



भारतीय दूरसंचार विनियामक प्राधिकरण
TELECOM REGULATORY AUTHORITY OF INDIA
भारत सरकार /Government of India



Dated: 24th July 2020

DIRECTION

Subject : Direction to all Broadcasters under section 13, read with section 11, of the Telecom Regulatory Authority of India Act, 1997, to ensure compliance of various provisions of the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020 dated 1st January 2020 and the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment) Regulations, 2020 dated 1st January 2020.

No. 1-4/2020-B&CS: Whereas, the Telecom Regulatory Authority of India (hereinafter referred to as "TRAI" or "the Authority"), established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) (hereinafter referred to as "TRAI Act"), has been entrusted to discharge certain functions, inter-alia, to regulate the telecommunication services; fix the terms and conditions of inter-connectivity between the service providers; ensure technical compatibility and effective interconnection between service providers; lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunication service;

2. And whereas, the Central Government, in the Ministry of Communication and Information Technology (Department of Telecommunications), vide its notification No.39,--

- (a) issued in exercise of powers conferred by the proviso to clause (k) of sub-section (1) of section 2 of the TRAI Act, and
 - (b) published under notification number S.O. 44(E) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II, Section 3 - sub-section (ii)--- has notified broadcasting services and cable services to be telecommunication service;
3. And whereas the Authority notified a new regulatory framework for Broadcasting and Cable TV services provided through addressable systems, encompassing the following:-
- (a) the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (1 of 2017) dated 3rd March 2017(hereinafter referred to as the “Principal Tariff Order”);
 - (b) the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 (1 of 2017) dated 3rd March 2017(hereinafter referred to as the “Principal Interconnection Regulations”);
 - (c) the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (2 of 2017) dated 3rd March 2017(hereinafter referred to as the “Principal QoS Order”);

And whereas the above Regulatory framework proved to be effective in harmonizing the business processes, reduce litigation, bring transparency and nondiscrimination among other positive change in the sector and that the framework empowered consumers to make choice of channels and also brought transparency for consumers in the pricing of cable services;



4. And whereas in order to further improve the above framework , the Authority on 01.01.2020 amended the aforementioned principal tariff order and principal regulations and notified the following:-

- a) the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020 (hereinafter referred to as “Tariff Amendment Order 2020”);
- b) the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment) Regulations, 2020 (hereinafter referred to as “Interconnection Amendment Regulations 2020”);
- c) the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Third Amendment) Regulations, 2020 (2 of 2020) (hereinafter referred to as “QoS Amendment Regulations 2020”);

5. And whereas in terms of the provisions of the Tariff Amendment Order 2020, all the Broadcasters were required to publish revised Maximum Retail Price (MRP) of a-la-carte channels and bouquets of channels by 15th January 2020;

6. And whereas some broadcasters and other stakeholders challenged various provisions of Tariff Amendment Order 2020, Interconnection Amendment Regulations 2020 and QoS Amendment Regulations 2020 in various High Courts including in the Hon'ble High Court of Bombay vide Writ Petition (L) No. 116 of 2020 and other connected matters therewith;

7. And whereas the Hon'ble High Court of Judicature at Bombay (the Hon'ble Court) heard the matter at length, for about six days, for interim relief and orders were reserved thereon on 04.03.2020 for interim relief , if any, and the same was expected to be pronounced very shortly thereafter;



