



सत्यमेव जयते

भारतीय दूरसंचार विनियामक प्राधिकरण
TELECOM REGULATORY AUTHORITY OF INDIA
भारत सरकार /Government of India



DIRECTION

Dated: 3 December, 2018

Subject: Direction to broadcasters and distributors of television channels under section 13, read with sub-clause (ii) of clause (b) of sub section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997, relating to display of television channels.

No. 12-37/2017-B&CS.--- Whereas the Telecom Regulatory Authority of India [hereinafter referred to as 'the Authority'], established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) [hereinafter referred to as TRAI Act, 1997], has been entrusted to discharge certain functions, which *inter-alia*, include to regulate the telecommunication services; fix the terms and conditions of inter-connectivity between the service providers; 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 telecommunication services;

2. And whereas the Central Government, 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 proviso to clause (k) of sub-section (1) of section 2 of the TRAI Act, 1997 and
- (b) published under notification number S.O.44(E) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II, Section 3 – sub-section (ii)---

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

3. And whereas the Authority, in exercise of its power under section 13, read with sub-clause (ii) of clause (b) of sub section (1) of section 11, of the TRAI Act, 1997, issued a direction dated the 8th November, 2017 wherein all the broadcasters and distributors of television channels were directed to restrain from placing any registered satellite television channel, whose TV rating is released by TV rating agency, on the landing Logical Channel Number (LCN) or landing channel or boot up screen;

4. And whereas, pursuant to a challenge to the said direction before the Hon'ble Telecom Disputes Settlement & Appellate Tribunal (hereinafter referred to as Hon'ble Tribunal), the Authority, vide its direction dated 25th April 2018, repealed the aforementioned direction with immediate effect, after obtaining the permission of the Hon'ble Tribunal;

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5. And whereas, meanwhile in pursuance of the above-referred challenge and submission to Hon'ble Tribunal, the Authority issued a consultation paper on "Issues related to Placing of Television Channel on Landing Page" on the 3rd April, 2018 seeking comments /suggestions of all the stakeholders;

6. And whereas the Authority received 25 comments and 2 counter-comments from the stakeholders in response to the aforesaid consultation paper dated the 3rd April, 2018 and the Authority also conducted an open house discussion (OHD) with the stakeholders on the 28th May, 2018;

7. And whereas on the issue, whether the practice of placing of TV channel on landing LCN influences the Television rating point (TRP), it has emerged from the stakeholders' response as well as the analysis of the data obtained from distributors and Broadcast Audience Research Council (BARC) that placing of a channel on landing page influences Television ratings. The detailed analysis of key issues and rationale in arriving the conclusions are given at annexure;

8. And whereas due to aforesaid influence on TRP, placing of any TV channel, for which TV ratings are released by registered rating agency (*hereinafter referred to as 'rated TV channel'*), on landing LCN provides distinct advantage to such channel in the measured viewing sessions. That such additional viewership is due to appearance of a channel as a result of the default placement done by the distributor, thereby resulting in non-level playing field among broadcasters;

9. And whereas despite landing page being an important marketing tool for broadcasters and distributors for promotion of their programs and services, due to its ill effects on TRP, using this placement jeopardizes the accuracy and the credibility of TV rating system;

10. And whereas the very purpose of the policy guidelines for television ratings in India is to have a credible, transparent and representative television audience measurement system which is based on the recommendations of the Authority. Placing a rated TV channel on landing LCN impedes the credibility of the ratings released by the agency;

11. And whereas, on the issue of possibility of changes in measurement methodology of television ratings to mitigate the influence of landing LCN on Television ratings, it was informed by the agency concerned that the same is not feasible due to technical limitations. They informed that the audience measurement cannot distinguish between a watermarked channel placed on landing LCN or anywhere else on the distribution platform's LCN;

12. And whereas the Authority also analysed feasibility of implementing other alternatives to mitigate the effects of placement of rated TV channel on landing LCN, such as putting a restriction on the landing LCN settings, modifying configuration in the middleware to put landing page as a last visited page and mandating distributor to place only consumer related information on landing LCN. The Authority observed that these alternatives are either not feasible due to technical limitations in various types of distributor's networks or impact their commercial interests;

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13. And whereas it is quite clear that the landing LCN is not a natural choice of the viewer, thereby causing undue distortion. And, the Authority is of the considered view that the rating of TV channels should be free from any distortion, as such artificial influence on TV ratings negates its sanctity;

14. Now, therefore, the Authority, in exercise of the powers conferred upon it under section 13, read with sub-clause (ii) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), in order to protect the interest of service providers and consumers and ensure orderly growth of the sector, directs all broadcasters and distributors of the television channels to restrain from placing any registered satellite television channel, whose TV rating is released by TV rating agency, on the landing LCN or landing channel or the boot-up screen with immediate effect. In case of previously entered agreements, efforts may be made to implement these directions as soon as possible and it shall be implemented in all cases by 31st March 2019. Further the information of such pre-existing agreements with full details of the parties to the agreement, the territory, agreement period and other relevant details may be submitted to the authority within seven days from the date of issuance of this direction at email:advbcs-2@traigov.in.

