



CONSUMERS ASSOCIATION OF SINGAPORE (CASE)

**PUBLIC CONSULTATION OF THE REVIEW OF
THE TELECOMMUNICATIONS ACT AND
RELATED AMENDMENTS TO THE MEDIA
DEVELOPMENT AUTHORITY OF SINGAPORE
ACT (CASE COMMENTS)**

**CASE
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A. PREFACE

1. Unless otherwise stated, the definitions and abbreviations have been adapted from the Public Consultation Paper issued by the Ministry of Communications and Information (“**Consultation Paper**”) dated 5 August 2015.
2. CASE comments on Part III of the Consultation Paper are set out below.

B. EXECUTIVE SUMMARY

3. Broadly, CASE welcomes the proposed changes to the MDAA to provide IDA and MDA with powers to establish an ADR scheme for the telecommunication and media sector.
4. CASE is of the view that establishing an ADR scheme will:-
 - a) encourage telecommunication and media service providers to proactively resolve consumers’ complains/feedback at an early stage; and
 - b) provide consumers with an additional avenue to resolve their matter by mandating that the telecommunication and media service providers to attend mediation with the consumers.
5. Notwithstanding, to further enhance the ADR scheme, CASE would request that IDA and MDA explore:-
 - a) providing consumers with the option of referring their matters to arbitration, should mediation fail to produce an outcome (i.e. to implement a Med-Arb scheme for disputes below a particular quantum); and
 - b) providing consumers with an effective redress where the consumers’ complaints relate to a QoS requirements which may adversely affect a particular consumer.
6. CASE notes that IDA and MDA will consult the relevant stakeholders on the details of the ADR scheme after the legislative framework is in place and intends to provide our comments on the operation of such a scheme at a later date.

C. STATEMENT OF INTEREST

7. CASE is a non-profit, non-governmental organisation that is committed towards protecting consumers' interest through information and education, and promoting an environment of fair and ethical trade practices.

D. COMMENTS

8. CASE received a total of 2510 feedbacks from consumers on telecommunication and media service providers from 1 January 2014 to 31 July 2016 and represented 263 consumers / members of CASE through a Filed Case Scheme¹, assisted 230 consumers with an Assisted Letter² and advised 427 consumers on their matter with the telecommunication and media service providers.³
9. The remaining feedback were made through various complaint channels and were either escalated directly to the Small Claims Tribunal or the consumer proceeds to deal directly with the telecommunication and media service providers.⁴
10. A large majority of feedback lodged under the Filed Case were resolved through correspondences with the telecommunication and media service providers.⁵ This suggests that a majority of consumers' feedback could be resolved through early intervention of the telecommunication and media service providers. Only a small number consumers' feedback were unresolved.⁶
11. There only 2 Filed Cases whereby the dispute was escalated and settled at mediation. In the other 32 instances, either the consumer or the telecommunication and/or media service provider companies had rejected the opportunity to mediate the matter.⁷

¹ For Filed Case, a Consumer Relation Officer of CASE handles the feedback on behalf of the consumer and liaise with the telecommunication and media service providers on behalf of the consumer.

² For Assisted Letter, a Consumer Relation Officer of CASE drafts a letter on behalf of the consumer. The consumer subsequently proceeds to liaise directly with the telecommunication and media service providers.

³ Refer to Table 1 in Annex for a breakdown on the number of feedbacks received from consumers for telecommunication and media service providers ("**Table 1**").

⁴ Refer to Table 1 (Under 'Others').

⁵ Refer to Table 2 in Annex for a status of the Filed Case for telecommunication and media service providers ("**Table 2**").

⁶ Refer to Table 2 (Under 'Unresolved').

⁷ Refer to Table 2.

12. With the implementation of a compulsory ADR scheme, CASE envisages that telecommunications and media service providers would be incentivised to resolve disputes at the earliest instance to prevent the escalation of the matter to a compulsory ADR scheme.
13. The top five feedback from consumers on telecommunication or media service providers concerns 1) roaming charges, 2) charges for third party content and 3) material difference in the contract from the oral representation made by the sales representative of the telecommunication company, 4) connectivity issues and 5) billing discrepancies (from highest to lowest number of complaints)⁸.
14. For such issues, CASE notes that simply requiring the telecommunication or media service providers to participate in mediation may not provide such consumers with their desired redress. In fact, consumers who choose to mediate their matter may be engaged in a prolonged mediation without any form of settlement / positive outcome (or obtain a better settlement offer during mediation).
15. Hence, in order to ensure that consumers have an effective remedy to resolve disputes that are of a small quantum, CASE requests that MDA and IDA explore modelling the ADR scheme after a Med-Arb system.⁹
16. Such a scheme would provide consumers with the option of referring their matter to arbitration, should mediation between the parties fail to result in a settlement.
17. CASE is of the view that this will ensure that both parties would make the necessary efforts to attempt to reach a settlement at mediation while leaving open an effective avenue for consumers to resolve disputes of a small quantum.
18. Further, CASE also notes that the telecommunication or media service provider may not be willing to reach an amicable settlement with the consumer where the consumer does not have a contractual right to obtain the desired redress (see paragraph 22).
19. In this regard, CASE notes that there may be an overlap between some of the issues complained by consumers and the current regulation governing telecommunications industry as set out in the

⁸ Refer to Table 3 in Annex for the nature of feedback received by CASE from consumers on telecommunication and media service providers.

