

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,  
PART III, SECTION 4

**THE REGISTER OF INTERCONNECT AGREEMENTS  
(BROADCASTING AND CABLE SERVICES) (FOURTH  
AMENDMENT) REGULATIONS, 2009**

**(5 OF 2009)**

**TELECOM REGULATORY AUTHORITY OF INDIA  
NOTIFICATION**

New Delhi, the 18th March, 2009

F. No. 6-4/2009- B&CS.-- In exercise of the powers conferred by section 36, read with sub-clauses (iv), (vii) and (viii) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39,-----

(a) issued, in exercise of the powers conferred upon the Central Government under clause (d) of sub-section (1) of section 11 and proviso to clause (k) of sub-section (1) of section 2 of the said Act, and

(b) published under notification No. S.O.44 (E) and 45 (E) dated the 9<sup>th</sup> January, 2004 in the Gazette of India, Extraordinary, Part III, Section 4,

the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation 2004 (15 of 2004) , namely:-

1. (1) These regulations may be called the Register of Interconnect Agreements

(Broadcasting and Cable Services) (Fourth Amendment) Regulations, 2009.

(2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. In regulation 2 of the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation, 2004, (hereinafter referred to as the principal regulations),-----

(a) after the clause numbered as "ix.", the following clause shall be inserted, namely:-

"(ix-a.) "**distributor of TV channels**" means any person including an individual, group of persons, public or body corporate, firm or any organisation or body re-transmitting TV channels through electromagnetic waves through cable or through space intended to be received by general public directly or indirectly and such person may include, but is not limited to, a cable operator, direct to home operator, multi system operator, head ends in the sky operator and a service provider offering Internet Protocol television service;"

(b) in the clause numbered as "xi.", for the words " **head ends in the sky operator**" means " , the words " **head ends in the sky operator**" or "**HITS operator**" means " shall be substituted;

(c) after the clause numbered as "xiii.", the following clause shall be inserted, namely:-

"(xiii-a.) "**Internet Protocol television service**" or "**IPTV service**" means delivery of multi channel television programmes in addressable mode by using Internet Protocol over a closed network of one or more service providers;"

3. In regulation 5 of the principal regulations, -----

(a) for sub-clause (3) of clause (b), the following sub-clause shall be substituted, namely:-

"(3) **Annual Reporting.** The reporting of interconnection agreements shall be done on or before the 31st day of July of each year for all interconnection agreements including modifications or amendments made therein, which remained valid as on the 30th day of June of that year or during a part of the period from 1st July of the

previous year till the 30th day of June of that year, as the case may be, or as may be specified by the Authority from time to time in terms of the second proviso to regulation 6:

Provided that the Authority may, without prejudice to its powers under section 12 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), at any time, call for the details of any interconnect agreement from any broadcaster, and such broadcaster shall furnish such details within such time limit as may be specified by the Authority in the communication calling for such details.”.

4. In regulation 5-A of the principal regulations, ----

(a) in the heading, for the words and brackets "**Direct to Home (DTH) operators**", the words and brackets "**Direct to Home (DTH) operators, HITS operators and IPTV service providers**" shall be substituted;

(b) in clause (a), for the words "All direct to home operators", the words "All direct to home operators, HITS operators and IPTV service providers" shall be substituted;

(c) in clause (b), for sub-clauses (2) and (3), the following sub-clauses shall be substituted, namely:-

**“(2) First Reporting for new DTH operators and for HITS operators and IPTV service providers.** The first reporting of interconnection agreements shall be done

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(i) within thirty days from the signing of the interconnect agreements in the case of DTH operators; and

(ii) within thirty days from the signing of the interconnect agreements or the 31<sup>st</sup> day of July, 2009, whichever is later, in the case of HITS operators and IPTV service providers.

**(3) Annual Reporting.** The reporting of interconnection agreements shall be done on or before the 31st day of July of each year for all interconnection agreements including modifications or amendments made therein, which remained valid as on the 30th day of June of that year or during a part of the period from 1st July of the previous year till the 30th day of June of that year, as the case may be, or as may be specified by the Authority from time to time in terms of the second proviso to regulation 6A:

Provided that the Authority may, without prejudice to its powers under section 12 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), at any time, call for the details of any interconnect agreement from any direct to home operator, HITS operator or IPTV service provider, and such direct to home operator, HITS operator or IPTV service provider, as the case may be, shall furnish such details within such time limit as may be specified by the Authority in the communication calling for such details.”.

5. In clause (a) of regulation 6 of the principal regulations, after the words “in duplicate”, the following words shall be inserted, namely:-

“and also containing -----

(i) a certificate to the effect that the provisions of sub-regulation 4A.4 of regulation 4A of the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004 (13 of 2004) have been complied with in respect of all interconnect agreements included in Part B;

(ii) a certificate to the effect that all the interconnect agreements or the modifications or amendments to the interconnect agreements, as the case may be, included in Part B, are compliant with all regulations, Orders and Directions made or issued by the Authority under the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) and that they do not contravene the provisions contained in any such regulation, Order or Direction”.

