TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART III, SECTION 4
TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION

New Delhi,03/03/2017

F. No. 21-4/2016-B&CS.— In exercise of the powers conferred by section 36, read with sub-clauses (ii), (iii) and (iv) 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 Central Government, in the Ministry of Communication and Information Technology (Department of Telecommunications), 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 II, Section 3,—

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

THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES INTERCONNECTION (ADDRESSABLE SYSTEMS) REGULATIONS, 2017
(No. 1 of 2017)

IndiaCode

CHAPTER – I
PRELIMINARY

1. Short title, extent and commencement.— (1) These regulations may be called the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017.

(2) These regulations shall cover commercial and technical arrangements, among service providers for interconnection, for broadcasting services relating to television provided through addressable systems throughout the territory of India.

(3) These regulations shall come into force from the date of their publication in the Official Gazette.

2. Definitions.— (1) In these regulations, unless the context otherwise requires:-

(a) "Act" means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(b) "active subscriber" for the purpose of these regulations, means a subscriber who has been authorized to receive signals of television channels as per the subscriber management system and whose set top box has not been denied signals;

(c) "addressable system" means an electronic device (which includes hardware and its associated software) or more than one electronic device put in an integrated system through which transmission of programmes including re-transmission of signals of television channels can be done in encrypted form, which can be decoded by the device or devices at the premises of the subscriber within the limits of the authorization made, on the choice and request of such subscriber, by the distributor of television channels;

(d) "a-la-carte" or "a-la-carte channel" with reference to offering of a television channel means offering the channel individually on a standalone basis;

(e) "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);

(f) "average active subscriber base" means the number arrived by averaging the active subscriber base count in the manner specified in the Schedule VII;

(g) "bouquet" or "bouquet of channels" means an assortment of distinct channels offered together as a group or as a bundle and all its grammatical variations and cognate expressions shall be construed accordingly;

(h) "broadcaster" means a person or a group of persons, or body corporate, or any organization or body who, after having obtained, in its name, downlinking permission for its channels, from the Central Government, is providing programming services;

IndiaCode

(i) "broadcaster's share of maximum retail price" with reference to a pay channel or a bouquet of pay channels means any fee payable by a distributor of television channels to a broadcaster for signals of pay channel or bouquet of pay channels, as the case may be, and for which due authorization has been obtained by such distributor from that broadcaster;

(j) "broadcasting services" means the dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly and all its grammatical variations and cognate expressions shall be construed accordingly;

(k) "cable service" or "cable TV service" means the transmission of programmes including re-transmission of signals of television channels through cables;

(l) "cable television network" or "cable TV network" means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(m) "carriage fee" means any fee payable by a broadcaster to a distributor of television channels only for the purpose of carrying its channels through the distributor's network, without, specifying the placement of such channels onto a specific position in the electronic programme guide or, seeking assignment of a particular number to such channels;

(n) "compliance officer" means any person designated so, who is capable of appreciating requirements for regulatory compliance under these regulations, by a service provider;

(o) "direct to home operator" or "DTH operator" means any person who has been granted licence by the Central Government to provide direct to home (DTH) service;

(p) "direct to home service" or "DTH service" means re-transmission of signals of television channels, by using a satellite system, directly to subscriber's premises without passing through an intermediary such as local cable operator or any other distributor of television channels;

(q) "distribution fee" means any fee payable by a broadcaster to a distributor of television channels for the purpose of distribution of pay channel or bouquet of pay channels, as the case may be, to subscribers and it does not include carriage fee;

(r) "distribution platform" means distribution network of a DTH operator, multi- system operator, HITS operator or IPTV operator;

(s) "distributor of television channels" or "distributor" means any DTH operator, multi-system operator, HITS operator or IPTV operator;

(t) "electronic programme guide" or "EPG" means a program guide maintained by the distributors of television channels that lists television channels and programmes, and scheduling and programming

IndiaCode

information therein and includes any enhanced guide that allows subscribers to navigate and select such available channels and programmes;

(u) "free-to-air channel" or "free-to-air television channel" means a channel which is declared as such by the broadcaster and for which no fee is to be paid by the distributor of television channels to the broadcaster for signals of such channel;

(v) "head end in the sky operator" or "HITS operator" means any person permitted by the Central Government to provide head end in the sky (HITS) service;

(w) "head end in the sky service" or "HITS service" means transmission of programmes including re-transmission of signals of television channels—

(i) to intermediaries like local cable operators or multi-system operators by using a satellite system and not directly to subscribers; and

(ii) to the subscribers by using satellite system and its own cable networks;

(x) "interconnection" means commercial and technical arrangements under which service providers connect their equipments and networks to provide broadcasting services to the subscribers;

(y) "interconnection agreement" with all its grammatical variations and cognate expressions means agreements on interconnection providing technical and commercial terms and conditions for distribution of signals of television channel;

(z) "internet protocol television operator" or "IPTV operator" means a person permitted by the Central Government to provide IPTV service;

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

(bb) "local cable operator" or "LCO" means a person registered under rule 5 of the Cable Television Networks Rules, 1994;

(cc) "maximum retail price" or "MRP" for the purpose of these regulations, means the maximum price, excluding taxes, payable by a subscriber for a-la-carte pay channel or bouquet of pay channels, as the case may be;

(dd) "multi-system operator" or "MSO" means a cable operator who has been granted registration under rule 11 of the Cable Television Networks Rules, 1994 and who receives a programming service from a broadcaster and re-transmits the same or transmits his own programming service for simultaneous reception either by multiple subscribers directly or through one or more local cable operators;

(ee) "network capacity fee" means the amount, excluding taxes, payable by a subscriber to the

IndiaCode

distributor of television channels for distribution network capacity subscribed by that subscriber to receive the signals of subscribed television channels and it does not include subscription fee for pay channel or bouquet of pay channels, as the case may be;

(ff) "pay broadcaster" means a broadcaster which has declared its one or more channels as pay channel to the Authority under the provisions of applicable regulations or tariff order, as the case may be;

(gg) "pay channel" means a channel which is declared as such by the broadcaster and for which a share of maximum retail price is to be paid to the broadcaster by the distributor of television channels and for which due authorization needs to be obtained from the broadcaster for distribution of such channel to subscribers;

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

(i) exhibition of films, features, dramas, advertisements and serials;

(ii) any audio or visual or audio-visual live performance or presentation,

and the expression "programming service" shall be construed accordingly;

(ii) "QoS Regulations" means the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017;

(jj) "reference interconnection offer" or "RIO" means a document published by a service provider specifying terms and conditions on which the other service provider may seek interconnection with such service provider;

(kk) "service provider" means the Government as a service provider and includes a licensee as well as any broadcaster, distributor of television channels or local cable operator;

(ll) "set top box" or "STB" means a device, which is connected to or is part of a television receiver and which enables a subscriber to view subscribed channels;

(mm) "subscriber" for the purpose of these regulations, means a person who receives broadcasting services, from a distributor of television channels, at a place indicated by such person without further transmitting it to any other person and who does not cause the signals of television channels to be heard or seen by any person for a specific sum of money to be paid by such person, and each set top box located at such place, for receiving the subscribed broadcasting services, shall constitute one subscriber;

(nn) "subscriber management system" means a system or device which stores the subscriber records and details with respect to name, address and other information regarding the hardware being utilized by the subscriber, channels or bouquets of channels subscribed by the subscriber, price of such channels or bouquets of channels as defined in the system, the activation or deactivation dates and time for any channel or bouquets of channels, a log of all actions performed on a subscriber's

IndiaCode

record, invoices raised on each subscriber and the amounts paid or discount allowed to the subscriber for each billing period;

(oo) "tariff order" means the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017;

(pp) "television channel" means a channel, which has been granted permission for downlinking by the Central Government under the policy guidelines issued or amended by it from time to time and reference to the term 'channel' shall be construed as a reference to "television channel".

(2) All other words and expressions used in these regulations but not defined, and defined in the Act and rules and regulations made thereunder or the Cable Television Networks (Regulation) Act, 1995 (7 of 1995) and the rules and regulations made thereunder, shall have the meanings respectively assigned to them in those Acts or the rules or regulations, as the case may be.

IndiaCode

CHAPTER II
INTERCONNECTION

3. General obligations of broadcasters.— (1) No broadcaster shall engage in any practice or activity or enter into any understanding or arrangement including exclusive contracts with any distributor of television channels that prevents any other distributor of television channels from obtaining signals of television channel of such broadcaster for distribution.

(2) Every broadcaster shall, within sixty days of receipt of written request from a distributor of television channels for obtaining signals of television channel or within thirty days of signing of interconnection agreement with the distributor, as the case may be, provide, on non-discriminatory basis, the signals of television channel to the distributor or convey the reasons in writing for rejection of the request if the signals of television channel are denied to such distributor:

Provided that imposition of any term or condition by the broadcaster, which is unreasonable, shall be deemed to constitute a denial of request:

Provided further that this sub-regulation shall not apply to a distributor of television channels, who requests signals of a particular television channel from a broadcaster while at the same time demands carriage fee for distribution of that television channel or who is in default of payment to the broadcaster and continues to be in such default.

IndiaCode

(3) If a broadcaster, proposes or stipulates for, directly or indirectly, placing the channel in any specified position in the electronic programme guide or assigning a particular channel number, as a pre-condition for providing signals, such pre-condition shall also amount to imposition of unreasonable condition.

Explanation: For removal of doubt, it is clarified that if a pay broadcaster offers discount, in non-discriminatory manner, through its reference interconnect offer on the maximum retail price of pay channel, within the limit as specified in sub-regulation (4) of regulation 7, to distributors of television channels for placing the channel in any specified position in the electronic programme guide or assigning particular channel number, such offer of discount shall not be considered a pre-condition.

(4) No broadcaster shall propose, stipulate or demand for, directly or indirectly, packaging of the channel in any particular bouquet offered by the distributor of television channels to subscribers.

(5) No broadcaster shall propose, stipulate or demand for, directly or indirectly, guarantee of a minimum subscriber base or a minimum subscription percentage for its channel or bouquet.

Explanation: For removal of doubt, it is clarified that the subscription percentage of a channel or bouquet refers to the percentage of subscribers subscribing to a specific channel or bouquet out of average active subscriber base of a distributor.

4. General obligations of distributors of television channels.— (1) No distributor of television channels shall engage in any practice or activity or enter into any understanding or arrangement including exclusive contracts with any broadcaster that prevents any other broadcaster from obtaining access to the network of such distributor for distribution of its channel.

(2) No distributor of television channels shall engage in any practice or activity or enter into any understanding or arrangement including exclusive contracts with any local cable operator that prevents any other local cable operator from obtaining signals of television channels from such distributor for further distribution.

(3) Every distributor of television channels shall declare coverage area of each distribution network as a target market:

Provided that it shall be permissible for a distributor to declare, in non-discriminatory manner, any area within the coverage area of distribution network as a target market.

IndiaCode

Explanation: For the purpose of this regulation, each Head-end or Earth Station, as the case may be, and its associated network used for distribution of signals of television channels shall constitute one distribution network.

(4) Every distributor of television channels shall, within thirty days from the commencement of these regulations or within thirty days from the commencement of its operations, as the case may be, on its website, publish—

(a) target markets as declared under sub-regulation (3) of this regulation;

(b) the total channel carrying capacity of its distribution network in terms of number of standard definition channels;

(c) list of channels available on the network;

(d) number of channels for which signals of television channels have been requested by the distributor from broadcasters and the interconnection agreements signed;

(e) spare channel capacity available on the network for the purpose of carrying signals of television channels; and

(f) list of channels, in chronological order, for which requests have been received from broadcasters for distribution of their channels, the interconnection agreements have been signed and are pending for distribution due to non-availability of the spare channel capacity:

Provided that the list of channels in chronological order, under clause (f), shall be prepared on the basis of date and time of receipt of the written request from the broadcaster:

Provided further that for the purpose of calculating spare channel capacity of the distribution network, one high definition channel shall be equal to two standard definition channels:

Provided further that spare channel capacity available on the network under clause (e) shall be the difference between the total channel carrying capacity of the distribution network and numbers of channels available on the distribution network in terms of standard definition channels:

Provided further that any subsequent change, due to addition or reduction in total channel carrying capacity of the distribution network or due to addition of channels on the distribution network or due to discontinuation of existing channels available on distribution the network, shall be reflected in the spare channel capacity:

Provided also that any change in the information, published under this sub-regulation, shall be updated on the website within seven calendar days from the date of occurrence of such change.

(5) Every distributor shall allocate every alternate spare channel capacity on its network to the channels, in sequential manner, listed under clause (f) of sub-regulation (4), for distribution of the television channels.

(6) Nothing contained in the sub-regulation (5) shall apply if no request for distribution of a television channel is pending under clause (f) of sub-regulation (4).

(7) Subject to the availability of spare channel capacity on the distribution network, under sub-regulation (4), every distributor of television channels shall, within sixty days of receipt of written request from a broadcaster for distribution of television channel or within thirty days of signing of written interconnection agreement with the broadcaster, as the case may be, carry, on non-discriminatory basis, the signals of such television channel or convey the reasons in writing for rejection of request if the distribution of such television channel is denied to the broadcaster:

Provided that imposition of any term or condition by the distributor of television channels, which is unreasonable, shall be deemed to constitute a denial of request:

Provided further that nothing contained in this sub-regulation shall apply to a broadcaster who refuses to pay the carriage fee to the distributor of television channels or who is in default of payment to the distributor and continues to be in such default.

(8) It shall be permissible to the distributor of television channels to discontinue carrying of a television channel in case the monthly subscription percentage for that channel is less than five percent of the monthly average active subscriber base of that distributor in the target market specified in the interconnection agreement, in each of the immediately preceding six consecutive months:

IndiaCode

Provided that for the purpose of calculation of monthly subscription percentage for high definition television channel, the monthly average active subscriber base shall be of subscribers capable of receiving high definition television channels.

(9) A distributor of television channels shall not be under obligation to carry a channel which has been discontinued as per sub-regulation (8), for a period of one year from the date of such discontinuation.

(10) If a distributor of television channels, before providing access to the network for distribution of television channels requested by a broadcaster, directly or indirectly, proposes, stipulates or demands for a minimum guarantee for period or number of channels, as a pre-condition for providing access to the network, such pre-condition shall also amount to imposition of unreasonable condition.

(11) Every distributor of television channels shall, within sixty days of receipt of written request from a local cable operator or within thirty days of signing of written interconnection agreement with the local cable operator, as the case may be, provide, on non-discriminatory basis, signals of television channels to such local cable operator or convey the reasons in writing for rejection of request if the signals are denied to such local cable operator:

IndiaCode

Provided that imposition of any term or condition by the distributor of television channels, which is unreasonable, shall be deemed to constitute a denial of request:

Provided further that in case, it is not feasible to provide signals of television channels at a location where the signals have been requested by the local cable operator, the distributor of television channels shall inform the local cable operator within thirty days from the date of receipt of request the reasons for such non-feasibility:

Provided further that this sub-regulation shall not apply in case of a local cable operator who is in default of payment of a distributor of television channels and continues to be in such default:

Provided also that a local cable operator shall not be treated as being in default of payment to a distributor if it has made payment of all bills of preceding six months.

(12) No distributor of television channels shall, for providing signals of television channels to a local cable operator, propose, stipulate or demand for, directly or indirectly, guarantee of a minimum subscriber base.

(13) Nothing contained in the sub-regulation (11) and sub-regulation (12) of this regulation shall apply to a DTH operator.

5. General obligations of service providers.— (1) No service provider shall, directly or indirectly, prohibit another service provider from providing its services to any subscriber or in any geographical area, as the case may be.

(2) No service provider shall, propose, stipulate or demand for, directly or indirectly, payment of a minimum guarantee amount by other service provider for providing signals of television channels or access to the network, as the case may be.

(3) Every service provider shall issue monthly invoice, to the other service provider with whom interconnection agreements have been entered into, for collection of payment and such invoice shall clearly specify the current payment dues and arrears, if any, along with the due date for payment.

(4) Any claim for arrears by the service provider under these regulations, shall be accompanied by proof of service of invoices for the periods to which the arrears pertain.

IndiaCode

CHAPTER III
REFERENCE INTERCONNECTION OFFER

6. Compulsory offering of channels on a-la-carte basis.— (1) Every broadcaster shall offer all its television channels on a-la-carte basis to the distributors of television channels:

Provided that the broadcaster may also offer its pay channels, in addition to offering of pay channels on a-la-carte basis, in form of bouquet:

Provided further that such bouquet shall not contain--

(a) any 'free-to-air channel'; and
(b) High definition (HD) and Standard Definition (SD) variants of the same channel.

7. Publication of reference interconnection offer by broadcaster for pay channels.— (1) Every broadcaster shall publish, on its website, reference interconnection offer, in conformance with the regulations and the tariff orders notified by the Authority, for providing signals of all its pay channels to the distributor of television channels—

(a) within sixty days of commencement of these regulations; and
(b) before launching of a pay channel.

and simultaneously submit, for the purpose of record, a copy of the same to the Authority.

IndiaCode

(2) The reference interconnection offer, referred to in sub-regulation (1), shall contain the technical and commercial terms and conditions relating to, including but not limited to, maximum retail price per month of pay channel, maximum retail price per month of bouquet of pay channels, discounts, if any, offered on the maximum retail price to distributors, distribution fee, manner of calculation of 'broadcaster's share of maximum retail price', genre of pay channel and other necessary conditions:

Provided that a broadcaster may include in its reference interconnection offer, television channel or bouquet of pay channels of its subsidiary company or holding company or subsidiary company of the holding company, which has obtained, in its name, the downlinking permission for its television channels from the Central Government, after written authorization by them.

Explanation: For the purpose of these regulations, the definition of "subsidiary company" and "holding company" shall be the same as assigned to them in the Companies Act, 2013 (18 of 2013).

(3) Every broadcaster shall declare a minimum twenty percent of the maximum retail price of pay channel or bouquet of pay channels, as the case may be, as the distribution fee:

Provided that the distribution fee declared by the broadcaster shall be uniform across all the distribution platforms.

(4) It shall be permissible to a broadcaster to offer discounts, on the maximum retail price of pay channel or bouquet of pay channels, to distributors of television channels, not exceeding fifteen percent of the maximum retail price:

Provided that the sum of distribution fee declared by a broadcaster under sub-regulation (3) and discounts offered under this sub-regulation in no case shall exceed thirty five percent of the maximum retail price of pay channel or bouquet of pay channels, as the case may be:

Provided further that offer of discounts, if any, to distributors of television channels, shall be on the basis of fair, transparent and non-discriminatory terms:

Provided also that the parameters of discounts shall be measurable and computable.

(5) Every broadcaster of pay channel shall mention in its reference interconnection offer the names of persons, telephone numbers, and e-mail addresses designated to receive request for receiving interconnection from distributors of television channels and grievance redressal thereof.

IndiaCode

(6) The terms and conditions mentioned in the reference interconnection offer shall include all necessary and sufficient provisions, which make it a complete interconnection agreement on signing by other party, for distribution of television channels.

(7) The Authority, *suo-motu* or otherwise, may examine the reference interconnection offer submitted by a broadcaster and on examination if the Authority is of the opinion that the reference interconnection offer is not in conformance with the provisions of the regulations and the tariff orders notified by the Authority, it may, after giving an opportunity of being heard to such broadcaster, direct such broadcaster to modify the said reference interconnection offer and such broadcaster shall amend reference interconnection offer accordingly and publish the same within fifteen days of receipt of the direction.

(8) Any amendment to the reference interconnection offer shall be published in the same manner as provided under the sub-regulations (1), (2), (3), (4), (5) and (6) of this regulation.

(9) In the event of any amendment to the reference interconnection offer by a broadcaster under sub-regulation (8), the broadcaster shall give an option to all distributors, with whom it has written interconnection agreements in place, within thirty days from the date of such amendment and it shall be permissible to such distributors to enter into fresh interconnection agreement in accordance with the amended reference interconnection offer, within thirty days from the date of receipt of such option, or continue with the existing interconnection agreement.

8. Publication of reference interconnection offer by distributor of television channels.— (1) Every distributor of television channels shall publish, on its website, reference interconnection offer, in conformance with the regulations and the tariff orders notified by the Authority, for carrying channels—

(a) within sixty days of commencement of these regulations; and

(b) before starting a new distribution network:

and simultaneously submit, for the purpose of record, a copy of the same to the Authority.

Provided that such reference interconnection offer shall be applicable only in the cases where a broadcaster requests a distributor of television channels to carry the broadcaster's channels on the distribution network.

(2) The reference interconnection offer, referred to in sub-regulation (1), shall contain the technical and commercial terms and conditions relating to, including but not limited to, target market, rate of carriage fee per month, average active subscriber base of standard definition set top boxes and high definition set top boxes at the time of publication of the reference interconnection offer, discounts, if any, offered on the rate of carriage fee, manner of calculation of carriage fee payable to the distributor and other necessary conditions:

Provided that the rate of carriage fee per standard definition channel per subscriber per month to be declared by a distributor of television channels shall not exceed twenty paisa:

Provided further that the rate of carriage fee per high definition channel per subscriber per month to be declared by a distributor of television channels shall not exceed forty paisa:

Provided also that a distributor of television channels shall calculate the carriage fee amount for television channels as per the provisions specified in the Schedule I, which shall change with the changes in monthly subscription percentage of such television channels.

(3) It shall be permissible to a distributor of television channels to offer discounts to broadcasters on the rate of carriage fee which shall not exceed thirty five percent of the rate of carriage fee declared under sub-regulation (2):

Provided that offer of discounts, if any, to broadcaster on the carriage fee, shall be on the basis of fair, transparent and non-discriminatory terms:

Provided further that the parameters of discounts shall be measurable and computable:

Provided also that it shall be permissible for a distributor of television channels to offer discounts exceeding thirty five percent of the rate of carriage fee declared under sub-regulation (2) for the channel specified by the Authority, through a direction, in the public interest.

IndiaCode

(4) Every distributor of television channels shall, in its reference interconnection offer, mention the names of persons, telephone numbers, and e-mail addresses, designated for receiving interconnection requests from broadcasters and grievance redressal thereof.

(5) The terms and conditions mentioned in the reference interconnection offer shall include all necessary and sufficient provisions, which make it a complete interconnection agreement for signing by other party, for carrying television channels.

(6) The Authority, *suo-motu* or otherwise, may examine the reference interconnection offer submitted by a distributor of television channels and on examination if the Authority is of the opinion that the reference interconnection offer has not been prepared in conformance with the provisions of the regulations and the tariff orders notified by the Authority, it may, after giving an opportunity of being heard to such distributor, direct such distributor to modify the said reference interconnection offer and such distributor shall amend reference interconnection offer accordingly and publish the same within fifteen days of receipt of the direction.

(7) Any amendment to the reference interconnection offer shall be published in the same manner as provided under the sub-regulation (1), (2), (3), (4) and (5) of this regulation.

(8) In the event of any amendment in the reference interconnection offer by a distributor of television channels under sub-regulation (7), the distributor shall given an option to all broadcasters, with whom it has written interconnection agreements in place, within thirty days from the date of such amendment and it shall be permissible to such broadcasters to enter into fresh interconnection agreements in accordance with the amended reference interconnection offer within thirty days from the date of receipt of such option or continue with the existing interconnection agreements.

IndiaCode

CHAPTER IV

INTERCONNECTION AGREEMENT

9. General provisions relating to interconnection agreements.— (1) It shall be mandatory for service providers to reduce the terms and conditions of all their interconnection agreements to writing.

(2) A service provider shall not incorporate any provision in the interconnection agreement with the other service provider which would require, directly or indirectly, the latter to pay a minimum guaranteed amount and any agreement to contrary shall be void.

(3) It shall be mandatory for service providers to either renew or amend all their existing interconnection agreements in compliance with the provisions of the regulations and the tariff orders notified by the Authority, within one hundred and fifty days of commencement of these regulations.

10. Interconnection agreement between broadcaster and distributor of television channels.— (1) No broadcaster shall provide signals of pay channels to a distributor of television channels without entering into a written interconnection agreement with such distributor of television channels.

IndiaCode

(2) No distributor of television channels shall distribute pay channels of any broadcaster without entering into a written interconnection agreement with such broadcaster.

(3) It shall be mandatory for a broadcaster and a distributor of television channels to enter into written interconnection agreement on a-la-carte basis for distribution of pay channels.

(4) Every broadcaster shall devise an application form for request of signals of television channel by distributors of television channels in accordance with the Schedule II.

(5) A distributor of television channels desirous of obtaining signals of television channels shall make a written request in the application form devised by the broadcaster.

(6) Every distributor of television channels before requesting signals of television channels from a broadcaster shall ensure that the addressable systems to be used for distribution of television channels meet the requirements as specified in the Schedule III.

(7) If a broadcaster, before providing signals of television channels, is of the opinion that the addressable system, being used by the distributor for distribution of television channels, does not meet the requirements specified in the Schedule III, it may, without prejudice to the time limit specified in sub-regulation (2) of the regulation 3, cause audit of the addressable system of the distributor by M/s. Broadcast Engineering Consultants

India Limited, or any other auditor empanelled by the Authority for conducting such audit and provide a copy of the report prepared by the auditor to the distributor:

Provided that unless the configuration or the version of the addressable system of the distributor has been changed after issuance of the report by the auditor, the broadcaster, before providing signals of television channel shall not cause audit of the addressable system of the distributor if the addressable system of such distributor has been audited during the last one year by M/s. Broadcast Engineering Consultants India Limited, or any other auditor empanelled by the Authority and the distributor produces a copy of such report as a proof of conformance to the requirements specified in the Schedule III.

(8) Every broadcaster of pay channel, within thirty days of receipt of written request from a distributor of television channels, shall enter into a written interconnection agreement with the distributor of television channels for providing signals of its pay channel in accordance with the terms and conditions of the reference interconnection offer published by the broadcaster:

IndiaCode

Provided that the 'broadcaster's share of maximum retail price' payable by a distributor of television channels under the interconnection agreement shall be calculated on the basis of the maximum retail price of pay channel or bouquet, the distribution fee and the discounts agreed in the interconnection agreement:

Provided further that the period of the interconnection agreement in no case shall be less than one year from the date of commencement of the agreement:

Provided also that in case more than one interconnection agreement are entered into with a distributor in respect of television channel or bouquet of pay channels, each subsequent interconnection agreement shall contain the details of the earlier agreements in force with that distributor for such channel or bouquet, as the case may be.

Explanation: For the removal of doubt, it is clarified that on receipt of a written request from a distributor by a broadcaster for obtaining signals of pay channels, the written interconnection agreement, between the broadcaster and the distributor, shall be entered into within thirty days of receipt of such request, and, the broadcaster shall provide signals of its pay channels, within thirty days from the date of signing of written interconnection agreement, to the distributor of television channels.

(9) It shall be permissible to a broadcaster to sign the interconnection agreement with distributors of television channels for a-la-carte pay channel or bouquet of pay channels of its subsidiary company or holding company or subsidiary company of the holding company, which has obtained, in its name, the downlinking permission for its television channels from the Central Government, after written authorization from such companies.

(10) It shall be permissible to a distributor of television channels to sign the reference interconnection offer published by a broadcaster under sub-regulation (1) of regulation 7, as an interconnection agreement, for obtaining signals of television channels and send the said agreement to the broadcaster for providing signals.

(11) A broadcaster shall not incorporate any provision, directly or indirectly, in its interconnection agreement with a distributor of television channels which require such distributor of television channels to include the channel or bouquet of pay channels offered by the broadcaster in any particular bouquet of channels offered by such distributor to the subscribers and any agreement to contrary shall be void.

(12) A broadcaster shall not incorporate any provision, directly or indirectly in its interconnection agreement with a distributor of television channels which requires such distributor of television channels to give a guarantee for a minimum subscriber base or a minimum subscription percentage for the channels offered by the broadcaster and any agreement to contrary shall be void.

IndiaCode

Explanation: For removal of doubt, it is clarified that any discount, offered as an incentive by a broadcaster on the maximum retail price of the pay channel or the bouquet of pay channels, based on actual number of subscribers or actual subscription percentage, recorded in a month shall not amount to guarantee for a minimum subscriber base or a minimum subscription percentage for its channel**.**

(13) It shall be the responsibility of every broadcaster who enters into an interconnection agreement with a distributor of television channels to hand over a copy of such interconnection agreement to that distributor of television channels within a period of fifteen days from the date of execution of the interconnection agreement and retain a copy of an acknowledgement so obtained from the distributor.

(14) Every broadcaster shall enter into a new written interconnection agreement with distributor of television channels before the expiry of the existing interconnection agreement:

Provided that the broadcaster shall, at least sixty days prior to the date of expiry of the existing interconnection agreement, give notice to the distributor of television channels to enter into new written interconnection agreement:

Provided further that in case the parties fail to enter into new interconnection agreement before the expiry of the existing interconnection agreement, the broadcaster shall not make the signals of television channels available to the distributor of television channels on expiry of the existing interconnection agreement:

Provided also that the distributor of television channels shall, fifteen days prior to the date of expiry of its existing interconnection agreement, inform the subscribers through scrolls on the channels included in the said agreement—

(a) the date of expiry of its existing interconnection agreement; and

(b) the date of disconnection of signals of television channels in the event of its failure to enter into new interconnection agreement.

