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Sub: Response of Dish TV India Limited to the Consultation Paper on Audit Related Provisions of Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 and The Telecommunication (Broadcasting and Cable) Services Digital Addressable Systems Audit Manual dated 09.08.2024

Dear Sir,

We hereby submit our response to the TRAI the Consultation Paper on Audit Related Provisions of Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 and The Telecommunication (Broadcasting and Cable) Services Digital Addressable Systems Audit Manual dated 09.08.2024.

Please find enclosed the same.

Thanking you,

Yours truly,
For **Dish TV India Limited**


Authorized Signatory

Enclosed: as above

Response of Dish TV India Limited to the Consultation Paper on Audit Related Provisions of Telecommunication (Broadcasting And Cable) Services Interconnection (Addressable Systems) Regulations, 2017 and The Telecommunication (Broadcasting And Cable) Services Digital Addressable Systems Audit Manual dated 09.08.2024

The present Consultation Paper has come at a time when the DTH operators are facing lot of challenges, both with the other distribution platform operators including DD Direct DTH platform due to continuous discriminatory treatment meted out to the DTH operators and also with OTT operators where the broadcasters are providing same content to the same subscribers in the absence of any regulatory mechanism. All this have long been agitated by the DTH operators, albeit without any success. We welcome the much needed but much belated recommendation by TRAI for the applicability of regulatory norms on DD Direct platform, however it is not in sight as to when the same would see the light on the other side of the tunnel and the recommendations are translated into mandatory provisions.

While the recommendation was to bring Prasar Bharati's DTH platform within the periphery of the TRAI regulations, Prasar Bharati's almost immediately issued a Notice of Invitation to the broadcasters for onboarding their satellite TV channels on its proposed OTT platform. This is being done when the Guidelines for Uplinking and Downlinking of Satellite Television Channels in India, 2022 clearly and specifically prohibits distribution of satellite TV channels to any operators except the distribution platform operators defined under the TRAI regulations.

The issue of OTT operators including the availability of satellite TV channels on such platform is becoming potentially dangerous for the very survival of the distribution platform operators since the broadcasters, taking benefit of a clarity/void in the regulatory mechanism, are directly distributing their channels to the subscribers.

It is thus a very sad state of affairs for all the distribution platform operators, especially for the DTH operators. Therefore, while we welcome the TRAI's efforts to plug the loopholes in the regulatory regime and bring necessary upgradation/modifications in the same basis the feedback/complaints received by

it, we would like to request TRAI to put more effort on the more glaring issues as stated above which needs immediate and effective attention.

In the above backdrop, we respond to the issues for consultation as under:

Q1. Should provision of Regulation 15(1) be retained or should it be removed in the Interconnection Regulation 2017?

- i In case you are of the opinion that provisions of Regulation 15(1) should be retained then**
 - a. Should it continue in its present form or do they need any modifications?**
 - b. In case you are of the opinion that modifications are required in Regulation 15(1) of the Interconnection Regulation 2017, then please suggest amended regulations along with detailed justification for the same.**
- ii In case it is decided that provisions of Regulation 15(1) should be removed then what mechanism should be adopted to ensure that the monthly subscription reports made available by the distributors to the broadcasters are complete, true and correct?**

Q2. Should small DPOs be exempted from causing audit of their systems every calendar year, under Regulation 15(1) of Interconnection Regulation?

A. If yes, then,

- 1. Should 'subscriber base' of DPO be adopted as a criterion for defining small DPOs for this purpose?**
 - i. If yes,**
 - a) what limit of the subscriber base should be adopted to define small DPOs for the purpose of exempting them from causing audit of their systems under Regulation 15(1)?**
 - b) on which date of the year should the DPOs' subscriber base be taken into consideration for categorising whether or not the DPO falls in exempted category?**

