
Fwd: IBDF response to the amendments proposed in the Consultation Paper on the Interconnection Regulations 2017 namely 'Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Fourth Amendment) Regulations, 2022 (___ of 2022)

From : Sapna Sharma <jtadv-bcs@traf.gov.in>

Mon, Nov 21, 2022 11:51 AM

Subject : Fwd: IBDF response to the amendments proposed in the Consultation Paper on the Interconnection Regulations 2017 namely 'Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Fourth Amendment) Regulations, 2022 (___ of 2022)

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Sent: Sunday, November 20, 2022 8:14:15 AM

Subject: IBDF response to the amendments proposed in the Consultation Paper on the Interconnection Regulations 2017 namely 'Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Fourth Amendment) Regulations, 2022 (___ of 2022)

**Telecom Regulatory Authority of India ("TRAI")
Mahanagar Doorsanchar Bhavan,
Jawahar Lal Nehru Marg (Old Minto Road),
New Delhi – 110 002**

Kind Attn.: Mr. Anil Kumar Bhardwaj, Advisor

Sub: Indian Broadcasting & Digital Foundation's ("IBDF") response to the amendments proposed in the Consultation Paper on the Interconnection Regulations 2017 namely 'Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Fourth Amendment) Regulations, 2022 (___ of 2022).

Dear Sir,

1. At the outset, we thank Telecom Regulatory Authority of India ("TRAI" / "Authority") for giving all the stakeholders an opportunity to provide their comments to consultation paper number 12 of 2022 dated 09.09.2022 ("Consultation Paper") pursuant to which TRAI has put-up for consultation / comments of stakeholders – the draft telecommunication (broadcasting and cable) services interconnection (addressable systems) (fourth amendment) Regulations 2022 ("Draft Fourth Amendment") along with draft schedule-X ("Draft Schedule-X") to TRAI's telecommunication (broadcasting & cable) services interconnection (addressable system) regulation 2017 dated 03.03.2017 (as amended) ("Interconnection Regulations").

Scope of Draft Fourth Amendment and Draft Schedule-X:

2. While we appreciate TRAI's efforts to secure content in order to prevent unauthorized use and piracy, we would like to submit that it is essential to ensure that the scope of the digital rights management ("DRM") requirements sought to be prescribed by way of the Draft Fourth Amendment and Draft Schedule-X are limited to IPTV services only ("DRM Requirements").

3. It is submitted that scope of Consultation Paper, Draft Fourth Amendment and Draft Schedule-X ought to be restricted to IPTV services, which for clarity, must exclude any over-the-top (OTT) services *inter-alia* for jurisdictional issues. Key tests for IPTV services *inter-alia* are:

(a) TV channels being delivered through IPTV services should be accessible by subscribers only through set-top-box ("IPTV STB") issued by an IPTV distribution platform operator ("DPO"),

'and'

(b) IPTV DPO should deliver channels to IPTV STB using Internet Protocol however, solely on a secured, dedicated, and closed network of a DPO.

Infrastructure Sharing:

4. It is submitted that IBDF has made detailed submissions and representations on concerns and challenges relating to infrastructure sharing between various types of DPOs. Those challenges hold equally good in case of IPTV operators, and as such, infrastructure sharing between IPTV operators ought not be permitted by TRAI. Further, MIB too has not issued any guidelines in respect of infrastructure sharing by IPTV operators, and as such, there are *inter-alia* jurisdictional issues involved on this issue. Accordingly, we request TRAI to not include requirements pertaining to infrastructure sharing by IPTV operators in the Draft Fourth Amendment / Draft Schedule-X.

Period for retention of data and records:

5. It is imperative that a period of three (3) years be prescribed by Authority for retention of data and records so as to *inter-alia* ensure that the broadcaster led audits can be meaningfully conducted. This will also be in-line with period of limitation contemplated in the Limitation Act 1963 (as amended). It is submitted that many DPOs submit their DPO initiated audit reports (under clause 15(1) of TRAI's Interconnection Regulations) to the broadcasters six (6) to eighteen (18) months after they receive the audit report from their respective auditors. By the time the broadcaster analyses the same, highlights relevant observations / discrepancies, and/or decides to conduct broadcaster caused audit in terms of Clause 15(2) of Interconnection Regulations, there is already a year's (or sometimes more) delay, which diminishes the relevance of audit report as well as allows DPOs to claim unavailability of data / records relying on TRAI's requirement to maintain data / records only for two (2) years. This *inter-alia* amplifies the problem and hinders detection of true and correct subscriber numbers.