6. In regulation 6A of the principal regulations, for the words “The direct to home operator”, the words “ Every direct to home operator, HITS operator and IPTV service

provider" shall be substituted.

7. In regulation 7 of the principal regulations, the following proviso shall be inserted, namely:-

"Provided that the provisions of this regulation shall not apply to an interconnection agreement entered in the register -----

- (i) in respect of which a period of three years has expired from the date of reporting of such agreement, or
- (ii) in respect of which the period of validity as specified in the agreement has expired,

whichever is later."

**(N. Parameswaran)**  
**Principal Advisor (B&CS)**

Note.1----- The principal regulations were published vide notification no. 5-29/2004-B&CS dated 31<sup>st</sup> December, 2004 and subsequently amended vide notifications no. 6-6/2005-B&CS dated 4<sup>th</sup> March, 2005, no. 6-20/2005-B&CS dated 02<sup>nd</sup> December, 2005 and no. 6-1/2006-B&CS dated 10<sup>th</sup> March, 2006.

Note.2----- The Explanatory Memorandum explains the objects and reasons of the Register of Interconnect Agreements (Broadcasting and Cable Services) (Fourth Amendment) Regulations, 2009.

**Explanatory Memorandum**

1. As per sub-clauses (vii) & (viii) of clause (b) of sub-section (1) of Section 11 of the Telecom Regulatory Authority of India Act, 1997, the Telecom Regulatory Authority of India is required to maintain a register of interconnect agreements and to keep such register open for inspection, subject to confidentiality requirements, to any member of public on payment of such fee and compliance of such other requirement as may be provided in the regulations.
2. TRAI issued regulations on December 31, 2004 for filing and registration of interconnect agreements entered into by broadcasters with service providers under different platforms. The Regulation was amended on March 04, 2005 to bring it in line with the Telecom Regulatory Authority of India (Access to Information) Regulation, 2005. The Regulation was again amended on December 02, 2005 to enable the Authority to specify the procedure for filing of data, formats for filing and other procedural issues through a simplified process instead of amending the regulation. The Regulation was last amended on March 10, 2006 to expand the scope of provisions to require the DTH operators also to file their Interconnect agreements.
3. The details of interconnect agreements are at present filed quarterly by the broadcasters and DTH operators in compliance with these regulations. However, the Authority noted that the Industry practice is largely to sign Interconnection Agreements on annual basis, mainly for a calendar year or for the financial year. At the same time, the process of signing of interconnection agreements continues throughout the year on account of agreements with new distributors of TV channels, launch of new channels/bouquets, amendments in terms and conditions of existing agreements etc. In case of DTH, the Interconnection agreements are sometimes for five years or for even longer durations.
4. The Authority discussed the issue of periodicity of filing the agreements in the consultation paper titled "Consultation paper on Interconnection Issues relating to

broadcasting & Cable Services" issued on December 15, 2008. A majority of stakeholders are in favour enlarging the periodicity of filing these agreements with the Authority. Based on the analysis of the written comments received, and open house held at Kolkata on February 06, 2009, the Authority has come to the conclusion that the filing of the interconnection agreements should be on annual basis. The Authority has decided to receive annual filing for period 1<sup>st</sup> July to 30<sup>th</sup> June by 31<sup>st</sup> July of every year. The period is chosen to cover the industry practices of agreements on calendar year basis or financial year basis.

5. The Authority has also decided that all the interconnection agreements should be in written form by the broadcasters. Accordingly, a provision has been made by an amendment dated March 17, 2009 to the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004 (13 of 2004) whereby it is the responsibility of the broadcasters and MSOs to hand over such written agreements after execution to the distributor of TV channels. Correspondingly, a provision of submitting a certificate in this regard has also been incorporated in the present regulation.

6. Though the Authority is empowered under Section 12 of the TRAI Act, 1997 as amended to call for information from the Service providers, the issue of notice period to be given to a service provider for any specific interconnection agreement was discussed in above mentioned consultation paper. The stakeholders were of the view of having 15 to 30 days notice period for furnishing such information. Upon careful consideration of the issue, the Authority has decided that the time frame for submission of such information/details may be specified in the communication calling for such information/detail, based upon the need and urgency.

7. The Authority has also discussed the period for retention of the details of interconnection filing with the Authority in the above mentioned consultation paper. The comments for retention period varied from 3 to 5 years. Based on the inputs from the stakeholders and considering large volume of data being filed by various service providers, the Authority is of the view that these filings may be kept for a period of three years from the date of their filing or till the expiry of the validity period of the agreement,

whichever is later and accordingly the regulations have been suitably amended for this purpose.

8. These regulations have also been amended to enable the new platform such as HITS operators and IPTV service providers to file their interconnection agreements with the broadcasters on annual basis to the Authority.

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