

RESPONSE OF DISH TV INDIA LIMITED
TO
DRAFT (SECOND AMENDMENT)
TO
THE TELECOMMUNICATION (BROADCASTING AND CABLE)
SERVICES STANDARDS OF
QUALITY OF SERVICE AND CONSUMER PROTECTION
(ADDRESSABLE SYSTEMS)
REGULATIONS 2017

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Dish TV India Limited, along with other DTH operators, had submitted their responses to the TRAI highlighting therein their concerns and apprehensions on the subject matter in question. In the responses submitted, we had clearly explained about the DTH industry having adequate application and tools available for the consumers to exercise their choice and avail the channels and accordingly there being no need for API Application being made mandatory for DTH. In addition to the same, we had also highlighted issues regarding the technical compatibility as well as the issue of business confidential information being shared with a Third Party Developer (henceforth “TPD”).

TRAI has issued this Draft Amendment to ‘The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations 2017’ which still does not consider the points/issues raised by us and other DTH operators. It is submitted that the said Draft Amendment is stipulating of mandating a requirement of having an API application for DTH sector also despite the fact the all the DTH operators have effective, efficient and working applications which have the same or better feature as has been proposed for the API applications. The development and deployment of these application by the DTH operators have required huge amount of resource, time and money - the result of which are world class applications being available for subscribers of all DTH platforms.

We totally agree that each and every consumer of all the distribution platforms should have, within their easy reach, options and resources to provide their options and choices for television channels. Having the same philosophy in mind the DTH platforms were already providing such resources to their consumers much before the advent of the extant TRAI regulations. However it is matter of fact that a large number of subscribers subscribing to local

MSO and LCOs were not having such resources available to them. This situation continues even during the current regulations.

Regulatory jurisprudence clearly prescribe that the Regulatory intervention and related stipulation should be made only when there is a need and such need is not being met by the regulated industry. In the instance case, when the DTH industry is already providing the required resources to the consumers, there is a clear case of “not being any need” and accordingly, there should not be any intervention or stipulation by the regulator for the DTH industry.

The broadcasting and cable industry has recently passed through a tremendous turbulence during the migration process and with the subscribers now migrated to the new regime and the system starting to just settle down leading to substantial decrease in the consumer grievances, there was no reason nor any occasion for the Authority to thrust this new scheme on the DTH industry. The considerable amount of reduction in the complaints of the subscribers is a witness to the fact that the services provided by the DTH operators are to the satisfaction and viewing requirements of the subscriber. The genesis of the entire process is stemming from the gumption that the same inadequacy is ailing the DTH as well as a LCO which is contrary to the established practices as also known to the Authority.

Background

The DTH service in India was commenced by Dish TV India Limited in the year 2003 and subsequently other DTH operators launched their services. Before the launch of DTH service in India, the entire broadcasting and cable services were in analogue mode during which period, the consumers had no option but to see what the distribution platforms were providing to them. The industry was totally unorganised, with no services to the consumers, huge number of disputes and rampant underreporting. This forced the Government

of India to announce for complete digitization in the country vide the Cable Television Network (Regulation) Ordinance, 2011.

The above Ordinance of the Government was notified with a strong view that the DTH operations, being totally transparent and digital from the day of launch, would support this initiative of the Government. During the journey of last 15 years, huge investments have been made by the DTH industry – only with an objective of providing best services to the consumers. It is matter of record that it was DTH industry only which first set up call centres for effective resolution of the grievances of its subscribers. Huge amount of money has been invested by the DTH sector towards providing a quality entertainment to the subscribers and towards this end the DTH industry from time to time came up with various value added services, improved the quality of its set top boxes, providing online recharge facilities etc. during this process and with consumers getting more attuned to web / applications, the DTH industry invested in launching applications on handheld devices which over the years have totally stabilized and are being used by the consumers in high numbers. Therefore provision of choice and options to the subscribers is not new to the DTH industry and the DTH industry has all along been providing various choices to its subscribers through website, applications and call centres.

The effort by the DTH service providers to achieve overall satisfaction level of the subscribers continued during the implementation of the new regulatory regime of the Authority and in accordance with the prescribed mechanism suggested by the Authority in the Quality of Service Regulation, all the options were provided by the DTH industry. In line with the requirement of the new regime, the DTH subscribers have been provided with all the option including but not limited to the option to change / modify their packs through various modes like call centre, website, apps etc. All this again required investment of considerable amount of money.

Despite all this, the Authority has now come up with the proposed Draft Amendment which has not considered the abovementioned facts.

In the above backdrop we provide our response as under:

1. **No need of a regulation for API application**: DTH operators are licensed under the DTH License Agreements to carry out their business activities under the licensed conditions. Dish TV, like any other DTH operator, is carrying its business duly complying with all the applicable provision of law including but not limited to DTH License Agreement, TRAI Act, Companies Act etc. There is no non-compliance on the part of the DTH operators which invite the intervention by the Authority for any corrective measures.