Sapna 31/2/2018
(Sapna Sharma)
Joint Advisor (B&CS)

To,

All Broadcasters and Distributors of television channels

Analysis of key issues

- 1) Landing channel or landing page or landing Logical Channel Number (LCN) refers to the default LCN which is displayed first whenever the Set Top Box (STB) is switched on. Channel placed at Landing LCN is available to all STBs connected to the network of the distributor.
- 2) Television rating points (TRP) indicate the popularity of a program or channel. TRP provides information about the television watching habits (i.e. "Time spent" by a viewer on a particular TV channel) of viewers from different socio economic backgrounds. TRP helps the advertisers and corporate media planner in selecting the right TV channel to reach the target audience. TRP may also influence the decision of a consumer to subscribe a channel.
- 3) TRP influences content and programmes produced for the viewers; better TRP would promote a program while poor TRP will discourage program or content. Incorrect TRP will lead to production of content which may not really be popular, while good content or programs may be left out. Thus, misleading TRP can affect not only the broadcasters and the advertisers but also the viewing public as well. Therefore, there is a need for accurate measurement and representative television rating for the programmes as well as the channels.

Does Placement of rated TV channel on landing LCN influence TRP?

- 4) During the consultation process, comments of the stakeholders were sought on, 'whether the practice of placing a TV channel on the landing LCN can influences the TRP'. In response, many broadcasters has stated that the practice of placing a TV channel on landing LCN influences TRP. On the contrary, Multi-System Operator (MSO) submitted that the said practice does not distort TRP. During the Open House Discussions, all the stakeholders including MSOs accepted and overtly acknowledged that this practice influences TRP. However some stakeholders maintained that the influence is minimal. All the stakeholders echoed the basic principle that the television rating need to be credible, accurate and transparent.
- 5) The Authority observed that one of the main factors in TV audience measurement is the "time spent" by a viewer on a particular TV channel. As per the audience measurement methodology of BARC (presently it is the only registered agency for issuing TRP in the country), viewing of a TV channel is calculated on the clock minute basis. A channel with a maximum viewing duration in a clock minute gets the entire viewing attributed to it for that minute. If a channel is placed at a landing page, whenever a viewer switches on the STB, it directly lands the viewer to that channel first. Only, afterwards the viewer decides the channel he/she wants to watch. This being a time consuming process, wherein the viewer first scrolls to the guide or main menu reading the content of description telecasted on the channel and decides as per his/her choice. This phenomenon happens in BARC sampled homes also, where in the BAR-O-Meter implanted in the home is running and calculating

the clock minutes of the subscriber's stay on the landing page, viewer browses the menu options which consumes some time, in such a scenario, though the viewer may not like to see the landing channel yet the viewership of that channel gets registered technically. In its comments, one stakeholder has quoted a study according to which, the average time taken by a viewer is 43 seconds before he/she decides and shifts to his/her choice, thereby potentially increasing the TRP of the channel placed on the landing channel.

- 6) The Authority also sought the data related to landing LCN activities from the distributors of television channels and BARC. While providing the data BARC mentioned that the reported data being panel level data, changes in viewing patterns would be influenced by several factors, and it is not possible to identify each specific trigger. It also mentioned that the data is confidential. After due analysis of the data, correlation of BARC data with that of the data from distributor and examination of the said information, it has been observed that, placing a channel on the landing LCN leads to increase in the TRP.
- 7) In view of the reasons stated above, the Authority is of the view that placing of any TV channel whose TV ratings are released by registered rating agency, on landing LCN provides distinct advantage to the channel in the viewing sessions recorded. Further that such additional viewership is due to involuntary appearance of a channel caused by a default setting done by the distributor.

Effects of placing rated TV channels on landing LCN

- 8) During the consultation, one of the stakeholders stated that landing page can be a boon for a new entry channel to promote itself, while at the same time detrimental for the industry especially when bigger and well-established players use this platform to increase its Television ratings. Placing a channel on landing LCN may be a powerful tool in influencing and artificially inflating the rating of a TV channel. This practice may lead to sudden hike in television rating in a very short span of time and distort a well-established system thereby distorting the level playing field among the service providers. Such influence on TRP is more critical, when the difference in rating point among the competing channels is miniscule. In such cases, the additional rating points gained due to the placement of the channel on the landing page can alter the leading position. This situation leads to creation of illusory TRP for such rated TV channel placed on landing page.

