

New Delhi, the 17th July, 2007

DIRECTION

Subject : Direction under section 13, read with sub-clauses (ii), (iii) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) for compliance with the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004).

F.No.3-33/2007-B&CS. -----Whereas the Telecom Regulatory Authority of India [hereinafter referred to as the Authority] has been established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) (hereinafter referred to as the TRAI Act, 1997) and entrusted discharge of certain functions, *inter alia*, to regulate the telecommunication services, protect the interests of consumers of the telecom sector, ensure technical compatibility and effective inter-connection between different service providers, lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunications service;

2. And whereas the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunications), vide its notification No.39, --

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

(b) published under notification number.S.O.44(E) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part III, Section 4,

has notified broadcasting services and cable services to be telecommunication services;

3. And whereas the Authority, in exercise of the powers conferred upon it under section 36, and paras (ii), (iii) and (iv) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 read with the notifications No.39 (S.O No. 44 (E) and 45 (E)) dated 09.01.2004 issued from file No.13-1/2004-Restg by the Government of India under clause (d) of sub-section (1) of section 11 and proviso to

clause (k) of sub section (1) of section 2 of the Telecom Regulatory Authority of India Act, 1997, made the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004) (hereinafter called the principal regulation) providing for disconnection of TV signals only after giving notice indicating the brief reasons for the proposed action;

4. And whereas clause 4 of the principal regulation, as substituted by the Telecommunication (Broadcasting and Cable Services) Interconnection (Third Amendment) Regulation, 2006 (10 of 2006), *inter alia* prohibits disconnection of the TV channel signals to a distributor of TV channels by the broadcaster or multi system operator without giving three weeks notice to the distributor clearly giving the reasons for the proposed action and the provisions contained in second proviso to sub-clause (1) of clause 4 permit such disconnection without notice only if there is no agreement, written or oral, permitting the distribution of the signals and said clause 4 of the principal regulations provides as under:-

“4. Disconnection of TV channel signals

4.1 No broadcaster or multi system operator shall disconnect the TV channel signals to a distributor of TV channels without giving three weeks notice to the distributor clearly giving the reasons for the proposed action.

Provided that a notice would also be required before disconnection of signals to a distributor of TV channels if there was an agreement, written or oral, permitting the distribution of the broadcasting service, which has expired due to efflux of time.

Provided further that no notice would be required if there is no agreement, written or oral, permitting the distribution of the signals.

4.2 No distributor of TV channels shall disconnect the re-transmission of any TV channel without giving three weeks’ notice to the broadcaster or multi system operator clearly giving the reasons for the proposed action.

4.3 A broadcaster/ multi system operator/ distributor of TV channels shall inform the consumers about such dispute to enable them to protect their interests. Accordingly, the notice to disconnect signals shall also be given in two local newspapers out of which at least one notice shall be given in local language in a newspaper which is published in the local language, in case the distributor of TV channels is operating in one district and in two national newspapers in case the distributor of TV channels is providing services in more than one district. The period of three weeks mentioned in sub-clauses 4.1 and 4.2 of this regulation shall start from the date of publication of the notice in the newspapers or the date of service of the notice on the service provider, whichever is later.

Explanation

1. In case the notice is published in two newspapers on different dates then the period of three weeks shall start from the latter of the two dates.

2. Broadcaster/multi system operator/ distributor of TV channels may also inform the consumers through scrolls on the concerned channel(s). However, issue of notice in newspapers shall be compulsory.

4.4 The notice in the newspapers must give the reasons in brief for the disconnection”.

5. And whereas the Authority received on the 12th March, 2007 in its office a complaint (annexed as Annexure I to this Direction) dated nil from M/s. Sri Venkateshwara Cable Net Works, Manjulapur Village, Nirmal Mandal, Adilabad Distt., A.P. (hereinafter referred to as M/s Sri Venkateshwara Cable Net Works) complaining disconnection of signals on the 9th March, 2007 to their cable network by authorities of ETV & ETV2 channels, being M/s Ushodaya Enterprises Limited , having their head office at Ramoji Film City, Hyderabad – 501512, (hereinafter referred to as ETV Network) and a copy of the complaint was forwarded by the Authority vide its letter No.3-33/2007-B&CS dated the 14th March, 2007 to M/s. ETV Network asking to convey their comments on the issues raised in the complaint letter;

