

Date: 05/01/2016

To

Mr. Sunil Kumar Singhal, Advisor (B&CS),

Telecom Regulatory Authority of India,

E-Mail:- das@traai.gov.in

Sub: Consultation Paper dated 9th Dec 2015 on Draft Model & Standard Interconnection Agreements; "CP"

Re: STAR India's Counter Comments and Comments

Dear Sir

At the outset we would like to thank the authority for offering us an opportunity to articulate our views on the CP. The CP shall have a far reaching impact in developing commercial relationships between LCOs and MSOs.

Below are our considered suggestions on the various clauses:

- I. **EXISTING:**8.7 The MSO shall not indulge in any piracy or other activities, which has the effect of, or which shall result into, infringement and violation of trade mark and copyrights of the LCO or person associated with such transmission.

PROPOSED CHANGE(S) REQUIRED:

The MSO and the LCO shall not indulge in any piracy or other activities which has the effect of, or which shall result into, infringement and violation of trademarks and copy rights of the Broadcaster or resort to under declaration or non-declaration of the number of subscribers.

REASON /RATIONALE: MSO does not carry any signals of the LCO. Nor does the LCO carry any signal of the broadcaster directly from the latter. Accordingly any piracy, infringement or violation of trade mark or copyright can occur only against a broadcaster by an operator.

- II. **EXISTING:** 8.10 The MSO shall be responsible for encryption of the complete signal, transmitted through its network and the network of the LCO, up to the STB installed at the premises of the subscriber.

PROPOSED CHANGE(S) REQUIRED:

8.10 (1) The MSO shall be responsible for encryption of the complete signal, transmitted through its network and the network of the LCO, up to the STB installed at the premises of the subscriber. In addition the LCO shall also be responsible for the delivery of the same encrypted signal provided to such LCO by the MSO to the STB installed at the premises of the subscriber.

8.10 (2) Both LCO and MSO shall compulsorily transmit, retransmit or otherwise carry any channel, content or programme only in encrypted mode and only through a digital addressable system strictly in terms of and in accordance with the TRAI Act and the Regulations framed thereunder as well as the Cable Television Act and the Rules framed thereunder.

8.10(3) Neither LCO nor MSO shall generate, transmit, retransmit, place, run, make available or otherwise carry any frequency in unencrypted mode or without a digital addressable system as specified in the TRAI Act and the Regulations framed thereunder as well as the Cable Television Act and the Rules framed thereunder.

REASON/RATIONALE: Many operators are under a mistaken belief that they can continue generating and retransmitting unencrypted feed, however in the light of the Judgment of the TDSAT in M.A. No. 162 of 2015 in Petition No. 177(C) of 2015 and the Judgment of the Hon'ble TDSAT dated 1st May 2015 in Petition No. 466 of 2013, disposing off the Miscellaneous Application No. 52 of 2015, it is imperative that there is a clear covenant in the agreement between MSOs and LCOs that neither party shall generate, retransmit any unencrypted feed.

We further submit that the following two additional points need to be included in the draft agreement:

1. MSOs should communicate the billing for the period to subscribers and also set up terminals either with themselves or with LCOs for enabling recharge by subscribers or the LCOs.

Reason: This will facilitate prompt collection and also encourage prepaid billing;

2. No channel, content or program should be run in the network of the MSO or the LCO unless it complies with the program code under the Cable TV Act and the Rules made thereunder.

Reason: While the same has been provided as a ground for termination in clause 3.1, however a negative covenant is necessary so that

injunctive reliefs can be sought in appropriate cases by the aggrieved party as mere termination may not resolve the issue.

3. The KYC of subscribers should be done at least once in 2 years, to ensure the sanctity and/or validity of data;
Reason: This will ensure that the data being fed into the system is genuine.
4. There is no practical requirement that will be served if MSOs have to give 21 days' notice to an LCO in case the latter is engaging in piracy. This, viz. disconnection should be actually allowed as an instant action if piracy is found out. MSOs should submit appropriate proofs to establish piracy, in case it disconnects any LCO on the ground of piracy.
Reason: Certain content shown in channels are highly piracy prone, for eg. First TV release of a block buster movie, live sports events, etc; all these are highly time sensitive and require fast turnaround time when there is information of any piracy. As such the requirement of waiting till 21 days prior to disconnection gives a fillip to piracy as the pirate operator is complacent in the thought and belief that nothing will happen to him during the screening of the pirated content.

Kindly revert for any clarification; also do provide us an audience with your kindself before finalizing any formulation in this regard.

Yours Faithfully
For Star India (P) Ltd.
Sd/- Pulak Bagchi
Authorised Signatory