(15) No distributor of television channels shall carry television channels, for which a request has been received from a broadcaster for distribution of television channels, without entering into a written interconnection agreement with such broadcaster.

(16) Every distributor of television channels shall devise an application form, for seeking access to its distribution network for distribution of television channels by broadcasters, in accordance with the Schedule IV.

(17) A broadcaster desirous of distribution of its television channel shall make a written request in the application form devised by the distributor of television channels.

IndiaCode

(18) Every distributor of television channels, within thirty days of receipt of written request from a broadcaster for distribution of television channels, shall enter into a written interconnection agreement with the broadcaster for carrying television channels in accordance with the terms and conditions of the reference interconnection offer published by the distributor:

Provided that the carriage fee payable by a broadcaster to the distributor of television channels under the interconnection agreement shall be calculated on the basis of the rate of carriage fee and the discounts agreed in the interconnection agreement:

Provided further that the period of the interconnection agreement in no case shall be less than one year from the date of commencement of the agreement:

Provided also that in case more than one interconnection agreement are entered with a broadcaster in respect of a television channel, each subsequent interconnection agreement shall contain the details of the earlier agreements in force with that broadcaster for such channel.

Explanation: For the removal of doubt, it is clarified that on receipt of a written request from a broadcaster by a distributor for carrying television channels, the written interconnection agreement, between the distributor and the broadcaster, shall be entered into within thirty days of receipt of such request and, the distributor shall distribute television channels of such broadcaster's within thirty days, from the date of signing of written interconnection agreement or from the date of availability of spare channel capacity on the distribution network, whichever is later, through the distribution network.

(19) It shall be permissible to a broadcaster to sign the reference interconnection offer published by a distributor of television channels under sub-regulation (1) of regulation 8, as an interconnection agreement, for carrying television channels and send the said agreement to such distributor for providing access to the distribution networks.

(20) It shall be the responsibility of every distributor of television channels who enters into an interconnection agreement with a broadcaster to hand over a copy of written interconnection agreement to that broadcaster within a period of fifteen days from the date of execution of the interconnection agreement and retain a copy of an acknowledgement so obtained from the broadcaster.

(21) Every distributor of television channels shall enter into a new written interconnection agreement, for carrying television channels requested by a broadcaster, before the expiry of the existing interconnection agreement:

IndiaCode

Provided that the distributor of television channels shall, at least sixty days prior to the date of expiry of the existing interconnection agreement, give notice to the broadcaster to enter into new written interconnection agreement:

Provided further that in case the parties fail to enter into new interconnection agreement before the expiry of the existing interconnection agreement, the distributor of television channels may not carry such television channels on expiry of the existing interconnection agreement:

Provided further that a distributor of television channels shall not discontinue carrying a television channel if the signals of such television channel remain available for distribution and monthly subscription percentage for that particular television channel is more than twenty percent of the monthly average active subscriber base in the target market:

Provided also that if the distributor of television channels decides to discontinue carrying a television channel due to expiry of the existing interconnection agreement, it shall, fifteen days prior to the date of expiry of its existing interconnection agreement, inform the subscribers through scrolls on the channels included in the said agreement—

(a) the date of expiry of its existing interconnection agreement; and

(b) the date of disconnection of signals of television channels in the event of its failure to enter into new interconnection agreement.

11. Territory of interconnection agreement.— (1) The interconnection agreement signed between a broadcaster and a multi-system operator shall include the following details for describing the territory for the purpose of distribution of signals of television channels --

(a) the registered area of operation of the multi-system operator as mentioned in the registration granted by the Central Government;

(b) the names of specific areas for which distribution of signals of television channels has been agreed, initially, at the time of signing of the interconnection agreement; and

(c) the names of the corresponding states/ union territories in which such agreed areas as referred in clause (b) of this sub-regulation are located.

(2) It shall be permissible to the multi-system operator to distribute the channels beyond the areas agreed under sub-regulation (1), by giving a written notice to the broadcaster, after thirty days from the date of receipt of such written notice by the broadcaster and the said notice shall deemed to be an addendum to the existing interconnection agreement:

Provided that such areas fall within--

(a) the registered area of operation of the multi-system operator; and

(b) the states or union territories in which the multi-system operator has been permitted to distribute the signals of television channels under the interconnection agreement.

IndiaCode

(3) Nothing contained in sub-regulation (2) shall apply if written objections with reasons from the broadcaster have been received by the multi-system operator during the said thirty days notice period:

Provided that any objection by the broadcaster, which is unreasonable, shall be deemed to constitute a denial of provisioning of signals beyond the areas agreed under the clause (b) of sub-regulation (1).

12. Interconnection agreement between distributor of television channels and local cable operator.— (1) No distributor of television channels shall provide signals of television channels to a local cable operator without entering into a written interconnection agreement with such local cable operator.

(2) No local cable operator shall distribution television channels of any broadcaster to any subscriber without entering into a written interconnection agreement with a distributor of such television channels.

(3) Every multi-system operator shall, within thirty days of receipt of written request from a local cable operator, enter into a written interconnection agreement with such local cable operator for providing signals of television channels, on lines of the model interconnection agreement as set out in the Schedule V by mutually agreeing on the clauses 10, 11 and 12 of the said agreement:

Provided that the multi-system operator and the local cable operator, without altering or deleting any clause of the model interconnection agreement, may add, through mutual agreement, clauses to the model interconnection agreement however such addition shall not have the effect of diluting any of the clauses as laid down in the model interconnection agreement:

Provided further that in case the multi-system operator and the local cable operator fail to enter into interconnection agreement, the multi-system operator and the local cable operator shall enter into the standard interconnection agreement as specified in the Schedule VI.

Explanation: For removal of doubt, it is clarified that in the event of any conflict between the terms and conditions of the model interconnection agreement and new terms and conditions added through mutual agreement by the parties, the terms and conditions of the prescribed model interconnection agreement shall prevail.

(4) Every multi-system operator, upon entering into a written interconnection agreement with a local cable operator, shall provide signals of television channels, within thirty days of entering into the written interconnection agreement, to such local cable operator.

(5) It shall be the responsibility of every multi-system operator who enters into an interconnection agreement with a local cable operator to handover a copy of such agreement to that local cable operator within a period of fifteen days from the date of execution of the agreement and retain a copy of an acknowledgement so received from the local cable operator.

IndiaCode

(6) Every multi-system operator shall enter into a new written interconnection agreement with local cable operator before the expiry of the existing interconnection agreement:

Provided that the multi-system operator shall, at least sixty days prior to the date of expiry of the existing interconnection agreement, give notice to the local cable operator to enter into new written interconnection agreement:

Provided further that in case, the parties fail to enter into new written interconnection agreement before the expiry of the existing interconnection agreement, the distributor shall not make available the signals of television channels to the local cable operator on expiry of the existing interconnection agreement:

Provided also that the multi-system operator shall, fifteen days prior to the date of expiry of its existing interconnection agreement, inform the subscribers through scrolls on the channels included in the said agreement—

(a) the date of expiry of its existing interconnection agreement; and

(b) the date of disconnection of signals of television channels in the event of its failure to enter into new interconnection agreement.

(7) The settlement of service charges between local cable operator and multi-system operator shall be governed by mutual agreement:

Provided that in cases the multi-system operator and the local cable operator fail to arrive at a mutual agreement for settlement of service charges, then the network capacity fee amount and the distribution fee amount shall be shared in the ratio of 55:45 between multi-system operator and local cable operator.

(8) The provisions of sub-regulations (3), (4), (5), (6) and (7) of this regulation shall, with necessary adaptations and modifications, apply to HITS operator and IPTV operator.

13. Non-Applicability to DTH operator.— Nothing contained in the regulations 11 and 12 shall apply to a DTH operator.

IndiaCode

CHAPTER V
SUBSCRIPTION REPORT AND AUDIT

14. Subscription report and monthly fee.— (1) Every distributor of television channels shall, within seven days from the end of each calendar month, provide, in the format specified in the Schedule VII, complete and accurate monthly subscription report of channels and bouquets of pay channels, to the broadcasters, with whom the written interconnection agreements have been entered into for distribution of channels:

Provided that it shall be permissible to a broadcaster to disconnect the signals of its television channel after giving written notice of three weeks to the distributor if the distributor fails to provide the monthly subscription report under this regulation.

(2) On the basis of monthly subscription report, the broadcaster shall issue monthly invoice to the distributor for 'broadcaster's share of maximum retail price' payable by such distributor to the broadcaster and such invoice shall clearly specify the current payment dues and arrears, if any, along with the due date for payment:

Provided that the broadcaster shall allow a time period of at least fifteen days to the distributor of television channels for making payment from the date of receipt of invoice by the distributor:

Provided further that in case the distributor fails to provide the monthly subscription report within the period of seven days from the end of the calendar month, the broadcaster shall have the right to raise a provisional invoice, for an amount increased by ten percent of the 'broadcaster's share of maximum retail price' payable by the distributor to the broadcaster for the immediate preceding month, and the distributor shall be under obligation to make the payment on the basis of such provisional invoice:

Provided also that it shall be mandatory for the broadcaster and the distributor to carryout reconciliation, between the provisional invoice and the final invoice raised by the broadcaster on the basis of the monthly subscription report sent by the distributor, within three months from the date of issue of such provisional invoice.

(3) Every distributor of television channels shall issue monthly invoice to the broadcasters, with whom the written interconnection agreements have been entered into for carrying channels, for payment of the carriage fee payable by such broadcaster along with the average active subscriber base in the target market in the month and the monthly subscription report for the channel of the broadcaster carried by the distributor of television channels in the format specified in the Schedule VII and such invoices shall clearly specify the current payment dues and arrears, if any, along with the due date for payment:

Provided that the distributor shall allow a time period of at least fifteen days to the broadcaster for making payment from the date of receipt of invoice by the broadcaster.

IndiaCode

15. Audit.— (1) Every distributor of television channels shall, once in a calendar year, cause audit of its subscriber management system, conditional access system and other related systems by an auditor to verify that the monthly subscription reports made available by the distributor to the broadcasters are complete, true and correct, and issue an audit report to this effect to each broadcaster with whom it has entered into an interconnection agreement:

Provided that the Authority may empanel auditors for the purpose of such audit and it shall be mandatory for every distributor of television channels to cause audit, under this sub-regulation, from anyone of such empanelled auditors:

Provided further that any variation, due to audit, resulting in less than zero point five percent of the billed amount shall not require any revision of the invoices already issued and paid.

(2) In cases, where a broadcaster is not satisfied with the audit report received under sub-regulation (1) or, if in the opinion of a broadcaster the addressable system being used by the distributor does not meet requirements specified in the Schedule III, it shall be permissible to the broadcaster, after communicating the reasons in writing to the distributor, to audit the subscriber management system, conditional access system and other related systems of the distributor of television channels, not more than once in a calendar year:

IndiaCode

Provided that the Authority may empanel auditors for the purpose of such audit and it shall be mandatory for every broadcaster to cause audit, under this sub-regulation, from anyone of such empanelled auditors:

Provided further that if such audit reveals that additional amount is payable to the broadcaster, the distributor shall pay such amount, along with the interest at the rate specified by the broadcaster in the interconnection agreement, within ten days and if such amount including interest due for any period exceed the amount reported by the distributor to be due for such period by two percent or more, the distributor shall bear the audit expenses, and take necessary actions to avoid occurrence of such errors in the future:

Provided also that it shall be permissible to the broadcaster to disconnect signals of television channels, after giving written notice of three weeks to the distributor, if such audit reveals that the addressable system being used by the distributor does not meet the requirements specified in the Schedule III.

(3) Every distributor of television channels shall offer necessary assistance to auditors so that audits can be completed in a time bound manner.

CHAPTER VI
MISCELLANEOUS

16. Change in the maximum retail price and the nature of a channel.— Every broadcaster, before making any change, in the maximum retail price of the pay channel or the bouquet of pay channels, or in the nature of the channel, as the case may be, declared under the tariff order notified by the Authority, shall follow the provisions of these regulations including but not limited to the provisions pertaining to publication of reference interconnection offer by broadcasters of pay channels.

17. Disconnection of signals of television channels.— No service provider shall disconnect the signals of television channels without giving at least three weeks' notice in writing to other service provider, clearly specifying the reasons for the proposed disconnection:

Provided that the period of three weeks' notice shall start from the date of receiving the notice by the other service provider:

Provided further that the distributor of television channels shall, fifteen days prior to the date of disconnection, inform the subscriber, through scrolls on the channels proposed to be disconnected, the date of disconnection of signals of such television channels:

Provided also that no service provider shall display notice for disconnection of signals of television channels in form of static images overlaid on the television screen, obstructing normal viewing of the subscribers.

IndiaCode

18. Listing of channels in electronic programme guide.— (1) Every broadcaster shall declare the genre of its channels and such genre shall be either 'Devotional' or 'General Entertainment' or 'Infotainment' or 'Kids' or 'Movies' or 'Music' or 'News and Current Affairs' or 'Sports' or 'Miscellaneous'.

(2) It shall be mandatory for the distributor to place channels in the electronic programme guide, in such a way that the television channels of same genre, as declared by the broadcasters, are placed together consecutively and one channel shall appear at one place only:

Provided that all television channels of same language within the same genre shall appear together consecutively in the electronic programme guide:

Provided further that it shall be permissible to the distributor to place a channel under sub-genre within the genre declared for the channel by the broadcaster.

(3) Every distributor of television channels shall assign a unique channel number for each television channel available on the distribution network.

(4) The channel number once assigned to a particular television channel shall not be altered by the distributor for a period of at least one year from the date of such assignment:

Provided that this sub-regulation shall not apply in case the channel becomes unavailable on the distribution network:

Provided further that if a broadcaster changes the genre of a channel then the channel number assigned to that particular television channel shall be changed to place such channel together with the channels of new genre in the electronic program guide.

19. Details of service providers.— (1) The Authority may, in order to protect the interest of the consumer or service provider or to promote and ensure orderly growth of the broadcasting and cable television sector or for monitoring and ensuring compliance of these regulations, by order or direction, specify website for the purpose of reporting of the details by service providers.

IndiaCode

(2) Every service provider shall report, its name, address, contact number, e-mail address and license/ permission/ registration details issued by the Central Government on the website specified by the Authority, within thirty days from the date of commencement of these regulations or within thirty days from the specification of website for the purpose, whichever is later.

(3) Any service provider, who commences its operations after coming into effect of these regulations shall report, its name, address, contact number, e-mail address and license/ permission/ registration details issued by the Central Government on the website specified by the Authority, within thirty days from the date of commencement of its operations or within thirty days from the specification of website for the purpose, whichever is later.

(4) It shall be mandatory for a service provider to verify, from the website specified by the Authority, that the service provider seeking interconnection for providing signals of television channels or access to the network, as the case may be, has reported its details under sub-regulation (2) and sub-regulation (3):

Provided that this sub-regulation shall be applicable in the event of the Authority specifying such website.

20. Designation of compliance officer and his obligations.— (1) Every broadcaster and distributor of television channels shall, within thirty days from the date of commencement of these regulations, designate a compliance officer.

(2) Every broadcaster and distributor of television channels, who commences its operations after coming into effect of these regulations, shall, within thirty days from the date of commencement of its operations, designate a compliance officer.

(3) Every broadcaster or distributor of television channels, as the case may be, shall, within thirty days from the date of designation of the compliance officer under the provisions of this regulation, furnish to the Authority the name, complete address, contact number and e-mail address of the compliance officer along with authenticated copy of the board's resolution authorizing the designation of such compliance officer:

> Provided that the distributor of television channels, which is not a company, shall, within thirty days from the date of designation of the compliance officer under the provisions of this regulation, furnish to the Authority the name, full address, contact number and e-mail address of the compliance officer along with authenticated copy of the authorization letter authorizing the designation of such compliance officer.

(4) In the event of any change in the name of the compliance officer so designated under provisions of this regulation, the same shall be reported to the Authority by the service provider within thirty days from the date of occurrence of such change along with authenticated copy of the board's resolution or authorization letter, as the case may be.

IndiaCode

(5) In the event of any change in the address or contact number or email address of the compliance officer, the same shall be reported to the Authority by the service provider within ten days from the date of occurrence of such change.

(6) The compliance officer shall be responsible for—

(a) generating awareness for ensuring compliance with the provisions of these regulations;
(b) reporting to the Authority, with respect to compliance with these regulations and directions of the Authority issued under these regulations; and
(c) ensuring that proper procedures have been established and are being followed for compliance of these regulations.

(7) The provisions contained in the sub-regulation (6) shall be in addition to the liability of the service provider to comply with the requirements laid down under these regulations.

21. Intervention by the Authority.— The Authority may, in order to protect the interest of the consumer or service provider or to promote and ensure orderly growth of the broadcasting and cable television sector or for monitoring and ensuring compliance of these regulations, by order or direction, intervene, from time to time.

22. Repeal and saving.— (1) The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 are hereby repealed.

(2) The Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004, to the extent they are applicable to addressable systems, are hereby repealed.

(3) Notwithstanding the repeal of regulations mentioned, under sub-regulation (1) and sub-regulation (2) of this regulation, anything done or any action taken or proposed to have been done under the said regulations shall be deemed to have been done or taken under the corresponding provision of these regulations.

(Sudhir Gupta)
Secretary TRAI

Note.—The Explanatory Memorandum explains the objects and reasons of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017.

IndiaCode

Schedule I

(Refer sub-regulation (2) of the regulation 8)

Calculation of the carriage fee amount

The carriage fee amount, for each month or part thereof, during the term of the interconnection agreement shall be calculated as given below:-

Sl.	Calculation of the carriage fee amount
1	If monthly subscription for a channel in the target market is less than five percent of the average active subscriber base of the distributor in that month in the target market, then the carriage fee amount shall be equal to the rate of carriage fee per channel per subscriber per month, as agreed under the interconnection agreement, multiplied by the average active subscriber base of the distributor in that month in the target market.
2	If monthly subscription for a channel in the target market is greater than or equal to five percent but less than ten percent of the average active subscriber base of the distributor in that month in the target market, then the carriage fee amount shall be equal to the rate of carriage fee per channel per subscriber per month, as agreed under the interconnection agreement, multiplied by 0.75 times of the average active subscriber base of the distributor in that month in the target market.
3	If monthly subscription for a channel in the target market is greater than or equal to ten percent but less than fifteen percent of the average active subscriber base of the distributor in that month in the target market, then the carriage fee amount shall be equal to the rate of carriage fee per channel per subscriber per month, as agreed under the interconnection agreement, multiplied by 0.5 times of the average active subscriber base of the distributor in that month in the target market.
4	If monthly subscription for a channel in the target market is greater than or equal to fifteen percent but less than twenty percent of the average active subscriber base of the distributor in that month in the target market, then the carriage fee amount shall be equal to the rate of carriage fee per channel per subscriber per month, as agreed under the interconnection agreement, multiplied by 0.25 times of the average active subscriber base of the distributor in that month in the target market.
5	If monthly subscription for a channel in the target market is greater than or equal to twenty percent of the average active subscriber base of the distributor in that month in the target market, then the carriage fee amount shall be equal to 'Nil'.

Note:- (1) For the purpose of calculation of carriage fee amount for a high definition channel, the average active subscriber base of the distributor in that month in the target market shall be of subscribers capable of receiving high definition television channels.

(2) The average active subscriber base of the distributor in a month shall be calculated in the manner as prescribed in the Schedule VII.

(3) The monthly subscription for a channel shall be calculated in the manner as prescribed in the Schedule VII.

(4) The Illustration-I (for standard definition channel) and Illustration-II (for high definition channels) given below explains the calculation of carriage fee amount:-

IndiaCode

ILLUSTRATION-I

Suppose a distributor of television channels has an agreement with a broadcaster for carriage of a standard definition channel called 'X' at the rate of Rs. 0.20 per subscriber per month. The carriage fee amount payable by the broadcaster to the distributor would be calculated as follows:-

Month	**Average Active Subscriber Base over the month**	**Monthly subscription percentage of the standard definition Channel 'X'**	**Rate of Carriage Fee (in Paisa)**	**Multiplier**	**Carriage Fee Amount in (Rs.)**
(A)	(B)	(C)	(D)	(E)	(F)=(B)x(D)x(E)
January	1000	4%	20	1	200.00
February	800	8%	20	0.75	120.00
March	1500	12%	20	0.50	150.00
April	2000	19%	20	0.25	100.00
May	3000	20%	20	0	0.00
June	4000	22%	20	0	0.00
July	10000	17%	20	0.25	500.00
August	20000	25%	20	0	0.00

IndiaCode

ILLUSTRATION-II

Suppose a distributor of television channels has an agreement with a broadcaster for carriage of a high definition channel called 'Y' at a rate of Rs. 0.40 per subscriber per month then the carriage fee amount payable by the broadcaster to the distributor would be calculated as follows:-

Month	**Average Active Subscriber Base, of high definition STBs, over the month**	**Monthly subscription percentage of the high definition Channel 'Y'**	**Rate of Carriage Fee (in paisa)**	**Multiplier**	**Carriage Fee Amount in (Rs.)**
(A)	(B)	(C)	(D)	(E)	(F)=(B)x(D)x(E)
January	100	2%	40	1	40.00
February	80	5%	40	0.75	24.00
March	150	11%	40	0.50	30.00
April	160	16%	40	0.25	16.00
May	180	20%	40	0	0.00
June	200	22%	40	0	0.00
July	190	17%	40	0.25	19.00
August	170	25%	40	0	0.00

Schedule II
(Refer sub-regulation (4) of the regulation 10)

Application form for request of signals of television channels

1. Name of the distributor of television channels:
2. The names of Owners/Directors/Partners of the distributor:
3. Registered Office address:
4. Address for communication:
5. Name of the contact person/ Authorized Representative:
6. Telephone:
7. Email address:
8. Copy of certificate of registration/ permission/ license (Attach a Copy):
9. Details of Head-end, Conditional Access Systems (CAS) and Subscriber Management Systems (SMS) deployed by the distributor:
10. Details of the areas, corresponding States/ UTs and details of the Head-end from which the signals of television channels shall be distributed in such areas:
11. Area wise present subscriber base of the distributor:
12. List of channels and bouquets for which signals of television channels are requested:
13. Service Tax registration number:
14. Entertainment Tax Number:
15. PAN No. (Attach a copy):
16. Are the CAS/ SMS in compliance with the regulations: YES / NO
17. Copy of the report of the Auditor in compliance of the Schedule III of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable System) Regulations 2017, if available:

IndiaCode

_____
(Signature)
Date and Place

DECLARATION

I _____s/o, d/o_____, _____ (Owner/Proprietor/Partner /Director/ Authorized Signatory), of _____ (Name of Distributor of television channels), do hereby declare that the details provided above are true and correct. I state that the addressable systems installed for distribution of television channels meet the technical and other requirements specified in the Schedule III of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable System) Regulations 2017. The configuration and the version of the addressable system have not been changed after issuance of the report by the Auditor.

_____
(Signature)
Date and Place

Schedule III

(Refer sub-regulation (6) of the regulation 10)

Addressable Systems Requirements

A) Conditional Access System (CAS) and Subscriber Management System (SMS):

1. The distributor of television channels shall ensure that the current version of the CAS, in use, do not have any history of hacking.

   Explanation: A written declaration available with the distributor from the CAS vendor, in this regard, shall be construed as compliance of this requirement.
2. The SMS shall be independently capable of generating, recording, and maintaining logs, for the period of at least immediate preceding two consecutive years, corresponding to each command executed in the SMS including but not limited to activation and deactivation commands.
3. It shall not be possible to alter the data and logs recorded in the CAS and the SMS.
4. The distributor of television channels shall validate that the CAS, in use, do not have facility to activate and deactivate a Set Top Box (STB) directly from the CAS terminal. All activation and deactivation of STBs shall be done with the commands of the SMS.
5. The SMS and the CAS should be integrated in such a manner that activation and deactivation of STB happen simultaneously in both the systems.

   Explanation: Necessary and sufficient methods shall be put in place so that each activation and deactivation of STBs is reflected in the reports generated from the SMS and the CAS terminals.
6. The distributor of television channels shall validate that the CAS has the capability of upgrading STBs over-the-air (OTA), so that the connected STBs can be upgraded.
7. The fingerprinting should not get invalidated by use of any device or software.
8. The CAS and the SMS should be able to activate or deactivate services or STBs of at least 10% of the subscriber base of the distributor within 24 hours.
9. The STB and Viewing Card (VC) shall be paired from the SMS to ensure security of the channel.
10. The CAS and SMS should be capable of individually addressing subscribers, for the purpose of generating the reports, on channel by channel and STB by STB basis.
11. The SMS should be computerized and capable of recording the vital information and data concerning the subscribers such as:
    a. Unique customer identification (ID)
    b. Subscription contract number
    c. Name of the subscriber
    d. Billing address
    e. Installation address
    f. Landline telephone number
    g. Mobile telephone number
    h. E-mail address

IndiaCode

i. Channels, bouquets and services subscribed
j. Unique STB number
k. Unique VC number.

12. The SMS should be capable of:
    a. Viewing and printing of historical data in terms of the activations and the deactivations of STBs.
    b. Locating each and every STB and VC installed.
    c. Generating historical data of changes in the subscriptions for each subscriber and the corresponding source of requests made by the subscriber.
13. The SMS should be capable of generating reports, at any desired time about:
    i. The total number of registered subscribers.
    ii. The total number of active subscribers.
    iii. The total number of temporary suspended subscribers.
    iv. The total number of deactivated subscribers.
    v. List of blacklisted STBs in the system.
    vi. Channel and bouquet wise monthly subscription report in the prescribed format.
    vii. The names of the channels forming part of each bouquet.
    viii. The total number of active subscribers subscribing to a particular channel or bouquet at a given time.
    ix. The name of a-la carte channel and bouquet subscribed by a subscriber.
    x. The ageing report for subscription of a particular channel or bouquet.
14. The CAS shall be independently capable of generating, recording, and maintaining logs, for the period of at least immediate preceding two consecutive years, corresponding to each command executed in the CAS including but not limited to activation and deactivation commands issued by the SMS.
15. The CAS shall be able to tag and blacklist VC numbers and STB numbers that have been involved in piracy in the past to ensure that such VC or the STB cannot be re-deployed.
16. It shall be possible to generate the following reports from the logs of the CAS:
    a. STB-VC Pairing / De-Pairing
    b. STB Activation / De-activation
    c. Channels Assignment to STB
    d. Report of the activations or the deactivations of a particular channel for a given period.
17. The SMS shall be capable of generating bills for each subscriber with itemized details such as the number of channels subscribed, the network capacity fee for the channels subscribed, the rental amount for the customer premises equipment, charges for pay channel and bouquet of pay channels along with the list and retail price of corresponding pay channels and bouquet of pay channels, taxes etc.
18. The distributor shall ensure that the CAS and SMS vendors have the technical capability in India to maintain the systems on 24x7 basis throughout the year.
19. The distributor of television channels shall declare the details of the CAS and the SMS deployed for distribution of channels. In case of deployment of any additional CAS/ SMS, the same should be notified to the broadcasters by the distributor.

IndiaCode

20. Upon deactivation of any subscriber from the SMS, all programme/ services shall be denied to that subscriber.
21. The distributor of television channels shall preserve unedited data of the CAS and the SMS for at least two years.

(B) Fingerprinting:

1. The distributor of television channels shall ensure that it has systems, processes and controls in place to run finger printing at regular intervals.
2. The STB should support both visible and covert types of finger printing.
3. The finger printing should not be removable by pressing any key on the remote of STB.
4. The finger printing should be on the top most layer of the video.
5. The finger printing should be such that it can identify the unique STB number or the unique VC number.
6. The finger printing should appear on the screens in all scenarios, such as menu, Electronic Programme Guide (EPG), Settings, blank screen, and games etc.
7. The location, font colour and background colour of fingerprint should be changeable from head end and should be random on the viewing device.
8. The finger printing should be able to give the numbers of characters as to identify the unique STB and/or the VC.
9. The finger printing should be possible on global as well as on the individual STB basis.
10. The overt finger printing should be displayed by the distributor of television channels without any alteration with regard to the time, location, duration and frequency.
11. Scroll messaging should be only available in the lower part of the screen.
12. The STB should have a provision that finger printing is never disabled.
13. The watermarking network logo for all pay channels shall be inserted at encoder end only.

(C) Set Top Box (STB):

1. All STBs should have a Conditional Access System.
2. The STB should be capable of decrypting the Conditional Access messages inserted by the Head-end.
3. The STB should be capable of doing finger printing. The STB should support both Entitlement Control Message (ECM) and Entitlement Management Message (EMM) based fingerprinting.
4. The STB should be individually addressable from the Head-end.
5. The STB should be able to receive messages from the Head-end.
6. The messaging character length should be minimal 120 characters.
7. There should be provision for global messaging, group messaging and the individual STB messaging.
8. The STB should have forced messaging capability including forced finger printing display.
9. The STB must be compliant to the applicable Bureau of Indian Standards.
10. The STBs should be addressable over the air to facilitate OTA software upgrade.
11. The STBs with facilities for recording the programs shall have a copy protection system.

