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THE DIRECT TO HOME BROADCASTING SERVICES (STANDARDS OF QUALITY OF SERVICE AND REDRESSAL OF GRIEVANCES) REGULATIONS, 2007.

NO. 8 of 2007

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 31st August, 2007

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F. No. 4-55/ 2007 - B&CS.-- In exercise of the powers conferred by section 36, read with sub clauses (i) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39,-----

(a) issued, in exercise of the powers conferred upon the Central Government under clause (d) of sub-section (1) of section 11 and proviso to clause (k) of sub section (1) of section 2 of the said Act, and

(b) published under notification No. S.O.44 (E) and 45 (E) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part III, Section 4,

the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

CHAPTER I
PRELIMINARY

1. Short title and commencement.----- (1)These regulations may be called the Direct to Home Broadcasting Services (Standards of Quality of Service

and Redressal of Grievances) Regulations, 2007.
(2) They shall come into force on the 1st day of December, 2007.

2. Definitions.---- In these regulations, unless the context otherwise requires,-
(a) "Act" means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);
(b) "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);
(c) "broadcaster" means any person including an individual, group of persons, body corporate, firm or any organisation or body, who, or, which, is providing programming services and includes his authorised distribution agencies;
(d) "Call Centre" means a department or a section or a facility established under sub-regulation (1) of regulation 13 by the direct to home operator for registering of service requests, answering queries, recording of complaints, and redressal of grievances, of its direct to home subscribers, by telephone or electronic means or by any other means;
(e) "commercial subscriber" means any subscriber who receives a programming service at a place indicated by him to a service provider and uses signals of such service for the benefit of his clients, customers, members or any other class or group of persons having access to such place;
(f) "Direct to Home Customer Premises Equipment" means the components and accessories installed at the premises of the subscriber to enable the reception of a direct to home service and includes Direct to Home Set Top Box, the remote control for set top box and the dish antenna;
(g) "direct to home operator" means an operator licensed by the Central Government to distribute multi channel TV programmes by using a satellite system directly to subscriber's premises without passing through intermediary such as cable operator or any other distributor of TV channels;
(h) "direct to home service" means distribution of multi channel TV programmes by using a satellite system by providing TV signals directly to subscriber's premises without passing through an intermediary such as cable operator or any other distributor of TV channels;
(i) "direct to home subscriber" means a subscriber who receives the signals of a direct to home service;
(j) "distributor of TV channels" means any person including an individual, group of persons, public or body corporate, firm or any organisation or body re-transmitting TV channels through electromagnetic waves through cable or through space intended to be received by general public directly or indirectly and such person may include, but is not limited to, a cable operator, direct to home operator, multi system operator, head ends in the sky operator and a service provider offering Internet Protocol television service;
(k) "Direct to Home Set Top Box" means a device,-

(i) which is connected to, or is part of a television; and

(ii) which allows a direct to home subscriber to receive and view the channels of a direct to home service;

(l) "Internet Protocol television service" means delivery of multi channel TV programmes in addressable mode by using Internet Protocol over a closed network of one or more service providers;

(m) "Manual" means the Manual of Practice referred to in sub-regulation (1) of regulation 21;

(n) "Nodal Officer" means the officer appointed or designated under sub-regulation (1) of regulation 16 by a direct to home operator;

(o) "ordinary subscriber" means any subscriber who receives a programming service from a service provider and uses the same for his domestic purposes;

(p) "pay channel" means a channel for which fees is to be paid to the broadcaster by the person receiving the signals from the broadcaster, for its re-transmission through electromagnetic waves through cable or through space intended to be received by the general public either directly or indirectly;

(q) "programme" means any television broadcast and includes-

(i) exhibition of films, features, dramas, advertisements and serials through video cassette recorders or video cassette players;

(ii) any audio or visual or audio-visual live performance or presentation, and the expression "programming service" shall be construed accordingly;

(r) "regulations" means the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007;

(s) " Schedule" means the Schedule annexed to these regulations;

(t) "subscriber" means a person who receives the signals of a service provider at a place indicated to the service provider by him without further transmitting it to any other person and includes ordinary subscribers and commercial subscribers unless specifically excluded;

(u) All other words and expressions used in these regulations but not defined, and defined in the Act or the Cable Television Networks (Regulation) Act,1995 and the rules, orders and other regulations made thereunder, shall have the meanings respectively assigned to them in those Acts or the rules, orders or other regulations, as the case may be.

CHAPTER II
DIRECT TO HOME SERVICE, ITS CONNECTION, DISCONNECTION, TRANSFER AND SHIFTING.

3. Obligation of every direct to home operator to give direct to home service .----- Every direct to home operator shall, on fulfillment of the requisite requirements for providing direct to home service, provide, on non discriminatory basis, the direct to home service to every person making request for the same, subject to technical and operational feasibility.

4. Option to provide Direct To Home Customer Premises Equipment on out right purchase or hire purchase or rent.-------- (1) Every direct to home operator shall give an option to every person making request under regulation 5 to make available to him, the Direct To Home Customer Premises Equipment conforming to the Indian Standard set by the Bureau of Indian Standards as applicable, on out right purchase basis or hire purchase basis or rental basis, ---

(a) in accordance with the scheme, if any, made by the Authority in this behalf;

(b) in case no such scheme as referred to in clause (a) has been made by the Authority, then in accordance with the schemes made by the direct to home operator or his agent authorised by him in this behalf and such schemes shall, inter alia, provide for the following, namely:-

(i) the period of hire-purchase together with the details of installments;

(ii) no charges payable towards repair and maintenance of Direct to Home Customer Premises Equipment acquired under the hire purchase scheme or on rental scheme during the period of hire purchase or rental scheme:

Provided that this sub-regulation shall not apply to cases where it is found that the Direct to Home Customer Premises Equipment has been tampered with;

(iii) the terms and conditions for return of Direct to Home Customer Premises Equipment by a direct to home subscriber to the direct to home operator, before completion of period of hire purchase;

(iv) refund of security deposit or advance payments, if any, after appropriate and reasonable adjustments in case of return of Direct to Home Customer Premises Equipment by a direct to home subscriber to the direct to home operator:

Provided that, in case the Direct to Home Customer Premises Equipment made available to any direct to home subscriber before the commencement of these regulations does not conform to the Indian Standard set by the Bureau of Indian Standards as applicable, the direct to home operator shall, within seven days of commencement of these regulations, replace, without any extra charge, the Direct To Home Customer Premises Equipment made available before such commencement with the Direct to Home Customer Premises Equipment conforming to the Indian Standard set by the Bureau of Indian Standards as applicable.

(2) Every direct to home operator shall give all the three options, namely, (a) on outright purchase basis, (b) on hire purchase basis, and (c) on rental basis, as referred to in sub-regulation (1), for making available the Direct to Home Customer Premises Equipment to the person making the request for the same under that sub-regulation.

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5. Procedure for direct to home service connection, disconnection or shifting.----- (1) Any person seeking connection, disconnection or shifting of direct to home service connection may make an application in duplicate to the direct to home operator in such format as may be specified by the direct to home operator and such application shall be provided to such person by the direct to home operator:

(2) The format of application referred to in sub-regulation (1) shall contain among other things the following information, namely:-

(i) name, address and telephone number of the applicant;

(ii) details of schemes for provision of Direct to Home Customer Premises Equipment;

(iii) details of subscription package indicating therein, among others, the number and names of all the channels and value added services, if any;

(iv) details of documents to be furnished;

(v) details of terms and conditions of payment.

