GTPL's Response to the Consultation Paper for Interconnection framework for Broadcasting TV Services distributed through Addressable Systems

Jun 10, 2016

We would like to thank TRAI for giving us opportunity to comment on the Consultation paper and congratulate for making a very sincere and concentrated effort to streamline all aspects of the Broadcasting Sector. We appreciate the hard-work and the effort being put in by the TRAI, to ensure the smooth functioning of this sector.

TRAI has already undertaken a detailed consultation exercise with regard to various tariff related issues and also had dealt with various models for re-transmission of signals.

The current Tariff regime is in a state of fix right now , with Broadcasters having come out with yet another RIO , which is in complete disregard to the NSTPL judgement dated 7.12.2015 by the Hon'ble TDSAT .as also the authority is yet to come out with its tariff order for the Broadcasting Sector. Hence this consultation paper on the Interconnect agreement between MSO and Broadcasters is a little ahead of its time..

It would have been appropriate to have this consultation post finalization of the Tariff regime by the Authority , for which the process is still underway.

Hence our comments on the issues raised in this consultation paper are purely based on the prevailing tariff regime and are bound to change when the Tariff consultation process becomes a finality.

Thanking you,

Yours Faithfully

For **GTPLHathwayPrivate Limited**

(Authorized Signatory)

ISSUES FOR CONSULTATION

Issue1:-COMMONINTERCONNECTIONFRAMEWORKFORALLTYPESOF ADDRESSABLE SYSTEMS [3.2 to 3.5]

1.1 Howalevelplayingfieldamongdifferentserviceprovidersusingdifferentaddressable systems can be ensured?

MSOs and HITS Operators are distinct from DTH and IPTV Operators. MSOs and HITS Operators have intermediary i.e. LCOs connecting it to the end consumers. DTH and IPTV, do not have an intermediary and deal directly with the customers. They have an unfair advantage vis-à-vis MSOs and HITS Operators. Steps have to be taken so that, it does not become commercially/ financially unviable and uncompetitive for MSOs and HITS Operators to compete with DTH and IPTV. As the position stands today, DTH and IPTV Operators are able to retain a much larger percentage of their net revenue collection, as they do not have to share it with any intermediary. As far as content cost is concerned, the same is similar across platforms, thus leading to a situation wherein the statutory framework ends up being inequitable to the MSOs qua other DPOs. It is therefore requested, that the Authority take steps to correct this anomaly.It is therefore our contention that there is no need to equate MSO and Hits with DTH and IPTV.

1.2 Should a common interconnection regulatory framework be mandated for all types of addressable systems?

Since there is a distinction between MSO/Hits and DTH/IPTV platforms, there cannot be a common interconnection regulatory frameworkas mentioned in point 1.1.In case of DPOs like MSOs and HITS Operators, LCOs areintegral part of the whole ecosystem and hence it is important for the regulatorto keep this distinction while framing appropriate regulatory framework.

Issue2:-TRANSPARENCY,NON-DISCRIMINATIONANDNON-EXCLUSIVITY [3.6 to 3.25]

2.1 Isthereanyneedtoallowagreementsbasedonmutuallyagreedterms, which do not form part of RIO,in digitaladdressable systems where calculationoffeecanbebasedonsubscriptionnumbers? If yes,then kindly justify with probable scenarios for sucha requirement.

We would like highlight that the Integrated Distribution Network Model is most suitable for all players in the Industry. Be that as it may, any change in the Distribution Model would result in corresponding changes to the Interconnection Regime. The present consultation paper on perusal appears to support the continuance of the present regime i.e. Regulated RIO.In our opinion this consultation process is a bit pre mature in the sense that we still await the final tariff regime to take shape. However In the context of the

present regime i.e. Regulated RIO continuing, there is no need for any mutually agreed terms which do not form part of the RIO provided the RIO actually meets the criteria of being a reference interconnect offer as stipulated by the honorable TDSAT in the NSTPL Judgement.

2.2 Howtoensurethattheinterconnectionagreementsenteredonmutually agreed terms meet the requirement of providing a level playing field amongst service providers?

As mentioned above, Subscription Agreements should only be executed on the basis of the RIO and mutually agreed terms should not be permitted other than those specifically mentioned in the RIO subject to contention mentioned in answer to point 2.1.

2.3 Whatarethewaysforeffectivelyimplementingnon-discriminationon ground?Whyconfidentialityofinterconnectionagreements anecessity? Kindly justify the comments with detailed reasons.

All Subscription Agreements would have to be entered into on the basis of the RIO, which would automatically result in non-discrimination on the ground. If there is no other mechanism other than RIO for execution of Subscription Agreements, parity and non-discrimination would be prevalent on the ground.

