

New Delhi, the 16th June, 2008

DIRECTION

Subject: Direction under section 13, read with sub-clause (ii), (iii) & (iv) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) to M/s. MSM Discovery Pvt. Ltd. to modify its Reference Interconnect Offer for Direct to Home platforms

No. 4-32/2008 (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 the TRAI Act, 1997) has been entrusted discharge of certain functions, *inter alia*, to regulate the telecommunication services, protect the interests of service providers and consumers of the telecom sector, fix the terms and conditions of inter-connectivity between the service providers, ensure technical compatibility and effective inter-connection between different service providers, regulate arrangement amongst service providers of sharing their revenue derived from providing telecommunication services, 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 by the proviso to clause (k) of sub-section (1) of section 2 of the TRAI Act, and

(b) published under notification number.S.O.44(E) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part III, Section 4,

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

3. And whereas the Authority, in exercise of the powers conferred upon it under section 36, and paras (ii), (iii) and (iv) of clause (b) of sub-section (1) of

section 11 of the Telecom Regulatory Authority of India Act, 1997, read with the notifications No.39 (S.O No. 44 (E) and 45 (E)) dated 09.01.2004 issued from file No.13-1/2004-Restg by the Government of India under clause (d) of sub-section (1) of section 11 and proviso to clause (k) of sub-section (1) of section 2 of the Telecom Regulatory Authority of India Act, 1997, made the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004) (hereinafter called the principal regulation) on the 10th December, 2004;

4. And whereas the principal regulation has been amended, *inter alia*, by the Telecommunication (Broadcasting and Cable Services) Interconnection (Fourth Amendment) Regulation, 2007 (9 of 2007) published under notification of the Telecom Regulatory Authority of India No. F. No. 4-54/ 2007 - B&CS dated the 3rd September, 2007 in the Gazette of India, Extraordinary, Part III, Section 4;

5. And whereas clause 13.2A.1 of the principal regulation, as inserted by the Telecommunication (Broadcasting and Cable Services) Interconnection (Fourth Amendment) Regulation, 2007 (9 of 2007) requires every broadcaster, to intimate its Reference Interconnect Offer to all Direct to Home Operators, specifying, *inter-alia*, the technical and commercial terms and conditions for interconnection for the direct to home platforms and the said clause 13.2A.1 reads as under:-

“13.2A.1 Every broadcaster, providing broadcasting services before the date of commencement of the Telecommunication (Broadcasting and Cable Services) Interconnection (Fourth Amendment) Regulation, 2007 (9 of 2007) and continues to provide such services after such commencement shall, within ninety days from the date of such commencement, intimate to all the direct to home operators existing on that date and coming into existence within the said period of ninety days, its Reference Interconnect Offer specifying, *inter-alia*, the technical and commercial terms and conditions for interconnection for the direct to home platform, including the following terms and conditions, namely:-

- (a) rates of the channels on a-la-carte basis and the rates of bouquets offered by the broadcaster to the direct to home operator;
- (b) details of discounts, if any;
- (c) payment terms;
- (d) security and anti-piracy requirements;
- (e) subscriber reports based on subscriber management system and audit;
- (f) tenure of agreement;
- (g) termination of agreements.”;

6. And whereas clause 13.3 of the principal regulation, as substituted by the Telecommunication (Broadcasting and Cable Services) Interconnection (Fourth Amendment) Regulation, 2007 (9 of 2007), *inter alia*, confer power upon the Authority to require the concerned broadcaster, after giving an opportunity of being heard to the concerned broadcaster, to modify its Reference Interconnect Offer if the Authority is of the opinion that such Reference Interconnect Offer requires modifications so as to protect the interests of service providers or consumers of the broadcasting sector and cable sector, or to promote or ensure orderly growth of the broadcasting sector and cable sector or the Reference Interconnect Offer has not been prepared in accordance with the provisions of the said regulations , and the said clause 13.3 of the principal regulation reads as under:-.

“13.3 In case the Authority is of the opinion that the Reference Interconnect Offer requires modifications so as to protect the interests of service providers or consumers of the broadcasting sector and cable sector, or to promote or ensure orderly growth of the broadcasting sector and cable sector or the Reference Interconnect Offer has not been prepared in accordance with the provisions of these regulations, it may, after giving an opportunity of being heard to the concerned broadcaster, require the concerned broadcaster to modify the said offer and such broadcaster shall make such modifications and publish, within fifteen days of receipt of requirement for the modifications, the said offer after incorporating such modifications.”;

7. And whereas MSM Discovery Private Limited, having its registered office at Interface Building No 7, Third Floor, Malad Link Road, Malad (West), Mumbai-400064 (hereinafter referred to as M/s. MSM Discovery Pvt. Ltd.) had, vide its letter dated the 29th February 2008 (copy annexed as **Annexure-I** to this Direction), forwarded to the Authority a copy of its Reference Interconnect Offer (RIO) for the direct to home platforms and clause 8 of the said Reference Interconnect Offer mentioned that the a-la-carte rates and bouquet rates of channels shall be as provided in Annexure-B to the aforesaid Reference Interconnect Offer , as modified from time to time, and the said Annexure-B to the aforesaid Reference Interconnect Offer read as under:-

“....

“ANNEXURE – “B”**A-La-Carte Rates of the Channels**
Applicable to per Subscriber per month

<u>CHANNEL</u>	PRICE IN RUPEES
Sony	12.5
MAX	12.5
Discovery	12.5
AXN	9.0
Animal Planet	3.0
Discovery Travel and Living	5.5
SAB	8.0
PIX	6.0
Animax	2.0
MTV	5.5
NICK	3.0
VH1	2.0
Ten Sports	12.5
Aaj Tak	4.0
Headlines Today	1.0
Tez	1.0
Total	100.00
Rate of bouquet consisting of all the above channels	Rs 67 per Subscriber per month

.....”.

8. And whereas, in view of representations received from DTH operators about difficulties faced by them in procuring content and in order to understand the point of view of the broadcasters in the matter, the Authority held a number of interactive discussions with various broadcasters and the representatives of the M/s MSM Discovery Pvt. Ltd. were also invited by the Authority for an interactive discussion in the office of the Authority on the 27th March, 2008 wherein the attention of M/s MSM Discovery Pvt. Ltd. was invited to the difficulties as raised by the DTH operators in procuring content and also to the norm laid down by the Hon’ble Telecom Disputes Settlement and Appellate Tribunal (TDSAT) for providing channels by broadcasters to the DTH platform at fifty per cent. of the non-CAS rates, as referred to in paragraph 13 hereunder;

9. And whereas subsequent to the interactive discussion with the Authority as referred to in the preceding paragraph, a letter dated the 3rd April, 2008 from M/s. MSM Discovery Pvt. Ltd. (copy annexed as **Annexure-II** to this Direction) was received by the Authority wherein the M/s. MSM Discovery Pvt. Ltd. informed the Authority about a revision in the rates and packaging of the pay channels being distributed by them, purportedly on the basis of alleged directions given by the Authority during the said interactive discussion and a response thereto was sent to M/s. MSM Discovery Pvt. Ltd. by the Authority, vide its letter dated 22nd April 2008 (copy annexed as **Annexure-III** to this Direction) clarifying, *inter alia*, that the Authority does not issue any oral directions and that the revised filings made by the M/s. MSM Discovery Pvt. Ltd. was entirely its own voluntary decision and that the Authority would address the said information as per the relevant regulations;