Changes required in audit manual:

6. Keeping in mind the specific / peculiar requirements of the DRM systems being deployed for IPTV services ("DRM Systems"), it is essential that the requirements for conducting audits of DRM Systems be prescribed in a separate section in the audit manual issued by TRAI on 08.11.2019, which provides guidance to the stakeholders with respect to the manner in which TRAI empaneled auditors are required to conduct audits of DPOs in terms of Interconnection Regulations ("Audit Manual").

Preliminary Submissions:

7. In view of the above, we most respectfully submit our preliminary observations as given below:

(a) **DRM Requirements for IPTV services:**

It is submitted that the words DRM System requirements “**for IPTV services**” should be specifically mentioned in the introduction and background to the Draft Fourth Amendment as well as captioned in Draft Schedule-X of the Draft Fourth Amendment. Further, the Draft Fourth Amendment should clearly specify that these requirements are in the context of DRM systems deployed by DPOs providing IPTV services. For the purposes of clarity and to ensure compliance by the concerned stakeholders it is recommended that the words “DPOs providing IPTV services” be suitably incorporated in Draft Fourth Amendment and Draft Schedule-X.

(b) Scope of the Draft Fourth Amendment and Draft Schedule-X should be DRM for IPTV services only:

It is most respectfully submitted that the scope of the Draft Fourth Amendment and Draft Schedule-X be clarified to be limited to IPTV services only and any requirement that traverses beyond IPTV services ought to be deleted *inter-alia* since, TRAI may lack jurisdiction on such matters / aspects. Further, inclusion of such matters / aspects will only cause confusion, chaos and raise compliance related issues, which will eventually culminate into disputes, and as such, are best not dealt with. It is also submitted that the administration and governance of access to any content/application through open Internet, and the content thereon are both occupied fields, and as such, it is most respectfully submitted that it is imperative to ensure that any regulation issued by TRAI does not directly / indirectly impinge on these areas or in any way impact or regulate such access or content. It is reiterated that the scope of the Draft Fourth Amendment and Draft Schedule-X should be limited to DRM requirements for IPTV service only. Accordingly, we request TRAI to kindly make suitable changes / amendments in the Draft Fourth Amendment / Draft Schedule-X in view of submissions herein.

(c) Provisions relating to infrastructure sharing:

It is reiterated that at present, there are no guidelines issued by MIB regarding infrastructure sharing between IPTV operators, and as such, there are *inter-alia* jurisdictional issues concerning infrastructure sharing between IPTV operators. Importantly, there are serious concerns and challenges relating to infrastructure sharing between various types of DPOs, which equally hold good in case of IPTV operators, and as such, infrastructure sharing between IPTV operators ought not be permitted by TRAI. We reiterate our submissions made to TRAI in this regard earlier, which are not being repeated for the sake of brevity. It is submitted that it is premature to include requirements relating to infrastructure sharing in the Draft Fourth Amendment / Draft Schedule-X since, the same appears to be a foregone conclusion of TRAI on these aspects.

(d) Decrease in time period prescribed for record retention/maintenance of logs from the suggested 3 years to 2 years:

The time period for record retention throughout the Draft Regulations 2022 has been prescribed as two (2) years instead of proposed three (3) years as was submitted in the DRM Committee Report. The three (3) years’ time period was *inter-alia* suggested in order to ensure that the data for the preceding three (3) years is available for the purposes of broadcaster led audits prescribed under clause 15 (2) of the Interconnection Regulations.

The Interconnection Regulations along with Schedule III, Schedule IX and the Audit Manual prescribe a period of two (2) years for data / record retention, which is insufficient and factors period of limitation contemplated under the provisions of the Consumer Protection Act. However, it completely overlooks the period of limitation contemplated under the Limitation Act, which is the only statute relevant from the perspective of broadcaster-DPO relationship. As such, not only in respect of IPTV operators but, in respect of all DPOs, the obligation to maintain records and data should be at least three (3) years.

It is submitted that under scope and scheduling of Audit in Schedule III and the Audit Manual, it has been prescribed that the DPO led audit under clause 15 (1) of the

Interconnection Regulations is to be conducted in such a manner that there is a gap of at-least 6 months between the audits of two consecutive calendar years and that the gap between audits of two consecutive years does not exceed 18 months. It is only after the expiry of the said period and post receipt and analysis of the audit report received from the DPO that the broadcaster led audit under clause 15 (2) of the Interconnection Regulations is conducted. By the time the broadcaster led audit is conducted, the prescribed period of two (2) years for data / record retention is already over. Therefore, in order to ensure that the audit under clause 15(2) is meaningful, it is imperative that the data / records for at least the preceding three (3) years is retained by the DPO instead of two (2) years as proposed in the Draft Fourth Amendment. It is submitted that the period for retention of data in the Draft Fourth Amendment be prescribed for at least three (3) years.

