

April, 2016

---

**Consultation on**

**The Register of Interconnection Agreements (Broadcasting and Cable Services) Regulations, 2016, Dated 23<sup>rd</sup> , 2016**

In response to TRAI's consultation paper on The Register of Interconnection Agreements (Broadcasting and Cable Services) Regulations, 2016, dated 23 March, 2016, our comments are stated herein under.

You may kindly note that below comments are without prejudice to our rights and contentions, including in any ongoing or future litigations and we reserve our rights to modify, change and submission of further comments or counter comments to clarify our position on the issues under this consultation paper.

**Q1. Why all information including commercial portion of register should not be made accessible to any interested stakeholders?**

Answer 1: We support disclosure and complete transparency, subject to the condition that TRAI regulations should provide for the following:

- 1) The principle of 'Non discrimination' and 'parity' is implemented for all stakeholders.
- 2) DPOs are mandated to provide non discriminatory and mandatory ('Must carry') access of their network to all broadcasters.

April, 2016

---

All channels are made available at the retail level to the consumer on both bouquet and a-la-carte basis. We insist that “must carry” should be enforced as a regulatory mandate for the DPOs.

3) TRAI should mandate disclosure of discounts offered by broadcasters on each channel to the DPOs. Discounts should be capped.

4) The DPOs should disclose to the regulator the viewership and subscription of channels periodically which in turn should be made available on public domain in a transparent manner.

5) Carriage fee should be abolished and placement or LCN/ EPG fee paid for each channel should be made uniform, rationale, reasonable and non-discriminatory by regulations mandating it to be disclosed and made available in public domain for each channel paid to each DPO.

6) Vertical Integration of DPOs and broadcasters should be strictly disallowed.

7) To deter selective disclosures and ensure that disclosures are made by all stakeholders, significant penal action should be taken for any non compliance.

We draw your attention to the fact that currently a skewed level playing field exists in the broadcasting sector in favor of the significant market players. The significant market players influence the distribution networks in their favor by adopting anti competitive and unfair trade practices which *inter alia* include the following:

1) Broadcasters with powerful driver channels push their not so powerful channels.

April, 2016

---

- 2) Discounts are offered to DPOs for discriminatory access to their network.
- 3) Discriminatory and non uniform carriage fee, placement fee, and marketing fee is charged by the DPOs to carry the channels of broadcasters. Regulator should enforce parity at all levels.

TRAI's proposed regulation should be framed keeping in mind that the balance of convenience is not tilted in favor of the SMPs. We are of the view that disclosures should be mandated as a second step once a conducive environment of level playing field, parity and non discrimination is established both at retail and wholesale level.

Putting commercial portion of the individual deal in public domain without addressing the aforementioned issues, will adversely affect the commercial relationship between stakeholders chain in current atmosphere, where Industry is going thru the changes (in light of NSTPL judgment).

**Q2. 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?**

April, 2016

---

**(c) Should any condition be imposed on the information seeker to protect the commercial interests of the service providers?**

Answer 2: Till such time that the issues listed in answer 1 are addressed, commercial information may not be disclosed. Refer to our answer 1.

All information, including commercial information if mandatorily disclosed, should be made available on the website and the same should be publicly accessible without any conditions, subject to the fact, that issues listed in answer 1 are addressed by issue of a regulation. No exception based on special requests should be allowed.

**Q3. 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?**

Answer 3: The current disclosure requirements suffice, till 'Non discrimination' and 'parity' is ensured for all stake holders. We request you to refer to our answer 1, 2 and 3 above.

We suggest that the TRAI may provide that agreements and commercial transactions of the stakeholders will be open to inspection by a TRAI appointed inspector on periodic basis.

April, 2016

---

If during such inspection any stakeholder's agreements or other commercial deals are found to be discriminatory, penal provisions may be invoked against the stakeholder.

**Q4. Please provide suggestions on regulation 5 of the draft regulations regarding periodicity, authentication etc.**

Answer 4: The current annual reporting format should be followed, till 'Non discrimination' and 'parity' is ensured for all stake holders. We request you to refer to our answer 1, 2 and 3 above.

**Q5. Please provide comments on how to ensure that service providers report accurate details in compliance of regulations?**

Answer 5: As correctly observed by TRAI, the reporting requirements exist even today, but the same are being avoided by many stakeholders. In order to ensure 100% compliance and uniform disclosures by all stakeholders, deterrent penal provisions must be provided.

**Q6. Please provide comments on digitally signed method of reporting the information.**

Answer 6: We agree with the recommended method of reporting.

April, 2016

---

---

**Q7. 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.**

Answer 7: In our view, reporting format should be kept simple and non bulky. Non functional details should be omitted.

**Q8. Any other suggestions relevant to the draft regulations ?**

Answer 8: No Comments