6. And whereas in response to the letter of the Authority referred to in the preceding paragraph, M/s. ETV Network vide their letter dated the 19th March,2007(annexed as Annexure II to this Direction) informed the Authority, *inter-alia* that the complainant, being M/s. Sri Venkateshwara Cable Net Works violated the terms of agreement and has shifted the decoder and viewing cards from Thamsa Village to Manjulapur village and, therefore, the services to the said operator were discontinued and that they were willing to activate decoder and viewing cards if the complainant installs the same at Thamsa Village as per agreement;

7. And whereas the Authority, vide its letter dated the 10th April, 2007, sought further clarifications from M/s ETV Network as to whether any notice was given to the M/s. Sri Venkateshwara Cable Net Works for disconnection of signals in terms of clause 4.1 of the principal Regulations and also asked M/s. ETV Network to furnish evidence of giving such public notice to the Authority latest by 18th April, 2007;

8. And whereas subsequent to the issuance of the letter, dated the 10th April, 2007 referred to in the preceding paragraph, of the Authority, M/s ETV Network vide their letter dated the 14th April, 2007(annexed as Annexure III to this Direction) informed the Authority that they had made it very clear to the complainant vide their letter dated the 3rd February, 2007 that any deviation to the terms of the agreement would amount to violation compelling them to take appropriate action and in the light of this, the spirit of

the notice for disconnection was conveyed to the complainant, being M/s. Sri Venkateshwara Cable Net Works;

9. And whereas, the Authority, after receipt of the clarifications from M/s ETV Network vide its letter dated the 14th April, 2007 referred to in the preceding paragraph, vide its letter dated the 3rd May, 2007 directed M/s ETV Network to furnish a copy of their letter dated the 3rd February, 2007 (referred to in the preceding paragraph) served on the complainant, being M/s. Sri Venkateshwara Cable Net Works as well as copies of the public notice issued by them;

10. And whereas M/s. ETV Network has vide their letter dated the 10th May, 2007 (annexed as Annexure IV to this Direction) *inter alia* informed the Authority as under:-

“ As there was no agreement between us and complainant, no Public Notice before disconnection was issued and more so, complainant own accord has violated the terms of the expired agreement by installing the said decoder in place other than the place it was supposed to :

The shifting of Control room by the complainant without informing the Broadcaster and providing signals to other areas.”;

11. And whereas the Authority had considered the clarifications given by M/s ETV Network, vide their letter dated the 10th May, 2007 referred to in the preceding paragraph which have not been found to be satisfactory for the following reasons, namely:-

(a) That the contention of M/s ETV Network stating that there was no agreement between it and complainant, being M/s. Sri Venkateshwara Cable Net Works is not sustainable because----

(i) M/s ETV Network vide their letter dated the 10th May, 2007 stated that complainant own accord has violated the terms of the expired agreement by installing the said decoder in place other than the place it was supposed to but in the said letter also stated that there was no agreement between it and complainant which are contradictory to each other;

(ii) copy of letter dated the 3rd February, 2007 (annexed as Annexure V to this Direction) addressed to M/s. Sri Venkateshwara Cable Net Works *and enclosed with said letter inter alia* states as under:-

“ while acknowledging the receipt of the decoders and SIM Cards, please note that for continued transmissions through the said decoders, the same should be installed in your control room at Thamsa Village as per the agreement. Any deviation in the place of control room would amount to violation of the agreement.”; which clearly admits that there was an agreement between M/s ETV Network being the broadcaster and M/s. Sri Venkateshwara Cable Net Works, operating cable network;

(b) that no notice was given by M/s ETV Network, being the broadcaster to M/s. Sri Venkateshwara Cable Net Works, operating cable network, before disconnection of signals, as required by the provisions contained in the first proviso to sub-clause (1) of clause 4 of the principal regulation, which requires that a notice would also be required before disconnection of signals to a distributor of TV channels if there was an agreement, written or oral, permitting the distribution of the broadcasting service, which has expired due to efflux of time;

(c) that it is evident from the letters dated the 19th March,2007, the 19th March,2007 and the 10th May,2007 referred to in paragraphs 6, 8 and 10 above respectively that there prime facie exists a dispute between M/s ETV Network, being the broadcaster and M/s. Sri Venkateshwara Cable Net Works, operating cable network and M/s ETV Network, being the broadcaster failed to inform the consumers about such dispute to enable them to protect their interests, as required by sub-clause 4.3 of clause 4 of the principal regulations;

