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Ombudsman As An Institution Of Administrative Justice In Indian Telecommunication Sector

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Abstract

Telecommunications has become deeply embedded in the daily lives of Indian citizens, shaping how people communicate, conduct business, and access public services. The sector's expansion has brought with it a sharp rise in consumer grievances — billing irregularities, poor service quality, unsolicited charges, and opaque contractual practices have become routine complaints. Yet the institutional response to these grievances remains inadequate. This article examines the structural limitations of the existing grievance redressal framework in the Indian telecommunications sector and argues for the introduction of a dedicated Telecom Ombudsman. This is not a novel proposal — the Telecom Regulatory Authority of India ('TRAI') itself floated the idea in 2004 and formally recommended it to the Central Government in 2017. Neither recommendation was acted upon, and the question has grown more pressing since the passage of the Telecommunications Act 2023, which repealed the Indian Telegraph Act 1885 and introduced a new statutory dispute-resolution layer of its own. Drawing on the institutional history of the Ombudsman model and a comparative analysis of operational models in the United Kingdom, Australia, and Canada, the article identifies structural features — independence, informality, accessibility, and enforceability — that have made those systems effective, and examines the legal feasibility of establishing a Telecom Ombudsman within India's current statutory framework. The article concludes that the absence of a specialised, consumer-facing grievance institution remains a gap in administrative justice — one the regulator has already identified twice and the executive has twice declined to fill.

Keywords: *Telecom Ombudsman, Administrative Justice, Consumer Grievance Redressal, TRAI, TDSAT, Telecommunications Act 2023, Consumer Protection, Regulatory Accountability, Access to Justice.*

INTRODUCTION

Administrative justice is an essential part of modern governance — it ensures that administrative authorities exercise power in a fair, transparent, and accountable manner. As the regulatory functions of the State have expanded, specialised grievance mechanisms have become necessary to protect citizens against maladministration. Among these, the Ombudsman institution has emerged as a significant instrument of accountability. It originated in Sweden in the early nineteenth century as an independent authority responsible for investigating complaints against public officials, and has since been adopted across many countries and sectors, including banking, insurance, and public utilities.¹ Its core appeal lies in offering an accessible, informal, and impartial forum for citizens to seek redress, without the cost and delay of formal litigation.

This is not an unexplored question in the Indian telecom context. Existing scholarship has tended to evaluate the desirability of a telecom Ombudsman against comparative international models, largely treating it as an open policy question — Mittal on consumer protection in Indian telecom,² Gupta's comparative work on alternative dispute resolution in the sector,³ and Rajendra and Bhattacharya's study of telecom grievance redressal⁴ are illustrative. What this literature has generally not engaged with in detail is that TRAI itself put forward a fully worked-out Ombudsman scheme in 2004,⁵ refined it into a formal recommendation to the Central Government in 2017,⁶ and that the Government did not act on it. Nor, understandably given timing, has it grappled with the Telecommunications Act 2023,⁷ which has since replaced the 1885 Telegraph Act and introduced its own statutory dispute-resolution officer. This article tries to fill that gap.

Methodologically, this is a doctrinal study. It relies on primary sources — the Telecom Regulatory Authority of India Act 1997,⁸ the Telecommunications Act 2023, TRAI's consultation papers and regulations, and reported judicial decisions — read alongside secondary academic and

¹Verma SK, 'Role of Ombudsman in Good Governance' (2010) 52(3) Journal of the Indian Law Institute 321.

²Mittal RK, 'Consumer Protection in Indian Telecommunications Sector' (2015) 7(2) Indian Journal of Law and Technology 112.

³Gupta A, 'Alternative Dispute Resolution in Telecommunication Sector: A Comparative Study' (2018) 10(1) NUJS Law Review 85.

⁴Rajendra K & Bhattacharya S, 'Consumer Grievance Redressal in the Indian Telecom Sector' (2015) 7(1) Telecommunications Policy 45.

⁵Telecom Regulatory Authority of India, Consultation Paper on Establishment of the Office of Ombudsman in the Telecommunication Sector (7 January 2004).