IndiaCode

Schedule IV

(Refer sub-regulation (16) of the regulation 10)

Application form for access to the network for distribution of a television channel

1. Name of the broadcaster:

2. The names of CEO/MD of the broadcaster:

3. Registered Office address:

4. Address for communication:

5. Name of the contact person/ Authorized Representative:

6. Telephone:

7. Email address:

8. Name of channel for which request for distribution has been made:

9. Copy of permission letter issued by the ministry of information and broadcasting for downlinking of the channels mentioned above in India:

10. Nature of channel (pay or free- to- air)

11. Genre of channel:

12. Language(s) of channel:

13. Downlinking parameters of the channel:

    a. Name of satellite:

    b. Orbital location:

    c. Polarisation:

    d. Downlinking frequency:

14. Modulation/coding and compression standard of channel:

15. Encryption of channel: encrypted/unencrypted

IndiaCode

_____
(Signature)
Date and Place:

DECLARATION

I _____s/o, d/o_____, _____ (Authorized Signatory), of _____ (Name of the broadcaster), do hereby declare that the details provided above are true and correct.

_____
(Signature)
Date and Place:

Schedule V

(Refer sub-regulation (3) of the regulation 12)

MODEL INTERCONNECTION AGREEMENT BETWEEN MULTI SYSTEM OPERATOR AND LOCAL CABLE OPERATOR FOR PROVISIONING OF CABLE TV SERVICES THROUGH DIGITAL ADDRESSABLE SYSTEMS (DAS).

[1. Each page of this Agreement shall be signed by the authorised signatory of Multi System Operator and Local Cable Operator;

*2. The numbers allotted to the clauses in this format shall not be altered and additions (if any) may either be carried out at the end of relevant clause or after the last clause of this format]***.**

This Technical and Commercial Interconnection Agreement along with its Schedules and Annexures is executed on this _____ day of _____ 201_ by and between:

_____, having its office at _____, through its Authorised Signatory, hereinafter referred to as the "**MSO**" which expression shall unless repugnant to the context or meaning thereof, be deemed to include its successors, assignees, legal heirs and executors of the **ONE PART**.

MSO's Status: Individual/Firm/Company/Association of Persons/Body of Individuals *(strike out whichever is not applicable or modify suitably in case of Association of Persons or Body of Individuals)*

IndiaCode

AND

_____, having its office at _____, through its Authorised Signatory, hereinafter referred to as the "**LCO**" which expression shall unless repugnant to the context or meaning thereof, be deemed to include its successors, assignees, legal heirs and executors, of the **OTHER PART**

LCO's Status: Individual/Firm/Company/Association of Persons/Body of Individuals *(strike out whichever is not applicable or modify suitably in case of Association of Persons or Body of Individuals)*

The **MSO** and the **LCO** are hereinafter individually referred to as 'Party' and collectively referred to as "**Parties**".

WHEREAS,

A. The MSO is a cable operator, who has been granted registration No. _____ dated _____ under the Cable Television Networks Rules, 1994, by the Ministry of Information and Broadcasting, for providing cable TV services through digital addressable systems in the areas of

_____notified by the Central Government under Section 4A of the Cable Television Networks (Regulation) Act, 1995.

B. The LCO is a cable operator, who has been granted registration under the Cable Television Networks Rules, 1994, having postal registration No. _____ dated _____, in the head post office _____, [Name of the head post office] for providing Cable TV Services in _____ [Mention the area].

C. The LCO has requested the MSO vide its letter No._____ dated_____for making available signals of TV channels and the MSO has agreed vide its letter No._____ dated_____to provide signals of TV channels to such LCO.

D. TERRITORY: Territory, in the context of this Agreement is _____ *[mention the name of area(s)/ city(ies)/ district(s)/ state(s) for which this agreement is being signed.]*

E. The Parties have mutually agreed to execute this Agreement - on principal to principal and non-exclusive basis - between them to govern the roles, responsibilities, rights, obligations, technical and commercial arrangement in regard to the distribution of TV channels in the Territory.

F. The Parties also mutually agree that each and every transaction including transaction of any properties/ assets between the Parties shall be carried out in writing or in any other verifiable means.

IndiaCode

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the Parties agree as follows: -

1. DEFINITIONS

The words and expressions used in this Agreement shall have meanings as assigned to them in the Schedule to this Agreement**.** All other words and expressions used in this Agreement, but not defined, and defined in the Act and rules and regulations made there under or the Cable Television Networks (Regulation) Act, 1995 (7 of 1995) shall have the meanings respectively assigned to them in those Acts or the rules or regulations, as the case may be.

2. TERM OF THE AGREEMENT

2.1 The Agreement shall commence on_____[dd/mm/yyyy] and remain in force till_____ [dd/mm/yyyy] or the date of expiry of registration of the MSO or the LCO, as the case may be, whichever is earlier, unless terminated by either Party as per the terms and conditions of this Agreement.

2.2 The duration of the Agreement may be extended on terms and conditions to be mutually agreed between the Parties and recorded in writing provided that the extended term does not go beyond the last date of validity of registration of the MSO or the LCO, whichever is earlier.

3. TERMINATION OF THE AGREEMENT

3.1 Either Party has a right to terminate the Agreement by serving an advance notice of 21 days in writing to the other Party in the event of:-

(i) material breach of the Agreement by the other Party which has not been cured within 15 days of being required in writing to do so; or

(ii) the bankruptcy, insolvency or appointment of receiver over the assets of other Party; or

(iii) the other Party indulging in, or allowing or inducing any person to indulge in piracy or carrying programming service provided on the channel which is in violation of the Programme and Advertising Codes prescribed in the Cable Television Network Rules, 1994, as amended from time to time.

3.2 The LCO has a right to terminate the Agreement in the event of the MSO discontinuing the business of distribution of TV channels in the Territory.

3.3 The MSO has a right to terminate the agreement in the event of the LCO discontinuing its cable TV business in the Territory.

3.4 If the MSO decides to discontinue the business of distribution of TV channels in the Territory for any reason, it shall give a notice in writing, specifying the reasons for such decision, to the LCO at least 90 days prior to such discontinuation.

3.5 If the LCO decides to discontinue its business of providing signals of TV channels to the subscriber in the territory, it shall give a notice in writing, specifying the reasons for such decision, to the MSO at least 90 days prior to such discontinuation.

4. EFFECT OF TERMINATION AND EXPIRY

4.1 In the event of termination or expiry of the term of the Agreement, as the case may be, at the instance of either Party, each Party shall pay all amounts due and payable up to the date of termination or expiry to the other Party.

4.2 The LCO shall, within 15 days of the termination or expiry of the term of this Agreement, as the case may be, in terms of the provisions mentioned herein, hand over to the MSO all properties and assets belonging to the MSO, which are in the custody of the LCO. The LCO shall also be liable to make good all the losses or damages, if any, caused to such properties and assets belonging to the MSO, in custody of the LCO, within 30 days from the receipt of notice to this effect from the MSO and in the event of inability of LCO to repair such properties/assets, the LCO shall pay to the MSO the depreciated value of such properties/ assets.

IndiaCode

4.3 The MSO shall, within 15 days of the termination or expiry of the term of this Agreement, as the case may be, in terms of the provisions mentioned herein, hand over to the LCO all properties and assets belonging to the LCO, which are in the custody of the MSO**.** The MSO shall also be liable to make good all the losses or damages, if any, caused to such properties and assets belonging to the LCO, in custody of the MSO, within 30 days from the receipt of notice to this effect from the LCO and in the event of inability of MSO to repair such properties/assets, the MSO shall pay to the LCO the depreciated value of such properties/ assets.

Explanation:- The clause 4.2 and 4.3 above shall not have any application in respect of Hardware or any other equipment belonging to the MSO or the LCO, as the case may be, which are installed at the premises of the subscribers.

4.4 If the LCO or the MSO, as the case may be, fails to hand over the assets or make good losses or damages caused to such properties and assets within the above stipulated period, the defaulting Party shall be liable to make payment for the depreciated value of the same together with simple interest calculated at the rate 2% over and above the base rate of interest of the State Bank of India.

IndiaCode

5. PROVISIONING OF SERVICES

5.1 The MSO shall make available signals of TV channels to the LCO, on non-exclusive basis, in order to distribute the same to the subscribers in the Territory, in terms of this agreement and as per prevailing norms, policies, the applicable laws and rules, regulations, directions and orders of the concerned authorities.

5.2 The LCO shall carry signals of TV channels received from the MSO, on non-exclusive basis, for distribution to the subscribers in the Territory.

5.3 The Parties shall compulsorily transmit, re-transmit or otherwise carry any channel or programme only in encrypted mode through a digital addressable system strictly in terms of and in accordance with the applicable laws and regulations.

5.4 The roles and responsibilities of the Parties to the Agreement for provisioning of services are contained in **clause 10** of this Agreement.

5.5 In consideration of the roles and responsibilities mentioned in **clause 10** of the Agreement, the revenue settlement between the LCO and the MSO have been mentioned in the **clause 12** of the Agreement.

6. RIGHTS OF THE MSO

6.1 The MSO shall continue to have a right of ownership of its network used to deliver the cable TV services under this agreement and it may expand/ upgrade/ change/ replace/ re-design any part or entire network subject to the condition that any such activity does not interrupt or degrade the Quality of Service provided to the subscribers.

6.2 The MSO shall sign the interconnection agreement with broadcasters for distribution of TV Channels as per prevailing norms, policies, the applicable laws and rules, regulations, directions and orders of the concerned authorities.

6.3 The MSO shall have the right to finalise the maximum retail price of each channel, as payable by the subscriber in compliance with the provisions of applicable laws and rules, regulations and tariff orders.

6.4 The MSO shall have the right to package the channels/ services offered on the network, as per its business plan and as per prevailing norms, policies, the applicable laws and rules, regulations and tariff orders.

6.5 The MSO shall have the right to finalise the rate of Basic Service Tier (BST) in compliance with the provisions of the applicable tariff orders and regulations notified by the Authority from time to time.

6.6 The MSO shall have the right to finalise the rates of bouquets of channels, if offered by the MSO, in compliance with the provisions of the applicable tariff orders and regulations notified by the Authority.

6.7 The MSO shall have the right to get all requisite information from the LCO for the purpose of fulfilling its responsibilities under the Agreement, and the applicable orders and regulations.

7. RIGHTS OF THE LCO

7.1 The LCO shall continue to have its right of ownership of its network used to deliver the cable TV services under this agreement and it can expand/ upgrade/ change/ replace/ re-design any part or entire network subject to the condition that any such activity does not interrupt or degrade the Quality of Service offered to the subscriber on its network.

7.2 The LCO shall have right to get all the requisite information from the MSO for the purpose of fulfilling its responsibilities under the Agreement, and the applicable orders and regulations.

8. OBLIGATIONS OF THE MSO

8.1 MSO shall set up and operationalise the Head-end, Conditional Access System (CAS) and Subscriber Management System (SMS) for ensuring efficient and error-free services to the subscribers by recording and providing individualized preferences for channels, billing cycles or refunds.

8.2 The MSO shall make available to the LCO, the necessary and sufficient information relating to the details of channels, bouquets of channels, and services offered to the subscribers including their prices.

8.3 The MSO shall provide web based grievance redressal mechanism for addressing the complaints of LCOs in relation to the provision of services, roles and responsibilities, revenue settlements, quality of services etc.

IndiaCode

8.4 The MSO shall not issue pre-activated STBs and the STBs shall be activated only after the details of the Customer Application Form (CAF) have been entered into the SMS.

8.5 The MSO shall generate bills for subscribers on regular basis, for charges due and payable for each month or as per the billing cycle applicable for that subscriber, within 3 days from the end of the billing cycle.

8.6 The MSO shall provide access to the relevant part of the SMS under its control to the LCO for the purpose of fulfilling responsibilities by the Parties under the Agreement, and the applicable orders and regulations.

8.7 The MSO shall not indulge in any piracy or other activities, which has the effect of, or which shall result into, infringement and violation of trade mark and copyrights of the LCO or person associated with such transmission.

8.8 The MSO shall comply with all the applicable statutes or laws for the time being in force, or any rules, codes, regulations, notifications, circulars, guidelines, orders, directions etc. issued, published or circulated under any law for the time being in force.

8.9 The MSO shall not do any act or thing as a result of which, any right or interest of the LCO in respect of cable TV signals under this Agreement or any property of the LCO may be infringed or prejudiced.

8.10 The MSO shall be responsible for encryption of the complete signal, up to the STB installed at the premises of the subscriber.

8.11 The MSO shall not disconnect the signals of TV Channels, without giving three weeks' advance notice to the LCO clearly specifying the reasons for the proposed disconnection as envisaged in the Interconnection Regulation.

8.12. The MSO shall make available consumer friendly electronic payment options in the subscriber management system for the electronic payment of bills by the subscribers, prepaid system for subscribers and facility for acknowledgments/receipts to the subscribers for the payments made by them.

8.13 The MSO shall provide to the LCO at least 2% of the total STBs active in the network of the LCO with an upper cap of 30 STBs as maintenance spare, which are not pre-activated, to ensure speedy restoration of services affected due to any fault in STB. This quantity of maintenance spare STBs shall be maintained during the term of the agreement.

8.14 The MSO shall intimate to the LCO, at least 15 days in advance, in respect of any proposed changes in the package composition or the retail tariff being offered to the subscriber.

8.15 The MSO shall have no right, without the prior written intimation to the LCO, to assign or transfer any of its rights or obligations under this Agreement.

IndiaCode

9. OBLIGATIONS OF THE LCO

9.1 The LCO shall handover a copy of CAF received from subscribers within 15 days to the MSO.

9.2 The LCO shall be responsible for entering the details of the bill amount paid by the individual subscriber to the LCO for the Cable TV services in the SMS.

9.3 The LCO shall not indulge in any piracy or other activities, which has the effect of, or which shall result into, infringement and violation of trade mark and copyrights of the MSO, or any other person associated with such retransmission.

9.4 The LCO shall have no right, without the prior written intimation to the MSO, to assign or transfer any of its rights or obligations under this Agreement.

9.5 The LCO shall not replace the STBs of the MSO with the STBs of any other MSO without receiving the requests from the subscribers through application forms for returning the STB of the existing connections and for providing new connections through Customer Application Form. The new Set Top Box shall be activated only after entry of the details, as provided in new Customer Application Form, into the Subscriber Management System of the new MSO.

IndiaCode

9.6 The LCO shall –

(i) not transmit or retransmit, interpolate or mix any signals which are not transmitted or generated by the MSO without the prior written consent of the MSO;

(ii) not insert any commercial or advertisement or information on any signal transmitted by the MSO. Any such tampering of signals or interpolating of signals shall be deemed to be a violation of this Agreement and shall constitute sufficient cause for termination of this Agreement by the MSO by giving such notice as prescribed under the law or under this agreement;

(iii) not interfere in any way with the signals provided by the MSO and also not use any decoding, receiving, recording equipment(s), counterfeit set top box or Smart card and any other like equipments;

(iv) not alter or tamper the Hardware including the seal (seal to prevent opening of set top box), misuse, replace, remove and shift the Smart card or STB without the written consent of MSO from their respective original addresses;

(v) not use, either before or after the installation of STB, of any decoding, receiving, recording equipment(s), counterfeit set top box(es), smart card(s) other than the STB(s), Smart cards and any other equipments supplied/ approved by the MSO, and to take actions as directed by the MSO against such subscribers.

(vi) intimate the MSO promptly about any alteration, tampering with the Hardware including the seal, misuse, replacement, removal and shifting of Smart cards and STBs, without the written consent of

MSO, from their respective original addresses and also about the use, either before or after the STBs, of any decoding, receiving, recording equipment(s), counterfeit set top box(es) and smart card(s) other than the STB(s), Smart card(s) and any other items of Hardware supplied by the MSO, and to take actions as directed by the MSO against such subscribers.

9.7 The LCO shall not provide connection to any entity for further retransmission of the Cable TV signals.

9.8 The LCO shall not record and then retransmit Cable TV signals or otherwise to block or add or substitute or otherwise tamper with the signal being transmitted by the MSO or with the trunk line nor shall allow any other person to do so.

9.9 The LCO shall not do any act or thing as a result of which, any right or interest of the MSO in respect of the Cable TV signals under this Agreement or any property of the MSO may be infringed or prejudiced.

9.10 The LCO shall permit access to the systems under its control to the MSO, on non-exclusive basis, for the purpose of fulfilling responsibilities by the Parties under the Agreement, and the applicable orders and regulations.

9.11 The LCO shall not disconnect the signals of TV Channels, without giving three weeks' notice to the MSO clearly specifying the reasons for the proposed disconnection as envisaged in the Interconnection Regulation.

IndiaCode

10. ROLES AND RESPONSIBILITIES OF THE MSO AND THE LCO:

Sl. No.	Role	*Responsibility of the MSO or the LCO as mutually agreed by the Parties - fill the cell accordingly*	Remarks
(1)	(2)	(3)	(4)
1	Devising of Consumer Application Form, either in electronic format or print format or both, for initial subscription to broadcasting services containing the information as provided in the Schedule I of the QoS regulations.		
2	a. Provide information to consumers about the details of services at the time of every new connection as per the QoS regulations. b. Providing information to the subscriber about the details of STB schemes offered and the warranty/ repairing policy applicable thereof.		
3	Provisioning of broadcasting services to the consumer upon obtaining duly filled Consumer Application Form and providing a copy of the same to the consumer as per the QoS regulations.		The Party who has been assigned this responsibility shall update the information in the Subscriber Management System (SMS) in each case within 24 hours from the receipt of the application.
4	Assigning a unique identification number (UIN) to every subscriber and communicating the same to the consumer as per the provisions of the QoS regulations.		The UIN shall be generated from the SMS. In case the responsibility is assigned to the LCO then the relevant access of the SMS should be provided by the MSO to the LCO.
5	Activation of broadcasting services to the subscribers.		(1) Activation shall be done only after only after the details of Consumer Application Form have been entered into the SMS.

IndiaCode

			(2) In case the responsibility is assigned to the LCO then the MSO should provide relevant access to SMS for activation of broadcasting services.
6	Activation of requested channel(s) or bouquet(s) available on the platform, upon receiving a verifiable request from a subscriber as per the provisions of the QoS regulations.		
7	Deactivation of requested channel(s) and bouquet(s) from the subscription package of subscriber upon receiving a verifiable request from the subscriber, as per the provisions of the QoS regulations.		
8	Temporary suspension of the broadcasting services of a subscriber upon receiving a request from the subscriber as per the provisions of the QoS regulations.		
9	Restoration of services of a subscriber, upon request from the subscriber as per the provisions of the QoS regulations.		
10	Relocation of connection of a subscriber from one location to another location, upon the request for the same as per the provisions of QoS regulations.		
11	Providing notice to the subscribers regarding interruption of signals for preventive maintenance as specified in QoS Regulations.		
12	Disconnection of broadcasting services to a subscriber upon request from the subscriber and refunding of deposits subject to fulfilment of the terms and conditions provided in the QoS regulations.		
13	Offering broadcasting services to the		

IndiaCode

	subscribers either on pre-paid basis or post-paid basis or both as provided in the QoS regulations.		
14	Changing payment mechanism from pre-paid to post-paid or vice-versa, as the case may be, on the request made by the subscriber.		
15	Generation of post-paid bills for subscribers as per the QoS regulations.		
16	Delivery of post-paid bills to subscribers as per the QoS regulations.		
17	Issuance and delivery of receipts to post-paid subscribers for manual payments made by them and entering the details of the receipts in the subscriber management system as per the QoS regulations.		
18	Acknowledging pre-paid payments to the subscriber and updating the subscriber management system accordingly.		
19	Providing set top boxes to the subscribers conforming to the standards prescribed in the QoS regulations.		
20	Offering different schemes for the STB as per the QoS regulations.		
21	Offering annual maintenance scheme for the Customer Premises Equipment provided under outright purchase scheme after the expiry of guarantee/warranty period as per the QoS regulations		
22	Repairing of a malfunctioning set top box as per the QoS regulations.		
23	Publicizing toll free consumer care number and address of the web based complaint management system to the subscribers through customer care channel and website, as provided in the		

IndiaCode

	QoS Regulations.		
24	Providing copies of Manual of Practice (MoP) to subscribers as specified in QoS regulations.		The MSO shall finalize the contents of MOP. Copies of such MoP shall be shared with the LCO.
25	Payment of taxes to the Government.	**MSO and/ or LCO**	The specific details of tax payment responsibilities need to be filled in the adjoining cells at the time of signing of the agreement as per the rules and regulations of the respective Tax authorities.

Note:- The responsibilities for various roles mentioned in the column (2) above can be mutually agreed by the Parties and accordingly the cells of the column (3) to be filled.

IndiaCode

11. BILLING

11.1 The billing for subscriber shall be in the name of _____. However, each Party shall ensure that the applicable laws, rules and regulations relating to taxes are complied with.

11.2 The Party, in whose name the billing for subscribers have been agreed in the clause 11.1 above, shall receive the payment of the subscription fee paid by the subscribers. The revenue share as per clause 12.1 of this Agreement shall be paid by this Party to the other Party on receipt of the invoice from the other Party.

12. REVENUE SETTLEMENT BETWEEN THE LCO AND THE MSO AND RELATED RIGHTS AND OBLIGATIONS

12.1 The settlement of charges between the LCO and the distributor shall be in the following manner:-

(a) network capacity fee amount shall be shared in the ratio of __: __between multi system operator and local cable operator respectively.

(b) the distribution fee amount shall be shared in the ratio of __:__ between multi system operator and local cable operator respectively.

IndiaCode

Note:-

(1) For mutual agreement cases where the roles and responsibilities of the MSO and the LCO have been agreed as per column (3) of clause (10), this clause can be suitably amended based on mutual agreement.

(2) Network capacity fee amount and the distribution fee shall have the same meaning as defined in the Interconnection Regulations and Tariff Order.

12.2*

(When the billing for subscribers is in the name of the LCO and the LCO receives the payment of subscription fee paid by the subscribers)

The MSO shall issue monthly invoice to the LCO towards dues payable by the LCO for revenue settlement and such invoice shall clearly specify the current payment dues and arrears, if any, along with the due date of payment which shall not be less than seven days. Any demand of arrears shall be accompanied by the proof of service of invoices for the period for which the arrears pertain. The amounts raised in the invoice shall be payable on or before the due date as mentioned therein.

OR

12.2*

(When the billing for subscribers is in the name of the MSO and the MSO receive the payment of subscription fee paid by the subscribers)

The MSO shall share the complete information relating to the subscribers billing and receipt of the payments with the LCO. The LCO shall issue monthly invoice to the MSO towards dues payable by the MSO for revenue settlement and such invoice shall clearly specify the current payment dues and arrears, if any, along with the due date of payment which shall not be less than seven days. Any demand of arrears shall be accompanied by the proof of service of invoices for the period for which the arrears pertain. The amounts raised in the invoice shall be payable on or before the due dates as mentioned therein.

(*Strike out whichever is not applicable at the time of signing individual agreement)

12.3 The Party shall update the details of the subscription amount realised from the subscriber, in the SMS within 7 days from the due date.

13. DEFAULTS

13.1 Without prejudice to such rights and remedies that the Parties may have in law or under the provisions of this Agreement, in the event of any delay or failure by the MSO or the LCO, as the case may be, to make payments of dues on or before the respective due dates, the LCO or the MSO, as the case may be, shall have the right:-

(i) to disconnect the services subject to the compliance of the applicable rules, regulations, directions or orders of the Authority;

(ii) to terminate this Agreement, subject to compliance of the applicable laws in force;

(iii) to charge a simple interest at the rate 2% over and above of the base rate of interest of the State Bank of India from the date such amounts became due until those are fully and finally paid;

IndiaCode

13.2 In cases where any of the Parties has failed to make payment on or before due date for three consecutive months in the past, the other Party shall have right to demand the interest free security deposit which shall not exceed average of immediately preceding 6 months billing amounts and the same shall be maintained for the remaining term of the agreement.

13.3 Upon disconnection of the service as mentioned in clause 13.1 above, whether accompanied by termination of this Agreement or not, the defaulting Party shall be liable to deposit forthwith all sums payable by it. In the case of termination, accounts shall be settled within thirty days and for delayed payments, either Party shall be liable to pay simple interest at the rate 2% over and above of the base rate of interest of the State Bank of India.

14. UNDERTAKINGS

14.1 Each Party shall recognize the exclusive ownership of the property owned and installed by the other Party and shall not have or claim any right, title or interest or lien of whatsoever nature.

14.2 Nothing contained herein shall constitute either Party as the agent or partner or the representative of the other for any purpose and neither Party shall have the right or authority to assume, create or incur any liability or obligation of any kind, express or implied, in the name of or on behalf of the other Party and the relationship between the MSO and the LCO shall remain on "Principal to Principal" basis.

14.3 It is expressly understood by the Parties that "_____" logo(s) is a Registered Trade Mark of the MSO, and the LCO shall use the said logo only during the currency of this Agreement for the benefit of the cable television networking business of the MSO. Consent of the MSO is hereby given to the LCO to use the said logo, to the extent of or in connection with the business of the MSO.

14.4 It is expressly understood by the Parties that "_____" logo(s) is a Registered Trade Mark of the LCO, and the MSO shall use the said logo only during the currency of this Agreement for the benefit of the cable television networking business of the LCO. Consent of the LCO is hereby given to the MSO to use the said logo, to the extent of or in connection with the business of the LCO.

IndiaCode

14.5 It is clearly understood and accepted by each Party that it shall have no right to use any intellectual property of the other on its Cable TV service or otherwise on or after the withdrawal by the other Party of its consent for such uses.

14.6 In case the LCO or the MSO, as the case may be, decides to transfer its interest in respect of its business of providing Cable TV Service to any other party / person (third party), in whole or in part, the LCO or the MSO, as the case may be, shall give prior notice to the MSO or the LCO. One Party shall not have any objection to such transfer if the other Party has complied with its obligations under this contract and has paid all its dues.

Provided, however, that such third party shall sign and execute a deed of adherence to the terms and conditions of this Agreement and other undertaking/ bonds to the satisfaction of the MSO or the LCO, as the case may be, in order to give effect to the provisions of this Agreement.

14.7 The LCO shall maintain and continue to maintain its Postal Registration Certificate renewed from time to time in accordance with the Cable TV Networks (Regulation) Act, 1995 and comply with the terms and conditions of the registration certificate issued by the Postal Authority.

14.8 The MSO shall maintain and continue to maintain its Registration Certificate renewed from time to time in accordance with the Cable TV Networks (Regulation) Act, 1995 and comply with the terms and conditions of the registration.

14.9 Both the Parties shall comply with the Programme Codes and Advertising Codes prescribed in the Cable Television Network Rules, 1994, as amended from time to time.

14.10 Both the Parties shall comply with the laws for the time being in force in India, as applicable to them.

15. PREVENTION OF PIRACY

15.1 The Parties shall not indulge or allow any person to indulge in Piracy or in reverse engineering of any technology used in the Hardware or any component thereof nor shall they use the Hardware to be connected to any equipment for setting up a mini head-end for retransmission of the signals generated from the same.

15.2 Signal to any subscriber shall be disconnected by the MSO or the LCO, as the case may be, after giving due notice as required under applicable regulations, if found to be indulged in or abetting any Piracy.

16. DISCLAIMER AND INDEMNITY

16.1 In no event, the MSO shall be liable to the LCO for any indirect, special, incidental or consequential damage arising out of or in connection with the disruption, interruption or discontinuance of the Service or for any inconvenience, disappointment or due to deprival of any programme or information or for any indirect or consequential loss or damage, which is not attributable to any act of the MSO.

16.2 In no event, the LCO shall be liable to the MSO for any indirect, special, incidental or consequential damage arising out of or in connection with the disruption, interruption or discontinuance of the Service or for any inconvenience, disappointment or due to deprival of any programme or information or for any indirect or consequential loss or damage, which is not attributable to any act of the LCO.

IndiaCode

16.3 LCO shall indemnify the MSO for all cost, expense and damages by reason of any claim, action or proceedings from any third party or from subscribers for any inconvenience, loss or annoyance caused to them due to any default of the LCO or due to termination of the Agreement or suspension of the Service due to LCO's breach.

16.4 MSO shall indemnify the LCO for all cost, expense and damages by reason of any claim, action or proceedings from any third party or from subscribers for any inconvenience, loss or annoyance caused to them due to any default of the MSO or due to termination of the Agreement or suspension of the Service due to MSO's breach.

17. GOVERNING LAW AND DISPUTE RESOLUTION

17.1 As mandated by the Telecom Regulatory Authority of India Act, 1997, the Parties shall not institute any suit or seek injection or interim orders in any court or judicial tribunal/ authority in India with respect to any claims, dispute or differences between the Parties arising out of this Agreement save and except before the Telecom Disputes Settlement and Appellate Tribunal, New Delhi **("TDSAT").** The Parties agree that all disputes between the Parties shall be resolved solely through proceedings instituted before the TDSAT.

