



भारतीय दूरसंचार विनियामक प्राधिकरण
TELECOM REGULATORY AUTHORITY OF INDIA

भारत सरकार/Government of India

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DIRECTION

Dated: 13th June, 2016

Subject: Direction to M/s. Silverstar Communications Limited, under section 13 of the Telecom Regulatory Authority of India Act, 1997, read with regulation 8 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (9 of 2012) and proviso to regulation 5 of the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation 2004 (15 of 2004), to reduce the terms and conditions of its interconnection agreements in to writing for providing signals of its pay channels to its linked distributors of TV channels.

No. 6-64/2014-B&CS.--- Whereas the Telecom Regulatory Authority of India [hereinafter referred to as 'the Authority'], established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) [hereinafter referred to as TRAI Act, 1997], has been entrusted with discharge of certain functions, *inter-alia*, to regulate the telecommunication services; maintain register of inter-connect agreements; lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunication service;

2. And whereas the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunications), vide its notification No.39,---

(a) issued in exercise of powers conferred upon the Central Government proviso to clause (k) of sub-section (1) of section 2 of the TRAI Act, 1997 and

(b) published under notification number S.O.44(E) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II, Section 3 – sub-section (ii)---

has notified broadcasting services and cable services to be telecommunication service;

3. And whereas the Authority has, in exercise of its powers conferred by the TRAI Act, 1997, read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39, made the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004) dated the 10th December, 2004 (hereinafter referred to as Interconnection Regulation), the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation, 2004 (No. 15 of 2004) dated the 31st December, 2004 (hereinafter referred to as Register Regulation) and the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (No. 9 of 2012) dated the 30th April, 2012 (hereinafter referred to as DAS Regulation);

4. And whereas the Authority has, in exercise of its powers conferred by TRAI Act, 1997, read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39, made the Telecommunication (Broadcasting and Cable) Services (Second) Tariff Order 2004 (No. 6 of 2004) dated the 1st October, 2004 (hereinafter referred as Second Tariff Order) and the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010 (No. 1 of 2010) dated the 21st July, 2010 (hereinafter referred as Fourth Tariff Order);

5. And whereas regulations 4A.1 and 4A.2 of Interconnection Regulation read as under:-

“4A.1 It shall be mandatory for the broadcasters of pay channels and distributors of TV channels to reduce the terms and conditions of all their interconnection agreements to writing.

4A.2 No broadcaster of pay channels or distributor of TV channels, such as multi system operator or headend in the sky operator, shall make available signals of TV channels to any distributor of TV channels without entering into a written interconnection agreement.”;

6. And whereas sub-regulation (6) and sub-regulation (7) of regulation 5 of DAS Regulation read as under:-



“5(6) It shall be mandatory for the broadcasters of pay channels to reduce the terms and conditions of the interconnection agreements into writing.

***Explanation:** It shall be mandatory for the broadcaster to enter into written interconnection agreement with the multi system operator for retransmission of its pay channels including those pay channels for which no subscription fee is to be paid by the multi system operator to the broadcaster.*

5(7) No broadcaster of pay channels shall make available signals of TV channels to any multi system operator without entering into a written interconnection agreement.”;

7. And whereas pay channel has been defined under the sub-clause 3(za) of Fourth Tariff Order and under the sub-regulation 2(u) of DAS Regulation and the said definitions read as under:

““pay channel”, in respect of a digital addressable system, means a channel for which subscription fees is to be paid to the broadcaster by multi-system operator or DTH operator or IPTV operator or HITS operator and due authorisation needs to be taken from the broadcaster for its re-transmission on the digital addressable system”;

8. And whereas the clause 4 of the Second Tariff Order reads as under:-

“4. Reporting Requirement.----- (1) Every broadcaster shall, within seven days from the coming into force of the Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Fourteenth Amendment) Order, 2015 (1 of 2015), furnish the following information to the Authority, namely:-

- (a) names, genre and language of all free to air channels offered by the broadcaster;*
- (b) name, a-la-carte rate, genre and language of each pay channel offered by the broadcaster;*



- (c) *list of all bouquets offered by the broadcaster with prices of each bouquet, indicating the names of all the pay channels and free to air channels contained therein;*
.....”;

9. And whereas the clause 9 of the Fourth Tariff Order reads as under:-

“9. Reporting requirement. (1) *Every broadcaster shall report to the Authority, the a-la-carte rates for its pay channels fixed by it under sub- clause (1) of clause 4 and the bouquet rate or bouquet rates, as the case may be, fixed by it under sub-clause (2) of clause 4 for its bouquets and shall also publish such rates on its web site.*

Provided that the first such report, containing rates effective from 1st September, 2010, shall be submitted to the Authority by 1st September, 2010 and, thereafter, any changes in such rates --

(a) shall be reported to the Authority thirty days prior to the change; and

(b) shall also be published on the website of the broadcaster.

(2) *Every broadcaster who, after the coming into force of this Order, introduces any new pay channel, shall, thirty days before introduction of such pay channel, report to the Authority the a-la-carte rate for such pay channel and shall also publish such rate on its website.*

(3) *Any broadcaster of a free to air channel intending to convert the channel into a pay channel or vice-versa shall, at least one month before the scheduled date of conversion, -----*

(a) inform the Authority about the intended conversion;

.....”;

10. And whereas M/s. Silverstar Communications Limited, vide its letter dated the 11th July, 2015, intimated that it has converted its three free-to-air channels namely “MEGA TV”, “MEGA MUSIQ” and “MEGA 24” in to pay channels with effect from the 8th April 2012 and the rates of these pay channels were reported to the Authority vide letter dated the 16th January, 2015;

11. And whereas regulation 5(a) of the Register Regulation provides that all broadcasters shall register with the Authority interconnect agreements entered into by them or modifications/amendments thereto within the time frame specified under regulation 5 (b);