(3) Every direct to home operator shall, on receipt of an application in duplicate for connection of direct to home service, made by any person complete in all respects, give a unique customer identification number and provide a copy of the Manual at the time of his subscription for direct to home service.

(4) All information furnished by the applicant shall be kept confidential.

(5) Every direct to home operator shall,----.

(a) evolve procedures for handling requests for shift in the place of installation of the direct to home service, transfer the said service from one direct to home subscriber to another, dis-connection or re-connection of the direct to home service;

(b) specify the maximum time limit within which the request referred to in clause (a) above, be fulfilled and such time limit, subject to technical feasibility, in no case shall exceed five working days from the date of making of such request.

6. Discontinuing exhibiting of any channel only after notice.----- (1) No direct to home operator shall take off the air or discontinue exhibition of any channel without giving prior notice to the direct to home subscribers.

(2) The notice referred to in sub-regulation (1) shall be published widely.

(3)Nothing contained in sub-regulation (1) shall apply in case of discontinuance of exhibition of any channel caused by disturbances of weather or natural calamities or reasons beyond control of the direct to home operator.

7. Discontinuing direct to home service to any direct to home subscriber.----- (1)Save as otherwise provided in these regulations, no direct to home operator shall discontinue its direct to home service to its direct to

home subscriber without giving prior notice indicating the reasons for such disconnection.

(2) The provisions of sub-regulation(1) shall not apply to the direct to home service provided on pre-paid basis which had been discontinued due to non availability of balance amount for providing such service on pre paid basis.

(3) In case direct to home service is required to be interrupted for the purpose of facilitating preventive maintenance, the subscribers shall be given a prior notice indicating therein the expected date of resumption of service.

8. Prohibition to disable Direct to Home Set Top Boxes.----- In case the direct to home subscriber does not owe any dues (including any arrear towards installments of hire purchase scheme or arrears of rent for the Direct to Home Customer Premises Equipment of such operator) to a direct to home operator, such operator shall not disable the Direct to Home Set Top Box of such subscriber who does not intend to continue to opt or avail direct to home services offered by such direct to home operator and uses or intends to use the Direct to Home Customer Premises Equipment for viewing the direct to home services of Doordarshan or any other direct to home operator.

9. No increase of subscription for direct to home service for six months.-

(1) No direct to home operator shall, increase the charges for a subscription package offered by him, to the disadvantage of the direct to home subscriber, or change the charges to the disadvantage of the direct to home subscriber for a minimum period of six months from the date of enrolment of the subscriber for such subscription package.

(2) The provisions of sub-regulation (1) shall not prevent any direct to home operator to reduce the price of the subscription package within the period of six months referred to in that sub-regulation to the advantage of direct to home subscriber:

(3) Nothing contained in sub-regulation (1) shall prevent any direct to home subscriber to opt, during the period of six months referred to in that sub-regulation, for any other subscription package offered by such direct to home operator or any other direct to home operator.

10. No charges to be levied during discontinuance of direct to home service.------- No charges (other than charges in respect of Direct to Home Customer Premises Equipment) relating to the period when the direct to home services were discontinued by the operator on his own or upon the request of the direct to home subscriber or for any other reason , or reactivation charges for resumption of such service, shall be payable by any direct to home subscriber.

CHAPTER III
BILLING FOR DIRECT TO HOME SERVICE

11. Billing for post paid direct to home subscribers. ------ Every direct to home operator shall issue bills, to its direct to home subscribers who opt for direct to home service on post-paid basis specifying in such bills,---

(a) the charges for such package;

(b)the charges for the value added services availed by such subscriber;

(c) the charges for Direct to Home Customer Premises Equipment;

(d) the nature and rate of applicable taxes;

12. **Providing usage details in respect to Pre-paid direct to home service.----** (1) Every direct to home operator, shall, on request from any direct to home subscriber who has been provided pre-paid direct to home service, supply to the subscriber, at a reasonable cost, the information relating to the itemized usage charges showing actual usage of direct to home service.

(2) Every direct to home operator, shall provide the information referred to in sub-regulation (1) for any period falling in preceding six months immediately preceding the month in which the request has been made by the subscriber under the said sub-regulation.

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CHAPTER IV
REDRESSAL OF DIRECT TO HOME SUBSCRIBER GRIEVANCES BY CALL CENTRES

13. **Establishment of Call Centre.----**(1) Every direct to home operator shall, on or before the date of commencement of these regulations, establish one or more Call Centres for the purposes of registering of direct to home service requests, answering queries, registering of complaints and redressal of grievances of its direct to home subscribers, and such Call Centre shall be accessible to its direct to home subscribers round the clock during all days in a week:

Provided that a direct to home operator, who has been granted a licence after the commencement of these regulations, shall establish such one or more Call Centres before or simultaneously with commencement of its operations.

(2) Every direct to home operator shall earmark or allot or establish basic telephone or cellular mobile telephone number having sufficient lines or connections to be called as the “toll free number” or “consumer care number” or “help line number” or “special number”, as the case may be, at its Call

Centres, so as to ensure the compliance of the benchmarks specified in the Schedule to these regulations.

(3) Every direct to home operator shall ensure that no call charges are levied upon, or payable by its direct to home subscriber, for calls made to the "toll free number" or "consumer care number" or "help line number" or special number, as the case may be.

(4) Every direct to home operator shall, immediately on establishment of its Call Centre, give wide publicity about such Call Centres.

14. Procedure for handling request or complaint by Call Centres.---- Every direct to home operator shall ensure that the Call Centres, immediately on receipt of a request or complaint, as the case may be, from its direct to home subscriber relating to direct to home service, register such requests or queries or complaints of its direct to home subscriber by allotting a unique identification number to be called the docket number and inform the same to the direct to home subscriber.

15.Time limit for redressal of grievance of the direct to home subscriber by Call Centres.---(1)Every direct to home operator shall take necessary steps to address all requests or queries or redress all complaints by the direct to home subscriber as early as possible:

Provided that----

(a) in case of complaints relating to non- receipt of all signals (other than those caused by disturbances of weather or natural calamities) by direct to home subscriber , at least ninety per cent of all such complaints shall be redressed and signals restored within a period of twenty-four hours of the receipt of complaint;

(b) in case of complaints (other than non receipt of signals) by direct to home subscriber, at least ninety per cent of all such complaints shall be redressed within a period of forty-eight hours of the receipt of complaint.

(2) No complaint referred to in clauses (a) and (b) of proviso to sub-regulation (1) shall remain unresolved beyond five days.

Provided further that the requests or complaints which ---

(a) relate to the remote or hilly tracts or hilly areas or distant rural areas; or

(b) are caused by disturbances of weather,

may be addressed or redressed as early as may be feasible

(3) In case a direct to home operator fails to redress the complaint within the period specified in sub-regulation (2), it shall, without prejudice to any other right conferred upon the direct to home subscribers under any law for the time being in force, give proportionate rebate to the direct to home subscriber for the period during which such complaints had not been redressed and such period shall be reckoned from the date of expiry of five days, referred to in sub-regulation (2)

Provided that the time limit specified in clause (a) or clause (b) of the proviso to sub-regulation (1) or the rebate specified in sub-regulation (3) shall not apply in a case in which the Direct to Home Customer Premises Equipment had been found tampered with or damaged by the direct to home subscriber or stolen, as the case may be.