10. And whereas, upon consideration of ----

- (a) the Reference Interconnect Offer filed by M/s. MSM Discovery Pvt. Ltd., as referred to in paragraph 7 above;and
- (b) the revision of the rates and packages filed by it subsequently vide its letter dated the 3rd April, 2008, as referred to in the preceding paragraph ,

it was felt by the Authority that the rates and packaging of channels being offered to the direct to home platforms by M/s. MSM Discovery Pvt. Ltd. required modification so as to protect the interests of service providers ,and consumers of the broadcasting sector and cable sector, and to promote and ensure orderly growth of the broadcasting sector and cable sector;

11. And whereas, in terms of provisions of Clause 13.3 of the Telecommunication (Broadcasting and Cable Service) Interconnection Regulation, 2004, as substituted by the Telecommunication (Broadcasting and Cable Services) Interconnection (Fourth Amendment) Regulation, 2007 (9 of 2007), M/s. MSM Discovery Pvt. Ltd. was afforded an opportunity of being heard by the Authority, vide its letter dated the 5th May, 2008 (copy annexed as **Annexure-IV** to this Direction) , before a final decision is taken by the Authority on the requirement to modify the Reference Interconnect Offer of the M/s. MSM Discovery Pvt. Ltd. as referred to in paragraph 7 and as amended by them vide their communication dated the 3rd April, 2008, as referred to in paragraph 9 above;

12. And whereas, in response to the letter of the Authority dated the 5th May, 2008, as referred to in the preceding paragraph affording an opportunity of being heard as required by clause 13.3 of the Telecommunication (Broadcasting and Cable Service) Interconnection Regulation, 2004 to the M/s. MSM Discovery Pvt. Ltd., a letter dated 26th May, 2008 had been received from M/s. MSM Discovery Pvt. Ltd. (copy annexed as **Annexure-V** to this Direction), wherein the M/s. MSM Discovery Pvt. Ltd. has informed the Authority, *inter alia*, ----

(a) that M/s. MSM Discovery Pvt. Ltd have entered into contractual agreements with all existing DTH operators on a non-discriminatory basis except one DTH operator, in whose case the matter is sub-judice before the Hon'ble TDSAT and Hon'ble Delhi High Court;

(b) that a further reduction in a-la-carte rates would not help the cause of the end consumer;

(c) that any further reduction in its a-la-carte or bouquet rates will not be feasible;

and requested the Authority to desist from taking any such precipitate action;

13. And whereas the Authority has carefully considered the contentions of M/s. MSM Discovery Pvt. Ltd. contained in their reply to the opportunity afforded to them under clause 13.3 of the Telecommunication (Broadcasting and Cable Service) Interconnection Regulation, 2004 to the M/s. MSM Discovery Pvt. Ltd., as referred to in the preceding paragraph and the same has not been found to be satisfactory for the following reasons, namely:-

(a) the contention of M/s. MSM Discovery Pvt. Ltd. that it has entered into contractual agreements with all existing DTH operators except one at mutually agreed commercial terms, and, therefore, no external intervention is warranted has not been found to be acceptable because of the fact that there are only a handful of DTH operators in the country and the existence of contractual arrangements with some of them is not a valid ground for giving any special treatment to M/s. MSM Discovery Pvt. Ltd. and a Reference Interconnect Offer is meant for facilitation of interconnection agreements and prevention of imposition of unilateral conditions by any service provider in the sector so as to protect the interests of service providers, and consumers of the broadcasting sector and cable sector, and to promote and ensure orderly growth of the broadcasting sector and cable sector; and, the broad norms applicable to the Reference Interconnect Offers of all broadcasters are also applicable to M/s. MSM Discovery Pvt. Ltd.;

(b) the contention of M/s. MSM Discovery Pvt. Ltd. that a further reduction in a-la-carte rates would not help the cause of the end consumer does not have merit because---

(i) it is not a valid ground for exempting M/s. MSM Discovery Pvt. Ltd. from application of the norms laid down by the Hon'ble TDSAT (in its judgments dated 31st March, 2007 in petition no. 189(C) of 2006 and dated 14th July, 2006 in petition no. 136(C) of 2006) wherein the rates for DTH platforms were to be fifty per cent. of the rates at which the bouquets/ channels are being offered for non-CAS cable distribution, i.e., non-addressable platform and;

(ii) competition among DTH platforms and between DTH on one hand and cable TV on the other will exert sufficient competitive pressure on DTH operators to share the benefits of lower content cost with end consumers and thus protect the interests of service providers ,and consumers of the broadcasting sector and cable sector, and promote orderly growth of the broadcasting sector and cable sector ;

(c) the offering of separate bouquets, each for the non-CAS distribution platform and the DTH platform would defeat the norms laid down by the Hon'ble TDSAT in its judgment dated the 31st March, 2007 in petition no. 189(C) of 2006 and its judgment dated the 14th July, 2006 in petition no. 136(C) of 2006 wherein the rates for DTH platforms were to be fifty per cent. of the rates at which the bouquets/ channels are being offered for non-CAS cable distribution and such offering would be against the interests of service providers ,and consumers of the broadcasting sector and cable sector, and impede orderly growth of the broadcasting sector and cable sector;

14. Now, therefore, in exercise of the powers conferred upon it under section 13, read with clause (b) of sub-section (1) and sub-section (2) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) and clause 13.3 of Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004), as substituted by the Telecommunication (Broadcasting and Cable Services) Interconnection (Fourth Amendment) Regulation, 2007 (9 of 2007), so as to comply with the norm laid down by the Hon'ble TDSAT (in its judgment dated the 31st March, 2007 in petition no. 189(C) of 2006 and its judgment dated the 14th July, 2006 in petition no. 136(C) of 2006) wherein the rates for DTH platforms were to be fifty per cent. of the rates at which the bouquets/ channels are being offered for non-CAS cable distribution and to protect the interests of service providers and consumers of the broadcasting sector and cable sector, and to promote and ensure orderly growth of the broadcasting sector and cable sector and for the reasons mentioned in the preceding paragraphs, the Telecom Regulatory

Authority of India hereby directs that M/s. MSM Discovery Pvt. Ltd. shall, within fifteen days from the date of issue of this Direction, ----

(a) modify its Reference Interconnect Offer referred to in paragraph 7 for Direct to Home platforms so as to-----

- (i) offer to the Direct to Home (DTH) operators the same bouquets which are being offered by M/s. MSM Discovery Pvt. Ltd. for non-CAS cable distribution, so that the above norm laid down by the Hon'ble TDSAT is followed in letter and spirit ;
- (ii) offer to the DTH operators the bouquets/ channels at fifty per cent. of the rates at which such bouquets/ channels are being offered for non-CAS cable distribution, i.e., non-addressable platform so as to comply with the above norm laid down by the Hon'ble TDSAT in letter and spirit; and

(b) submit to the Authority a report of compliance with the directions contained in items (i) and (ii) of sub-paragraph (a) above, along with a copy of its modified Reference Interconnect Offer.

(R.N. Choubey)
Principal Advisor (B&CS)
Fax: 23220442

To

Shri Ashok Nambissan,
M/s. MSM Discovery Pvt. Ltd.,
3rd Floor, Interface Building No. 7,
Malad Link Road, Malad (West),
Mumbai – 400 064
Fax No.: 022-6640 7565.



