

NO. 1-102/2004- B&CS

Dated- 11/01/2005

To,

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|--------------------------|---------|--------|----------|---------|
| Shri | | Girish | | Buttan |
| Dy | General | Turner | Manager, | Legal |
| Zee | | | Radisson | Limited |
| 5 th | Floor, | | | Plaza, |
| NH-8, New Delhi -110037. | | | | |

Subject: Direction under Section 13 of the TRAI Act

Whereas, Telecom Regulatory Authority of India had issued the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004) (hereinafter referred to as 'the Regulation');

2. Whereas in terms of clause 1(iii), the said Regulation had come into force with effect from the date of its publication in the official Gazette and the same was notified in The Gazette of India (Extraordinary) Part III Section 4 (S.no. 190) on 10.12.2004;

3. Whereas in terms of Clause 4.1 of the said Regulation, it is mandatory for Broadcaster or Multi System Operators to give notice of a specified period along with brief reasons to a distributor of TV channels before disconnection of TV channel signals;

4. Whereas in terms of clause 4.2 Broadcaster /Multi system operator is required to give notice to discontinue signals in two local newspapers or national papers depending upon the area served or alternatively inform the consumers through the scroll in the channel;

5. Whereas M/s. Zee Turner Limited, with the registered office at Radisson Plaza in New Delhi (hereinafter called M/s.Zee Turner) have disconnected the signals to M/s. Asianet Satellite Communications Limited, a distributor of TV Channels having their corporate and registered office at 3rd floor , Karimpanai Arcade, East Fort, Thiruvananthapuram -695023, Kerala (hereinafter called the M/s.Asianet) in the intervening night of 15-16th December 2004;

6. Whereas M/s. Asianet in their letter of 16.12.2004 while enclosing a copy of the letter of M/s. Zee Turner of 8.12.2004, requested the Telecom Authority of India (The Authority) to take appropriate action in the light of the said regulation;

7. Whereas the Authority on receipt of the complaint on 17.12.2004 requested the Broadcaster to convey their comments by 27.12.2004, which was subsequently extended to 29.12.2004;

8. Whereas the M/s. Zee Turner vide its reply dated 28.12.2004 while giving the factua

background informed that there is no violation of the Regulation as alleged by M/s. Asianet for the following reasons:

- i) That the letter to the complainant distributor was issued on 8.12.2004 prior to the regulations being notified and hence the regulation do not apply to this case.
- ii) That the TRAI Regulation though dated 10.12.2004 have been issued to the public only after 17.12.2004 when the official notification has been made available to the public.
- iii) That the complainant distributor of TV channels has been given sufficient advance notice and in writing to pay its admitted dues and this has been going on for the last more than one year.
- iv) That the conditions stipulated in clause 3 of the Regulation do not apply to the present case inasmuch as the complainant distributor of TV channels had been unauthorisedly distributing the signals and has also resorted to piracy of signals

9. Whereas the Authority after examining the reply of the M/s Zee Turner has come to the conclusion that their explanation cannot be accepted for the following reasons:

- i) The contention that the Regulation is not applicable to their case as the notice was given on 8.12.2004 and the TRAI's regulation is effective from the date when it is made available to the public on 17.12.2004, is not correct and cannot be accepted. It is the date of actual disconnection that is relevant to judge whether the disconnection has been done before or after the coming into force of the Regulation. The signal was reportedly disconnected on the intervening night of 15-16th Dec 2004 and clause 4.1 read with clause 1 (iii) of the Interconnect Regulation requires that any disconnection of signals after coming into effect of the Interconnect Regulations – wef from the date of publication in the official Gazette (i.e on 10.12.2004 Gazetted at S.no. 190 in part III Section 4 Extraordinary) – has to be in compliance with the requirement of one months notice, or two days notice in the case of piracy, or no notice in the case of non existence of oral or written agreement between service providers. In this case, M/s Zee Turner and M/s. Asianet are governed by written agreements and therefore there exists a previous business relationship. The clause of 'No Notice' will therefore not apply. The steps reportedly taken earlier to the date of coming into force of the Regulation are not relevant for assessing the compliance in regard to requirement of notice envisaged under clause 4.1. Therefore, it was necessary for Zee Turner to have given a fresh notice as per requirement of clause 4.1 of the Regulation after its coming into force, before resorting to disconnection;
- i) An examination of the letter of 8.12.2004 shows that the process of establishing piracy/ underdeclaration of subscriber was still on and the main cause for disconnection is non-liquidation of outstanding payment. The proviso under clause 4.1 providing for two working days notice in the case of piracy cannot be extended to the ground of non liquidation of outstanding payments. Therefore it was necessary for M/s. Zee Turner to have given one month's notice to M/s Asianet before disconnection; and,
- ii) M/s. Zee Turner have also not indicated their position in regard to compliance of the requirements of Notice in two local newspapers or in two national dailies or through a scroll in the channel as provided for clause 4.2 the Regulation.

10. Now, therefore, the Authority has come to the conclusion that M/s. Zee Turner has not complied with the provisions of clause 4.1 and 4.2 of the said Regulation before disconnection of signal to M/s. Asianet.

11. And therefore, the Telecom Regulatory Authority of India in exercise of its powers under

Section 13 read with section 11(1)(b) of the TRAI Act hereby directs the Broadcaster M/s. Zee Turner Limited, Radisson Plaza, New Delhi :-

- a. to take immediate steps for restoration of the signals to M/s. Asianet Satellite Communications Ltd and the complainant Distributor of TV Channels;
- b. to furnish a compliance report within two days of receipt of this direction; and
- c. to scrupulously comply with the requirements of regulation before disconnection of signals.

12. The direction is being placed on the website of the Authority.

13. This issues with the approval of the Authority.

(Rakesh Kacker)
Advisor (B &CS)

Copy to :

The Company Secretary,
Asianet Satellite Communications Limited,
3rd Floor, Karimpanal Arcade, East Fort,
Thiruvananthapuram -695023