

13<sup>th</sup> May'2019

To,

Mr. Anil Kumar Bhardwaj  
Advisor (B&CS)  
Telecom Regulatory Authority of India (TRAI)  
Mahanagar Doorsanchar Bhawan  
Jawaharlal Nehru Marg (Old Minto Road),  
New Delhi-110002

Sub: **Comments on Draft “The Telecommunication (Broadcasting and Cable) Services Register of Interconnection Agreements Regulation, 2019 (“Draft Regulation”)**

**Respected Sir,**

We would like to take this opportunity to offer our sincere gratitude to TRAI of India for coming out with this draft so that the stakeholders can share their concern/issues/observation, which very clearly points to the consultative nature of the authority before making any final decision on any issue.

The Register of Interconnection Agreements is a welcome step towards bringing further transparency in the Broadcasting and Cable Sector by prescribing standard norms of reporting. While welcoming the same, we would like to highlight certain areas in the “Draft Regulation”, which in our opinion are germane to the issue and calls to be addressed by the Authority while finalizing the same:

**1: Relaxation given to the DPOs having average subscriber base less than two Lakhs of its entire distribution network (including joint venture(s), if any )**

Authority would appreciate that the new Regulation(s) promulgated on 3<sup>rd</sup> March 2017 i.e. (a) The Telecommunication (Broadcasting and Cable) Services (Eight) (Addressable Systems) Tariff Order, 2017;(b) The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulation 2017; and (c) The Telecommunication (Broadcasting and Cable)

Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulation 2017,(together referred as “New Tariff Regime”) are based on the premise of transparency, non-discrimination & level playing field . New Tariff Regime does not discriminate between the DPO(s) on any ground and requires all DPOs to follow it religiously irrespective of its size/target market/ technical and IT capability, financial position etc. and in its letter and spirit. Just to elaborate further, the quality of service norms with regard to maintaining website, providing information to consumer on the website through consumer corner, giving bills to end consumer, displaying channel price on the channel, having call centre & a toll free number for consumers to connect, etc. is as applicable to a DPO operating at PAN India Level as to a DPO operating in a state or a smaller geographical area. The above relaxation on the basis of average subscriber base assumes that these DPOs may have capacity constraints both in terms of manpower as well as financial. If this assumption is taken to be correct , it would also mean that such DPOs would not be required to comply with the Quality of Service Regulations , as the assumption of having constraints in terms of manpower as well as financial is equally true here.

By giving this relaxation, the Authority itself would be creating two classes of DPO’s , which does not entail good for the future of this sector. This would further give rise to different classes of DPOs asking for some or the other relaxation from complying with one or the other requirements of the New Tariff Regime.

Hence in our opinion this relaxation to so called smaller DPOs, can prove catastrophic for the sector as these smaller DPO’s , taking advantage of this relaxation can undermine the subscriber base of other DPO’s , who are following TRAI Regulations /Directions in letter and spirit, leading to chaos in the market , which may result in collapse of the New Tariff Regime and its stated objective of **transparency, non-discrimination & level playing field in the cable and Broadcasting Sector.**

Hence in our view, as such there should not be any such relaxation given to any DPO.

**2. Whether agreements done between Broadcasters and DPOs for promotion etc come within the ambit of interconnection agreement relating to provision of broadcasting services relating to Television provided through addressable systems :**

Chapter II of the Telecommunication (Broadcasting and Cable) Services Inter-Connection (Addressable System) Regulations, 2017 (**2017 Regulations**) provides definition of “interconnection”. Interconnection has been defined in Clause 2 (x) of the Regulations.

***Clause 2(x) “Interconnection” means the commercial and technical arrangements under which service providers connect their equipment and networks to provide broadcasting services to subscribers”***

The Authority would note from a bare perusal of the definition of “interconnection” that it is limited to the terms and conditions under which interconnection is achieved.

Agreement made between Broadcasters and DPOs cannot be linked to inter-connection i.e. a broadcaster or DPO is not entitled to insist that any arrangement for promotion be a pre-condition for inter-connection.

Under Regulation 3(3) of the 2017 Regulations it is provided as follows:

*(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.*

Therefore, inter-connection is not linked to placement or any other form of promotion and such agreements cannot be inter-connection within the meaning defined in 2017 Regulations.

It may also be noted that this issue is pending consideration of the Hon’ble TDSAT in Broadcasting Appeal No.4 of 2018