29th February 2008

To
 Mr. R.N. Coubey
 Principal Advisor (B&CS)
 Telecom Regulatory Authority of India
 Mahanagar Door Sanchar Bhawan,
 Jawahar Lal Nehru Marg (old Minto Road),
 Next to Zakir Hussain College,
 New Delhi - 110 002

Sub : Reference Interconnect Offer for Direct to Home Operators ("RIO")

This is with reference to the Telecommunication (Broadcasting and Cable Services) Interconnection (Fourth Amendment) Regulation 2007 ("Regulation").

As per the Regulation, all broadcasters were required to publish a copy of the Reference Interconnect Offer on their respective websites as intimation to the direct to home (DTH) operators. A copy of which is enclosed herewith for your reference and record.

In compliance of the Regulations, we have also published the RIO in our website. For your reference, the link is as provided below:

http://www.setdiscovery.com/dth_rio.pdf

We are also dispatching to each existing DTH operator a copy of the same as per clause 12.3.A.1 of the Regulation. .

Thanking you,
FOR MSM DISCOVERY PRIVATE LIMITED

ANIL LALE
EXECUTIVE-LEGAL

REFERENCE INTERCONNECT OFFER

This Reference Interconnect Offer (“**RIO**”), inter alia, provides broad technical and commercial terms and conditions which an Applicant would need to satisfy to obtain interconnection from MSM Discovery Private Limited (erstwhile SET Discovery Private Limited) (“**MSMD**”) for Direct to Home (“**DTH**”) Operations.

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|------------------------------------|---|
| 1. Preliminary Requirements | <p>1. Depending on its category, the Affiliate would need to provide to MSMD the documents specified in Annexure ‘A’ below.</p> <p>2. The Applicant shall also provide the specifications of the encryption systems (the “Encryption System”) to encrypt content on the Platform.</p> <p>3. The Applicant shall further provide all other technical specifications of the Subscriber Management Systems and provide other details necessary to satisfy the Subscriber Report and Anti Piracy requirements set forth in this RIO.</p> |
| 2. Applicant Registration | <p>Along with the request for entering into an interconnection agreement, the Applicant must provide a certified copy of the valid license certificate/license issued by the Ministry of Information and Broadcasting, India authorising the Applicant to operate a Direct to Home Network. Any requests made without a copy of a valid license to operate a DTH network shall not be entertained. The Applicant would further need to undertake that the registration certificate would be renewed before expiry.</p> |
| 3. Agreement | <p>Subject to satisfactory fulfillment of the requirements specified in ‘1 and 2’ above, Applicant agrees to enter into an Agreement as per this RIO or on mutually agreeable terms and conditions (“Agreement”), which would govern the relationship between MSMD and the concerned Applicant (“Affiliate”).</p> |
| 4. Rights Granted. | <p>Non-exclusive right to carry the Channels (as defined in paragraph 7 below) during the Term via direct-to-home satellite transmission (“DTH”) in KU Band or any other band in which the Affiliate is authorised to transmit by the Central Government on the DTH subscription television platform owned and operated by Affiliate (the “Platform”). Right will be for distribution to residential households only and Affiliate agrees to distribute the Channels in the manner as set forth in the Agreement. All other rights and means of distribution not specifically and expressly granted to Affiliate are expressly excluded and reserved by MSMD, including, but not limited to, PPV, VOD, SVOD, transmission via any “headend-in-the-sky” (“HITS”) platform to any cable operators, multi system operators, cable systems, IPTV systems and the Internet.</p> |
| 5. Term | <p>For a minimum period of 5 years from the start date mentioned in the Agreement with an option to renew for a further period of 5 years on</p> |

mutually agreed terms and conditions.

6. Territory

Territory for DTH Operations shall mean the territory as mutually agreed between both parties at the time of execution of the Agreement.

7. Channels

The term "Channel" means each channel, as set forth below (collectively, the "Channels"):

1. Animal Planet (India Feed) ("AP")
2. Animax India ("Animax")
3. AXN India ("AXN")
4. Discovery Channel (India Feed) ("Discovery")
5. Discovery Travel and Living (India Feed) ("DTL")
6. MTV India ("MTV")
7. Nickelodeon India ("Nick")
8. SAB ("SAB")
9. SET (Sony Entertainment Television) ("SET")
10. SET MAX ("MAX")
11. SET PIX ("PIX")
12. Ten Sports ("Ten")
13. VH1 India ("VH1")
14. Aaj Tak ("Aaj")
15. Headlines Today ("Headlines")
16. TEZ ("TEZ")

AP, Animax, AXN, Discovery, DTL, SAB, SET, MAX and PIX are collectively referred to herein as the "MSMD Channels". MTV, Nick, Ten, VH1, Aaj, Headlines, TEZ are collectively referred to herein as the "Third Party Channels".

8. A-La-Carte and Bouquet Rates of Channels

The A-La-Carte and Bouquet Rates of Channels shall be as provided in **Annexure-B** hereto, as modified from time to time.

9. Channel Removal and Replacement; Free-to-Air Distribution

MSMD shall have the right to remove any of the Channels if MSMD ceases to have the necessary rights to distribute such Channel in the Territory ("Removed Channel") with (i) at least 60 days' advance written notice to Affiliate or (ii) with reasonable advance written notice in such cases where MSMD ceases to have the right to distribute a Channel in the Territory due to circumstances outside its control, including, but not limited to the actions of governmental authorities or regulatory bodies. The terms and conditions pertaining to removal and replacement of Channels shall be as mutually agreed under the terms of the Agreement.

11. Subscribers

"Subscriber" means, for any calendar month, each residential household, private residential dwelling unit, including a dwelling unit in a residential apartment building, complex or any other multi-unit dwelling, which is owned, leased or rented, which is served by the Platform. Each household or unit in a residential multi-unit dwelling shall be treated as a separate Subscriber.

In addition, for each additional subscription or connection within a single household or unit (an "Additional Connection"), shall be treated as a separate Subscriber.

"Average Number of Subscribers" means the average number of Subscribers for a month calculated by dividing (i) the sum of (A) the total number of Subscribers on the first day of such month and (B) the total number of Subscribers on the last day of such month by (ii) two. For purposes of calculating the Average Number of Subscribers, the number of Subscribers in a multi-unit dwelling and which is billed on a bulk single rate basis shall be equal to the number of individual units in such dwelling.

12. License Fee*

Affiliate shall pay to MSMD a fee for each month of the Term ("the License Fee") which shall be calculated in accordance with the formula set forth below:

Monthly Fee = RPS x Average Number of Subscribers (as defined above)

"RPS" means the Rate Per Subscriber calculated as per the Channels/bouquets selected by the Affiliate.

13. Payment Terms

Payment of the License Fee shall be made within 15 days after MSMD issues an invoice to the Affiliate (the Due Date) to a bank account specified in the invoice, which invoice amount shall be based on information provided in the Subscriber Report⁷ provided, however that if the Affiliate fails to deliver the necessary information of its Subscriber Report by the Subscriber Report Deadline, the Affiliate will pay to MSMD an amount equivalent to the highest Monthly Fee payable during the previous three (3) months. Further the Affiliate shall also remain liable to pay to MSMD any additional amounts found payable pursuant to the delayed information from the Subscriber Report upon delivery of the information to MSMD.