18. FORCE MAJEURE

18.1 Failure on the part of the MSO or the LCO to perform any of its obligations, shall not entitle either Party to raise any claim against the other or constitute a breach of this Agreement to the extent that such failure

arises from an event of Force Majeure. If through Force Majeure the fulfilment by either Party of any obligation set forth in this Agreement is delayed, the period of such delay shall not be taken into account in computing periods prescribed by this Agreement. Force Majeure will include act of god, earthquake, tides, storm, flood, lightening, explosion, fire, sabotage, quarantine, epidemic, arson, civil disturbance, terrorist attack, war like situation, or enactment of any law or rules and regulation made by the Authorities or revocation of registration of the Parties any circumstances beyond the reasonable control of the Parties herein that directly or indirectly hinders or prevents either of the Parties from commencing or proceeding with the consummation of the transactions contemplated hereby. The Party affected by such Force Majeure event shall promptly notify the other Party of the occurrence of such event. It is agreed between the Parties that lack of funds shall not in any event constitute or be considered an event of Force Majeure. If the conditions of Force Majeure to continue for a period exceeding one month, the Parties shall meet to decide upon the future performance of the Agreement. If the Parties are unable to agree upon a plan for future performance, then the Agreement shall be terminated upon notice of either Party to the other, on expiry of one month from the date of such notice.

18.2 Any accrued payment obligation of a Party prior to the commencement of Force Majeure shall survive the termination of this Agreement pursuant to such Force Majeure.

IndiaCode

19. NOTICES

19.1 Any notice to be served on any Party by the other shall be deemed to have been validly sent if sent by Registered Post Acknowledgement Due (RPAD) or speed post service of Department of Post, Government of India or by hand delivery duly acknowledged at the address mentioned in the beginning or at such other changed address as the Party may inform and the date of receipt of such notice shall be the date of receipt by the other Party or 7 days from the date of dispatch of the notice by RPAD, whichever is earlier.

20. RESTRICTION ON TRANSFER

20.1 The either Party shall not remove, sell, assign, mortgage, transfer/sublet and encumber all or any part of the network which belongs to the other Party. If the Party indulges in any of the above-mentioned acts, the said acts shall be illegal and void ab-initio and the Party shall also be liable for any action under the applicable law.

21. CONFIDENTIALITY

21.1 The Parties shall keep in strict confidence, any information received by one from the other while participating in the affairs/business of each other and shall not disclose the same to any person not being a party to this Agreement.

21.2 The Parties shall also bind their employees, officers, advisors, associates, contractors, agents, authorized persons and other similar persons to whom the above mentioned information may be disclosed, to the obligations of confidentiality.

21.3 The Parties hereby agrees that the confidential information can be disclosed to the statutory authority on demand by such authorities.

22. MODIFICATIONS

22.1 The Agreement cannot be modified, varied or terminated except in writing. Any variation of the Agreement, including Addendum Agreements, Annexures, Schedules or any other document, called by whatever name, but executed in relation to this Agreement, shall be mutually agreed to in writing and executed by or on behalf of the Parties.

23. BINDING EFFECT

23.1 This Agreement modifies all prior understanding of the Parties as to the subject matter thereof and shall not be amended except in writing by both the Parties. Any other understanding between the Parties (if any) with regard to any other matter or any accrued rights and obligation of the Parties not covered under this agreement, if any, shall continue to be in full force and effect.

IndiaCode

IN WITNESS WHEREOF the Parties have set and subscribed their respective hands to this Agreement on the date and year appearing hereinabove.

Signed on behalf of the MSO
(_____)
In the presence of
1. ……..
2. ……..

Signed on behalf of the LCO
(_____)
In the presence of
1. ……..
2. ……..

Note: The self attested copies of power of attorney/authorization letter, whereby the signatories of this agreement have been authorised to sign and execute this agreement by the Parties, shall be attached with this agreement.

Schedule

DEFINITIONS AND INTERPRETATIONS

A. DEFINITIONS

In the Agreement unless the context requires otherwise, the following words and expressions shall have the meanings set out herein below:

(a) "Act" means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(b) "addressable system" shall have the same meaning as assigned to it in the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017;

(c) "Authority" means the Telecom Regulatory Authority of India established under subsection (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(d) "basic service tier" means a bouquet of free to air channels as referred to in the Tariff Order;

(e) "bouquet" or "bouquet of channels" means an assortment of distinct channels offered together as a group or as a bundle and all its grammatical variations and cognate expressions shall be construed accordingly;

(f) "broadcaster" means a person or a group of persons, or body corporate, or any organization or body who, after having obtained, in its name, downlinking permission for its channels, from the Central Government, is providing programming services;

(g) "cable service" or "cable TV service" means the transmission of programmes including re-transmission of signals of television channels through cables;

(h) "cable television network" or "cable TV network" means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(i) "customer care centre" means a department or a section or a facility established under QoS regulations;

(j) "CTN Act" means the Cable Television Networks (Regulation) Act, 1995 (7 of 1995);

(k) "encryption or encrypted" in respect of a signal of cable television network, means the changing of such signal in a systematic way so that the signal would be unintelligible without use of an addressable system and the expression "unencrypted" shall be construed accordingly;

(l) "free-to-air channel" shall have the same meaning as assigned to it in the Tariff Order;

(m) "hardware" means a multi-system operator approved set top box to enable the decryption of signals of Channels transmitted in encrypted form, the remote and other associated components and accessories;

(n) "head-end" means a facility that contains satellite receivers, modulator, compression equipment, multiplexes, and conditional access facilities, other transmission equipments and has antennas which receive signals from Satellite and/or from local studio for retransmission to subscribers directly or through linked LCOs;

(o) "Interconnection Regulation" means the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017;

IndiaCode

(p) "Manual of Practice (MoP)" means the Manual of Practice as referred to in the QoS Regulation;

(q) "pay channel" shall have the same meaning as assigned to it in the Tariff Order;

(r) "piracy" means unauthorized reception, retransmission or redistribution of Cable TV Signal by any person by any means and modes including but not limited to any alteration, tampering of the seal or any component or accessory thereof or misuse, replacement, removal and/or shifting of Hardware or any use, either before or after the set top box, any decoding, receiving, recording equipment(s), counterfeit or unauthorized devices or any activity, which has the effect of, or which may result into, infringement and violation of trade mark and copyright of the MSO or the LCO as the case may be;

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

(i) exhibition of films, features, dramas, advertisements and serials,

(ii) any audio or visual or audio-visual live performance or presentation,

and the expression "programming service" shall be construed accordingly;

(t) "QoS Regulation" means the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017;

(u) "set top box" means a device, which is connected to or is part of a television receiver and which enables a subscriber to view subscribed channels;

(v) "smart card" means the card duly approved by the multi system operator as part of the Hardware, which enables the subscriber to gain access to the Cable TV signals of Channels.

(w) "subscriber" for the purpose of these regulations, means a person who receives broadcasting services, from a distributor of television channels, at a place indicated by such person without further transmitting it to any other person and who does not cause the signals of television channels to be heard or seen by any person for a specific sum of money to be paid by such person, and each set top box located at such place, for receiving the subscribed broadcasting services, shall constitute one subscriber;

(x) "subscriber management system" means a system or device which stores the subscriber records and details with respect to name, address and other information regarding the hardware being utilized by the subscriber, channels or bouquets of channels subscribed by the subscriber, price of such channels or bouquets of channels as defined in the system, the activation or deactivation dates and time for any channel or bouquets of channels, a log of all actions performed on a subscriber's record, invoices raised on each subscriber and the amounts paid or discount allowed to the subscriber for each billing period;

(y) "Tariff Order" means the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017;

(z) "trunk line" means the coaxial/optic fibre cable network and other allied equipment such as receiver nodes, amplifiers, splitters etc. owned and installed by the multi-system operator or its associate companies for the purpose of transmitting Cable TV Signal to various LCOs till the receiving end of various LCOs, including the LCO, to enable them to re-transmit the Cable TV Signal to respective subscribers;

IndiaCode

All other words and expressions used in this interconnection agreement but not defined, and defined in the Act and rules and regulations made there under or the CTN Act and the rules and regulations made there under, shall have the meanings respectively assigned to them in those Acts or the rules or regulations, as the case may be.

B. INTERPRETATION

In this Agreement, unless the context otherwise requires:

(a) Any reference to the singular in the Agreement shall include a reference to the plural and vice versa and words importing one gender only shall include all other genders unless the context otherwise requires;

(b) The word "person" shall include individuals, corporations, partnerships, association of persons and any other entities;

(c) Any references to article, clauses, sub-clauses, appendices, annexure and schedules are references to Articles, clauses, sub-clauses, appendices, annexure and schedules to the Agreement unless the context otherwise expressly provides;

(d) References to a "month" are to a calendar month;

(e) Headings and titles are for ease of reference only and shall not affect the interpretation of this agreement and in no way be read to give a construction not harmonious with the interpretation of various clauses of this agreement done otherwise independent of the title.

(f) Any reference to law, regulation, statutory provision, order, guideline, policy, etc, includes references to such law or regulation or provision, order, guideline, policy, etc., as modified, codified, amended or re-enacted from time to time.

IndiaCode

Schedule VI

(Refer second proviso to sub-regulation (3) of regulation 12)

STANDRAD INTERCONNECTION AGREEMENT BETWEEN MULTI SYSTEM OPERATOR AND LOCAL CABLE OPERATOR FOR PROVISIONING OF CABLE TV SERVICES THROUGH DIGITAL ADDRESSABLE SYSTEMS (DAS).

[Each page of the Agreement shall be signed by the authorised signatory of the Multi System Operator and the Local Cable Operator]

This Technical and Commercial Interconnection Agreement along with its Schedules and Annexures is executed on this _____ day of _____ 201_ by and between:

_____, having its office at _____, through its Authorised Signatory, hereinafter referred to as the "**MSO**" which expression shall unless repugnant to the context or meaning thereof, be deemed to include its successors, assignees, legal heirs and executors of the **ONE PART**.

MSO's Status: Individual/Firm/Company/Association of Persons/Body of Individuals *(strike out whichever is not applicable or modify suitably in case of Association of Persons or Body of Individuals)*

IndiaCode

AND

_____, having its office at _____ _____, through its Authorised Signatory, hereinafter referred to as the "**LCO**" which expression shall unless repugnant to the context or meaning thereof, be deemed to include its successors, assignees, legal heirs and executors, of the **OTHER PART**

LCO's Status: Individual/Firm/Company/Association of Persons/Body of Individuals *(strike out whichever is not applicable or modify suitably in case of Association of Persons or Body of Individuals)*

The **MSO** and the **LCO** are hereinafter individually referred to as 'Party' and collectively referred to as "**Parties**".

WHEREAS,

A. The MSO is a cable operator, who has been granted registration No. _____ dated _____ under the Cable Television Networks Rules, 1994, by the Ministry of Information and Broadcasting, for providing cable TV services through digital addressable systems in the areas of _____notified by the Central Government under Section 4A of the Cable Television Networks (Regulation) Act, 1995.

B. The LCO is a cable operator, who has been granted registration under the Cable Television Networks Rules, 1994, having postal registration No. _____ dated _____, in the head post office _____, [Name of the head post office] for providing Cable TV Services in _____ [Mention the area].

C. The LCO has requested the MSO vide its letter No._____ dated_____for making available signals of TV channels and the MSO has agreed vide its letter No._____ dated_____to provide signals of TV channels to such LCO.

D. TERRITORY: Territory, in the context of this Agreement is _____ *[mention the name of area(s)/ city(ies)/ district(s)/ state(s) for which this agreement is being signed.]*

E. The Parties have mutually agreed to execute this Agreement - on principal to principal and non-exclusive basis - between them to govern the roles, responsibilities, rights, obligations, technical and commercial arrangement in regard to the distribution of TV channels in the Territory.

F. The Parties also mutually agree that each and every transaction including transaction of any properties/ assets between the Parties shall be carried out in writing or in any other verifiable means.

IndiaCode

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the Parties agree as follows: -

1. DEFINITIONS

The words and expressions used in this Agreement shall have meanings as assigned to them in the Schedule to this Agreement**.** All other words and expressions used in this Agreement, but not defined, and defined in the Act and rules and regulations made there under or the Cable Television Networks (Regulation) Act, 1995 (7 of 1995) shall have the meanings respectively assigned to them in those Acts or the rules or regulations, as the case may be.

2. TERM OF THE AGREEMENT

2.1 The Agreement shall commence on_____[dd/mm/yyyy] and remain in force till_____ [dd/mm/yyyy] or the date of expiry of registration of the MSO or the LCO, as the case may be, whichever is earlier, unless terminated by either Party as per the terms and conditions of this Agreement.

2.2 The duration of the Agreement may be extended on terms and conditions to be mutually agreed between the Parties and recorded in writing provided that the extended term does not go beyond the last date of validity of registration of the MSO or the LCO, whichever is earlier.

3. TERMINATION OF THE AGREEMENT

3.1 Either Party has a right to terminate the Agreement by serving an advance notice of 21 days in writing to the other Party in the event of:-

(i) material breach of the Agreement by the other Party which has not been cured within 15 days of being required in writing to do so; or

(ii) the bankruptcy, insolvency or appointment of receiver over the assets of other Party; or

(iii) the other Party indulging in, or allowing or inducing any person to indulge in piracy or carrying programming service provided on the channel which is in violation of the Programme and Advertising Codes prescribed in the Cable Television Network Rules, 1994, as amended from time to time.

3.2 The LCO has a right to terminate the Agreement in the event of the MSO discontinuing the business of distribution of TV channels in the Territory.

3.3 The MSO has a right to terminate the agreement in the event of the LCO discontinuing its cable TV business in the Territory.

3.4 If the MSO decides to discontinue the business of distribution of TV channels in the Territory for any reason, it shall give a notice in writing, specifying the reasons for such decision, to the LCO at least 90 days prior to such discontinuation.

3.5 If the LCO decides to discontinue its business of providing signals of TV channels to the subscriber in the territory, it shall give a notice in writing, specifying the reasons for such decision, to the MSO at least 90 days prior to such discontinuation.

4. EFFECT OF TERMINATION AND EXPIRY

4.1 In the event of termination or expiry of the term of the Agreement, as the case may be, at the instance of either Party, each Party shall pay all amounts due and payable up to the date of termination or expiry to the other Party.

4.2 The LCO shall, within 15 days of the termination or expiry of the term of this Agreement, as the case may be, in terms of the provisions mentioned herein, hand over to the MSO all properties and assets belonging to the MSO, which are in the custody of the LCO**.** The LCO shall also be liable to make good all the losses or damages, if any, caused to such properties and assets belonging to the MSO, in custody of the LCO, within 30 days from the receipt of notice to this effect from the MSO and in the event of inability of LCO to repair such properties/assets, the LCO shall pay to the MSO the depreciated value of such properties/ assets.

4.3 The MSO shall, within 15 days of the termination or expiry of the term of this Agreement, as the case may be, in terms of the provisions mentioned herein, hand over to the LCO all properties and assets belonging to the LCO, which are in the custody of the MSO**.** The MSO shall also be liable to make good all the losses or

IndiaCode

damages, if any, caused to such properties and assets belonging to the LCO, in custody of the MSO, within 30 days from the receipt of notice to this effect from the LCO and in the event of inability of MSO to repair such properties/assets, the MSO shall pay to the LCO the depreciated value of such properties/ assets.

Explanation:- The clause 4.2 and 4.3 above shall not have any application in respect of Hardware or any other equipment belonging to the MSO or the LCO, as the case may be, which are installed at the premises of the subscribers.

4.4 If the LCO or the MSO, as the case may be, fails to hand over the assets or make good losses or damages caused to such properties and assets within the above stipulated period, the defaulting Party shall be liable to make payment for the depreciated value of the same together with simple interest calculated at the rate 2% over and above the base rate of interest of the State Bank of India.

5. PROVISIONING OF SERVICES

5.1 The MSO shall make available signals of TV channels to the LCO, on non-exclusive basis, in order to distribute the same to the subscribers in the Territory, in terms of this agreement and as per prevailing norms, policies, the applicable laws and rules, regulations, directions and orders of the concerned authorities.

IndiaCode

5.2 The LCO shall carry signals of TV channels received from the MSO, on non-exclusive basis, for distribution to the subscribers in the Territory.

5.3 The Parties shall compulsorily transmit, re-transmit or otherwise carry any channel or programme only in encrypted mode through a digital addressable system strictly in terms of and in accordance with the applicable laws and regulations.

5.4 The roles and responsibilities of the Parties to the Agreement for provisioning of services are contained in **clause 10** of this Agreement.

5.5 In consideration of the roles and responsibilities mentioned in **clause 10** of the Agreement, the revenue settlement between the LCO and the MSO have been mentioned in the **clause 12** of the Agreement.

6. RIGHTS OF THE MSO

6.1 The MSO shall continue to have a right of ownership of its network used to deliver the cable TV services under this agreement and it may expand/ upgrade/ change/ replace/ re-design any part or entire network subject to the condition that any such activity does not interrupt or degrade the Quality of Service provided to the subscribers.

6.2 The MSO shall sign the interconnection agreement with broadcasters for distribution of signals of TV Channels as per prevailing norms, policies, the applicable laws and rules, regulations, directions and orders of the concerned authorities.

6.3 The MSO shall have the right to finalise the maximum retail price of each channel, as payable by the subscriber in compliance with the provisions of applicable laws and rules, regulations and tariff orders.

6.4 The MSO shall have the right to package the channels/ services offered on the network, as per its business plan and as per prevailing norms, policies, the applicable laws and rules, regulations and tariff orders.

6.5 The MSO shall have the right to finalise the rate of Basic Service Tier (BST) in compliance with the provisions of the applicable tariff orders and regulations notified by the Authority from time to time.

6.6 The MSO shall have the right to finalise the rates of bouquets of channels, if offered by the MSO, in compliance with the provisions of the applicable tariff orders and regulations notified by the Authority.

6.7 The MSO shall have the right to get all requisite information from the LCO for the purpose of fulfilling its responsibilities under the Agreement, and the applicable orders and regulations.

7. RIGHTS OF THE LCO

IndiaCode

7.1 The LCO shall continue to have its right of ownership of its network used to deliver the cable TV services under this agreement and it can expand/ upgrade/ change/ replace/ re-design any part or entire network subject to the condition that any such activity does not interrupt or degrade the Quality of Service offered to the subscriber on its network.

7.2 The LCO shall have right to get all the requisite information from the MSO for the purpose of fulfilling its responsibilities under the Agreement, and the applicable orders and regulations.

8. OBLIGATIONS OF THE MSO

8.1 MSO shall set up and operationalise the Head-end, Conditional Access System (CAS) and Subscriber Management System (SMS) for ensuring efficient and error-free services to the subscribers by recording and providing individualized preferences for channels, billing cycles or refunds.

8.2 The MSO shall make available to the LCO, the necessary and sufficient information relating to the details of channels, bouquets of channels, and services offered to the subscribers including their prices.

8.3 The MSO shall provide web based grievance redressal mechanism for addressing the complaints of LCOs in relation to the provision of services, roles and responsibilities, revenue settlements, quality of services etc.

8.4 The MSO shall not issue pre-activated STBs and the STBs shall be activated only after the details of the Customer Application Form (CAF) have been entered into the SMS.

8.5 The MSO shall generate bills for subscribers on regular basis, for charges due and payable for each month or as per the billing cycle applicable for that subscriber, within 3 days from the end of the billing cycle.

8.6 The MSO shall provide access to the relevant part of the SMS under its control to the LCO for the purpose of fulfilling responsibilities by the Parties under the Agreement, and the applicable orders and regulations.

8.7 The MSO shall not indulge in any piracy or other activities, which has the effect of, or which shall result into, infringement and violation of trade mark and copyrights of the LCO or person associated with such transmission.

8.8 The MSO shall comply with all the applicable statutes or laws for the time being in force, or any rules, codes, regulations, notifications, circulars, guidelines, orders, directions etc. issued, published or circulated under any law for the time being in force.

8.9 The MSO shall not do any act or thing as a result of which, any right or interest of the LCO in respect of cable TV signals under this Agreement or any property of the LCO may be infringed or prejudiced.

8.10 The MSO shall be responsible for encryption of the complete signal, up to the STB installed at the premises of the subscriber.

IndiaCode

8.11 The MSO shall not disconnect the signals of TV Channels, without giving three weeks' advance notice to the LCO clearly specifying the reasons for the proposed disconnection as envisaged in the Interconnection Regulation.

8.12. The MSO shall make available consumer friendly electronic payment options in the subscriber management system for the electronic payment of bills by the subscribers, prepaid system for subscribers and facility for acknowledgments/receipts to the subscribers for the payments made by them.

8.13 The MSO shall provide to the LCO at least 2% of the total STBs active in the network of the LCO with an upper cap of 30 STBs as maintenance spare, which are not pre-activated, to ensure speedy restoration of services affected due to any fault in STB. This quantity of maintenance spare STBs shall be maintained during the term of the agreement.

8.14 The MSO shall intimate to the LCO, at least 15 days in advance, in respect of any proposed changes in the package composition or the retail tariff being offered to the subscriber.

8.15 The MSO shall have no right, without the prior written intimation to the LCO, to assign or transfer any of its rights or obligations under this Agreement.

9. OBLIGATIONS OF THE LCO

9.1 The LCO shall handover a copy of CAF received from subscribers within 15 days to the MSO.

9.2 The LCO shall be responsible for entering the details of the bill amount paid by the individual subscriber to the LCO for the Cable TV services in the SMS.

9.3 The LCO shall not indulge in any piracy or other activities, which has the effect of, or which shall result into, infringement and violation of trade mark and copyrights of the MSO, or any other person associated with such retransmission.

9.4 The LCO shall have no right, without the prior written intimation to the MSO, to assign or transfer any of its rights or obligations under this Agreement.

9.5 The LCO shall not replace the STBs of the MSO with the STBs of any other MSO without receiving the requests from the subscribers through application forms for returning the STB of the existing connections and for providing new connections through Customer Application Form. The new Set Top Box shall be activated only after entry of the details, as provided in new Customer Application Form, into the Subscriber Management System of the new MSO.

9.6 The LCO shall –

(i) not transmit or retransmit, interpolate or mix any signals which are not transmitted or generated by the MSO without the prior written consent of the MSO;

(ii) not insert any commercial or advertisement or information on any signal transmitted by the MSO. Any such tampering of signals or interpolating of signals shall be deemed to be a violation of this Agreement and shall constitute sufficient cause for termination of this Agreement by the MSO by giving such notice as prescribed under the law or under this agreement;

(iii) not interfere in any way with the signals provided by the MSO and also not use any decoding, receiving, recording equipment(s), counterfeit set top box or Smart card and any other like equipments;

(iv) not alter or tamper the Hardware including the seal (seal to prevent opening of set top box), misuse, replace, remove and shift the Smart card or STB without the written consent of MSO from their respective original addresses;

(v) not use, either before or after the installation of STB, of any decoding, receiving, recording equipment(s), counterfeit set top box(es), smart card(s) other than the STB(s), Smart cards and any other equipments supplied/ approved by the MSO, and to take actions as directed by the MSO against such subscribers.

(vi) intimate the MSO promptly about any alteration, tampering with the Hardware including the seal, misuse, replacement, removal and shifting of Smart cards and STBs, without the written consent of MSO, from their respective original addresses and also about the use, either before or after the STBs, of any decoding, receiving, recording equipment(s), counterfeit set top box(es) and smart card(s) other than the STB(s), Smart card(s) and any other items of Hardware supplied by the MSO, and to take actions as directed by the MSO against such subscribers.

9.7 The LCO shall not provide connection to any entity for further distribution of the Cable TV signals.

IndiaCode

9.8 The LCO shall not record and then retransmit Cable TV signals or otherwise to block or add or substitute or otherwise tamper with the signal being transmitted by the MSO or with the trunk line nor shall allow any other person to do so.

9.9 The LCO shall not do any act or thing as a result of which, any right or interest of the MSO in respect of the Cable TV signals under this Agreement or any property of the MSO may be infringed or prejudiced.

9.10 The LCO shall permit access to the systems under its control to the MSO, on non-exclusive basis, for the purpose of fulfilling responsibilities by the Parties under the Agreement, and the applicable orders and regulations.

9.11 The LCO shall not disconnect the signals of TV Channels, without giving three weeks' notice to the MSO clearly specifying the reasons for the proposed disconnection as envisaged in the Interconnection Regulation.

IndiaCode

10. ROLES AND RESPONSIBILITIES OF THE MSO AND THE LCO:

Sl. No.	Role	*Responsibility of the MSO or the LCO*	Remarks
(1)	(2)	(3)	(4)
1	Devising of Consumer Application Form, either in electronic format or print format or both, for initial subscription to broadcasting services containing the information as provided in the Schedule I of the QoS regulations.	**MSO**	
2	a. Provide information to consumers about the details of services at the time of every new connection as per the QoS regulations. b. Providing information to the subscriber about the details of offered STB schemes and the warranty/ repairing policy applicable thereof.	**LCO**	The MSO shall communicate to the LCO the details of services and STB Schemes along with repairing/ warrantee policy for onward communication to subscribers.
3	Provisioning of broadcasting services to the consumer upon obtaining duly filled Consumer Application Form and providing a copy of the same to the consumer as per the QoS regulations.	**LCO**	The LCO shall update the information in the subscriber management systems in each case within 24 hours from receipt of the application
4	Assigning a unique identification number (UIN) to every subscriber and communicating the same to the consumer as per the provisions of the QoS regulations.	**LCO**	The UIN shall be generated from the SMS. The relevant access of the SMS should be provided by the MSO to the LCO.
5	Activation of broadcasting services to the subscribers.	**LCO**	(1) Activation shall be done only after only after the details of Consumer Application Form have been entered into the SMS. (2) The MSO should provide relevant access to SMS for activation of broadcasting services.
6	Activation of requested channel(s) or bouquet(s) available on the platform, upon receiving a verifiable request from a subscriber as per the provisions of the QoS regulations.	**LCO**	Activation shall be done only through SMS.

IndiaCode

7	Deactivation of requested channel(s) and bouquet(s) from the subscription package of subscriber upon receiving a verifiable request from the subscriber, subscriber as per the provisions of the QoS regulations.	**LCO**	Deactivation shall be done only through SMS.
8	Temporary suspension of broadcasting services of a subscriber upon receiving a request from the subscriber as per the provisions of the QoS regulations.	**LCO**	Temporary suspension shall be done only through SMS.
9	Restoration of services of a subscriber, upon request from the subscriber as per the provisions of the QoS regulations.	**LCO**	Restoration of services shall be done only through SMS.
10	Relocation of connection of a subscriber from one location to another location, upon the request for the same as per the provisions of QoS regulations.	**LCO**	The LCO shall update the information in the subscriber management system immediately
11	Providing notice to the subscribers regarding interruption of signals for preventive maintenance as specified in QoS Regulations.	**MSO**	If preventive maintenance is to be carried out by the LCO then he shall inform the MSO to enable him to give notice to the subscribers
12	Disconnection of broadcasting services to a subscriber upon request from the subscriber and refunding of deposits subject to fulfilment of the terms and conditions provided in the QoS regulations.	**MSO**	
13	Offering broadcasting services to the subscribers either on pre-paid basis or post-paid basis or both as provided in the QoS regulations.	**MSO**	
14	Changing payment mechanism from pre-paid to post-paid or vice-versa, as the case may be, on the request made by the subscriber.	**MSO**	
15	Generation of post-paid bills for subscribers as per the QoS norms.	**MSO**	
16	Delivery of post-paid bills to subscribers as per the QoS regulations.	**MSO**	
17	Issuance and delivery of receipts to post-paid subscribers for manual payments made by them and entering the details of the receipts in	**MSO**	

IndiaCode

	the subscriber management system as per the QoS regulations.		
18	Acknowledging pre-paid payments to the subscriber and updating the subscriber management system accordingly.	**MSO**	
19	Providing set top boxes to the subscribers conforming to the standards prescribed in the QoS regulations.	**MSO**	
20	Offering different schemes for the STB as per the QoS regulations.	**MSO**	
21	Offering annual maintenance scheme for the Customer Premises Equipment provided under outright purchase scheme after the expiry of guarantee/warranty period as per the QoS regulations	**MSO**	
22	Repairing of a malfunctioning set top box as per the QoS regulations.	**MSO**	
23	Publicizing toll free consumer care number and address of the web based complaint management system to the subscribers through customer care channel and website, as provided in the QoS Regulations.	**MSO**	
24	Providing copies of Manual of Practice (MoP) to subscribers as specified in QoS regulations.	**LCO**	The MSO shall finalize the contents of MOP. Copies of such MoP shall be shared with the LCO.
25	Payment of taxes to the Government.	**MSO and/ or LCO**	The specific details of tax payment responsibilities need to be filled in the adjoining cells at the time of signing of the agreement as per the rules and regulations of the respective Tax authorities.

IndiaCode

11. BILLING

11.1 The billing for subscribers shall be in the name of the MSO. However, each party shall ensure that the applicable laws, rules and regulations relating to taxes are complied with.

