

Shri Arvind Kumar,
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Dear Sir,

Sub: Consultation Paper No. 09/2019 - Consultation Paper on KYC of DTH Set Top Boxes

I submit my written views, suggestions and comments in response to the Consultation Paper No:09/2019 that are invited from the stakeholders by 19.08.2019. Please consider these contents as placed in this PDF file named "*TRAI_CP-09-2019-KYC-DTH.pdf*" and also arrange to post them on TRAI's website.

Thanking you,
Thanking you,
(P.S.Natarajan)
02-08-2019

emailed from: nsplblitz@gmail.com

Chapter III Summary of Issues for Consultation

(1) Is there a need for KYC or e-KYC of DTH Set Top Boxes to address the concern raised by MIB in their letter mentioned in paragraph 1.5 of this consultation paper? Give your answer with justification.

Comments:-

"YES".....and NO..... for various reasons and issues discussed here that really cannot elicit a mere "YES" or "NO" as one issue might affect the other based on the decisions taken because the three prongs relate to a possible KYC | e-KYC introduction, the necessity to curb smuggling and use of these DTH in other countries, and the idea to use LBS/GPS in STBs.

(2) If your answer to Q1 is in the affirmative, then what process is to be followed?

(2.1) The following points briefly mentioned here are:-

- * A law in place....
- * Future enforcement date
- * Prospective application of the law not retrospective application.
- * KYC or e-KYC norms can be adopted.

* POI, POA, photo and all safeguards for photo capturing and use as in mentioned in Annexure II (Pages 18 to 20 –Total:21 Pages) are some points as mentioned in TRAI’s Consultation Paper No. 09/2019.

(3) Whether one-time KYC is enough at the time of installation or verification is required to be done on periodic basis to ensure its actual location? If yes, what should be the periodicity of such verification?

Comments:-

(3.1) KYC is required for the following cases, among others:-

(a) at the time of fresh or new installation-cum-activation

(b) Change of address or location of the subscriber as geo co-ordinates may change if LBS/GPS are implemented but NOT Change of address or location shifts by the Licensee or DTH operators as the subscriber has no control over this aspect.

(c) Change of geo co-ordinates for any reason that is customer initiated or source attributable to the customer.

(d) Change of hardware that requires radical overhaul and cannot be handled by the Licensee in the normal operational routines, as for example satellite based complex technical issues or based on orders issued by the Government of India, TRAI or similar. This occasion or event should be TRAI approved and must not be an excuse to avoid paper work by the Licensee and should be given wide publicity in the press.

(3.2) The periodicity should be once in six months in my view.

(3.3) The charges collected for KYC e-KYC(if implemented) should be reasonable and minimal.

(4) Whether KYC of the existing DTH STBs is also required to be done along with the new DTH STBs? If yes, how much time should be given for verifying the existing STBs for DTH?

Comments:-

(4.1) It is a very difficult process practically speaking in respect of existing DTH STBs as it requires retrieval of past records and their introduction to the present scenario. How many Licensees would readily have them? In my view, past is past, and from a cut off date in the future. What is called as “the effective date of the coming into force of the Act” as all DTH STBs with

LBS and GPS activated features will undergo KYC or e-KYC. Please read comments in paragraph (6.0) for further supportive points. In such an event, the law itself would provide for the effective date and time periods.

(5) Whether the location-based services (LBS) needs to be incorporated in the DTH set top boxes to track its location? Will there be any cost implication? Give your response with supporting data and justification.

Comments:-

(5.1) If so decided, Location Based Services(LBS) or GPS can be embedded into the STBs and if additionally the safeguards mentioned in Paragraph (1.6) on Page 6 of TRAI's Consultation Paper No. 09/2019 can be included to possibly arrest smuggling but whether the LBS or GPS can be manipulated, tampered, bypassed or rendered redundant has to be examined fully and technically.

(5.2) There must be a mechanism where mere intrusion into a LBS or GPS should automatically disable transmission reception. Having said that a balanced view is essential and paranoia with fear must be avoided as DTH transmissions are basically a one way transmission to a DTH STB when parallel technologies must be deployed to prevent and arrest smuggling across physical borders in the light of what is stated in the next paragraph (5.3) below which may also please be read and considered.

(5.3) There is a major point to be considered that may possibly require TRAI to refer the issue to the Ministry of Home Affairs or the Defence Ministry. In case LBS or GPS is activated it is likely to be used on convoys or on defence vehicles because the troops need entertainment and a DTH STB is ideal for that where satellite transmission captures enable these DTH STBs to be carried as portable devices. The point here is, would that in any manner, compromise the safety of our Countrymen/Defence personnel who defend our borders diligently because a LBS/GPS would "point" out the exact geo co-ordinated location that can be zeroed in. One geo co-ordinate may be enough to gauge the rest of the data and rule out the element of surprise so vital in many operations.

(5.4) It would be equally hazardous for the Para Military Forces such as CRPF, ITBF who need to shift bases often, rotate camps, personnel, and patrol dangerous territories and mine infested areas and when their routes, plans are to remain and be kept secret an active LBS and GPS system would be inviting disaster, would it not? Let us assume that they switch off the DTH STBs on active patrols/travel to site convoys as part of their orders including their mobile sets....They will have to switch on anyway sometime

or the other at base camp, would they not?... Here again an active LBS and GPS system would be inviting disaster, would it not?