All payments from Affiliate to MSMD, including the License Fee, shall be paid free and clear of and shall not be reduced by any tax, levy or charge (except for Indian withholding taxes as provided below), including but not limited to any service tax. To the extent that Affiliate is required under applicable law to withhold or deduct any taxes from any payment, the amount of such payment shall be increased by the paid or deducted amount so that MSMD receives the amount that would otherwise have been payable if such taxes had not been required to be withheld or deducted (except for withholding taxes).

The Affiliate shall be required to make payments by the Due Date in accordance with the terms hereof, and any failure to do so on the part of Affiliate shall constitute a material breach of the Agreement. Affiliate, on demand of MSMD, agrees to pay interest to MSMD on any sums, which remain unpaid more than 10 days following the Due Date or the date on which they are due and payable. Such interest shall accrue from the Due Date and shall be payable at a rate equal to 18 percentage (%) per annum ("Late Payment Interest Rate"). The imposition and collection of interest on late payments does not constitute a waiver of Affiliate's obligations to pay the License Fee by the Due Date, and MSMD retains all of its other rights and remedies under this Agreement.

14. Alteration of Service

Affiliate agrees to carry each of the Channels in its entirety, in the order and at the time transmitted by MSMD's licensors without any editing, delays, alterations, interruptions, picture squeezing or re-sizing, insertion of graphic or animated overlays, pull-throughs or crawls, deletions or additions, except as authorized in advance in writing by MSMD, including for any electronic program guide as referenced below. Affiliate shall not redistribute any portion of any of the Channels except as specifically authorized by MSMD. MSMD and its licensors reserve the right to alter any or all of the Channels, including the names of the Channels and the programming exhibited on the Channels.

15. Delivery

MSMD shall deliver, or cause the delivery of, the Channels to

Affiliate and Affiliate shall be responsible, at its own cost, to further distribute the Channels in encrypted form as provided in this Agreement.

17. Tiering

The Affiliate undertakes to MSMD that the Channels shall not be disadvantaged or otherwise treated less favourably by the operator with respect to competing channels on a genre basis while including the Channels in any package or tier.

Further the Affiliate shall keep MSMD informed of the packages or tier in which the Channels are made available and any shift of the Channel(s) shall be only after providing 15 days prior written intimation by the Affiliate to MSMD.

**18. Authorized
Transmission/
Security**

Affiliate shall transmit each of the Channels through the Platform to subscribers located in the Territory in the manner of transmission and distribution specified in this Agreement with respect to the Platform, and shall scramble the signal for such transmission, in accordance with technical parameters and specifications as mutually agreed between the parties at the time of entering into the Agreement (the "Technical Specifications"). The Parties acknowledge and agree that any changes to the Technical Specifications and any material changes to the Platform's security and encryption technology, including the Encryption System (other than standard software upgrades which are deemed not to be material changes), during the Term will only be made as may be agreed between the Parties in writing from time to time; provided, however, that any such consent shall not be unreasonably withheld or delayed. During the Term, Affiliate's transmitting facilities shall be fully capable of individually addressing Subscribers on a channel-by-channel and decoder-by-decoder basis. Affiliate shall install decoding equipment and all other equipment necessary to receive and distribute the Channels, at its own cost and expense. Affiliate acknowledges and agrees that set-top boxes, and their installed content protection systems, used by subscribers of the Platform shall prohibit the use of digital outputs. Affiliate further agrees to make no use, nor authorize or permit others to make use, of the Channels or the programming on the Channels other than as expressly set forth in this Agreement. MSMD shall have the right in its sole discretion to either immediately suspend the transmission of any or all of the Channels by Affiliate, or terminate this Agreement by providing at least 15 days' prior written notice, if Affiliate distributes any or all of the Channels in a manner not authorized or for a purpose not specifically provided for by this Agreement. Affiliate agrees that it shall comply at all times with MSMD's Technical Specifications.

Affiliate acknowledges that MSMD and its licensors may in certain circumstances not control the appropriate rights to exhibit certain programs on the Channels in the Territory ("Withheld Programs").

Accordingly, Affiliate acknowledges and agrees not to exhibit, and shall block (or "black out") the transmission of, any Withheld Program upon notification from MSMD and shall indemnify MSMD for any failure to block such Withheld Program from its transmission.

Affiliate shall use its best efforts to maintain for the Channels first-class signal transmission quality in accordance with the highest international industry standards, subject to MSMD delivering the Channels to Affiliate of a quality sufficient to permit Affiliate to reasonably comply with such standards. Affiliate shall maintain a service availability (a service free from viewer discernible problems including, without limitation, video with no audio, audio with no video or significant signal distortion) that meets or exceeds 99.95% reliability per month (which represents service outages incurred by Subscribers not exceeding approximately 22 minutes per month) without any interruption or deviation from the daily transmission schedule, and shall immediately notify MSMD of any degradation to any of the Channels' signals.

***19. Security And
Anti-Piracy
Requirements***

Operator shall not authorize, cause or suffer any portion of any of the Channels to be recorded, duplicated, telecast, exhibited or otherwise used for any purpose other than for distribution by Operator at the time the Channels are made available; provided, that nothing in this Agreement will prohibit the Operator from making available to its Subscribers set top boxes with PVR or DVR technology. If Operator becomes aware that any unauthorized third party is recording, duplicating, telecasting, exhibiting or otherwise using any or all of the Channels for any other purpose, Operator shall immediately so notify MSMD and Operator shall take all steps necessary to prevent such unauthorized use. Operator shall not authorize or permit the exhibition of any or all of the Channels or any portion of the Channels at any place where admission for exhibition of such Channels is charged. Operator shall not authorize or permit infringement of any copyrighted material exhibited on the Channels, or use the rights granted to it under this Agreement for any unlawful purpose. If so instructed by MSMD, Operator shall immediately shut off or de-authorize the transmission to any unauthorized party after it receives a request from MSMD. In such instances where Operator is the only party that is allowed to initiate legal action against an unauthorized party, including, but not limited to, the filing of criminal complaints against such unauthorized party, Operator agrees to initiate such legal action. Together with the owners and distributors of the Channels, MSMD plans to actively combat piracy of the Channels in the Territory and to work closely with Operator in such efforts. Operator shall, at its own expense, take all necessary steps to comply with obligations set forth in **Annexure- "C"**.

***20. Advertising/
Marketing/
Promotion***

Affiliate shall promote all the Channels and the programming exhibited by all of the Channels in the same manner and to the same extent as any other channel, which is distributed by Affiliate;

provided, that Affiliate may carry out any specific promotion with respect to a certain specific channel(s), if such channel(s) provide Affiliate with financial assistance with respect to such promotion. Notwithstanding the above, Affiliate agrees that it shall provide the Channels with the same opportunity to carry out specific promotions. Moreover, Affiliate agrees that the Channels will be treated similarly, in terms of size and prominence (taking into consideration the context) to other channels in any advertising material where the Channel Marks (as defined below) appear with the logos and names of all other channels. Nevertheless, in promoting the Channels, Affiliate shall use only promotional material provided or pre-approved by MSMD in strict adherence to MSMD's instructions, in the form provided by MSMD (or, if created by or on behalf of Affiliate, in the identical form presented to MSMD for MSMD's prior written approval) and only for the purpose of promoting the Channels. MSMD shall make available to Affiliate promotional and marketing materials in accordance with MSMD's then current practices. MSMD may, from time to time, undertake marketing tests and public polls or other research in connection with the Channels. Affiliate shall cooperate with MSMD in such research by making available information reasonably requested by MSMD. MSMD and Affiliate agree to discuss joint marketing efforts and the coordination of marketing and promotion for the Channels and the Platform.