As far as confidentiality of Subscription Agreements is concerned the same should be maintained and kept away from public domain since the subscription agreements containssome sensitive and commercial information like subscriber numbers, packaging details and other information which are unrelated to the subscription fee, head-end location, particulars of IRDs etc. whose disclosure may lead to losses for the DPOs. In any event, the only argument in favor of disclosure is implementation of non-discrimination, which concern is already taken care while execution of Subscription Agreements only on the basis of RIO.

2.4 Shouldthetermsandconditions(includingrates)ofmutualagreement be disclosed to other service providers to ensure the non-discrimination?

In our opinion RIO should only be the basis for any agreement (subject to our contentions in point 2.1) and mutually agreed terms should not be permitted other than those specifically mentioned in the RIO. TRAI being the regulator has all the powers under the current regulations to obtain any information regarding the agreements and has legitimate authority to any coercive action against any delinquent party if it is of the view that it results in discrimination.

2.5 Whethertheprinciplesofnon-exclusivity,must-provide,andmust-carry arenecessaryfororderlygrowthofthesector?Whatelseneedstobe done to ensure that

subscribers get their choice of channels at competitive prices?

Under the existing Regulatory Regime, the concepts of non-exclusivity, must-provide and must-carry has been incorporated. The existing Regulatory Framework adequately covers these aspects and there is no need at present for modifying the same. Under the current market scenario there is adequate competition amongst the DPOs which results in competitive pricing for the consumer hence there is no need to tinker with the current regulations on these aspects.

2.6 ShouldtheRIOcontainallthetermsandconditionsincludingratesand discounts,ifany,offeredbyprovider,foreachandeveryalternative?If no, then how to ensure non-discrimination and level playing field? Kindly provide details and justify.

The RIO Agreement should be comprehensive and should contain all the terms and conditions.RIO should be plain vanilla / without any discounts and same should be applicable across all Platforms keeping in mind the additional burden of revenue sharing between MSO and LCO which is currently not applicable to other Addressable systems (DTH, HITS, IPTV). There should be no further Addendums, Side Letter's or understanding through any other mechanism with respect to Subscription Fee

2.7 ShouldRIObetheonlybasisforsigningofagreement? Ifno,thenhowto makeagreements comparable and ensure non-discrimination?

TheRIOshould be theonlybasisforsigningofagreement.

2.8 WhetherSIAisrequiredtobepublishedbyprovidersothatincases where service providers are unable todecide on mutually agreed terms, a SIA may be signed?

If RIO is the only basis for signing of agreement then a standard RIO agreement could suffice the requirement. It should be prescribed only by the authority and not by the broadcasters.

2.9 Shouldaformatbeprescribedfor applicationsseekingsignalsofTV channels and seeking access to platform for re-transmission ofTV channelsalongwith listofdocuments requiredtobeenclosedpriorto signing of SIA beprescribed?If yes, whatarethe minimum fields requiredforsuchapplicationformatsineachcase?Whatcouldbethe list of documents in each case?

The regulator can suggest a common format for all the applications and minimum documents required alongwith the application should be as follows:

a. License/ Permission
b. Proof of Identification

2.10 Should'mustcarry'provisionbemadeapplicableforDTH,IPTVandHITS platforms also?

'mustcarry'should not be there for any platform as the platforms have limitations with regards to bandwidth for the number of channels they carry along with requirement to carry regional channels on subscribers demand.

2.11 If yes, should therebe a provision todiscontinue a channelby DPO if the subscription falls below certain percentage of overall subscription of that DPO. What should be the percentage?

Under the existing Regulatory Framework for MSOs under proviso to Clause 3(10), it is not obligatory for an MSO to carry a channel for the next one year, if the subscription for the particular channel, in the last preceding 6 months is less than or equal to 5% of the subscriber base of that MSO taken as an average of subscriber base of the preceding six months. The percentage of 5% can be transposed from the extant provision, however the DPO should be permitted to discontinue the channel on the average subscriber base of the past 3 months instead of 6 months, and the period of refusal should be increased from 1 year to 3 years.

2.12 Should there be reasonable restrictionson 'must carry' provision for DTH and HITS platformsin view of limitedsatellitebandwidth? If yes, whether itshouldbesimilartothatprovidedinexistingregulationsforDASordifferent. If different, thenkindlyprovidethedetailsalongwith justification.

We stand by our reply to point no 2.10

2.13 Inordertoprovidemoretransparencytotheframework,shouldtherebe a mandate that all commercial dealings should be reflected in an interconnection agreement prohibiting separate agreements on key commercialdealing viz.subscription,carriage,placement,marketingand all its cognate expressions?