(d) that M/s ETV Network, being the broadcaster failed to—

(i) give three weeks notice to the Sri Venkateshwara Cable Net Works, operating cable network clearly giving the reasons for the proposed action before disconnection of the TV channel signals as required by sub-clause 4.1 of clause 4 of the principal regulations;

(ii) give the notice in two local newspapers or in two national newspapers, as the case may be, as required to be given in accordance with the provisions contained sub-clause 4.3 of clause 4 of the principal regulations;

(iii) give the reasons in brief for the disconnection by the notice in the newspapers as required to be given in accordance with the provisions contained sub-clause 4.4 of clause 4 of the principal regulations;

(e) that the disconnection of the services without issuing a public notice resulted in a situation where the consumers have been deprived of their right to be informed about the likely disconnection as required by clause 4 of the principal regulation ;

12. Now, therefore, in exercise of the powers conferred upon the Telecom Regulatory Authority of India under section 13, read with clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) and for the reasons mentioned in the preceding paragraph, the Telecom Regulatory Authority of India, without prejudice to the show cause notice issued vide F.No.3-33/2007-B&CS dated 17.7.2007 (annexed as Annexure VI to this Direction), hereby directs M/s ETV Network to ----

- (a) restore immediately the signals of the said ETV and ETV-2 Telugu channels to M/s. Venkateshwara Cable Networks, Manjulapur Village, Nirmal Mandal, Adilabad Distt. (A.P);

- (b) furnish, within two days of issue of this Direction, a compliance report regarding restoration of such signals; and
- (c) comply with the requirements of the principal regulation before disconnection of signals to any distributor of TV channels .

(R. N. Choubey)
Pr. Advisor (B&CS)
Fax: 23220442

To

Shri K. Bapineedu Chowdary,
Vice-President – Operations,
ETV Network, Ramoji Film City,
Hyderabad – 501512.
Fax: 08415-246408

ANNEXURE - I

To,

Sri. **RAKESH GUPTA**
 Advisor (B&CS)
 Telecom Regulatory authority of India
NEW DELHI-110 002

Sir,

Sub:- Information regarding stopping of the signals by the ETV and ETV2
 Telugu channel - Request - Regarding.

-:oOo:-

I am here with submitting few lines for your kind consideration. I beg to you that the ETV and ETV-2 channels authorities are stopped the signals previously on 12-12-2006. Then I complained the matter before your authorities on 12-12-2006 by lodging a complaint which is send through Fax. After that the process made by your office, the signals are started after two months on 20-02-2007. But the authorities of ETV & ETV-2 channels again stopped the signals on 9-3-2007 to our Cable Net work without any notice.

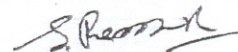
By stopping the signals I am facing problems with my cable net work customers, and they are not paying the monthly subscription fee to me, so I am loosing my maintenance charges and the subscription fees.

So kindly I request the authorities to take necessary steps by ordering the signals by the ETV and ETV-2 channel authorities to provide me signals forthwith and order to not stop the signals in future also.

For which kind of act I am very great full to you sir.

Thanking you sir,

Yours faithfully



[G. RAMESH]

Sri Venkateshwara Cable Net Works
 Manjulapur vg.,
 Nirmal Mandal
 Adilabad Dist., (A.P.)

S.No. 4 EK

ANNEXURE - II

5

USHODAYA ENTERPRISES LIMITED

TELEVISION DIVISION

Dt:19.03.07.

To

Mr. Rakesh Gupta,
Joint Advisor, (B&CS),
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhavan,
Jawahar Lal Nehru Marg, Old Mint Road
New Delhi - 110 002.

Sir,

R

Sub:-Complaint filed by Mr.G.Ramesh, Sri Venkateshwara
Cable Networks, Adilabad reg. Disconnection of signals
of ETV & ETV-2 Channels.