8. And whereas even though no ad-interim/interim orders were passed by the Hon'ble Court restraining TRAI from implementation of the amended Regulations 2020 and Tariff Amendment Order 2020, TRAI did not take any coercive steps or measures to implement the said Regulations and Tariff Order, as the matter was heard at length for interim relief by the Hon'ble Court and the orders thereon were expected to be pronounced very shortly;
9. And whereas, a complete lockdown was implemented across the entire Country with effect from 25th March 2020, due to the unprecedented situation caused by the Covid-19 pandemic;
10. And whereas even prior to the matters having been heard and reserved for orders, the Authority on 13th February 2020, keeping in view the interests of consumers and to give them enough time to make their choices of channels in a timely manner in order to effect a smooth transition from 1st March 2020, issued a letter to all broadcasters and all distributors of television channels to take suitable steps for the implementation of provisions of Tariff Amendment Order, 2020;
11. And whereas despite such letter of the Authority, many broadcasters did not implement the provisions of the Tariff Amendment Order, 2020, Interconnection Amendment Regulation 2020 and QoS Amendment Regulations 2020;
12. And whereas the Authority noted that the bouquets of pay channels being provided by them are not in compliance with the provisions of the Tariff Amendment Order 2020;
13. And whereas while the matter remained under consideration of the Hon'ble High Court of Bombay, the Authority received and continues to receive a large number of complaints asserting that (i) consumers are being denied the benefits of the amended Regulations and Tariff Order by some broadcasters; and (ii) part of the Regulations and Tariff Amendment Order, 2020 have already been implemented by some of the stakeholders like DTH operators and MSOs and that due to non-implementation of Tariff

Amendment Order, 2020 and Interconnection Amendment Regulations 2020 by some broadcasters, other benefits as envisaged by these orders are being denied to the consumers;

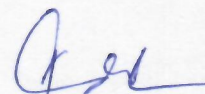
14. And whereas in these circumstances, it was expected that the broadcasters, would implement the provisions of Tariff Amendment Order 2020 and Interconnection Amendment Regulations 2020, in the interest of the consumers;

15. And whereas the Authority noted that despite being under legal obligation to implement the new regulatory regime notified on 01.01.2020, some broadcasters have failed not only to implement the provisions of the regulations and the tariff orders notified by the Authority on 01.01. 2020 but have also started violating the provisions of Principal Tariff Order 2017, particularly the clause related to reporting requirement and are also disturbing the status quo by modifying the composition as well as discontinuation of their existing bouquets, in a manner that is beneficial to them but adversely affects interest of the consumers;

16. And whereas few broadcasters who had filed new RIO containing revised al-a-carte prices of channels, composition of bouquet and bouquet prices in January/February 2020 as per the Principal Tariff Order 2017 chose not to implement the revised prices and status quo was maintained by such broadcasters until recent past;

17. And whereas now few broadcasters are asking Distribution Platform Operators (DPOs) to accept new bouquets with revised prices and that recently one major broadcaster has discontinued its low priced bouquets so that consumers take new higher priced bouquet thereby increasing their monthly payout and that the said broadcaster has announced to discontinue its low priced bouquets with effect from 01.08.2020 for subscription;

18. And whereas these new bouquets being pushed by the said broadcaster are not compliant with the provisions of the Tariff Amendment Order 2020 and that the



broadcaster did not even care to inform TRAI, in clear violation of reporting requirements provided for in the Principal Tariff order 2017;

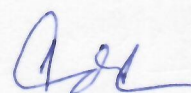
19. And whereas another broadcaster who had filed a Reference Interconnect Offer (RIO) containing revised prices of channels and bouquets in Jan 2020, filed, on 08.06.2020, another revision of the RIO, not in compliance with Tariff Amendment Order 2020, merely replacing one channel of 25 paisa with another channel of the same price and also increased the price of their most popular bouquet from Rs 25/- to Rs 28/- in an attempt to change the status quo which had continued so far;

20. And whereas TRAI being the sector regulator enjoined to protect the interests of consumers, had maintained patience in due reverence to the impending decision of the Hon'ble Court and had not pressed ahead for enforcement of the Tariff Amendment Order 2020, the Interconnection Amendment Regulations 2020 and the QoS Regulations 2020;

21. And whereas now such broadcasters, in utter disregard to the settled principles and extant regulations, are changing the service offerings in violation of Tariff Amendment Order 2020 by unilaterally increasing the prices of bouquets and are also simultaneously discontinuing the low priced bouquets disturbing the status quo thereby adversely affecting the interests of the consumers;

22. And whereas some DPOs have also brought to the notice of the Authority that many broadcasters are not willing to sign the agreements as per the provisions of Tariff Amendment Order 2020 and Interconnection Amendment Regulations 2020 and as the RIOs offered by Broadcasters are not in compliance with the extant regulations and orders, DPOs are not willing to enter into such non compliant agreements thereby creating a regulatory vacuum in the sector;