Impact of regulating the placement of TV channels on landing LCN on distributor's business model

- 9) On this issue, some distributors commented that regulating the placement of TV channels on landing page would have financial implications on their business and therefore it should be left to the market forces. Some broadcasters commented that any restriction on landing page will be violative of their right to do business under Article 19(1)(g) of Constitution of India. While few broadcasters commented that in the garb of freedom of doing business, distributors should not be allowed to engage in practices which are discriminatory and are against the interests of consumers and broadcasters. One stakeholder commented that

landing page should continue to be a platform with the intent it carries i.e promotion/advertisement of channel or content, but not for competing in the race to earn TRPs. The Authority recognizes that the landing page is an important marketing tool for distributors for promotion of their own and broadcasters programme and services. It is undoubtedly an additional source of revenue for the distributors. However, at the same time if landing LCN is used only for promotion of program and service and not for placing rated TV channel, this marketing tool will not impinge upon the accuracy and credibility of the television rating system in India. Therefore, to achieve a balance and to promote orderly growth of the sector, the Authority is of the view that placing rated TV channels on the landing LCN should be prohibited. The distributors are free to run non-TRP rated TV channels or clippings/trailers of programmes or services on its landing page. The broadcaster and the distributors must not undertake carrying programmes containing watermark ID on the landing LCN. They can promote and advertise about the TRP rated TV channels by running the information about specific programs/serial of such channels or by running general information such as name, logo and LCN of such channels on landing page. Thus, various legitimate means are available for the broadcasters and the distributors to carry out marketing for their TV channels/programmes and attract consumers without distorting television ratings. As such this direction would not curtail their legitimate earnings or freedom to do business.

Alternative mechanism for mitigating landing LCN affects

- 10) It is also pertinent to note here that before arriving on decision of putting restriction on landing page, the Authority has also deliberated other possible solutions for resolving the present issue. One of such solutions contemplated was to remove the initial viewing impressions recorded for first few seconds/minutes from the measurement system so as to neutralise the effect of landing page. However such modification, may lead to removal of genuine viewing impressions also, and therefore it was found unsuitable by the Authority. On the issue, whether influence in television ratings due to landing page can be mitigated through changes in measurement methodology of television ratings, BARC commented that the transparent, accurate, representative and credible viewership measurement methodology adopted in India has been arrived on the basis of global best practices, and in consultation with industry stakeholders, as well as regulator/government representatives. To the best of their knowledge, there is no measurement system worldwide that detects "landing page" and removes it from reported data. According to BARC, any suggestion to "change" the measurement methodology, with the aim of "mitigating" influence of landing page may result in a measurement methodology that is neither accurate nor representative. The impact on the larger eco-system would be overall adverse. Further, BARC has stated that its measurement system cannot distinguish between a watermarked channel placed on a "landing page" or anywhere else in distribution platform's EPG. Placing channels on "landing page" is a purely distribution level activity involving broadcasters and distribution platform operators. It suggested that any action to control/regulate this activity must therefore be taken at the level of distribution. Controls at the level of viewership measurement are not advisable since they would be neither feasible nor practically implementable. Therefore, considering all the technical and other aspects, the Authority has arrived at the conclusion that putting restriction on landing page at distributor level is the

only suitable and effective solution to maintain the integrity of the ratings. The Authority may adopt a different approach, if expedient on the basis of the technological developments in the rating systems in future.

- 11) The Authority also deliberated with stakeholders about the feasibility of mandating distributors to implement user's 'last visited page' as the landing page in distributors' network. The Authority asked distributors as to whether they are providing the facility of last viewed page as the landing page on their network. Out of the 60 distributors who provided the details only two distributors were found to be using such feature, thereby limiting the acceptability of such solution. On this issue, stakeholders also suggested that it is not feasible for them to implement the 'last visited page' as landing page as it entails additional procurement of hardware/software, thereby necessitating large investment. Some stakeholders stated that the 'last visited page' model impinges on the ability of distributors to monetize the feature of landing LCN. Further, the Authority also deliberated the option of mandating distributors to use landing page only to provide platform specific information. On this issue, some stakeholders commented that restriction of using the landing page only for platform specific information would certainly be detrimental to the business of distributor. Some stakeholders suggested that it would be in the interest of the consumers if the landing page is used only to provide platform specific information such as consumer care/helpline number, charges of various services provided by distributor and other customer related information. The Authority noted that there are multiple ways possible in which a landing page can be utilized by distributors to advance its business interests. Keeping in view the comments of stakeholders, the Authority is of the view that so long as the sanctity of audience measurement system is not compromised/affected by usage of landing page, distributors should be allowed to use landing page to further their commercial interests.