police and those few seconds might greatly matter...



# Confusion on Maintainability of complaints in consumer fora



- \* On September 1, 2009, the Supreme Court in a case concluded that consumer forums would not have the jurisdiction to deal with disputes involving a telegraph authority.
- \* Supreme Court's judgment was rendered in the case of an old dispute pertaining to a period in time when telecom services were provided by the government itself, which was a telegraph authority.
- \* TRAI Act of 1997 is subsequent to the Indian Telegraph Act, 1885, and the Consumer Protection Act, 1986. TRAI Act specifically states that a dispute between a service provider and a consumer is maintainable under CP Act.
- \* NCDRC & SCDRCs concluded that consumer forums would have the jurisdiction to deal with such disputes
- \* **Key Concern**: But this SC judgment played havoc, as consumer forums all over the country dismissed telecom complaints, some of which had been pending for years together. Still many DFs are misinterpreting this judgment.
- \* Only internal Redressal mechanism by service providers are available and after that no forum available, except legal action (Telecom Ombudsman?)

# CUTS Intervention in Telecom Sector



- Serving as “Consumer Advocacy Group” with TRAI since 2001 (Ref: TRAI/CAG/17/2014-CA )
- CUTS has been a member in the *Committee for Utilization of Telecommunication Consumers Education and Protection Fund* (CUTCEF) of TRAI during 2011-12.
- Conducted several Telecom Education Workshops with the assistance of TRAI between 2010 to 2012.
- Have been part of consultations/meetings organised by TRAI and several open houses organised by service providers .
- Served/Serving as member appellate authority with service providers like BSNL, Aircel, MTS and Tata Docomo.
- Campaign for ‘Holding Broadband Service Providers to Account’ in partnership with Consumer International in 2012.
- Study on the issues/challenges arising from UTP and misleading ads through internet and mobile services (2012-13)
- Training for TRAI officials on Regulatory Impact Assessment (RAI).



# Thank you

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