

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

TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION

New Delhi ,the ----, 2012

F. No. 23-1/2012- 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 Telecommunications), 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. S.O.44 (E) and 45 (E) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part III, Section 4, the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

**STANDARDS OF QUALITY OF SERVICE
(DURATION OF ADVERTISEMENTS IN TELEVISION CHANNELS)
(AMENDMENT) REGULATIONS, 2012
(---- OF 2012)**

1. Short title, extent and commencement.- (1) These regulations may be called the “Standards of Quality of Service (Duration of Advertisements in Television Channels) (Amendment) Regulations, 2012 (--- of 2012)”.

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

2. For regulation 3 of the Standards of Quality of Service (Duration of Advertisements in Television Channels) Regulations, 2012 (15 of 2012) dated 14th May 2012 (hereinafter referred to as the principal regulations), the following regulation shall be substituted, namely:---

“3. Duration of advertisements in a clock hour.--- No broadcaster shall, in its broadcast of a programme, carry advertisements exceeding twelve minutes in a clock hour.

Explanation: The clock hour shall commence from 00.00 of the hour and end at 00.60 of that hour (example: 14.00 to 15.00 hours).”.

3. Regulation 4 of the principal regulations shall be deleted.

4. After Chapter II, the following chapter shall be inserted, namely:---

“CHAPTER III
MISCELLANEOUS

4. Power of the Authority to intervene.--- The Authority may, from time to time, issue such order or direction as it may deem fit to ensure compliance of the provisions of these regulations.

5. Reporting requirement.- Every broadcaster shall, within fifteen days from the end of a quarter, submit to the Authority in the format specified by the Authority, the details

of advertisements carried in its channel and first such report shall be furnished to the Authority, for the quarter ending on the 31st December, 2012, by the 15th January, 2013.”.

Wasi Ahmad)
Advisor (B&CS)

Note.----- The Explanatory Memorandum explains the objects and reasons of the Standards of Quality of Service (Duration of Advertisements in Television Channels) (Amendment) Regulations, 2012 (--- of 2012).

Explanatory Memorandum

Background

1. The Telecom Regulatory Authority of India (TRAI), established under the Telecom Regulatory Authority of India Act, 1997(24 of 1997) has been entrusted with discharge of certain functions, *inter alia*, to regulate the telecommunications services and to protect the interests of service providers and consumers of the telecom sector. Government of India, in the Ministry of Communication and Information Technology Gazette Notification NO. 39, dated 9th January 2004, has notified the Broadcasting Services and Cable Services to be Telecommunication Services thereby bringing the regulation of Broadcasting and Cable TV services under the ambit of TRAI.
2. As per the extant regulatory position, all the television channels are required to follow the advertising code as prescribed in the Cable Television Networks Rules 1994, as amended from time to time. As far as the duration and format of the advertisements that can be carried by the TV channels are concerned, the relevant provisions of the said advertising code are as under:

“ 7. Advertising Code.—

...

(6) *The picture and the audible matter of the advertisement shall not be excessively 'loud;*

...

(10) *All advertisement should be clearly distinguishable from the programme and should not in any manner interfere with the programme viz., use of lower part of screen to carry captions, static or moving alongside the programme.*

(11) *No programme shall carry advertisements exceeding 12 minutes per hour, which may include up to 10 minutes per hour of commercial advertisements, and up to 2 minutes per hour of a channel's self-promotional programmes.”*

3. Generally, the duration of advertisements, as being carried in the TV channels, are not in accordance with the provisions stated above. Moreover, the advertisements are played/ repeated several times in between the programmes, which break the continuity of the programme. With the primary objective of striking a balance between giving a consumer a good TV viewing experience and protecting the commercial interests of broadcasters, a consultation paper, titled “Issues related to Advertisements in the TV channels” was issued on 16th March 2012. Based on the views/comments of the stakeholders, including consumers and consumer organisations, analysis of various aspects, facts and available studies, TRAI notified the “Standards of Quality of Service (Duration Of Advertisements in Television Channels) Regulations” dated 14th May 2012.
4. The said regulation has been challenged by several broadcasters in the Hon’ble TDSAT. Taking into consideration the issues raised by the broadcasters, the Authority has decided to amend the Standards of Quality of Service (Duration Of Advertisements in Television Channels) Regulations, dated 14th May 2012.

Provisions contained in the regulations

5. As far as consumers are concerned, they have to pay for all the subscribed channels, whether it is pay or FTA. Therefore, it is a legitimate expectation on the part of the consumers to get the programmes for which the channel is subscribed rather than it being loaded with advertisements beyond a point. Thus, the prime irritant for the consumer with regard to the advertisements is their excessive time duration in programmes. If this issue is addressed, most of the other issues related to advertisements in a TV channel are likely to get addressed, as far the consumer is concerned. Keeping this in view, the Authority has decided to amend regulation 3 of the principal regulations. However, the Authority would periodically review the quality of service parameters with respect to the carriage of advertisements in the TV channels.
6. **Restriction on duration of advertisements to be based on clock hour basis:** The quantum of permissible duration of advertisements carried in the television programmes has been specified in the Cable Television Networks Rules 1994. It is worth mentioning here that the provisions in the principal regulation does not attempt to disturb the time limit fixed by the Central Government of twelve minutes and so the same duration was prescribed in the principal regulations dated 14th May 2012. The provisions in the Cable Television Networks Rules with regard to the maximum duration of advertisements that

can be carried per hour cannot be different for different hours of the day thereby discriminating the consumers' viewing experience depending upon the hour of the day. The duration of advertisements carried, during the programmes, in the TV channels is closely related to the quality of viewing experience of the consumers. The quality of viewing experience of the consumers is akin to the quality of service provided by the service providers to the consumers. Accordingly, the Authority has decided that the restriction on maximum duration of advertisements carried in the programmes of a TV channel, as prescribed in the Cable Television Networks rules, shall be regulated on a clock hour basis.

7. **Reporting requirement:** In order to provide an effective monitoring mechanism, the broadcasters are required to furnish to the Authority a report in the prescribed format, on quarterly basis.

Written comments on the draft regulations are invited from the stakeholders by 11th September, 2012. The comments may be sent, preferably in electronic form to Mr. Wasi Ahmad, Advisor (B&CS) on the e-mail address advbcs@trai.gov.in/ traicable@yahoo.co.in. The comments can also be mailed to address given below or faxed to 011-23220442. Comments will be posted on the TRAI's website.

last date for receipt of comments has been extended upto 24 th September, 2012