



Reliance Big TV Limited

Introduction

We welcome the Authority's initiative in coming out with the consultation paper on Interconnect issues in the Broadcasting and Cable services sector. The sector, particularly the distribution stream, has been witnessing healthy growth of late and lot of activity is there with addition in number of licensees who have now rolled out the services. More and more modes of distribution of TV channels are likely to come up and the competition is going to be extremely tough. On the broadcast side also, a lot of new channels have come up in the recent past. With the entry of new entrants and customers quickly grabbing the alternative choices available for viewing channels, the requirements from the Regulator to protect the interest of consumers as well as service providers have grown manifold. Interconnection plays a major role in ensuring the continuous delivery of services and deciding retail rates to be charged to the subscribers and therefore, we feel that the Authority has intervened at the right time by issuing this consultation paper.

We feel that the Authority should adopt a practice of macro regulation by following a light touch regulation, similar to the approach followed in the telecom sector. The Authority should oversee the broad principles of non discrimination, timely interconnection etc. and leave the micro regulatory aspects to the market forces. Subject wise response is as follows.

Interconnection for Addressable Platforms

6.2.1 Whether the Interconnection Regulation should make it mandatory for the broadcasters to publish Reference Interconnect Offers (RIOs) for all addressable systems, and whether such RIOs should be same for all addressable systems or whether a broadcaster should be permitted to offer different RIOs for different platforms?

Yes, the broadcasters should have RIOs for all addressable platforms and publishing the same may be made mandatory. This would avoid discrimination among different addressable platforms.

However, addressable systems do not make all platforms similar. The TRAI in its Regulation dated 31.12.2004 has explained the similarly based distributor of TV channels. The analysis of whether distributors of TV channels are similarly placed -includes consideration of, but is not limited to, such factors as whether distributors of TV channels operate within a geographical region and neighbourhood, have roughly the same number of subscribers, purchase a similar service, use the same distribution technology etc.

Broadcasters would need to have different RIOs for different addressable platforms since the terms of an RIO depend on a variety of parameters including but not limited to mode of delivery/distribution by an addressable platform, systems installed, etc.

A basic draft containing all the clauses relevant to a platform (standard reference interconnect offer) which are further non-negotiable in nature should be published mandatorily.

The platform specific clauses could be added by the parties and should be kept open to negotiations.

6.2.2 Is there any other methodology which will ensure availability of content to all addressable platforms on non-discriminatory basis?

The TRAI should mandate all the broadcasters to offer their channels on all distribution platforms; however the commercial arrangement should be left for the market forces to decide.

Further, for channels with a TRP rating of 5% and above for a period of six weeks continuously, or a channel categorized within the Top Five channels for over a period of six weeks continuously, TRAI should mandate publishing of reference interconnect offer and filing of rates so that the broadcasters can not discriminate against platforms while offering those channels.

6.2.3 What should be the minimum specifications/ conditions that any TV channel distribution system must satisfy to be able to get signals on terms at par with other addressable platforms? Are the specifications indicated in the Annexure adequate in this regard?

These specifications seem adequate, however, they may be updated from time to time depending on the change in technology.

6.2.4 What should be the methodology to ensure and verify that any distribution network seeking to get signals on terms at par with other addressable platforms satisfies the minimum specified conditions for addressable systems?

Initially, verification for obtaining the signals at par with other addressable systems should be based on self certification basis by the service provider. Thereafter, the QoS auditor appointed by TRAI can come up with the methodology and certify the eligibility of the distribution network/ service provider for getting the signals.

6.2.5 What should be the treatment of hybrid cable networks in non-CAS areas which provide both types of service, i.e., analogue (without encryption) and digital (with encryption) services?

In a hybrid environment, broadcasters should provide signals @a rate which is at par with other addressable systems but only for those subscribers who are receiving the service through STBs in an encrypted mode. For non addressable systems, there should be a separate agreement.

6.2.6 Whether there is a need to define “Commercial Subscribers”, and what should be that definition?

Definitely yes.

TRAI should mandate the same parameters as applicable to cable operators for definition of commercial subscribers. The parameters applicable to cable platform as per TRAI as per Telecommunication Tariff(First Amendment) Order, 2006(7 of 2006) dated 21st November 2006 is as under :

Hotels with rating of three star/ Heritage hotels(as defined in classification of hotels by Department of tourism) and any hotel/ inn/

commercial establishment providing boarding and lodging /having more than 50 rooms – is defined as commercial subscriber.

All other subscribers apart from the above are defined as non commercial.

We suggest that this criteria should be made universal and applicable to all platforms.

