

January 12, 2008

Pr. Advisor (B&CS)

Telecom Regulatory Authority of India

Mahanagar Doorsanchar Bhawan,

Jawaharlal Nehru Marg,

New Delhi- 110 002

Dear Sir,

We, Times Global Broadcasting Company Limited (TGBCL) welcome TRAI's initiative for floating a Consultation Paper on Interconnection Issues relating to Broadcasting and Cable Services.

Our views on issues for consultation on Interconnection Issues relating to Broadcasting and Cable Services are as follows:

Interconnection issues for Addressable Platforms

Issue for consultation -1

Comments of TGBCL

We are of the view that the Interconnection Regulation (IR) should make it mandatory for all broadcasters to publish Reference Interconnect Offers (RIO) for all addressable systems. The IR as they are today mandatorily requires broadcasters to publish their RIOs for non-addressable platforms and for DTH services. With the broadcasting and cable industry is undergoing major transitions, in the form of new addressable platforms like IPTV, Mobile TV, HITS and Voluntary CAS in Non-CAS areas, it is our view that publishing the RIO for all addressable systems would bring in uniformity among all TV channel distribution platforms.

It is our view that broadcasters should be allowed to offer different RIOs for different platforms. Each platform is a unique business that requires content depending upon the clientele it serves. In order to ensure that each such addressable platform acquires content on competitive terms, with the objective of providing quality service to consumers at affordable prices, and enhance healthy competition, it is important to allow broadcasters to offer different RIOs for different platforms.

Issue for consultation -2

Comments of TGBCL

As discussed in point 1 above, to enable all addressable platforms to acquire content on a non-discriminatory basis, it is important that broadcasters offer different RIOs for different platforms, by catering to the requirements of each platform that are unique to itself viz a viz every other platform, whether the same are addressable or not.

Issue for consultation - 3

Comments of TGBCL

In our view, the illustrative specifications and requirements laid down by the Group in Annexure C to its Report to the Authority, is exhaustive and highly recommended. In addition to the requirements set out for Set Top Boxes (STB), Conditional Access Systems (CAS) and Subscriber Management System (SMS), we are of the opinion that a uniform SMS, coupled with the implementation of standard Quality of Service Guidelines, across all addressable platforms would go a long way in protecting the subscribers' interests and enhance healthy competition in the industry.

Issue for consultation - 4

Comments of TGBCL

In order to verify and ensure that a distribution network seeking to get signals from broadcasters, on terms that are on par with other addressable platforms, satisfies the minimum specified conditions as discussed in Point 3 above, it is our view that the Authority should set up a neutral body under the Ministry of Information & Broadcasting, vested with adequate powers to:

1. Scrutinize and verify whether the minimum specified conditions laid down are satisfied by a distribution network seeking signals on terms that are on par with other addressable platforms.
2. Provide ratings to each such distribution network on the basis of the level of compliance and satisfaction of the said minimum specifications laid down.
3. Recommend measures to rectify any discrepancies in the implementation or adoption of such minimum specified conditions.

Issue for consultation - 5

Comments of TGBCL

As far as treatment of hybrid cable networks in Non-CAS areas are concerned, it is our view that the implementation of CAS across the country would speed up the digitization process and hence encourage cable networks to move from analogue to digital mode of services. We are also of the view that the analogue and digital systems should be treated as two different platforms until such time that the objective of 100% digitization across all platforms is achieved.

Issue for consultation - 6

Comments of TGBCL

It is our view that the term 'Commercial Subscriber' is unique to each platform, hence the need for a proper definition of the term. A basic understanding of the

term means any person/entity that acquires any commercial gain or benefit out of the subscription to services of a TV channel distributor in a particular platform. Further we are of the view that, the term “Commercial Subscriber” should be used in the same parlance across all platforms and no distinction should be made between different platforms.

In our view, it is important not only to define the term ‘Commercial Subscribers’, but it is equally important to regulate the provision of signals to addressable platforms for transmission/re-transmission to such ‘Commercial Subscribers’.

