

06 September 2024

By Email and Hand

Telecom Regulatory Authority of India

World Trade Centre-Tower F

Nauroji Nagar

New Delhi – 110029

Subject: Response to TRAI's Consultation Paper on Audit related provisions of Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 and The Telecommunication (Broadcasting and Cable) Services Digital Addressable Systems Audit Manual dated 09 August 2024

Kind Attn: Mr. Deepak Sharma, Advisor (B&CS)

Dear Sir,

We thank the TRAI for this opportunity to express our views on the above-captioned Consultation Paper.

Tata Play's response to the same is attached for your ready reference.

Yours faithfully,



Harit Nagpal

Managing Director and CEO

Enclosed: As above

TATA PLAY COMMENTS DATED 6 NOVEMBER 2024 TO TRAI' S CONSULTATION PAPER ON AUDIT RELATED PROVISIONS OF TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES INTERCONNECTION (ADDRESSABLE SYSTEMS) REGULATIONS, 2017 AND THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES DIGITAL ADDRESSABLE SYSTEMS AUDIT MANUAL DATED 09 AUGUST 2024

Q1. Should provision of Regulation 15(1) be retained or should it be removed in the Interconnection Regulation 2017?

i. In case you are of the opinion that provisions of Regulation 15(1) should be retained then:

a. Should it continue in its present form or do they need any modifications?

b. In case you are of the opinion that modifications are required in Regulation 15(1) of the Interconnection Regulation 2017, then please suggest amended regulations along with detailed justification for the same.

ii. In case it is decided that provisions of Regulation 15(1) should be removed then what mechanism should be adopted to ensure that the monthly subscription reports made available by the distributors to the broadcasters are complete, true and correct?

TATA PLAY COMMENTS:

- **Audits by DPOs:** Regulation 15 (1) should be retained in its present form to the effect that the DPOs cause yearly audits of their SMS, CAS and other related systems in compliance with the Interconnection Regulations.
- **BECIL/Authority appointed Auditor:** Mandate of TRAI appointed auditor or BECIL ensures transparency and authenticity of audit report. Hence the audit of TRAI audit must be final.
- **Removal of financial disincentives:** The provision for financial penalties of upto Rs. Two Lakhs under Regulation 15 (1A) should be removed because:
 - DPO businesses are already suffering due to the regulatory landscape being tilted towards the OTT platforms and broadcasters.
 - DTH platforms are under extreme financial stress due to the exorbitant License Fee being charged where no concession is allowed despite several valid representations being made to the government.
 - Despite providing the same service of delivering content to end consumers, DTH platforms are the only entity that is burdened with License Fee.
 - Other measures apart from financial disincentives should be brought out so that the DPOs can survive in the industry where they are already facing heavy pecuniary losses.

Q2. Should small DPOs be exempted from causing audit of their systems every calendar year, under Regulation 15(1) of Interconnection Regulation?

A. If yes, then,

1. Should 'subscriber base' of DPO be adopted as a criterion for defining small DPOs for this purpose?

i. If yes,

a) what limit of the subscriber base should be adopted to define small DPOs for the purpose of exempting them from causing audit of their systems under Regulation 15(1)?

b) on which date of the year should the DPOs' subscriber base be taken into consideration for categorising whether or not the DPO falls in exempted category?

c) In case any distributor is offering services through more than one distribution platforms e.g. distribution network of MSO, IPTV, etc. then should the combined subscriber base of such distributor be taken into consideration for categorising whether or not the distributor falls in exempted category?

ii. If 'subscriber base' criterion is not to be adopted, then what criteria should be selected for defining small DPOs?

2. In case it is decided that small DPOs may be exempted from causing audit of their systems under Regulation 15(1), then should broadcasters be explicitly permitted to cause subscription audit and/or compliance audit of systems of such DPOs, to verify that the monthly subscription reports made available by the distributor to them are complete, true and correct?

i. If yes, what should be the mechanism to reduce burden on small DPOs that may result due to multiple audits by various broadcasters?

ii. If no, what should be the mechanism to verify that the monthly subscription reports made available by the small DPOs to the broadcasters are complete, true and correct?