6.2.7 Whether the Broadcasters may be mandated to publish RIOs for all addressable platforms for Commercial Subscribers as distinct from broadcasters' RIOs for non-Commercial Subscribers?

Yes. The rates being charged by broadcasters for commercial subscribers should be published and regulated by TRAI.

6.2.8 Whether the regulation should mandate publishing of Reference Interconnect Agreements (RIAs) for addressable systems instead of Reference Interconnect Offers (RIOs)?

No, because of the confidentiality of the terms and conditions of the agreement. In any event broadcasters are required to submit/ file information regarding interconnection agreements with TRAI on a regular basis.

6.2.9 Whether the time period of 45 days prescribed for signing of Interconnection Agreements should be reduced if RIOs are replaced by RIAs as suggested above?

A period of 45 days for signing the interconnection agreement is quite optional.

6.2.10 Whether the regulation should specifically prohibit the broadcasters from imposing any kind of restrictions on packaging of channels on an addressable platform?

The broadcaster's right to impose any kind of packaging obligations on an addressable platform should be left to DTH operator and Broadcaster. In case if the parties enter into a RIO rates deal which is normally the deal the parties enter into when negotiations fail, the addressable platform should not be put under any packaging obligation.

6.2.11 Whether the regulation should specifically prohibit the broadcasters from imposing any kind of restrictions on pricing of channels on an addressable platform?

Since there is no restriction on addressable platforms for placement, packaging, pricing of bouquets/ packs, pricing at the consumer level, value added services therefore, restrictions ought not be imposed and platforms should be given a free hand in fixing its prices.

Also, there is severe competition on the ground amongst platforms hence market forces should determine the pricing of channels by the platforms and the broadcasters should not be allowed to impose any restrictions on pricing of channels.

6.3 Interconnection for non-addressable platforms**6.3.1 Whether the terms & conditions and details to be specifically included in the RIO for non-addressable systems should be specified by the Regulation as has been done for DTH?**

Yes, the same method should be adopted in order to bring in an uniformity across all platforms and to avoid confrontation among broadcasters and distributors of TV channels.

6.3.2 What terms & conditions and details should be specified for inclusion in the RIO for non-addressable systems?

- Details of a-la-carte rates of channels should be specified
- Details of bouquets and their rates should be specified
- Details of discounts to be specified as well
- Payment terms
- Technical, Security and anti-piracy requirements
- True and accurate MIS of subscriber on monthly basis
- Term and termination of agreement

6.4 General Interconnection Issues

6.4.1 Whether it should be made mandatory that before a service provider becomes eligible to enjoy the benefits/ protections accorded under interconnect regulations, he must first establish that he fulfills all the requirements under quality of service regulations as applicable?

Initially, verification for obtaining the signals at par with other addressable systems should be based on self certification basis by the service provider. Thereafter, the QoS auditor appointed by TRAI can come up with the methodology and certify the eligibility of the distribution network/ service provider for getting the signals.

6.4.2 Whether applicability of clause 3.2 of the Interconnect Regulation should be restricted so that a distributor of TV channels is barred from seeking signals in terms of clause 3.2 of the Interconnect Regulation from a broadcaster for those channels in respect of which carriage fee is being demanded by the distributor of TV channels from the broadcaster?

DTH operators have limited carrying capacity for channels due to bandwidth restrictions. Also there are restrictions imposed on DTH platforms under TRAI regulation for dropping of channels once offered to a subscriber. Therefore accommodating all channels offered by broadcasters is not a viable option. Therefore TRAI should not regulate carriage fees and let the market forces decide the same for all platforms.

6.4.3 Whether there is a need to regulate certain features of carriage fee, such as stability, transparency, predictability and periodicity, as well as the relationship between TAM/TRP ratings and carriage fee.

TRAI should not regulate the carriage market. It should be left for the operators to negotiate. The carriage fee depends on the number of issues like number of subscribers, demand of the channel etc and therefore while negotiating all these factors are taken into account by the operators. The market is the best place to factor all these points.

The TRAI should not prescribe any carriage rates as it may have adverse affect on the distributors of TV channel market.

6.4.4 If so, then what should the manner of such regulation be.

The Government should push CAS (conditional access system) to expedite the digitization process. In turn it may lead to a rationalization

in carriage fees since enough bandwidth would then be available through compression. It must be mentioned that only a small percentage of digital cable is now available amongst the entire market of cable and satellite homes and that figure is going to increase.

6.4.5 Whether the standard interconnect agreement between broadcasters and MSOs should be amended to enable the MSOs, which have been duly approved by the Government for providing services in CAS areas, to utilize the infrastructure of a HITS operator for carriage of signals to the MSO's affiliate cable operators in CAS areas?

