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PART III, SECTION 4

**THE TELECOMMUNICATION (BROADCASTING AND CABLE  
SERVICES) INTERCONNECTION (SIXTH AMENDMENT)  
REGULATIONS, 2010**

**(No. 4 of 2010)**

**TELECOM REGULATORY AUTHORITY OF INDIA**

**NOTIFICATION**

New Delhi, the 30<sup>th</sup> July, 2010

F. No.6-7/2010 - B&CS.----- In exercise of the powers conferred by section 36, and by sub-clauses (ii), (iii), (iv) and (v) of clause (b) of sub-section (1) and sub-section (2) 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 Telecommunications) 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. S.O.44 (E) and 45 (E) dated 9<sup>th</sup> January, 2004 in the Gazette of India, Extraordinary, Part II, Section 3,-----

the Telecom Regulatory Authority of India hereby makes the following regulations further to amend the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004), namely:-

1. (1) These regulations may be called the Telecommunication (Broadcasting and Cable Services) Interconnection (Sixth Amendment) Regulations, 2010.

(2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. In regulation 2 of the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004), (hereinafter referred to as the principal regulations), -----

(a) for sub-clause (1), the following sub-clause shall be substituted, namely:-

“(1) **“head end in the sky operator”** or **"HITS operator"** means any person permitted by the Central Government to -----

(a) distribute multi channel TV programmes in C band or Ku band -----

(i) by using a satellite system, to intermediaries like cable operators and not directly to subscribers; and

(ii) by using its own cable network, if any, to the subscribers of such cable network through Quadrature Amplitude Modulation (QAM) set top boxes, after first downlinking the signals at its terrestrial receiving station; and

(b) provide passive infrastructure facilities like transponder space on satellite, earth station facilities, etc. to one or more multi system

operators or to any consortium of multi system operators or cable operators, for distribution of multi channel TV programmes, in C band or Ku band through QAM set top boxes, using such infrastructure facilities;”;

(b) for sub-clause (m), the following sub-clause shall be substituted, namely:-

“(m) “**multi system operator**” means any person who receives a broadcasting service from broadcasters or their authorized agencies or from a headend-in-the-sky operator and re-transmits the same to one or more cable operators or to consumers or to both and includes its authorised distribution agencies;”.

3. In regulation 3 of the principal regulations, ----

(a) in sub-regulation 3.2., for the expression “ Multi system operators shall also on request re-transmit signals received from a broadcaster, on a non-discriminatory basis to cable operators. ”, the following expression shall be substituted, namely:-

“HITS operators and multi system operators shall also, on request, re-transmit signals received from a broadcaster, on a non-discriminatory basis to cable operators.”;

(b) in sub-regulation 3.5, for the expression “ broadcaster/multi system operator”, wherever it occurs, the expression “broadcaster, multi system operator or HITS operator, as the case may be” shall be substituted.

4. In regulation 4 of the principal regulations, in sub-regulations 4.1 and 4.2, for the expression “broadcaster or multi system operator”, wherever it occurs, the

expression “broadcaster, multi system operator or HITS operator, as the case may be” shall be substituted.

5. In regulation 13.2A of the principal regulations, -----

- (a) in sub-regulation 13.2A.1, for the words, figures, brackets and numbers “Telecommunication (Broadcasting and Cable Services) Interconnection (Fifth Amendment) Regulation, 2009 (4 of 2009)”, the words, figures, brackets and numbers “Telecommunication (Broadcasting and Cable Services) Interconnection (Sixth Amendment) Regulations, 2010 (4 of 2010)” shall be substituted;
- (b) in the proviso to sub-regulation 13.2A.2, for the words, figures, brackets and numbers “Telecommunication (Broadcasting and Cable Services) Interconnection (Fifth Amendment) Regulation, 2009 (4 of 2009)”, the words, figures, brackets and numbers “Telecommunication (Broadcasting and Cable Services) Interconnection (Sixth Amendment) Regulations, 2010 (4 of 2010)” shall be substituted;
- (c) in sub-regulations 13.2A.3 and 13.2A.4, for the words, figures, brackets and numbers “Telecommunication (Broadcasting and Cable Services) Interconnection (Fifth Amendment) Regulation, 2009 (4 of 2009)”, wherever they occur, the words, figures, brackets and numbers “Telecommunication (Broadcasting and Cable Services) Interconnection (Sixth Amendment) Regulations, 2010 (4 of 2010)” shall be substituted;
- (d) in clause (1), clause (2) and clause (3) of sub-regulation 13.2A.6, for the words, figures, brackets and numbers “Telecommunication

(Broadcasting and Cable Services) Interconnection (Fifth Amendment) Regulation, 2009 (4 of 2009)”, wherever they occur, the words, figures, brackets and numbers “Telecommunication (Broadcasting and Cable Services) Interconnection (Sixth Amendment) Regulations, 2010 (4 of 2010)” shall be substituted.