11.2 The MSO shall receive the payment of the subscription fee paid by the subscribers. The revenue share as per clause 12.1 of this Agreement shall be paid by the MSO to the LCO on receipt of the invoice from the LCO.

12. REVENUE SETTLEMENT BETWEEN THE LCO AND THE MSO AND RELATED RIGHTS AND OBLIGATIONS

12.1 The network capacity amount and distribution fee amount shall be shared in the ratio of 55:45 between multi system operator and local cable operator respectively.

Note:-*Network capacity fee amount and the distribution fee shall have the same meaning as defined in the Interconnection Regulations and Tariff Order.*

IndiaCode

12.2 The MSO shall share the complete information relating to the subscribers billing and receipt of the payments with the LCO. The LCO shall issue monthly invoice to the MSO towards dues payable by the MSO for revenue settlement and such invoice shall clearly specify the current payment dues and arrears, if any, along with the due date of payment which shall not be less than seven days. Any demand of arrears shall be accompanied by the proof of service of invoices for the period for which the arrears pertain. The amounts raised in the invoice shall be payable on or before the due dates as mentioned therein.

12.3 The Party shall update the details of the subscription amount realised from the subscriber, in the SMS within 7 days from the due date.

13. DEFAULTS

13.1 Without prejudice to such rights and remedies that the Parties may have in law or under the provisions of this Agreement, in the event of any delay or failure by the MSO or the LCO, as the case may be, to make payments of dues on or before the respective due dates, the LCO or the MSO, as the case may be, shall have the right:-

(i) to disconnect the services subject to the compliance of the applicable rules, regulations, directions or orders of the Authority;

(ii) to terminate this Agreement, subject to compliance of the applicable laws in force;

(iii) to charge a simple interest at the rate 2% over and above of the base rate of interest of the State Bank of India from the date such amounts became due until those are fully and finally paid;

13.2 In cases where any of the Parties has failed to make payment on or before due date for three consecutive months in the past, the other Party shall have right to demand the interest free security deposit which shall not exceed average of immediately preceding 6 months billing amounts and the same shall be maintained for the remaining term of the agreement.

13.3 Upon disconnection of the service as mentioned in clause 13.1 above, whether accompanied by termination of this Agreement or not, the defaulting Party shall be liable to deposit forthwith all sums payable by it. In the case of termination, accounts shall be settled within thirty days and for delayed payments, either Party shall be liable to pay simple interest at the rate 2% over and above of the base rate of interest of the State Bank of India.

14. UNDERTAKINGS

14.1 Each Party shall recognize the exclusive ownership of the property owned and installed by the other Party and shall not have or claim any right, title or interest or lien of whatsoever nature.

IndiaCode

14.2 Nothing contained herein shall constitute either Party as the agent or partner or the representative of the other for any purpose and neither Party shall have the right or authority to assume, create or incur any liability or obligation of any kind, express or implied, in the name of or on behalf of the other Party and the relationship between the MSO and the LCO shall remain on "Principal to Principal" basis.

14.3 It is expressly understood by the Parties that "_____" logo(s) is a Registered Trade Mark of the MSO, and the LCO shall use the said logo only during the currency of this Agreement for the benefit of the cable television networking business of the MSO. Consent of the MSO is hereby given to the LCO to use the said logo, to the extent of or in connection with the business of the MSO.

14.4 It is expressly understood by the Parties that "_____" logo(s) is a Registered Trade Mark of the LCO, and the MSO shall use the said logo only during the currency of this Agreement for the benefit of the cable television networking business of the LCO. Consent of the LCO is hereby given to the MSO to use the said logo, to the extent of or in connection with the business of the LCO.

14.5 It is clearly understood and accepted by each Party that it shall have no right to use any intellectual property of the other on its Cable TV service or otherwise on or after the withdrawal by the other Party of its consent for such uses.

14.6 In case the LCO or the MSO, as the case may be, decides to transfer its interest in respect of its business of providing Cable TV Service to any other party / person (third party), in whole or in part, the LCO or the MSO, as the case may be, shall give prior notice to the MSO or the LCO. One Party shall not have any objection to such transfer if the other Party has complied with its obligations under this contract and has paid all its dues.

Provided, however, that such third party shall sign and execute a deed of adherence to the terms and conditions of this Agreement and other undertaking/ bonds to the satisfaction of the MSO or the LCO, as the case may be, in order to give effect to the provisions of this Agreement.

14.7 The LCO shall maintain and continue to maintain its Postal Registration Certificate renewed from time to time in accordance with the Cable TV Networks (Regulation) Act, 1995 and comply with the terms and conditions of the registration certificate issued by the Postal Authority.

14.8 The MSO shall maintain and continue to maintain its Registration Certificate renewed from time to time in accordance with the Cable TV Networks (Regulation) Act, 1995 and comply with the terms and conditions of the registration.

14.9 Both the Parties shall comply with the Programme Codes and Advertising Codes prescribed in the Cable Television Network Rules, 1994, as amended from time to time.

14.10 Both the Parties shall comply with the laws for the time being in force in India, as applicable to them.

IndiaCode

15. PREVENTION OF PIRACY

15.1 The Parties shall not indulge or allow any person to indulge in Piracy or in reverse engineering of any technology used in the Hardware or any component thereof nor shall they use the Hardware to be connected to any equipment for setting up a mini head-end for retransmission of the signals generated from the same.

15.2 Signal to any subscriber shall be disconnected by the MSO or the LCO, as the case may be, after giving due notice as required under applicable regulations, if found to be indulged in or abetting any Piracy.

16. DISCLAIMER AND INDEMNITY

16.1 In no event, the MSO shall be liable to the LCO for any indirect, special, incidental or consequential damage arising out of or in connection with the disruption, interruption or discontinuance of the Service or for any inconvenience, disappointment or due to deprival of any programme or information or for any indirect or consequential loss or damage, which is not attributable to any act of the MSO.

16.2 In no event, the LCO shall be liable to the MSO for any indirect, special, incidental or consequential damage arising out of or in connection with the disruption, interruption or discontinuance of the Service or for any inconvenience, disappointment or due to deprival of any programme or information or for any indirect or consequential loss or damage, which is not attributable to any act of the LCO.

16.3 LCO shall indemnify the MSO for all cost, expense and damages by reason of any claim, action or proceedings from any third party or from subscribers for any inconvenience, loss or annoyance caused to them due to any default of the LCO or due to termination of the Agreement or suspension of the Service due to LCO's breach.

16.4 MSO shall indemnify the LCO for all cost, expense and damages by reason of any claim, action or proceedings from any third party or from subscribers for any inconvenience, loss or annoyance caused to them due to any default of the MSO or due to termination of the Agreement or suspension of the Service due to MSO's breach.

17. GOVERNING LAW AND DISPUTE RESOLUTION

17.1 As mandated by the Telecom Regulatory Authority of India Act, 1997, the Parties shall not institute any suit or seek injection or interim orders in any court or judicial tribunal/ authority in India with respect to any claims, dispute or differences between the Parties arising out of this Agreement save and except before the Telecom Disputes Settlement and Appellate Tribunal, New Delhi **("TDSAT").** The Parties agree that all disputes between the Parties shall be resolved solely through proceedings instituted before the TDSAT.

18. FORCE MAJEURE

18.1 Failure on the part of the MSO or the LCO to perform any of its obligations, shall not entitle either Party to raise any claim against the other or constitute a breach of this Agreement to the extent that such failure arises from an event of Force Majeure. If through Force Majeure the fulfilment by either Party of any obligation set forth in this Agreement is delayed, the period of such delay shall not be taken into account in computing periods prescribed by this Agreement. Force Majeure will include act of god, earthquake, tides, storm, flood, lightening, explosion, fire, sabotage, quarantine, epidemic, arson, civil disturbance, terrorist attack, war like situation, or enactment of any law or rules and regulation made by the Authorities or revocation of registration of the Parties any circumstances beyond the reasonable control of the Parties herein that directly or indirectly hinders or prevents either of the Parties from commencing or proceeding with the consummation of the transactions contemplated hereby. The Party affected by such Force Majeure event shall promptly notify the other Party of the occurrence of such event. It is agreed between the Parties that lack of funds shall not in any event constitute or be considered an event of Force Majeure. If the conditions of Force Majeure to continue for a period exceeding one month, the Parties shall meet to decide upon the future performance of the Agreement. If the Parties are unable to agree upon a plan for future performance, then the Agreement shall be terminated upon notice of either Party to the other, on expiry of one month from the date of such notice.

indiacode

18.2 Any accrued payment obligation of a Party prior to the commencement of Force Majeure shall survive the termination of this Agreement pursuant to such Force Majeure.

19. NOTICES

19.1 Any notice to be served on any Party by the other shall be deemed to have been validly sent if sent by Registered Post Acknowledgement Due (RPAD) or speed post service of Department of Post, Government of India or by hand delivery duly acknowledged at the address mentioned in the beginning or at such other changed address as the Party may inform and the date of receipt of such notice shall be the date of receipt by the other Party or 7 days from the date of dispatch of the notice by RPAD, whichever is earlier.

20. RESTRICTION ON TRANSFER

20.1 The either Party shall not remove, sell, assign, mortgage, transfer/sublet and encumber all or any part of the network which belongs to the other Party. If the Party indulges in any of the above-mentioned acts, the said acts shall be illegal and void ab-initio and the Party shall also be liable for any action under the applicable law.

21. CONFIDENTIALITY

21.1 The Parties shall keep in strict confidence, any information received by one from the other while participating in the affairs/business of each other and shall not disclose the same to any person not being a party to this Agreement.

21.2 The Parties shall also bind their employees, officers, advisors, associates, contractors, agents, authorized persons and other similar persons to whom the above mentioned information may be disclosed, to the obligations of confidentiality.

21.3 The Parties hereby agrees that the confidential information can be disclosed to the statutory authority on demand by such authorities.

IndiaCode

22. MODIFICATIONS

22.1 The Agreement cannot be modified, varied or terminated except in writing. Any variation of the Agreement, including Addendum Agreements, Annexures, Schedules or any other document, called by whatever name, but executed in relation to this Agreement, shall be mutually agreed to in writing and executed by or on behalf of the Parties.

23. BINDING EFFECT

23.1 This Agreement modifies all prior understanding of the Parties as to the subject matter thereof and shall not be amended except in writing by both the Parties. Any other understanding between the Parties (if any) with regard to any other matter or any accrued rights and obligation of the Parties not covered under this agreement, if any, shall continue to be in full force and effect.

IN WITNESS WHEREOF the Parties have set and subscribed their respective hands to this Agreement on the date and year appearing hereinabove.

Signed on behalf of the MSO
(_____)
In the presence of
1. ……..
2. ……..

Signed on behalf of the LCO

(_____)

In the presence of

1. ……..

2. ……..

Note: The self attested copies of power of attorney/authorization letter, whereby the signatories of this agreement have been authorised to sign and execute this agreement by the Parties, shall be attached with this agreement.

IndiaCode

Schedule

DEFINITIONS AND INTERPRETATIONS

A. DEFINITIONS

In the Agreement unless the context requires otherwise, the following words and expressions shall have the meanings set out herein below:

(a) "Act" means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(b) "addressable system" shall have the same meaning as assigned to it in the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017;

(c) "Authority" means the Telecom Regulatory Authority of India established under subsection (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(d) "basic service tier" means a bouquet of free to air channels as referred to in the Tariff Order;

(e) "bouquet" or "bouquet of channels" means an assortment of distinct channels offered together as a group or as a bundle and all its grammatical variations and cognate expressions shall be construed accordingly;

(f) "broadcaster" means a person or a group of persons, or body corporate, or any organization or body who, after having obtained, in its name, downlinking permission for its channels, from the Central Government, is providing programming services;

(g) "cable service" or "cable TV service" means the transmission of programmes including re-transmission of signals of television channels through cables;

(h) "cable television network" or "cable TV network" means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(i) "customer care centre" means a department or a section or a facility established under QoS regulations;

(j) "CTN Act" means the Cable Television Networks (Regulation) Act, 1995 (7 of 1995);

(k) "encryption or encrypted" in respect of a signal of cable television network, means the changing of such signal in a systematic way so that the signal would be unintelligible without use of an addressable system and the expression "unencrypted" shall be construed accordingly;

(l) "free-to-air channel" shall have the same meaning as assigned to it in the Tariff Order;

(m) "hardware" means a multi-system operator approved set top box to enable the decryption of signals of Channels transmitted in encrypted form, the remote and other associated components and accessories;

(n) "head-end" means a facility that contains satellite receivers, modulator, compression equipment, multiplexes, and conditional access facilities, other transmission equipments and has antennas which receive signals from Satellite and/or from local studio for retransmission to subscribers directly or through linked LCOs;

(o) "Interconnection Regulation" means the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017;

IndiaCode

(p) "Manual of Practice (MoP)" means the Manual of Practice as referred to in the QoS Regulation;

(q) "pay channel" shall have the same meaning as assigned to it in the Tariff Order;

(r) "piracy" means unauthorized reception, retransmission or redistribution of Cable TV Signal by any person by any means and modes including but not limited to any alteration, tampering of the seal or any component or accessory thereof or misuse, replacement, removal and/or shifting of Hardware or any use, either before or after the set top box, any decoding, receiving, recording equipment(s), counterfeit or unauthorized devices or any activity, which has the effect of, or which may result into, infringement and violation of trade mark and copyright of the MSO or the LCO as the case may be;

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

(iii) exhibition of films, features, dramas, advertisements and serials,

(iv) any audio or visual or audio-visual live performance or presentation,

and the expression "programming service" shall be construed accordingly;

(t) "QoS Regulation" means the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017;

(u) "set top box" means a device, which is connected to or is part of a television receiver and which enables a subscriber to view subscribed channels;

(v) "smart card" means the card duly approved by the multi system operator as part of the Hardware, which enables the subscriber to gain access to the Cable TV signals of Channels.

(w) "subscriber" for the purpose of these regulations, means a person who receives broadcasting services, from a distributor of television channels, at a place indicated by such person without further transmitting it to any other person and who does not cause the signals of television channels to be heard or seen by any person for a specific sum of money to be paid by such person, and each set top box located at such place, for receiving the subscribed broadcasting services, shall constitute one subscriber;

(x) "subscriber management system" means a system or device which stores the subscriber records and details with respect to name, address and other information regarding the hardware being utilized by the subscriber, channels or bouquets of channels subscribed by the subscriber, price of such channels or bouquets of channels as defined in the system, the activation or deactivation dates and time for any channel or bouquets of channels, a log of all actions performed on a subscriber's record, invoices raised on each subscriber and the amounts paid or discount allowed to the subscriber for each billing period;

(y) "Tariff Order" means the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017;

(z) "trunk line" means the coaxial/optic fibre cable network and other allied equipment such as receiver nodes, amplifiers, splitters etc. owned and installed by the multi-system operator or its associate companies for the purpose of transmitting Cable TV Signal to various LCOs till the receiving end of various LCOs, including the LCO, to enable them to re-transmit the Cable TV Signal to respective subscribers;

IndiaCode

All other words and expressions used in this interconnection agreement but not defined, and defined in the Act and rules and regulations made there under or the CTN Act and the rules and regulations made there under, shall have the meanings respectively assigned to them in those Acts or the rules or regulations, as the case may be.

B. INTERPRETATION

In this Agreement, unless the context otherwise requires:

(a) Any reference to the singular in the Agreement shall include a reference to the plural and vice versa and words importing one gender only shall include all other genders unless the context otherwise requires;

(b) The word "person" shall include individuals, corporations, partnerships, association of persons and any other entities;

(c) Any references to article, clauses, sub-clauses, appendices, annexure and schedules are references to Articles, clauses, sub-clauses, appendices, annexure and schedules to the Agreement unless the context otherwise expressly provides;

(d) References to a "month" are to a calendar month;

(e) Headings and titles are for ease of reference only and shall not affect the interpretation of this agreement and in no way be read to give a construction not harmonious with the interpretation of various clauses of this agreement done otherwise independent of the title.

(f) Any reference to law, regulation, statutory provision, order, guideline, policy, etc, includes references to such law or regulation or provision, order, guideline, policy, etc., as modified, codified, amended or re-enacted from time to time.

IndiaCode

Schedule VII

(Refer sub-regulations (1) and (3) of the regulation 14)

Subscription Reports

A: Monthly subscription reports of channels or bouquets to be provided by a distributor of television channels to a broadcaster.

Reported Month:_____ Year:_____

A.1 Monthly subscription of a channel or bouquet shall be arrived at, by averaging the number of subscribers subscribing that channel or bouquet, as the case may be, recorded four times in a month, as provided in table-1 and table-2 respectively. The number of subscribers shall be recorded at any point of time between 19:00 HRS to 23:00 HRS of the day.

IndiaCode

Table 1- Monthly subscription for a-la-carte channels

Sl.	Name of the channel	Number of subscribers of the channel on 7th day of the month	Number of subscribers of the channel on 14th day of the month	Number of subscribers of the channel on 21st day of the month	Number of subscribers of the channel on 28th day of the month	Monthly subscription of the channel
(1)	(2)	(3)	(4)	(5)	(6)	(7)=[(3)+(4)+(5)+(6)]/4
1.						
2.						

Table 2- Monthly subscription for bouquets of pay channels

Sl.	Name of the bouquet of pay channels	Name of constituent channels of bouquet of the broadcaster	Number of subscribers of the bouquet on 7th day of the month	Number of subscribers of the bouquet on 14th day of the month	Number of subscribers of the bouquet on 21st day of the month	Number of subscribers of the bouquet on 28th day of the month	Monthly subscription of the bouquet
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)=[(4)+(5)+(6)+(7)]/4
1.							
2.							

B: Subscription reports in cases where the transaction of carriage fee is involved.

Reported Month:_____ **Year:_____**

Target Market:_____

B1: Monthly subscription for the channel and bouquet of the broadcaster carried by the distributor of television channels shall be calculated in the manner specified above in the table-1 and table -2 of this schedule, respectively.

B2: Average active subscriber base in the target market in the month shall be arrived at, by averaging the active subscriber base count recorded four times in a month, in the manner as provided in the table-3. The active subscribers base count of the network shall be captured from the subscriber management system at any point of time between 19:00 HRS to 23:00 HRS of the day.

IndiaCode

Table 3 –Average active subscriber base in a month in the target market

Type of STB	active subscriber base count on 7th day of the month	active subscriber base count on 14th day of the month	active subscriber base count on 21st day of the month	active subscriber base count on 28th day of the month	Average active subscriber base in the month
(1)	(2)	(3)	(4)	(5)	(6)=[(2)+(3)+(4)+(5)]/4
Standard Definition STB					
High Definition STB					

B3: For the purpose of calculation of carriage fee for standard definition channel, the average active subscriber base of standard definition STBs as well as high definition STBs deployed in target market shall be taken into account.

B4: For the purpose of calculation of carriage fee for high definition television channel, the average active subscriber base of high definition STBs deployed in target market shall be taken into account.

Note:

1. Each set top box, located at a place indicated by the subscriber for receiving the subscribed broadcasting services from the distributor of television channels, shall constitute one subscriber.
2. The reports shall be generated in non-editable PDF format, with read only permissions.

Explanatory Memorandum to the Telecommunication (Broadcasting and cable) Services Interconnection (Addressable Systems) Regulations, 2017 (No 1 of 2017)

Background

1. The TRAI Act entrusts Telecom Regulatory Authority of India, amongst others, with the functions to ensure technical compatibility and effective interconnection between different service providers, fix the terms and conditions of interconnectivity between the service providers, and regulate arrangement amongst service providers for sharing their revenue derived from providing telecommunication services. In exercise of the powers conferred by the proviso to clause (k) of sub-section (1) of section (2) of the Act, in the year 2004, the Central Government notified the broadcasting services and cable services to be telecommunication services. The interconnection between broadcasting service providers is a techno-commercial arrangement by which service providers connect their equipments and networks to deliver broadcasting services to subscribers.

2. To discharge the above mentioned functions, the Authority, from time to time, notifies regulatory framework for interconnection between service providers for broadcasting services. Under the notified framework service providers finalize their commercial and technical terms to arrive at an agreement and share revenues as per the agreement.

3. The first interconnection regulations for broadcasting services, namely the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004), were notified by the Authority on 10.12.2004 (hereinafter referred to as the Interconnection Regulations, 2004). These were initially notified to regulate interconnection arrangements between service providers for distribution of TV channels in analog mode, in vogue at that point of time. From time to time, need arose to clarify, as well as to expand the scope of the Interconnection Regulations, 2004 to include addressable systems such as Direct to Home (DTH), Head-end In the Sky (HITS), and Internet Protocol Television (IPTV). The basic features of the Interconnection Regulations, 2004, inter alia, encompass the provisions for providing signals of a TV channel on non-discriminatory terms to distributors of TV channels, publishing Reference Interconnection Offer (RIO) for interconnection to ensure level playing field, entering in to written interconnection agreement, disconnection of signals of TV channel, and ascertaining the subscriber base.

4. The evolution of technology paved the way for digitization and addressability of the cable services. For implementation of digitization with addressability in the cable TV sector, the Parliament amended the Cable Television Networks (Regulation) Act 1995 on 30th December, 2011. Subsequently, the Cable Television Networks (Amendment) Rules, 2012 were notified by the Central Government on 28th April, 2012. The Authority notified the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (9 of 2012) on 30th April, 2012 (hereinafter referred as the Interconnection Regulations, 2012). These regulations were specifically applicable for cable services provided through Digital Addressable Cable Television Systems (DAS). The Interconnection Regulations, 2004, continued for non-addressable cable TV systems and also for other addressable systems such as DTH, HITS and IPTV. The basic features of the Interconnection Regulations, 2012 were similar to the basic features of the Interconnection Regulations, 2004, mentioned in Para 3 above.

5. As per the roadmap notified by the Central Government, after 31st March, 2017, the provisioning of cable services shall be permitted through Digital Addressable Systems only. Till now, digitization of the cable services has been completed in most of the urban areas. With the implementation of digitization and addressability in the cable TV sector, majority of subscribers receive broadcasting services through addressable systems.

6. Broadcasting services provided through addressable systems have numerous advantages over those provided through analog non-addressable systems. The digital addressable systems are efficient in provisioning of services and enable choice to the subscribers. The subscribers gets better signal quality, enhanced viewing experience, choice of more channels and can pay only for those channels/ services which they subscribes. For service providers, the addressable systems enable transparent business transactions based on verifiable parameters and improve transparency. It allows the collection of tax revenue, by the Government, commensurate to the actual market size.

7. The full benefits of digitisation can be accrued to various stakeholders in the value chain only when the business transactions are transparent and based on objective, measurable and computable parameters. The effective competition and level playing field in the market place is possible when the interconnection is based on transparent and non-discriminatory principles. TRAI is conscious of the fact that, while the interconnection regulatory framework should uphold necessary discipline in the sector to ensure transparent and non-discriminatory practices, it should also provide required freedom to service providers in the value chain to innovate. It should be able to provide a level playing field to all the service providers, effective choice to consumers, and orderly growth of the sector.

8. The regulatory framework ought to evolve with the time to keep pace with the developments in the sector. Accordingly, the Authority decided to review, in a complete and holistic manner, the regulatory framework for broadcasting services delivered through addressable systems which include Tariff orders, and Interconnection and Quality of Service (QoS) Regulations.

9. In line with the established practice, for reviewing the regulatory framework for broadcasting services, the Authority issued series of consultation papers on Tariff, Interconnection and QoS issues. The consultation paper on "Tariff Issues related to TV services" was issued on 29th January, 2016, "Interconnection framework for Broadcasting TV Services distributed through Addressable Systems" was issued on 4th May, 2016, and "Issues related to Quality of Services in Digital Addressable Systems and Consumer Protection" was issued on 18th May, 2016.

10. For consultation on "Interconnection framework for Broadcasting TV Services distributed through Addressable Systems" (the CP), initially one month time was given to the stakeholders to submit their comments. On requests of the stakeholders, the last date for submission of comments was extended by a week time i.e. up to 10th June, 2016. The last date for submitting counter comments was 17th June, 2016. In response to this consultation paper, a total of 28 comments and 1 counter comment were received from stakeholders. Subsequently, an Open House Discussion (OHD) program to discuss issues relating to interconnection with stakeholders was held on 13th July, 2016 at Delhi, which was attended by a large number of stakeholders.

11. After detailed analysis of the comments, counter-comments, and the views expressed by the stakeholders during the OHD, and internal examination of the issues relating to interconnection based on the information available with the Authority, draft Interconnection Regulations, 2016 namely the draft Telecommunication (Broadcasting and Cable Services) Interconnection (Addressable Systems) Regulations, 2016 were framed and the same were uploaded on TRAI website along with explanatory memorandum detailing objects and reasons of the draft Interconnection Regulations, 2016 for consultation with the stakeholders. The stakeholders were requested to provide their comments/ views on the draft, specifically on specific values suggested in the draft. A time up to 28th October, 2016 was provided to the stakeholders for comments, which was, on the request of the stakeholders, extended up to 15th November, 2016, by the Authority. The stakeholders were also requested to provide their inputs on completeness and consistency of the regulations within and with other draft regulations/ tariff orders. To better understand the views/ comments, the stakeholders were requested to provide their inputs with adequate justification. In response, a total 45 comments were received and these written comments were uploaded on TRAI website. After taking into consideration the comments received from the stakeholders

indiacode

and in-house analysis, the Authority finalized the Telecommunication (Broadcasting and cable) Services Interconnection (Addressable Systems) Regulations, 2017. The subsequent paragraphs explain the objects and reasons of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulation, 2017.

Copyright Issues

12. In response to the draft Interconnection Regulations 2016, some of the broadcasters stated that provisions of 'non-exclusivity', and 'must provide' are in conflict with certain provisions of the Copyright Act 1957. They have argued that the Copyright Act 1957 allows content owners and broadcasting organisations to exclusively license or assign their works and grant broadcast reproduction rights, whereas, the provisions of the draft regulations require the broadcasters to compulsory provide their channels to distributors of television channels on non-exclusive basis. They have further stated that the draft Interconnection Regulations 2016, denies the broadcaster the right to negotiate with the distributors.

13. The Authority is of the view that a TV channel is a distinct and different 'product' and is comprised of a collection of different individual programmes such as movies, sports, dramas, soap operas, music, etc. Some of these programmes are either created by the broadcasters themselves or they are acquired through license/ assignment from various content producers or production houses. Therefore, a TV channel is a mixture of different individual copyrightable works either owned or acquired through license/ assignment from different copyright owners/ authors by a broadcaster. The provisions of Interconnection Regulations, 2017 do not in any manner regulate as to how or at what price/royalty a broadcaster can acquire content form the content owners. These regulations do not in any manner regulate the process of acquiring the license by the broadcasters from the content owners for its TV channel and they also do not regulate copyrighted work underlying the TV channels. These regulations however govern the manner of offering of TV channels to the DPOs for further re-transmission to the subscribers on non-discriminatory basis. Therefore the contention of the broadcaster that the provisions of regulations are in conflict with the Copyright Act is not tenable.

14. The argument of the broadcasters that compulsory providing of TV signals to DPOs on non-exclusive basis and mandating agreement on the basis of RIO conflict with the provisions of Copyright Act is not in conformance with the well-settled position of law. This issue has been settled by Hon'ble TDSAT in the case of M/s Noida Software Technology Park Ltd. Vs. M/s Media Pro Enterprise India Pvt. Ltd. & Ors., in Petition No. 295 (C) of 2014, judgement dated 07.12.2015. A Statutory Appeal carried from the Hon'ble TDSAT judgment in Noida Software Technology Park vs. Media Pro Enterprises India Pvt. Ltd. was dismissed by the Hon'ble Supreme Court vide order dated 26.02.2016 in Civil Appeal No. 1446 of 2016.

15. The arguments of the broadcasters that signing of interconnection agreement on the basis of RIO takes away their right of mutual negotiation for licensing their BRR under Copyright Act is also not tenable. On this issue, it is important to note that the rule 9 read with rule 10 of the Cable Television Networks Rules, 1994 mandates TRAI to specify Standard Interconnection Agreements (SIA) to be entered for interconnection between broadcaster and MSOs. However, in terms of these regulations, TRAI has in fact refrained from prescribing any specific RIO or SIA for broadcasters giving them full freedom to innovate and market their offerings. These Regulations give freedom to broadcasters to devise and design their RIOs as per their own choice subject to compliance with the provisions of the regulations/ Tariff Order. The Hon'ble TDSAT in the case of Star Sports India Pvt. Ltd. Vs. Hathway Cable & Datacom Ltd. in Petition No. 47(C) of 2014, judgement dated 25.09.2014 has given its approval to the concept of RIO as a measure of ensuring a level playing field. If anything in these Regulations, the TRAI has reduced the extent of regulatory intervention.

IndiaCode

16. In the above referred judgements, Hon'ble TDSAT has exhaustively dealt with the issues of copyright and interconnection regulations and conclusively determined that the provisions relating to non-exclusivity, non-discrimination, reference interconnection offer etc. do no conflict with the provisions of Copyright Act.

