

TATA SKY'S RESPONSE TO THE TRAI'S CONSULTATION PAPER ON THE REGISTER OF INTERCONNECTION AGREEMENTS (BROADCASTING AND CABLE SERVICES) REGULATIONS, 2016, DATED MARCH 23, 2016

ISSUES FOR CONSULTATION:

1. *Why all information including commercial portion of register should not be made accessible to any interested stakeholders?*
2. *If the commercial information is to be made accessible,*
 - a) *In which way, out of the three ways discussed above or any other way, the commercial information should be made accessible to fulfill the objective of non-discrimination?*
 - b) *Should it be accessible only to the service providers, general public or both?*
 - c) *Should any condition be imposed on the information seeker to protect the commercial interests of the service providers?*
3. *If the commercial information is not made accessible to stakeholders, then in what form the provisions under clause (vii) and (viii) of Section 11 (1) (b) of TRAI Act be implemented in broadcasting and cable sector so that the objective of non-discrimination is also met simultaneously?*
4. *Please provide suggestions on regulation 5 of the draft regulations regarding periodicity, authentication etc.*
5. *Please provide comments on how to ensure that service providers report accurate details in compliance of regulations?*
6. *Please provide comments on digitally signed method of reporting the information.*
7. *Please provide suggestions on regulation 6 of draft regulations and also the formats given in schedules? Stakeholders can also suggest modified format for reporting to make it simple and easy to file.*
8. *Any other suggestions relevant to the draft regulations.*

TATA SKY RESPONSE:

We remain concerned on the above issues for consultation and would like to bring the following to the attention of the TRAI:

A. Providing access to commercial information to interested stakeholders

- As noted in the Consultation Paper, the TRAI has already put in place regulations to ensure the basic principles of 'must provide' and 'non-discrimination' for broadcasters and distributors, and such service providers are required to disclose their standard terms and conditions transparently.
- Within the framework of the regulations that the TRAI has put in place, there is a limited scope for parties entering into interconnection agreements to negotiate the terms of such agreements, based on factors like market reach, efficiency and reputation.
- If specific commercial details of such agreements are allowed to be accessed by other broadcasters and distributors, we believe that this will undermine confidential business interests of the parties to what is essentially a private agreement (especially one in which, in any case, scope for negotiation is limited). This will not only affect business relations between service providers, but is likely to increase unnecessary litigation.

- The broadcasting industry is not an unregulated sector in India – the TRAI as the regulator, apart from providing the safeguards and legal/regulatory framework within which the industry functions, is also the watchdog of the industry. **Accordingly, since all broadcasters and distributors shall be providing the relevant information to the TRAI, the TRAI is in a better position to monitor and analyze the industry performance and functioning and look into any glaring discrepancies, malpractices or non-compliance.**
- **Therefore, we do not believe that all stakeholders or all service providers should have access to confidential commercial details of interconnection agreements in the current scenario.**

B. Providing access to the general public

- On the issue of providing the general public with access to the information submitted to the TRAI by broadcasters and distributors, Tata Sky submits that there is no reason why such details should be made available in any manner.
- In the broadcasting sector in India, consumers today have multiple distributor options to choose from and no player is able to dominate the market. The TRAI has already put in place a system where retail prices of offerings (a la carte channels and packages) that are available to a subscriber are transparent and freely available in the public domain.
- Thus the subscriber has access to details relating to the prices available to him/her to make an informed choice as to which distributor they prefer, and also the option of multiple distributors if he/she is not satisfied with the offerings of a particular distributor.
- **In this scenario, the customer does not stand to gain anything by being provided access to the wholesale prices that his/her distributor is getting the channels for. Distributors provide subscriber offerings keeping in mind a number of commercial considerations, within the regulatory requirements if any. We do not believe that a subscriber can make use of such commercial information.**
- Furthermore, in any industry, it is extremely rare for a person buying a product or availing a service to have access to information relating to the manufacturing cost of that product or cost of performing the service – typically only the retail prices are known.