⁶Telecom Regulatory Authority of India, Recommendations on Establishment of Office of Telecom Ombudsman (10 March 2017).

⁷ Telecommunications Act 2023 (India) No 44 of 2023.

⁸Telecom Regulatory Authority of India Act 1997.

policy literature, supplemented by comparative analysis of the UK, Australian, and Canadian telecom ombudsman regimes. As a library-based doctrinal exercise, it does not draw on primary empirical data such as consumer surveys, and its conclusions should be read with that limitation in mind.

The regulatory framework governing Indian telecommunications is primarily administered by TRAI and supported by adjudicatory mechanisms such as the Telecom Disputes Settlement and Appellate Tribunal ('TDSAT'). These institutions perform important regulatory and dispute-resolution functions, but their procedures often involve a degree of technical and legal formality that is not easily accessible to an ordinary consumer seeking a quick, affordable remedy. This article examines whether an Ombudsman institution — already proven in banking and insurance — could close that gap, and whether the changed statutory landscape since 2023 makes the case stronger.

I. CONCEPT, EVOLUTION AND GROWTH

A. ADMINISTRATIVE JUSTICE AS A CONCEPT

Administrative justice refers to the methods and institutions through which people can challenge unfair or arbitrary administrative action. As the State's role has grown from maintaining law and order to providing welfare and regulatory services, administrative bodies have acquired considerable power over the lives of ordinary citizens. In India, this is anchored constitutionally in Articles 14 and 21,⁹ which courts have read to require fairness, transparency, and reasonableness in administrative decision-making.¹⁰ Courts, however, cannot realistically absorb every grievance arising from administrative action, which has driven the growth of tribunals, regulators, and Ombudsman-type bodies offering faster, more accessible routes to redress.

B. EVOLUTION OF THE OMBUDSMAN INSTITUTION

The Ombudsman model began in Sweden as an independent check on public officials,¹¹ and its central strength has always been informality. India has analogues in the Lokpal and Lokayuktas, though these are oriented toward corruption generally, not sector-specific consumer grievances. In banking and insurance, dedicated Ombudsman schemes have operated with reasonable success. Telecom has no equivalent, despite being the sector with the largest number of individual consumers in the country.

⁹Constitution of India arts 14 and 21.

¹⁰Jain MP, *Principles of Administrative Law* (8th edn, LexisNexis 2018) vol I; Massey IP, *Administrative Law* (9th edn, Eastern Book Company 2016); Wade HWR & Forsyth CF, *Administrative Law* (11th edn, OUP 2014).

¹¹Verma SK (n 1) 321–322.

C. GROWTH OF THE INDIAN TELECOMMUNICATIONS SECTOR

The Indian telecom sector expanded rapidly after the 1991 liberalisation reforms, transforming a once state-run telegraph monopoly into one of the largest telecom markets in the world.¹² That growth has been accompanied by a parallel rise in everyday consumer friction. For decades the sector was governed by the Indian Telegraph Act 1885¹³ and the TRAI Act 1997, with TRAI regulating service standards and TDSAT resolving disputes.¹⁴ As discussed below, that statutory foundation has now changed materially.

II. FROM THE TELEGRAPH ACT 1885 TO THE TELECOMMUNICATIONS ACT 2023: A CHANGED STATUTORY LANDSCAPE

Any contemporary analysis of telecom grievance redressal has to register a significant legal change: the Indian Telegraph Act 1885 — the statute under which telecom disputes were historically routed, including through the arbitration mechanism in Section 7B — has been repealed. The Telecommunications Act 2023 received Presidential assent on 24 December 2023, and its substantive provisions were brought into force in stages from 26 June 2024 onward, replacing both the Telegraph Act 1885 and the Indian Wireless Telegraphy Act 1933.¹⁵

The 2023 Act introduces its own statutory dispute and enforcement mechanism: an Adjudicating Officer empowered to inquire into breaches of licence or authorisation conditions and impose civil penalties, with an appeal route to a Designated Appeals Committee and, beyond that, to TDSAT.¹⁶ Both bodies are intended to function digitally. This matters for the Ombudsman debate in two ways. First, the statutory backbone much of the existing literature was written against no longer exists in its old form. Second, and more importantly, the Adjudicating Officer mechanism is framed around licence and authorisation violations by service providers — a regulatory enforcement tool — rather than around resolving an individual consumer's billing dispute. It is not a consumer Ombudsman by another name, and its existence does not make the case for one redundant.

