



SUBMISSION
BY
THE INTERNATIONAL INSTITUTE OF MEDIATORS (SINGAPORE) LTD
ON
THE CONSULTATION PAPER ISSUED BY THE INFO-COMM MEDIA
DEVELOPMENT AUTHORITY
ON
THE TELECOMMUNICATION AND SUBSCRIPTION TV MEDIATION
ADJUDICATION SCHEME

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(c) SUMMARY OF MAJOR POINTS (structured to follow the individual Parts of the Consultation Document)

The proposed Mediation-Adjudication Scheme is in line with a few similar schemes that were introduced earlier by different authorities to address specific disputes in a particular industry. The Scheme is beneficial to both the consumer and service providers to assist them to resolve disputes in an amicable manner without going to litigation which in many cases tend to be more costly and time consuming. In many such cases, these disputes do not involve legal issues but deal more with the service quality and other commercial concerns, as well as people relational issues. The settlement of such disputes using non-court methods such as mediation is more appropriate.

Since mediation first started in Singapore in the 1990s, a number of mediation agencies have been established. Some of these agencies deal with specific industry issues while others deal generally with different types of conflict. The Consultation Paper suggested the appointment of a ADR body to operate the proposed Scheme. There are pros and cons in this proposal. A significant advantage is that IMDA would only need to deal with a single ADR body that has been appointed to administer the Scheme. However, the disadvantage is that Consumers or Service Providers would be restricted in their choice of the ADR body to resolve their disputes. Different mediation agencies have mediators with specific skills and training that can help to bring about effective resolution. We would like to propose that a few credible mediation institutions be designated by IMDA where Consumers and Service Providers can go to resolve their disputes.

The designated mediation agencies would be required to follow the guidelines and framework set out by IMDA but the Consumers and Service Providers would have a choice to select the mediation agencies they wish to engage.

We generally support the proposal as mentioned in the Consultation Paper. The detailed suggestions are stated in our Submission (e) below in response to the 14 questions raised. In summary, we are suggesting the following:

- There is a need to determine the disputed monetary amount which the proposed Scheme will apply.
- It is necessary that Consumers and Services Providers to accept the decision of the adjudicator to provide finality to the dispute.
- Small business consumers should be included in the Scheme.
- All telecommunication and subscription TV Service Providers that have direct billing relationship with Eligible Customers should be mandated to use the Scheme.
- The types of services and complaint issues to be covered in the proposed Scheme as proposed are comprehensive.
- There may be a need to consider a higher co-payment for Consumer in order to discourage abuse and frivolous claims.

(d) STATEMENT OF INTEREST

In addition to our comments on the proposed Mediation-Adjudication Scheme on how it can be improved and made more effective for both consumers and service providers, we would like to state at the outset that the Institute (iiM) is keen to offer our services or role as one of the ADR bodies to provide mediation and adjudication services to consumers and service providers who require such services under the proposed Mediation-Adjudication Scheme. The International Institute of Mediators (Singapore) known as iiM is a non-profit organisation with HQ in Singapore to serve as a useful platform for both individuals as well as organisations to resolve their disputes through amicable means, such as mediation as well as adjudication with a view to promoting a harmonious and peaceful environment. The founding members are accomplished community and non-community mediators, a few of us have more than 20 years of conflict resolution experience. We are a neutral body and do not represent the consumers or service providers in the Telecommunication and Media industry. The Institute will be able to provide facility to handle requests from consumers for mediation or adjudication services with our panel of mediators and adjudicators. More information of the Institute can be obtained from our website: www.im.sg.

(e) COMMENTS (in response to the Questions set out in the Consultation Document and any other comments)

DISPUTE RESOLUTION PROCESS Consultation Questions

1. Do you have any comments or suggestions on IMDA's proposed two-step Mediation – Adjudication process, and whether this process will achieve the policy objectives of providing the Disputing Parties with a resolution in an effective manner?

Remarks: The proposed two-step process is useful as it will provide finality and certainty to resolving the disputes. In the first place, opportunity is given to the parties to resolve amicably through the help of a neutral. Failing which, the dispute will be resolved by an adjudicator deciding for them. This will require that the adjudicator's decision should be final.

2. Do you think that it is necessary to serve a "notice of intention to mediate" so that it is demonstrated that the Disputing Parties have exhausted all available options before starting mediation proceedings? What are your views on the 14 calendar days required – is it too long, too short or sufficient?

Remarks: "The Notice of intention to mediate" is a procedural matter to give formal notice to the Service Provider that the consumer is keen to settle through mediation. The 14-day notice may be long. For such disputes, the Consumer and perhaps the Service Provider will want the matter to be resolved as soon as possible. A 7-day notice should be sufficient. In fact, the issue is not the notice to the Service Provider. The Consumer can inform the Service Provider anytime within the 1-year period. What is important is the period when the Service Provider should respond to the consumer. We should state that the Service Provider should respond within 7 days upon receipt of notice of intention to mediate.