Issue for consultation - 7

Comments of TGBCL

Yes, it is in the interest of broadcasters to publish RIOs for all addressable platforms for Commercial Subscribers that is distinctively varied as that of the RIOs for non-Commercial subscribers. As stated in Point 6 above, the term ‘Commercial Subscriber’ would have to be defined in such manner so as to ensure that all possible transmission/re-transmission of signals to addressable platforms for commercial gain are covered and there is clear distinction derived between commercial and non-commercial subscribers.

Issue for consultation - 8

Comments of TGBCL

The Authority had in respect of CAS areas prescribed standard interconnect agreements to ensure that there is no delay in signing of Interconnect Agreements. This has to be viewed from the objective of the Authority, to ensure that the terms and conditions agreed to by the broadcaster and the distributor in the RIO take the shape of a formal binding contract and hence avoid disagreements and disputes on the understanding between the parties to the contract.

We are also of the view that the Authority should to disclose the terms of the Interconnect Agreements filed with it and also mandate publishing of the Reference Interconnect Agreements (RIAs) by broadcasters in place of the RIOs.

Issue for consultation - 9

Comments of TGBCL

In our view the time period of 45 days prescribed for signing of Interconnection Agreements is adequate and the question of reducing the same does not arise, for reasons stated in Point 8 above.

Issue for consultation – 10 & 11

Comments of TGBCL

It is our view that the implementation of the Quality of Service (QoS) Guidelines by the Authority would ensure that the terms of making available the channels to subscribers as reflected in the RIOs are in consonance with the QoS Guidelines.

As far as the restriction of packaging of channels on addressable platforms are concerned, it is our view that the broadcasters, being the content providers have the intellectual property rights over the content provided and hence should have the liberty to impose restrictions on the manner in which the content is being packaged and offered by the distributors to the subscribers across platforms. This freedom would also ensure that the distribution platform owner does not discriminate amongst channels.

As far as the pricing of the channels offered by broadcasters is concerned, it is important to keep in mind the objective of 'fair pricing' to consumers. The pricing model of channels adopted by broadcasters and distributors should strictly adhere to the pricing guidelines issued by the Authority. Since the broadcasters provide their channels/bouquets to DTH distributors at 50% of the price of such channels/bouquets as available to Non-CAS cable operators, the benefit of high

retail pricing does not accrue to the broadcasters. In order to ensure that the channels are not distributed at very high margins by the distribution platforms resulting in reduction of the number of subscribers to a channel/bouquet, and also to prevent adverse effects on the revenues of the broadcasters, it is important to determine the retail price at which a channel/bouquet is offered by a distributor to his subscribers.

Interconnection issues for Non-Addressable Platforms

Issue for consultation -1& 2

Comments of TGBCL

Yes, in our view it is necessary for the Regulation to specify the terms and conditions to be included in the RIOs for non-addressable platforms as has been done in case of DTH platforms. The amendment dated October 4, 2007 to the Non-CAS Tariff Order requiring broadcasters to offer their channels at a-la-carte basis needs to be enforced. In our view, in addition to disclosing the a-la-carte rates of the channels, broadcasters should also be required to disclose details of discounts, rates of channels/bouquets and anti-piracy requirements, as is the case with respect to RIOs for DTH operators. This would bring in more transparency in terms of the price and the packaging of the channels/bouquets offered to distributors who in turn offer them to the subscribers.

General Interconnection Issues

Issue for consultation – 1

Comments of TGBCL

It is our view that in order that a service provider enjoys the benefits and protection laid down in the Interconnect Regulations, it is important to establish that such service providers have complied with the QoS Guidelines prescribed by the authority. The satisfaction of this mandatory pre-requirement will ensure

smooth implementation of the Interconnect Regulations across distribution platforms thereby promoting orderly growth of the broadcasting industry.