⁹ The arbitrator for the ADR scheme starts as a mediator but in the event that mediation fails to produce a settlement, the arbitrator imposes a binding decision on the parties.

Media Market Conduct Code and QoS requirements (to address service-related issues that are of a systemic nature).

20. One such instance is the setting up of QoS by IDA and connectivity issues faced by consumers (i.e. one of the top 4 feedback received by CASE from consumers).
21. IDA currently regulates the performance of key services offered by operators by setting up QoS and requires operators to comply with the relevant requirements. With respect to 3G cellular network, IDA mandates certain service coverage.
22. However, where a consumer has connectivity issues (one of the top 4 feedback received), under the contract of service between the telecommunication company and the consumer, the consumer remains liable to pay the monthly charges stipulated in the contract. As the telecommunication and media service providers usually do not warrant that the services will be provided uninterrupted or error-free, connectivity issues arising from the provision of service does not excuse the consumer from paying the stipulated charges under the contract nor is the consumer automatically entitled to a rebate of the monthly charges. Such discounts/rebates are offered at the discretion of the telecommunications and media service providers.
23. Hence, in view of the possible introduction of an adjudication scheme, CASE would urge IDA to consider strengthening consumers' right. This may include adopting certain QoS (with necessary amendments) in the consumers' contract (where applicable) or to provide clear guidelines to telecommunication and media service providers on the possible redress to offer affected consumers.

E. CONCLUSION

24. CASE welcomes the proposed changes to the MDAA to provide IDA and MDA with powers to establish an ADR scheme for the telecommunication and media sector and we look forward to exploring how consumers' right can be further enhanced through the ADR scheme.

ANNEX A

Type of Feedback / Complaints	<u>2014</u>	<u>2015</u>	<u>2016</u> <u>(Up to 31 July)</u>	<u>Grand Total</u>
Assisted	149	54	27	230
Counselled	179	164	84	427
Filed	107	111	45	263
Others (Phone, Emails, Letter and Faxes)	757	581	252	1590
Grand Total	1192	910	4	2510

Table 1. No. and types of feedbacks/complaints that CASE receives from consumers on telecommunication and media service providers from 1 January 2014 to 31 July 2016.

Status of Filed Cases	<u>2014</u>	<u>2015</u>	<u>2016</u> <u>(Up to 31 July)</u>	<u>Grand Total</u>
Pending Business Reply		2	9	11
Resolved - Correspondence	93	94	31	218
Resolved - Mediation		2		2
Unresolved (Lawyer, Small Claims Tribunal, Others)	14	13	5	32
Grand Total	107	111	45	263

Table 2. Status of Filed Cases from 1 January 2014 to 31 July 2016.

No.	Nature of Feedback received from Consumers	Grand Total	Percentage of Total Filed and Assisted Cases
1	Roaming Charges Incurred	72	14.60%
2	Dispute on Charges for Third Party Content	72	14.60%
3	Contract - Differ From Discussion with Telecommunication and Media Service Provider Sales Representative (i.e. Misleading / False Claim under the CPFTA)	47	9.53%
4	Connection Issue – Internet Service Providers	32	6.49%
5	Billing – Discrepancy (i.e. Reference to items billed but not requested or consumed by consumers or billing discounts or promotions not factored into the bill)	27	5.48%
6	Installation Delay (i.e. Failure of the Telecommunication and Media Service Provider to install the hardware at the appointed times)	20	4.06%
7	Dispute on Local Data Charges	20	4.06%
8	Appeal for Reduction in Billing Charges	19	3.85%
9	Installation Issue (i.e. arising from hardware incompatibility)	17	3.45%
10	Defective Goods Received	16	3.25%
11	Waiver of Early Termination Charges	15	3.04%
12	Promotion - Failure to Honour	14	2.84%
13	Connection Issue – Mobile Service Providers	12	2.43%
14	Contract - Not provided / Explained to Consumers	12	2.43%
15	Request for Termination (due to change in personal circumstances)	11	2.23%
16	Billing Charges (i.e. request for Telecommunication and Media Service Provider to provide a breakdown of the relevant charges)	8	1.62%
17	Porting Issue	8	1.62%
18	Activation Delay (i.e. Failure of the Telecommunication and	6	1.22%

	Media Service Provider to activate the services after installation)		
19	Sales Tactics - Force Upgrade to Additional Service	6	1.22%
20	Contract – Unilateral Changes during Contract	5	1.01%
		439	89.05%

Table 3. Top 20 nature of feedback (Filed and Assisted Cases only) received by CASE on telecommunication and media service providers from 1 January 2014 to 31 July 2016 (comprising of 89% of such feedback received).