

**TV18 BROADCAST LIMITED'S COMMENTS TO DRAFT OF THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES REGISTER OF INTERCONNECTION AGREEMENTS REGULATIONS, 2019 ("DRAFT REGULATIONS"):**

**1. Requirement of quarterly reporting of interconnection agreements:**

- (a) In the Draft Regulations, the Authority has *inter-alia* suggested that:
- (i) there was a lack of uniformity in filings received from various broadcasters or distribution platforms operators ("DPOs");
  - (ii) often the reports/filings were not submitted on time;
  - (iii) there were varied interpretations of the requirement in the Register Regulation, 2004 regarding filing of standard affiliation agreement;
  - (iv) reporting of information in print form became a time-consuming and laborious task and was also not eco-friendly;
  - (v) since, the periodicity of the reporting under previous regulations was also once in a year, sometimes when these agreements were reported, their validity was already over. Therefore, in such cases, it was not feasible to take any corrective action even if it was necessary. Keeping in view the experience, the Authority observed that the reporting of information relating to interconnection agreements should be within a reasonable time after its execution for effective implementation of the principles of non-discrimination and monitoring. The Authority further observed that there is a requirement to create a balance between the necessary oversight by regulator vis-à-vis the compliance burden on stakeholders. Accordingly, the Authority has indicated that information relating to interconnection agreements should be reported on quarterly basis;
  - (vi) quarterly reporting will help in checking the malpractice of signing of agreements on retrospective basis (per-dated agreements).
- (b) In this regard, we wish to bring the following aspects of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017, the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 and the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (collectively "New Regulatory Regime") into perspective, which *inter-alia* provide as under:

- (i) every broadcaster and every distributor of television channel ("DPO") shall need to publish its reference interconnection offer ("RIO") and submit a copy of the same with the TRAI;
  - (ii) a broadcaster of pay channels shall, upon receipt of written request from a DPO, enter into a written interconnection agreement with the DPO for providing signals of its pay channels in accordance with the terms and conditions of the RIO published by the broadcaster;
  - (iii) a DPO shall, upon receipt of written request from a broadcaster for distribution of television channels of such broadcaster, enter into a written interconnection agreement with the broadcaster for carrying television channels in accordance with the terms and conditions of the RIO published by the DPO;
  - (iv) the period of an interconnection agreement between a broadcaster and a distributor of television channels ("DPO") shall in no case be less than one (1) year from the date of commencement of the interconnection agreement;
  - (v) any modification to be made to RIO will have to be reported to the TRAI before implementation of such modification.
- (c) From reading of the above, it can be safely gathered that the tenure of interconnection agreements between broadcasters and DPOs has to be for a minimum period of one (1) year, and moreover, the interconnection agreements between broadcasters and DPOs, can only be on the basis of RIO published by the broadcaster or the DPO (*as the case may be*). As such, sufficient safeguards already exist under the New Regulatory Regime to address Authority's apprehensions mentioned in point number 1(a) above.
- (d) It is imperative to mention that a published RIO cannot be modified on a case to case basis to accommodate any mutually agreed commercial understanding between broadcasters and DPOs. Therefore, there is no scope for any discriminatory treatment to be meted out to one DPO vis-à-vis any of its competing DPO.
- (e) Additionally, any change required to be made to RIO shall first need to be reported to the Authority and only thereafter be implemented. Accordingly, under the New Regulatory Regime, the Authority would always have visibility of the specific terms and conditions basis which interconnection agreements would get executed between a broadcaster and a DPO as and when any change is reported.
- (f) It may also not be out of place to mention that under the New Regulatory Regime, in case more than one interconnection agreement is entered into between a broadcaster and a DPO, then subsequent interconnection agreement needs to contain details of the earlier interconnection agreements that may be in force between such broadcaster and DPO.

We humbly submit that from the above, it can be seen that sufficient safeguards already exist under the New Regulatory Regime, which ensure that there are no regulatory gaps. It is for this

reason, we are of the view that the Authority ought not prescribe any onerous or burdensome requirements on stakeholders i.e., both broadcasters as well as DPOs in the form of quarterly reporting. It is however submitted that the existing / prevalent practice of annual reporting may be continued.

