



सत्यमेव जयते

भारतीय दूरसंचार विनियामक प्राधिकरण
TELECOM REGULATORY AUTHORITY OF INDIA
भारत सरकार/Government of India



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Dated: 30th December, 2015

DIRECTION

Subject: Direction to M/s. Epic Television Networks Pvt. Ltd. under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997; sub-regulation (9) of regulation 4 and sub-regulation (11) of regulation 5 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012.

No. 17-31/2015-B&CS.--- Whereas the Telecom Regulatory Authority of India [hereinafter referred to as the Authority], established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997, has been entrusted with discharge of certain functions, inter-alia, to regulate the telecommunication services; to fix the terms and conditions of interconnectivity between the service providers; ensure technical compatibility and effective interconnection between service providers; lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunication service;

2. And whereas the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunications), vide its notification No.39,---

- (a) issued in exercise of powers conferred upon the Central Government by the proviso to clause (k) of sub-section (1) of section 2 of the TRAI Act, and
- (b) published under notification number S.O.44(E) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part III, Section 4,---

has notified broadcasting services and cable services to be telecommunication services;

3. And whereas, the Authority has, in exercise of powers conferred by the TRAI Act, 1997, read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39, made the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012(No. 9 of 2012) dated 30th April, 2012 (hereinafter referred to as the interconnection regulations);

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4. And whereas the interconnection regulations contain provisions regarding interconnection between MSOs and Broadcasters and read as under:-

“3. General Provisions relating to interconnection.-(1) *No Broadcasters of TV channels shall engage in any practice or activity or enter into any understanding or arrangement, including exclusive contract with any multi system operator for distribution of its channel which may prevent any other multi system operator from obtaining such TV channels for distribution.*

(2) Every Broadcasters shall provide signals of its TV channels on non-discriminatory basis to every multi system operator registered under rule 11 of the Cable Television Networks Rules, 1994, making request for the same.

Provided that nothing contained in this sub-regulation shall apply in the case of a multi system operator who is in default of payment.

Provided further that imposition of any term which is unreasonable shall be deemed as a denial of request.

Provided also that nothing contained in this sub-regulation shall apply in the case of a multi-system operator, who seeks signals of a particular TV channel from a Broadcasters, while at the same time demands carriage fee for carrying that channel on its distribution platform.

(3) *Every Broadcasters or his authorized agent shall provide the signals of TV channels to a multi system operator, in accordance with its reference interconnect offer or as may be mutually agreed, within sixty days from the date of receipt of the request and in case the request for providing signals of TV Channels is not agreed to, the reasons for such refusal to provide signals shall be conveyed to the person making a request within sixty days from the date of request.*

(4) *Every multi system operator while seeking interconnection with the Broadcasters, shall ensure that its digital addressable system installed for the distribution of TV channels meets the digital addressable system requirements specified in Schedule I to these regulations:*

Provided that in case the Broadcasters finds that the digital addressable system being used by the multi system operator for distribution of TV channel does not meet the requirements specified in the Schedule I, it shall inform such multi system operator who shall get its digital addressable system audited by M/s. Broadcast Engineering Consultants India Ltd., or any other agency as may be specified by the Authority by direction issued from time to time and obtain a certificate from such agency that its system meets the requirements specified in Schedule I to these regulations :

Provided further that the findings of the agency referred to in the first proviso shall be final.”

5. And whereas M/s. IndiaCast UTV Media Distribution Pvt. Ltd for and on behalf of M/s. Epic Television Networks Pvt. Ltd. forwarded to the Authority a copy of


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communication made with various Multi System Operators(MSOs) registered for providing cable TV services through Digital Addressable Systems (DAS);

6. And whereas the content of the letters mentioned in the para 5 above was examined and it was noted that the broadcasters declined the request of the MSOs seeking signals of TV channels for re-transmission to its subscribers, on the ground of non submission of information and documents sought by the service providers and conveyed its said decision to MSOs after sixty days from the date of receipt of the requests from such MSOs;

7. And whereas the Authority, vide its letter dated the 14th August, 2015, asked M/s. Epic Television Networks Pvt. Ltd. to produce the copies of documents and details of information sought by them from the MSOs for providing signals of TV channels and also furnish reasons for its failure to comply with the provisions of sub-regulation (3) of regulation 3 of the interconnection regulations which reads as under:-

“3. General Provisions relating to interconnection.-

(3) Every broadcaster or his authorized agent shall provide the signals of TV channels to a multi system operator, in accordance with its reference interconnect offer or as may be mutually agreed, within sixty days from the date of receipt of the request and in case the request for providing signals of TV Channels is not agreed to, the reasons for such refusal to provide signals shall be conveyed to the person making a request within sixty days from the date of request. ”;

8. And whereas M/s. Epic Television Networks Pvt. Ltd. vide their letter dated the 18th August, 2015 forwarded a copy of a communication made by them with the MSOs for and on behalf of the other Broadcasters which, inter-alia, lists the details of information and following documents which were sought from MSOs for providing signals:-

- (a) valid & subsisting Postal Registration Certificate & DAS License for each area/town/city you are willing to cater;
- (b) all relevant documents pertaining to the entity as listed in Annexure-A hereinafter.
- (c) map showing cable's laid overhead & underground along with requisite permission to lay cable. The map should be counter signed;
- (d) no dues certificate;
- (e) details of direct subscriber base along with the details of franchisee/cable operators/ sub operators along with their Addresses and their respective areas of operation with their connectivity/subscriber base.



