

December 31, 2015

Telecom Regulatory Authority of India

Mahanagar Doorsanchar Bhawan,

Jawaharlal Lal Nehru Marg,

New Delhi – 110002

Kind: Mr. Sunil Kumar Singhal (Advisor B & CS)

Ref: Consultation on draft Model & Standard Interconnection Agreement between MSO's and LCO's for offering of cable TV services through Digital Addressable Systems (DAS) ("**Consultation Paper**").

Dear Sir,

IndiaCast Distribution Private Limited ("**IDPL**") is the authorized agent of various Broadcasters, namely, TV18 Broadcast Limited, Eenadu Television Private Limited and EPIC Television Networks Private Limited and distributes the channels of the said Broadcasters, pursuant to the extant of the TRAI Regulations dated 10.02.2014 (as amended till date).

We wish to express our appreciation on this opportunity extended to the stakeholders by way of this Consultation Paper. In context of the same, we hereby attach our views/comments on the various issues raised in this Consultation Paper for your kind perusal.

For any further clarification you may write to us or contact us.

Yours Sincerely,

For IndiaCast Distribution Private Limited,



Authorized Signatory

IndiaCast Distribution Private Limited

formerly known as IndiaCast UTV Media Distribution Private Limited | CIN: U22222MH2012PTC238498

The Millenia, Tower C, No.1 & 2, 6th Floor, Murphy Road, Ulsoor, Bangalore - 560 008, Karnataka, India.

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Registered Office: 703, 7th Floor, HDIL – Kaledonia, Opp. Vijay Nagar Society, Sahar Road, Andheri (E), Mumbai - 400 069, Maharashtra, India.

Comments on behalf of IndiaCast Distribution Private Limited to the Consultation Paper

In reference to the draft Model & Standard Interconnection Agreement between MSO's and LCO's ("**Model Agreement**"), we wish to provide our views/comments/recommendations as follows:

1. Clause 2 – Term of the Agreement

We recommend that the existing clause 2.2 of the Model Agreement be amended in the following manner:

2.2 The duration of the Agreement may be extended on terms and conditions to be mutually agreed between the Parties and recorded in writing, provided however that the extended term shall under no circumstance go beyond the date of expiry of registration of the MSO or the LCO, as the case may be.

2. Few other clauses which we recommend to be incorporated in the Model Agreement are as follows

(A) Non-Exclusive Right (Clause 5.1 of the Model Agreement may be applicably modified to capture the following)

On the basis of the representations, warranties and undertakings given by the LCO, and subject to LCO complying with all the terms and conditions as set out in this Agreement, MSO hereby grants non-exclusive right to LCO to retransmit the signals of Channels in the Territory in a securely encrypted manner in accordance with the terms and conditions as set out in this Agreement and LCO hereby accepts such grant of rights and agrees and acknowledges to retransmit the signals of the Channels in the Territory in a securely encrypted manner during the Term in accordance with the terms and conditions as set out in this Agreement.

(B) Audit

MSO's representatives shall have the right, not more than twice during each twelve months period of the Term to review and / or audit the systems and records of the LCO to verify whether the STB's provided by the MSO to LCO are installed at premises of the Subscribers of the LCO and also to ensure that the STB's are used for the purpose and in accordance with the Agreement.

(C) Obligations of the LCO

In additions to the provision in Clause 9.5 of the Model agreement, the following provisions may also be incorporated:

- (i) LCO shall ensure that the STB's are installed at the premises of the Subscribers provided by the LCO to the MSO and to immediately notify the MSO in case of change in the address for updating the same in the SMS systems of the MSO.
- (ii) The LCO shall also ensure that STB's of the Channels are not installed at the premises beyond the Territory.
- (iii) LCO shall not to use the STB's/VC's/smart cards etc. for retransmitting analogue signals of the Channels.

(D) Obligations of the LCO

Clause 9.7 and Clause 9.8 of the Model Agreement may be applicably modified to include the following provisions:

LCO shall not authorize, cause or suffer any portion of any of the Channel of to be recorded, duplicated, cablecast, exhibited or otherwise used for any purpose other than for distribution to the Subscribers by the LCO. If the LCO becomes aware of any such unauthorized recording, duplicating, cablecasting, exhibiting or otherwise using of any of the Channel for any other purpose, the LCO shall within ten minutes of so becoming aware of such recording, duplicating, cable casting, exhibiting or otherwise using any of the Channel for any other purpose, notify MSO and the MSO in turn shall switch off the concerned Set Top Box to prevent such unauthorized use of the Channel.

(E) The following Intellectual Property Rights protection related provisions may be incorporated in the applicable provisions of the Model Agreement including but limited to the obligations of the LCO in Clause 9 of the Model Agreement

- (i) It is expressly agreed and understood that the LCO shall not acquire any ownership or other rights with respect to the Channels. All Intellectual Property related to the Channels belong exclusively to the respective Broadcaster. For the purpose herein, "**Intellectual Property**" means all right, title and interest in the programming and all copyright, creative, artistic and literary contents, trademarks, trade names, services marks, logs, materials, formats and concepts relating to the Channels, or any mark of the right holders of any programming exhibited on the Channels.

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- (ii) LCO shall not use the Intellectual Property Broadcaster/Channels without the prior written consent of the Broadcaster through the MSO.
- (iii) Subject to prior written approval from the MSO, any marketing materials generated by the LCO may refer to the Intellectual Property only if it is clear that such Intellectual Property represent trademarks or service marks for the applicable Channels/Broadcaster.
- (iv) LCO shall not use any Intellectual Property as part of a corporate name or of a trade name, register or use any name or mark which is the same or which contains or which resembles any of the Intellectual Property.
- (v) LCO shall promptly call to the attention of the MSO the use of any Intellectual Property or of any names or marks that resemble any Intellectual Property by any third party in the Territory.
- (vi) LCO shall within 10 days after termination of this Agreement return to the Broadcaster through the MSO all material used for the purpose of printing or reproducing, any Intellectual Property or any other names or marks that in the opinion of the MSO are similar to any Intellectual Property.

3. Roles and Responsibilities of the MSO and LCO under Clause 10 of the Model Agreement:

In a scenario where the MSO and LCO is executing a Standard Interconnection Agreement ("SIA"), the TRAI has correctly identified the roles and responsibilities of the MSO and the LCO in Column No. 4 read with Column No. 2 of Clause 10 of the Model Agreement. The casting of these roles and responsibilities are in line with the prevalent practices in the existing DAS areas/territories.

In a scenario where the MSO and LCO is executing a Model Interconnection Agreement ("MIA"), we are of the opinion that letting the parties negotiate and mutually agree upon their respective roles and responsibilities may be an arduous and time consuming process which may also lead to the parties being unable to reach upon an agreed position. Resultantly, the execution of the MIA may remain unnecessarily held up. Hence, it may be advisable that the TRAI casts the same roles and responsibilities upon the MSO and LCO (when they are executing a MIA) that it has assigned for them when they are executing a SIA.

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