**2. Requirement of quarterly filing copies of executed Interconnection Agreements:**

- (a) In the Draft Regulations, the Authority has indicated that filing of copies of actual agreements is necessary since, it will help the Authority to have a comprehensive and complete data including the terms and conditions of the interconnection arrangements between broadcasters and DPOs. In this regard, we reiterate our submissions made in point number 1 above, which are not being repeated for the sake of brevity.
- (b) It is also noteworthy that TRAI has stated in the Draft Regulations that DPOs should not be mandated to file the copies of agreements signed with local cable operators ("LCOs") since, these are standardized as the regulations prescribe for signing of such agreements on the basis of model interconnection agreement ("MIA") or standard interconnection agreement ("SIA") and therefore, asking the same may amount to duplication of work. Accordingly, TRAI has exempted DPOs from filing copies of actual agreements signed with LCOs. In this regard, we would like to reiterate that even interconnection agreements between broadcasters and DPOs fall under the category of standardised agreements since, such interconnection agreements can only be on the basis of RIO, as has been explained above. Accordingly, the same logic should be applied by the Authority in respect of filing of copies of interconnection agreement between broadcasters and DPOs and exemption should be granted from filing.

We humbly submit that from the above, it can be seen that sufficient safeguards already exist under the New Regulatory Regime, which ensure that there are no regulatory gaps. It is for this reason, we are of the view that the Authority ought not prescribe any onerous or burdensome requirements on stakeholders i.e., both broadcasters as well as DPOs in the form of filing of copies of interconnection agreements or modification, or amendment or addendum.

**3. Stipulation exempting DPOs with less than 200,000 average active subscriber base in the month of March from obligation to file information relating to their interconnection agreements:**

- (a) We note that under the Draft Regulations, the Authority has decided that all DPOs, which do not have average active subscriber base of two lakh or more in the month of March of a year, shall be exempted from obligation to file information relating to their interconnection agreements for the next calendar quarters. We also note that the Authority has indicated that it may review the reporting threshold of two lakh subscribers in future, and that DPOs with less than 2 Lakh average active subscribers in the month of March of a year are encouraged to report the information voluntarily so that the Authority is in possession of holistic data of the industry.
- (b) We strongly believe that no exemption whatsoever ought to be granted to DPOs from complying with provisions relating reporting requirements, let alone on the basis of

average active subscriber base of two lakh or more in the month of March of a year. Further, all laws should apply equally to all DPOs. In this regard, it may be submitted that any such waivers or exemptions may be susceptible to be misused by DPOs claiming exemptions.

- (c) We genuinely believe that a DPO, having less than 2 Lakh active subscribers in the month of March of a year, does not require any exemption since, such DPO may in any event, be complying with various other requirements / filing including those relating to reporting of subscriber numbers to various broadcasters for the purposes of billing of subscription fees, tax filings, etc. Furthermore, any such DPO will also be adhering to other regulatory requirements including those under Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017, which may be deemed to be more onerous when compared with filings for which exemption is contemplated.
- (d) We further believe that the stipulations permitting exemption of DPOs, which do not have average active subscriber base of two lakh or more in the month of March of a year, will encourage rampant malpractice of under reporting of subscriber numbers by DPOs, which is a form of piracy of signals. In fact, DPOs who have marginally higher average subscriber-count than 2 Lakhs in the month of March too would be enticed to indulge in under-declaration of subscriber numbers so as to bypass reporting requirements.
- (e) It may also not be incorrect to point out that exemption from reporting requirement granted to DPOs with less than 2 Lakhs subscriber-count in the month of March of a year will only result in unjust and discriminatory treatment being meted out to DPOs specially those with slightly higher subscriber base.

We humbly submit that either the Authority should give exemption to all stakeholders from filing of information relating to interconnection agreements since, sufficient safeguards already exist under the New Regulatory Regime, or in the alternative, the Authority ought not give exemption to DPOs with average active subscriber base of less than two lakhs in the month of March of a year from obligation to file information relating to their interconnection agreements.