

Subject: **Fwd: TV Today Response on Consultation Paper on the "Register of Interconnection Agreements (Broadcasting and Cable Services) Regulations**

Date: 04/26/16 10:36 AM

From: S M K Chandra <smk.chandra@traigov.in>

To: akpathak@traigov.in, rakesh@traigov.in, anil29nain@gmail.com

 image001.jpg (93kB)

----- Original Message -----

From: **S k Singhal** <sksinghal@traigov.in>

Date: Apr 26, 2016 10:25:11 AM

Subject: Fwd: TV Today Response on Consultation Paper on the "Register of Interconnection Agreements (Broadcasting and Cable Services) Regulations

To: smk.chandra@traigov.in

----- Original Message -----

From: "Dr. Puneet Jain" <Puneet.Jain@aajtak.com>

Date: Sunday, April 24, 2016 12:53 pm

Subject: TV Today Response on Consultation Paper on the "Register of Interconnection Agreements (Broadcasting and Cable Services) Regulations

To: "sksinghal@traigov.in" <sksinghal@traigov.in>

>

> To,

> Mr. S.K. Singhal

> Advisor (B&CS)

> Telecom Regulatory Authority of India

> Mahanagar Doorsanchar Bhawan

> Jawahar Lal Nehru Marg

> New Delhi-110002

>

> Dear Mr. Singhal,

>

> **Subject: Ref. Consultation on the Register of Interconnection Agreements (Broadcasting and Cable Services) Regulations, dated 23rd March 2016.**

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> Please find enclosed herewith the comments from TV Today Network Limited (TVTn) with regard to the captioned Consultation Paper on the Register of Interconnection Agreements (Broadcasting and Cable Services) Regulations, 2016

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> The purpose for reviewing the present Register of Interconnection Agreements (Broadcasting and Cable Services) Regulations via the provided Consultation Paper (CP) are:

>

> i. Non Uniformity in filing details by various service providers which makes the compilation and

analysis very difficult for TRAI.

>

> ii. *The requirement in the regulations regarding filing of standard affiliation agreement which is interpreted by many service providers as filing of Reference Interconnect Offers again, leading to duplicity of reporting.*

>

> iii. *The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Systems) Regulations, 2012 requires that every broadcaster shall furnish the details of carriage fee paid by it to the Multi System Operator to the Authority along with the information furnished under the Register of interconnect agreements (Broadcasting and Cable services) Regulation, 2004. A lack of uniformity has been observed in this regard among the broadcasters in furnishing the information.*

>

> iv. *Updating the register of interconnection regulations to account various changes which are subsequently done in regulatory framework.*

>

> v. *The periodicity of reporting is done once in a year. Since, validity of most of the interconnection agreements signed is also one year. By the time these are reported as per the requirement specified under the regulations, their validity is already over. Therefore, in such cases, it is not possible to take any corrective action even if some changes are felt necessary and such agreements become fait accompli.*

>

> vi. *To have a reporting system for the service providers which is simple and easy to update.*

>

> *For this purpose the CP has been divided into various parts, including the contents and confidential portion of the register; reporting of information; and format of reports. The questions on which consultation has been sought are as follows:*

>

> 1. *Why all information including commercial portion of register should not be made accessible to any interested stakeholders?*

>

> TV Today Response

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> *It is stated that commercial information should not be made accessible to the interested stakeholders for the reason that various service providers have their own relationships and arrangements with other service providers and the same is critical for the effective and continuous functioning of their business. Such information if made available to other stakeholders will*

seriously undermine the arrangements of service providers and may affect their capacity to negotiate, and this freedom to negotiate is provided by TRAI itself.

>

>

> 2. *If the commercial information is to be made accessible,*

> A. *In which way, out of the three ways discussed above or any other way, the commercial information should be made accessible to fulfil the objective of non-discrimination?*

>

> *TV Today Response*

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> *Various methods discussed in CP for ensuring commercial information of interconnection agreements is accessible to interested stakeholders while also ensuring that the business relations of individual service providers are not affected are:*

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> *Making available commercial information to the interested stakeholders via trend analysis in the form of reports. This may help in curbing discrimination and work towards self regulation. However, to carry out meaningful trend analysis, under the regulatory framework for interconnection, it is necessary that all service providers use the same parameters for commercial terms in the agreement.*

>

> *Another way of utilizing the information without affecting individual service provider could be to disclose the commercial information after hiding the identity of the provider (one providing the signal) and seeker (one receiving the signal).*

>

> *Although we stand by our response given in question 1 above, if the commercial information is to be made accessible, out of a general understanding of all the options, the most suitable would be the option whereby information may be made available to the interested stakeholders via trend analysis. This will ensure that the interested parties would have a general analysis of the rates prevalent in the industry.*

>

> *B and C. Should it be accessible only to the service providers, general public or both? Should any condition be imposed on the information seeker to protect the commercial interests of the service providers?*

>

> *TV Today Response*

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> *Although we stand by our response given in question 1, if at all the commercial portion of register is made available, it shall only be made available to the service providers and not general public. It is also*

stated that in order to protect the interests of the service provider, such conditions may be imposed on the information seeker, which does not undermines the capacity of the service provider to freely negotiate commercial aspects of the interconnection agreements. This should include the information seeker being asked to divulge the purpose behind seeking this information and the TRAI should use its discretion as to whether the said purpose is valid and adequate and merits the information being revealed by TRAI.