¹²Roy R, 'Telecom Regulatory Framework in India: Issues and Challenges' (2017) 9(2) Indian Journal of Law and Technology 125.

¹³Indian Telegraph Act 1885 (repealed by the Telecommunications Act 2023 (n 7)).

¹⁴Chander A, 'Telecommunications Regulation and the Public Interest' (2003) 54(3) Emory Law Journal 1021.

¹⁵Telecommunications Act 2023 (n 7); the Act received Presidential assent on 24 December 2023 and substantive provisions were brought into force in stages from 26 June 2024.

¹⁶Telecommunications Act 2023 (n 7) ss 35–38 (Adjudicating Officer, Designated Appeals Committee, procedure and enforcement).

III. GRIEVANCE REDRESSAL MECHANISMS IN THE INDIAN TELECOMMUNICATIONS SECTOR

A multi-layered grievance redressal framework has evolved, comprising internal complaint mechanisms, regulatory oversight, specialised tribunals, and general consumer fora. Its effectiveness in delivering accessible, timely administrative justice remains debatable.¹⁷

Under Section 11 of the TRAI Act 1997,¹⁸ TRAI has issued regulations mandating telecom service providers to maintain structured grievance systems, most notably through the Telecom Consumers Complaint Redressal Regulations 2012.¹⁹ In practice, since these systems are operated by the telecom companies themselves, consumers frequently report delayed responses and unsatisfactory resolutions.

TDSAT, established under Section 14 of the TRAI Act 1997,²⁰ adjudicates disputes between licensor and licensee, between service providers, and appeals against TRAI's decisions. It was never designed for individual consumer-level complaints. The scope of TRAI's own regulatory mandate has itself been the subject of litigation.²¹

The jurisdictional question of whether ordinary consumer courts can hear telecom disputes has shifted significantly. In *General Manager, Telecom v M Krishnan* (2009),²² the Supreme Court held that the arbitration mechanism under Section 7B of the (now-repealed) Telegraph Act impliedly barred recourse to the Consumer Protection Act for telephone billing disputes. That position no longer holds. In *Vodafone Idea Cellular Ltd v Ajay Kumar Agarwal* (2022),²³ a three-judge bench expressly overruled *M Krishnan*, holding that the Consumer Protection Act's jurisdiction is not ousted merely because an arbitration clause exists elsewhere. Consumer courts are therefore a clearly available, if still procedurally demanding, avenue.

Most recently, TRAI has moved to tighten the internal mechanism rather than replace it. In 2026, TRAI released a draft Telecom Consumers Complaint Redressal (Fourth Amendment)

¹⁷Agarwal AK, 'Consumer Protection in India: Issues and Challenges' (2016) 8(1) Indian Journal of Consumer Law 1.

¹⁸Telecom Regulatory Authority of India Act 1997 (n 8) s 11.

¹⁹Telecom Regulatory Authority of India, Telecom Consumers Complaint Redressal Regulations 2012.

²⁰Telecom Regulatory Authority of India Act 1997 (n 8) s 14.

²¹*Cellular Operators Association of India v Telecom Regulatory Authority of India* (2016) 7 SCC 703.

²²*General Manager, Telecom v M Krishnan* (2009) 8 SCC 481.

²³*Vodafone Idea Cellular Ltd v Ajay Kumar Agarwal, Civil Appeal No 923 of 2017 (SC, 16 February 2022).*

Regulation,²⁴ proposing financial penalties on service providers of up to ₹50 lakh per quarter per service area for failures in complaint handling, removal of the existing advisory-committee tier, and mandatory quarterly performance reporting. Any current argument for a Telecom Ombudsman has to engage with this as the live policy alternative.