23. And whereas there is complete ad-hocism prevailing in the industry wherein all interconnection and other agreements are getting renewed for one/two months thereby creating uncertainty in the sector and causing serious concern regarding timely



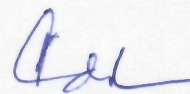
completion of agreements and provision of signal/revenue share etc. for the healthy and orderly growth of the sector;

24. And whereas the Authority is in receipt of complaints from some DPOs wherein it has been alleged that some broadcasters are extending old agreements with some DPOs and are imposing new terms and conditions including prices to other DPOs and that litigations because of such issues have been filed before Hon'ble TDSAT;

25. And whereas the restraint exercised by TRAI qua not taking coercive measure vis a vis the non-implementation of the impugned Tariff Amendment Order 2020 and Interconnection Regulations 2020 is unfair not only to consumers but also to those DTH operators and MSO etc., who have already complied with their part of the obligation as per the Interconnection Regulations 2020 and Tariff Amendment Order 2020 and that such DTH operators and MSOs also represented to TRAI that they are not able to implement remaining part of the Amendment Tariff Order 2020 due to absolute non-performance of the obligations by some Broadcasters;

26. And whereas the Authority in accordance with the provisions of TRAI Act has notified the Tariff Amendment Order 2020 and Interconnection Amendment Regulations 2020 for the benefit of consumers and any further delay in implementation of the said order would adversely affect the interest of consumers and would result in irreparable loss to the consumers;

27. And whereas non implementation of the Tariff Amendment Order 2020 and Interconnection Amendment Regulations 2020 is leading to chaos in the sector and jeopardizing the business processes which has been harmonized after 2017 Regulatory framework and that delay and uncertainty in the implementation of the regulatory framework 2020 will again bring back non-transparency and discriminatory practices in the sector wherein industry was full of litigation and there was no choice of channels to consumers;



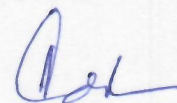
28. And whereas the regulatory framework of 2017 has not only been upheld by Hon'ble Supreme Court but has also been appreciated in its judgment dated 30th October 2018;

29. And whereas the Regulatory framework and the amendments therein are in the nature of subordinate legislation and statutory orders laying down the very basis of the laws governing the broadcasting and cable services sector in the Country and an important public policy matter having direct impact on the consumers and the economy and that any further delay in implementation of such public policy without any interim relief from the Court of law would serve the interests of only few stakeholders in the sector and that too at the cost of other stakeholders including the consumers in the value chain;

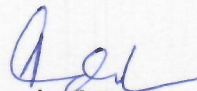
30. And whereas (i) the revised prices announced by some broadcasters are to take effect from 01.08.2020; (ii) the Authority is legally bound to protect the consumers' interest and cannot abdicate its responsibility; (iii) there is every possibility that other broadcasters may also start similar malpractices thereby nullifying the very legal framework laid down for regulation of broadcasting sector by TRAI resulting in total chaos and uncertainty in the minds of consumers; and (iv) any further delay in implementation of the Tariff Amendment Order 2020 and Interconnection Amendment Regulations 2020 would adversely affect the interest of consumers resulting into irreparable loss to the consumers;

31. And whereas to promote orderly growth of the sector and to balance the interests of service providers and to safeguard the interest of the consumers, it is necessary to give effect to Tariff Amendment Order 2020 and Interconnection Amendment Regulations 2020 without any further delay.

32. Now, therefore, the Authority, in exercise of its power under section 13 directs all the broadcasters to report to the Authority by 10.08.2020, name, nature, language, maximum retail prices per month of channels and maximum retail price per month of



bouquets of channels, or composition of bouquets and also amend Reference Interconnected Offer (RIO) in compliance with the provisions of the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020 and the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment) Regulations, 2020 dated 1st January 2020 and shall simultaneously publish such information on their websites.


(Arvind Kumar)
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To,

All the Broadcasters