Carriage and Placement are separate and cannot be clubbed together. With regard to Subscription Agreements it is the DPO who is the signal seeker and all discounts offered on the Subscription Fee as mentioned earlier through any nomenclature including marketing etc. should be clearly spelt out in the RIO. Carriage Fee and/ or Placement Fee are amounts being paid to a service provider for a service being rendered by it. In fact, in a multitude of cases before the Hon'ble TDSAT it has been repeatedly argued by the Broadcasters that Carriage Fee and/ or Placement Fee do not have a direct co-relation with Subscription Fee. Under the existing Regulatory Framework a signal seeker (DPO) can be denied signals on

the ground that carriage fee is being demanded while seeking interconnection. In fact, making subscription, carriage, placement, part of the Interconnection would lead to a highly anomalous situation inasmuch as; 1) Subscription Agreements are drafted by the Broadcaster; 2) Carriage and/ or Placement Agreements are drafted by the DPO; 3) At times the Authorized Agent of the Broadcaster executes the Subscription Agreement whereas the Broadcaster executes the Carriage and/or Placement Agreement; 4) The Broadcaster pays Carriage and/or Placement Fee solely for getting higher viewership or eyeballs, resulting in higher advertisement revenues; 5) Carriage and/or Placement Agreements may or may not be concurrent with the Subscription Agreements; 6) Demand of Carriage Fee as a matter of right from the Broadcaster by the DPO results in denial of signals; 7) Carriage and/ or Placement Fee is dependent upon the demographic/ area of operation etc. of the DPO and the target market for the channel of the Broadcaster. For eg: A Hindi Channel would not pay Carriage and/ or Placement Fee to DPOs in South markets and will instead pay DPOs operating in HSM Markets; 8) The freedom of each DPO to charge Carriage and/ or Placement Fee will be completely taken away and would in fact be on the whims of the Broadcaster at the rate fixed by the Broadcaster.

Issue 3:- EXAMINATION OF RIO [3.26-3.32]

3.1 HowcanitbeensuredthatpublishedRIObytheprovidersfullycomplies withtheregulatoryframeworkapplicableatthattime?Whatdeterrents do you suggest to reduce non compliance?

Current bouquet rates, which are mentioned in the RIOs, are exorbitant and are divorced to the market realities. Since the number of pay channel Broadcasters is not substantial, it should be mandated that all draft RIOs be first submitted to the Regulator, who would have sufficient time to go through them and the same can only be published after the approval of the Regulator. If the above suggestion is accepted, the Regulator would have sufficient time to monitor and also take corrective action against the non-compliant RIOs and it would ensure that non-compliant RIOs are not put out in the public domain. Furthermore, the Regulator is in possession of all Interconnect Agreements and in the event it is found that the same are non-compliant, the Regulator can take appropriate action. As suggested by us in our response to consultation paper on Tariff issues related to TV industry, the IntegratedDistribution Model would eliminate the problems raised by the Current RIO rates announced by the Broadcasters.

3.2 Shouldtheregulatoryframeworkprescribeatimeperiodduringwhich any stakeholders may be permitted to raise objections on the terms and conditions of the draft RIO published by the provider?

RIOs of pay Broadcasters should be first submitted to the Regulator and only after the approval of the Regulator, should the same be published. As far as Interconnect Agreements between MSOs and LCOs are concerned, the Regulator has already issued a Regulation for execution of SIA/ MIA, which adequately protects the rights of all

stakeholders.

3.3 If yes, what period should be considered as appropriate for raising objections?

By virtue of the fact that the RIO is in public domain, does not give rise to a cause of action for challenging the same. Fixing of a time period for raising objections from date of publication of RIOs, would severely prejudice the rights of non-entrants to the field, as any such prescribed time period may expire even prior to their entering into the business. Furthermore, anything which is contrary to or in conflict with the statutory mandate cannot only by virtue of efflux of time, become compliant thereof.

Issue 4:- TIME LIMIT FOR PROVIDING SIGNALSOFTVCHANNELS / ACCESS TO THE PLATFORM[3.33-3.39]

4.1 Should the periodof60 daysalready prescribed to provide the signals may be further sub divided into sub-periods as discussed inconsultation paper? Kindly provide your comments with details.

The time period of 60 days may look on the longer side however in the interest of ensuring seriousness of any new player the time period of 60 days can be further sub-divided into 2 i.e. 30 days each, the first for raising objections and the second as a time period for curing the defects, if any. The Technical Audit, if any, ought to also be completed within first 30 days.

4.2 Whatmeasuresneedtobeprescribedintheregulationstoensurethat eachserviceproviderhonor'sthetime limitsprescribedforsigningof mutual agreement?Whether impositionof financial disincentives could be aneffectivedeterrent?Ifyes,thenwhatshouldbethebasisandamount for such financial disincentive?

There is no need to provide specific measures, so that time limits are honored. In the event, any service provider does not act in accordance with the statutorily fixed time period, the Regulator and Hon'ble TDSAT can always be approached to take remedial action. Furthermore, the loss/ damage caused to each party due to delay in providing signals/ access to platform will have to be determined on a case to case basis, after due adjudication of all facts and circumstances.