Provided further that in case a direct to home operator finds, at the time of redressal of complaint of a direct to home subscriber that the Direct to Home Customer Premises Equipment installed at his premises had been found tampered with or damaged by the direct to home subscriber, the direct to home operator shall within five days of making of the complaint by such subscriber intimate the same in writing to the direct to home subscriber.

(4) Every complaint relating to billing of direct to home service shall be redressed within seven days of receiving such complaint from the direct to home subscriber and refunds, if any, due to him, shall be made to such subscriber within thirty days of making of such complaint by him .

CHAPTER V

REDRESSAL OF DIRECT TO HOME SUBSCRIBER GRIEVANCES BY NODAL OFFICERS

16. Appointment or designation of Nodal Officer.---(1) Every direct to home operator shall, before or on the date of commencement of these regulations, appoint or designate one or more Nodal Officers in every State in which it is providing direct to home service , as may be considered necessary for the purposes of these regulations:

Provided that a direct to home operator, who has been granted a licence after the commencement of these regulations, shall appoint or designate simultaneously with provision of direct to home service, one or more Nodal Officers in every State in which it is providing direct to home service, as may be considered necessary for the purposes of these regulations.

(2) Every direct to home operator shall, immediately on appointment or designation or change of a Nodal Officer

(a) give wide publicity about appointment or designation of such Nodal Officers or any change thereof; .

(b) display, at its each office, Call Centre, customer care center, help desk, and, at the sales outlets, website and at the office of the Nodal Officer, the name of the Nodal Officers, their addresses and telephone numbers, e-mail addresses, facsimile numbers and other means of contacting them.

17. Redressal of Grievances of direct to home Subscribers by Nodal Officers.----- In case a direct to home subscriber is not satisfied with the redressal of his grievance by the Call Centre, such subscriber may approach, by a letter in writing, or through telephone, or web based online filing of complaints or through short message service or through other electronic means or any other means, the Nodal Officer of the direct to home operator for redressal of his grievance:

Provided that a direct to home subscriber may, in emergent situation, approach at the first instance a Nodal Officer instead of a Call Centre and the Nodal Officer shall redress the grievance.

18. Handling of grievances of direct to home subscriber by Nodal Officers.---- Every Nodal Officer shall, ----

(a) be accessible to the direct to home subscribers at the address publicised, as required by regulation 16;

(b) register every complaint lodged by the direct to home subscriber;

(c) issue an acknowledgement to the concerned direct to home subscriber within three days from date of the receipt of the complaint indicating therein the unique complaint number;

(d) intimate, within the time limit specified in regulation 19, the decision taken in respect of such complaint, to the direct to home subscriber, immediately after taking the remedial measure for redressal of the grievance.

19. Time limit for redressal of complaints by Nodal Officer.----- The Nodal Officer shall resolve or redress the complaints of the direct to home subscriber within ten days of the registration of the complaint under regulation 18

CHAPTER VI
COMPLAINTS FORWADED BY AUTHORITY TO DIRECT TO HOME OPERATOR FOR REDRESSAL OF GRIEVANCES OF DIRECT TO HOME SUBSCRIBER

20. Complaints forwarded to direct to home operator by Authority.----- (1) The Authority may, without prejudice to the provisions contained in the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), forward to the direct to home operator for redressal the complaints--

(a) being the complaints, alleging violation of the Act or regulations made or directions issued or orders made by it under the Act;

(b) being the complaints, of the direct to home subscriber which are generic in nature;

(c) being the complaints, alleging the practices adopted by direct to home operator adversely affecting the interest of the direct to home subscribers.

(2) The direct to home operator shall resolve or redress such complaints within fifteen days from the date of forwarding of the complaints by the Authority.

(3) The direct to home operator, shall inform the concerned direct to home subscriber and the Authority regarding resolution or redressal of the complaint within one month from the date of forwarding of the complaints under sub-regulation (1).

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CHAPTER VII
OBLIGATION OF DIRECT TO HOME OPERATOR FOR DIRECT TO HOME SUBSCRIBER EDUCATION AND PREVENTION OF GRIEVANCES

21. Manual of Practice for direct to home subscriber.------(1) Every direct to home operator shall publish a Manual of Practice containing, among other things, the following information relating to direct to home service, namely: -

(a) details of call centres and Nodal Officers;

(b) procedure and benchmarks for redressal of complaints through the call centres and through the Nodal Officers;

(c) instructions regarding operations of Direct to Home Customer Premises Equipments;

(d) rights conferred upon the direct to home subscribers under these regulations;

(e) duties and obligations of the direct to home operator.

(2) A copy of the Manual shall be provided by the direct to home operator or his agent to each direct to home subscriber at the time of his subscription for direct to home service.

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CHAPTER VIII
MISCELLENEOUS

22. **Identification of personnel of direct to home operator.------** Every direct to home operator shall ensure that its representatives carry proper identification along with a photograph duly certified by such operator and exhibit the same as proof of identity to the direct to home subscriber.

23. Inspection and Auditing.----- (1) Every direct to home operator shall maintain for at least a period of one year the complete and accurate records of redressal of grievances of the direct to home subscribers by its Call Centres and Nodal Officers.

(2) The Authority may, if it considers it expedient so to do, and to ensure compliance of the provisions of these regulations, by order in writing, direct any of its officers or employees or through one or more persons appointed by the Authority to inspect any Call Centre and office of the Nodal Officer and the records maintained under sub-regulation (1), and submit to the Authority a report in respect of such inspection.

(3) The Authority, if it considers it expedient so to do, may require the direct to home operator to--

(a) get the records maintained under sub-regulation (1) audited through one or more officers or persons appointed by the Authority and submit the report in respect of such audit to the Authority;

(b) get the records maintained under sub-regulation (1) audited through an independent agency as may be specified by the Authority and submit the report in respect of such audit to the Authority.

(4) The cost of the audit under clause (b) of sub-regulation (3) shall be borne by the concerned direct to home operator.

24.Intervention by Authority in certain cases.-----The Authority may, by order or direction, from time to time, intervene, for the purpose of protecting the interest of the direct to home subscribers or monitoring the performance of quality of service standards of the direct to home service or for ensuring compliance of the provisions of these regulations.

25. Application of other laws not barred.-------The provisions of these regulations shall be in addition to, and not in derogation of, any other law for the time being in force.

26. Right of direct to home subscriber to seek redressal under the Consumer Protection Act, 1986 or any other law for the time being in force.----- (1) The provisions of these regulations are in addition to any right conferred upon the direct to home subscribers under the Consumer Protection Act, 1986(68 of 1986) or any other law for the time being in force.

(2) Any direct to home subscriber may, at any time,--

(a) during pendency of redressal of his grievance under these regulations; or

(b) before filing of complaint under these regulations,

exercise his right conferred upon him under the Consumer Protection Act, 1986(68 of 1986) or any other law for the time being in force and seek redressal of his grievance under that Act.

27. Provisions of these regulations to apply to persons availing direct to home service before commencement of these regulations.------- The provisions of these regulations shall, as far as may be, apply to the persons who have been availing, before commencement of these regulations, the direct to home service and continue to do so on such commencement.

