

Draft regulations for consultation



Telecom Regulatory Authority of India



**THE TELECOMMUNICATION (BROADCASTING AND
CABLE SERVICES) INTERCONNECTION (DIGITAL
ADDRESSABLE CABLE TELEVISION SYSTEMS) (SIXTH
AMENDMENT) REGULATIONS, 2015**

3rd November, 2015

**Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg,
New Delhi-11000**

Stakeholders are requested to furnish their written comments on the Draft Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) (Sixth Amendment) Regulations, 2015, by the 20/11/2015. Counter-comments, if any, may be submitted by 27/11/2015. The comments and counter-comments may be sent, preferably in electronic form to Advisor (B&CS), TRAI by Email sksinghal@traigov.in and smk.chandra@traigov.in

For any clarification/ information, Shri S.K.Singhal, Advisor (B&CS), TRAI, may be contacted at Telephone No. +91-11-23221509

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TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,

PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi the ___November, 2015

THE TELECOMMUNICATION (BROADCASTING AND CABLE SERVICES)
INTERCONNECTION (DIGITAL ADDRESSABLE CABLE TELEVISION SYSTEMS) (SIXTH
AMENDMENT) REGULATION, 2015

(No. ___ of 2015)

No. _____ - B&CS -----In exercise of the powers conferred by section 36, read with sub-clauses (ii), (iii), (iv) and (v) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39,-----

(a) issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----

the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations 2012 (9 of 2012), namely:-

1. (1) These regulations may be called the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems)(Sixth Amendment) Regulations, 2015 (___ of 2015).

(2) They shall come into force after ninety days from the date of their publication in the Official Gazette.

2. In regulation 5 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (9 of 2012), (hereinafter referred to as the principal regulations),---

(a) after sub-regulation (6), the following explanation shall be inserted,----

Explanation: It shall also be mandatory for the broadcaster to enter into written interconnection agreement with the multi system operator for retransmission of the pay channel(s) even if nil subscription fee is charged by the broadcaster or paid by the cable operator.

(b) for sub-regulation (16), the following sub-regulation shall be substituted, namely:----

“ (16) to ensure that inconvenience is not caused to the consumers by sudden disconnections of signals due to failure of the service providers to enter into new interconnection agreements, it shall be mandatory for the service providers to enter into new agreements twenty one days prior to the date of expiry of the existing agreement:

Provided that the broadcaster or multi system operator, as the case may be shall, sixty days prior to the date of expiry of the existing interconnection agreement, give notice to the multi system operator or the linked local cable operator, as the case may be, to enter into the new agreement:

Provided further that incase the service providers fail to enter into new interconnection agreement the multi system operator or the linked local cable operator, as the case may be, shall, fifteen days prior to the date of expiry of the agreement inform the consumer the disconnection of signals.”

(Sudhir Gupta)
Secretary, TRAI

Note.1-----The principal regulation was published in the Gazette of India, Extraordinary, Part III, Section 4, vide its notification No. 3- 24/2012- B&CS dated the 30th April 2012 and subsequently amended vide notifications No. 3- 24/2012- B&CS dated the 14th May 2012, No. 3-24/2012-B&CS dated the 20th September 2013, No. 3-24/2012- B&CS dated the 10th

February, 2014 and No. 6-33/2014-B&CS dated the 18th July, 2014 and 6-29/2015-B&CS dated: 14th September 2015.

Note.2-----The Explanatory Memorandum explains the objects and reasons of the draft Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) (sixth Amendment) Regulations, 2015 (__ of 2015).

Explanatory Memorandum

Background

1. Regulation of broadcasting and cable TV services was entrusted to the Telecom Regulatory Authority of India (hereinafter referred to as the TRAI) in 2004. Since then, TRAI has taken a number of initiatives for regulating the sector in exercise of both its recommendatory and regulatory powers vested with it as per the TRAI Act, 1997. In order to regulate the sector, TRAI has been issuing Regulations, Tariff Orders, Directions and Orders from time to time.
2. The operation of cable TV networks is governed by the Cable Television Networks (Regulation) Act 1995, as amended from time to time (CTV Act). The Government of India made an amendment, to the CTV Act and Rules made there under, to pave a way for implementation of Digital Addressable Cable TV Systems (DAS). TRAI has notified a comprehensive regulatory framework for DAS encompassing interconnection regulations, QoS regulations, tariff orders and consumer complaint redressal regulations.
3. The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (9 of 2012) dated 30th April, 2012 provides a framework for interconnection between Broadcasters & MSOs and MSOs & LCOs. Based on this framework, the service providers are required to enter into an agreement before providing signals of TV channels for re-transmission to subscribers.
4. The TRAI Act., 1997, mandates to maintain the register of interconnect agreements between service providers. In pursuance of the same, the Authority had notified the "The Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation 2004" which inter-alia, mandates annual filing of details of interconnection agreements by various entities in providing signals of TV channels.
5. While examining the details of interconnections submitted by the Broadcasters and Multi System Operators (MSOs), it has come to the notice of the Authority that in many cases the signals of TV channels are being provided by the broadcasters to MSOs and MSOs to Local Cable Operators (LCOs) even in the absence of valid Interconnection agreement in writing. It has also been observed that in cases where existing interconnection agreement has expired, the same is neither renewed nor a new agreement is signed even after expiry of several months from the date of expiry of existing interconnection agreement. It has been observed that in several cases agreements are delayed on the pretext of continued mutual negotiations, but continue retransmission of signal which often results into disputes and sometimes sudden disconnection that affects quality of service to consumers. The present

regulations which provide scope for mutual negotiations even after expiry of the agreement may be one of the causes for such disputes among stakeholders

6. The present regulations provide scope for mutual negotiations even after expiry of the agreement for three months. It is brought to the notice of the Authority that these provisions are interpreted differently by some service providers regarding effective date of applicability of new agreement i.e whether new agreement shall apply from the date of entering into the new agreement or it shall apply from the date of expiry of earlier agreement. Sometimes this results into avoidable price dispute leading to sudden disconnection of signals of TV channels and inconvenience to the consumers. Instances have brought to the notice where review of the price from retrospective effect resulted in arrear recovery from the consumers. In the context of various petitions filed by broadcasters and MSOs, the Hon'ble TDSAT has also made certain observations to strengthen the existing regulatory provisions. Therefore, strong need is felt to make it clear in the regulations that re-transmission of TV signals should not take place between service providers without valid written interconnection agreement and new agreement is entered between them well before the expiry of the existing interconnection agreement.
7. Therefore, the Authority felt that the regulation 5 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations 2012 may be reviewed in consultation with the stakeholders. Accordingly, the proposed Draft amendment is placed seeking comments of the stakeholders.