Non-exclusivity and Non-discrimination

17. The Interconnection Regulations, 2004 and the Interconnection Regulations, 2012 prohibited exclusive arrangements, which prevent other service providers to get signals of TV channels or access to distribution networks, between service providers. They also made it obligatory on part of broadcasters to provide signals of TV channels to DPOs, on receipt of request for the same, on non-discriminatory basis which is commonly referred as 'must provide' principle and which in essence mandate a broadcaster to must make available its TV channels to DPOs and through them to viewers on an equal basis within a given territory. The principle of non-exclusivity and must provisioning of signals have to be examined primarily from the consumer's perspective. While at this juncture, although large number of broadcasters are present across popular genres, the competition is far from fair due to monopolistic nature of TV channels. TV channels within the same genre are differentiated from one another by their branding and composition of programs. They are not substitutes in the perception of consumers. As in a monopoly, firms in monopolistic competition are price setters, rather than price takers. If a TV channel, in demand in a particular market, is not available on any one TV distribution network and another popular channel in that market is not available on a competing distribution network then in such market the consumers may have to subscribe for services of more than one operator to view their favourite channels. Moreover, it is impractical for a consumer to obtain broadcasting/ cable services from multiple DPOs. In broadcasting and cable TV sector, to some extent, vertical integration still exists between broadcasters and DPOs. Any kind of exclusive agreements, whereby signals of popular TV channels can be denied to a competitor so as to promote the broadcaster's integrated distribution network will affect fair competition and choice to the consumers. Similarly, entering into any understanding or arrangement by a DPO with a broadcaster or LCO which prevents other broadcasters or other LCOs to access the network of the DPO for re-transmission or to obtain signals of TV channels may be prejudicial to the competition.

18. TRAI, being a sectoral regulator of broadcasting services and cable services, has been entrusted with the task of ensuring a level playing field and fair competition in the sector and also ensuring that the interests of consumers and service providers are protected. Therefore, TRAI has power to look at all issues affecting competition in the market and to craft remedies for the same on ex-ante basis. The Authority is of the view that any kind of exclusivity in distribution of TV channels is prejudicial for competition and hence should not be permitted and mandatory provisioning of signal is a meaningful step towards achieving the goal of fair competition and the interest of consumer. Accordingly in the draft Interconnection Regulations, 2016, necessary provisions for non-exclusivity and must provide were made. After analysis of the comments received in response to the draft Interconnection Regulations, 2016, it appears that these principles have been widely accepted and therefore these principles have been retained in these regulations.

Must Carry

19. The provisions relating to 'must carry' existed in the Interconnection Regulations, 2012, which was applicable for cable TV services provided through DAS. The 'must carry' provisions in the Interconnection Regulations, 2012, enabled broadcasters of Hindi, English and Regional channels to access the network of an MSO for re-transmission to the subscribers. However, in the Interconnection Regulations, 2004, which regulated non-addressable cable TV systems and the other addressable systems like DTH, HITS and IPTV, there was no 'must carry' provision. In the CP, it was proposed to make a uniform "must carry" provision for all addressable systems.

20. A service provider in the value chain may act as a seeker or as a provider. For example, when a distributor seeks signals of TV channels from a broadcaster, it acts as a seeker and the broadcaster in such case becomes a provider of the signals of TV channel. Whereas, when a broadcaster approaches a distributor for accessing its network for re-transmission of its channel(s) then it acts as a seeker and the distributor becomes the provider. The 'must provide' provision helps DPOs in making available TV channels to its subscribers on the basis of demand in a market. Similarly, 'must carry' provision removes entry barrier for a television channel to enter into a target market, as a broadcaster can distribute its channel(s) through the DPOs available in that target market.

21. In response to the CP, majority of the broadcasters stated that 'must carry' provision should be applicable for all types of networks. Whereas, one broadcaster and some DPOs stated that 'must carry' provision should not be made applicable to DTH and HITS networks as there are transponder capacity constraints. After analysis of the comments received in response to the CP, 'must carry' provision, wherein spare capacity of a DPO to be allocated on first come first served basis, was proposed in the draft Interconnection Regulations, 2016 for all types of addressable systems.

22. In response to the draft Interconnection Regulations, 2016, a broadcaster suggested that to ensure proper implementation of this clause, a real time monitoring of requests is required. It was suggested that the requests from broadcasters for re-transmission of their channels should be received by DPOs through websites only. Another broadcaster opined that DPOs should publish and update complete details of their network's channel carrying capacity and pending channel list in chronological order, within 7 days of any change in place of 30 days as proposed in the draft Interconnection Regulations 2016. Some broadcasters and an association stated that non stipulation of minimum channel carrying capacity for DPOs and the proposed provision of must carry on first come first serve basis may dilute the 'must carry' principle as deserving channels may be deprived access merely due to timing of request. They further commented that regional channels should be carried by regional MSOs. Many broadcasters also suggested that DPOs should continue to carry all the channels/ bouquets, which are available on their platform during the last calendar quarter from the effective date of the proposed regulation, for at least next 60 days to provide level playing field to all broadcasters.

23. DTH operators commented that satellite bandwidth is a scarce resource, which makes it not only cost prohibitive for DTH operators to add requisite transponders but is also difficult to obtain because of the long waiting time involved (usually 1-2 years) for various clearances. Therefore, they opined that flexibility be given to them to use this bandwidth economically and efficiently to meet the demands and preferences of their retail customers.

24. DTH operators also commented that 'first come first served' should not be implemented in situations where there is a gap between demand and supply and/or the resource to be provided is scarce. The principle of 'first come first served' might end up creating disputes between broadcasters and DPOs since it would be hard to determine the priority level of broadcasters' requests for the carriage of a channel. It would also lead to administrative issues (documentation, etc.) which would be difficult for private entities to manage. DTH operators further commented that due to these challenges the capacity of this media can never match that of the cable operators therefore it is their right as business entity to be able to sell the satellite space at the best possible business proposition.

25. Some DTH operators stated that the obligation of must carry will force DTH to carry even those channels which have very less demand or no demand which will be highly detrimental to the DTH platforms as well as to the customer. This will impact the customer base of DTH operators who would tend to move to other Digital platforms. Unlike a DAS operator which may have region based offerings, DTH operation is a PAN India operation where a DTH operator has to be selective in the choice of the channels to be placed on its platform.

26. One of the MSOs have suggested to have a proviso to regulation dealing with the 'must carry issue' that in case the number of channels in genre be filled to the extent of 10% of available capacity, then the distributor should be at liberty to deny carriage of a channel on the "first come first serve basis".

27. As per the downlinking guidelines of the Ministry of Information and Broadcasting (MIB), a broadcaster can distribute its TV channel through distributors of TV channels only. Therefore, it becomes essential that a broadcaster desirous of re-transmission of its TV channels to subscribers in a market should be able to access the network of distributors of TV channels in that market. The 'must carry' principle removes the entry barrier for channels and ensures that the network is accessible for distribution of channel. Denial of access to that particular market by a DPO may cause jeopardy to that broadcaster as it cannot reach end consumers in that particular market through any other alternate means.

28. On the other hand, a DPO plans the capacity of its distribution networks on the basis of demand in the market and availability of network resources. There is a distinct possibility that at a given time when a broadcaster approaches a distributor for re-transmission of its channels, spare capacity in the distribution network may not be available. To address the issues relating to capacity constraints and requirement of non-discriminatory access to distribution networks, a balanced approach need to be adopted. Accordingly, the following provisions have been made in these regulations:-

i. DPOs have been mandated to declare its target market and publish total channel carrying capacity and spare channel capacity along with other details specified in the regulation on its website, as the capacity varies from network to network,

ii. Any change in the information published by the DPOs on its website is required to be updated within seven days from the date of occurrence of such change so that the broadcasters can take informed decision before making request for carrying the channels,

iii. An interconnection agreement has to be in place for getting access to the network,

iv. DPOs are also required to maintain and publish on its website the list of channels, in chronological order, for which requests have been received from broadcasters for re-transmission of their channels, the interconnection agreements have been signed and are pending for re-transmission due to non-availability of the spare channel capacity. This will not only improve the transparency but also act as a deterrent for non-serious players seeking access.

v. DPO is required to allocate every alternate spare channel capacity on its network, in sequential manner, from the list for re-transmission of the television channels. This will address the issue of non-discrimination and would also enable carry those TV channels which are in demand in the market and requests have been made by the DPO for distribution after entering into interconnection agreement.

29. Thus, the Authority has decided that 'must carry' provision should be uniformly applicable to all types of DPOs subject to availability of spare capacity. In this way, while the DPOs have the freedom to plan their networks, the broadcasters would be able to get access to the distribution networks on non-discriminatory basis.

30. In deference to the long standing demand of broadcasters to mandate 'must carry' obligation on the DPO as a reciprocal obligation to the 'must provide' mandate on the broadcasters, in these regulations the TRAI has made applicable such provisions for all category of DPOs. The provisions relating to 'must carry' make it obligatory on part of DPOs to carry signals of TV channels of broadcasters, on receipt of written request for the same, on non-discriminatory basis.

IndiaCode

31. On the suggestion of some stakeholders regarding setting up of a minimum channel carrying capacity by DPO, the Authority noted that India is a pluralistic country with diverse requirements therefore; the choice of the customer may be varied depending on different demographics. The DPOs create network capacities depending upon the requirement of that market in which they are operating. Therefore, mandating a minimum capacity for networks may serve purpose for one region but that may not be suitable for other region. On the contrary mandating minimum channel carrying capacity for a distribution network may increase the cost to the consumers. The market forces would play an important and significant role in the matter of carrying capacity of the DPO. Therefore, the Authority is of the view that the channel carrying capacity of a DPO should be left to market forces and therefore, the same has not been regulated.

32. The Authority noted that, generally, the channels available on a distribution platform are a mix of channels obtained through 'must provide', 'must carry' and free to air channels distributed by a DPO as per demand in the market. So it is necessary that the available capacity of a distribution network is best utilised to meet the demand of the consumers in a particular market. Therefore, these regulations provide full right to the DPO on the used capacity of its network. However, on spare channel capacity, it has been made obligatory to allocate every alternate channel capacity in sequential manner from the pending list. For such channels the DPOs will get the carriage fee till the average channel subscriber base reaches 20%. Thus the above mechanism in no way restricts the business plans of DPOs and protects its right on its capacity to carry channels while addressing broadcasters concern also.

33. The MSOs suggestion that a proviso in the regulation dealing with the 'must carry' that in case the number of channels in genre be filled to the extent of 10% of available capacity, then the distributor should be at liberty to deny carriage of a channel on the "first come first serve basis" cannot be accepted as DPOs are allocating only the alternate spare capacity that too with carriage fee. Further, the subscriber demand will play a role in continuance of such channel and a provision has already been made for discontinuation of channel if it fails to acquire a minimum percentage of subscriber base during predefined time period.

34. In order to protect DPOs from carrying a non-popular channel under 'must carry' it was proposed in the draft Interconnection regulations, 2016, that DPO can discontinue carrying of a television channel in case the monthly subscription, for that particular television channel is less than 5% of the monthly average active subscriber base of that distributor in the target market specified in the interconnection agreement, in each of the immediately preceding six consecutive months. On this issue, most of the broadcasters opined that such provision may give unilateral power to DPOs to discriminate and will be against the principle of network neutrality and will enable operator to act as gate keepers for channels. A broadcaster suggested that a provision may be made for DTH and HITS operators to discontinue a channel if the subscription, in the preceding six months is less than or equal to a given minimum of 10 % of the total active subscriber base of that operator averaged over that period. Many broadcasters stated that, since HD penetration is very low, it is likely that HD Channels in many case would not qualify the criterion of 5% and will be liable to be disconnected by DPO. Therefore, they demanded protection for HD channels in this regard. Some other broadcaster said that, similar is the case for English genre channels as there is very less population demanding for English language channels. On the contrary, some DPOs quoted that it should be permitted to discontinue the channel if subscription percentage remains below 5% on the average subscriber base of the past 3 months instead of 6 months, and after such disconnection the permissible period of denial to carry the same channel again should be increased from 1 year to 3 years.

35. The Authority noted that such provision existed in the Interconnections, 2012 which was applicable for DAS. The Authority is of the view that such provision would ensure that non-popular channels do not occupy the space on a distribution network. Therefore the provision has been retained with slight

TRAI Copy

modification. In case of failure to maintain the required subscription levels, a DPO, in its discretion, could refuse to grant further access to the network for a period of further one year.

36. One of the unique features of digital networks is that it supports re-transmission of High Definition (HD) Channels. The picture quality and viewing experience in HD channels are far better than those of SD channels prevalent in the market. Generally, the bit-rate of HD channel is approximately two times of the bit rate of corresponding SD channels. Therefore, the Authority has mandated that in case one HD channel is discontinued or added by DPO then for the purpose of calculation of spare capacity, one HD channels shall be counted equivalent to two SD channels.

37. The Authority noted that at present there are only 17% of DTH subscribers are having HD set-top boxes and in case of MSO's subscribers, this figure is very low. Therefore, in such a situation, the likelihood of subscription of HD channels falling below 5% of total subscriber base of a DPO is very high. Therefore, the Authority is of the view that such channels needs different treatment and it has been decided that for the purpose of calculation of monthly subscription for HD TV channels, only the subscribers capable of receiving HD TV channels shall be considered.

38. However, the Authority has not agreed with the suggestion of some stakeholder regarding the protection to English language channels as it would be unfair to grant protection to channels on the language or genre basis and also it would be impossible to segregate the subscribers on the basis of their choice of language of channels.

39. On the suggestion of stakeholders in response to the CP regarding setting up of web-based interconnection request management systems, the Authority has constituted a task force to deliberate the issue of developing such a system.

IndiaCode

Time Limit for Provisioning of Signals/ Access to Network

40. The Interconnection Regulations, 2004 contained provisions relating to provisioning of signals of TV channels to seeker in a time bound manner. It was provided that a service provider should either provide the signals in the stipulated time of 60 days from the date of the request and, in case the service provider turns down the request, the reasons for such a refusal must be recorded in writing and conveyed to the seeker within 60 days from the date of the request so that the affected party can take corrective actions or agitate before appropriate forum, as the case may be. Time bound interconnection between service providers is essential for fair competition in the market and meeting the demand of the consumers in time. However, in the past, on many occasions, the Authority noted that even though providers (broadcasters or DPOs) did respond to the requests within the stipulated time, the negotiations to enter into mutually agreed written interconnection agreement were prolonged defeating the very purpose of the regulations. In many cases, due to prolonged negotiations, the time period of 60 days was not adhered to by either party. In the CP the issues relating to timely provisioning of signals / access to distribution network were discussed. To ensure the compliance of these regulations in letter and spirit, it was proposed in the CP that the 60 days period may be further sub-divided into sub-activities and RIO may contain necessary and sufficient conditions, so that a seeker can sign the same and send that to the provider for further necessary action, in case of any delay.

41. In response to the CP, most of the broadcasters and some DPOs supported the existing time line of 60 days for providing signals of TV channels/ access to the network, without any sub-division and suggested that financial disincentives may be levied on service provider in case of any default. Another broadcaster commented that 60 days period is not sufficient for a broadcaster to complete all the procedures for providing signals of TV channels and therefore it should be increased. Some DPOs stated that 60 days may be sub-divided into 2 periods i.e. 30 days each, the first for raising objections, technical audit etc.

and the second for curing the defects. A cable operator commented that only 30 days are sufficient for providing signal of TV channels.

42. The Authority noted that the service providers are required to carry out certain activities before providing signals of TV channels/ access to the network such as commercial discussions for entering into written interconnection agreements, assessment of addressable systems, provisioning of Integrated Receiver Decoders (IRDs) and other technical infrastructure. To ensure timely provisioning of signals/ access to the network, it is necessary that discussions for signing of interconnection agreements are completed in time bound manner. Delays in signing of interconnection agreements results in delay in providing signals of TV channels/ access to the network. Many times it has been observed that either for want of certain additional information, or on some technical or commercial grounds, the refusal to enter into agreement was conveyed by provider to seeker at the far end of the permissible period. Therefore, the permitted 60 days time cannot be used for signing or refusal of interconnection agreement only. The time period for signing of agreement and remaining other activities to be carried out for providing signals of TV channels/ access to the network need to be divided so that the delays are eliminated. Therefore, the Authority was of the view that the seeker and provider should conclude all the commercial discussions by entering into the written interconnection agreement within 30 days from the date of receipt of request from a service provider and make necessary arrangements for provisioning of signals of TV channels/ access to the network within next 30 days from the date of signing of the interconnection agreement. Accordingly in the draft Interconnection Regulations, 2016, necessary provisions for dividing the 60 days period into two separate periods of 30 days each, for signing of agreement and provisioning of signals/ access to the network, were made. After analysis of the comments received in response to the draft Interconnection Regulations, 2016, it appears that the stakeholders do not have any specific comment other than what were already articulated in response to the CP and therefore, the provisions relating to time limit for provisioning of signals/ access to network as proposed in the draft Interconnection Regulations, 2016 have been retained in these regulations.

43. On the aspect of levy of financial disincentives on the service providers for delay, the Authority noted that generally the delays in providing signals / access to distribution networks were either due to delay in signing of agreements or disputes of varied nature between the service providers. Now separation of time periods for signing of interconnection agreements and remaining technical activities, and the requirement for signing of agreements on the basis of reference interconnect offer should be able to address the issue relating to delays in signing of interconnection agreement to a large extent. Disputes can be appropriately resolved by the service providers either through mutual discussions or the same can be decided by the dispute resolution forums. Therefore, the Authority is of the view that prescription of financial disincentives at this stage is not necessary.

Reasons for denial of Signals / Access to Network

44. In the Interconnection Regulations, 2004 and the Interconnection Regulations, 2012, one of the parameters permitted for denial of signals/ access to the network was default in payment. In the draft Interconnection Regulations, 2016 also, after detailed analysis of the comments received in response to the CP, the Authority proposed to continue with such provision which makes the principles of "must provide" and "must carry" non-applicable in cases where the seeker is in default of payment and continues to be in default.

45. In response to the draft Interconnection Regulations, 2016, some broadcasters stated that while considering default by a DPO (seeker), as a reasonable parameter for denial of interconnection request, default by the DPO with that broadcaster along with all other broadcasters operating in the sector should be taken into account. Another broadcaster commented that reasons for denial should also include previous outstanding with any broadcaster/ proven track record of non-payment, criminal record of DPO/ criminal proceedings pending against DPOs and DPOs not complying with technical specifications.

46. For any industry, the revenue flow across the value chain is of utmost necessity for the growth of the industry. It is right that a habitual defaulter service provider should face some additional conditions before provisioning of signals/ access to distribution networks. However, for doing so in non-discriminatory manner, the industry needs to evolve an index to measure the level of default of a service provider, which does not exist today. Whenever, such mechanism is evolved by the industry, this could be another reason for imposing some additional conditions. The existing provisions relating to the default are inclusive and not exhaustive. The service providers are free to impose any other reasonable condition in non-discriminatory manner and seekers are free to respond to them. Therefore, the Authority, has retained the provision which makes principles of "must provide" and "must carry" non applicable to the cases where the seeker is in default of payment and continues to be in default.

Packaging of a Channel in DPO's Bouquet

47. For ease of subscription and management, in addition to offering the channels on a-la-carte basis, distributors offer bouquets of channels as per the demand of subscribers. However, in the past, it was noted that, there has been direct or indirect influence by broadcasters on distributors for packaging of their channels in specific bouquets offered by them. Generally the price difference between a-la-carte and bouquet offerings was kept very high. Such practices led to offering of some non-popular channels along with few popular channels as part of bouquets. This practice led to compromise of consumer choice as the subscribers were swayed to subscribe such bouquets in place of a-la-carte channels due to wide difference between the bouquet price and the sum of a-la-carte prices of constituent channels. In order to address the issue, in the draft Interconnection Regulations 2016, it was proposed that the broadcaster shall not include any clause in the interconnection agreement which, directly or indirectly, affects the decisions of a DPO to package channels in a bouquet offered to the subscribers.

48. In response to the draft Interconnection Regulations, 2016, some broadcasters opined that complete restriction on broadcasters to ask for specific packaging should not be permitted as this affects the revenue stream of a broadcaster. Broadcasters also stated that niche channels would suffer due to this and it would affect the reach of channels in terms of geographic distribution and therefore it may limit the production of good quality content in the industry. A news broadcaster commented that DPOs should be encouraged to create "genre wise packs" rather than a mix/ match of channels. Further, for packages covering wide genres, DPOs should not be allowed to disadvantage a channel with other channels in the competing genre.

49. Some DPOs have suggested that a provision should be added in the regulations which prevent broadcaster to impose any condition on a distributor to mandatorily offer all bouquets formed by such broadcasters. They have argued that if no such provision is added then the broadcasters would try and push their bouquets instead of subscribers choosing bouquets as per their wishes and tastes.

50. In order to address the issue, the Authority, in the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 has brought in a new framework, wherein a broadcaster has freedom to offer its pay channels in form of bouquet(s). Similarly, a distributor has also been given freedom to form its own bouquet(s) by including a-la-carte pay channels or bouquet(s) of pay channels of different broadcasters.

51. The arguments of the stakeholders that the proposed restrictions on packaging may limit the production of good quality content and affects the revenue stream of a broadcaster are untenable as subscription of channels/ bouquets by consumers as per their choice should encourage the broadcasters to offer good quality channels to meet their demand. For improving the reach of channels in terms of geographical distribution, the Authority has already increased the scope of "must carry" provisions in these regulations. However, the reach of channels in terms of subscription must be left to choice of consumers as this is one of the primary reasons for implementation of addressability in the distribution system.

Indian Code

52. Since the freedom for forming the bouquets has been given to both the stakeholders, therefore, it is expected that they will form the bouquets on the basis of consumers demand. Any kind of direct or indirect influence on DPOs for deciding composition of bouquet, other than the choice of consumers, affect the orderly growth of the sector. In order to ensure that choice of the consumers remain only guiding factor for determining the composition of bouquets, it is necessary to ensure that no broadcaster interferes with bouquet formation at the level of distributor.

53. For distribution of pay channels by DPOs on a-la-carte basis or for distribution of bouquets of pay channels, formed by broadcasters, it necessary that the interconnection agreement is in place. If a DPO enters into an interconnection agreement with the broadcaster for offering of broadcaster's bouquet and it forms its own bouquet(s) by including only some pay channels of the broadcaster's bouquet then the revenue settlement between the broadcaster and DPO should be according to the interconnection agreement signed for those particular channels on a-la-carte basis. Further to ensure that choice of a-la-carte selection remain available to customers in all circumstances, in these regulations the broadcasters and DPOs have been mandated to enter into interconnection agreement on a-la-carte basis for all pay channels before distribution.

54. On the concerns of DPOs regarding imposition of any condition to mandatorily offer all bouquets formed by such broadcasters, the Authority is the view that if all the constituent channels of the bouquet formed by the broadcaster are not available on the platform of the DPO then by default, the DPO will not be under obligation to carry such bouquet of broadcaster. Accordingly, necessary provisions have been made in these regulations that a broadcaster cannot provide any pre-condition as well as any clause in the interconnection agreement which directly or indirectly affect the packaging of the channels in a bouquet.

IndiaCode

Provisioning of Signal to LCOs

55. In case of DAS and HITS services, the last mile connectivity is mostly provided by LCOs. As per Cable TV Act and rules made there under, LCOs are registered in the head post offices of the areas of their operation. The Interconnection regulations, 2004 and the Interconnection regulations, 2012 contained provisions relating to time bound provisioning of signals of TV channel to LCOs within 60 days from the date of request.

56. In these regulations, to ensure the timely signing of interconnection agreement and provisioning of signals, the time period of 60 days has been divided in two parts. It has been mandated that the DPOs should enter into an interconnection agreement within 30 days from the date of receipt of request and thereafter provide the signals of TV channels to the LCO within next 30 days.

57. To ensure the proper revenue flow in the value chain, it is essential that the invoices are raised in time and due payments are also settled in time. Arrears, if any, need to be reflected in the subsequent invoices to ensure transparency in the business transactions. Many times, during the interactions with the stakeholders, it was reported that either in the absence of regular invoices or due to non-intimation of arrears in the subsequent invoices, the LCOs are suddenly confronted with demand for payment of huge amounts as arrears for last many months. Many a time LCOs have no information as to how such huge pending dues have been shown against them, especially when they were making regular payments and the arrears were not reflected in the invoices issued in the immediate past. Often it leads to disputes.

58. The issue can be tackled by ensuring that the invoices are issued on a monthly basis clearly showing the current dues as well as the arrears, if any. This will also ensure the transparency in the business transactions and revenue flow in the value chain. It is necessary to curb the practice of bad debts in the sector as it ultimately affects the price to subscribers. The latest invoices should clearly show the level of arrears outstanding against the LCO. The LCO should not be considered in default of payment to a distributor of TV channels if it produces the copy of immediately preceding six consecutive month's

invoices with corresponding payment receipts, as a proof of having paid its dues. Such stipulation will protect the LCOs from unexpected and unforeseen arrears being suddenly thrust upon them. Accordingly, suitable provisions have been made in this regard.

Prohibition of Minimum Guarantees

59. There may be different types of minimum guarantee. For example, a service provider may insist on other service provider to pay a fixed amount irrespective of number of subscribers actually subscribing a channel or number of subscribers in the network. There may be a situation, where a service provider might ask the other service provider to ensure a minimum number of subscribers before providing signals or stipulate a condition that only the service provider having a stipulated number of subscriber base can seek signals. There may be another possibility that the service provider might insist for a guarantee for a minimum percentage of subscription of its channels for providing signals of TV channels. A situation may also arise where a DPO before providing access to its network may put a condition that it will carry the requested channel only if the broadcaster enters into agreement for carriage of additional channel(s) or the DPO prescribes a certain minimum period for carriage of the requested channels.

60. The Interconnection Regulations, 2004 provide that in addressable systems, no service provider shall stipulate, insist or provide for any clause in an interconnection agreement with a distributor which would require such distributor to pay a minimum guarantee amount as subscription fee for the services provided. Similarly, the Interconnection Regulations 2012 provided that no service provider shall demand from any other service provider a minimum guarantee amount as subscription fee for the channels provided by such service provider. In a competitive market, insistence on any kind of minimum guarantee by either party is considered as an entry barrier and restricts the choice of consumers. The issue of minimum guarantee was discussed in the CP.

indiacode

61. In response to the CP, most of the broadcasters and DPOs opined that conditions such as minimum guaranteed number of subscribers or any fixed amount as a subscription fee should not be allowed. Broadcasters were also of the view that subscriber numbers and the rate of channels should be the core parameter for calculation however, discounts based on network size, LCN (logical channel numbers), parity etc. within the allowed caps should be considered for calculation, and minimum guarantee as a pre-condition should not be allowed. DPOs also favoured the prohibition of a minimum subscription guarantee.

62. Any kind of minimum guarantee between the interconnecting parties is reminiscent of the analogue era, in which the numbers of subscribers were either not verifiable or it was difficult to ascertain as to how many subscribers are subscribing the channels. Therefore, in order to protect their revenue, service providers used to charge a fixed amount from the other service provider or used to bill for a minimum number of subscribers irrespective of whether the other service provider has been able to get that many subscribers or not. With the advent of digitisation and addressability in the sector, every subscriber accessing a particular channel can be counted and the same can be easily verified. The malaise of under-reporting of subscribers was a main cause of revenue loss and disputes in the sector and the same has been cured by addressable systems. Despite that, the Authority has observed that the minimum guarantees in some or other form are still continuing in the sector. Stipulation of any minimum guarantee for number of subscribers or stipulation of any fixed fee/ fixed amount is not only anti-competitive but it also creates entry barriers for new service providers. It also defeats the purpose of implementing digitisation and addressability in the sector. This is against the objective of providing choice to the consumers and making services more affordable. Therefore, as far as the issue of minimum guarantee amount or fixed fee is concerned, the Authority is of the view that service provider neither can insist for payment of a fixed amount nor can provide such clause for payment of such fee in the interconnection agreement. Accordingly the necessary provisions have been made in these regulations. The Subscriber Management Systems (SMS) of addressable systems provides for a transparent mechanism to count the

number of subscribers availing broadcasting services and therefore a provision has been made that the 'broadcaster's share of maximum retail price' payable by a DPO shall be calculated on the basis of number of subscribers.

63. As far as the issue of prescription of guarantee of a minimum number of subscribers or subscriber base is concerned, the Authority is of the view that for ensuring competitiveness in the market and to remove entry barrier for new entrants, no service provider should be allowed to stipulate a pre condition for guarantee of minimum subscriber base or minimum subscription percentage of its channel(s). However, the Authority is also conscious of the fact that many service providers, in order to promote their channels, may like to provide discounts, within the prescribed limits in non-discriminatory manner, to other service providers on their fulfilling of certain target of the subscriber base or subscription percentage of its channel(s). In such a situation, to ensure the orderly growth of the sector, the Authority is of the view that it would be unfair to prohibit offering of such discounts. However in no case, such prescription should transcend to the denial of signals or discontinuation of signals or a pre-condition for giving the channel.