SCHEDULE

(See sub-regulation (2) of regulation 13)

Serial number (1)	Parameter (2)	Benchmarks for parameter referred to in column (2) (3)
1.	Response time to the direct to home subscriber for calls answered electronically.	(a) Eighty per cent. of calls to be answered within twenty seconds electronically ; (b) Ninety- five per cent. of calls to be answered within forty seconds electronically.
2.	Response time to the direct to home subscriber for calls answered by operator	(a) Eighty per cent. of calls to be answered (voice to voice) by a person (other than by electronic means) appointed by the direct to home operator within sixty seconds; (b) Ninety- five per cent. of calls to be answered (voice to voice) by a person (other than by electronic means) appointed by the direct to home operator within ninety seconds.

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Note.--- For the purpose of calculating percentage of calls referred to in column (3) of the Schedule above, the total number of calls made during a month shall be taken into account.

(R. N. Choubey)
Principal Advisor (B&CS)

Note:-The Explanatory Memorandum annexed to these regulations explain the objects and reasons of the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007.

Annex

EXPLANATORY MEMORANDUM

A. Background

1. In direct to home service (hereinafter referred to as DTH service), a large number of television channels are digitally compressed, encrypted and beamed from very high power satellites. The programmes transmitted through DTH can be directly received at homes by installing small dish antennas at convenient locations in the buildings. DTH transmission service does not require any commercial intermediary, since an individual user is directly served by the direct to home operator (hereinafter referred to as DTH operator). However, a digital receiver usually referred to as set top box is required to receive the multiplexed signals and view them on a Television.

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2. In India, DTH service is a comparatively recent entrant as compared to cable transmission. It has certain technical advantages over cable operations. DTH is an addressable system and covers the entire country. The authority to issue DTH licence vests with the Government of India (Ministry of Information & Broadcasting). Leaving aside the Doordarshan as a public service broadcaster, two DTH operators have commenced their operations after obtaining licence from the Government of India (Ministry of Information & Broadcasting). These are M/s ASC Enterprises (under the brand name of Dish TV) and M/s Tata Sky Ltd. Dish TV had launched its services in the month of October 2003 and Tata Sky launched its service in the month of August 2006. The two DTH operators offer several pay channels along with Free to Air channels and the number of their subscribers in the country is estimated to be about 3.2 million at present. As compared to this, the other addressable delivery platform, namely, the Conditional Access System (CAS) for cable television has about 5.5 lakh subscribers in the CAS notified areas of the country. The Doordarshan provides free to air channels on its DTH service (called DD Direct) for which the subscribers have to buy the dish and the set top box from the open market. Since the Doordarshan signals are unencrypted and free to air, no accurate assessment is available about the number of viewers. Recently, licences for DTH services have also been given to M/s. Sun TV Ltd. and M/s. Reliance Blue Magic Ltd.

3. The Telecom Regulatory Authority of India (hereinafter referred to as the Authority) had issued "The Standards of Quality of Service (Broadcasting and Cable services) (Cable Television - CAS Areas) Regulation, 2006 (8 of 2006)" on the 23rd August, 2006 to regulate the quality of service of cable television services in the CAS areas. It was for the first time that quality of service regulations were issued by the Authority regarding distribution of TV channels. The impact of the regulations relating to Quality of Service for CAS areas has a bearing on issues relating to DTH service in view of the fact that both are addressable platforms and many of the Quality of Service issues are common to the above two delivery platforms, i.e. CAS and DTH service.

4. Since the operation of DTH services is at developing stage in India, the DTH operators are yet to evolve an effective policy for quality of service standards in respect of DTH service which inter alia relate to provision for redressal of grievances of consumers of DTH service. A number of complaints are being received by the Authority relating to the quality of service aspects of the DTH operators. The subscribers have a right to get a certain standard of DTH service as value for their money. For this purpose, a need has been felt to lay down such benchmarks for quality of service standards for DTH service which are well known, measurable, verifiable and specify the response time for different grievances.

5. The cable services in CAS areas and DTH services require the use of a set top box along with the television set as both the platforms, namely, cable services in CAS areas and DTH services are addressable. The basic regulatory issue in the case of the set top box is that the consumer is required to make an upfront payment to acquire this piece of equipment in both the above cases. If he subsequently finds the service not up to the desired level there should be some mechanism by which he can exit the service. This can be done in one of the two ways namely, (a) through the route of technical interoperability; or (b) through commercial interoperability. In the DTH platform, the licence conditions specify technical interoperability. In the CAS areas, the Authority has specified two standard tariff packages (rental packages) which have to be offered by all service providers in CAS areas to all subscribers in addition to any other scheme which may be offered by them. It became necessary to do so because CAS had to be

compulsory introduced under the orders of the Hon'ble High Court. However, there has been no regulation on this aspect in the case of DTH.

B. Consultation Process

6. Sub-clause (v) of clause (b) of sub-section (1) of Section 11 of the Telecom Regulatory Authority of India Act, 1997 (hereinafter referred to as the TRAI Act, 1997), provides for the Authority to lay down the standards of quality of service to be met by the service providers so as to protect the interests of consumers. Sub-section (4) of Section 11 of the TRAI Act, 1997 requires the Authority to ensure transparency while exercising its powers and discharging its functions. Accordingly, the Authority decided to go in for a consultation process before laying down benchmarks for quality of service standards for DTH services.

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7. A consultation paper on the issues relating to DTH was circulated on 2nd March, 2007 inviting inputs from the stakeholders. Responses were received from 27 stakeholders/representatives. An open house discussion was also held on the 18th May, 2007 in Bhubaneswar with representatives of stakeholders to further deliberate on various issues raised in the consultation paper.

C. Issues in the Consultation Process relating to DTH services

8. The issues which were inter alia raised for consultation in the consultation paper are as under:-

(i) Should TRAI mandate Quality of Service Standards for DTH Platform as done in the case of Cable Television services for CAS area?

(ii) In case the answer to (i) is 'yes'

(a) Whether the list of areas identified for laying down standards in para 3.12 would be adequate or whether the list needs modification?

(b) Can the benchmarks stipulated in the QOS regulations for CAS areas vide notification of 23rd August 2006 be adopted with modifications in some of the areas relating to billing, complaint

handling etc or should there be separate benchmarks for DTH service on the identified aspects of quality of service?

(iii) Alternatively should the approach suggested in the Consultation Paper for Telecom (dated January 3, 2007) be followed in which the TRAI only mandates the details of the grievance redressal machinery for each service provider?

(iv) In case mandated intervention is not preferred:

(a) Should the service providers be allowed freedom to prescribe their own quality standards and the extent of regulatory intervention be limited to only prescribing reporting requirements for the purpose of monitoring?

(b) Should TRAI in that case identify broad areas for prescription of standards of quality of service and also specify a time frame within which the industry evolved standards comes into operation.

(c) Any other methodology for arriving at standards of quality of service/ time frame.

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(v) In case QOS standards are prescribed through regulations what would the mechanism be for enforcement of these regulations?

(vi) Whether the subscriber centric quality of service standards should be common for cable service and DTH.

9. The consultation paper also raised following issues regarding set top boxes for DTH services, namely:-

(i) Whether the requirement of technical interoperability of set top boxes incorporated in the licence conditions gives an effective exit option to the subscribers. If not, how can these conditions be made consumer friendly through alternative schemes?

(ii) Whether offering the rental or buy back option for DTH Receiver Equipment (set top box along with dish antenna and associated hardware) should be made compulsory for DTH service providers?

(iii) If so, whether the one time deposit and the monthly rentals or the details of the buy back scheme should be regulated?

(iv) What should be the other conditions regarding such rental options or buy back scheme? Between the rental and the buy back scheme, should any order of preference be indicated?

