

TRAI CONSULTATION PAPER

ON

**“THE TELECOMMUNICATION
(BROADCASTING AND CABLE SERVICES)
INTERCONNECTION (DIGITAL
ADDRESSABLE CABLE TELEVISION
SYSTEMS) (SIXTH AMENDMENT)
REGULATIONS, 2015 ”**

Dated 3rd November 2015

RESPONSE OF

**NEO SPORTS BROADCAST PRIVATE
LIMITED**

PREFACE

The present Consultation Paper covers the Interconnection guidelines, which provides the framework between the Broadcaster & the Multi System Operator (hereinafter “MSOs”) and MSOs to Local Cable Operator (herein after “LCOs”). Based on this, the service providers are required to enter into an interconnection agreement before providing signals of TV channels for re-transmission to subscribers.

Sub Regulation 6 of Regulation 5 of The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (9 of 2012) dated 30th April 2012 (hereinafter referred to as “principal regulation”) mandates between the service providers to reduce the terms of interconnection agreement into writing. However, it has been observed that retransmission of signals between the service providers are taking place in the absence of valid interconnection agreement or expired interconnection agreement, which in turn shaped into the major cause of dispute between the service providers leading to multiple litigations between the same. The genesis of the aforesaid lies in impending mutual negotiation which goes on for months and interpretation differences of service provider with respect to the effective date of applicability of new agreement, which is in turn a stumbling block in smooth execution of interconnection agreement.

Through the present Consultation Paper, the Hon’ble Authority suggests and invites views of the stakeholders on issues related to the execution of written interconnection agreements between the service provider before transmission of signals and measures with respect to renewal of interconnection agreement. The proposed amendments are endeavor towards introducing more transparency and accountability at all the level of the value chain and to minimize the unwanted disputes between the stakeholders.

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

1. Issue for consultation: - To introduce the following explanation, after sub - regulation 6

“Explanation: It shall also be mandatory for the broadcaster to enter into written interconnection agreement with the multi system operator for retransmission of the pay channel(s) even if nil subscription fee is charged by the broadcaster or paid by the cable operator”.

***NEO’S Views:** The amendment proposed by the Hon’ble Authority of introducing explanation to the sub regulation 6 of Regulation 5 of Principal regulation that signals can be retransmitted only after executing written agreement between the service providers is in line with the principal regulation and we endorse the same view. This is indeed a propitious move towards transparency and accountability, which shall make the sector more organized.*

2. **Issue for consultation: To introduce the following sub-regulation to substitute sub-regulation 16**

“ (16) to ensure that inconvenience is not caused to the consumers by sudden disconnections of signals due to failure of the service providers to enter into new interconnection agreements, it shall be mandatory for the service providers to enter into new agreements twenty one days prior to the date of expiry of the existing agreement:

Provided that the broadcaster or multi system operator, as the case may be shall, sixty days prior to the date of expiry of the existing interconnection agreement, give notice to the multi system operator or the linked local cable operator, as the case may be, to enter into the new agreement:

Provided further that incase the service providers fail to enter into new interconnection agreement the multi system operator or the linked local cable operator, as the case may be, shall, fifteen days prior to the date of expiry of the agreement inform the consumer the disconnection of signals.”

***NEO’S Views:**In our view, the draft sub regulation is dealing with four heads altogether i.e. deletion of three months negotiation period after expiry of interconnection agreement, execution of the new agreements within twenty-one days prior to the date of expiry of the existing agreement and sixty days prior notice to the MSOs before expiry of the existing interconnection agreement and fifteen days prior notice if negotiations failed between the service provider. In this context, we express the following views*

A. Amendment with respect to deletion of three months negotiation period after expiry of the interconnection agreement.

In context to the above, we endorse the proposed amendment, as it is an acquiescent move. It has been observed that the three-month negotiation period after the expiry of the interconnection agreement further gives elasticity to negotiations between the service providers, in turn retransmission of signals without valid interconnection agreement. Further, there is no pledge from the operator for the same. Some they refused to execute the agreement or it may lead to de trop litigation. The deletion of three months negotiation period indeed will smooth the hassles faced by the Broadcaster for quite sometime from operators for non-execution or delayed execution of the interconnection agreement.