B. If you are of the view that the small DPOs should not be exempted from the mandatory audit, then

i. how should the compliance burden of small DPOs be reduced?

ii. should the frequency of causing mandatory audit by such small DPOs be decreased from once in every calendar year to say once in every three calendar years?

iii. alternatively, should small DPOs be permitted to do self-audit under Regulation 15(1), instead of audit by BECIL or any TRAI empanelled auditor?

TATA PLAY COMMENTS:

- **Uniformity in compliance:** The small DPOs should be liable for compliance in the same manner as other DPOs since the TRAI regulations cannot be made selectively applicable. The larger operators have transparent CAS and SMS, it is the smaller DPOs that misrepresent their subscriber base.
- **Level Playing Field:** Since the Tariff structure and other regulations are applicable to all entities despite their size, there should be no differentiation in audit compliance either. All operators big or small must be audited in the same manner.
- **Audit objective:** The objective of Audit is to ensure transparency and accuracy of the systems enabled by the DPOs, therefore the size of the DPO is immaterial and should not be taken into consideration.
- **Self-Audit:** In the interest of level playing field, TRAI should either mandate BECIL/Authority appointed Auditor for all DPOs or should allow self-appointed auditors for all DPOs irrespective of their size.

Q3. As per the existing Interconnection Regulation, all the distributors of television channels have been mandated to cause audit of their system once in a calendar year. Should the existing provision of "calendar year" be continued or "financial year" may be specified in place of calendar year? Please justify your answer with proper reasoning.

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TATA PLAY COMMENTS:

- The present provision of 'calendar year' audit should be continued for yearly mandated audits by the DPOs.
- The TRAI should publish a report stating each year how many DPOs performed yearly audits along with audit firms' names. This would bring about transparency in the process.

Q4. As per the existing Interconnection Regulation, the annual audit caused by DPO under regulation 15 (1), shall be scheduled in such a manner that there is a gap of at-least six months between the audits of two consecutive calendar years and there should not be a gap of more than 18 months between audits of two consecutive calendar years. Instead of above, should the following schedule be prescribed for annual audit?

The DPOs may be mandated to complete annual audit of their systems by 30th September every year. In cases, where a broadcaster is not satisfied with the audit report received under regulation 15(1), broadcaster may cause audit of the DPO under Regulation 15(2) and such audit shall be completed latest by 31st December.

In case DPO does not complete the mandatory annual audit of their systems by 30th September in a year, broadcaster may cause audit of the DPO under Regulation 15(2) from 1st October to 31st December year. This shall not absolve DPO from causing mandatory audit of that year by 30th September and render the non-complaint DPO liable for action by TRAI as per the provisions of Interconnection Regulation 2017? Justify your answer with proper reasoning.

TATA PLAY COMMENTS:

- **Yearly Audit:** The DPO audit should only be mandated to be caused yearly, for one calendar year.
- **No overlap:** There should be no overlap of any dates/month in the audit cycle and the calendar year should be strictly adhered to.
- **TRAI as regulator:** TRAI is the regulatory authority for DPOs and hence, only TRAI mandated audits as provided in Regulation 15 (1) should be conducted. Broadcasters should not be given the right to audit DPOs.
- **Removal of Regulation 15 (2):** The provision for broadcaster-initiated audit on DPOs should be deleted because:
 - **Broadcasters Audit not required:** Through the year the Broadcasters do not object to the reports submitted to them, however, towards the end of the year, when there is no concurrence on commercial terms, they bring up the need to audit, with obtuse questions to victimise the DPOs with their threat. This unbound power given to the broadcasters need to be removed to bring a balance in the eco-system.
 - **Dual Audit:** TRAI mandated audit is done by empanelled auditors. This should bring finality. Broadcaster audit is not at all required. If the audit has been conducted once in a calendar year, then a Broadcaster audit only causes pressure on resources and finances of the DPO despite TRAI and Audit requirements being adhered to by the DPO.
 - **Same Auditor:** There is no additional facts that can be audited by way of a Broadcaster induced audit, that has not already been audited by the TRAI mandated Audit. Broadcaster initiated audits are also to be done by BECIL or Authority appointed auditors which essentially means repeating the entire audit exercise which is already done by the DPO.