(e) Separate section in the Audit Manual for IPTV services with DRM:

It is suggested that a separate section in the Audit Manual be included for IPTV systems since, IPTV services have certain specific further / other requirements that are unique to IPTV services. It is submitted that Schedule-III prescribed under the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Amendment) Regulations, 2019 (7 of 2019) dated October 30, 2019 (“IR 2019”) does not prescribe requirements / specifications of DRM Systems used for IPTV services. Prior to issuance of IR 2019, during the Consultation Process, TRAI had sought inputs on the draft regulations 2019 that contained certain DRM requirements. However, it has been stated by TRAI in the Explanatory Memorandum of the IR 2019 that post receipt of numerous comments/inputs from stakeholders proposing a number of additions and modifications in respect of DRM requirements, TRAI was of the opinion that a separate consultation for the same be held. It is submitted that in the manner a separate consultation process was required in respect of DRM requirements owing to the specific/peculiar needs of the DRM system for IPTV, similarly it is imperative that a separate section be included in the Audit Manual that caters specifically to IPTV systems and facilitates in conducting audits of the same.

8. IBDF’s specific comments as per the format prescribed in Draft Fourth Amendment / Draft Schedule-X are as under:

TABLE-1

(IBDF’ response on issues related to Draft Fourth Amendment / Draft Schedule-X raised in the present Consultation Paper)

No.	Clause number of Draft Regulations 2022	Do you agree with the Draft Regulations proposed in this CP (Yes/No)	If you do not agree with the amendment proposed in this CP, then provide amended Clause proposed by you	Reasons with full justification for your response
1.	Clause No. 7 of Table-1 in point D (DRM Requirements in so far as they relate to subscriber management systems (SMS) for IPTV services) of Draft Schedule-X:	No	The SMS shall be independently capable of generating, recording, and maintaining logs, for the period of at least immediately preceding two (2) three (3) consecutive years, corresponding to each command executed in	It is reiterated that the time period for record retention throughout the Draft Regulations 2022 has been prescribed as two (2) years instead of proposed three (3) years as was submitted in the DRM Committee Report. The three (3) years’ time period was <i>inter-alia</i> suggested in order to ensure that the data for the preceding three (3) years is available for the purposes of

The SMS shall be independently capable of generating, recording, and maintaining logs, for the period of at least immediately preceding two (2) consecutive years, corresponding to each command executed in the SMS including but not limited to activation and deactivation commands.

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broadcaster led audits prescribed under clause 15 (2) of the Interconnection Regulations.

The Interconnection Regulations along with Schedule III, Schedule IX and the Audit Manual prescribe a period of two (2) years for data / record retention, which is insufficient and factors period of limitation contemplated under the provisions of the Consumer Protection Act. However, it completely overlooks the period of limitation contemplated under the Limitation Act, which is the only statute relevant from the perspective of broadcaster-DPO relationship. As such, not only in respect of IPTV operators but, in respect of all DPOs, the obligation to maintain records and data should be at least three (3) years.

It is submitted that under scope and scheduling of Audit in Schedule III and the Audit Manual, it has been prescribed that the DPO led audit under clause 15 (1) of the Interconnection Regulations is to be conducted in such a manner that there is a gap of at-least 6 months between the audits of two consecutive calendar years and that the gap between audits of two consecutive years does not exceed 18 months. It is only after the expiry of the said period and post receipt and analysis of the audit report received from the DPO that the broadcaster led audit under clause 15 (2) of the Interconnection Regulations is conducted. By the time the broadcaster led audit is conducted, the prescribed period of two (2) years for data / record retention is already over. Therefore, in order to ensure that the audit under clause 15(2) is meaningful, it is imperative that the data / records for at least the preceding three (3) years is retained by the DPO instead of two (2) years as proposed in the Draft Fourth Amendment. It is submitted that the period for retention of data in the Draft

