

**TO BE PUBLISHED IN THE GAZETTE OF INDIA,
EXTRAORDINARY, PART III, SECTION 4
TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION**

NEW DELHI, the 28th December, 2018

F. No.21-4/2018-B&CS.----In exercise of the powers conferred by section 36, 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), read with notification of the Central Government, 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 under clause (d) of sub-section (1) of section 11 and proviso to clause (k) of sub section (1) of section 2 of the said Act, and

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

the Telecom Regulatory Authority of India hereby makes the following regulations to amend the Telecommunications (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (2 of 2017), namely:-

1. (1) These regulations may be called the Telecommunications (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Amendment) Regulations, 2018 (11 of 2018).

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

2. In regulation 45 of the Telecommunications (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (hereinafter referred to as the principal regulations), for sub-regulation (3), the following shall be substituted, namely:-

“(3) Nothing contained in these regulations shall affect any packs, plans or bouquets on offer before the commencement of these regulations and all the distributors of television channels shall continue to offer the said packs, plans or bouquets to all the subscribers till 31st January, 2019.

Provided that it shall be mandatory for all the distributors of television channels to either discontinue or modify all their existing packs, plans or bouquets in compliance with the provisions of these regulations after 31st January, 2019.

Provided further that all distributors of television channels shall offer and obtain the option for subscription of new packs, plans or bouquets from the subscribers in compliance with the provisions of these regulations on or before 31st January, 2019 and shall ensure that services to the subscribers are provided as per the new packs, plans or bouquets opted for subscription by the subscribers only after 31st January, 2019.”

(S. K. Gupta)
Secretary, TRAI

Note.1----- The principal regulations were published vide notification No. 21-5/2016-B&CS dated the 3rd March, 2017.

Note.2----- The Explanatory Memorandum explains the objects and reasons of the Telecommunications (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Amendment) Regulations, 2018.

Explanatory Memorandum

A consultation paper was issued by TRAI on 18th May, 2016 to harmonize the QoS Regulations issued by TRAI from time to time and to formulate a unified regulatory framework for different platforms. This consultation process resulted in notification of the Telecommunications (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (2 of 2017) dated the 3rd March, 2017[herein after referred to as QoS Regulations 2017]. In order to enable a smooth transition from the old regulatory framework to the new one, the Authority in these regulations provided a time up to 180 days to the service providers to either discontinue or modify all their existing packages, bouquets /channels and plans in compliance of the regulations and tariff orders. These regulations also provide that certain provisions relating to offering of services, CPE Scheme, customer care centre, customer care programming service and website are to be implemented within 120 days from the date of publication of the Regulations in the official gazette.

2. In addition to the aforesaid regulations, the Authority has also notified the Interconnection Regulations of 2017 and Tariff Orders of 2017. The QoS Regulations 2017 was challenged before Hon'ble Delhi High Court by some service provider and a consumer, *inter-alia*, seeking stay and setting aside of these regulations. During the course of hearing of the matter before the Hon'ble Delhi High Court, the Authority informed the Hon'ble High Court that in view of challenge to the Interconnection Regulations and Tariff Order pending before Hon'ble Madras High Court wherein status quo has been ordered by the Hon'ble Supreme Court, the Authority is not implementing the QoS Regulations of 2017. Thereupon the Hon'ble Delhi High Court directed TRAI that upon the pronouncement of judgement by the Hon'ble Madras High Court, the Authority shall inform the petitioners of the outcome in the judgement and shall inform the Hon'ble Delhi High Court as well before effectuating the orders.

3. Since the implementation of QoS Regulations, 2017 was linked with the inter-connection Regulation of 2017 and the Tariff Order of 2017, their implementation was also deferred in view of the status quo order dated the 8th May, 2017 passed by the Hon'ble Supreme Court in SLP No. 14336 of 2017. The Hon'ble High Court of Madras vide its judgement dated 2nd March, 2018 and 23rd May, 2018 upheld the validity of the Telecommunications (Broadcasting & Cable) services (Eighth) (Addressable Systems) Tariff Order 2017 and Telecommunication (Broadcasting & Cable) Interconnection (Addressable Systems) Regulations 2017. Thereafter the Authority issued a press release dated 3rd July, 2018 informing the stakeholders that inter-connection regulation, 2017, the Tariff Order 2017 and QoS Regulation 2017 came into effect from 3rd July, 2018.

4. In order to have a smooth implementation of the new regulatory framework, TRAI held a series of meetings and consultations with all the stakeholders including Consumer Advocacy Groups (CAG) during last 4-6 weeks. During these meetings, it was pointed out by some of the stakeholders that Distributor Retail Price (DRP) by the DPOs could be declared within 180 days from the 3rd July 2018 and the subscribers were also required to be migrated to the new framework within the same period. This entire process of migration including taking options from the subscribers after declaration of DRPs as well as to bring the subscribers to the new framework cannot be carried out simultaneously. Further, to make the consumers aware about the new framework and the process of seeking fresh choice of TV channels from all subscribers would require some time and resources.

5. A meeting of the Authority was also held on 19th December 2018 with the CEO's of major service providers in the broadcasting and cable services sector. The issue of smooth migration from the old to new regulatory framework was specifically discussed and deliberated upon. Subsequently, to assess the preparedness for migration, the Authority held another meeting on 27th December 2018 with all broadcasters and leading DPOs (DTH/MSO/HITS/IPTV). It emerged from the discussions that most of the stakeholders are by and large ready for implementation of new regulatory framework. However, the progress to collect choice of subscribers is slow. In order to have a smooth transition of subscribers from old to new framework, across the country, some more time is desirable. Accordingly, the Authority agreed to the request of industry and decided that DPOs may be given time up to 31st January 2019 to obtain subscribers' options of TV channels for migration to new regulatory framework. The subscribers would accordingly be migrated to new regulatory framework as per their options w.e.f. from 1st February 2019. In this regard, a detailed schedule of activities dated 27th December 2018 issued by TRAI also refers.

6. Accordingly, regulation 45(3) of the principal regulations dated the 3rd March, 2017 has been amended.