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> 3. *If the commercial information is not made accessible to stakeholders, then in what form the provisions under clause (vii) and (viii) of Section 11 (1) (b) of TRAI Act be implemented in broadcasting and cable sector so that the objective of non-discrimination is also met simultaneously?*

>

> *TV Today Response*

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> *In this regard, it is stated that TRAI should issue necessary directions against the errant service providers, whose practices promotes discrimination in the sector.*

>

> 4. *Please provide suggestions on Regulation 5 of the draft regulations regarding periodicity, authentication, etc.?*

>

> *TV Today Response*

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> *Various methods discussed in the CP with respect to periodicity which could simplify the existing reporting mechanism are:*

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> *Flexibility in reporting the interconnection details throughout the year within certain days of signing of interconnection agreement (say one month). This can be done by electronically accepting the reports on monthly basis.*

>

> *In this regard, Regulation 5 of the draft regulation provides that every broadcaster of pay channel and distributor of TV Channel shall report the information relating to all interconnect agreements entered into by them or modifications or amendments or addendums thereto which have signed;*

> *Before coming into effect of the regulations that are valid as on the date of commencement of the regulations shall be reported within one month.*

> *After coming into effect of these regulations shall be reported by the 10th of the following month.*

>

> Another way could be to submit the information on real time basis, so that whenever the agreement is signed, one copy of the same is forwarded along with the required information to TRAI.

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> Similarly with respect to authentication of reporting, it has been stated that on several occasions, it has been found that the information so reported by the service providers is either incomplete or inaccurate. Since the information/details to be submitted to TRAI needs to be authenticated, and the reporting company is proposed to be made accountable for deviations in the information so reported, therefore it is suggested that information/reports be signed by the authorized officer of the company such as company secretary or general counsel in cases where the service provider is not registered as a company.

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> In this regard, Regulation 5 of the draft regulation provides that while reporting the information of interconnect agreements:

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> A company shall furnish a certificate, digitally signed by the company secretary and the authorized representative of the service provider; or

> An individual or partnership firm shall furnish a certificate, digitally signed by company secretary or general counsel and the authorized representative of the service provider-----

>

> To the effect that all interconnect agreements or modifications or amendments or addendums thereto reported under this regulation are compliant with all regulations, orders and directions made or issued by TRAI and that they do not contravene the provisions contained in any such regulation, Order or Direction.

>

>

> On a general understanding of the above reporting and authentication, it is stated that reporting on real time basis would best serve the purpose for all stakeholders since the information would get reported to TRAI on real time without any delay or manipulations. Therefore, it is suggested that Regulation 5 of the draft regulations be amended accordingly. With respect to authentication of reports, it is submitted that the reporting shall be certified only through the authorized representative of the Company without the requirement of the Company Secretary to also authenticate such report, as the authorized representative would be well versed with requirements of TRAI in this regard and would also serve be the single point of contact with whom TRAI may communicate.

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>5. Please provide comments on how to ensure that service providers report accurate details in compliance of regulations.

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> TV Today Response

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> *In order to ensure that service providers report accurate details in compliance of Interconnection Regulations, TRAI shall have in place a real time reporting mechanism whereby both the service providers entering into an interconnection agreements are required to report details of the agreement, which may then be compared and tallied to ensure that the details reported by such service providers who had entered the interconnection agreement are the same. Such reports shall also be authenticated and signed by the authorized representative of both the service providers entering into the agreement with an undertaking/affirmation that the same is accurate.*

>
> 6. *Please provide comments on digitally signed method of reporting the information.*

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> *> TV Today Response*

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> *It is stated that digitally signed method of reporting the information is a good initiative by TRAI and will help avoid compilation of huge volumes of papers both at the end of TRAI and the Service provider. However, it is stated that the reports shall only be signed (whether digital or not) and authenticated by the authorized representative of the service provider without requiring the company Secretary to also sign/authenticate such reports as already explained above in our response to question 4.*

>
> *8. Please provide suggestions on regulation 6 of draft regulations and also the formats given in schedules? Stakeholders can also suggest modified format for reporting to make it simple and easy to file.*

>
> *> TV Today Response*

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> *No comments.*

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> Thank you.
>
> Yours sincerely,

>
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> Group- Head Legal & Compliances
> Company Secretary and Vice Pre- Legal & Secretarial
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