IV. TRAI'S OWN SEARCH FOR A TELECOM OMBUDSMAN: 2004 TO 2017

In January 2004, TRAI released a Consultation Paper on the establishment of the Office of Ombudsman in the Telecommunication Sector,²⁵ explicitly modelled on the existing Banking Ombudsman and Insurance Ombudsman schemes. The proposal was revived in a further Consultation Paper on Complaints/Grievance Redressal in Telecom Sector in 2016,²⁶ which noted that the 2004 recommendation had not been agreed to by the Government, and that the case for an independent mechanism had only strengthened as subscriber numbers grew.

That process produced formal Recommendations from TRAI to the Central Government on 10 March 2017,²⁷ proposing a three-tier structure: a Consumer Grievance Redressal Forum at the service-provider level, with an Ombudsman as the appellate authority above it, funded through a variable component of telecom operators' existing licence fees. These recommendations were not accepted by the Government, and no comprehensive public reasoning for that decision appears to have been issued.

This history reframes the live question for any current article on this subject: the issue is less whether India should have a telecom Ombudsman — TRAI has already answered that question affirmatively, on paper, for over two decades — and more why the executive has declined to implement its own regulator's recommendation, and whether that decision looks different now, given a newly enacted Telecommunications Act.

V. FRAMEWORK FOR A TELECOM OMBUDSMAN IN INDIA

A. LEGAL FEASIBILITY

The TRAI Act 1997 does not expressly provide for an Ombudsman, but its broad consumer-

²⁴Telecom Regulatory Authority of India, Draft Telecom Consumers Complaint Redressal (Fourth Amendment) Regulation 2026.

²⁵Telecom Regulatory Authority of India, Consultation Paper on Establishment of the Office of Ombudsman in the Telecommunication Sector (7 January 2004) (n 5).

²⁶Telecom Regulatory Authority of India, Consultation Paper on Complaints/Grievance Redressal in Telecom Sector (Consultation Paper No 15/2016, 28 July 2016).

²⁷Telecom Regulatory Authority of India, Recommendations on Establishment of Office of Telecom Ombudsman (10 March 2017) (n 6).

protection mandate under Section 11²⁸ would support such a mechanism through subordinate regulation, as TRAI itself proposed in 2017.²⁹ A statutory amendment to the TRAI Act, or a dedicated provision within the Telecommunications Act 2023's rule-making framework, would offer greater legal certainty.

From a constitutional standpoint, the Supreme Court's emphasis on fair and reasonable administrative procedure under Article 21 in *Maneka Gandhi v Union of India*,³⁰ and on the independence and impartiality required of quasi-judicial bodies in *Union of India v R Gandhi*,³¹ both support the creation of an independent grievance institution of this kind.

B. INSTITUTIONAL DESIGN

The proposed Ombudsman should function independently of both telecom service providers and undue governmental influence, with a transparent, merit-based appointment process. Its jurisdiction should be confined to individual consumer-level grievances, leaving inter-operator and licence-compliance matters to TDSAT and the Adjudicating Officer mechanism respectively,³² so that the institution complements rather than duplicates the existing architecture.

C. FUNCTIONS

The Ombudsman's core functions would be investigation of individual complaints, promotion of mediation and settlement, and the power to recommend or direct corrective action, with a mechanism to give those recommendations practical force.

D. ADVANTAGES

An Ombudsman mechanism offers speed, low cost, and accessibility, addressing the shortcomings that make consumer courts and TDSAT impractical for routine, low-value telecom disputes.

E. CHALLENGES IN IMPLEMENTATION

The most obvious challenge is that the Government has twice declined to act on TRAI's own recommendation.³³ A second is the present regulatory direction — TRAI's 2026 draft amendment

²⁸Telecom Regulatory Authority of India Act 1997 (n 8) s 11.

²⁹Telecom Regulatory Authority of India, Recommendations on Establishment of Office of Telecom Ombudsman (10 March 2017) (n 6).