4.3 Should the SIA be mandated as fall back option?

The SIA for Interconnection Agreements should be published by the Regulator and be not left to the individual Broadcasters only for subscription agreements. The Regulator has already published the SIA for Interconnection Agreements between MSOs and LCOs, and a similar SIA can also be framed for Interconnection between Broadcasters and DPOs for

subscription. No SIA required for Carriage agreements.

4.4 Should onus of completing technical audit within the prescribed time limit liewithbroadcaster? If no,thenkindly suggestalternative waystoensure timely completion of the audit so that interconnection does not get delayed.

It has been repeatedly seen under the existing framework, that the Broadcasters unreasonably delay the start of Audit, its Auditors seek irrelevant and immaterial documents, demand compliance of conditions which are not even part of Schedule – I, in order to unreasonably and illegally deny supply of signals. It is submitted that the Regulator can publish a list of Authorized Auditors and any DPO, who is desirous of signals can approach one of the Authorized Auditors (BECIL) can get its CAS and SMS independently verified. Once the Authorized Auditor completes the audit and certifies it should be considered as duly authenticated for DAS Transmission.

4.5 Whether onus of fixing the responsibility for delay in individual cases may be left to an appropriate dispute resolution forum?

The Regulator and the Hon'ble TDSAT are empowered to take action against the errant parties in individual cases.

Issue 5:- REASONS FOR DENIAL OF SIGNALS / ACCESS TO THE PLATFORM[3.40-3.42]

5.1 Whataretheparameters thatcouldbetreatedasthebasisfordenialof the signals/ platform?

The parameters for denial of signals by a Broadcaster to a DPO can be as under:

1. Seeker does not does not possess a valid license/ permission to operate
2. Seeker is in default of payment
3. Seeker is a person of unsound mind
4. Seeker is an undischarged insolvent
5. Seeker has been convicted of an offence involving moral turpitude

The parameters for denial of signals by a DPO to a Broadcaster can be as under:

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4. Seeker is an undischarged insolvent
5. Seeker has been convicted of an offence involving moral turpitude
6. The channel is not in regional language of the region in which, the DPO is operating or in Hindi or in English Language

7. Seeker is unwilling to pay the uniform carriage fee as required by the DPO
8. DPO has bandwidth constraints and is therefore unable to carry the channel on its platform
9. DPO is unable to give the demanded LCN positions, packaging requirements due to market demographics

5.2 Should it be made mandatory for service providers to provide an exhaustivelistintheRIO whichwillbe thebasisfordenial ofsignalsof TV channels/ accessof the platform to the seeker.

There should be an exhaustive list in RIO, whichwillbe thebasisfordenial ofsignalsof TV channels/ accessof the platform to the seeker.

Issue 6:- INTERCONNECTION MANAGEMENT SYSTEM(IMS)[3.43-3.48]

6.1 ShouldanIMSbedevelopedandputinplaceforimprovingefficiencies and ease of doing business?

In today's fast moving environment, IMS should be made mandatory.

6.2 If yes, should signing of interconnectionagreements through IMS be made mandatory for all service providers?

Signing of Interconnect agreements through IMS should be made mandatory.

6.3 Ifyes,whoshoulddevelop,operateandmaintaintheIMS?Howthat agency may be finalized and what should be the business model?

The regulator is well aware of business models and technology in industry. Hence they can develop, maintain and operate the IMS.

6.4 WhatfunctionscanbeperformedbyIMSinyourview?Howwouldit improve the functioning of the industry?

Depending on its acceptance, feedback and ease of use for first time the IMS can be used for deposition and retrieval of Interconnection Agreements. The retrieval of agreements through IMS, would also help in reducing disputes with regard to copies of the Agreements not being provided to the other party.

6.5 WhatshouldbethebusinessmodelfortheagencyprovidingIMSservices for being self

supporting?

Reasonable fee per agreement can be suggested business model to recover costs of IMS.

Issue 7:- TERRITORY OF INTERCONNECTION AGREEMENT [3.49-3.51]

7.1 Whetheronly oneinterconnection agreement is adequate for the complete territory of operations permitted in the registration of MSO/ IPTV operator?

There can be one master agreement for all territories for which the MSO has the license.

7.2 Should MSOs be allowed to expand the territory withinthe area of operations as permitted in its registration issued by MIB without any advance intimation to the broadcasters?

On signing RIO Agreements, there is no need from the Broadcasters end to impose area wise restrictions. The details of all subscribers would be available in the CAS/ SMS of the MSOs. Furthermore, in light of the fact that the MIB has already issued a license to the MSO to supply signals only in areas mentioned in the said license then the Broadcasters cannot be allowed to put restrictions on the same and the MSO should be free to operate within only the area restrictions of the license issued by the MIB, however, in cases where the MSO requires fresh decoders, due to setting up a new head-end in a particular area, does the MSO need to provide intimation to the Broadcaster. In such a case, the Broadcaster should issue the decoders within a period of 7 days, which should be prescribed in the Regulations.