MSMD will also be treated similarly to other programmers in respect of opportunities for participation in events and promotions that Affiliate undertakes for the promotion of channels, subject to and considering commercial agreements for each such event and promotion and the context of each such event and promotion.

In addition, if Affiliate has or creates an electronic programming guide or other navigational tools for the Platform ("EPG"), or a printed programming guide for distribution to its subscribers (a copy of which shall be sent to MSMD simultaneously with mailings to subscribers), then the programming schedule of each of the Channels shall be prominently featured in them in the order of their channel/frequency position (and Affiliate shall use its best efforts to ensure that Subscribers are advised of any changes in the programming schedules of the Channels). MSMD shall provide to Affiliate information in a format that is reasonably requested by Affiliate for this purpose.

For purposes of this Agreement, "Channel Marks" shall mean all Intellectual Property (as defined below) owned or used by MSMD or its affiliates or licensors from time to time in connection with the Channels, including, without limitation, the trade names and marks specified by MSMD or otherwise notified in writing by MSMD from time to time.

21. Subscriber

Within 15 days after each month of the Term (the "Subscriber Report

***Reports and
Subscriber
Management***

Deadline”), Affiliate shall provide a monthly report (“Subscriber Report”) to MSMD that sets out the number of households receiving each of the Channels, the total number of subscribers at the beginning and end of each month, and such other information as MSMD may require for determining the License Fee. Affiliate shall also include in its Subscriber Report, comprehensive details of all incidents of piracy and signal theft involving the Platform, the names of perpetrators involved in such incidents, and any actions, including but not limited to the filing of police reports and lawsuits, taken against such perpetrators since the prior Subscriber Report or meeting. The obligation of Affiliate to provide to MSMD the Subscriber Reports shall survive termination of this Agreement until MSMD receives the Subscriber Reports for each relevant month for which any License Fee is payable.

Affiliate shall supply to MSMD within 90 days after the end of each Year a statement attested to by Affiliate’s Chief Executive Officer and Chief Financial Officer (or their equivalent) certifying as to the completeness and accuracy of all information contained in all Subscriber Reports relating to such Year. MSMD’s authorized representatives (from an independent nationally recognised firm of Accountants and who are bound by the confidentiality terms as set out in this Agreement (the “Auditors”) shall have the right, to review or audit the books and records of Affiliate every once in a calendar year, relating to the Channels for the purpose of verifying the amounts properly payable to MSMD under this Agreement, the information contained in Subscriber Reports and Anti Piracy obligations as set out in this Agreement. If such review or audit reveals that additional fees are payable to MSMD, Affiliate shall immediately pay such fees, as increased by the Late Payment Interest Rate. If any fees due for any period exceed the fees reported by Affiliate to be due for such period by five (5) percent or more, Affiliate shall pay all of MSMD’s costs incurred in connection with such review or audit, and take any necessary actions to avoid such errors in the future. Further in such a case where there is a discrepancy of 5% or more in the License Fee during a review or audit, the audit shall be permitted to be carried out once in every quarter in the immediately succeeding calendar year.

Affiliate will maintain throughout the Term and for twelve (12) months thereafter (or such longer period as required by law) (the “Records”) sufficient records to enable MSMD to verify the Subscriber Reports supplied by Affiliate pursuant to this Section, the payments due to MSMD hereunder and Affiliate’s compliance with its anti-piracy obligations as set out in this Agreement.

Affiliate agrees that it shall maintain the customer databases compiled by Affiliate under this Agreement, and that it shall provide MSMD with reasonable access to such databases. Affiliate will maintain at its own expense a subscriber management service (“SMS”) capable of, at a minimum:

- (i) Maintaining a computerised customer database capable of recording adequate details of each Subscriber, including name, address, chosen method of payment and billing;
- (ii) Administering subscriptions of Subscribers by producing and distributing contracts for new Subscribers and setting up and maintaining an infrastructure whereby Subscriber contracts are collected, returned and recorded in the SMS database for ongoing administration;
- (iii) Handling all ongoing administrative functions in relation to Subscribers, including, without limitation, billing and collection of subscription payments, credit control, sales enquiries and handling of complaints;
- (iv) Administering payments of any commission fees from time to time payable to authorised Affiliate agents for the sale to Subscribers of programming packages;
- (v) Obtaining and distributing receivers and smartcards, if applicable, to Subscribers, and issue replacement smartcards from time to time in its discretion; and
- (vi) Enable new Subscribers via the SMS over-the-air addressing system and disable defaulting Subscribers from time to time in its discretion.

21. *Integrated Receiver Decoders*

Affiliate may be required to purchase from the concerned vendors the IRDs according to required Technical Specifications or, depending on availability, MSMD may provide to Affiliate such IRD's wherein refundable security deposit before the delivery has to be paid. The IRD's provided by MSMD shall at all times remain the property of the respective Channel owners.

22. *Termination and Suspension*

A) If Affiliate defaults in its payment of any License Fee by the Due Date, MSMD may issue a written notice to Affiliate specifying the amounts due and payable. If Affiliate then fails to pay any License Fee within 21 days after receipt of such notice, MSMD shall have the right to suspend delivery to Affiliate of any or all of the Channels until such amounts due and payable (as per such notice) by Affiliate to MSMD under this Agreement are paid in full, or, alternatively, MSMD may immediately terminate this Agreement.

B) MSMD may suspend delivery of any or all of the Channels or terminate this Agreement at any time (i) if the Channels, MSMD, or its respective successors or assigns, cease to operate or do business in the Territory for any reason, (ii) if Affiliate breaches any of its material obligations under this Agreement (other than payment of the License Fee) and fails to cure such breach within 30 days after

Affiliate receives written notice from MSMD or (iii) if Affiliate becomes insolvent or winding up proceedings are initiated against the Affiliate or if the business or property of the Affiliate is subject to management of a receiver appointed by any court for whatsoever reason.

C) Affiliate may terminate this Agreement if MSMD breaches any of its material obligations under this Agreement and fails to cure such breach within 30 days after MSMD receives written notice from Affiliate. In addition, Affiliate may cease to distribute a Channel if it receives written notice from the Ministry of Information & Broadcasting of India for such period of time as mandated (which such period may be subsequently reduced).

D) In each circumstance where notice is sent to a defaulting party in accordance with this Section, representatives of each Party will immediately meet to resolve the issue amicably so the Parties can mutually agree on how to cure the default prior to the end of the applicable cure period.

23. Effect of Termination

- a) Upon expiry or termination of this Agreement for any reason, each party shall return to the other party all documents, Confidential Information, and other material belonging to the other party in its possession.
- b) Termination or expiry of this Agreement will not affect the obligations, rights and liabilities of the parties that are expressly or impliedly to survive termination or expiry.

24. Indemnification

Affiliate hereto shall indemnify and hold MSMD, and its respective officers, directors, employees, agents and affiliates, harmless from and against any and all claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees and related costs) arising out of the breach of any representation, warranty or undertaking made by such it hereto.

* The RIO only provides the broad commercial and technical terms as per the The Telecommunication (Broadcasting And Cable Services) Interconnection (Fourth Amendment) Regulation, 2007. The final Agreement shall be subject to mutual negotiation and agreement and shall contain necessary clauses setting out the details of the terms and conditions.