(v) If the rental option or buy back scheme is made compulsory, should the condition of technical interoperability be done away with or suitably modified?

D. Analysis of the responses received during the consultation process

10. The responses received during the consultation process have been examined and analysed in detail in the background stated above. While comments received from all the stakeholders have been considered, it is important to state here that in issues relating to quality of service, the DTH operators and subscribers are the only directly affected parties. Other stakeholders like broadcasters, cable operators and multi system operators are not directly affected by the quality of service (QoS) standards laid down for DTH services. The gist of comments received from the stakeholders during the consultation process had been placed on the website of the Authority. The paragraphs hereunder briefly cover the issue-wise comments received from various stakeholders and set out the basis and rationale for the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007.

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E. Quality of Service (QoS) Standards issues:

11. The comments received from the consumer groups and service providers (existing as well as potential) were diametrically opposite stands taken by consumer groups and service providers. Whereas the consumers and consumer organisations were of the view that the Authority should mandate the QoS standards for DTH services, the two existing DTH service providers and most of the potential ones were of the view that self regulation is the best solution. Most of the service providers demanded freedom to specify their own quality standards and limiting the extent of regulatory intervention to reporting requirements. One of the licensees recommended the approach suggested in the

Consultation Paper (dated the 3rd January, 2007) for Telecom wherein the Authority only mandates the details of the grievance redressal machinery for each service provider. As an exception, one of the potential service providers has favored Authority mandated Quality of Service Standards for DTH platform as done in the case of cable television services for CAS area.

12. Moreover, the consumers have suggested that the subscriber centric quality of service standards should be common for cable service and DTH. This suggestion has been opposed by the service providers who have favored the subscriber centric quality of service standards for DTH to be different from such standards for cable service.

F. Set Top Box related issues in DTH Services

13. Since some of the set top box related issues pertain to technical inter-operability, these are covered by the licence conditions and such issues are not dealt in here.

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14. There are divergent views of service providers (existing as well as potential) on the issue of commercial interoperability. While, some of the service providers have categorically advocated that there should be no regulation on set top boxes, others have demanded that commercial interoperability should be mandated for DTH set top boxes. The consumers, cable operators and a Multi System Operator (hereinafter referred to as MSO) have recommended that the Authority should not only mandate commercial interoperability for DTH set top boxes, but also regulate commercial inter-operability as has been done for set top boxes for CAS areas.

G. Rationale

15. The QoS standards for DTH services are being laid down in the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007 made by the Authority because the large number of subscriber complaints relating to quality of service issues for DTH service indicates that there is an urgent need for the same. The industry has not come up so far with QoS standards on its own. Therefore, leaving the issue for direct to home operators to come up with such standards is likely to delay the matter and put the growing number of DTH subscribers to

a lot of inconvenience. However, in respect of most of the matters, sufficient flexibility has been given to the service providers to evolve their own procedures and specify benchmarks and lay down service charges. Thus, the Authority has decided to go in for a mix of self regulation and light touch regulation.

16. It is felt that the technological and commercial requirements of the two platforms, namely DTH and cable service in CAS areas are different and having common subscriber centric quality of service standards for cable service in CAS areas and DTH may not be practical at this stage. This is primarily because of the reason that in case of cable services, the subscriber directly interacts with the cable operator at a local level, the area of operation of the cable operators is limited and collection of application forms, activation and deactivation of service and billing are done locally. The cable service in CAS area is quite different from DTH where the Subscriber Management System and billing operations for the entire country are centralised. Accordingly, the QoS standards being specified for DTH services are somewhat different from the standards specified for cable services in CAS areas to take into account these basic differences in the two platforms.

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17. The regulation on standards of quality of service for cable services in CAS areas issued on 23rd August, 2006 lays down the procedure for connection, disconnection, transfer and shifting of cable service in CAS areas as well as specifies the time period within which a service provider has to provide and activate connection on receipt of an application. However, as compared to the cable services in CAS areas, where an existing cable subscriber could suffer loss of content after implementation of CAS in case of delayed provision of service, such stringent requirements need not be placed on DTH operators as there is no possibility of loss of content of an existing subscriber. Thus, the time limits for provision and activation of connection have been replaced by an obligation on the DTH operator to provide connections on a non-discriminatory basis.

18. The provisions relating to standard tariff packages for set top boxes for cable services in CAS areas were necessitated by the need for keeping entry barriers low for subscribers opting for pay channels in CAS areas. This was required to ensure that the existing cable subscribers could easily migrate to CAS without suffering loss of content due to compulsory implementation of CAS. However, DTH service is purely an optional

service and any subscriber opting for DTH service makes a free choice and therefore entry barrier need not be artificially lowered through regulation in the prevailing circumstances. At the same time, it is felt that mandating rental or hire purchase schemes has the advantage of offering an easy exit route for the subscribers who may not be happy with their service providers. Therefore, the Authority has mandated that the subscribers shall be given an option to procure DTH Consumer Premises Equipment (CPE) on out right purchase basis or hire purchase basis or rental basis. However, the hire purchase or rental schemes have not been specified by the Authority for the present and the DTH operators are free to come out with their own schemes in this regard.

19. Provisions relating to discontinuing exhibition of any channel and disconnection of a subscriber are different from the provisions for CAS areas in view of the fact that possible means for giving notice to subscribers are very different for a DTH operator as compared to the local cable operator in a CAS area. Moreover, DTH operators have adopted prepaid service model for delivering of services.

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20. The Authority had received complaints from many DTH subscribers regarding de-activation of their DTH set top boxes by the DTH operators in case the DTH subscribers do not want to continue with subscription of DTH services of the operator. As a result, the subscribers were unable to use the DTH set top box for viewing the Free to Air (FTA) DTH services being provided by Doordarshan. This puts the DTH subscribers in a disadvantageous position. In spite of having the required hardware for reception of Doordarshan DTH services, they are unable to access the same. Accordingly, it was decided to prohibit the DTH operators from de-activating the DTH Set Top Boxes so long as no arrears are payable by the subscriber.

21. Another area of a large number of complaints is relating to increase in tariffs by the DTH operators. Similar issue of frequent changes in tariff was earlier encountered in the field of telecom services. The Authority had dealt with the situation by issue of the Telecommunication Tariff (Thirty first Amendment) Order, 2004 on the 7th July, 2004. The amendment in the Tariff Order provided the following, namely-

(a) A tariff plan once offered by an Access Provider shall be available to a subscriber for a minimum period of six months from the date of enrolment of the subscriber to that tariff plan.

(b) The subscriber in the said tariff plan shall be free to choose any other tariff plan, even during the said six months period. All requests for change of plan shall be accepted and implemented immediately or from the start of next billing cycle.

(c) For any tariff plan, the Access Provider shall be free to reduce tariffs at any time provided that no tariff item in that plan shall be increased within said six months period.

A similar provision has been introduced for DTH services so that a DTH subscriber is assured that once he subscribes to any subscription package, the tariff for the same shall not be increased by the DTH operator for the next six months for that subscriber, even if the same subscription package is offered at a higher price to new subscribers enrolled after a certain date as decided by the DTH operator.

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22. The Authority has also received complaints regarding insistence of DTH operators to make payment for the period for which DTH services were not availed by a subscriber. In a prepaid billing model, sometimes a subscriber renews his subscription after some time has lapsed after discontinuation of services following the expiry of his subscription. In such a situation, the subscriber should not be charged for the period for which the services have not been availed by him. All payments in a prepaid billing system should be towards prospective use of services against the payment made by a subscriber. Accordingly, a provision has been made to prohibit levy of charges for the period of discontinuance of DTH service.