B. Amendment with respect to sixty days prior notices to the MSOs to enter into new agreement before the expiry of the existing interconnection agreement.

The framework between the stakeholder & operator for both analogue and DAS has been provided by the principal regulation, which mandates to reduce the terms of interconnection agreement in writing. In spite of it being the mandatory requirement, impending and prolonged negotiations between the service provider leads to delays and

laches. In this context, we would like to draw the attention towards the pesters faced by the homegrown company like us by the operators:

a. Despite there being a mandatory requirement, due to prolong negotiations, the broadcast of signals continues for long without a valid agreement and in some cases written agreements are executed much later during the tenure of the agreement for one reason or the other.

b. In some cases, the operator refuses to sign the agreement after availing the signals during the period of negotiations. Since the business of the company depends on the affiliate sales and subscription of the agreement, we do not have edge during negotiations.

c. In some cases, we keep writing and communicating to the operators to execute the interconnection agreement in time bound manner, however, in turn we receive a disdainful response since no liability lies towards the operators.

Nonetheless, we endorse the proposed amendments. We believe, the present amendment when it becomes mandatory will improve the situation for the native company like us and will further streamline the procedure at all the levels of the value chain. We further foresee such initiative will also reduce the disputes between the stakeholders.

C. Amendment with respect to the execution of the new agreement within twenty-one days prior to the date of expiry of the existing agreement.

In context to the above, service providers are required to enter into the new agreement before the expiry of the existing agreement else a disconnection notice needs to be served in the manner provided in clause 4.3. In our view, the window of negotiation between the service providers will be minuscule drastically. Mandatorily, the interconnection agreement will have to reach a closure prior to the date of expiry of the agreement, which in turn will bring a bundle of practical difficulties for the service provider. Attention may be given to the following:

a. At ground level, the drastically small window for executing agreement will be chaotic since the operators are large in number and spread in all four directions.

b. The said regulations will not provide the platform for constructive negotiation since the length of negotiation period will be shortened which will leave no time to the service providers to plan their approach towards the same.

c. The dispute will increase between the stakeholders and operators due to disconnection of signals.

Therefore, we would like to propose to the Hon'ble Authority that while assembling the draft regulation for the aforesaid purpose, the length of negotiation period between the parties should be kept in consideration before the expiry of the existing interconnection agreement so that meaningful and constructive negotiations can take place for the

closure of the agreement. Also, it will time for future course of action, in case negotiation fails.

Further, we would like to suggest that the Hon'ble Authority renounce the requirement of publication of notices in the newspapers by the stakeholder since it has been observed that the requirement doesn't fit the new regime wherein consumers prefer e-newspaper or newspaper app over conventional newspapers. Moreover, the publication of advertisement puts an additional burden on the broadcaster since no cost has ever been reimbursed to them. It is the need of the hour that scrolls may be run by the broadcaster so that consumer can have firsthand information and further can save themselves from any inconvenience.

D. Amendment with respect to fifteen days prior notice to the date of expiry of the interconnection agreement to inform the consumer about the disconnection of signals if negotiations failed between the service providers

In context to the above, onus is cast upon the MSOs and/linked local cable operator to inform the consumers regarding the disconnection of signals. As a broadcaster, we have no liability for the same vis a vis no comments since we are not privy to the Agreement between them. However, from the plain reading of the proposed amendment it is not clear that who has to send the disconnection notice or inform the consumer. The only thing to borne in mind is that the step to give notice should be in the interest of the public at large.

Conclusion

We foresee that the proposed amendment is a posterior step towards the framework of the interconnection agreement between the service providers. It is submitted that the Hon'ble Authority should take congruous and decisive steps at the time of assembling the time frame for execution of the interconnection agreements between the parties and practical hardships will face by the service providers.