

Written comments on the draft amendment regulation namely the Standards of Quality of Service (Digital Addressable Cable TV Systems) (Amendment) Regulations, 2014 are invited from the stakeholders by 8th September, 2014. The comments may be sent, preferably in electronic form to Mr. Sunil Kumar Singhal, Advisor (B&CS), Telecom Regulatory Authority of India, on the e-mail: sksinghal@traigov.in . For any clarification/ information, Mr. Sunil Kumar Singhal, Advisor (B&CS) may be contacted at Tel. No.: +91-11-23221509, Fax: +91-11-23220442. Comments will be posted on TRAI's website www.traigov.in.

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TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART III, SECTION 4

**TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION**

New Delhi, the ---- 2014

**STANDARDS OF QUALITY OF SERVICE
(DIGITAL ADDRESSABLE CABLE TV SYSTEMS)
(AMENDMENT) REGULATIONS, 2014
(--- of 2014)**

F. No. -----B&CS.----In exercise of the powers conferred by section 36, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39,---

(a) issued, in exercise of the powers conferred upon the Central Government under clause (d) of sub-section (1) of section 11 and proviso to clause (k) of sub section (1) of section 2 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----

the Telecom Regulatory Authority of India hereby makes the following regulations further to amend the Standards of Quality of Service (Digital Addressable Cable TV Systems) Regulations, 2012 (12 of 2012), namely:-

1. (1) These regulations may be called the Standards of Quality of Service (Digital Addressable Cable TV Systems) (Amendment) Regulations, 2014.

(2) They shall come into force thirty days from the date of publication in the Official Gazette.

2. In regulation 14 of the Standards of Quality of Service (Digital Addressable Cable TV Systems) Regulations, 2012 (12 of 2012) (herein after referred to as the principal regulations), after sub-regulation (1), the following Explanation shall be inserted, namely,--

“Explanation: The pre-paid payment option offered to the subscriber shall be an electronic pre-paid mechanism wherein the amount paid by the subscriber is adjusted automatically for the services availed by him.”

3. In regulation 15 of the principal regulations, -----

(a) in sub-regulation (2), for the words “multi-system-operator, the words “cable operator” shall be substituted.

(b) for the existing sub-regulation (5), the following sub-regulation shall be substituted, namely,---

“(5) The multi-system operator, either directly or through its linked local cable operator, shall issue a proper receipt for every payment made by a subscriber and the details of the receipt such as date and serial number of the receipt; amount paid by the subscriber etc. shall be entered into the subscriber management system of the multi-system operator against the name of the subscriber, within three days of the payment made by a subscriber.”

4. After regulation 16 of the principal regulations, the following regulations shall be inserted, namely,----

“16A. Consequences for contravention of the provisions of regulation 15 or regulation 16.---- (1) If any multi-system operator or its linked local cable operator, contravenes the provisions of sub-

regulation (1) or sub-regulation (5) of regulation 15, it shall, without prejudice to the terms and conditions of its registration or the provisions of the Act or rules or regulations or orders made, or, directions issued, thereunder, be liable to pay an amount, by way of financial disincentive, not exceeding rupees twenty per contravention with respect to each subscriber and in case of second or subsequent such contraventions, to pay an amount not exceeding rupees fifty per subscriber for each contravention, as the Authority may, by order direct.

Provided that if a written agreement has been entered into between the multi-system operator and its linked local cable operator under the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012, wherein the linked local cable operator has agreed to give the bill to the subscriber or to issue proper receipt to the subscriber for the payment made by him or both, and a copy of such agreement has been filed by the multi-system operator with the Authority, then the multi-system operator and its linked local cable operator, both shall be liable to pay financial disincentives separately.

(2) If any multi-system operator contravenes the provisions of sub-regulation (2) of regulation 16, it shall, without prejudice to the terms and conditions of its registration or the provisions of the Act or rules or regulations or orders made, or, directions issued, thereunder, be liable to pay an amount, by way of financial disincentive, not exceeding rupees hundred for each contravention, as the Authority may, by order direct.

(3) No order for payment of an amount by way of financial disincentive under sub-regulation (1) and sub-regulation (2) shall be made by the Authority unless the multi-system operator or its linked local cable operator or both, as the case may be, have been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority.

16B. Deposit of amount payable by way of financial disincentive under these regulations.— The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by order by the Authority.”