23. The provisions relating to billing system for postpaid DTH service are similar to the provisions for such provisions for cable subscribers in CAS areas. However, for the pre-paid DTH subscribers, the provisions relating to accessing usage details have been adopted from similar provisions for prepaid telecom subscribers as given by the Telecom Consumers Protection and Redressal of Grievances Regulations, 2007 (3 of 2007) issued by the Authority on the 4th May, 2007.

24. While laying down the QoS standards for DTH service, the Authority has drawn on its experience in the Telecom sector and has specified the procedure for redressal of grievances of DTH subscribers. The provisions relating to establishment of call centres for registering service requests, answering queries, registering of complaints and

redressal of grievances are based on the present industry practice for service industries such as telecom, banking, insurance etc. The time limits for responding to calls by such call centres of DTH operators have been kept at the same levels as already laid down for call centres of telecom service providers in the Regulation on Quality of Service of Basic and Cellular Mobile Services, 2005 dated the 1st July, 2005 (11 of 2005).

25. The time limits for redressal of grievance of DTH subscribers specified by the regulations are similar to the time limits specified for cable services in CAS areas. However, it may be emphasized here that DTH services have a pan India footprint. It may not be possible to meet such stringent regulations about time limits for redressal of grievance of DTH subscribers located in remote or hilly areas or distant rural areas. Imposition of such stringent time limits for redressal of grievance of DTH subscribers may deter the DTH operators from making available DTH services in remote or hilly areas or distant rural areas, whereas such remote or hilly areas or distant rural areas need the DTH services the most because these areas are not served by other distributors of TV channels. Therefore, it has become necessary to make an exception to the time limits in respect of such areas.

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26. The provisions for appointment of Nodal Officers for redressal of DTH subscriber grievances are broadly on the lines of the Telecom Consumers Protection and Redressal of Grievances Regulations, 2007 (3 of 2007) for telecom sector issued by the Authority on the 4th May 2007. Similarly, provisions for complaints forwarded by the Authority to DTH operators for redressal of DTH subscriber grievances are also based on the said regulations for telecom sector issued by the Authority on the 4th May 2007. However, considering the fact that the DTH service sector is developing and therefore such service is being subjected to the Quality of service regulations for the first time, the requirements on the DTH operators have been kept at bare minimum as compared to the regulations for telecom sector issued by the Authority on the 4th May 2007.

27. The Quality of Service regulations for cable services in CAS areas provided for making available a manual or pamphlet setting out instructions for operating the set top box. The Telecom Consumers Protection and Redressal of Grievances Regulations, 2007 (3 of 2007) issued by the Authority on the 4th May, 2007 also required the service providers to publish a “Manual of Practice for handling consumer complaints”

containing specified information relating to Basic Telephone Service, Cellular Mobile Telephone Service and Broadband Service. Along the same lines the DTH operators have now been mandated to publish a "Manual of Practice". The "Manual of Practice" for DTH operators covers both the complaint handling procedures and instructions for operating the DTH Consumer Premises Equipment, apart from educating the customers about his rights and duties and obligations of the DTH operator.

28. The Quality of Service regulations for cable services in CAS areas mandated that representatives of cable operators and MSOs should carry proper identification along with a photograph. Similar requirement has been placed on the DTH operators also.

29. The powers of the Authority relating to inspection, audit and intervention have been specifically listed in the regulations. These are necessary to monitor compliance of these regulations and to protect the interests of the consumers. At the same time, the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007 do not in any way take away or restrict the rights of a DTH subscriber for protection of his interests or exercising his right under any other law.

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30. Suitable provisions have been made in the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007 to protect the interest of direct to home subscribers who had opted for direct to home service before commencement of said regulations and to extend the provisions of the aforesaid regulations to such subscribers also as would be available to direct to home subscribers who opt for direct to home service after commencement of such regulations.

31. While drawing up the regulations, Authority has made an effort to balance the interests of the consumers and their concerns as well as the considerations stated above relating to the growth of the industry. The experience gained during the implementation in the nascent stage would be a useful tool for improvement of the standards. This may require revisiting some of the standards and benchmarks, whenever necessary, based on experience in implementation.

TO BE PUBLISHED IN THE GAZETTE OF INDIA,
EXTRAORDINARY,
PART III, SECTION 4

THE DIRECT TO HOME BROADCASTING SERVICES (STANDARDS OF QUALITY OF SERVICE AND REDRESSAL OF GRIEVANCES) (AMENDMENT) REGULATIONS, 2009

No. 3 of 2009

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 12th March, 2009

F. No. 16-2/ 2009 - B&CS.---- In exercise of the powers conferred by section 36, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39,-----

(a) issued, in exercise of the powers conferred upon the Central Government under clause (d) of sub-section (1) of section 11 and proviso to clause (k) of sub-section (1) of section 2 of the said Act, and

(b) published under notification No. S.O.44 (E) and 45 (E) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part III, Section 4,

the Telecom Regulatory Authority of India hereby makes the following regulations to amend the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007 (8 of 2007), namely:-

1. (1) These regulations may be called the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) (Amendment) Regulations, 2009.
(*2*) They shall come into force with effect from the date of their publication in the Official Gazette.

2. In the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007, ---------

(a) after regulation 4, the following regulation shall be inserted, namely:-

"4A. Obligation of Direct to home operator to provide repair and maintenance of Direct to Home Customer Premises Equipment. ------ (1) Every direct to home operator shall provide a warranty in respect of Direct to Home Customer Premises Equipment which has been acquired by a direct to home subscriber on outright purchase basis from such direct to home operator.

(2) The direct to home subscribers who have acquired the Direct to Home Customer Premises Equipment on outright purchase basis shall not be required to pay any sum as charges -----

(a) for repair and maintenance of the Direct to Home Customer Premises Equipment; or

(b) for visiting the premises of such direct to home subscriber for the purpose of carrying out repair and maintenance of Direct to Home Customer Premises Equipment ------

during the period of validity of such warranty."

(b) after regulation 9, the following regulations shall be inserted, namely:-

"9A. No change in composition of a subscription package during first six months of enrolment or during the period of validity of subscription paid in advance. ------ (1) No direct to home operator shall change the composition of a subscription package which has been subscribed to by a direct to home subscriber, so as to discontinue exhibition of any particular channel in that subscription package, -------

(a) during the period of six months from the date of enrolment of the subscriber to such subscription package in the case of a subscriber who pays his subscription amounts under such subscription package by recharging or by making payments periodically to the direct to home operator; or

(b) during the entire period of validity of the subscription package if the subscription amount in respect of such subscription package has been paid in advance by the direct to home subscriber or in instalments as per offer of

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the direct to home operator, -------

if such channel continues to be available on its direct to home service on its platform:

(2) If any particular channel included in a subscription package which has been subscribed to by a direct to home subscriber subsequently becomes unavailable on the direct to home service of the direct to home operator on its platform, the direct to home operator shall reduce the subscription charges for such subscription package on a proportionate basis from the date of discontinuance of the channel from the direct to home service of the direct to home operator till the expiry of a period of six months from the date of enrolment of that subscriber, or till the expiry of the contracted period of subscription for which the amount of subscription has been paid in advance or in instalments as per offer of the direct to home operator, whichever is later.