7.3 If no, then should it be made mandatory for MSO to notify the broadcaster about the details of newterritories where it wants to start distributionofsignalafresh inadvance?Whatcouldbe theperiodfor such advance notification?

Kindly refer to our response in Point 7.2

Issue 8:- PERIOD OF AGREEMENTS [3.52-3.55]

8.1 Whether a minimum term for an interconnection agreement be prescribed in the regulations? If so, whatit should be and why?

If RIO agreements are signed, the duration of the Agreement should be the period of the license period of the parties. In the event, the Broadcaster, decides to modify the terms of its RIO as per the existing framework under Clause 5(10), it has to give notice of 30 days to the MSOs. Therefore, no useful purpose is served by executing Interconnection

Agreements for a period of 1 year only. Furthermore, in the case of DTH, the Interconnection Agreements are usually for a longer duration.

Issue 9:- CONVERSION FROMFTA TOPAY CHANNELS [3.56-3.57]

9.1 Whetheritshouldbemademandatoryforallthebroadcasterstoprovide prior notice to theDPOs before converting an FTA channel to pay channel?

It is very important that all Broadcasters should provide prior notice to the DPOs before converting an FTA channel into Pay channel.

9.2 If so, what should bethe period for prior notice?

In the event a FTA Channel is converted into a pay channel prior notice to DPOs, as also to consumers by the Broadcasters ought to be circulated. Even under the existing Regulatory Framework i.e. Clause 7 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 a channel once declared FTA or pay has to remain such for at least a period of 1 year and before conversion a notice of 1 month has to be provided. It is submitted that the period of 1 month under the existing Regulations for conversion from FTA to Pay Channel is not sufficient. The period in case of conversion from FTA to Pay Channel, the notice period should be 6 months. It is beneficial to consumers if a channel is FTA, as a consumer does not have to pay subscription fee towards the same. Further, it is well established that each consumer only watches a few channels and especially GEC channels, wherein the TV shows continue for a long duration. Therefore, a consumer should be given sufficient advance notice that either he/ she would have to pay for the channel or it can change its viewing habits accordingly. The time period of 1 month does not sufficiently provide for a switch-over period.

Issue 10:- MINIMUMSUBSCRIBERS GUARANTEE [3.58-3.62]

10.1 Should the number of subscribers availing a channel be the only parameter for calculation of subscription fee?

It should be the unique count of customer availing the channels which should be counted for calculation of the subscription fee.

10.2 If no, what could bethe other parameter for calculating subscription fee?

10.3 Whatkindofchecksshouldbeintroducedintheregulationssothat discounts and other variables cannot be used indirectly for minimum subscribers guarantee?

All Interconnections be executed on the basis of the RIO published by the broadcasters, it will be ensured that there are no other Agreements i.e. fixed fee or minimum guarantee. In the event, any Broadcaster, does not enter into/ forces a DPO to enter into such an Agreement it could always be brought to the attention of the Regulator and/or the Hon'ble TDSAT for appropriate action.

Issue 11:- MINIMUMTECHNICAL SPECIFICATIONS [3.63-3.67]

11.1 Whether thetechnical specifications indicated in the existing regulations of 2012 adequate?

The existing technical specifications duly take care of the concerns of all stakeholders. Furthermore, Pan-India MSOs have already spent huge amount towards upgradation of their Networks and to make them compliant with Schedule – I of the 2012 Regulations. As on date, all MSOs have been saddled with huge debts and are suffering losses due to the investments they have made towards digitalization and till now have been unable to even recover their investments. To now change the technical specifications would result in further investment from the end of the already bleeding MSOs, resulting to their eventual closure. Once the technical specifications for DAS implementation have been prescribed and without implementation of DAS being even completed, to change the same would put the MSOs in a highly onerous and difficult position.

11.2 Ifno, thenwhatupdates/changesshouldbemadein theexisting technical specifications mentioned in the schedule I of the interconnection Regulations, 2012?

11.3 Should SMS and CAS also be typeapproved before deployment in the network? If yes, then which agency maybemandated toissuetest certificates for SMS and CAS?

Instead of getting it type approved, Regulator can appoint aauthorized agency like BECIL to certify the SMS & CAS before deployment.

11.4 Whether,incaseof anywrongdoingby CASorSMSvendor,actionfor blacklisting may be initiated by specified agency against the concerned SMS or CAS vendor.

CAS or SMS Vendors are neither the licensor nor licensee, nor are they service providers as contemplated within the TRAI Act or the Regulations. Therefore, it may not be within the scope or the power of the Regulator to blacklist such vendors. Furthermore, the vendors are only providing equipment mostly from foreign third parties, who are outside the

purview of the Regulatory Framework.