We support the view of the Authority for provision of effective choice to the consumers. While there are complaints that a large number of subscribers of local MSO and LCOs have not been provided effective choice, the same reasoning does not hold good for the DTH sector which is already providing effective choices to its consumers.

In view of the submissions made hereinabove, we strongly believe that there is no need or a requirement for laying down a mandatorily stipulation for the DTH operators to adopt a new API application mechanism when the DTH operators already have in place adequate and effective mechanism satisfying the same purpose.

2. **Data confidentiality, security and misuse**: While we have submitted that there is no need for stipulating for API application for DTH platform, we wish to highlight another important issue which may be faced by the operators in case of using the API application of TPDs. TRAI, while dealing with the most important issue raised by the DPOs, has stated in the draft that the proposed regulation does not allow the

TPDs to know the mobile number or subscriber ID of the subscribers. However this statement in itself is contradictory to the process defined in the Draft Amendment. This is because of the fact that without entering the said details it would simply not be possible for the subscribers to communicate as the same forms the very basis for initiating the verification process. While in the case of the DPOs, the DPOs being the custodian of the said details which pertains to its own subscribers maintain complete confidentiality of their data, no such guarantee can be provided by the Authority on behalf of the TPDs for the protection of such crucial data and therefore there is no guarantee of ensuring that the confidential data shared by the subscribers/DPOs would not be divulged. Also, any technical glitch or malfunction on the TPD's system, especially during a high call traffic period viz. cricket world cup, IPL etc. will result in repeated commands being hit on the DPOs platform lead to choking and may even crash the DPO's website. This may also be attempted with malafide intentions. In such a case if is in DPO's application, it would block the particular miscreant from causing any further harm to the system but the same will not be possible in case the request is generated from the TPD's website.

In addition to the same what is also important to note that such TPDs will have live contact with the servers of the DPOs, it will be in possession of critical business related information which inter alia would include customer details by region, channels being chosen/not chosen, financial numbers and other trade sensitive data and there is no guarantee that the TPDs would not misuse such data.

3. **Locus standi, accountability and services of TPDs:**

A. **TPDs are not under TRAI ambit:** The Draft Amendment has proposed that TPDs shall be providing the API services to the DPOs. It is submitted that it is an anomaly since the said TPDs shall

certainly not be service provider within the meaning of TRAI Act, 1997 and thus the said parties shall be outside the purview of the TRAI Act and no rules and regulations of TRAI shall be applicable on them. In such a situation the TPDs cannot be brought within the judicial scrutiny under the TRAI Act.

B. **Performance of TPDs**: The Authority has not prescribed any framework for the operation of the proposed TPDs, no rules and regulation governing the services to be provided by them and there is no clarity regarding fixing their accountability and counter checks or corrective measure in case of any negligence/failure and/or technical constraints on their part to execute any command. It is submitted that any negligence/technical failure on the part of the TPDs may lead to loss of preciously cultivated loyal satisfied consumers and resulting into their migration to other platforms which may not necessarily be any DPO but to an OTT platform outside of the industry. The assumption on the part of TRAI that such TPDs shall provide their services in a seamless manner is on the basis of the recommendation given by its internal committee, the details of which are not known being not in public domain. Such recommendations have also not been put to scrutiny by any stakeholder so as to check the veracity of the same.

C. **Fixation of responsibility**: The DTH operators has all along strived to nurture its consumer base by providing best of the services, timely resolution of their grievances etc. In the proposed set up when a consumer will place his requests through the mechanism provided by the TPD which may not reach to the concerned DTH operator and the same may lead to non-provision of the desired choice to the consumer. In such a situation it will not be possible to identify the real reason for such non-compliance but the same will certainly result into the consumer churning or a complaint be filed against

the DTH operator without effectively being an accomplice in the entire chain of events.

Having listed our apprehensions above and in absence of any corrective mechanism protecting our interest and indemnifying us from any loss of revenue or otherwise caused due to negligence, constraints or malafide intention on the part of TPDs, the proposed Draft Amendment is proposing to put in place something which is already available and is being adhered to by us to safeguard the interest of our valued customer and address their concerns to the best of our capability. Longevity of the customer with the platform is the prime moto for any DTH operator and letting the fate of the customer decided by the TPDs is a potential risk to the DTH industry because of the issues addressed hereinabove.

At this juncture we would like to state that the Authority, in place of mandatorily stipulating API applications on all operators, may like to lay down the broad guidelines and specifications for the API applications requiring the DPOs to meet the minimum criteria as envisaged therein and the API application mechanism should be made mandatory only on those DPOs who fail to adhere to the basic minimum specification as defined by the Authority within a maximum period of three months. The TRAI should consult all the DPOs before finalizing the specifications for the suggested applications. In case any DPO already meeting the minimum required criteria should not be mandated for the API application.