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Provided that, instead of proportionately reducing the subscription charges for such subscription package on account of non-availability of such channel, the direct to home operator may, at its discretion, introduce in such subscription package another channel of the same genre and language as the channel which has so become unavailable on the direct to home service of the direct to home operator.

Provided further that the direct to home operator shall give an option to each one of its direct to home subscribers, who have subscribed to such subscription package, an option to choose from the modified subscription package with charges reduced on proportionate basis and the modified subscription package with the removed channel replaced by another channel of the same genre and language, and the direct to home subscriber shall be free to exercise the option for the period from the date of discontinuance of the channel from the direct to home service of the direct to home operator till the expiry of a period of six months from the date of enrolment of that subscriber, or till the expiry of the contracted period of subscription for which the amount of subscription has been paid in advance or in instalments as per offer of the direct to home operator, whichever is later.

Explanation: For the removal of doubts, it is hereby declared that the amount of reduction on proportionate basis in the subscription charges, on account of removal of a channel from a subscription package, shall be calculated by dividing the amount of subscription charges for the original subscription package by the number of channels included in the original

package.

9B. Notice before change in composition of a subscription package. ----- Every direct to home operator shall give prior notice of fifteen days to its direct to home subscribers subscribing to any subscription package before changing the composition of that subscription package.";

(c) in regulation 10, the following provisos shall be inserted, namely:-

"Provided that a direct to home operator may not discontinue the direct to home service to a direct to home subscriber at the request of such direct to home subscriber, if such request for suspension of subscription is for a period which comprises part of a calendar month.

Provided further that every direct to home operator shall suspend the direct to home service to a direct to home subscriber at the request of such direct to home subscriber, if such request for suspension of subscription is for a period of a calendar month or multiple of calendar months and the requested period of suspension does not exceed three calendar months.".

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(R. N. Choubey)
Principal Advisor (B&CS)

Note.1-----The principal regulations were published vide notification F. No. 4-55/2007 - B&CS dated 31st August, 2007.

Note.2-----The Explanatory Memorandum explains the objects and reasons of the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) (Amendment) Regulations, 2009.

Annex

EXPLANATORY MEMORANDUM

Background

1. The Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007, were issued on 31st August, 2007. These regulations were issued to lay down the standards of quality of direct to home services and to protect the interests of direct to home subscribers. At the time of issue of these regulations, only two direct to home operators apart from Doordarshan were providing direct to home services in the country. Since then, three new direct to home operators have started commercial operations and the number of direct to home subscribers has also risen to about 11 million. With the evolution of the direct to home segment and the increase in the number of direct to home subscribers, new issues relating to quality of direct to home service have arisen. In order to address these issues the Authority has decided to amend the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007.

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Consultation Process

2. Sub-clause (v) of clause (b) of sub-section (1) of Section 11 of the Telecom Regulatory Authority of India Act, 1997 (hereinafter referred to as the TRAI Act, 1997), provides for the Authority to "lay down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunication services". Sub-section (4) of Section 11 of the TRAI Act, 1997 requires the Authority to ensure transparency while exercising its powers and discharging its functions. Accordingly, the Authority decided to go in for a consultation process before amending the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007.

3. The process of consultation was initiated by circulating a consultation paper on the Quality of Service issues for Cable TV Services in Non-CAS Areas and for DTH Services on 1st December, 2008 inviting inputs from the stakeholders. Responses were received from 26 stakeholders/ representatives. An open house discussion was also held

on the 6th February, 2009 in Kolkata with representatives of stakeholders to further deliberate on various issues raised in the consultation paper.

Issues for Consultation

4. The issues which were raised for consultation in the consultation paper are as under:-

i) Whether the DTH operators should be specifically prohibited from dropping of channels from a subscription package for a subscriber for six months from the date of enrolment of that subscriber, if the channel continues to be available on their platform.

ii) Within this period of six months, in case the channel ceases to be available on a particular DTH platform, then whether it would be appropriate to have a mechanism of reducing the subscription charges by an amount equal to the wholesale a-la-carte rate of that channel. *Alternatively*, can you suggest any other methodology for such compensation to the subscriber? Should such compensation be paid/adjusted even when one channel in a package is dropped, and it is replaced/substituted by another channel so that the total number of channels in that package is not affected?

iii) Whether the subscribers should also be required to subscribe to any channel/ package for a certain minimum subscription period as in CAS areas. If yes, what should be such minimum subscription period?

iv) Whether there is any justification for visiting charges for "no signal" complaint by the subscribers? If yes, should there be a ceiling on such visiting charges for complaints of "no signal"?

v) Similarly, should any ceiling be placed in respect of visiting charges for repair and maintenance of CPE for DTH services? Alternatively, should DTH operators be required to offer Annual Maintenance Contracts (AMCs) to their subscribers?

vi) Can you suggest some form of AMCs for DTH Service covering all aspects such as repair & maintenance charges for CPE, visiting charges, attending "no signal" complaints, etc.?

vii) Whether the service providers should be required to make available toll-free numbers for recharge calls for prepaid accounts?

viii) Whether the request for suspension of service for full calendar months only should be entertained?

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ix) Whether tariff plan or subscription package changes requested by the DTH subscriber should be accepted and implemented immediately or from the start of next billing cycle for DTH subscriber.

x) Whether advance notice of minimum 30 days should be given by DTH operators to a DTH subscriber before terminating his existing tariff plan provided that no tariff plan can be terminated within the contracted period, if any, for that package or within six months of enrolment of that subscriber to that package.

Analysis of the responses received during the consultation process

Dropping of channels from a package

5. The DTH operators have suggested that the freedom of adding/ dropping the channels should be with the DTH operator. On the other hand the consumers have demanded that protection should be available not only for six months, but for the entire contract period of subscription package, if such period exceeds six months, so long as advance payment has been made by the subscriber. The DTH operators have expressed a view that there need not be any reduction in subscription charges in case of any channel being withdrawn from a subscription package. However, the consumers have taken a stand that in case of any channel being withdrawn from a subscription package, the subscribers should be compensated by way of reduction in subscription fee. Further, some consumers have demanded that in case a channel is substituted by another channel, the choice of subscribing to the new channel or to get a reduction in subscription fee should be with the subscriber.

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Minimum Subscription Period

6. The Broadcasters and the DTH operators have favoured imposition of a minimum subscription period for any channel/ package similar to the 4 month period prescribed in quality of service norms for CAS. However, the consumers are divided on the issue and while some of the consumers agree with the concept of minimum subscription period, others have opposed it.

Maintenance of Customer Premises Equipment

7. The issue of visiting charges payable by the DTH subscribers for visits made by personnel of DTH operators for repair and maintenance of CPE also divided the

consumers. While some consumers opposed visiting charges or wanted a ceiling on the visiting charges, others did not agree with them. It was pointed out by an individual that "…warranty does NOT include transporting charges for individuals and hardware. Therefore for customers of all categories, itemized bills must be issued detailing the breakdown of payments sought. …". The DTH operators did not favour any kind of regulation of visiting charges.

8. Almost all the stakeholders were of the view that the DTH operators should offer Annual Maintenance Contracts for maintenance of CPE to their subscribers. Different suggestions were also received regarding the form of Annual Maintenance Contracts. One DTH operator has suggested that all DTH operators must have their own Annual Maintenance Contracts.