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- (f) details of the Mode of transmission of signals (whether overhead or underground) and the copy of the permission from competent authorities in this regard.
- (g) certification showing the equipment's used by you and your franchisee cable operators (if any) as prescribed under cable Television Network (Regulation) Act, 1995.
- (h) statement showing the statutory compliances for last three years, if applicable.
- (i) your latest Income tax return.
- (j) certificate certifying the equipment used are of BIS Standards.
- (k) details of authorized signatory along with approval authorizing a person as authorized signatory, wherever required;
- (l) true and correct list of area of operation along with map; and
- (m) number of Digital Addressable Head-ends to be installed;

9. And whereas M/s. Epic Television Networks Pvt. Ltd. vide their letter dated 18th August, 2015, further informed that the reason for refusal of channels was communicated to the MSOs within the period of sixty days as provided in the interconnect regulations and since there was shortcoming in the request, it cannot be construed as valid request under the provisions of the interconnection regulations;

10. And whereas the Authority examined the reply of M/s. Epic Television Networks Pvt. Ltd. referred to in the preceding para, and asked the service provider to explain as to why the following details / documents sought by the Broadcasters should not be considered as imposition of unreasonable terms for denial of signals of TV channels;

- (a) valid & Subsisting Postal Registration Certificate for each area/town/city to be catered;
- (b) map showing cable's laid overhead & under-ground along with requisite permission to lay cable. The map should be counter signed ;
- (c) no dues certificate
- (d) details of MSOs direct subscriber base along with the details of their franchisee/ cable operators/ sub operators along with their addresses and their respective areas of operation with their connectivity/ subscriber base.
- (e) details of the mode of transmission of signals (whether overhead or underground) and the copy of the permissions from competent authorities in this regard.
- (f) statement showing the statutory compliances for last three years, if applicable
- (g) MSO's latest income tax return;
- (h) certificate certifying the equipments used are of BIS standards.
- (i) documents providing clarity on MSO's business aspects.


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11. And whereas M/s. Epic Television Networks Pvt. Ltd. vide their letter dated the 11th September, 2015 furnished the reasons for seeking information and documents from the seeker MSOs;

12. And whereas the Authority examined the response received from M/s. Epic Television Networks Pvt. Ltd. and found that certain information / documents sought by the Broadcasters are neither related to the supply of signals nor are in accordance with the provisions of the regulatory framework for DAS;

13. And whereas the sub-regulation (9) of regulation (4) of the interconnection regulations, inter-alia, provides as under:-

“(9) The Authority may, in order to protect the interest of the consumer and the service provider and to promote and ensure orderly growth of broadcasting and cable services, direct the service provider to modify its Reference Interconnect Offer.”

14. And whereas, the sub-regulation (11) of regulation (5) of the interconnection regulations provides that the Authority may issue such directions to the Broadcasters and the Multi System Operators as it may deemed fit to facilitate the process of interconnection between the Broadcasters and the MSOs. The relevant provision reads as under:-

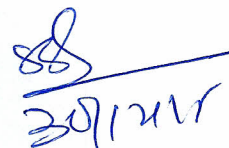
“(11) In case the Broadcasters and the multi system operator fail to enter into an interconnection agreement, such Broadcasters or multi system operator, without prejudice to the provision of section 14 A of the Act or any other law for time being in force, at any time, may make a request to the Authority to facilitate the process of entering into such agreement and the Authority may issue such directions to the Broadcasters and the multi-system operator as it may deem fit.”

15. And whereas a multi system operator is required to obtain permission from the Central Government, under rule 11 of the Cable Television Network Rules, 1994, to provide cable television network services with addressable system in the notified areas;

16. And whereas sub-regulation (2) of regulation 3 of the interconnection regulations provide that every broadcasters shall provide signals of its TV channels on non-discriminatory basis to every multi system operator registration under rule 11 of the Cable Television Network Rules, 1994

17. And whereas neither the Cable Television Network Rules, 1994, nor the interconnection regulations authorise that broadcaster to ask for the following documents:-

- (a) Postal registration certificate of the MSOs as MSO is required to register with the Ministry of Information and broadcasting for DAS areas;
- (b) number of cable homes/households in the proposed area of operation;
- (c) list of names and addresses of subscribers of MSOs network;
- (d) details of linked local cable operators;
- (e) copy of Right of Way (RoW) permissions;
- (f) copy of Municipal permissions;


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- (g) copies of Income Tax returns of the MSO;
- (h) information about mode of transmission of signals viz overhead or underground;
- (i) copy of insurance details of transmitting equipment, hardware/control room;
- (j) copy of lease or rent deed of head-end address; and information regarding criminal cases

18. Now, therefore, the Authority, in exercise of the powers conferred upon it under section 13, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) and the provisions of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (9 of 2012), hereby directs M/s. Epic Television Networks Pvt. Ltd. not to demand the following document/information from the Multi System Operators registered for providing cable TV services through Digital Addressable Systems seeking signals of TV channels for the purpose of re-transmission to subscribers:-

- (a) Postal registration certificate of the MSOs as MSO is required to register with the Ministry of Information and broadcasting for DAS areas;
- (b) number of cable homes/households in the proposed area of operation;
- (c) list of names and addresses of subscribers of MSOs network;
- (d) details of linked local cable operators;
- (e) copy of Right of Way (RoW) permissions;
- (f) copy of Municipal permissions;
- (g) copies of Income Tax returns of the MSO;
- (h) information about mode of transmission of signals viz overhead or underground;
- (i) copy of insurance details of transmitting equipment, hardware/control room;
- (j) copy of lease or rent deed of head-end address; and
- (k) information regarding criminal cases

and furnish compliance report within ten days of the date of issue of this Direction.



(G. S. Kesarwani)

Dy. Advisor(B&CS)

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To,

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