भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग III—खण्ड 4
PART III—Section 4
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

भारतीय दूरसंचार विनियमक प्राधिकरण

अधिसूचना

नई दिल्ली, 28 दिसंबर, 2018

शास्त्री सं. 214/2018 बीएचटीएस—मंत्री, संचार एवं सूचना प्रौद्योगिकी मंत्रालय (दूरसंचार विभाग), की अधिसूचना संख्या 39 के साथ परिषद् भारतीय दूरसंचार विनियमक प्राधिकरण अधिनियम, 1997 (1997 का 24) की धारा 11 की उप-धारा (ì) के खंड (बी) के उपखंड (v) के साथ परिषद् धारा 36 द्वारा प्रदत्त शर्तें का प्रयोग करते हुए—

(ì) जो उक्त अधिनियम की धारा 11 की उप-धारा (ì) के खंड (बी) और धारा 2 की उप-धारा (ì) के खंड (बी) के परिपथ के तहत केंद्रीय सरकार को प्रदत्त शर्तें का प्रयोग करते हुए जारी की गईं; और

(वी) दिनांक 9 जनवरी, 2004 को भारत के राजन, असाधारण भाग II, खंड 3 में प्रकाशित अधिसूचना संख्या का.आ. 44 (व) और 45 (व) के तहत—

भारतीय दूरसंचार विनियमक प्राधिकरण एट्टडारा निर्माता विनियम बनाता है, अर्थात् दूरसंचार (प्रसारण और केंबल) सेवाएं—सेवा की गुणवत्ता के मानक तथा उपभोक्ता संस्करण (एड्सेसेल्व्यू प्राग्नालिया) विनिमियम, 2017 (2017 का 2), नामत—

1. (1) इन विनिमियम को दूरसंचार (प्रसारण और केंबल) सेवाएं—सेवा की गुणवत्ता दूरसंचार (प्रसारण और केंबल) सेवाएं—सेवा की गुणवत्ता के मानक तथा उपभोक्ता संस्करण (एड्सेसेल्व्यू प्राग्नालिया) (संशोधन) विनिमियम, 2018 (2018 का 11) कहा जाएगा,

(2) यह विनिमियम आधिकारिक राजपत्र में प्रकाशन की तिथि से नामूने होगें।

2. दूरसंचार (प्रसारण और केंबल) सेवाएं—सेवा की गुणवत्ता तथा उपभोक्ता संस्करण (एड्सेसेल्व्यू प्राग्नालिया) विनिमियम, 2017 (जिन्हें इसके पश्चात मूल विनिमियम कहा जाएगा) के विनिमियम 45 में उप— विनिमियम (3) के स्थान पर निम्न प्रतिस्थापित किया जाएगा, नामत—

"(3) इन विनिमियम को जारी करने से पूर्व मौजूदा विनिमियम में निहित कई भी फैक, योजना या बुक को प्रभावित नहीं किया जाएगा तथा टेलीविजन चैनलों के सभी वित्तक 31 जनवरी, 2019 तक सभी उपभोक्ताओं को उत्त पैक, योजना या बुक को निरंतर बनाए रखें।

बताये कि टेलीविजन चैनलों के सभी भितरकों के लिए 31 जनवरी, 2019 के बाद इन नियमों के उपक्रम के अनुसार में अपने सभी मौजूदा पैक, योजनाओं या बुक को समाप्त या संशोधित करना अनिवार्य होगा।

7628 GI/2018 (1)


NOTED:

1. In the Gazette of India, Extraordinary - 5, as amended by Notification No. 03, March 2017, the provisions of the Directive General Order No. 25-5/2016 - Second Edition as amended by Notification No. 03, March 2017 are to be incorporated.


F. No.21-4/2018-B&CS.—In exercise of the powers conferred by section 36, read with sub-clause (v) of clause (b) of sub-section (1) of section 11, of the Telecommunications Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Central Government, in the Ministry of Communication and Information Technology (Department of Telecommunications), No.39, —

(a) issued, in exercise of the powers conferred upon the Central Government under clause (d) of sub-section (1) of section 11 and proviso to clause (k) of sub section (1) of section 2 of the said Act, and

(b) published under notification No. S.O.44 (E) and 45 (E) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II, Section 3,......

the Telecom Regulatory Authority of India hereby makes the following regulations to amend the Telecommunications (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (2 of 2017), namely:-

1. (1) These regulations may be called the Telecommunications (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Amendment) Regulations, 2018 (11of 2018).

(2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. In regulation 45 of the Telecommunications (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (hereinafter referred to as the principal regulations), for sub-regulation (3), the following shall be substituted, namely:-

“(3) Nothing contained in these regulations shall affect any packs, plans or bouquets on offer before the commencement of these regulations and all the distributors of television channels shall continue to offer the said packs, plans or bouquets to all the subscribers till 31st January, 2019.