64. As far as, the issue of prescribing of minimum guarantee for period or minimum guarantee for number of channel(s), as a pre-condition for providing access to the network, by a DPO, is concerned, the Authority is of the view that such pre-condition would create an entry barrier for broadcasters and therefore the same has also not been allowed and such pre-condition has been qualified as unreasonable term. However, the DPO would be free to offer discounts, with in prescribed limits, on the carriage fee for offering access for carrying of additional channels or for entering into longer duration agreements.

IndiaCode

Reference Interconnection Offer (RIO)

65. Publication of RIO by service providers is one of the most effective ways of meeting non-discrimination and level playing field requirements. It also provides enough flexibility to service providers for offering their services as per their business plans. In the CP, the issue of allowing interconnection agreements based on mutually agreed terms, which do not form part of RIO published by a broadcaster or a DPO, was deliberated. It was also discussed whether the RIO should be the only basis for signing of interconnection agreement and the RIO should include all the terms and conditions including rates and discounts, to ensure non-discrimination and level playing field.

66. After considering the comments of the stakeholders in response to the CP, to effectively ensure the non-discrimination on ground, in the draft Interconnection Regulations, 2016, it was proposed that an interconnection agreement, either for providing signals of TV channels or for access to the network for re-transmission of channels, should be entered into in accordance with the RIO.

67. In response to the draft Interconnection Regulations, 2016, some broadcasters and one broadcasters association stated that interconnection agreement to be based only on RIO takes away broadcasters' ability to negotiate the terms of trade while the Copyright Act permits mutual negotiations by Broadcast Organisations.

68. The RIO published by a service provider is an offer on the basis of which a service provider wants to provide the signals of TV channels or access to the network to the seeker on non-discriminatory basis. However, in the past, the flexibility provided in the Interconnection Regulations, 2004 and the Interconnection Regulations, 2012, for signing of written interconnection agreement on mutual agreed terms, was many times misinterpreted by service providers to transcend beyond the regulatory framework and discriminate among similarly placed seekers. This was giving rise to number of disputes between service providers. In a regulated sector, to ensure level playing field, it is essential that all service providers conducts their business transactions as per the notified regulations and orders.

69. The argument, that the signing of interconnection agreement only on the basis of RIO, takes away the rights of broadcasters under the Copyright Act which gives them freedom for mutual negotiation for licensing their work, is misplaced. Here it is important to note that these regulations in no way regulate the licensing or assignment of copyright 'work' as defined in the Copyright Act. These regulations regulate the distribution of channels to the subscribers and signing of interconnection agreements for that purpose. It is further important to note that these regulations give complete freedom to broadcasters to devise and design their RIOs as per their own choice subject to compliance with applicable regulations. The regulations provide enough scope for mutual discussions on the basis of declared parameters. The RIO framework provides a common and transparent basis for all agreements to be entered for provisions of signals or access to the network. For ensuring the orderly growth of the sector, it is essential that the regulatory framework provides for an easy entry as well as exit options for service providers. For a new entrant in the sector, before committing the requisite investments, it is of paramount importance that he is reasonably assured of getting forward and backward linkages. In case of broadcasting and cable TV sector, for a new broadcaster it is essential to have reasonable assurance of accessing the networks at declared terms and conditions. Similarly, for a new distributor it is essential to have reasonable assurance of getting signals of TV channels at declared terms and conditions. Mutual agreements, beyond the declared RIO defeat this vital requirement for orderly growth of the sector.

70. It also helps to ensure that new entrant operators can be confident of getting terms which will not be less favourable to those applied to others. The RIO must define the parameters for arriving at an agreement on acceptable terms and such parameters should be objective, measurable and computable. Therefore, the Authority is of the view that all the interconnection agreements should be signed in accordance with RIO.

IndiaCode

Examination of RIO

71. As per the Interconnection Regulations, 2004 and the Interconnection Regulations, 2012, the service providers were required to publish their RIOs on their websites. Further, these regulations also created an obligation on the service provider to file a copy of RIO with the Authority. If any stakeholder felt that the terms and conditions of an RIO contravene the provisions of the regulatory framework then that stakeholder was at liberty to raise his objection with the provider publishing the RIO or at an appropriate forum. On many occasions it was observed that such objections were often raised after long time from the date of publication of RIO. This resulted in delay in initiation of corrective action, if any, by the provider. Further, an amendment to the RIO at a belated stage necessitated amendments in agreements with multiple seekers already executed on the basis of that RIO. The issue was deliberated in the CP wherein a consultative approach was suggested to address these issues. After considering the comments of the stakeholders in response to the CP, in the draft Interconnection Regulations, 2016, it was proposed that the service provider shall publish finalise its RIO after considering the comments of stakeholders in the value chain. Such provision would ensure that the final RIO is compliant to the regulatory framework and lead to reduction in disputes. Even after this exercise, an aggrieved stakeholder can approach an appropriate forum for settling their disputes on RIO.

72. In response some broadcasters commented that enabling DPO to raise objection and making it obligatory on the part of broadcaster to consider and amend RIO as per those objections would introduce lot of complications in the process as multiple DPOs (DTH/MSOs) keep on raising one objection or the other and the RIO will never attain finality. One broadcaster stated that such a right should not be given to DPOs and only TRAI should hold the right and solely be responsible to intervene in the RIO being drafted and published by the broadcaster. One DPO suggested that the broadcaster should be made to mandatorily report its RIO or amended RIO to TRAI to verify the compliance of the same with the regulatory requirement. Another broadcaster stated that if the RIO is not in compliance with the regulations then any stakeholders can approach regulator or Hon'ble TDSAT. Majority of DPOs stated that it should be mandated that all draft RIOs be first submitted to TRAI to go through them and

published after its approval. If the same are non-compliant, the Regulator can take appropriate action. Further they stated that the DPOs should also be allowed to challenge the same, if some clauses are contrary to the Regulatory Framework.

73. After considering the comments of various stakeholders on this issue and on giving cautious consideration to the provisions in relation to finalization of the RIO by broadcasters and distributors, the Authority observed that the proposed process for finalisation of RIO may lead to delays and repetitive work. Also, it was not able to guarantee the non-occurrence of the disputes after publication of final RIO by a service provider. This extra burden can be easily avoided by ensuring that the service provider publishes its RIO in compliance of the regulatory framework at the initial stage itself. Further, permitting a draft Reference Interconnect Offer which is not in conformity with the Interconnect Regulations would be antithetic to the very purpose of regulating interconnection between broadcasters and DPOs. Therefore the Authority is of the view that the broadcaster and the DPO shall take utmost care at the time of publication of RIO at initial stage itself for offering of their channels or networks, as the case may be, so that it fully conforms to the provisions of the regulations and Tariff Order. All the necessary terms and conditions shall form part of the RIO so that the RIO when signed by the other party becomes a complete interconnection agreement. For this reason provisions relating to this aspect have been modified. In these regulations, it has been mandated that copy of RIO shall be submitted to the Authority for record. Needless to mention that, the stakeholders would have freedom to raise their objections on the RIO terms which are not in conformance with the regulatory framework at appropriate forum.

Distribution Fee and Discounts

74. In the draft Interconnection Regulations, 2016, comments were solicited from the stakeholders on the values/ rates specified for distribution fee and discounts offered by broadcasters on their pay channels and bouquet of pay channels. The distribution fee was proposed at the minimum rate of 20% of the MRP of a pay channel or bouquet of pay channels, as the case may be. Further, the Authority proposed that a broadcaster may offer discounts on the MRP of a channel or bouquet to a DPO, to the extent that the sum of distribution fee and discounts do not exceed 35% of the MRP of such channel or bouquet. Similarly it was also proposed that a DPO may offer up to 35% discounts on the rate of carriage fee declared by such DPO. It is important to note that the proposed limit of 35% on the sum of distribution fee and discounts as aforesaid is only in relation to commercial terms between the broadcaster and the DPO and does not apply to the discounts that maybe provided by the DPO to the subscriber. Basic purpose of putting a cap on discounts on business to business transactions is to persuade service providers to declare realistic prices for their products/ services and ensure level playing field.

75. On this issue, a broadcaster commented that distribution fee should be 10% of the MRP and placement fee and marketing fee to be subsumed in the various discount parameters of broadcasters, with a capping of 15% and transparently disclosed in the RIO. While another broadcaster opined that the distribution fee should be reduced to 15% and discount on MRP be increased to 20% without altering the cap of 35%. On the other hand, most of the DPOs have suggested that instead of 20%, the distribution fee should be 55% as it was in CAS regime. One of the DTH operators has stated that the distribution fee of 20% will substantially squeeze the revenue generation capacity of the distributors and they will have to depend on the pricing strategy of broadcasters for their income. Further, they have also stated that the DTH operators incur a cost of around 4 to 5 % as collection cost. According to DTH operators, the collection costs are not borne by the MSOs. Accordingly, the distribution margin for the MSO would continue to be 20% however for DTH owing to the licence fee @ of 10% of gross revenue and collection cost, additional margin in the range of 5 to 6% should be provided.

76. In this regulatory framework, the price of network capacity has been separated from the price of channels. As per the Tariff Order, for recovering the cost of distribution of channels which includes subscriber management, the distributors are permitted to charge the network capacity fee. Therefore the

IndiaCode

contention of DPOs that they would depend on pricing strategy of broadcasters for their income is not tenable. The distribution fee is for the purpose of managing the distribution of pay channel(s) or bouquet(s) of pay channels only. Keeping in view the facts that the DTH operators are required to pay the license fee to the Government, the expenses of the distributors involved in the collection and accounting of the payments, sharing of the distribution fee amount between MSOs and LCOs etc., the Authority has provided for minimum 20% of the MRP as distribution fee. The DPOs suggestion that instead of 20%, the distribution fee should be 55% as it was in CAS regime, is not tenable because at that point of time there was no separate network capacity fee payable by subscribers. This regulatory framework is not directly comparable to the earlier regulatory frameworks wherein the price of distribution and channel was combined.

77. In a business, the discounts on MRP of a product/ service provide flexibility to the suppliers to increase its sales by improving efficiency in the value chain. On the other hand very high level of discounts may become a source for discrimination and source of exploiting consumers. It was observed in the past that many times service providers, in their RIOs, declare very high rates for their products or services and then they offer deep discounts on such rates. Unreasonable amounts of discounts lead to illusionary/ perverse pricing and non-level playing field. The Authority felt it necessary to put a reasonable cap on discounts as absence of such prescription would hamper the commercial interests of various stakeholders and would be detrimental to choice of the subscribers. Therefore, there is a need to regulate such discounts so as to provide the same on transparent, measurable and non-discriminatory terms. Further, the Authority has agreed with the views of some broadcasters that maximum amount of discounts on prices declared in the RIO should be capped. This will help in declaring the optimum price for their services i.e. the price at which their gross revenues are maximised. This will also reduce the possibility of discrimination between the similarly placed service providers. The cap on discounts suggested by various stakeholders varies from 33% to 50%. Therefore, the Authority is of the view that the sum of distribution fee and discounts offered to DPO shall be restricted to 35% of the MRP. Similarly maximum discount on the rate of carriage fee offered by DPOs to broadcasters shall also be limited to 35%. Further, in the regulations, it has provided that any such discounts must be offered in the RIO on the basis of fair, transparent and non-discriminatory terms and the parameters of discounts shall be measurable and computable.

78. In the interest of public good, a provision has been made in these regulations which allow DPOs to offer discounts exceeding 35% of the rate of carriage fee to certain TV channels specified by the Authority through directions.

Carriage fee

79. Charges paid by a broadcaster to a DPO for carrying its TV channel(s) over the DPO's network are commonly termed, by industry, as Carriage fee. The trend of carriage fee, started in analog era, was perhaps due to bandwidth constraints of transmission medium in cable TV systems. An analog cable TV system can generally carry around 80-100 channels while the number of channels available for broadcast are more than the network capacity. Though, in the addressable system, the channel carrying capacity has increased but at the same time, the number of permitted private satellite TV channels has also sharply increased. In order to increase the network capacity further, a DPO is required to upgrade its network infrastructure which entails additional cost for the DPO. In order to meet a part of such costs, carriage fee transactions took place between the broadcasters and DPOs.

80. The issue relating to carriage fee was deliberated in the consultation paper on tariff for TV services. In response to the consultation paper, majority of broadcasters were against the practice of carriage fee payments stating that capacity constraints in digitised networks are no longer a concern. They argued that with addressability there has been a steady increase in the subscription revenues and therefore the dependence of the DPOs on carriage fee should diminish. Another suggestion from the broadcasters was

that the Authority must fix the carriage fee of a DPO based on the infrastructure cost incurred by that DPO with a cap on the annual carriage fee at 50 paisa to one rupee per channel per set-top-box.

81. On the contrary, the DPOs did not favour any regulation of the carriage fee and had proposed that carriage fee be decided based on mutual negotiations. They had stated that capacity of the distribution networks remains constrained even after the digitisation process and that carriage fee incentivise a DPO to add channel capacity and upgrade its network. One DPO has suggested that carriage fee be initially limited between Rs. 2 to Rs. 5 per channel per subscriber per month and be gradually reduced with an increase in the number of subscribers.

82. In the draft Interconnection Regulations, 2016, it was proposed that a maximum rate which a DPO may charge from a broadcaster for carrying of channel would be Rs. 0.20 per subscriber per month for SD channel (Re. 0.40 per subscriber per month for HD channel) calculated on the average active subscriber base of the target market and it would gradually reduce with the increase in the monthly subscription of the channel and it would become nil, if that particular channel achieves 20% penetration in that market and continues so.

83. In response to the draft Interconnection Regulations, 2016, most of the broadcasters have commented that there is no rationale for carriage fee, as in terms of Tariff order, network capacity fee is charged from consumers by DPOs. It was stated by a broadcaster that carriage fee must be co-related with the actual number of subscribers subscribing that channel and not on the subscriber base. While another broadcaster suggested that the carriage fee should be capped at 10 Paisa per subscriber per month. Some broadcasters commented that for calculating carriage fee for certain sets of channels (e.g., English language GEC, Movies, News etc.), the target markets in terms of states should be allowed to be further subdivided into cities.

84. News broadcasters and their association commented that no carriage and placement/ marketing fee should be charged from the news broadcasters. Another news broadcaster also commented that in addition to capping of carriage fee, Placement Fee shall also be regulated and capped. A broadcaster suggested that to calculate carriage fee for HD channels, only HD subscriber base of a DPO in the target markets as declared by a broadcaster should be considered.

85. Most of the broadcasters have expressed their concern with the manner of calculation of carriage fee prescribed in the Schedule-I of the draft Interconnection Regulations 2016. Their apprehension was that with such type of calculations, the DPOs will not allow channels to reach beyond 20% subscriber base for their own carriage benefits as DPOs would never prefer a model where channels reach to a target of 20 % subscriber base in return of no carriage fees paid to them. Some news broadcasters stated that for free to air News Channels, all charges i.e. Carriage Fee/Marketing Fee/Placement Fee put together should be capped at Rs. 0.20/- per month per STB. However, an individual stated that the rate of carriage fee at Rs. 0.20 will effectively reduce the carriage fee component drastically, bringing great relief to the broadcasters.

86. Most of the DPOs have suggested that there should not be a slab system in the calculation of carriage fee; this takes away the right of DPOs to package. One DPO has stated that carriage fee transaction is of Business to Business (B2B) nature therefore regulating it is not in the interest of subscribers. Most of the DPOs have suggested increasing the carriage fee cap from 20 paisa to 80 paisa and from 40 paisa to Rs.1.20 paisa for SD and HD channels respectively.

87. In this regulatory framework, as per the Tariff Order, for recovering the cost of distribution of channels the distributors are permitted to charge the network capacity fee. This amount would vary based on the number of channels subscribed by individual subscriber. Therefore, it is expected that a DPO would seek signals of channels which are in demand in a particular market. For such channels, a DPO cannot demand

for a carriage fee as it would be able to recover retransmission expenses from the network capacity fee charged from the subscribers. However, for carrying channels, which have been requested by a broadcaster, a DPO may not be able to recover fully the retransmission expenses from the network capacity fee charged from the subscribers till the channel is subscribed by sufficiently large number of subscribers. In order to fill the gap between the retransmission expenses incurred by a DPO on carrying a particular channel on its platform and network capacity fee amount charged from subscribers it would be reasonable to permit a DPO to charge carriage fee to that extent from the broadcaster of that channel.

88. The Authority agrees with the views of some broadcasters that a cap on carriage fee rate is necessary to effectively implement the principles of 'must carry'. In the past, on many occasions, the carriage fee data was sought from broadcasters. But the broadcasters have failed to give segregated data for carriage fee. Instead they had provided a mixed data which included carriage fee, placement, marketing fee, technical fee, bandwidth support and other fee making it impossible to clearly distinguish the data pertains to carriage fee paid to cover the cost of re-transmission of channels on the platform of DPOs.

89. Since the segregated data for carriage fee alone was not available, the Authority has taken into account various sources, which are relevant, to arrive at a cap for carriage fee. In case of free to view DTH service operated by Doordarshan, for acquiring capacity for carrying one channel on the DTH platform, the reserve price was kept at Rs. 4.30 Crores, as per the RFP published in 2016. As per the industry estimates, there are 20 to 30 million consumers availing DD free dish service. Which indicates that the per channel cost of carrying a channel is Rs. 2.15 per year, considering 20 million subscribers, equating to around Rs. 0.18 paisa per subscriber per month. Further, the mixed data relating to carriage fee and others available with the Authority and in public domain have also been analysed. This analysis also supports the proposed cap for carriage fee. The Authority is conscious of the fact that the rate of carriage fee varies with the changes in the input cost incurred for erection, operation and maintenance of the distribution networks and number of subscribers. Therefore the cap on carriage fee should be reviewed on periodic basis say in every 2 to 3 years period. In case of some material changes in the input costs, the review can be initiated early also.

90. Thus, the Authority came to a conclusion that the carriage fee rate shall in no case exceed Rs. 0.20 per channel per subscriber per month. Since the bandwidth consumed by HD channels is approximately double the bandwidth required for SD channels therefore the Authority has kept the ceiling of carriage fee as Rs. 0.40 for HD channels. The DPOs may declare the rate of carriage fee in their RIOs within the prescribed cap for this purpose to optimise their revenues.

91. In this framework, the provision 'must carry' has been enshrined keeping in view the channels whose presence is not known by the subscribers. In order to expand its reach, the carriage fee will enable broadcasters to interconnect with DPOs in a desired target market. There are six private DTH operators which are having capacity of carrying around 400-600 channels on their platforms. The majority of MSOs are having capacity ranging from 300-600 channels. The Authority in the tariff framework has decided that the network capacity amount to be charged by the DPOs from the subscribers, to recover the distribution expenses. In the framework, a DPO has been assured for a network capacity amount for 100 channels from the subscribers. Further, the network capacity fee increases with the increase in subscription of channels.

92. When the real choice will become available to subscribers, the number of channels subscribed by a household may vary in the range of 80 to 120 channels which come out to be approximately 20% of the average platform capacity of a DPO. Therefore if a channel attains 20% of the subscriber base it can be reasonably assumed that the said channel is demanded by the subscribers which is equivalent to a channel being carried under 'must provide' which do not attract any carriage fee. Therefore the Authority is of the view that, in case a channel gathers popularity and wider viewership, the quantum of carriage fee should diminish owing to the increased revenues accruing from subscriptions by the DPO for that

channel. Further, the carriage fee payment must decrease with the increase in the subscription level of a channel even before reaching 20% penetration level as the network capacity fee paid by subscribers also contributes towards recovering the retransmission expenses.

93. For ease of computation, the Authority has decided that in a given month, if the monthly subscription of the channel reaches 5% or more but below 10%, of the monthly average active subscriber base of the DPO in target market, there should be, a reduction of 25% in carriage fee amount payable by the broadcaster in that month and, a reduction of 50% in carriage fee amount in case the monthly subscription of the channel reaches 10% or more but below 15% of the monthly average active subscriber base and, a reduction of 75% in carriage fee amount in case the monthly subscription of the channel reaches 15% or more but below 20%, of the monthly average active subscriber base. If the monthly subscription of channel reaches 20% of monthly average subscriber base in a given month, then the DPO shall not charge any carriage fee for that month.

94. The Authority observed that, a channel reaches to all the subscribers in the geographical area covered by a particular head end or the earth station installed by a DPO. Therefore, it is legitimate expectation on the part of DPOs to calculate the carriage fee amount by considering the monthly average active subscriber base of the head end or the earth station. The Authority also observed that a particular head end covers more than one state and therefore restricting the target market area to the boundaries of state will not be reasonable. Therefore, the Authority has decided that every DPO shall declare coverage area of each distribution network head end wise or Earth station wise as a target market. However, to meet the specific needs, it shall be permissible for a distributor to declare, in non-discriminatory manner, any area within the coverage area of distribution network(s) as a target market(s).

95. In respect of HD channel, the Authority observed that the HD channels can be seen only if a subscriber's STB is capable of receiving HD signals. Therefore, for carriage of HD channels the average active subscriber base of the distributor, capable of receiving HD TV channels should be considered. Accordingly provision has been made in the regulation that for arriving the carriage fee of HD channels, the average active subscriber base of the DPO in that month in the target market shall be of subscribers capable of receiving high definition television channels. The apprehension expressed by some broadcasters in their comments that the DPOs will not allow channel reach beyond 20% for their own carriage benefits is not tenable as it is in the interest of DPOs to get more network capacity fee and subscription fee from distribution of channels. Moreover, if the channel is attractive, the subscriber would like to subscribe such channels. The DPOs cannot deny subscriber choice.

Placement

96. In addressable systems, the technology provides for an Electronic Program Guide (EPG) wherein the channels being carried on a DPO's network can be arranged in a simple and easy to understand manner so that the subscriber can easily go through this guide and select the channel of choice instead of flipping through all the channels. In the draft Interconnection Regulations, 2016, the DPOs were mandated to list all the channels available on the platform in the EPG, in such a manner that a consumer can easily select the channel of its choice. The genre and language wise listing of TV channels in the EPG was proposed in the draft Interconnection Regulations, 2016 to ensure placement of a channel among similar channels. Further, in the draft, it was proposed that the broadcaster cannot put any pre-condition for providing signals to the DPOs to place his channels at a particular position in the EPG or to assign a particular number to his channel as such stipulation may not be practically possible to implement. For example, if any two broadcasters insist for same position in the EPG as a pre-condition before providing signals of their TV channels then it is not practically possible for a DPO to meet the pre-condition.

97. In response, most of the broadcasters opined that the placement of channels and placement fee should be brought under the ambit of regulatory framework. As per them, non regulated placement and marketing

fee makes the model non-transparent and create a back door entry by allowing negotiated agreements between DPOs and broadcasters for LCN.

98. In these regulations the broadcasters have been given a complete freedom to declare the genre of their channels and in terms of the regulations, it has been mandated that a DPO shall place the channels in the EPG under the respective genres so declared by the broadcasters. Further it has also been mandated that DPOs shall place the channels of the same genre in such a manner that all TV channels of same language within the same genre shall appear together consecutively in the EPG. In order to curb the practice to frequently change LCN number, it has been mandated that LCN number once allocated will not be changed for duration of at least one year. Therefore, the placements of channels have been adequately regulated and necessary protection has been granted to the broadcaster so that their channels are not placed at any disadvantageous position in the EPG. Hence as such there is no requirement for a broadcaster for asking for a specific position in the EPG.

99. In the new regulatory framework, emphasis has been increased on consumer choice. Therefore, when consumers will choose only selected channels which they actually want to view, the importance of placement of channel reduces drastically. Further, in the regulatory framework, the carriage and placement have been clearly distinguished. The carriage fee as per demand of the stakeholders has been regulated and must carry provisions would ensure the access to the distribution networks in non-discriminatory manner. Earlier, these two kinds of fees were clubbed together by service providers and non payment of combined fee could have denied a channel the access to the network. Now the same will not be possible. Mandating provision for discount within ceiling of 15% for allocation of placement or LCN as some percentage of channel price (MRP) may not serve the purpose as it will create a non level playing field for pay channels vis-a-vis FTA channels as in case of FTA channels the MRP is nil. However, in case, a broadcaster still wishes to place its channel at a particular position or a specific number assigned to its channel, subject to the provisions of these regulations, the broadcaster may offer discount within the prescribed framework or pay the mutually agreed fee, after signing the interconnection agreement, to a distributor for placing the channel. It is important to note here that such interconnection agreements, signed for placement of channels, shall also be non-discriminatory. Such agreements, if any, shall be appended with the main interconnection agreement and would be filed with the Authority as per the regulations notified by the Authority from time to time. It will ensure the transparency.

100. It is noted that in the comments received from the stakeholders and the agreements entered by service providers, varied terms like marketing fee, bandwidth support fee, channel visibility fee etc. are used for different purposes and commercial arrangements between broadcasters and DPOs. Any such commercial arrangement is a type of interconnection agreement and therefore it has to be on non-discriminatory basis. Therefore, to avoid the regulatory gaps, it has been mandated that in case more than one interconnection agreement are entered with a distributor of television channels in respect of television channel(s) or bouquet(s) of pay channels, each subsequent interconnection agreement shall contain the details of the earlier agreements in force with that distributor for such channel(s) or bouquet(s).

101. It is also observed that many times a fee in the name of marketing is paid by a service provider to other service provider for the promotion and advertisement of its services. Sometimes broadcasters provide incentives to the distributors for inclusion of channels in the bouquets offered by the DPO in the name of marketing. In these regulations, the Authority has clearly mandated that no incentive, in whatsoever name, can be given by the broadcaster to the DPO for inclusion of its channels in the DPO's bouquet because it results in pushing of channels to the subscribers. The marketing fee towards promotion and advertisement of services contributes towards increase in business which is due to the effort of the two parties. Therefore, there cannot be a specific parameter for regulating such fee. Hence, at this stage, any regulation by Authority on such fee is bound to be a porous regulation. Still the Authority has permitted

that a service provider may offer transparent discount to the other service provider out of the limit of 15% if it is mutually agreed. However it has been decided that any agreement, for any kind of fee for a channel, between two service providers should be made part of interconnection agreement and reported to the Authority to enable the Authority to monitor the industry practices.

Audit of Addressable System before Provisioning of Signals

102. The Authority in its earlier regulatory framework had prescribed technical audit methodology before provisioning of signals. In the CP, the issues in the current methodology of technical audit of addressable systems and need to review them were discussed.

103. In response to CP, broadcasters opined that before any license is granted by MIB a mechanism should be introduced to ensure that any applicant seeking license to operate is completely compliant of addressable system requirements. A DTH operator commented that the responsibility of audit lies with the broadcaster however such audit should be restricted to once a year and added that technical audit for each new channel should not be conducted every time. Another DTH operator stated that if the broadcaster intends to do the technical audit, it should be done either after providing the channel or simultaneously, and opined that TRAI or TDSAT or appropriate forum should take action against erroneous parties. Some DPOs opined that onus of audit should not lie with broadcasters and suggested that TRAI can publish a list of authorized auditors who can be approached by DPOs to get its CAS and SMS independently verified. Some DPOs commented that broadcaster should be mandated to complete audit within 15 days else issue IRDs after signing the interconnect agreement within next 15 days. An MSO and an LCO association stated that if a platform is inspected by BECIL/authorized agency, then no objections should be raised however, if no such inspection is done, broadcasters should audit in 30 days. Taking into account of the suggestions and concerns of the stakeholders certain clauses were proposed in the draft Interconnection Regulations, 2016.

104. In response to the draft Interconnection Regulations, 2016, broadcaster association stated that the broadcaster should be given the right to conduct the audit of the technical systems of DPOs through its own technical team; BECIL or empanelled auditor may be appointed only in case of dispute between the parties. They have argued that DPOs can take advantage and tamper with the systems later on the pretext that there systems are audited by BECIL and in terms of draft regulations the same cannot be challenged by broadcaster since it is valid for a period of one year. Some broadcasters commented that Audits should be conducted quarterly and not limited to once a year, to bring in 0% discrepancy and transparency in the system. While another broadcaster submitted that 1st Audit should be conducted in presence of broadcaster representative by an Audit firm decided by IBF or any broadcaster industry body.

105. The Audit of the systems of DPO is necessary to ensure that the systems deployed by a DPO are addressable as per the regulatory requirement. To ensure that the audit does not delay the process of getting signals of TV channels, it is desirable that the DPO ensures that the addressable system installed by it meets the requirements specified in regulations. It is also important that the broadcaster assure itself that the addressable systems of the DPO meet the minimum requirement as specified in the regulatory framework. In order to balance the requirements of broadcasters and DPOs, the Authority is of the view that the onus of carrying out audit should lie with the broadcaster, however, to ensure that the audit should not delay the process of providing of signals of TV channels, a mechanism needs to be devised. Accordingly, suitable provisions have been brought in these regulations. These are explained in the following paragraph.

106. To speed up the process of auditing, the Authority has decided that it may specify a panel of auditors from which broadcasters may choose any one. Once a distribution system is audited and certified by an empanelled auditor, it is only logical that other broadcasters will also have to accept the same for at least

one year period from the time of issue of certification. This will not only reduce burden on the service providers but also reduce number of audits. However, in the event of any change in configuration or version of the addressable systems installed, to check that the system remained in conformance with the requirements specified in Schedule III of these regulations, it would be permissible to the broadcaster, before providing signals of television channel(s), to cause audit of the addressable systems of the distributor even if the addressable systems of such distributor have been audited during the last one year.