Issue for consultation – 2

Comments of TGBCL

Clause 3.2 of the Interconnect Regulations requires broadcasters to provide signals to TV channel distribution platforms on non-discriminatory terms. There is no corresponding obligation cast on the distributors to carry the channels without discrimination i.e. charging carriage fees to carry or place the channels in a specific package/bouquet. This results in broadcasters paying higher carriage fees to ensure that their channels are carried.

In our view, to curtail such unjust levying of fees on broadcasters to carry their channels, the applicability of Clause 3.2 of the Interconnect Regulations must be restricted and broadcasters should have the option of not publishing their RIOs in respect of distribution platforms that demand such carriage fees to carry/place their channels.

Issue for consultation – 3 & 4

Comments of TGBCL

In continuation of our views expressed in Point 2 above, there is an urgent need to regulate certain features of 'carriage fees', the most vital of them being stability, transparency, periodicity and predictability. With varying patterns of viewership across the country, it is important to have a standardized method of levying carriage fees, after taking into account the demand and supply equations. Though regulation of the carriage fee structure could give rise to disputes among the players in the broadcasting industry, it is in the interest of the broadcasting and TV sector as a whole that such regulation be implemented.

As far as transparency in the carriage fee structure is concerned, it is our view that the Authority should suggest and implement a uniform carriage fee calculation model that has been arrived at after taking into account various market indicators and the current trends in the broadcasting industry. Such standardized models/formula has to be adopted while arriving at the quantum and periodicity of levy of carriage fees by distributors.

As far as periodicity of carriage fees is concerned, it is our view that the sanctity of the agreement entered into by the broadcasters and distributors should be maintained. Any deviation from the terms agreed to in the agreement would have to be implemented only on mutual consent.

The issues of stability, transparency, predictability and periodicity of carriage fees can be collectively addressed by formulating a pricing model that factors not only the viewership demand for a channel but also geographic indicators, the genre in which the channel is placed, the ability of the distributor to carry the channel in terms of bandwidth etc. Though advertising rates do form an integral part of a broadcaster's business plan, it cannot be linked to the quantum of carriage fees levied.

Issue for consultation – 5

Comments of TGBCL

In terms of Clause 2.2 of the standard interconnect agreement between broadcasters and MSOs, transmission of signals by an Affiliate or his agents by any mode of transmission, from the head end of the Affiliate to the subscribers is prohibited, unless the transmission is by way of coaxial or optic fiber cable. In our view, a separate negotiated agreement is required to be entered into for such transmission through HITS and an amendment to the standard interconnect agreement would not fulfill the need.

Issue for consultation – 6

Comments of TGBCL

In our view, the basic features forming part of the standard interconnect agreement can be adopted to frame the basis of the agreement between HITS operators and the broadcasters. We agree that protection of the intellectual property rights of the broadcasters is vital, since HITS can reach the whole of the country. The standard interconnect agreement between broadcasters and MSOs for CAS notified areas may be adopted as a basic framework around which specific HITS related issues may be addressed, such as a clause defining 'Commercial Subscriber' for HITS.

Issue for consultation – 7, 8 & 9

Comments of TGBCL

In our view the protection offered to subscribers by Sub clause (1) of Clause 9 of the Direct to Home Broadcasting Services (Standards of Quality Service and Redressal of Grievances) Regulations, 2007, should also be extended to the standard interconnect agreements between the broadcasters and the DTH operators.

It is our view that the option of continuing to provide signals to a DTH operator, for a period of six months after the expiry of the Interconnection Agreement between the broadcaster and the DTH operator, should be given to the broadcaster and should not be made mandatory on them to comply. Alternatively, the Interconnection Agreement itself could provide for such continuance of service by broadcasters to DTH operators, to enable them to meet their obligations under Clause 9 referred to above.

Another alternative that can be explored is the amendment to the aforesaid DTH Regulations that allows de-subscription within the first six months of subscription by a subscriber to a package, with proportionate subscription fee credited back to the subscriber, in the event of non-execution of the Interconnection Agreement.

