

Without Prejudice
By Email/Courier

To,
Mr. Wasi Ahmed
Principal Advisor (B&CS)
Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan
Jawahar Lal Nehru Marg (old Minto Road)
Next to Zakir Hussain College
New Delhi – 110 002

Sub: Response of Media Pro Enterprise India Pvt. Ltd. in relation to the draft amendments to the Interconnection Regulation applicable for Digital Addressable Cable Television Systems (DAS) and Tariff Order applicable for all addressable systems dated June 4, 2013 issue by the TRAI

Ref: The draft amendments to the Interconnection Regulation applicable for Digital Addressable Cable Television Systems (DAS) and Tariff Order applicable for all addressable systems dated June 4, 2013 issue by the TRAI

Dear Sir,

This is in reference to the draft amendments to the Interconnection Regulation applicable for Digital Addressable Cable Television Systems (DAS) and Tariff Order applicable for all addressable systems dated June 4, 2013 issue by the TRAI. The timeline stipulated by the TRAI for receiving comments of the stakeholders, in relation to the draft amendments is 18.06.2013.

In view thereof, kindly find appended herewith our comments on the Draft Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (Second Amendment) Order, 2013 (No – of 2013) and in respect to the draft amendments to the Telecommunication (Broadcasting and cable services) Interconnection (Digital Addressable Cable Television Systems) Second Amendment Regulations 2013.

Thanking You,

FOR MEDIA PRO ENTERPRISE INDIA PRIVATE LIMITED



AUTHORIZED SIGNATORY

**DRAFT AMENDMENTS TO THE INTERCONNECTION REGULATION
APPLICABLE FOR DIGITAL ADDRESSABLE CABLE TELEVISION SYSTEMS
(DAS) AND TARIFF ORDER APPLICABLE FOR ALL ADDRESSABLE SYSTEMS**

DATED JUNE 4, 2013

RESPONSE OF MEDIA PRO ENTERPRISE INDIA PRIVATE LIMITED

**CONTACT PERSON : V.SHYAMALA – HEAD LEGAL & REGULATORY
@ 91-22-67346706**

Preamble

At the outset, we submit that our response to the issues raised in the Consultation Paper is without prejudice to the rights and contentions of the Broadcasters in Civil Appeal No's 2847 to 2854 of 2011 and D-8827/2011 pending adjudication before the Hon'ble Supreme Court or any other legal proceedings initiated by any other Broadcasters/entities in relation to the Addressable Tariff Order (including in relation to the wholesale rates applicable to Add-On Packages) and Civil Appeal Nos 829-833 of 2009 pending adjudication before the Hon'ble Supreme Court or any other legal proceedings initiated by any other Broadcasters/entities *inter alia* in relation to the Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Eighth Amendment) Order 2007 dated 4th October 2007 (collectively "Appeals").

It is further submitted that the Authority must align the The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations 2012 dated 30.04.2012 ("DAS Interconnection Regulations") to the Telecommunication (Broadcasting and Cable Services) Interconnection (Fifth Amendment) Regulations 2009, which already applies to all addressable platforms to ensure an uniform Interconnection Regulations for all addressable systems. This will not only prevent overlaps and rule out the possibility of misinterpretation which leads to unwarranted confusion, but also create a level playing field amongst all addressable delivery platforms/distributor of channels. In effect, the Authority must work to have a consolidated and uniform Interconnection Regulations for all Addressable Systems and a separate consolidated Interconnection Regulation for analog – Non addressable systems.

The Authority must also repeal the CAS Tariff Order and the provisions pertaining to CAS in the Interconnection Regulations.

We further request the Authority to issue a comprehensive Consultation Paper to address/review the following issues which are currently not dealt with in the existing Interconnection Regulations:

1. The current requirements of Digital Addressable Cable TV Systems requirements as stipulated in Schedule 1 to the Interconnection Regulations are outdated and do not take into account the prevailing dynamic technological environment. Hence, these requirements in relation to CAS, SMS, Fingerprinting and STBs should be updated and brought in line with the existing technologies and the several innovations that have happened to ensure transparency in the true sense and also protect valuable copyrights of the respective service providers/broadcasters from infringement.
2. Uploading the Subscriber Numbers/data of all addressable Platforms by the TRAI and the concerned service provider/operator on their respective websites like in the Telecom sector to bring in the required transparency which is one of the key objectives of implementing Digital Addressable Systems.
3. Bring the Local Cable Operators ("LCOs") within the purview of the Interconnection Regulations/ Register of Interconnect Agreements Regulations.

Comments on the Draft Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (Second Amendment) Order, 2013 (No – of 2013)

The amendment proposed broadly seeks to amend Clause 6 of the Addressable Tariff Order pertaining to offering of channels on a-la-carte basis by the service providers to end subscribers at the retail level. As has been stated by us in our response, we recommend complete forbearance of retail tariff and retail packaging. In this regard we reiterate that in the DTH sector Retail Tariff has been always under forbearance and has worked very well. In fact DTH has outperformed cable in the over regulated CAS notified areas which clearly establish that market prices have worked well. The Authority has consistently held and found competition to be adequate at the retail level particularly in addressable platforms and had accordingly kept retail tariff outside the purview of tariff controls in the Addressable Tariff Order notified in 2010. We therefore see no reason for the Authority to shift from its position in less than two years as intermittent tweaks to the regulatory regime are best avoided as it creates uncertainty.

In so far as the new formula of twin conditions proposed by the Authority in in clause 6 of the Tariff Order, we strongly recommend that the Authority not implement this formula as the same is highly complex and impractical. It is very difficult to implement these conditions on ground and will in reality be counter-productive to the interests of all stakeholders.

Notwithstanding the above position, if the Authority intends to notify the twin conditions, we strongly recommend that the restriction be limited to condition 1 i.e the a-la-carte rate of pay channel forming part of a bouquet shall not exceed two times the a-la-carte rate offered by the broadcaster at wholesale rates for addressable platforms. Here again it should be clarified that the rate offered by the broadcaster at wholesale rates shall mean the a-la-carte rates offered by Broadcasters as per their Reference Interconnect Offer in terms of the Interconnection Regulations and Addressable Tariff Order.

We submit that the second condition based on ascribed value of the pay channel in the respective bouquets offered by service providers to end subscribers at retail level is highly subjective and theoretical and it is not feasible to implement on ground. Given the multiple bouquets offered by multiple service providers at retail level complying with the 2nd criteria/condition will result in different prices for the same channels for different bouquets spread across several service providers which is highly impractical and unrealistic.

COMMENTS ON THE DRAFT AMENDMENTS TO THE TELECOMMUNICATION (BROADCASTING AND CABLE SERVICES) INTERCONNECTION (DIGITAL ADDRESSABLE CABLE TELEVISION SYSTEMS) SECOND AMENDMENT REGULATIONS 2013

We welcome the proposed insertion of the second proviso to Regulation 3 of the Interconnection Regulations in sub-regulation 2. In so far as the deletions are concerned we have no comments to offer.