6. In regulation 13.2B of the principal regulations, in sub-regulations 13.2B.1 and 13.2B.2, for the words, figures, brackets and numbers “Telecommunication (Broadcasting and Cable Services) Interconnection (Fifth Amendment) Regulation, 2009 (4 of 2009)”, wherever they occur, the words, figures, brackets and numbers “Telecommunication (Broadcasting and Cable Services) Interconnection (Sixth Amendment) Regulations, 2010 (4 of 2010)” shall be substituted.

(Subodh Kumar Gupta)  
Advisor (B&CS)

Note.1-----The principal regulations were published vide notification no. 8-26/2004-B&CS dated 10th December, 2004 and subsequently amended vide notifications no.3-57/2005-B&CS dated 3rd March, 2005, no.11-13/2006-B&CS dated 24th August, 2006, no. 6-4/2006-B&CS dated 4th September, 2006, no. 4-54/2007-B&CS dated 3rd September, 2007 and No. 3-21/ 2009 - B&CS dated 17<sup>th</sup> March, 2009.

Note.2-----The Explanatory Memorandum explains the objects and reasons of the Telecommunication (Broadcasting and Cable Services) Interconnection (Sixth Amendment) Regulation, 2010.

## Explanatory Memorandum

### Background:

Government of India (Ministry of Information and Broadcasting) announced Policy guidelines for providing Headend-in-the-Sky (HITS) broadcasting service in India on 26 Nov, 2009. Pursuant to the said announcement of HITS policy, the Ministry of Information and Broadcasting requested TRAI, vide its letter dated 10th December, 2009, to revisit the relevant interconnection regulations, tariff orders, etc., in order to take a view on whether there was any amendment required in them in the interest of the service so that the benefits of the policy can be fully achieved. On the basis of the said request, TRAI initiated a consultation process on the subject “Interconnection and Tariff Issues related to HITS services”. A consultation paper for the purpose was issued on 6<sup>th</sup> April, 2010. The consultation paper had grouped the issues posed for consultation into two broad categories, namely, interconnection issues and tariff issues. Issues relating to tariff have been addressed separately.

### Issues for Consultation:

2. As regards Interconnection, the consultation paper has noted that the existing definition of “headend in the sky operator”, as contained in the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004 (13 of 2004), was a narrow definition which restricted the operations of the HITS operator to C-Band only whereas the HITS policy of the Government of India announced on 26<sup>th</sup> November, 2009, permitted HITS operations either in C-Band or Ku-Band. It was also noted in the consultation paper that the existing definition prohibited a HITS operator from serving the subscribers directly, whereas the policy guidelines now

permitted the HITS operator to serve subscribers directly through its own cable network, if any, after first downlinking the signals to its terrestrial receiving station. These changes, brought about by the HITS policy of the Government, necessitated an amendment to the definition of “headend in the sky operator”, as contained in the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004 (13 of 2004)

3. The Consultation paper had also noted that, since a multi system operator can now take signals not only from broadcasters and their authorized agencies but also from a HITS operator, the definition of “multi system operator” also needed amendment. The consultation paper had, accordingly, broadly outlined the amendments required in these provisions and raised the following issues for consultation with the stake-holders:-

- (i) Are the proposed amendments to the interconnect regulations to implement HITS policy in order?
- (ii) What further amendments are required to implement HITS policy?

Stakeholder comments:

4. In all, 23 stakeholders offered their comments on the consultation paper. One stakeholder sent counter comments on the comments received from the stakeholders. Open House Discussions (OHDs) were held in Delhi, Pune, Bangaluru and Kolkata on 1<sup>st</sup> June, 2010, 3<sup>rd</sup> June, 2010, 4<sup>th</sup> June, 2010 and 8<sup>th</sup> June, 2010, respectively.

5. On the issue of the proposed amendments to the Interconnect Regulations to implement HITS policy being in order, almost all the stakeholders including broadcasters and MSOs have expressed their agreement to the proposed amendments.

6. Considering all the aspects of the matter as emerging from the consultation process, the Authority has amended the interconnection regulation by amending the definition of the HITS operator to provide for use of both C and Ku band by these operators. Since the policy guidelines issued by the Ministry of Information and Broadcasting permit HITS operator to distribute multi channels TV programmes on its own cable network (after first downlinking the signals at its terrestrial receiving station) and also provides for HITS operator to be a passive infrastructure facility provider to other MSO or consortium of cable operators, the scope of the existing definitions of “HITS operator” and “multi system operator” have been appropriately enlarged.

7. Consequential minor amendments to regulations 3, 4, 13.2A and 13.2B have also been made.

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