Issue 12:- TECHNICAL AUDIT OF ADDRESSABLE SYSTEMS [3.68-3.72]

12.1 Whether the typeapproved CAS andSMS be exempted from the requirement of audit before provisioning of signal?

Since these CAS and SMS would meet the technical requirement, they should be exempted from requirement of audit before provisioning of signal.

12.2 Whether the systems having the samemake, model, and version, that havealreadybeen auditedinsomeothernetworkandfoundtobe compliantwiththe laiddownspecifications,neednotbeauditedagain before providing the signal?

Once a system of the same make, model, and version, that have already been audited in some other network and found to be compliant, no useful purpose is served in re-audit of such systems, especially prior to execution of Interconnection Agreement.

12.3 If no, then what should be the methodology to ensure that the distributionnetworkofaDPOsatisfiestheminimumspecifiedconditionsforaddressablesystemswhileensuringprovisioningofsignalsdoesnot get delayed?

12.4 Whether the technical audit methodology prescribed in the regulations needs a review? If yes, kindly suggest alternate methodology.

The current process does not need a review and is sufficient.

12.5 Whether a panelof auditors on behalfofall broadcasters bemandated or enabled? What could be the mechanism?

The Regulator should publish/ prescribe a list of Auditors, who can conduct the Audit. Out of the panel, the Broadcaster and the DPO can mutually decide on Auditor for a specific assignment. In the event of a dispute regarding the choice of Auditor between the parties, the Regulator can intervene and select an Auditor. Furthermore, the procedure of Audits by the Broadcaster/ its representatives should be dispensed with and all Audits should only be conducted by the panel published by the Regulator. The experience has been that the auditors appointed by broadcasters are non-technical people who have no understanding of technology and indulged in time consuming analysis also raise illogical and irrational

queries resulting in wastage of resource and constant disturbance to the normal/routine functioning of the headend which provide services to the end consumers. In addition certain broadcasters intentionally complicate the process of audit and raise disputes with the intention of harassing the DPO and coercing him into accepting bouquets and not encourage providing a-la-carte to consumers.

12.6 Should stringent actions like suspension or revocation of DPO license/ registration,blacklistingof concernedSMS and CAS vendors etc.be specified for manipulating subscription reports? Will these be effective deterrent? What could be the other measures to curb such practices?

CAS or SMS Vendors are neither the licensor nor licensee, nor are they service providers as contemplated within the TRAI Act or the Regulations. Therefore, it may not be within the scope or the power of the Regulator to blacklist such vendors.

Furthermore, as far as actions against a DPO for manipulation of Subscription Reports are concerned the existing framework adequately protects the interests of the Broadcasters. If a DPO is indulged in such act it would be in the nature of a contractual breach, the penalty for which is adequately prescribed in the contract itself. Furthermore, all Interconnection Agreements between the Broadcaster and DPO contain provisions regarding incorrect reporting of subscriber numbers and the mechanism for compensation in the event the same occurs, thereby adequately protecting the interests of the Broadcasters. The license granted to a DPO by the Ministry of Information and Broadcasting or the up linking/ downlinking permission granted to a Broadcaster cannot be cancelled for reasons which are not even mentioned in such license. Furthermore, the suspension or cancellation of a license can only be done by the Authority which has granted such license and in terms of the provisions of such license.

Issue 13:- SUBSCRIPTION DETAILS [3.73-3.80]

13.1 Shouldacommonformatforsubscriptionreportbespecifiedinthe regulations? Ifyes, whatshouldbetheparameters?Kindlysuggestthe format also.

The current parameter prescribed in Schedule II of DAS Regulation 2012, sufficiently take care of the interest of all stakeholders.

1. Bouquet Report(Channel-wise) for the month

Sr. No.	BouquetName	ChannelspartofBouquet	OpeningSTBscount for	Closing STBs count for	AverageSTBscount for

2.Channel(s)A-la-Carte Report (Channelsnot part ofBouquet) for the month

Sr.No.	Channel Name(A-la-Carte)	Opening STBs count forChannel	Closing STBscountforChannel	Average STBs count forChannel

13.2 What should be themethod of calculation of subscriptionnumbers for eachchannel/bouquet?Shouldsubscriptionnumbersfor thedaybe captured at a given time on daily basis?

Existing framework adequately protects the interest of all stakeholders and does not require review i.e. Average of Active Opening & Closing subscribers of the month. Maintaining Daily Basis records is not viable.Manipulation can be detected in during audit Hence there is no requirement for daily subscriber level reports.

