



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



DIRECTION

Dated: 27th August 2019

28/8

Subject: Direction to M/s Hathway Digital Pvt Ltd. under section 13, read with sub-clause (v) of clause (b) of sub section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 to ensure compliance of various provisions of the New Regulatory Framework for Broadcasting and Cable TV Services

No. 12-36/2019-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 (24 of 1997) [hereinafter referred to as "TRAI Act"], has been entrusted to discharge certain functions, inter-alia, to regulate the telecommunication services; fix the terms and conditions of inter-connectivity between the service providers; ensure technical compatibility and effective inter-connection between different 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 Central Government, in the Ministry of Communication and Information Technology (Department of Telecommunications), vide its notification No.39, ---

(a) issued in exercise of powers conferred by the proviso to clause (k) of sub-section (1) of section 2 of the TRAI Act, 1997 and

(b) published under notification number S.O.44(E) dated the 9th January 2004 in the Gazette of India, Extraordinary, Part II, Section 3 - sub-section (ii)---

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

3. And whereas the Authority notified a new regulatory framework for Broadcasting and Cable TV services provided through addressable systems, encompassing the following: -

(a) the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 dated 3rd March 2017, [Tariff Order 2017];

(b) the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 dated 3rd March 2017 [Interconnection Regulations 2017];

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(c) the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 dated 3rd March 2017 [QoS Regulations 2017];

4. And whereas the Authority, vide its Press Note dated the 3rd July 2018, informed the stakeholders that various timelines prescribed in the Interconnection Regulations 2017, the QoS Regulations 2017 and the Tariff Order 2017 shall commence with effect from 3rd July 2018;

5. And whereas the new regulatory framework comprising the Interconnection Regulations 2017, the QoS Regulations 2017 and the Tariff Order 2017 became applicable with effect from 29th December 2018;

6. And whereas in order to protect the interest of the consumers and to ensure smooth transition to the new regulatory regime, the Authority, vide the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Amendment) Regulations, 2018 dated 28th December, 2018, permitted the continuance of the existing packs, plans and bouquets up to 31st January, 2019 and directed all distributors of television channels to offer and obtain the option for subscription of new packs, plans or bouquets from the subscribers on or before 31st January, 2019 and ensure that services to the subscribers, after the 31st January, 2019 are provided as per the new packs, plans or bouquets opted for subscription by the subscribers;

7. And whereas sub-regulations (1), (2) & (3) of regulation 23 of the Quality of Service (QoS) Regulations, 2017 read as under:

“23. Pre-paid billing and payment. —

(1) *Every distributor of television channels or its linked local cable operator, as the case may be, shall, in case of pre-paid payments, acknowledge such payments to the subscriber and ensure that the subscriber management system is updated accordingly.*

(2) *The billing cycle for pre-paid payment option shall be thirty days from the date of activation of services.*

(3) *Every distributor of television channels shall, on its website, maintain the records of billing and payment of subscribers, for at least preceding six months and provide log-in access to the subscribers to their accounts:*

Provided that such records of subscriber shall contain itemised usage details of, —

(a) network capacity fee,

(b) rental charges for customer premises equipment, if any,

(c) charges for pay channels and bouquets of pay channels subscribed by subscriber during the period of billing cycle,

(d) any other charges which has been levied in compliance with the provisions of

these regulations and, (e) taxes in conformity with applicable laws.....”

M. Anand Kumar

8. And whereas Clause 11.1 of Model Interconnect Agreement (MIA) under Schedule V and Standard Interconnect Agreement (SIA) under Schedule VI of Interconnection Regulations 2017, inter-alia, provides that, each party shall ensure that the applicable Laws, rules and regulations related to taxes are complied with;

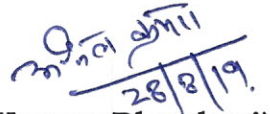
9. And whereas the Authority, on receipt of the complaints from the consumers, LCOs and their associations, carried out audit inspection through M/s BECIL, into the Head-end, CAS, SMS and the network system etc. of M/s Hathway Digital Pvt Ltd under section 12 of the TRAI Act, read with regulation 21 of the Interconnection Regulations, 2017;

10. And whereas based on the inspection report submitted by BECIL to the Authority, a letter dated 14th June 2019 was issued to M/s Hathway Digital Pvt Ltd to submit the compliance to the shortcomings/discrepancies noticed during the audit within fifteen days of the issue of the letter;

11. And whereas on scrutiny of the reply received from M/s Hathway Digital Pvt Ltd, it was found that it still does not comply with the New Regulatory Framework, 2017 on the following points: -

- facility of Bill generation is available in LCO portal, but the customers are not able to get itemised billing in most cases even after the request of the subscriber;
- LCOs without GST Registration are collecting tax amount from the subscribers but not depositing it;

12. Now, therefore, the Authority, in exercise of its power under section 13, read with sub-clause (v) of clause (b) of sub section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), hereby directs M/s Hathway Digital Pvt Ltd to resolve the issues mentioned in para 11 above and adhere to the provisions of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 and the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017, and to report compliance as per the new regulatory framework within seven days from the date of issue of this direction.


28/8/19.
(Anil Kumar Bhardwaj)
Advisor (B&CS)

To,

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