(Sudhir Gupta)
Secretary, TRAI

Note 1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 16-2/2012-B&CS dated 14th May 2012.

Note 2: The Explanatory Memorandum explains the objects and reasons of these regulations.

Explanatory Memorandum

1. The Telecom Regulatory Authority of India notified the Standards of Quality of Service (Digital Addressable Cable TV Systems) Regulations, 2012, laying down, amongst other quality of service (QoS) norms, the norms for billing of subscribers of Digital Addressable Cable TV Systems (DAS). Chapter VI of the regulations, vide regulations 14, 15 and 16, amongst others, prescribe the payment options, billing for subscribers with usage and other details, and issuing a receipt for every payment made by a subscriber.
2. After notification of the said QoS Regulations, the Authority has received a number of complaints where subscribers have reported that they are not getting the bills for the subscribed cable TV services or the proper receipts for the payments being made by them or both.
3. In this connection, the Authority issued a Direction No. 16-2/2012 B&CS dated the 2nd December, 2013, directing the multi system operators (MSOs), amongst others, to:-
 - offer cable TV services to its subscribers on both pre-paid and post-paid payment options and generate bills for the subscriber;
 - give to every subscriber the bill, on a regular basis, for charges due and payable for each month or for any other agreed period;
 - ensure that a proper receipt is given to the subscriber by it or its linked local cable operator for every payment made by the subscriber;
4. Subsequently, to assess compliance with the provisions of the regulations and the direction, referred to in the preceding para, the Authority constituted a joint team consisting of the representatives of the Authority and the Broadcast Engineers Consultant India Ltd. (BECIL), a public sector unit under the Ministry of Information and Broadcasting, to

inspect and audit the head-end and the subscriber management system of the MSOs providing cable TV services in the National Capital Territory of Delhi.

5. The Authority also held several meetings with various cable operators, operating in the notified DAS areas on the 06th March, the 16th April, the 17th April, the 3rd June, the 25th June and the 21st July, 2014 on the issues relating implementation of DAS.
6. During the said inspection and the meetings, the Authority noted non-compliance of the provisions of regulations 15 and 16 by the cable operators. Some of the cable operators are either not offering prepaid option for payment to the subscriber or the cable operators who are offering the prepaid option for payment is not through the electronic prepaid systems, which are prevalent with the mobile and Direct to Home (DTH) operators.
7. Subsequently, TRAI issued a Direction on 27th May 2014. Through this Direction, the Authority directed all MSOs, providing cable TV services through Digital Addressable Cable TV Systems, to:-
 - (i) ensure the delivery of bill to each subscriber by hand or post or email, as may be opted by the subscriber;
 - (ii) provide, within forty five days of issue of this direction, on-line payment option in its subscribers management system for payment of bill by the subscriber;
 - (iii) ensure, within thirty days from the date of issue of this direction, that an electronic acknowledgement is sent to the subscriber, on his registered mobile number or the e-mail address, immediately on his making any payment to the service provider.

8. The Authority has noted that the said prescribed norms are not being complied with by the MSOs and their linked local cable operators. Such non-compliance has resulted in numerous consumer grievances. In the absence of a bill, a consumer remains unaware about the correctness of the payment being made by him for the availed cable TV services. Similarly, in the absence of a receipt for the payment made by him, he has no means to get redressal of his grievance in case of any QoS related issues, in general or any billing related dispute with the operators, in particular.
9. As the delivery of bills and receipts is not being done in a proper manner by the concerned cable operators as laid down in the QoS regulations, the information regarding actual subscription vis-a-vis the payment details are not being entered into the subscriber management system of the MSOs. Consequently, the deals and the financial transactions amongst the operators are not being carried out based on transparent parameters. This has proved to be a major road block in the evolution of transparent business practices in the sector and resulted in disputes amongst the MSOs and their linked local cable operators. This is also adversely affecting smooth implementation of DAS as mandated by law.
10. As per the regulations, a cable operator needs to add the applicable taxes such as service tax, entertainment tax etc. in the billing amount for the services rendered by it to its subscribers. The proper billing and accounting of receipts is necessary for the purpose of verification and auditing to ensure correctness of the tax amount deposited by the cable operator with the Government. In the absence of proper billing and accounting of receipts, there is a distinct possibility of loss of revenues accruable to the Government. It is essential that the Government gets its

due tax revenues arising out of the business of the cable TV services sector.