13.3 Whether the subscription audit methodology prescribed in the regulations needs a review?

Kindly see our response in 13.4

13.4 Whetheracommon auditoronbehalfof allbroadcastersbe mandatedor enabled? What could be the mechanism?

There is need to review the Audit Methodology. As mentioned above, the Regulator should publish/ prescribe a list of Auditors, who can conduct the Audit. Out of the panel, the Broadcasters and the DPO can mutually decide on Auditor for a specific assignment. The Auditor can audit the system of the DPO either once or twice a year. However, instead of doing an Audit on the request of a particular Broadcaster, it can Audit the entire system and subscriber reports etc. on one go for a period of 6 months/ 1 year. The Report regarding each Broadcaster can thereafter be shared with the concerned Broadcaster. In this manner, the current scenario in which there is much wastage of time and resources of the DPO towards Audit can be avoided. Furthermore, as the Audit would be done by the Agency prescribed by the Regulator rather than a representative of a party, the scope for disputes would be drastically reduced.

13.5 What could be the compensation mechanism for delay in making available subscription figures?

The existing Regulatory mechanism adequately and sufficiently covers the interest of all stakeholders. In the event, a DPO does not provide the subscriber report, within the stipulated time a notice for disconnection of signals can be issued. Furthermore, once the

requirement of issuance of public notice's is dispensed with, there would be no cost involved in issuing a notice, therefore, the same could be done by the Broadcaster without any financial implication.

13.6 What could the penal mechanism for difference be in audited and reported subscription figures?

The existing Regulatory mechanism adequately and sufficiently covers the interest of all stakeholders. Tt is a contractual breach if incorrect Reporting of Subscribers is done by a DPO. The penalty for which is adequately prescribed in the contract itself. Furthermore, all Interconnection Agreements between the Broadcaster and DPO contain provisions regarding incorrect reporting of subscriber numbers and the mechanism for compensation in the event the same occurs, thereby adequately protecting the interests of the Broadcasters.

13.7 Should a neutral third partysystem be evolved for generating subscription reports? Who should manage such system?

The confidentiality of reports is high, hence no third party system should be allowed.

13.8 Shouldtheresponsibilityforpaymentofauditfeebemadedependent upon the outcome of audit results?

No.Audit is a broadcaster'srequirementhence audit fee should be borne by broadcasters.

Issue 14:- DISCONNECTION OF SIGNALS OF TVCHANNELS [3.81-3.84]

14.1 Whetherthereshouldbeonlyone noticeperiodforthe noticetobegiven to a service provider prior to disconnection of signals?

We agree with the view of the authority that there should be only one notice period.

14.2 If yes, what should be the notice period?

The notice period should be 21 Days as per existing interconnect regulations.

14.3 If not, what should be the time frame for disconnection ofchannels on account of differentreasons?

In response to Issue No. 14.1, 14.2 and 14.3, the existing Regulatory framework sufficiently and adequately deals with the interests of all stakeholders and does not require any

modification. Common time period for all eventualities would neither be practicable nor possible. For e.g. If the up linking/ downlinking permission of a channel is cancelled, or a channel is banned by the Government, a DPO has no option but to immediately stop re-transmission of such channel. Furthermore, cases of closure of business cannot be equated with breach of contractual obligations.

Issue15:-PUBLICATIONOFONSCREENDISPLAYFORISSUEOFNOTICE FOR DISCONNECTION OF TVSIGNALS[3.85-3.88]

15.1 Whether the regulation should specifically prohibit, the broadcasters and DPOsfromdisplayingthenoticeofdisconnection,throughOSD,infull or on a partial part of the screen?

The OSDs, either full or partial, interfere with the TV watching experience of the end-consumer, who has not committed any default. The Regulator has already issued a direction in this regard, however the same should also be incorporated within the new Regulations.

15.2 Whether the methodology for issuing notice for disconnection prescribed in the regulations needs a review? If yes, then should notice for disconnection to consumers be issued by distributor only?

The Regulatory requirement of Public Notice can be dispensed with, as the same only results is additional costs to the Service Provider and most times, the same is not even read by the consumers, in whose interest the same has been issued. It should be mandated that in addition to issuance of a letter notice as contemplated in Clause 6.1 of the 2012 Regulations, a mandatory scroll has to be run for the duration of the Notice period. It should however, be mandated that the scroll should only be at the bottom of the screen and not interfere with the TV viewing experience of the end-consumer.

15.3 Whether requirement for publication ofnotices for disconnection in the news papers may be dropped?

The requirement should be dropped.

Issue16:-PROHIBITIONOFDPOASAGENTOFBROADCASTERS[3.89-3.91]

16.1 WhethertheRegulationsshouldspecificallyprohibitappointmentofa MSO,directlyorindirectly,asanagentofabroadcasterfordistribution of signal?

Although a broadcaster is free to appoint its agent under the proviso to clause 3.3 such an agent cannot be a competitor or part of the network.

