

Comments to the consultation on the Draft Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) (Sixth Amendment) Regulations, 2015 (“Draft Regulations”)

The Draft Regulations propose certain amendments in Regulation 5 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012. Upon perusal of the proposed amendments, we have following observations:

Comments:

a) On proposed amendment regarding written agreements.

The interconnection regulation, both for analogue and DAS, provides for interconnection agreements to be reduced to writing. However, despite there being a mandatory requirement, due to prolong negotiations, the signals continued for long without a written agreement and in some cases written agreements are executed much later during the tenure of the agreement for one reason or the other. In some cases, the operator refuses to sign the agreement after availing the signals during the period of negotiations. The proposed amendment in this regard will streamline the issues which broadcasters have been facing in terms of non-signing of agreements by the operators for quite some time and would ensure that the operators engage with the broadcasters in timely execution of the interconnect agreements.

The proposed amendment in the Draft Regulation of the explanation after sub-regulation (6) of regulation 5 will ensure that signals are only availed after executing a written agreement and hence, will reduce the disputes between the stakeholders. This amendment will also encourage the stakeholders to execute agreements in a time bound manner.

b) On proposed amendment regarding deletion of 3 months negotiation period post the expiry of the agreement.

While entering into agreements, stakeholders are only negotiating for a minimum period of 12 (twelve) months and extending the same commercial terms to additional 3(three) months did not really help in reaching closure of the terms for next year. Infact, in cases where the negotiations failed, it was not clear whether the RIO based agreement was applicable from the expiry of previous agreement or from a prospective date.

Hence, deletion of 3 (three) months negotiation period post the expiry of the agreement will introduce clarity in the effective implementation of commercial terms between the stakeholders from a specific date.

c) On proposed amendments regarding entering into agreements twenty-one days prior notice before the date of expiry of the agreement and giving notice to commence negotiations prior to 60 days of expiry of the agreement.

We understand that parties are required to enter into agreements 21 days prior to the date of expiry of the agreement so that 21 days disconnection notice can be given as per the regulation in case parties are unable to reach a mutual agreement. A quick reading of the amendments clearly indicates that the effective negotiation period gets reduced to only 39 days. The stakeholders will have to necessarily reach a closure of the commercial terms within 39 days from date of giving notice of 60 days prior to the date of expiry of the agreement. The proposed amendments in this regard will (a) bring in a lot of practical difficulties and inconvenience at the ground level for us in view of the huge number of operators and that too spread across India and (b) increase the number of litigations between the operators and broadcasters due to disconnection of signals.

Hence, we suggest that the period of commencement shall be increase to 90 (ninety) days prior to the date of expiry of the agreement. We also propose that the time period of 21 (twenty-one) days for issuing disconnection notice shall be reduced and modified in the interconnection to 10 (ten) days.

We further suggest TRAI should dispense with the requirement of publication of notices in the newspapers by the broadcasters and allow the broadcasters to run a scroll on their channels providing the information about the effective date when the signals shall be disconnected and the reasons for such disconnection. Running a scroll by the broadcaster will sufficiently apprise and notify the affected subscribers of the operator of any possibility of disconnection and its reasons. You may appreciate that the publication of notice in the newspaper may go unnoticed by the subscribers thereby defeating the very purpose of publication of such notices. The alternative suggested viz. running scrolls would be efficient and effective. Therefore, we should suggest for inclusion of this efficacious alternative remedy in the amended regulations.

- d) On proposed amendment regarding informing the disconnection of signals to subscribers by MSO or LCO, fifteen days prior of the date of expiry of the agreement.

This is for the multi system operator or the linked operator to comply with and as a broadcaster we have no comments.

Conclusion:

We believe the Draft Regulations is a progressive step towards introducing more transparency in doing business at all levels of the supply chain. TRAI's endeavour to propose the draft amendments is a timely move to improve the issues faced by stakeholders in the broadcasting industry. However, it should be modified in the manner suggested above to address our concerns. The modifications suggested will assist in effective implementation of the proposed regulations.