ANNEXURE "A"

- A. If the Affiliate is an individual or a sole proprietor:
- (a) Photograph of the proprietor of the Applicant firm.
 - (b) Proof of residence – Passport / Voter's ID Card/ration card/Electricity bill / Income Tax Returns.
 - (c) Self attested copy of Passport / Voters ID / PAN Card / Driving license for signature verification.
- B. If the Affiliate is a partnership firm:
- (a) Certified true copy of the registered Partnership Deed.
 - (b) Separate powers of attorney signed by all partners authorising the signatory to sign this Agreement and any amendment thereto and all related documents on behalf of the Firm.
 - (c) Photograph of the signatory.
 - (d) Copy of Passport / Voters ID / PAN Card / Driving license for signature verification attested by the authorised signatory.
- C. If the Affiliate is a company:
- (a) The Certificate of Incorporation – certified by the Company Secretary / Director.
 - (b) Memorandum and Articles of Association of the company.
 - (c) Board resolution certified by the Company Secretary/Director authorizing the signatory to sign the Agreement and any amendment and all related documents on behalf of the Company.
 - (d) Copy of Passport / Voters ID / PAN Card / Driving license for signature verification attested by the authorised signatory.
 - (e) Photograph of the signatory.
- D. If the Affiliate is a Hindu Undivided Family "HUF"
- (a) The photograph of the Karta.
 - (b) The Proof of Residence - Voters Identity Card or Passports of Karta or Electricity bill / Income Tax returns.
 - (c) The names of all coparceners and his/her relation with the Karta.
 - (d) Relevant documents, including any Partition Deed, Family Settlement Deed, etc.
 - (e) Copy of Passport / Voters ID / PAN Card / Driving Licence for signature verification attested by the Karta.
- E. If the Affiliate falls into the 'Other' category
- (a) Such documents as required by MSMD.

ANNEXURE-"B"

A-La-Carte Rates of the Channels
Applicable to per Subscriber per month

<u>CHANNEL</u>	<u>PRICE IN RUPEES</u>
Sony	12.5
MAX	12.5
Discovery	12.5
AXN	9.0
Animal Planet	3.0
Discovery Travel and Living	5.5
SAB	8.0
PIX	6.0
Animax	2.0
MTV	5.5
NICK	3.0
VHI	2.0
Ten Sports	12.5
Aaj Tak	4.0
Headlines Today	1.0
Tez	1.0
Total	100.00
Rate of bouquet consisting of all the above channels	Rs. 67 per Subscriber per month

ANNEXURE-“C”**OPERATOR'S ANTI-PIRACY OBLIGATIONS****1. General**

1.1 All Fingerprinting hereunder is compliant with the BIS Specification for Digital Set Top Box (STB) for Direct to Home (DTH): IS 15377:2003.

2. STBs, Smart Cards, Systems and Procedures.

2.1 In order to ensure that each STB is capable of being used for Fingerprinting, Operator agrees that the STB supplied to residential Subscribers will conform to the BIS standards as provided in BIS Specification for Digital Set Top Box for Direct to Home (DTH): IS 15377:2003.

2.2 Operator represents and agrees that there are adequate systems, processes and controls in place regarding the distribution of STBs and Smart Cards so that they are only sold within the Territory by Operator or by its authorised dealers and such sales are only made to bona fide Subscribers residing in the Territory and installations are made by Operator or its designees at an address in the Territory. Adequate systems, processes and controls shall include, without limitation, Operator:

2.2.1 collecting and maintaining complete up to date records of each and every residential Subscriber's details, and such Subscriber's STB and Smart Card including, without limitation, the particulars specified in paragraph 2.4;

2.2.2 requiring all residential Subscribers to submit a utility bill or bank statement as proof of address, including any residential Subscribers who have been previously de-authorised prior to re-authorisation, or otherwise independently verify the address prior to activation of any STB and Smart Card;

2.2.3 investigating any multiple Smart Cards issued under one individual name or address (other than for mirror STB's), including visiting the premises of such individuals or addresses from time to time;

2.2.4 deploying verification officers on a regular basis to visit and audit the accuracy and veracity of the residential Subscriber databases on a regular basis;

2.2.5 ensuring compliance by dealers including unannounced visits to dealers' premises from time to time;

2.2.6 requiring that for every change of address on the Operator system and therefore re-location of a STB, there is an independent physical verification of the new residential address; and

- 2.2.7 deauthorising any STB or Smart Card that is found outside of the Territory or in the possession of a person who is not a bona fide residential Subscriber.
- 2.3 Operator agrees that all of its STBs and Smart Cards: (i) are sold and installed together as a pack only in the Territory and only at the premises of Subscribers whose address has been verified in accordance with paragraph 2.2.1; and (ii) employ card-pairing technology that ensures once a Smart Card is activated, it is paired to a particular STB and that the Channels cannot be viewed if such Smart Card is removed and used with any other STB.
- 2.4 Operator agrees that all installations of STBs and Smart Cards are done directly by Operator or through its authorised dealers and only within the Territory, and that the installer for every installation physically checks and ensures before installation and activation of a STB and Smart Card that the address where the installation is being done matches with the address as supplied by the residential Subscriber at the time of purchase of the STB and which is the same as detailed in the subscriber management system. In accordance with paragraph 2.2.1, Operator's subscriber management system shall contain all of the following information items for each residential Subscriber prior to activation of a Smart Card and STB for such residential Subscriber:
- 2.4.1 Name;
- 2.4.2 Installation address;
- 2.4.3 Billing address (if different);
- 2.4.4 Telephone number of the installation address, where applicable;
- 2.4.5 Residential Subscriber's unique subscriber reference or subscription agreement number;
- 2.4.6 Service/Channels/Packages that have been selected;
- 2.4.7 Name and unique reference number of the dealer who sold the STB to such residential Subscriber;
- 2.4.8 Name and unique reference number of the dealer who sold the subscription to such residential Subscriber (if different);
- 2.4.9 Name and unique reference number of the installer (if different from the dealer);
- 2.4.10 Smart Card number; and
- 2.4.11 Unique STB number.
- 2.5 Operator agrees and undertakes that it shall not knowingly or negligently activate, or otherwise reactivate, as the case may be, those Smart Cards, wherein the Channels can be accessed from addresses which are:
- 2.5.1 not bona fide or do not match the addresses as supplied by the relevant residential Subscribers as detailed in the subscriber management system;