- **TRAI empanelled Auditor Report:** Since the DPO audits are being conducted by TRAI appointed auditors/ BECIL; the audit report should be treated as final.

Q5. In case you do not agree with schedule mentioned in Q4, then you are requested to provide your views on the following issues for consultation:

- As per the existing Interconnection Regulation, the annual audit caused by DPO under regulation 15(1), shall be scheduled in such a manner that there is a gap of at-least six months between the audits of two consecutive calendar years and there should not be a gap of more than 18 months between audits of two consecutive calendar years. Does the above specified scheduling of audit need any modification? If yes, please specify the modifications proposed in scheduling of audit. Please justify your answer with proper reasoning.**
- For the audit report received by the broadcaster from the DPO (under regulation 15(1)), should the broadcasters be permitted to cause audit under regulation 15(2) within a fixed time period (say 3 months) from the date of receipt of that report for that calendar year, including spilling over of such period to the next year?**
 - **If yes, what should be the fixed time period within which a broadcaster can cause such audit. Please support your answer with proper justification and reasoning.**
 - **If no, then also please support your answer with proper justification and reasoning?**
- In case a DPO does not cause audit of its systems in a calendar year as specified in Regulation 15(1) then should broadcasters be permitted to cause both subscription audit and/or compliance audit for that calendar year within a fixed period (say 3 months) after the end of that calendar year?**
 - **If yes, what should be the fixed time period (after the end of a calendar year) within which a broadcaster should be allowed to get the subscription audit and/or compliance audit conducted for that calendar year? Please support your answer with proper justification and reasoning.**
 - **If no, then also please support your answer with proper justification and reasoning?**

TATA PLAY COMMENTS:

- TRAI mandated audits should be final and the Broadcasters should not be given the right to audit DPOs as it is merely a duplicity of work, adding to the costs and burden to the DPOs. Any gaps discovered by the TRAI Auditors get flagged and remedial measures can be taken accordingly.

Q6. What measures may be adopted to ensure time bound completion of audits by the DPOs? Justify your answer with proper reasoning.

TATA PLAY COMMENTS:

Tata Play ensures timely completion of audits, hence no comments on this issue.

Q7. Stakeholders are requested to offer their feedback on the amendments proposed in the Audit manual in this consultation paper (CP) in the format as given in Table 2.

Table 2: Format for stakeholders’ response on issues related to audit manual raised in this consultation paper:

| Sl. No. | Pg no. of existing Audit Manual | Clause number of the existing Audit Manual | Do you agree with the proposed amendment (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 of your response |
|---------|---------------------------------|--|---|---|--|
| 1. | 9 | 4.4 Take the declaration of DPOs regarding the IRDs deployed in the headend including serial/VC numbers. The Auditor shall check all the IRDs +VCs deployed by the DPO during the audit. The checking may be done during lean hours. The auditor shall ensure that there is no disruption of the live service of DPO. | No | The said clause should be removed. | There is no relevance of this data with respect to Audit. Some of the PIRDs are provided by Broadcaster and they belong to them. |
| 2 | 18 | Schedule III – C 12 In case the Auditor has reason to doubt the output from the SMS/CAS reporting modules, he may verify the output of the frontend with that of the backend of SMS/CAS. For this purpose, the Auditor may choose to run any query/code of the SMS/CAS vendor for the extraction of data as needed post | No | The said clause should be removed. | In case Auditor needs to re-run the query for output of data, the auditor should cause DPO to run in front of Auditor after explaining all the filters. Auditor should not be allowed directly on the system to run the query. |