16.2 Whether the Regulations make it mandatory for broadcasters to report their distributor agreements, through which agents are appointed, to the Authority for necessary examination of issue of conflict of interest?

It is in the interest of transparency and non-discrimination that broadcasters report such agreements to the Regulator, who can examine issues of conflict of interest

Issue 17:- INTERCONNECTION BETWEEN HITS/IPTVOPERATOR AND LCO [3.93-3.96]

17.1 Whether the framework of MIA and SIA as applicable for cable TV services provided through DAS is made applicable for HITS/IPTV services also.

HITS Operator is comparable to a Pan-India MSO, thereafter all extant provisions/ regulations applicable to pan-India MSO should also be made applicable to HITS Services. There is no reason or justification for treating HITS services on a different platform, especially in matters of Interconnection.

17.2 Ifyes,whatare the changes,ifany,thatshouldbeincorporatedinthe existing framework of MIA and SIA.

Response to Issue No. 17.1 applies to this issue as well. There is no requirement for changes in the existing MIA and SIA, the same can be applied to HITS Services as well.

17.3 Ifno,whatcouldbe othermethodtoensurenondiscriminationandlevel playing field for LCOs seeking interconnection with HITS/IPTV operators?

Issue18:-TIMEPERIODFORPROVIDINGSIGNALSOFTVCHANNELS [3.97-3.99]

18.1 WhetherthetimeperiodsprescribedforinterconnectionbetweenMSO and LCOshould be made applicable to interconnection between HITS/IPTV operator and LCO also? If no, then suggest alternate with justification.

18.2 Should the time period of 30 days for entering into interconnection agreementand 30 days for providing signals of TV channels is appropriateforHITSalso?Ifno,what shouldbethemaximumtime periodforprovisioningofsignaltoLCOs byHITSserviceprovider?Please provide justification for the same.

Response to Issue No. 17.1 and 17.2 be read in response to Issue No. 18.1 and 18.2 as well. The extant provisions relating to Interconnection between MSOs and LCOs should be applied to HITS Services as well.

Issue19:-REVENUESHAREBETWEENHITS/IPTVOPERATORANDLCO [3.100-3.103]

19.1 Whether the Authority should prescribe a fall back arrangement between HITS/IPTVoperatorandLCOsimilartotheframeworkprescribedin DAS?

The fall back arrangement has to be on the lines of MIA /SIA prescribed by the authority in case of MSOs and LCO's

19.2 Is there any alternate method to decidea revenue share between MSOs/ HITS/IPTV operators and LCOs to provide them a level playing field?

The extant provisions relating to fall back i.e. SIA between MSOs and LCOs should be applied to HITS Services as well

Issue 20:- NO-DUES CERIFICATES [3.104-3.107]

20.1 Whether a service provider should provide on demand a no due certificateordetailsofdueswithina definitetimeperiodtoanother service provider? If yes, then what should be the time period?

The service provider should provide on demand a no due certificate or details of dues within 21 days.

Issue 21:- PROVIDING SIGNALS TO NEW MSOs[3.108-3.110]

21.1 Whether it should be made mandatory for the new MSO toprovide the copy of current invoice and payment receipt as a proof ofhaving clear outstanding amount with the last affiliated MSO?

The maximum time period for providing a no-dues certificate should be 21 days. The notice period of 21 days, would be in terms of the existing Regulatory framework, wherein prior to disconnection of signals a service provider is to give a Notice Period of 21 days. Furthermore, issuance of no-dues certificate on demand would help in reduction of disputes, wherein LCOs migrate from one MSO/ HITS to another.

21.2 Whetherthebroadcastershouldbeallowedtodenytherequestofnew MSO on the grounds of outstanding payments of the last affiliated MSO?

In case of any pending dues, the Broadcaster should be allowed to deny the request.

Issue 22:- SWAPPING OF SET TOP BOX [3.111-3.113]

22.1 Whether,itshouldbemademandatoryfortheMSOstodemandano- dues certificate from the LCOs in respect of theirpast affiliated MSOs?

At present LCOs, without even issuance of statutory notice's and without returning the STBs and clearing the dues of the MSO migrate to another MSO, resulting in huge losses to the MSO. There is an urgent need to stop such unlawful practices by the LCOs, which is resulting in wasting of valuable infrastructure and equipment. On one hand due to shortage of STBs, there is a delay in implementation of DAS Phase III and on the other LCOs continue to illegally retain the STBs of the past MSO.

22.2 WhetheritshouldbemademandatoryfortheLCOstoprovidecopyof last invoice/ receipts from the last affiliated MSOs?

Any LCO who intends to migrate from its existing MSO to new MSO, the LCO should provide a No dues from his earlier MSO to new MSO.

Issue 23:- ANY OTHER RELEVANT ISSUE THAT THEY MAY DEEMFIT IN RELATION TO THIS CONSULTATION PAPER