107. In case a broadcaster is unable to complete the audit in time for reasons attributable to DPO, due to which it is unable to provide signals of TV channels within the prescribed period of 60 days from the date of the request for providing signals of TV channels, the same should be communicated to the DPO within such prescribed time period.

108. It has also been provided that if in the opinion of a broadcaster the addressable system of a DPO does not meet the requirement of the regulations then the broadcaster may audit the system of DPO not more than once in a calendar year. However, it is clarified that the broadcaster can carry out the audit only once a year after provisioning of signals of TV channels to the DPO for the purpose of checking the conformance of the addressable systems and/or to verify the subscription reports submitted by the DPOs. Accordingly provisions have been made in these regulations. Further, it has also been provided that if a DPO's system does not meet the requirements for addressable systems, the broadcaster may disconnect its signals to such DPO after giving a 3 weeks written notice for the same to the DPO.

IndiaCode

Minimum Technical Specification for Addressable Systems

109. The Authority in its earlier framework had prescribed minimum technical specifications for addressable systems in respect of SMS, CAS, and STBs etc. These technical specifications primarily ensure the addressability and transparency, and help in preventing piracy. In the CP, the Authority sought the inputs of the stakeholders on updating the specifications, if required, due to the progress in technologies. On the issue, most of the stakeholders were of the opinion that existing technical specifications by TRAI need a review in line with the current market scenario. In the draft Interconnection Regulations, 2016, after considering the comments of the stakeholders and internal analysis, some amendments and additions were proposed to further strengthen the quality and standards of systems installed by the distributors.

110. In the draft regulations, the requirement of SMS with capability of minimum 1 million subscribers was dropped as there could be many MSOs who will serve smaller subscriber base. To ensure that each DPO have right sized systems in place, a provision was added which mandated that the system deployed should be capable enough to carry out activation of at least 50% of the subscriber base within 24 hours.

111. Most of the broadcasters have stated that the specification needs to be further strengthened to ensure that piracy does not happen. One DPO has stated that the condition that the addressable system deployed should be capable enough to carry out activation of at least 50% of the subscriber base within 24 hours is very stringent and the requirement should be reduced to 10%.

112. After considering the comments received from the stakeholders, some of the provisions have been further strengthened which are required for increasing transparency in the system and controlling piracy. In line of the suggestions received, the requirement of carrying out activation of at least 50% of the subscriber base within 24 hours has been revised to 10%.

Territory of Interconnection Agreement

113. To enable organic growth, provisions were made in the draft Interconnection Regulations, 2016, wherein it was mandated that the interconnection agreement signed between a broadcaster and a DPO should contain the licensed/ permitted / registered area of operation of the DPOs as mentioned in the license/

permission / registration granted by the Government; the names of specific areas for which distribution of signals of television channel(s) has been agreed, initially, at the time of signing of the interconnection agreement and the names of the corresponding state(s)/ union territory (ies) in which such agreed areas are located. It was provide that the DPOs could re-transmit signals of television channel(s) of a broadcaster in other area(s) by giving a prior written notice of at least thirty days to the broadcaster, provided that such area(s) falls within the state/UT mentioned in the interconnection agreement.

114. In response, some broadcasters commented that for such expansion, a prior notice of at least 60 days should be mandated and it must be subject to written agreement and not merely on the basis of a written notice by the DPO. While another opined that such expansion should not be allowed as it would be detrimental to the broadcaster, and would lead to unaccountability, therefore fresh agreement needs to be executed for the new areas. It was also stated that unrestricted movements of DPOs may cause disputes between competing DPOs. One of DPO has suggested reducing the notice period to 15 days.

115. The Authority noted that in non-addressable systems, due to the requirement of specific assessment on the basis of a ground survey for number of subscribers before entering into interconnection agreement for a territory, separate agreements were required. These requirements no more exist after the emergence of the addressable systems and recording of subscriber details in the SMS. It is in the interest of broadcasters that reach of their channels is increased so that they get better subscription revenue as well as the advertisement revenue. Necessary provisions can be made at the time of signing in the interconnection agreement that intimation notice issued under the agreement for expanding territory, as per the regulations, would become part of the agreement; and all terms and conditions of the agreement would apply for expanded territories also. Further, it is in the interest of MSOs also as they can plan their area of operations without much difficulties. The argument that the unrestricted movements of DPOs may cause disputes between competing DPOs is not tenable as any DPO is free to expand its operations within the permitted area under registration. This would provide more options for the consumers also. Therefore it is win - win for everyone and it would improve the ease of doing business in the sector. In these regulations, a time period of 30 days have been provided for the entering into written interconnection agreement, therefore, the Authority is of the view that, DPO may expand distribution of signals of TV channels after completion of 30 days period from the date of receipt of such notice by broadcaster. The broadcaster will have liberty to raise written objection on such expansion during the said 30 days notice period. The notice of expansion shall deem to be an addendum to the existing interconnection agreement. Any unreasonable objection by the broadcaster shall be deemed as denial of request form the DPO.

Interconnection Agreement between DPO and LCO

116. In DAS and HITS services, the last mile connectivity is mostly provided by Local Cable Operators (LCOs). In terms of the IPTV licensing guidelines issued by the Government, the LCOs can also provide last mile connectivity for IPTV service providers. Efficient interconnection arrangements between a DPO and an LCO are vital for delivering services to the subscribers. LCOs play a very important role in the value chain for meeting the quality of service norms for the subscribers. LCOs, like any other entity in the value chain, are registered service providers. As per the Cable TV Act and Rules made there under, LCOs are registered in the head post office of the area of their operation. The fundamental principles of non-exclusivity, must provide, non-discrimination, written agreement, and time bound provisioning of signals applies to interconnection arrangement between a DPO and an LCO as well.

117. In the CP, on the issue relating to interconnection between DPO and LCO, stakeholders were asked to provide their opinion as to whether framework of Model Interconnection Agreement (MIA) and Standard Interconnection Agreement (SIA) as it was mandated in terms of Interconnection Regulations, 2012 should be made applicable for interconnection between DPOs and LCOs providing broadcasting services through addressable systems. After considering the comments of the stakeholders and internal analysis,

in the draft Interconnection Regulations, 2016, it was proposed that the regulations applicable for interconnection agreement between MSO and LCO shall also apply mutatis-mutandis for interconnection agreement between HITS / IPTV operator and LCO. Further, the settlement of service charges between LCO and DPO shall be governed by mutual agreement. Provided that in cases where the DPO and the LCO fails to arrive at a mutual agreement for settlement of service charges, then the network capacity fee amount for subscribed channels and the distribution fee was to be shared in the ratio of 55:45 between MSO and LCO respectively.

118. On the issue of revenue sharing, one LCO stated that the complete network capacity fee amount should be charged by LCOs as LCOs are the one who are providing last mile connectivity through their network of coaxial cable and optical fibre. LCOs have no other source of income apart from subscription revenue, where as DPOs have other revenue sources such as advertisement on local video channels, placement of free to air channels and carriage fee. They further stated that LCOs have to maintain their network for good quality of service and give salaries to its workers and pay electricity bills to give uninterrupted service to its subscribers. Accordingly, in order to compensate this cost of collection and remittance and maintenance of network, the Authority should decide that broadcasters will provide twenty percent (20%) distribution fee to LCOs for collection and remittance of pay channel revenue and not to DPOs.

119. The framework of MIA and SIA which provide enough flexibility and ample freedom to the parties to the agreement to carry out their business. They may enter into an interconnection agreement, for provision of broadcasting services to subscribers, by mutually agreeing on distribution of responsibilities, respective settlement of service charges and billing. Further it has been provided that in case of failure of mutual discussions, as a fall back option, the interconnection agreement will be signed in terms of SIA wherein the Authority has demarcated the responsibilities and fixed the corresponding settlement of service charges between DPO and LCO. In the SIA, LCOs have been given the consumer centric responsibilities whereas the MSOs have been given the responsibilities which are directly linked with the SMS including billing for the subscribers.

120. In the addressable systems, the SMS contains database regarding the subscriber base and the channels/ bouquets subscribed by each subscriber. This database is verifiable and auditable. Under the provisions of MIA and SIA, the access of the corresponding SMS database has been extended to link LCOs. With these details, the exact subscription details are known to the DPO as well as to the LCOs connected to the DPO. The service charges need to be settled on work done principle. However, the distribution of responsibilities and costs of maintaining the distribution networks, of DPOs as well as LCOs, vary on case to case basis. The sources of revenue and associated expenses of DPOs also vary on case to case basis. Keeping in view these dissimilarities and the transparency inbuilt into the addressable systems, the Authority is of the view that DPO and LCO settle the service charges, based on mutual discussions. To protect the interest of service providers and to ensure that signals are not disrupted due to dispute between the service providers, the Authority has prescribed a fall back arrangement between DPO and LCO, only for cases where the mutual discussions fail between DPO and LCO; and still they want to continue their relationship.

121. The LCO in the value chain provides last mile connectivity to subscribers and he should be able to recover the expenses incurred and earn a reasonable amount of profit. The argument of an LCO that the complete network capacity fee amount should be charged by LCOs as LCOs are the one who are providing last mile connectivity through their network of coaxial cable and optical fibre is not tenable as the distribution of TV channels involves the systems and networks of DPO also. Further, the argument of LCO that in order to compensate their cost of collection and remittance and maintenance of network, the Authority should decide that broadcasters will provide twenty percent (20%) distribution fee to LCOs for collection and remittance of pay channel revenue and not to DPOs is also not tenable as distribution of pay TV channels involves the services of DPO as well as link LCO and LCOs do not have any direct

relationship with broadcasters. In this framework network capacity resembles the FTA only subscriptions of erstwhile regulatory framework and these two requires the similar kind of resources for delivery of services to subscribers. Keeping in view the fact that in terms of the Interconnection Regulations, 2012, in a fall back arrangement, the service providers were required to share the subscription revenue in respect of FTA only subscriptions in the ratio MSO::LCO as 55::45, the Authority has decided to prescribe the same ratio for sharing of network capacity fee amount. In respect of pay channels also since in this regulatory framework, the charges for services involved in the distribution of pay channel has been separated from the pay channel price, the distribution fee, which corresponds to the charges for services, of DPO and link LCO together, involved in the distribution of pay channels, has been distributed in the same ratio.

Subscription Reports

122. In addressable systems, the number of subscribers of a channel or a bouquet of pay channels is auditable and verifiable. The Interconnection Regulations, 2004 and the Interconnection Regulations, 2012 contained provisions relating to subscription reports for addressable systems.

123. On many occasions, complaints were received that DPOs do not provide subscription reports in time to broadcasters. On the other hand, DPOs often complained that broadcasters do not have a common format for subscription report and it becomes practically difficult for them to generate customized reports each time for individual broadcaster.

124. DPOs also informed that quite often broadcasters seek subscription information that do not relate with the channel of that particular broadcaster. On the manner of calculation of monthly subscription numbers, broadcasters had many times expressed their concerns that the subscription report prepared as per erstwhile regulatory framework may not include those subscribers who remained active for less than 30 or 31 days, as the case may be, in a calendar month. This can put them at a commercially disadvantageous position. These issues were discussed in detail in the CP.

125. The Authority is aware of the fact that the timely availability of correct subscription reports is fundamental to ensure revenue of the stakeholders in the value chain and orderly growth of the sector. Any delay in subscription report affects the billing cycle and cash flow in the value chain. After considering the comments of the stakeholders and internal analysis, in the draft Interconnection Regulations, 2016, a schedule was inserted which prescribed the format of subscription report and the methodology for calculation of subscription numbers. For ensuring the timely availability of subscription report, a provision was made in the draft regulations wherein the DPOs were mandated to provide subscription report within 15 days from end of each calendar month. In the event of non- receipt of subscription report from DPO due to any reason, a right was given to the broadcaster to issue a provisional invoice, for an amount increased by 10% of the 'broadcaster's share of maximum retail price' payable by the distributor for the immediate preceding month, and the distributor was put under obligation to make the payment on the basis of such provisional invoice. Further, to avoid bill shocks, it was proposed that invoice raised by a broadcaster shall clearly specify the current payment dues and arrears, if any. For deterrence, a provision was made that the broadcaster shall have no claim on any arrear amount which has not been specified by him in the immediate next three consecutive invoices issued after the due date for the invoice to which arrears pertain.

126. In response to the draft Interconnection Regulations, 2016, on the aspect of time period for capturing subscription count between 19:00 HRS to 23:00 HRS of the day, some broadcasters stated that the Authority should consider revising the time period for capturing information between 7 PM to 9.30 PM. Some broadcasters opined that the time of 15 days provided for generation of subscription report should be reduced to 7 days. A broadcaster association stated to remove the provision relating to arrears in the invoices and restore their legal right to claim their arrears at any time. The broadcasters have stated that

IndiaCode

there should be a provision of security deposit. In case of non-submission of reports, a broadcaster suggested that disconnection should be allowed after 1st month itself.

127. On the other hand, some MSOs and its association have suggested that capturing of subscription count 4 times in a month is cumbersome and it will also put strain on SMS and CAS impacting the performance of the system. As per them, the current procedure of capturing of subscription count at the beginning and end of the month is fine**.**

128. On the suggestion of some of the stakeholders regarding changing of time period for capturing of information, it is noted that the subscriber count is not dependent on the channel being viewed by a subscriber but it depends on the fact that which channels which have been authorised for viewing to a subscriber. Therefore, change in timing of the capturing of the report would not make any difference in the subscriber numbers. The proposal is for prime time. Therefore no change is required in the proposed time period. As far as capturing of the data from CAS and SMS 4 times in a month is concerned, it is noted that the CAS and SMS can be pre-programmed to capture the data automatically and no manual effort is required. Therefore mandating increased periodicity for capturing data and reporting on the basis of captured data 4 times a month would help the service providers to monetise their products on closer to actual subscribers. On the issue of reducing time for sending subscriber reports, the Authority is in agreement with the view of stakeholders and therefore it has been reduced to 7 days from the end of each calendar month. If the DPO fails to provide the monthly subscription report then the broadcaster may disconnect the signals of TV channels after giving prior notice of 3 weeks to the DPO. This provision would help in ensuring the timely availability of the subscription report to the broadcaster. The broadcaster may also issue a provisional invoice for an amount increased by 10% of the 'broadcaster's share of maximum retail price' for the immediate preceding months, in case the DPO fails to issue the subscription report on time. It has also been mandated to the service provider to carryout reconciliation with 2 months. This is expected to bring in the discipline in the sector.

Audit

129. In the draft interconnection regulation, 2016, the Authority proposed a methodology for audit for the purpose of verifying the information contained in the subscription reports. The DPO was required to conduct subscription audit of its systems by any one empanelled auditor and send the report to the broadcaster. It was provided that in case the broadcaster feels that the conduction of audit is necessary to protect its business interests then the broadcaster may, not more than once in a calendar year, audit the SMS, CAS and other related systems of the DPOs. In order to deter and discourage any kind of discrepancies and manipulation in the subscription reports provided to the broadcasters, Authority had proposed that the cost of audit would to be borne by the DPO if the difference in audited and reported subscription figures is more than 2%, otherwise the broadcaster seeking audit of subscription report shall be liable for audit fee payment. However, it was provisioned that any variation, due to audit, resulting in less than 0.5% of the billed amount shall not require any revision of the invoices already issued and paid.

130. In response, one broadcaster stated that the discrepancy of 0.5% in the subscriber report should not be neglected. On the other hand, MSOs and its association have stated that it is impossible to maintain perfect harmony between CAS and SMS as there are many factors which can hamper the accuracy, and suggested to increase the discrepancy percentage to 2.5-3% from 0.5 %. However they have not given any justification for the same. One MSO has suggested that the cost of audit shall be borne by the broadcaster only and not by DPO under any circumstances. Some broadcasters suggested that in case of any discrepancy there should be a provision of penalty of at least 20% of monthly 'broadcaster's share of maximum retail price'.

131. Proper and accurate subscription report is very important as the settlement of charges between the service providers is based on such reports. Audit of systems is a tool to verify the correctness of data and systems

specification as per the requirements under the regulations. Moreover allowing audit of addressable systems will help in confidence building measure in the value chain. Therefore, a mechanism is required to be put in place for audit of such addressable systems. The Authority is of the view that if a DPO gets its system audited from an auditor for the purpose of verifying subscription reports and sends these reports to the broadcasters then the problem of multiple audits can be solved significantly. This will also reduce the burden on the broadcasters and DPOs. The concerns of some broadcasters that after initial audit, a DPO's system may not remain compliant with the technical specification and therefore, the right of audit should be given to the broadcaster has been considered by the authority. It has been provided that if a broadcaster it is not satisfied with the audit report received or, if in the opinion of a broadcaster the addressable system being used by the distributor does not meet technical requirements specified in **Schedule III** then the broadcaster may, after communicating the reasons of dissatisfaction in writing to the DPO not more than once in a calendar year, audit the SMS, CAS and other related system of the DPOs. The provisions of this regulation provide a level playing field to all the stakeholders and also help in reducing burden and litigations. As far as, allowing discrepancies of 0.5% is concerned, it is noted that such variation may happen due to system limitations resulting in a difference between the actual number of subscribers and reported subscriptions on some occasions. Therefore, revising invoice would delay the payment settlements. However, the stakeholders should undertake utmost care that such discrepancies should not occur on regular basis. On the suggestion of the broadcaster regarding penalty, it has been provided that a broadcaster may levy interest on the payable amount and if such amount including interest exceeds by 2 % then the DPO shall be bear the broadcaster's audit expenses. The Authority has at this stage not specified any further penalty as such discrepancy needs case to case examination and proof of evidence in the appropriate forum.

IndiaCode

Disconnection of Signals of TV Channels

132. Disconnection of signals of TV channels is one of the issues, where the interest of consumers also needs to be safeguarded along with that of the broadcasters and DPOs. In the past instances have been observed where, due to dispute between the service providers, signals by a broadcaster or DPO are cut off, leaving consumers in the lurch. The Interconnection Regulations 2004, as well as the Interconnection Regulation 2012, had a provision where the service providers were mandated to give a prior written notice of 3 weeks to the concerned service provider before disconnection of signals of TV channels. Further in these regulations a provision was also available which mandates service providers to publish information regarding disconnection of TV channels through News papers. The requirement of publication of information regarding disconnection in the News papers was removed in the draft regulations 2016,as such notifications in local/regional newspaper often go unnoticed by the targeted subscribers due to their limited reach. Further, while retaining the notice period of 21 days to the service providers, the requirement of publication through scrolls on the concern channel was proposed to protect the interest of consumers

133. In response, an MSO opined that the compulsory provision of publication of notice in the news papers should be continued as was mandated in the past regulations. He argued that in event of proposed disconnection, the broadcasters/MSOs may send a normal communication to the MSOs/LCOs respectively which may result in surprise disconnection of channel. A broadcaster commented that for intimating subscribers regarding non-availability of channels on the platform, DPOs should not be allowed to run scrolls on broadcaster's channels; but the scrolls should be allowed to run only on DPO's home channels.

134. Broadcasting industry is a consumer centric industry. In no case, a consumer, who has not defaulted, should bear the brunt of the disputes or non-agreements between the service providers. The Authority observed that it is necessary to protect the interests of consumers as well as service providers in the event of disconnection of signals of TV channels due to any reason. Therefore, the time of three weeks

provided in the erstwhile regulation has been retained in these regulations. This period will allow the affected parties to look for possible solutions to prevent disconnection. On the suggestion of continuance of the publication of information regarding disconnection through news papers, the Authority is of the view that the mandate of publication of news paper notice increases burden on the service providers without much impact on the consumers as such notifications in local/regional newspaper often go unnoticed by the targeted subscribers due to their limited reach. On the aspect of running scrolls about the disconnection of channel it is mentioned that such communication is more effective to protect the interest of consumers. Therefore the Authority is of the view that it would be the responsibility of DPO to inform the subscriber 15 days prior to the date of disconnection through scrolls on concerned channels. To ensure that such scrolls or information do not hamper the viewing experience of the subscriber or obstruct normal viewing of the channel, any display of information in form of static images overlaid on the television screen has been prohibited.

Listing of Channels in Electronic Programme Guide

135. In addressable systems, the technology provides for a Electronic Program Guide (EPG) wherein the channels being carried on the DPO's network can be arranged in a simple easy to understand manner so that the subscriber can easily go through this guide and select the channel of choice instead of flipping through all the channels. The EPG also assigns a channel number to each TV channel available on the platform. In the draft Interconnection Regulations, 2016, it was proposed that every DPO should assign a channel number for each television channel distributed by him in such a way that the TV channels of same genre are placed together consecutively and one channel appear at one place only. Further, it was proposed that the number assigned to a television channel shall not be altered by the distributor for a period of at least one year from the date of such assignment.

136. In response, most of the broadcasters stated that channels should be listed in the EPG as per the last 12 months average of Broadcast Audience Research Council (BARC) rating. They opined that channels with higher ratings should be placed at the top of LCNs (Logical Channel Number) allocated to a particular genre of channels and this exercise can be repeated annually. A news broadcaster suggested that there should be sub-categorization within genre like Hindi, English, Business channel, Regional etc. While another news broadcasters commented that after new Regulations come into effect *status quo* should be maintained for LCNs allotted channels and DPOs should not be allowed to change LCNs, unless the overall genre series is changed, and even then, the sequential position of the channel should remain the same in that genre while any new additions should be in the chronological order in that genre.

137. Some DPOs stated that in the cases of disconnection of TV channels for any reason, DPO should not be obligated to provide the same channel number again to the broadcaster if the channel comes back again on the platform. One DPO stated that the period mandated for assignment of channel number should be reduced from 1 year to 6 months.

138. The issue of genre classification was well articulated in the consultation paper titled as "Tariff Issues related to TV Services". In the draft Tariff Order, seven genres were proposed and complete freedom was given to the broadcaster to classify their channels in any of the proposed genre. In terms of these regulations, the DPOs have been mandated to place the channels in the genre so declared by the broadcasters. There are around 800 TV channels in the country. If every broadcaster is allowed to create its own genre then there would be an unmanageably large number of genres which would cause great hardship and inconvenience to the consumers as it would be next to impossible for a consumer to scroll through EPG having lot of genres on their TV sets. Thus the proposal to allow broadcasters to create their own genres will be impracticable. Therefore the Authority has mandated that the broadcasters should declare the genre of its channel in any of the specified eight genres. To provide the flexibility to the broadcasters, miscellaneous genre has also been specified.

139. Proper listing of channels in the EPG helps the subscribers in selecting the channel for the purpose of viewing. If the channels are listed on the basis of Television Rating Point (TRP) then it may cause change in the position of the channels from time to time based on the television rating point which will create annoyance to the subscribers who generally remembers the position of the channel in the EPG under a genre. Therefore, the listing of channel on the basis of TRP is not being mandated and it is left open to the distributor to decide listing of channels within the prescribed framework. The Authority is in agreement with the views of some of the stakeholders that sub-categorisation will help the consumer in selecting the channel of its choice for viewing and therefore the Authority has mandated the DPO to place channels in the EPG, in such a way that the TV channels of same genre, as declared by the broadcaster, are placed together consecutively and all TV channels of same language within the same genre shall appear together consecutively in the electronic programme guide.

140. The consumer generally remembers the channel number and enters the channel number on his remote for viewing that channel. Frequent changes in the channel number assigned to a particular channel causes inconvenience to the subscribers. It has also been observed that many broadcasters advertise their TV channel to consumers along with the number assigned to it on the network of a particular DPO. The broadcaster also faces difficulty if the channel number is changed frequently. Therefore the Authority is of the view that the 6 months time may not be sufficient and therefore the DPOs have been mandated not to alter the channel numbers for at least one year from the date of such assignment. However, the Authority is in agreement of the view of some stakeholders that if the channel becomes unavailable due to any reason or there is a change in the genre of the channel by a broadcaster then the channel number assigned to a particular television channel can be changed to place such channel with the channels of new genre in the EPG. Accordingly, suitable provisions have been made in these regulations.

141. Regarding the stakeholder's suggestion to mandate DPOs to maintain *status quo* for LCN allotted after coming into effect of new regulations. The suggestion is not tenable as availability and its nature of channel in the DPOs platform may vary in the light of new framework.

Reporting of Details of Service Providers

142. In broadcasting and cable TV sector, the number of service providers namely broadcasters, MSOs, LCOs, DTH operators, HITS operators and IPTV operators are very large. The information availability at a single place by use of ICT would help service providers to know the available service providers in a particular area and would provide ease of doing business in terms of entering into interconnection agreement. This would also help the Authority to monitor the compliance of the regulation bringing much needed discipline in the market which may take the sector on a sustainable growth path. In the draft Interconnection Regulations 2016, a provision was made regarding reporting of details by the service providers. The stakeholders, in their response, have largely supported this requirement.

143. Accordingly, in these regulations the service providers have been mandated to report their details such as name, address, contact number, e-mail address and license/ permission/ registration issued by the Central Government on the website to be specified by the Authority. Further, it has been provided that the service providers shall verify, from the website that the other service provider seeking interconnection for providing signals of TV channels or access to the network, as the case may be, has reported its details on the website. However, for removal of any doubt it is clarified that mere providing the information on the website would not give any service providers the right to carry out such business unless such permission/approval/licence/registration has been obtained from the Government under relevant policy /guidelines.

Designating a Compliance Officer

144. In order to fulfil the objective of regulatory framework, it is important that the reporting requirements specified under the regulations are complied by the service provider in letter and spirit. Therefore, in the draft Interconnection Regulation, 2016 it was proposed that every pay broadcaster and DPO shall appoint a compliance officer however, it was not mandatory for the DPOs having average subscriber base over preceding calendar quarter less than 2 lakh**.** In response, one broadcaster stated that the limit of subscriber base should be reduced from 2 lakh to 50 thousand and compliance officer should be appointed in every target market. The MSO's association stated that the time period given for appointment of compliance officer should be increased from 30 days to 60 days and in event of any change the time period of 10 days as provided in the draft regulation is less because re-appointment of persons takes time.

145. The objective of regulatory framework can be fulfilled only if the compliance level of all the service providers is good. It is therefore very important that the provisions of these regulations and requisite reports prescribed in the regulations and tariff orders are provided to the Authority. Therefore, the provisions have been made in these regulations that every broadcaster and DPO shall designate a compliance officer irrespective of nature of their offerings and size of their operations. Further, if the broadcaster or DPO is a company then it has been prescribed that the compliance officer should be designated by the board of directors of the company. Whereas, if the DPO is an individual or a partnership firm or an association of individuals then the broadcaster or DPO should furnish the authorisation letter signed by all the partners or the head of the association, as the case may be, authorising such compliance officer. On the suggestion of some of the stakeholders regarding increase in time period for designating a compliance officer the Authority agrees that sufficient time should be given to the service providers so that they can take approval for designation of compliance officer and report the details to the Authority. Accordingly, it has been provided in these regulations that the designation of compliance officer shall be done within 30 days of commencement of the regulations and after such designation the details of the compliance officer shall be communicated to the Authority within 30 days. Further, any change in the name of the compliance officer shall be communicated to the Authority within 10 days from the date of occurrence of such change.

Repeal

146. With the Gazette notification of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017, the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 and the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017, the Authority has made a comprehensive and common regulatory framework applicable for all types of addressable systems. Therefore, the Interconnection Regulation, 2012, applicable for Digital Addressable Cable TV Systems, along with all its amendments and directions issued there under has been repealed. The Interconnection Regulations, 2004 which were applicable for non addressable systems as well as addressable systems such as IPTV, DTH and HITS except DAS has been repealed to the extent they are applicable to addressable systems. The provisions relating to analog systems shall continue to be governed by the Interconnection Regulations, 2004. All the existing interconnection agreements for providing services through addressable systems have to be either necessarily modified or entered as a fresh agreement in compliance with the provisions of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017.

Commencement of the Regulations and New Interconnection Agreements

147. These regulations shall come into effect immediately on the date of their publication in the Official Gazette. The Authority is aware that, as on the date of coming in to effect of these regulations, there would be large numbers of existing interconnection agreements in place, which have already been

entered into by the service providers based upon the framework of earlier interconnection regulations. Therefore to protect the interests of consumers as well as service providers and to enable a smooth transition from the earlier regulatory framework to the new one, the Authority has provided a time of 150 days from the date of commencement of these regulations to either renew or amend all the existing interconnection agreements in compliance with the provisions of the regulations and the tariff orders notified by the Authority. The service providers are advised to modify their existing interconnection agreements well in advance before the time period of 150 days allowed, so as to avoid the sudden disconnection of signals or to avoid the risk of violating the regulations. Situation may also arise that some existing agreements may be expiring before the said cut-off date, though they were valid as on the date of commencement of these regulations. Therefore, the service providers have been permitted to renew such existing agreements so as to extend the validity of such agreement till the cut-off date. It is clarified that no new interconnection agreement shall come within the purview of such savings. All the new interconnection agreements have to be signed on the basis of these regulations.

End of the Document

IndiaCode