| | | | | | |
|---|----|--|----|------------------------------------|---|
| | | verification of the query/code in terms of the filters being used and in terms of the entire database being referenced or not. | | | |
| 3 | 27 | Schedule III – D 12 Scroll messaging should be only available in the lower part of the screen. | No | The said clause should be removed. | This feature is not inherently available as part of CAS/SMS or STB. DPOs should be allowed to showcase this feature through other mechanism like Data Carousel (i.e. Interactive Applications) on a specific service or group of service at a given time and not on all services on the platform at any given time. The Scroll Messaging should not be treated as Fingerprinting. This Audit requirement should be removed/ made optional for DPO. |

Q8. Please provide your comments/any other suggested amendment with reasons thereof in the Audit Manual that the stakeholder considers necessary (other than those proposed in this consultation paper). The stakeholders must provide their comments in the format specified in Table 3 explicitly indicating the existing clause number, suggested amendment and the reason/full justification for the amendment in Audit Manual.

TATA PLAY COMMENTS:

No Comment

Q9. In light of the infrastructure sharing guidelines issued by MIB, should clause D-14 (CAS & SMS) of Schedule-III of Interconnection Regulation 2017), be amended as follows:

“The watermarking network logo for all pay channels shall be inserted at encoder end only.

Provided that only the encoders deployed after coming into effect of Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Amendment)

Regulations, 2019 (7 of 2019) shall support watermarking network logo for all pay channels at the encoder end.

In case of infrastructure sharing, the infrastructure sharing provider shall insert its watermarking network logo for all pay channels at encoder end while each DPO taking services from infrastructure provider distributor shall insert its own watermarking network logo for all pay channels at STB end.”

Please support your answer with proper justification and reasoning. If you do not agree then suggest an alternative amendment, with proper justification?

TATA PLAY COMMENTS:

No Comments.

Q10. In case of infrastructure sharing, if it is decided that the infrastructure sharing provider shall insert its watermarking network logo for all pay channels at encoder end while each DPO taking services from infrastructure provider distributor shall insert its own watermarking network logo for all pay channels at STB end,

- i) does the specification of the logos (transparency level, size, etc), of both Infrastructure provider and infrastructure seeker distributors, need to be regulated? If yes, please provide detailed specification (transparency level, size, etc) of the logos of both Infrastructure provider and infrastructure seeker distributor.
- ii) Since appearance of the logos of more than one DPO on the TV screen may compromise the quality of the video signal at the subscriber's end, what measures such as overlapping logos of the DPOs or any other solution, should be adopted to ensure that while logo of the DPO (infrastructure seeker) is prominently visible on the subscriber's TV screen, the objective of tracing piracy is also met through watermarking the network logo of the infrastructure provider DPO suitably? Please provide details of the measure proposed.

Please support your answer with proper justification and reasoning.

TATA PLAY COMMENTS:

No Comments.

Q11. In light of the infrastructure sharing guidelines issued by MIB, should clause C-14 (CAS & SMS) of Schedule-III of Interconnection Regulation 2017), be amended as follows:

“The CAS shall be independently capable of generating, recording, and maintaining logs, for a period of at least immediate preceding two consecutive years, corresponding to each command executed in the CAS including but not limited to activation and deactivation commands issued by the SMS.

In case Infrastructure is shared between one or more distributors, the CAS shall be capable of generating, recording, and maintaining logs for each distributor separately for the period of at least immediate preceding two consecutive years, corresponding to each command executed in the CAS including but not limited to activation and deactivation commands issued by the SMS.”

Please support your answer with proper justification and reasoning. If you do not agree then suggest an alternative amendment, with proper justification?

TATA PLAY COMMENTS:

No Comments.

Q12. For those cases of infrastructure sharing where the CAS and SMS are not shared by the infrastructure provider with the infrastructure seeker,

- i. do you agree that in such cases, the audit of the infrastructure seeker so far as the shared infrastructure is concerned, should extend to only those elements of the infrastructure of the provider which are being shared between the DPOs?
- ii. Should a broadcaster be permitted to cause the complete technical audit of all the DPOs, including the audit of the shared infrastructure, as a precondition for the broadcaster to provide the signals of television channels, if the broadcaster so decides?