³⁰*Maneka Gandhi v Union of India* AIR 1978 SC 597.

³¹*Union of India v R Gandhi* (2010) 11 SCC 1.

³²Telecom Regulatory Authority of India Act 1997 (n 8) s 14; Telecommunications Act 2023 (n 7) ss 35–38.

³³Telecom Regulatory Authority of India, Recommendations on Establishment of Office of Telecom Ombudsman (10 March 2017) (n 6); Telecom Regulatory Authority of India, Consultation Paper on Establishment of the Office of Ombudsman in the Telecommunication Sector (7 January 2004) (n 5).

regulation³⁴ suggests the current institutional appetite is for strengthening provider-run grievance redressal through penalties, which means an Ombudsman proposal now has to argue why this is not, by itself, a sufficient substitute. A third is jurisdictional overlap with TDSAT and the Adjudicating Officer, requiring careful drafting. Finally, enforcement remains a live issue absent statutory backing.

VI. COMPARATIVE ANALYSIS OF TELECOM OMBUDSMAN MODELS

In the United Kingdom, Ombudsman Services: Communications and similar approved schemes operate under Ofcom's oversight;³⁵ under the Communications Act 2003,³⁶ telecom providers must belong to an approved alternative dispute resolution scheme, with decisions generally binding on companies.

In Australia, the Telecommunications Industry Ombudsman is independent in function though funded by industry, operating against the backdrop of the Telecommunications (Consumer Protection and Service Standards) Act 1999,³⁷ and handles billing, service-quality, and unfair-practice complaints with an emphasis on early-stage resolution.

In Canada, the Commission for Complaints for Telecom-television Services performs a similar role, encouraging settlement before issuing binding recommendations. The United States, by contrast, relies on the Federal Communications Commission's complaint process, which is regulatory rather than a dedicated dispute-resolution mechanism.

Across these models, the recurring structural features are independence from both government and industry control, low-cost accessibility, decisions that bind providers but not consumers, and resolution timeframes considerably shorter than litigation.

VII. SUGGESTIONS AND CONCLUSION

This article set out to examine whether a dedicated Telecom Ombudsman is needed in India, and concludes that the structural case for one remains strong — not as a new idea, but as a regulator-endorsed proposal that has twice failed to secure executive approval, now sitting alongside a

³⁴Telecom Regulatory Authority of India, Draft Telecom Consumers Complaint Redressal (Fourth Amendment) Regulation 2026 (n 24).

³⁵Ofcom, *Approved Alternative Dispute Resolution Schemes for Communications* (Ofcom 2021).

³⁶Communications Act 2003 (UK).

³⁷Telecommunications (Consumer Protection and Service Standards) Act 1999 (Cth).

changed statutory landscape.³⁸

Any renewed push should build directly on TRAI's 2017 recommendations,³⁹ including its funding model, and should explain how the institution would sit alongside, not duplicate, TDSAT and the Adjudicating Officer/Designated Appeals Committee structure.⁴⁰ It should also directly address TRAI's current preference for strengthening provider-level redressal through penalties.⁴¹ Given the volume of complaints reported under the existing mechanism,⁴² public awareness of any new Ombudsman scheme would need to be built deliberately.

The absence of a specialised, consumer-facing telecom grievance institution remains a genuine gap in Indian administrative justice. What this article has tried to show is that the gap is not for want of a proposal — TRAI supplied one in considerable detail nearly a decade ago — but for want of political will to implement it.

³⁸Telecom Regulatory Authority of India, *Recommendations on Establishment of Office of Telecom Ombudsman* (n 6).

³⁹*ibid.*

⁴⁰Telecom Regulatory Authority of India Act 1997 (n 8) s 14; Telecommunications Act 2023 (n 7) ss 35–38.

⁴¹Telecom Regulatory Authority of India, Draft Telecom Consumers Complaint Redressal (Fourth Amendment) Regulation 2026 (n 24).

⁴²Telecom Regulatory Authority of India, Annual Report 2022–23 (TRAI 2023).

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