- 2.5.2 outside of the Territory; or
- 2.5.3 that of a cable head end or any other distributor of such Channel to residential subscriber.
- 2.6 In order to ensure that the Smart Card is only activated for bone fide Subscribers, Operator further agrees that there are adequate controls to ensure (a) a Smart Card is not activated before installation with its paired STB; and (b) that such Smart Card is activated at the address of the residential Subscriber which matches with the address as supplied by the residential Subscriber at the time of purchase of the STB and which is the same as detailed in the subscriber management system.
- 2.7 Operator agrees that its subscriber management system allows viewing and printing historical data, in terms of total activation, de-activation and re-activation of all residential Subscribers and all other records required under Paragraph 2.4.
- 2.8 Operator shall ensure that on screen display should support a minimum of 200 characters.
- 3. Fingerprinting**
- 3.1 Operator shall ensure that it has systems, processes and controls in place to run Fingerprinting at regular intervals as reasonably requested from time to time (such requests not to unreasonably interfere with Operator's business operations).
- 3.2 Operator shall ensure that all STBs should support Fingerprinting and should be compatible for running Fingerprinting.
- 3.3 Operator shall ensure that it shall be able to operate the Fingerprinting across all residential Subscribers or any sub-set of residential Subscribers based on pre-set parameters and such Fingerprinting should, apart from the foregoing, be possible and available on global, group and regional bases at all times.
- 3.4 Operator shall ensure that the Channels' Fingerprinting should pass through without masking or tampering with respect to time, location, duration and frequency.
- 4. Conditional Access and other systems**
- 4.1 Operator agrees that it shall, at its sole cost, be responsible for ensuring the Channels are distributed via a digital, encrypted format signal receivable through its conditional access system ("Conditional Access") only by its bona fide Subscribers to the Channels.
- 4.2 Operator agrees that: (a) both the Conditional Access and Subscriber billing systems shall be of a reputed organization and are currently being used by other pay television services that have, in aggregate, at least 1 million subscribers in the global pay television market outside of the Territory; and (b) both its Conditional Access and subscriber management systems shall be integrated and any activation/de-activation shall be processed simultaneously through both systems.

5. Piracy, piracy reports and prevention

- 5.1 Each party shall immediately notify the other party if it ascertains or becomes aware that:
- 5.1.1 Any Smart Card or STB is being located, supplied or sold outside the Territory,
 - 5.1.2 Any of the Channels are being viewed via a Smart Card or STB by a STB party that is not a residential Subscriber,
 - 5.1.3 A Smart Card is being used for viewing the Channels anywhere other than the registered address of a residential Subscriber in the Territory, or
 - 5.1.4 A Smart Card and/or STB is being used by a cable operator to distribute any of the Channels, (each, a "Piracy Event").
- 5.2 If MSMD becomes aware of a Piracy Event then, at MSMD's reasonable request, Operator shall take all reasonable necessary steps to prevent or to stop such unauthorised or illegal use of the Channels or signals thereof.
- 5.2.1 In the event MSMD decides to take legal or other action against any infringing party committing or causing any Piracy Event, Operator shall provide all reasonable assistance to MSMD to prevent or combat such Piracy Event.
 - 5.2.2 If Operator wishes at its cost to take legal or other action of any kind against any party alleged to be infringing a right of MSMD, where MSMD shall be one of the parties to such action, it shall notify MSMD in writing and seek MSMD's prior written consent. Where MSMD consents to Operator taking legal or other action on behalf of MSMD, Operator Sky shall keep MSMD fully informed of the progress of such action. Operator shall not settle, attempt to settle or otherwise compromise the rights of MSMD or its Affiliates without the prior written consent of MSMD.
- 5.3 If its Conditional Access is hacked or otherwise compromised, Operator agrees to change or upgrade, within 180 days of Operator becoming aware of such compromise, its Conditional Access and/or Subscriber Management systems to ensure that the Conditional Access cannot be hacked or compromised within the Territory. If Operator does not make such change or upgrade within such period of time, MSMD shall have the right to suspend or terminate this Agreement. During such period, Operator shall use reasonable efforts to implement a temporary fix to protect the Channels.
- 5.4 Operator shall investigate and report to MSMD any detected incidents of copying, transmitting, exhibiting or other illegal use of the Channels via a STB and/or Smart Card, or any illegal or unauthorised distribution or use of the STBs or Smart Cards or other equipment that enable access to the Channels.

Annexure-II



April 3, 2008

To

The Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan
Jawahar Lal Nehru Marg (old Minto Road)
Next to Zakir Hussain College
New Delhi-110002

Sub: Meeting on 27th March 2008

This is with reference to the aforementioned meeting between our Mr. Ashok Nambissan, Mr. Rajiv Kumar Bhargava and Mr. Himanshu Dhoreliya with your Mr. A. K. Sawhney, Hon'ble Member and Mr. N. Chaubey, the Principal Advisor (B&CS) at the office of the Hon'ble Telecom Regulatory Authority of India, New Delhi (the "Meeting").

During the Meeting, your good self had informed us that the Authority was desirous of promoting addressable systems such as DTH services and to this intent the Authority had reviewed the Reference Interconnect Offer ("RIO") filed by us. Although our RIO was in compliance with the DTH Tariff Order issued on 29th February 2008, the Authority was of the view that it required certain changes to encourage the transition to DTH. We respectfully submitted that the RIO was based upon several considerations including the total cost of operations which included the cost of content which was increasing with the overall inflationary escalation in input costs and in any event we were negotiating and concluding deals with DTH operators on mutually agreed terms. However, the Authority directed us to carry out certain changes to the Reference Interconnect Offer to the Direct to Home Operators ("RIO"), which are as follows:

1. Provide TheOneAlliance ("TOA") Channels to DTH operators in two separate bouquets as being offered to MSOs in the non-CAS areas, instead of one consolidated bouquet as per the RIO filed with TRAI.
2. Reduce the a-la-carte and bouquet prices of the TOA Channels so that they are not more than 50% of the non-CAS rates for bouquets and a-la-carte.

In deference to the said directions, we have amended the Annexure- B of the RIO and the amended annexure is enclosed herewith. The revised rates of the TOA Channels as applicable to DTH Operators shall be as per the new Annexure-B with effect from this date.

Further in our effort to promote DTH, we have also introduced a promotional discount scheme for those DTH Operators who subscribe to both bouquets of the TOA Channels.

MSM Discovery Private Limited

Interface Building No. 7, Third Floor, Malad Link Road, Malad (West), Mu
Board : (+91-22) 4042 2222 Fax : (+91-22) 6640 7565
www.setdiscovery.com



Continuation Sheet

SET Discovery Private Limited

The impact of the revised rates on our revenues has not been estimated and the revision has been carried out solely on the basis of the oral directions from your good self. In the light of the aforementioned, we reserve our rights including the right to review the rates as declared by us, as and when appropriate.

Yours faithfully,
MSM Discovery Private Limited


Authorised Signatory



Continuation Sheet

SET Discovery Private Limited

ANNEXURE-"B"

A-La-Carte Rates of the Channels
Applicable to per Subscriber per month

Bouquet I (SET, SET MAX, Discovery, AXN, Animal Planet)	*Rs. 27.49/- (Rupees Twenty Seven and Forty nine Paise) Per Ordinary Subscriber per month.
Bouquet II (SAB, Pix, Animax, MTV, Nick, VHI., Discovery Travel and Living, Aaj Tak, Headlines Today, Tez)	*Rs. 22.37/- (Rupees Twenty Two and Thirty Seven Paise Only) Per subscriber per television set per month.

Bouquet-1	DTH rate
Sony	10.00
MAX	10.00
Discovery	10.00
AXN	8.50
AP	2.50
Sum of all the a-la-carte channels:	41.00
Bouquet-2	DTH rate
MTV	4.00
NICK	3.00
DTL	4.50
Animax	1.00
SAB	6.71
PIX	6.00
VHI	1.50
Aaj Tak	3.50
Headlines today	1.50
Tez	1.00
Sum of all the a-la-carte channels:	32.71

Promotional Discount

The rate applicable to all DTH Operators who subscribe to both bouquets of the TOA Channels shall be **Rs.45/-** (Rupees Forty Five Only) per ordinary subscriber per month.