Please support your answers with proper justification and reasoning.

TATA PLAY COMMENTS:

No Comments.

Q13. In case CAS and SMS are shared amongst service providers,

- i. what provisions for conducting audit should be introduced to ensure that the monthly subscription reports made available by the distributors (sharing the infrastructure) to the broadcasters are complete, true, and correct, and there are no manipulations due to sharing of CAS/DRM/SMS?
- ii. Should a broadcaster be allowed to simultaneously audit (broadcaster-caused audit) all the DPOs sharing the CAS/DRM/SMS, to ensure that monthly subscription reports are complete, true, and correct in respect of all such DPOs, and there are no manipulations due to sharing of CAS/DRM/SMS? Support your answer with proper justification and reasoning.

TATA PLAY COMMENTS:

No Comments.

Q14. Do you agree that in case of infrastructure sharing between DPOs, suitable amendments are required in the Schedule III of the Interconnection Regulation and the audit manual for assessment of multiplexer's logs during audit procedure? If yes, please suggest the proposed amendment(s), keeping in mind that no broadcaster should be able to see the data of another broadcaster. Please support your answer with proper justification and reasoning. If you do not agree, then also please support your answer with proper justification and reasoning?

TATA PLAY COMMENTS:

No Comments.

Q15. In light of infrastructure sharing, does clause 4.5 of the existing Audit Manual require any amendment? If yes, please suggest the amended clause. Please provide proper justification for your response. If no, then also please support your answer with proper justification and reasoning?

TATA PLAY COMMENTS:

No Comments.

Q16. In light of the infrastructure sharing guidelines issued by MIB, should clause 5.3 and clause 5.4 of Audit Manual be amended to read as follows:

“5.3 Certificate from all the CAS vendors (Format as in Annexure 1).

5.4 Certificate from SMS vendors (Format as in Annexure 2).

Note: In case of Infrastructure sharing, all the certificates/ documents related to CAS and SMS, should be given by the infrastructure provider distributor on the basis of certificate issued to it by CAS and SMS vendor.”

TATA PLAY COMMENTS:

No Comments.

Q17. In light of the infrastructure sharing guidelines issued by MIB for sharing of infrastructure amongst MSOs, amongst DTH operators and between MSO and HITS operator, do you think that there is a need to amend any other existing provisions of Interconnection Regulations 2017 or introduce any additional regulation(s) to facilitate infrastructure sharing amongst MSOs, amongst DTH operators and between MSOs and HITS operators? If yes, please provide your comments with reasons thereof on amendments (including any addition(s)) required in the Interconnection Regulation 2017, that the stakeholder considers necessary in view of Infrastructure guidelines issued by MIB. The stakeholders must provide their comments in the format specified in Table 4 explicitly indicating the existing Regulation number/New Regulation number, suggested amendment and the reason/ full justification for the amendment in the Interconnection Regulation 2017.

TATA PLAY COMMENTS:

No Comments.

Q18. In light of the infrastructure sharing guidelines issued by MIB for sharing of infrastructure amongst MSOs, amongst DTH operators and between MSO and HITS operator, do you think that there is a need to amend any other existing provisions of Audit Manual or introduce any additional clause(s) to facilitate infrastructure sharing amongst MSOs, amongst DTH operators and between MSOs and HITS operators? If yes, please provide your comments with reasons thereof on amendments (including any addition(s)) required in Audit Manual, that the stakeholder considers necessary in view of Infrastructure guidelines issued by MIB. The stakeholders must provide their comments in the format specified in Table 5 explicitly indicating the existing clause number/New Clause Number, suggested amendment and the reason/ full justification for the amendment in Audit Manual.

TATA PLAY COMMENTS:

No Comments.

Q19. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

TATA PLAY COMMENTS:

No Comments.