

COMMENTS BY
DEN NETWORKS LIMITED
ON THE CONSULTATION
PAPER -
“THE REGISTER OF
INTERCONNECTION
AGREEMENTS
(BROADCASTING AND CABLE
SERVICES) REGULATIONS,
2016”

1. Preamble

We at **DEN Networks Limited** wish to express our sincere gratitude to the Telecom Regulatory Authority of India (the Authority) for its support and cooperation in the establishment and growth of Broadcasting & Cable TV industry in India and also resolving various issues, which have arisen from time to time.

We further thank the Authority for providing us an opportunity to submit our comments/ response on the Consultation Paper on “The Register of Interconnect Agreements (Broadcasting and Cable Services) Regulations, 2016” as issued by the Authority.

2. Statutory Requirements vis-à-vis Comments

As stated by the Authority, the primary objective of draft regulations is to formulate the contours of a reporting system for the service providers so that the service providers can report the details of Interconnection Agreements (the Agreements) being executed to the Authority on timely basis including the commercial aspects. This would enable the Authority to maintain “Register of Interconnect” as per provisions of Telecom Regulatory Authority of India Act, 1997 and discharge other statutory functions.

As so contemplated and required in the draft regulations, it is being proposed that a Distributor of TV Channels including a Multi System Operator (MSO) should report to the Authority information relating to all Agreements entered into by it with other service providers including the Broadcasters on the one side and the Local Cable Operators (LCOs) which are working at ground level on the other side.

The desired information is required in a prescribed format by the Authority in electronic form for all the Agreements which would be valid as on the date of commencement of the draft regulations and thereafter for new deals, by 10th of every month post commencement of the draft regulations on monthly basis. Further, such information so proposed to be submitted should also accompany a certificate from a Company Secretary and Authorized Representative of an MSO to the effect that all such agreements including modifications/ amendments etc., thereof being reported are in compliance to the applicable laws of the Authority.

In this regard, we would like to state to the Authority as under:

- i. the Authority is well aware of the fact that the MSOs at present are exhaustively occupied in implementing Digitization across the country and are already burdened with numerous tasks such as installing Set Top Boxes at consumers' premises, laying infrastructure, cable lines etc. This all requires excessive efforts on the part of MSOs along with substantial amount of workforce needed to complete such activities. With such Digitization having been mandated by the Government of India, the entire burden & cost associated with respect to the said Digitization has been exclusively spearheaded and borne by the MSOs only. The implementation of Digitization requires additional efforts and costs by the MSOs into their business in the form of funding and otherwise.
- ii. It is also pertinent to note that the said cost burden being incurred has not fetched any returns to the MSOs and on the contrary, the Balance Sheets of the MSOs are still continuing to be in losses. This has further created distrust among the foreign investors because the MSOs are mostly debt ridden and even are also unable to take the benefit of relaxed foreign investment norms.
- iii. The Authority has recently come out with a Consultation Paper on Tariff Issues related to TV services for which Consultation Process and an Open House Discussion have been recently completed. The Authority has come out with several models including the Regulated RIO and Distributor Network Model wherein if implemented the need of register of interconnect agreements would be substantially decreased. Some of the Broadcasters have also proposed for complete forbearance on wholesale pricing which will further change the need of such register, if such model is permitted.
- iv. The attention of the Authority is invited to the Model Interconnection Agreement (MIA) & Standard Interconnect Agreement (SIA) as being prescribed vide "The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) (Seventh Amendment) Regulations, 2016 (3 of 2016) dated 15th March, 2016" as issued by the Authority. The said regulations are effective from 16th March, 2016 and in pursuance to the same, an MSO has to either sign the MIA or SIA with a LCO going forward.

The framework prescribed under the said regulations envisages that an MSO and LCO may enter into the Agreement on lines of the MIA or

by signing the Agreement strictly in terms of the SIA. The flexibility has been provided to the parties entering into the Agreement on the lines of MIA which is limited to Clauses 10, 11 and 12 of the MIA through mutual arrangement without altering or deleting any other clause of MIA. They also have a freedom to add additional clauses through mutual agreement to the MIA for stipulating any additional conditions. However, it has been mandated that the parties shall ensure that no such additions have the effect of diluting any of the conditions laid down in the MIA. Further, if the parties decide to enter into the Agreement on the terms of SIA, no addition, alteration and deletion of the clauses provided therein is allowed.

- v. Accordingly, in view of the above, it is respectfully submitted to the Authority that in any event, the deals taking place between an MSO and the LCOs would only be confined to the standards/ parameters which are pre-defined in MIA or the SIA going forward and their formats are already available on the website of the Authority and thus, are in public domain. In such a scenario, extracting required information only for the purpose of reporting under the proposed draft regulations from such pre-defined agreements would only amount to duplicity of work and would further put unwarranted efforts on the part of MSOs.
- vi. Additionally, as far as the deals taking place between an MSO and the Broadcasters are concerned, the draft regulations provide the format (please refer Table B 2 of Schedule II of the draft regulations) for reporting the transactions which are related to Carriage Fee being agreed upon with a Broadcaster, amount/ unit of Carriage Fee receivable and any other fee agreed with a Broadcaster. It is pertinent to mention that that the entire gamut of Carriage Fee deals are already available in the public domain and are transparent, uniform across all the Broadcasters. The Reference Interconnect Offer for Carriage is already available on the website of an MSO and anyone can access the same which demonstrates that such deals are already available in public domain. Thus, in our view, such additional reporting requirement at this stage i.e., at the time of undergoing Digitization need not be put upon an MSO when the desired information is already available to general public through website.
- vii. Moreover, with any new reporting requirements in place at the time of Digitization, it is evident that such requirements will cast an additional liability on the MSOs to establish & maintain in-house reporting systems needed to fulfill the reporting requirements. The



MSOs will further have to invest funds for acquiring manpower, upgrading existing systems, maintaining reporting database etc., needed to complete such activities and monitor as well.

- viii. Therefore, in order to conclude, we at **DEN Networks Limited** would like to request the Authority to wait till the Digitization gets completed across India and implement such regulations thereafter at appropriate stage with a new consultation exercise. Additionally, we understand that the Authority is further likely to come out with Model Interconnect Agreement between Broadcasters and the service providers. To have a greater understanding of the issues involved and to give our detailed submission on this present Consultation Paper, we would like to study the same also before providing any comments. Accordingly, in our view, we need to study both the proposed Tariff Regulations and Interconnect Agreement between an MSO and the Broadcasters before commenting on The Draft Register of Interconnect Regulations and would therefore request the Authority to hold this exercise till that time.

In case of any queries or clarification required by the Authority, we further request the Authority to contact Mr. Rajkumar Varier – Group General Counsel @ rajkumar.varier@denonline.in or Mr. Lalit Taneja – Assistant Manager – Legal @ lalit.taneja@denonline.in - DEN Networks Limited.