Toll Free number for recharge calls

9. The proposal has been opposed by the DTH operators and the consumers have unanimously favoured the proposal. Only one DTH operator has suggested that all DTH operators should make provision for toll-free numbers for calls made for recharging their prepaid accounts.

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Suspension of service or change of plan on request of Subscribers

10. All the DTH operators have suggested that the request for suspension of service for full calendar months only should be entertained. It has been pointed out by the DTH operators that the broadcasters are paid on the basis of calendar months and accordingly, any suspension of service for part of the month results in financial burden on the DTH operator. It was also suggested by an operator that "…either it should be done from the calendar month or the operator should be allowed to charge a service fees for extending this service…". The consumers were divided on the issue.

11. As regards timeframe for carrying out changes in tariff plan or subscription package on the request of a DTH subscriber, the DTH operators wanted to be permitted to levy administrative/ additional charges for such changes. Further, it was pointed out by some DTH operators that any upgradation is possible with immediate effect, but downgradation of a package can be done from next billing cycle only as the broadcasters have to be paid for supply of content. The consumers were divided on this issue. Some of the consumers suggested that the DTH subscribers should be billed on pro rata basis but there should not be any administrative charge.

Notice period for termination of a tariff plan

12. Most of the consumers wanted a notice of minimum 30 days to be given by DTH operators to a DTH subscriber before terminating his existing tariff plan. Some of the consumers wanted a 60 days notice, while others suggested that the DTH subscriber may be warned about such a change 15 days in advance of exhaustion of credit limit. The DTH operators opposed any such notice.

Rationale for making amendment to the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007

13. The Authority noted that a large number of complaints have been received from the Direct to Home subscribers regarding dropping of channels from subscription packages offered by DTH operators. In case of subscription to DTH services, a subscriber subscribes to the service on the basis of specific channels included in the subscription package. If any channel is taken out of a subscription package and it is replaced by another channel then the DTH subscriber may be getting the same number of channels as earlier, but will be deprived of viewing the particular channel which has been removed. In case the channel which is removed is offered to the subscriber as an add-on package then the subscriber ends up paying more for viewing that channel which was earlier included in his subscription package. This subverts the tariff protection provided to DTH subscribers by Regulation 9 of the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007.

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14. Further, the Authority has also noted that the DTH operators are offering annual or fixed period subscription contracts also to DTH subscribers. To protect the interests of the DTH subscribers who have entered into annual or fixed period subscription contracts with the DTH operators, it is necessary to ensure that the channels offered to the subscriber at the time of entering into the subscription contract are not removed from the package during the validity of subscription contract.

15. However, on the other hand it must be recognized that the DTH operators have to tailor their packages according to the changing demands of their subscribers. Accordingly it was not considered advisable to completely prohibit the DTH operators from making changes to their subscription packages. To balance the interest of service

providers and subscribers, the DTH operators have been prohibited from changing the composition of any subscription package for a minimum period of six months from the date of enrolment of the subscriber for such subscription package, if the channel continuous to be available on their DTH service platform from the broadcaster in any other subscription package. In cases where the existing subscription contract between DTH subscriber and the DTH operator is for a period longer than six months, such prohibition would apply for the complete term of the subscription contract.

16. In case any channel has to be removed from a subscription package by the DTH service provider during the contracted period of the subscription or six months whichever is later due to the channel no longer being available on the DTH service platform in any other package, then the DTH operator would be required to compensate the DTH subscriber by way of proportionate reduction in the subscription charges for a minimum period of six months from the date of enrolment of the subscriber for such subscription package or for the remaining period of subscription contract whichever is more. However, the DTH operator may replace such a channel by another channel of the same genre and language in the subscription package without reducing the subscription charges. This will enable the DTH operators to include more popular content in their offerings and package the content to suit the needs of their subscribers. However, the option to choose the modified subscription package with reduced charges or the modified subscription package with the replaced channel shall remain with direct to home subscriber. Further, it has been mandated that the DTH operators should give prior notice of fifteen days before changing the composition of any package to all the subscribers who have subscribed to that package.

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17. Presently there is no restriction on the direct to home operators about offering any channels/ packages on quarterly/ annual/ any other basis. The direct to home operators have been designing their packages as per the demand of customers and terms and conditions of their interconnection agreements with the broadcasters. Accordingly, the Authority is of the view that currently there is no need to bring in any regulation requiring the direct to home subscribers to subscribe to any channel/ package for a certain minimum subscription period as in CAS areas.

18. The direct to home operators have also been mandated to offer Warranty for CPE acquired by their subscribers on outright purchase basis from them. Although offering of AMC by DTH operators is not being mandated, it is expected that some competition among the direct to home operators would ensure that the repair and maintenance services are available to the DTH subscribers. Even presently, some of the DTH operators are already offering AMCs for DTH CPE.

19. Presently, some of the direct to home operators are not charging any visiting charges for repair and maintenance of CPE while some are charging. The Authority is of the view that market forces will take care of this issue. The DTH operators have to compete with cable networks and no such charges are levied by cable operators. Further, there are five pay DTH operators in the country and therefore there is some level of competition among DTH operators also. Hence it was not found necessary to prohibit, by way of regulation, the direct to home operators from charging any visiting charges after the warranty period is over, as it was felt that competition and market forces will work on this issue to ensure that the interests of direct to home subscribers are protected.

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20. The Authority has decided against mandating the direct to home operators to make available toll-free numbers for recharge calls for prepaid accounts. The main reason for this decision is that ultimately the cost of operational expenses of providing direct to home service gets passed on to the direct to home subscribers. Any additional expenditure by direct to home operators in making available toll-free numbers for recharge calls for prepaid accounts will result in increase in the subscription charges in the long run negating the benefits from the toll free number. However, it is expected that the telephone number provided for recharge calls for prepaid accounts should not have premium charges.

21. The direct to home operators have to pay the broadcasters on the basis of number of viewers for the entire calendar month. Any suspension of service for part of the month puts a direct to home operator at a loss because even though the direct to home subscriber is not required to make payment for the period of suspension, the broadcasters have to be paid for the entire calendar month. Accordingly, the direct to home operators have been permitted not to entertain, at their discretion, any request for suspension of service for part of calendar months. However, it has also been mandated that the DTH

operators should entertain requests for suspension of service for a period which does not comprise part of a month and which does not exceed three calendar months.

22. The issue of change of tariff plan or subscription package on the request of a direct to home subscriber is also linked with the payments that a direct to home operator is required to make to the broadcasters. Accordingly, any downgradation of subscription package entails discontinuance of supply of certain channels to the direct to home subscriber. However, the broadcasters whose channels have been discontinued have to be paid for the entire month/ billing cycle. Therefore, such a downgradation is normally done from the next billing cycle. The Authority has noted that the upgradations are done by the direct to home operators immediately. Therefore, no regulation is being brought in regarding this aspect.

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23. The issue of advance notice to a direct to home subscriber before terminating his existing tariff plan by the direct to home operator is to be seen in the context of tariff protection being made available to the direct to home subscriber. The present amendment regulations have extended the protection available to the direct to home subscriber regarding composition of a subscription package for six months from the date of enrolment or contracted period, whichever is longer. However, an advance notice will enable the direct to home subscribers to make an informed choice out of new subscription packages available once the existing package is discontinued after the period of tariff protection (six months from the date of enrolment or contracted period, as the case may be) has expired. Accordingly, a prior notice of fifteen days has been mandated for change in composition of a subscription package.