



सत्यमेव जयते

भारतीय दूरसंचार विनियामक प्राधिकरण
TELECOM REGULATORY AUTHORITY OF INDIA
भारत सरकार / Government of India



DIRECTION

Dated: 1st May 2019

Subject: Direction to M/s Independent TV Ltd under section 13, read with sub-clause (v) of clause (b) of sub section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 to ensure compliance of various provisions of the New Regulatory Framework for Broadcasting and Cable TV Services.

No. 30-17/2019-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; fix the terms and conditions of inter-connectivity between the service providers; ensure technical compatibility and effective inter-connection between different service providers; 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 Central Government, in the Ministry of Communication and Information Technology (Department of Telecommunications), vide its notification No.39,---

(a) issued in exercise of powers conferred by the 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 notified a new regulatory framework for Broadcasting and Cable TV services provided through addressable systems encompassing the following:-

(a) The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 dated 3rd March 2017, [Tariff Order 2017];

- (b) The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 dated 3rd March 2017 [Interconnection Regulation 2017];
- (c) The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 dated 3rd March 2017 [QoS Regulation 2017].
4. And whereas the Authority, vide its Press Note dated the 3rd July 2018, informed the stakeholders that various timelines prescribed in the Interconnection Regulations 2017, the QoS Regulations 2017 and the Tariff Order 2017 shall commence with effect from 3rd July 2018;
5. And whereas the new regulatory framework comprising of the Interconnection Regulations 2017, the QoS Regulations 2017 and the Tariff Order 2017 became applicable with effect from 29th December 2018;
6. And whereas in order to protect the interest of the consumers and to ensure smooth transition to the new regulatory regime, the Authority, vide the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Amendment) Regulations, 2018 permitted the continuance of the existing packs, plans and bouquets upto 31st January, 2019 and directed all distributors of television channels to offer and obtain the option for subscription of new packs, plans or bouquets from the subscribers on or before 31st January, 2019 and ensure that services to the subscribers, after the 31st January, are provided as per the new packs, plans or bouquets opted for subscription by the subscribers;
7. And whereas regulation 17 of the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 read as under: -

“17. Price protection to subscribers.— In case, the broadcasting services related to television have been availed by a subscriber with a lock-in period or the charges for subscription of broadcasting services related to television are paid in advance for a specific period by a subscriber in pursuance of any scheme offered by the distributor of television channels, the distributor shall continue to provide such services for such period to the subscriber without any increase in the price of subscription and without altering the other terms of subscription to the disadvantage of the subscriber.”



8. And whereas the Authority, vide its press release no.10/2019 dated 8th February 2019 has clarified the following:-

“It has also come to the notice of the Authority that some subscribers have taken long term packs prior to implementation of this regulation. They were concerned if they can continue to avail the services for the contracted period in new framework also. In this regard, it is clarified that consumers can continue to get the services for the contracted period without any change in terms and conditions if they so desire. However, consumers has freedom to choose the channels of their choice if they exercise this option. Then money for the remaining period shall be adjusted against the channels so selected by the subscribers.”

9. And whereas the Authority, vide its press release no.11/2019 dated 12th February 2019 has again reiterated the following :-

“The Authority further reiterates that subscribers who have taken long term packs will continue to avail the services for the contracted period. However, they have freedom to choose the channels of their choice under the new regulatory framework and in case if they exercise this option, money for the remaining period shall be adjusted for their future use.”

10. And whereas the Authority, vide its letter no. 16-6/2019-B&CS dated 10th April 2019, informed M/s Independent TV Ltd that it has been brought to the notice of TRAI through various complaints that DTH Operators have migrated the long term pack subscribers to Best Fit Plan. TRAI has also clarified that DTH Operators are bound to provide services to long term plan subscribers (including multi TV subscribers) till the contracted period without any change unless the subscriber opts out of it or the validity of the long term plan expires, whichever is earlier and also sought compliance report from the service provider.

11. And whereas M/s Independent TV Ltd in response through its letter dated 15th April 2019, has, *inter-alia* informed that customers who have been migrated to the Best Fit Plan have the same validity and their pay out per month is also same as per their subscribed long duration pack. The content made available to the subscribers is a blend of genres which they were already viewing in the language of their choice. In lieu of the long term pack selected by the customers, due credit equivalent to the payout per month has been credited to the customers' Independent TV subscription account.



12. And whereas the Authority, after analysing the response submitted by M/s Independent TV Ltd, vide its letter dated 15th April 2019, observed that the response is not tenable as Authority has already informed M/s Independent TV Ltd that they are bound to provide services to long term plan subscribers (including multi TV subscribers) till the contracted period without any change unless the subscriber opts out of it or the validity of the long term plan expires, whichever is earlier. The same has also been clarified and reiterated by Authority in its press releases referred above. Hence, the response of M/s Independent TV Ltd is not satisfactory and the same is not in compliance with the regulation 17 of the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017;

13. And whereas the Authority has received numerous consumer complaints, wherein the subscribers have complained that M/s Independent TV Ltd has migrated/changed long term plans of the subscribers and has discontinued channels opted by the subscribers and that the operator is neither providing services to the consumers despite collecting the money in advance nor any refund has been made to the consumers.

14. Now, therefore, the Authority, in exercise of its power under section 13, read with sub-clause (v) of clause (b) of sub section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), hereby directs M/s Independent TV Ltd to:

- (a) resolve the issues mentioned at para 13 above;
- (b) desist from migrating long term plan subscribers to any new plan till the contracted period unless the subscriber opts out of it or the validity of the long term plan expires, whichever is earlier;
- (c) reinstate to earlier long term plans with original validity date to the subscribers who have been migrated to any new plan unless the subscriber has himself opted out for; and
- (d) submit compliance to regulation 17 of the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 within seven (07) days from the date of issue of this direction.


(Arvind Kumar)
Advisor (B&CS)

To,

Shri Vivek Prakash
Chief Executive Officer
M/s Independent TV Ltd
Corporate Office,
H-67, Sector-63,
Noida-201301, UP