* * *

With reference to the above subject matter we draw your attention to the following:-

1. Complainant was receiving the signals of ETV and ETV-2 through his control room at Thamsa village in Adilabad as per the subscription agreement in lines with the TRAI Regulations.
2. Complainant in the Month of December, 2006 has raised a complaint with you alleging disconnection of signals for which on a clarification sought by your good offices, we have deputed our field staff to verify the allegation of disconnection of signals and found that the signals were off and the cable operator was asked to bring the decoders and viewing cards to Head Office i.e., Ramoji Film City, Hyderabad for technical check and repair, if necessary or replacement of either decoder or viewing cards for continued transmission of signals in Tamsha village. In response to this the complainant has submitted his decoders for verification and it was returned by us after rectification of technical snag.

23 MAR 2007



Contd...2

R.R. Dist - 501 512 A.P. INDIA.

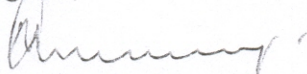
Tel : Off : 0091 - 08415 - 246111 Fax : 0091 - 08415 - 246408

3. On our routine verification of the area by our anti piracy team. it was found that complainant violating the terms of the agreement has shifted the decoder and viewing cards from Thamsa village to Manjulapur village. We are already providing the signals to Manjulapur village through our existing MSO. As the complainant has to install the decoder and viewing cards only at Thamsa village as per the agreement and has violated the terms of agreement and has installed the decoder and viewing cards at Manjulapur village, we have no other option except to deactivate the signals.

We reiterate that we have no objection to activate the said decoder and viewing cards, if the complainant installs the same at Thamsa village as per the agreement. Hope your good offices would appreciate the situation under which were driven to do so.

Thanking you Sir,

Regards,



Vice President-Operations.

S.No. 5709

USHODAYA ENTERPRISES LIMITED
TELEVISION DIVISION

By Registered Post Ack.due/Fax.

Dt: 14.04.07

To

Joint Advisor (B&CS),
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
Jawahar Lal Nehru Marg,
Old Mint Road,
New Delhi 110 002.

Kind Attention Mr. Rakesh Gupta.

Sir,

Sub:- Complaint filed by Shri G.Ramesh, Sri Venkateshwar Cable Networks, Adilabad re disconnection of signals of ETV &ETV-2. MTT

With reference to the aforesaid, we draw your attention to our earlier comments/replies dated 19.03.07 and 16.02.07 in response to the grievance by the complainant wherein we have apprised your good offices that the complainant has violated the terms of the agreement by shifting the control room and thereby causing piracy of signals.

We have made it very clear to the complainant vide our letter dated 03.02.07 that any deviation to the terms of the agreement would amount to violation compelling us to take appropriate action. In the light of the above, the spirit of the notice for disconnection was conveyed to the complainant.

Yours truly,

Ushodaya Enterprises Limited,
Television Division,


Authorized Signatory.

Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhavan
Jawaharlal Nehru Marg, New Delhi-2

18 APR 2007

Dy. No. : 5354

RAMOJI
F.I.L.M C.I.T.Y

R.R. Dist - 501 512 A.P. INDIA.
Tel : Off : 0091 - 08415 - 246111 Fax : 0091 - 08415 - 246408

ANNEXURE - IV

USHODAYA ENTERPRISES LIMITED
TELEVISION DIVISION

By Registered Post Ack.due/Fax.

Dt: 10.05.07

To

Joint Advisor (B&CS),
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
Jawahar Lal Nehru Marg,
Old Mint Road,
New Delhi 110 002.

Kind Attention: Mr. Rakesh Gupta

Sir,

Sub: - Complaint filed by Shri G.Ramesh, Sri Venkateshwar cable Networks, Adilabad re disconnection of signals of ETV &ETV-2. ^{26/5}

Ref: F.No. 3-33/2007-B&CS dated 3rd May 2007.

- a) Copy of the letter dated 03-02-07 is enclosed.
- b) With regard to furnishing copy of Public Notice.

As there was no agreement between us and complainant, no Public Notice before disconnection was issued and more so, complainant own accord has violated the terms of the expired agreement by installing the said decoders in place other than the place it was supposed to:

The shifting of Control room by the complainant without informing the Broadcaster and providing signals to other areas.

Yours truly,

Ushodaya Enterprises Limited,
Television Division,

Authorized Signatory.

RAMOJI
F.I.L.M C.I.T.Y

R.R. Dist - 501 512 A.P. INDIA.

Tel : Off : 0091 - 08415 - 246111 Fax : 0091 - 08415 - 246408

6913