भारतीय दूरसंचार विनियामक प्राधिकरण
महानगर दूरसंचार भवन, जवाहर लाल नेहरू मार्ग,
(पुराना मिनटो रोड), नई दिल्ली-110002

TELECOM REGULATORY AUTHORITY OF INDIA
Mahanager Doorsanchar Bhawan, Jawahar Lal-Nehru Marg,
(Old Minto Road), New Delhi-110002
Fax : 91-11-23213294

April 22, 2008

F. No. 4-32/2008 (B&CS)

To

Shri Anil Lale
Executive-Legal,
MSM Discovery Pvt. Ltd.,
3rd Floor, Interface Building No. 7,
Malad Link Road, Malad (West),
Mumbai - 400 064
Fax No.: 022-6640 7565

Sir,

Your attention is drawn to your letter dated 3rd April, 2008, in which it has been alleged that during a meeting held on 27th March, 2008, you were directed by the Authority to carry out certain changes in your RIO relating to DTH platform.

2. At the outset, these assertions are denied. The meeting on 27th March, 2008, was in the nature of interaction with the broadcasters individually to understand their point of view in the backdrop of representations received from the DTH operators about difficulties faced by them in procuring content. In this meeting, the issue of following the TDSAT's guideline of providing channels by broadcasters to DTH platform at 50% of the non-CAS rates was also pointed out by the Authority to the broadcasters.

3. It may please be noted that TRAI does not issue any oral directions, and the statement by you to that effect is incorrect. Therefore, the revised filings made by you in your letter dated 3rd April, 2008, is entirely your voluntary decision and the Authority would address this information as per the relevant Regulation.

Yours sincerely,

(Rakesh Gupta)

Joint Advisor (B&CS)

Tel. No.: 2322 0364

Fax No.: 2322 0442

Annexure-IV



भारतीय दूरसंचार विनियामक प्राधिकरण
महानगर दूरसंचार भवन, जवाहर लाल नेहरू मार्ग,
(पुराना मिनटो रोड), नई दिल्ली-110002

TELECOM REGULATORY AUTHORITY OF INDIA
Mahanagar Doorsanchar Bhawan, Jawahar Lal-Nehru Marg,
(Old Minto Road), New Delhi-110002
Fax : 91-11-23213294

F. No. 4-32/2008 (B&CS)

May 5, 2008

To

Shri Anil Lale
Executive-Legal,
MSM Discovery Pvt. Ltd.,
3rd Floor, Interface Building No. 7,
Malad Link Road, Malad (West),
Mumbai – 400 064
Fax No.: 022-6640 7565

Sub: Reference Interconnect Offer (RIO) for Direct to Home Operator (DTH)

Sir,

Please refer to your letter dated 29th February 2008 on the above-mentioned subject.

2. The Reference Interconnect Offer (RIO) enclosed with your letter under reference has been received in this office which contains A-la-carte rates and bouquet rates as mentioned in Clause 8 and Annexure B of the RIO. It may be recalled that an interactive discussion was held with the representatives of M/s MSM Discovery Pvt. Ltd. on 27th March 2008 regarding the appropriateness of the rates and it was discussed to bring the rates down to the level of 50% of non-CAS rates on the basis of the TDSAT order on this subject matter. After the interactive discussion a letter dated 3rd April 2007 was received by TRAI from you and a response thereto was sent to you vide TRAI's letter of even number dated 22nd April 2008.

3. It has been noticed that the rates and packaging of channels being offered by you may require modification to protect the interests of service providers and consumers. Your attention in this regard is drawn to Clause 13.3 of the Telecommunication (Broadcasting and Cable Service) Interconnection (Fourth Amendment) Regulation, 2007 dated 3rd September 2007. In terms of provisions of this clause, an opportunity is being given to you to respond by 12th May 2008 before a final decision is taken on the need to modify the rates contained in the said RIO.

4. It may be noted that the other terms and conditions of the RIO will be considered separately and the above-mentioned opportunity is with specific reference to the rates and packaging of channels only being offered by you for DTH operators. If later on it appears that other terms and conditions of RIO need modification, the same would be communicated to you separately.

Yours sincerely,

(Rakesh Gupta)

Joint Advisor (B&CS)

Tel. No.: 2322 0364

Fax No.: 2322 0442




May 26, 2008

By courier / Fax

Shri Rakesh Gupta, Jt. Advisor (B & CS)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal-Nehru Marg
(Old Minto Road)
New Delhi 110002

Sub: Reference Interconnect offer ('RIO') for Direct To Home Operator ('DTH').

Dear Sir,

We refer to your letter bearing Ref. No. F.No 4-32/2008 (B&CS) dated 5th May 2008.

As submitted during the interactive discussion, we have entered into contractual agreements with all existing DTH operators on a 'non-discriminatory' basis as provided for in the Telecommunication (Broadcasting and Cable Services) Interconnection (Fourth Amendment) Regulation, 2007 (the 'Regulations') except for Sun Direct where the matter is sub judice before the Hon'ble TDSAT and the Hon'ble Delhi High Court.

The bouquet and a-la-carte channel pricing offered by us in our RIO is in accordance with the Regulations. So far (except in the case of Sun Direct where the matter is sub judice) we have not received any complaint from any Service Provider regarding the terms of our RIO.

Insofar as the Hon'ble TDSAT's order referred to in your above letter, we submit that the reference in that order to DTH pricing was more in the nature of an observation by the Hon'ble TDSAT. Thereafter TRAI has published a consultation paper, held a series of interactive sessions with the industry and then come out with the Regulations setting out the broad terms of the RIO and the conditions for arriving at a-la-carte and bouquet rates. We believe TRAI has come out with the Regulations after considering all aspects including the observations of the Hon'ble TDSAT.

1

MSM Discovery Private Limited
Interface Building No. 7, Third Floor, Malad Link Road, Malad (West), Mumbai - 400 064.
Board : (+91-22) 4042 2222 Fax : (+91-22) 6640 7565
www.setdiscovery.com

**MSM Discovery Private Limited**

The DTH operators include some of India's largest industrial houses with formidable resources. TRAI's often quoted policy of 'forebearance' is therefore well suited to interactions between DTH Operators and broadcasters to arrive at mutually agreed commercial terms based on the RIO and without external intervention. We believe any intervention by TRAI to fix a-la-carte or bouquet prices would gravely prejudice our interests as it would create an imbalance between broadcasters and operators and restrict price discovery through the operation of market forces.

We may point out here that a prominent DTH operator from Chennai has taken the signals of one of our more popular channels at the published a-la-carte rate (in terms of the order of the Hon'ble TDSAT) but is now offering the same channel to its subscribers at almost twice that rate. In such a scenario, we cannot see how a further reduction in a-la-carte rates would help the cause of the end consumer.

We may add that the Regulations do not mandate a 'must provide' obligation on DTH Operators. Hence even if a-la-carte or bouquet rates are revised, the regulations do not require the DTH operators to pass on the benefit of any such revision to their subscriber.

We therefore submit that further reduction of our RIO a-la-carte or bouquet rates beyond the rates already submitted to your office as per your request, will not be feasible and we would earnestly request the Authority to desist from taking any such precipitate action.

In any event, the Regulations came into force on 1st December 2007 and our RIO was published on 29th February 2008. We therefore respectfully submit that it is premature to consider any further revision of DTH rates.

Yours faithfully

For MSM Discovery Private Limited.

A handwritten signature in black ink, appearing to read "Maalby".

(Authorised signatory)