May need changes as addressable and non-addressable systems are different.

6.4.6 Whether the standard interconnect agreement between broadcasters and HITS operators need to be prescribed by the Authority, and whether these should be broadly the same as prescribed between broadcasters and MSOs in CAS notified areas?

No ; since the HITS platform is not covered under the same regulations as applicable to terrestrial cable platforms which are governed by Cable Act.

6.4.7 What further regulatory measures need to be taken to ensure that DTH operators are able to provide six month protection for subscribers as provided by Sub clause (1) of Clause 9 of the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007?

The operators are providing six months protection for subscribers against price escalation. However they may be allowed to pass on the burden to the subscriber in case of increase of any government tax or levy or any inflationary increase prescribed by the regulator.

The benefit should not be available in case the subscriber chooses to migrate to any alternate package.

6.4.8 Towards this objective, should it be made mandatory for broadcasters to continue to provide signals to DTH operators for a period of six months after the date of expiry of interconnection agreement to enable the DTH operators to discharge their obligation?

Yes, in case the TRAI mandates the DTH operator to carry channels for six months, the broadcasters should also be mandated to provide signals for the same period.

6.4.9 Is there any other regulatory measure which will achieve the same objective?

The Authority may consider to implement if feasible

6.5 Registration of Interconnection Agreements

6.5.1 Whether it should be made mandatory for all interconnect agreements to be reduced to writing?

Yes, as the absence of a written agreement often leads to disputes and litigation and there is no way of recording the oral agreements in the Register of Interconnect Agreements and is difficult to prove the enforceability of the agreement.

6.5.2 Whether it should be made mandatory for the Broadcasters/MSOs to provide signals to any distributor of TV channels only after duly executing a written interconnection agreement?

Yes

6.5.3 Whether no regulatory protection should be made available to distributors of TV channels who have not executed Interconnect Agreements in writing?

Yes, defaulting and reluctant operators should not be given any protection whatsoever since it often results in abuse of the regulations passed by TRAI.

6.5.4 How can it be ensured that a copy of signed interconnection agreement is given to the distributor of TV channels?

Two sets of standard pre printed agreements (based on the negotiations reached with the distributor of TV channels) should be executed simultaneously, one of which should be retained by the operator and acknowledgment to that effect should be given to the broadcaster.

6.5.5 Whether it should be the responsibility of the Broadcaster to hand over a copy of signed Interconnect Agreement to MSO or LCO as the case may be, and obtain an acknowledgement in this regard? Whether similar responsibility should also be cast on MSOs when they are executing interconnection agreements with their affiliate LCOs?

Yes

6.5.6 Whether the broadcasters should be required to furnish a certificate to the effect that a signed copy of the interconnect agreement has been handed over to all the distributors of television channels and an acknowledgement has been received from them in this regard while filing the details of interconnect agreements in compliance with the Regulation?

Should this be mandated, the broadcasters should have no problem certifying to this effect.

6.5.7 Whether the periodicity of filing of Interconnect agreements be revised?

Yes, quarterly submission is cumbersome & time consuming. This should be made six monthly.

6.5.8 What should be the due date for filing of information in case the periodicity is revised?

By 15th February and by 15th July since many renewals fall in the months of January and June.

6.5.9 What should be a reasonable notice period to be given to the Broadcaster/ DTH operator as the case may be, by the Authority while asking for any specific interconnect agreements, signed subsequent to periodic filing of details of interconnect agreements?

One month notice should be sufficient to the Broadcaster/ DTH operator.

6.5.10 What should be the retention period of filings made in compliance of the Regulation?

The retention period of filings should be three years.

6.5.11 Whether the broadcasters and DTH operators should be required to file the data in scanned form in CDs/ DVDs?

No. since the data is critical and confidential in nature, the chances of it being misused/ circulated through electronic media are higher than physical hard copies hence manual filing is a better way of ensuring confidentiality.

The confidentiality of the agreement should be maintained by TRAI. Competing platforms and broadcasters should not be privy to the key commercial terms of the agreements filed by each other. TRAI should create a mechanism to ensure the above.

6.5.12 Whether the interconnection filings should be placed in public domain?

Existing procedure is fine. The operator may claim confidentiality under the TRAI Access to Information Regulation. Wherever such confidentiality is claimed, reasonable opportunity should be given to the operator to explain why such documents should not be disclosed before the Authority takes any final decision in the matter.

6.5.13 Is there any other way of effectively implementing non-discrimination clause in Interconnect Regulation while retaining the confidentiality of interconnection filings?

The Authority has information to examine the complaint of discrimination, even if the operator has claimed the confidentiality.