11. The Authority is, therefore, of the view that in order to effectively discharge its functions under the TRAI Act, to protect the interests of the consumers, strengthen transparent business practices to promote efficiency in the operations of cable TV services so as to facilitate growth in such services, and to ensure that revenues due to the Government get deposited, financial disincentives should be imposed on cable operators for non-compliance of the provisions of the regulations. TRAI has been levying financial disincentives on the telecom service providers for lapses which have had a significantly positive impact on the level of compliance of prescribed regulations.

12. In view of the foregoing, in order to ensure compliance of the regulations pertaining to the billing for the subscribers, catered through DAS, the Authority intends to amend the regulations to incorporate provisions of levying financial disincentives. For this, the following amendments are intended to be made in the QoS regulations:

(a) In the cases where any non-compliance of the regulations 15(1) or 15(5) is observed by the Authority, a financial disincentive of not exceeding Rs. 20/- per subscriber will be levied on the MSO and/or its linked local cable operator for first contravention. If the MSO and/or its linked local cable operator contravene the said regulations second time (or any more times) for the same subscriber then a financial disincentive of not exceeding Rs. 50/- per subscriber will be levied on the MSO and/or its linked local cable operator for each subsequent contravention.

(b) In the cases where any non-compliance of the regulations, prescribed in regulation 16(2) is observed by the Authority a financial

disincentive of not exceeding Rs. 100/- per subscriber will be levied on the MSO for each contravention.

13. As per the regulations, every MSO is responsible to give every subscriber the bill for charges due and payable by such subscriber, and to issue a proper receipt for payment made by that subscriber. However, he can give the bill and the receipt to the subscriber either directly or through its linked local cable operator depending upon the written agreement between them. Therefore depending upon the agreement between them, the financial disincentives at the prescribed rate shall be levied either on MSO alone or on both i.e. MSO and its linked cable operators.

Example: If an MSO has an agreement with its linked local cable operator for delivery of bills and they contravenes the regulation, then the financial disincentive at the prescribed rate i.e. @ of not exceeding Rs 20.00 per subscriber or @ of not exceeding Rs 50.00 per subscriber, as the case may be, shall be levied separately on both the MSO and its linked local cable operator. However, if that MSO does not has an agreement with its linked local cable operator for delivery of bills and he contravenes the regulation, then the financial disincentive at the prescribed rate i.e. @ of not exceeding Rs 20.00 per subscriber or @ of not exceeding Rs 50.00 per subscriber, as the case may be, shall be levied only on the MSO. Similar rule will be used for imposing financial disincentive for contravention of regulation 15(5).

14. In addition, an explanation after regulation 14(1) has been incorporated which clarifies that the pre-paid payment option mentioned in the regulation is to be implemented through electronic pre-paid mechanisms, which are already prevalent with the mobile and Direct to Home (DTH) operators. The electronic pre-paid systems have the facility to record the

amount paid by the subscriber in each subscriber account, automatically calculate the validity period based on the price of the subscribed services, automatically adjust the available amount as per the services availed by the subscriber and to recharge the account through various modes like recharge vouchers, ATM machine, short-message-service, mobile/net-banking, auto-debit facility etc., as offered by the MSO.

15. An MSO may offer several modes and multiple denomination schemes for recharging the subscriber account depending upon the convenience of subscribers and the business model of the MSO. However, as the cable TV charges are generally paid by the subscribers on monthly basis, it is expected that an MSO would offer monthly recharge scheme to its subscribers as one of the options.
16. The amendment to regulation 15(2) is intended to ensure that the bill contains details of Service Tax Registration Number and Entertainment Tax Registration Number of either the MSO or its linked local cable operator, as per, (1) respective tax laws and subsequent orders, if any, issued by the concerned tax authorities; and (2) written interconnect agreement between them.
17. Regulation 20 of the principal regulations already provides that every MSO shall establish, setup and operationalise its subscriber management system for ensuring efficient and error free service to the subscribers by recording and providing individualised preferences for channels, billing cycles or refunds. The amendment to regulation 15(5) is intended to clarify that the details of bill payment such as amount paid, date etc. are entered into the subscriber management system to ensure proper accounting of payments; to avoid arbitrary disconnection of TV signals of

the subscribers; to ensure due tax revenues accrue to the Government; and to minimise the disputes related to non-payment.

18. Before reaching a conclusion about contravention and imposing a financial disincentive, a reasonable opportunity would be provided to the concerned MSO or Local Cable Operator to represent before the Authority.