				Fourth Amendment be prescribed for at least three (3) years.
2.	<p>Clause No. 13 of Table-1 in point D (DRM Requirements in so far as they relate to subscriber management systems (SMS) for IPTV services) of Draft Schedule-X:</p> <p>If there is active infrastructure sharing then, DPO shall declare the sharing of the DRM and the SMS deployed for distribution of channels. In case of deployment of any additional DRM / SMS, the same should be notified to the broadcasters by the distributor.</p>	No	N. A.	It is reiterated that at present, there are no guidelines issued by MIB regarding infrastructure sharing between IPTV operators, and as such, there are <i>inter-alia</i> jurisdictional issues concerning infrastructure sharing between IPTV operators. Importantly, there are serious concerns and challenges relating to infrastructure sharing between various types of DPOs, which equally hold good in case of IPTV operators, and as such, infrastructure sharing between IPTV operators ought not be permitted by TRAI. We reiterate our submissions made to TRAI in this regard earlier, which are not being repeated for the sake of brevity. It is submitted that it is premature to include requirements relating to infrastructure sharing in the Draft Fourth Amendment / Draft Schedule-X since, the same appears to be a foregone conclusion of TRAI on these aspects.
3.	<p>Clause No. 8 of Table-2 in point E (DRM Requirements for conditional access by subscribers and encryption for IPTV services) of Draft Schedule-X:</p> <p>DRM deployed should be able to tag and blacklist the STB independently in case of any piracy.</p>		DRM deployed should be able to tag and blacklist the STB & VC independently in case of any piracy.	It is essential that the DRM be capable of blacklisting both the STB & VC.
4.	<p>Clause No. 16 of Table-2 in point E (DRM Requirements for conditional access by subscribers and encryption for IPTV services) of Draft Schedule-X:</p>	No	N. A.	It is reiterated that at present, there are no guidelines issued by MIB regarding infrastructure sharing between IPTV operators, and as such, there are <i>inter-alia</i> jurisdictional issues concerning infrastructure sharing between IPTV operators. Importantly, there are serious concerns and challenges relating to

	When infrastructure sharing is available, in such cases DRM shall be capable to support multiple DPOs.			infrastructure sharing between various types of DPOs, which equally hold good in case of IPTV operators, and as such, infrastructure sharing between IPTV operators ought not be permitted by TRAI. We reiterate our submissions made to TRAI in this regard earlier, which are not being repeated for the sake of brevity. It is submitted that it is premature to include requirements relating to infrastructure sharing in the Draft Fourth Amendment / Draft Schedule-X since, the same appears to be a foregone conclusion of TRAI on these aspects.
5.	<p>Clause No. 21 of Table-2 in point E (DRM Requirements for conditional access by subscribers and encryption for IPTV services) of Draft Schedule-X:</p> <p>In case DPO has deployed hybrid STBs, DRM shall ensure that the over-the-top (OTT) App and any browser does not get access to the linear television channels offered by the DPO from its own system, and similarly, DRM for IPTV service should not get access to channels delivered through OTT platform. Provided that, all the mandatory requirements for DRM shall be complied by hybrid STBs.</p>	No	N.A.	It is most respectfully submitted that the scope of the Draft Fourth Amendment and Draft Schedule-X be clarified to be limited to IPTV services only and any requirement that traverses beyond IPTV services ought to be deleted <i>inter-alia</i> since, TRAI may lack jurisdiction on such matters / aspects. Further, inclusion of such matters / aspects will only cause confusion, chaos and raise compliance related issues, which will eventually culminate into disputes, and as such, are best not dealt with. It is also submitted that the administration and governance of access to any content/application through open Internet, and the content thereon are both occupied fields, and as such, it is most respectfully submitted that it is imperative to ensure that any regulation issued by TRAI does not directly / indirectly impinge on these areas or in any way impact or regulate such access or content. It is reiterated that the scope of the Draft Fourth Amendment and Draft Schedule-X should be limited to DRM requirements for IPTV service only.
6.	<p>Clause No. 12 of Table 4 in point G (DRM Requirements in so far as they relate to</p>	No	The watermarking network logo for all pay channels shall be inserted at encoder end only. <i>In-case of</i>	It is reiterated that at present, there are no guidelines issued by MIB regarding infrastructure sharing between IPTV operators, and as such, there are <i>inter-alia</i> jurisdictional issues concerning