- c) In case any distributor is offering services through more than one distribution platforms e.g. distribution network of MSO, IPTV, etc. then should the combined subscriber base of such distributor be taken into consideration for categorising whether or not the distributor falls in exempted category?
 - ii. If 'subscriber base' criterion is not to be adopted, then what criteria should be selected for defining small DPOs?
- 2. In case it is decided that small DPOs may be exempted from causing audit of their systems under Regulation 15(1), then should broadcasters be explicitly permitted to cause subscription audit and/or compliance audit of systems of such DPOs, to verify that the monthly subscription reports made available by the distributor to them are complete, true and correct?
 - i. If yes, what should be the mechanism to reduce burden on small DPOs that may result due to multiple audits by various broadcasters?
 - ii. If no, what should be the mechanism to verify that the monthly subscription reports made available by the small DPOs to the broadcasters are complete, true and correct?
- B. If you are of the view that the small DPOs should not be exempted from the mandatory audit, then
 - i. how should the compliance burden of small DPOs be reduced?
 - ii. should the frequency of causing mandatory audit by such small DPOs be decreased from once in every calendar year to say once in every three calendar years?
 - iii. alternatively, should small DPOs be permitted to do self-audit under Regulation 15(1), instead of audit by BECIL or any TRAI empaneled auditor?

Dish TV Response: We are of the opinion that clause 15(1) is finely balanced and adequately serves the interest of both the broadcasters and the DPOs. Necessary amendment to cater the need of the broadcasters has already been brought in the same by way of amendment. TRAI has enough powers under the regulation to act against the errant DPOs. Moreover, the provision of 15(1) does not deter a broadcaster to take a measure under 15(2). Therefore, there is no need to either modify or remove clause 15(1).

It is a matter of record that MIB has also taken stringent steps against the errant DPOs. This in itself ensures that the DPOs, willing to continue their business, will cause the audit in terms of Regulation 15(1).

As regards, the issue for consultation on whether small DPOs be exempted from causing audit of their systems every calendar year under Regulation 15(1) of Interconnection Regulation, we are of the opinion that the regulatory provisions should apply equally to all operators without any differentiation and there should not be a selective application of the regulatory provisions. It is important to mention that one of the major objectives of the new regulatory regime was to bring parity and non-discrimination amongst the similarly placed distribution platform operators and this cannot be done away with introducing discriminatory provisions for a particular set of DPOs. Therefore, provision related to audit compliance should not selectively be implemented on some while leaving others. Both large and small operators must cause audits in the same way.

The DTH operators have been requesting for the level playing field amongst all the operators, both in licensing regime as well as in regulatory regime. Enough money has been spent by the DTH operators for payment of license fee in these years and the other operators have taken the benefit of having no such corresponding provision for them. We are thankful to TRAI for issuance of the Recommendation on License Fee and Policy Matters of DTH Services and hope that the same may be translated into license condition by the MIB.

Q3. As per the existing Interconnection Regulation, all the distributors of television channels have been mandated to cause audit of their system once in a calendar year. Should the existing provision of “calendar year” be continued or “financial year” may be specified in place of calendar year? Please justify your answer with proper reasoning.

Q4. As per the existing Interconnection Regulation, the annual audit caused by DPO under regulation 15 (1), shall be scheduled in such a manner that there is a gap of at-least six months between the audits of two consecutive calendar years and there should not be a gap of more than 18 months between audits of two consecutive calendar years. Instead of above, should the following schedule be prescribed for annual audit?

- i The DPOs may be mandated to complete annual audit of their systems by 30th September every year.**
- ii In cases, where a broadcaster is not satisfied with the audit report received under regulation 15(1), broadcaster may cause audit of the DPO under Regulation 15(2) and such audit shall be completed latest by 31st December.**
- iii In case DPO does not complete the mandatory annual audit of their systems by 30th September in a year, broadcaster may cause audit of the DPO under Regulation 15(2) from 1st October to 31st December year. This shall not absolve DPO from causing mandatory audit of that year by 30th September and render the non-complaint DPO liable for action by TRAI as per the provisions of Interconnection Regulation 2017?**

Justify your answer with proper reasoning.

Q5 In case you do not agree with schedule mentioned in Q4, then you are requested to provide your views on the following issues for consultation:

- i As per the existing Interconnection Regulation, the annual audit caused by DPO under regulation 15(1), shall be scheduled in such a manner that there is a gap of at-least six months between the audits of two consecutive calendar years and there should not be a gap of more than 18 months between audits of two consecutive calendar years. Does the**

above specified scheduling of audit need any modification? If yes, please specify the modifications proposed in scheduling of audit. Please justify your answer with proper reasoning.