Registration of Interconnect Agreements

Issue for consultation – 1

Comments of TGBCL

In our view, all Interconnect Agreements between broadcasters and TV channel distributors have to be mandatorily required to be in writing. As the Interconnection Regulations stand today, it is not mandatory for agreements to be in writing, even oral agreements are recognized. However, since oral agreements are not capable of being registered with the Authority, they give rise to disputes between the parties. In order to overcome this difficulty all understandings between the broadcasters and the distributors are to be reduced in writing. This would enable the Authority to monitor and regulate the distribution mechanism in the industry.

Issue for consultation – 2

Comments of TGBCL

In our view, it is in the mutual interest of both the broadcasters and the distributors that a formal understanding of the terms and conditions are in place in a concrete form before commencement of the services. This measure would go a long way in addressing and resolving disputes between the parties.

Issue for consultation – 3

Comments of TGBCL

In our view, the regulations must prescribe a minimum time limit within which the broadcasters and the distributors are required to formalize a written agreement. On the expiry of such time frame, the regulatory protection should be withdrawn and shall be renewed only after the registration of the formal written agreement with the Authority. The obligation of furnishing an executed copy of the Agreement with Authority should be with the distributor and the Authority should

consider posting such details of the Agreement on its website for public dissemination and transparency. The Authority may also consider levying penalties on parties who fail to register their formal understanding in writing within the stipulated time frame.

Issue for consultation – 4

Comments of TGBCL

It is recommended that the Interconnection Agreements be signed in duplicate and each signing party retains an original copy.

Issue for consultation – 5

Comments of TGBCL

In our view the responsibility of handing over a copy of the signed Interconnection Agreement by the broadcaster to the distributor (MSO/LCO) and obtaining an acknowledgement thereof would not arise if the Interconnection Agreement is signed in duplicate, as suggested in Point 4 above.

A similar understanding between the MSOs and their affiliate LCOs can help avoid casting the burden of procuring an acknowledgement on both the parties in question.

Issue for consultation – 6

Comments of TGBCL

In our view, it is in the interest of both the parties i.e. the broadcasters and the distributors to ensure that each has a copy of the finalized signed Interconnection Agreement. It would be unfair to thrust the burden of providing copies of the signed agreements to all distributors, on the broadcasters and obtaining acknowledgements for each of them. Therefore the requirement of furnishing a certificate to this effect by the broadcaster is not required, while complying with the Regulation.

Issue for consultation – 7

Comments of TGBCL

It is our view that the periodicity of filing Interconnection Agreements need not be revised. Since the process of signing Interconnection Agreements continues throughout the year, the present requirement of filing details of Interconnection Agreements on a quarterly basis is adequate.

Issue for consultation – 8

Comments of TGBCL

Since we do not recommend any revision in the periodicity of filings of details of Interconnection Agreements with the Authority, the question of due dates for filing does not arise.

Issue for consultation – 9

Comments of TGBCL

In our view, the Authority, while asking the broadcaster/DTH Operator, as the case may be, for any specific Interconnection Agreements, signed subsequent to periodic filing of details of Interconnection Agreements, and should provide a reasonable notice period of at least 45 days.

Issue for consultation – 10

Comments of TGBCL

In our view a retention period of three years, for filings made in compliance of the Regulation, would be reasonable.

Issue for consultation – 11

Comments of TGBCL

In our view, filing of details of Interconnection Agreements, through the electronic mode, on the Authority's website, would be highly cost effective and less time consuming as compared to submitting the details of agreements in scanned form

through CDs/DVDs. In case of physical submission in the form of CDs and DVDs, the risk of losing confidential information is higher.

Issue for consultation – 12 & 13

Comments of TGBCL

We are of the view that disclosure of information relating to the terms and conditions on which signals are provided to different distributors of TV channels, would be in the interests of the broadcasters and that of the general public. We therefore reiterate that the Authority should disclose the terms of the Interconnection Agreements filed with it , that are otherwise kept confidential and also publish the same on its web-site for wider dissemination.