	<p>STBs) of Draft Schedule-X:</p> <p>The watermarking network logo for all pay channels shall be inserted at encoder end only. In case of infrastructure sharing, it shall be as per terms and conditions of infrastructure sharing.</p>		<p>infrastructure sharing, it shall be as per terms and conditions of infrastructure sharing.</p>	<p>infrastructure sharing between IPTV operators. Importantly, there are serious concerns and challenges relating to infrastructure sharing between various types of DPOs, which equally hold good in case of IPTV operators, and as such, infrastructure sharing between IPTV operators ought not be permitted by TRAI. We reiterate our submissions made to TRAI in this regard earlier, which are not being repeated for the sake of brevity. It is submitted that it is premature to include requirements relating to infrastructure sharing in the Draft Fourth Amendment / Draft Schedule-X since, the same appears to be a foregone conclusion of TRAI on these aspects. In view of the same, it is suggested that the words "In case of infrastructure sharing, it shall be as per terms and conditions of infrastructure sharing" be deleted.</p>
7.	<p>Clause No. 16 of Table 4 in point G (DRM Requirements in so far as they relate to STBs) of Draft Schedule-X:</p> <p>STB should not have feature to download (direct or side download) any 3rd party App/APK (Including on Hybrid STB's if any) and should not have access to any browser.</p>	No	<p>"IPTV STB should not have feature to download (direct or side download) any 3rd party App/APK (Including on Hybrid STB's if any) and should not have access to any browser."</p>	<p>It is most respectfully submitted that the scope of the Draft Fourth Amendment and Draft Schedule-X be clarified to be limited to IPTV services only and any requirement that traverses beyond IPTV services ought to be deleted/amended <i>inter-alia</i> since, TRAI may lack jurisdiction on such matters / aspects. Further, inclusion of such matters / aspects will only cause confusion, chaos and raise compliance related issues, which will eventually culminate into disputes, and as such, are best not dealt with. It is also submitted that the administration and governance of access to any content/application through open Internet, and the content thereon are both occupied fields, and as such, it is most respectfully submitted that it is imperative to ensure that any regulation issued by TRAI does not directly / indirectly impinge on these areas or in any way impact or regulate such access or content. It is</p>

				reiterated that the scope of the Draft Fourth Amendment and Draft Schedule-X should be limited to DRM requirements for IPTV service only. Accordingly, it is suggested that the word "IPTV" be included and the words "(Including on Hybrid STB's if any)" be deleted.
8.	<p>Clause No. 18 of Table 4 in point G (DRM Requirements in so far as they relate to STBs) of Draft Schedule-X:</p> <p>STB should not have any play store to download 3rd party App.</p>	No	“ IPTV STB should not have any play store to download 3rd party App.”	It is most respectfully submitted that the scope of the Draft Fourth Amendment and Draft Schedule-X be clarified to be limited to IPTV services only and any requirement that traverses beyond IPTV services ought to be deleted/amended <i>inter-alia</i> since, TRAI may lack jurisdiction on such matters / aspects. Further, inclusion of such matters / aspects will only cause confusion, chaos and raise compliance related issues, which will eventually culminate into disputes, and as such, are best not dealt with. It is also submitted that the administration and governance of access to any content/application through open Internet, and the content thereon are both occupied fields, and as such, it is most respectfully submitted that it is imperative to ensure that any regulation issued by TRAI does not directly / indirectly impinge on these areas or in any way impact or regulate such access or content. It is reiterated that the scope of the Draft Fourth Amendment and Draft Schedule-X should be limited to DRM requirements for IPTV service only. Accordingly, it is suggested that the word "IPTV" be included.

TABLE-2

(IBDF's response on issues related to 'System Requirement for Digital Right Management (DRM)' on issues other than those proposed in this Consultation Paper)

No.	New Clause number proposed in the Draft Regulations 2022	Suggested Amendment (additional clause)	Reasons/ full justification for the proposed amendment
1.	Clause No. [•] of Table-1 in point D (DRM Requirements	It shall be mandatory for SMS to have backup servers and logs of all activities carried out in main server shall be concurrently copied into the	It is imperative that the DRM mandatorily have a backup server in a manner as prescribed for SMS. This will avoid any

<p><i>in so far as they relate to subscriber management systems (SMS) for IPTV services) of Draft Schedule-X</i></p>	<p>cloud-based backup servers, in an automated manner without any manual intervention, of reputed companies viz., AWS, Oracle, Microsoft Azure, Google cloud.</p>	<p>loss of logs and activities recorded in the DRM and will facilitate the audit process.</p>
	<p>Provided that a log of all such instances shall be maintained along with date and time stamp, where the backup server has been used as the main server:</p>	
	<p>Provided further that the main and backup server shall always be in sync with regard all data, such as subscription data, STB UA/MAC ID details, entitlement level information, etc.</p>	
	<p>Provided further that it shall be permissible for vendors of servers to provide data / records to TRAI, MIB, relevant empaneled auditor and to relevant broadcasters.</p>	

9. We hope that our inputs will merit your kind consideration and the same will be favorably considered by you while finalizing the Draft Fourth Amendment as well as Draft Schedule-X. We crave leave of TRAI and reserve our rights to make detailed submissions including on all points mentioned herein.

We request the Authority to kindly take our comments on record and oblige.

Thanking you.

Yours Sincerely,

For **Indian Broadcasting & Digital Foundation**

Siddharth Jain
Secretary General



Indian Broadcasting
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Regards

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