3. Do you agree that a documents-based adjudication is more efficient for the Disputing Parties, or do you have any suggestions to enhance the adjudication stage?

Remarks: A documents-based adjudication is efficient and less costly. However, this is based on the assumption that the facts and information contained in the documents are complete and clear. There is a need to state that the adjudicator be given the power to seek clarifications from the parties concerned and ask for further documents if necessary within certain time before completing the adjudication.

4. What are your views on giving consumer the option to choose whether to accept an adjudicated decision for it to be binding on the Disputing Parties? Do you think that this would help to achieve faster resolution of disputes?

Remarks: To provide finality, the Consumer as well as the Service Provider should agree at the outset that the decision of the adjudicator is final. This is not only useful to achieve a faster resolution of the dispute but also put a stop to the escalation of the dispute.

5. Do you think consumers should be given the option to go straight to adjudication, without requiring the Disputing Parties to go through mediation first?

Remarks: The option to go straight to adjudication is useful as there are consumers or organisations which do not wish to make decisions on their own through mediation but would rather wish a third party adjudicator to decide for them straightaway to save time and effort, For some organisations,

the additional advantage is that the adjudicator's decision will help to set a precedent for subsequent similar disputes.

General Remarks:

It was mentioned that the disputing parties will attend a two-hour mediation session (para 2.4). We suggest that the 2-hour limitation should not be stated as a rule. Mediation is such that sometimes slightly 2 hours session may just help settle the conflict. The duration of the mediation session is best left to the discretion of the mediators although a general guideline may be formulated by the mediation agency concerned.

Nothing has been mentioned in the Consultation Paper about the disputed monetary amount of the conflict that can utilise the proposed Scheme. It may be useful to put a cap on the amount so that larger disputes (in terms of amount) may have to be referred to other avenues for resolution.

ELIGIBLE CUSTOMERS Consultation Questions

6. Do you agree that apart from Individual Consumers, it is beneficial to include Small Business Customers as Eligible Customers under the Scheme? Why do you think so?

Remarks: It is useful to include small business consumers as their disputes are similar to those of the consumers. To confine the problems concerning consumers and small time business consumers, there may be a need to put a cap on the disputed amount. The data and experience from the Telecommunication and Media industry would provide a better guide on the amount.

7. Is the definition of Small Business Customer appropriate? If not, how should it be defined?

Remarks: The definition is appropriate as it is a definition that has been adopted before. ACRA defines small businesses generally as those with less than \$5 million revenue.

DESIGNATED / DECLARED LICENSEES Consultation Questions

8. Do you agree that IMDA should mandate participation of all telecommunication and subscription TV Service Providers that have direct billing relationship with Eligible Customers in the Scheme?

Remarks: It is useful to mandate all service providers as this will provide a concerted effort to assist Consumers as well as Service Providers to resolve such disputes through the mediation-adjudication framework without going to court.

9. Are there other Service Providers that should be required to participate in the Scheme? Why do you think so?

Remarks: The list of Service Providers is already comprehensive. This list can be updated when there are others in future.

ELIGIBLE SERVICES Consultation Question

10. Do you have any comments on the proposed scope of Eligible Services, and what services should be included or excluded from the scope? Why do you think so?

Remarks: The proposed scope of Eligible Services is appropriate. No further comments.

ELIGIBLE COMPLAINT ISSUES Consultation Questions

11. Do you agree that Eligible Complaint Issues ought to be limited to issues that can be resolved through service recovery efforts, or compensated in kind or monetary terms? Why do you think so?

Remarks: Agree. We should include complaints that deal with service quality and commercial in nature.

12. What do you think are other complaint issues that should be included and / or excluded from the scope of issues that are eligible under the Scheme? Why do you think so?

Remarks: The proposed list of complaint issues is comprehensive. Other issues that are relevant can be considered by the ADR body as and when they occur.

FUNDING OF SCHEME & FEE STRUCTURE Consultation Questions

13. Do you agree that IMDA should adopt a co-payment model so that the Scheme can be self-sustainable? Why do you think so?

Remarks: Agree. This is a common practice in many such schemes with both disputing parties contributing to the payment for the services.

14. What are your views on the fee ratio of 10:90 in favour of the Eligible Customers to help balance the disparity in the respective bargaining power of the Disputing Parties?

Remarks: A common practice is for both disputing parties to contribute equally to the payment for such services. However, in order to assist consumers, a lower ratio may be necessary. However, this should be balanced against some consumers who make frivolous claims as the cost of services is

low. A ratio of 30:70 may be a better balance. However, the data and experience of the Telecommunication and Media industry should provide useful information to decide on the final ratio.

(f) CONCLUSION

We support the introduction of the proposed Telecommunication and Subscription TV Mediation-Adjudication Scheme. The main structure and framework has been well crafted. We have made some suggestions which can be incorporated if found useful. With this Scheme, we believe many disputes relating to telecommunication and media services can be resolved in a less costly and amicable way. We look forward to contributing to the Scheme.