Provided that it shall be mandatory for all the distributors of television channels to either discontinue or modify all their existing packages, bouquets /channels and plans in compliance of the regulations on or before 31st January, 2019 and shall ensure that services to the subscribers are provided as per the new packs, plans or bouquets opted for subscription by the subscribers only after 31st January, 2019.”

S. K. GUPTA, Secy.

[ADVT. III/4/Exty./451/18]

Note 1: The principal regulations were published vide notification No. 21-5/2016-B&CS dated the 3rd March, 2017.


Explanatory Memorandum

A consultation paper was issued by TRAI on 18th May, 2016 to harmonize the QoS Regulations issued by TRAI from time to time and to formulate a unified regulatory framework for different platforms. This consultation process resulted in notification of the Telecommunications (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (2 of 2017) dated the 3rd March, 2017[herein after referred to as QoS Regulations 2017]. In order to enable a smooth transition from the old regulatory framework to the new one, the Authority in these regulations provided a time up to 180 days to the service providers to either discontinue or modify all their existing packages, bouquets /channels and plans in compliance of the regulations and tariff orders. These regulations also provide that certain provisions relating to offering of services, CPE Scheme, customer care centre,
customer care programming service and website are to be implemented within 120 days from the date of publication of the Regulations in the official gazette.

2. In addition to the aforesaid regulations, the Authority has also notified the Interconnection Regulations of 2017 and Tariff Orders of 2017. The QoS Regulations 2017 was challenged before Hon’ble Delhi High Court by some service provider and a consumer, inter-alia, seeking stay and setting aside of these regulations. During the course of hearing of the matter before the Hon’ble Delhi High Court, the Authority informed the Hon’ble High Court that in view of challenge to the Interconnection Regulations and Tariff Order pending before Hon’ble Madras High Court wherein status quo has been ordered by the Hon’ble Supreme Court, the Authority is not implementing the QoS Regulations of 2017. Thereupon the Hon’ble Delhi High Court directed TRAI that upon the pronouncement of judgement by the Hon’ble Madras High Court, the Authority shall inform the petitioners of the outcome in the judgement and shall inform the Hon’ble Delhi High Court as well before effectuating the orders.

3. Since the implementation of QoS Regulations, 2017 was linked with the inter-connection Regulation of 2017 and the Tariff Order of 2017, their implementation was also deferred in view of the status quo order dated the 8th May, 2017 passed by the Hon’ble Supreme Court in SLP No. 14336 of 2017. The Hon’ble High Court of Madras vide its judgement dated 2nd March, 2018 and 23rd May, 2018 upheld the validity of the Telecommunications (Broadcasting & Cable) services (Eighth) (Addressable Systems) Tariff Order 2017 and Telecommunication (Broadcasting & Cable) Interconnection (Addressable Systems) Regulations 2017. Thereafter the Authority issued a press release dated 3rd July, 2018 informing the stakeholders that inter-connection regulation, 2017, the Tariff Order 2017 and QoS Regulation 2017 came into effect from 3rd July, 2018.

4. In order to have a smooth implementation of the new regulatory framework, TRAI held a series of meetings and consultations with all the stakeholders including Consumer Advocacy Groups (CAG) during last 4-6 weeks. During these meetings, it was pointed out by some of the stakeholders that Distributor Retail Price (DRP) by the DPOs could be declared within 180 days from the 3rd July 2018 and the subscribers were also required to be migrated to the new framework within the same period. This entire process of migration including taking options from the subscribers after declaration of DRPs as well as to bring the subscribers to the new framework cannot be carried out simultaneously. Further, to make the consumers aware about the new framework and the process of seeking fresh choice of TV channels from all subscribers would require some time and resources.

5. A meeting of the Authority was also held on 19th December 2018 with the CEO’s of major service providers in the broadcasting and cable services sector. The issue of smooth migration from the old to new regulatory framework was specifically discussed and deliberated upon. Subsequently, to assess the preparedness for migration, the Authority held another meeting on 27th December 2018 with all broadcasters and leading DPOs (DTH/MSO/HITS/IPTV). It emerged from the discussions that most of the stakeholders are by and large ready for implementation of new regulatory framework. However, the progress to collect choice of subscribers is slow. In order to have a smooth transition of subscribers from old to new framework, across the country, some more time is desirable. Accordingly, the Authority agreed to the request of industry and decided that DPOs may be given time up to 31st January 2019 to obtain subscribers’ options of TV channels for migration to new regulatory framework. The subscribers would accordingly be migrated to new regulatory framework as per their options w.e.f. from 1st February 2019. In this regard, a detailed schedule of activities dated 27th December 2018 issued by TRAI also refers.

6. Accordingly, regulation 45(3) of the principal regulations dated the 3rd March, 2017 has been amended.