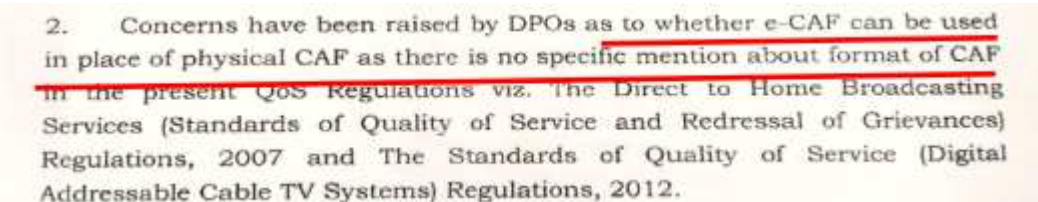
(6) Any other issue relevant to KYC of DTH Set Top Boxes?

(6.1) We need to ask ourselves the question that in case KYC or e-KYC of DTH Set Top Boxes were to be implemented mandatorily on pain of penalties and consequences of contravention of a law then it must in the first place enact a law/or set in motion a legislation.

(6.2) In other words, friendly advice, suggestions, advisory, guidelines, orders, etc might not help in the absence of a law on this subject.

(6.3) I say this because the existing CAF has not been mandated and any fact or information database deriving from that CAF such as e-KYC or KYC that basically would be based upon the information provided in the CAF would not change the equation even though POI, POA or other steps are taken such as OTP, digital signature etc. that are being mooted herein and now.

(6.4) Please read the screenshot below....



2. Concerns have been raised by DPOs as to whether e-CAF can be used in place of physical CAF as there is no specific mention about format of CAF in the present QoS Regulations viz. The Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007 and The Standards of Quality of Service (Digital Addressable Cable TV Systems) Regulations, 2012.

[This is as per Annexure III dated 05-02-2016 TRAI's advisory to Distribution Platform Operators.]

(6.4.1) It is likely that in case earlier KYC of the existing DTH STBs is also required to be done along with the new DTH STBs, there is the danger of a "back door retrospective" application based on a non existing provision in the applicable laws that would be questioned as can be referred in the screenshot above in paragraph(6.4)

(6.5) How many DTH operators or Licensee have staff that are educated and can carry out all these operations? Will that not burden them financially and manpower deployment wise, and will they not pass that extra burden on to the subscriber?

(6.6) What is the guarantee that Licensees will not part with data collected from the subscribers and how would TRAI enforce and monitor that aspect by respecting Data Privacy Laws and the after effect/aftermath compliances of the Aadhar enactment and the decision of the Supreme Court of India?

(6.7) There are various scenarios such as multiple connections within flat, common connections as for example in a multi storied building that has many flats and there is a common feed system to all flats and these would present increasing complexities and compound added worries of KYC e-KYC problem issues also, and they would not be any different, just because they are e-KYC or KYC, in case they were encountered in the CAF legacy in the past.

(6.8) The existing DTH system has a card that has to be inserted into the STB and this is given a number. This along with the STB hardware number can be used to monitor. If implemented with all safeguards to overcome the dangers of paragraph (5.3), additional a LBS/GPS along with the properly implemented KYC/e-KYC will certainly add value in the long run though it may entail work at all levels for the DTH operators, Licensees and the subscribers.

(6.9) At the end of it all, whether such a system would prevent, arrest or totally eliminate smuggling of DTHs and misuse across borders will have to be seen and observed in practice, and its efficacy as a “anti smuggling” intendment has to be reviewed. It would be such a waste of well intended efforts if a mere technology change or injected software hacks could bypass all the geo co-ordinates, geo fencing, LBS, GPS on already smuggled DTH STBs. More than the KYC e-KYC initiatives a more robust STB that is capable of being tracked and less vulnerable to hacks is the need of the hour as that would instil confidence and deter smuggling to some extent in case swift counter offensive anti smuggling measures are in place, for a STB has to be anyway moved physically across borders as a whole STB but the issue gets more complex in case the components are collected piece meal and assembled fully later on after “crossing over” after making necessary hardware changes to enable viewing “from anywhere”.

(6.10) Of course, a better KYC and e-KYC regime might lessen chances of identity fraud that might otherwise be used to initially activate connections or continue to view after the cross over to other countries in case the systems adopted by the DTH operators are of a high calibre

(6.11) Many questions arise.....can the DTH operators rise to the

occasion....or will they blame extra load on them, paper work, no useful purpose served....time wasted....money spent no extra benefit...man power cannot be spared....no benefit for us or the subscriber....red tape....extra costs are being passed on to the subscribers because of such initiatives....we are not to blame... and so on.

(6.12) Even today, a DTH Operator can block any signal to any individual subscriber if he has not paid fees, charges or dues or failed to recharge after the expiry of the grace period. In other words he has “the controls in his hand” and with assistance from Governmental Agencies/TRAI could he not block “foreign” DTH STBs also, if detected.

(6.13)The subscriber number allotted is also relevant and along with the mobile number, hardware number and the STB inserted card number taken together offer in today’s practices a fair chance of protection under normal conditions for daily basis operations. As the DTH operators install DTH with all CPE equipment and tele or mobile-verified before activation the address aspect is also addressed (“Place of Installation”). In some cases a subscriber may request “hibernation” of his DTH just as BSNL had a “safe custody” of telephones scheme in place in the past and maybe still is functional now. It may be quite a while before he restores transmission. It may be as innocuous as someone going abroad for six months....and it could also be a prelude to an act of smuggling.

[NB: “Smuggling” is not normal activity and is something that has to be accepted yet is not ordinary operational activity for DTH transmissions though it may place on a daily basis. It has to be addressed in a different way and perhaps by an even different Agency or Authority. The other point is that for a few cases of “smuggling” should the entire subscriber base be impacted is another question. There must be a sense of proportionality which is also recognised as a legal principle and borne in mind.]

I thank you for this opportunity for presentation of these contents herein,
(P.S.Natarajan)

02-08-2019

Status of mention on the website: Member of the Public

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