- ii For the audit report received by the broadcaster from the DPO (under regulation 15(1)), should the broadcasters be permitted to cause audit under regulation 15(2) within a fixed time period (say calendar year, including spilling over of such period to the next year)?
- If yes, what should be the fixed time period within which a broadcaster can cause such audit. Please support your answer with proper justification and reasoning.
 - If no, then also please support your answer with proper justification and reasoning?
- iii In case a DPO does not cause audit of its systems in a calendar year as specified in Regulation 15(1) then should broadcasters be permitted to cause both subscription audit and/or compliance audit for that calendar year within a fixed period (say 3 months) after the end of that calendar year?
- If yes, what should be the fixed time period (after the end of a calendar year) within which a broadcaster should be allowed to get the subscription audit and/or compliance audit conducted for that calendar year? Please support your answer with proper justification and reasoning.
 - If no, then also please support your answer with proper justification and reasoning?

Q6. What measures may be adopted to ensure time bound completion of audits by the DPOs? Justify your answer with proper reasoning.

Dish TV Response: We believe that the current provision of annual audit in a calendar year and a minimum and maximum gap between two consecutive audits is fine and there is no need to modify the same. We fail to understand the reason for change of the audit period from calendar year to financial year. The reason put forth in the Consultation Paper lacks merit as there is no connection between the period

of audit under TRAI Regulation and the financial reporting by a Company as per Companies Act, 2013. However, even if it is decided to marry the audit period on the basis of financial year, the maximum effect will only be postponement of the current period by three months. This in itself doesn't serve any purpose.

We strongly oppose the proposal to reduce the period for conducting audit by the DPOs to 9 months from the current 12 months and to give a time period of 3 months to the broadcasters to cause and complete the audit of the DPO system in case of non-satisfactory audit report submitted by an auditor. Our objection arises because of the following reasons:

- a) The annual audits are done by the DPOs by the TRAI empaneled Auditors which, in itself, ensures transparency in the process of process of audit and the report issued by such an auditor.
- b) If any broadcaster is not satisfied with the audit caused by the DPOs, any further audit will be conducted by one of such empaneled auditors only.
- c) It cannot be said that subsequent audit will be caused only by one broadcaster. Commencement of an audit by one broadcaster may be followed by many other broadcasters and there is no provision in the current regulation to restrict the number of such subsequent audits.

Therefore, the provision of audit by a broadcaster 'not more than once in a calendar year' in clause 15(2) should be stretched to mandate that if one broadcaster has initiated a subsequent audit post receipt of an audit report, no other broadcaster would be permitted by cause audit for the same calendar year.

Q7. Stakeholders are requested to offer their feedback on the amendments proposed in the Audit manual in this consultation paper (CP) in the format as given in Table 2.

Dish TV Response: The feedback of Dish TV on the proposed amendment in the audit manual is as under:

Sl. No.	Pg no. of existing Audit Manual	Clause number of the existing Audit Manual	Do you agree with the proposed amendment (Yes/No)	If you do not agree with the amendment proposed in this CP, then provide amended Clause proposed by you	Reasons with full justification of your response
1.	16	C -12	No	In case the Auditor has reason to doubt the output from the SMS/CAS reporting modules, he may ask the DPO to run any query/code of the SMS/CAS vendor for the extraction of data as needed post verification of the query/code in terms of the filters being used and in terms of the entire database being referenced or not.	The SMS/CAS vendor may not agree for disclosure of their query to the auditors. This exercise should therefore be done by the DPOs in the presence of the Auditors.
2.	19	C -14	No	As above	As above

Q8. Please provide your comments/any other suggested amendment with reasons thereof in the Audit Manual that the stakeholder considers necessary (other than those proposed in this consultation paper). The stakeholders must provide their comments in the format specified in Table 3 explicitly indicating

the existing clause number, suggested amendment and the reason/full justification for the amendment in Audit Manual.

Dish TV Response: Any and all reference provision of de-active count of STBs either in the report or data dump should be deleted. As most of the DTH operators are more than a decade old and churn in DTH is very high, this requirement in the audit manual makes the provision of data dump and other related issues very cumbersome as the de-active includes the data since the inception of the commencement of operation of the DTH operators. No purpose of served with the de-active count of STBs.

Dish TV would not like to offer any comments pertaining to the Issues related to infrastructure sharing.
