TO BE PUBLISHED IN THE GAZETTE OF INDIA
EXTRAORDINARY, PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION

New Delhi, the 14th May, 2012

F. No. 16- 2/2012- B&CS .---- In exercise of the powers conferred by section 36, 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), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) 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 III, Section 4, the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

STANDARDS OF QUALITY OF SERVICE
(DIGITAL ADDRESSABLE CABLE TV SYSTEMS) REGULATIONS, 2012
(12 OF 2012)

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.-

1. These regulations may be called the "Standards of Quality of Service (Digital Addressable Cable TV Systems) Regulations, 2012 (12 of 2012)".
2. They shall come into force from the date of their publication in the Official Gazette.

2. Definitions.- In these regulations, unless the context otherwise requires:

(a) "Act" means the Telecom Regulatory Authority of India Act 1997 (24 of 1997);

(b) "addressable system" means an electronic device (which includes hardware and its associated software) or more than one electronic device put in an integrated system through which signals of digital addressable system can be sent in encrypted form, which can be decoded by the device or devices, having an activated Conditional Access System at the premises of the subscriber within the limits of authorisation made, through the Conditional Access System and the subscriber management system, on the explicit choice and request of such subscriber, by multi-system operator or DTH operator or IPTV operator or HITS operator to the subscriber;

(c) "a-la-carte" with reference to offering of a TV channel means offering the channel individually on a standalone basis;

(d) "a-la-carte rate" means the rate at which a standalone individual channel is offered to the distributor of TV channels or to the subscriber, as the case may be;

(e) "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997;

(f) "broadcaster" means a person or a group of persons or body corporate, or any organisation or body providing programming services and includes his authorised distribution agencies;

(g) “bouquet” or “bouquet of channels” means an assortment of distinct channels, offered together as a group or as a bundle;

(h) “bouquet rate” or “rate of bouquet” means the rate at which a bouquet of channels is offered to the distributor of TV channels or to the subscriber, as the case may be;

(i) "cable operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network and fulfils the prescribed eligibility criteria and conditions;

(j) "cable service" means the transmission by cables of programmes including re-transmission by cables of any broadcast television signals;

(k) "cable television network" means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(l) “Complaint Centre” means a facility established by the multi-system operator or his linked local cable operators, as the case may be, under regulation 3 of the Consumers Complaint Redressal (Digital Addressable Cable TV Systems) Regulations, 2012;

(m) “encrypted” in respect of a signal of cable television network, means the changing of such signal in a systematic way so that the signal would be unintelligible without use of an addressable system and the expression “unencrypted” shall be construed accordingly;

(n) “free-to-air channel”, in respect of a cable television network, means a channel for which no subscription fee is to be paid by the cable operator to the broadcaster for its re-transmission on cable;

(o) “manual” means the Manual of Practice referred in regulation 9 of these regulations;

(p) “maximum retail price” is the ceiling price, exclusive of taxes, which shall be payable by a subscriber to the multi-system operator or its linked cable operator, as the case may be, for each channel or bouquet of channels made available to such subscriber by the multi-system operator;

(q) “Multi-System Operator” means a cable operator who has been granted registration under rule 11 of the Cable Television Networks Rules, 1994, as amended by rule 8 of the Cable Television Networks (Amendment) Rules, 2012, and who receives a programming service from a broadcaster or its authorised agencies and re-transmits the same or transmits his own programming service for simultaneous reception either by multiple subscribers directly or through one or more local cable operators and includes his authorised distribution agencies, by whatever name called;

(r) “Nodal Officer” means the officer appointed or designated by a multi-system operator or his linked local cable operator, under regulation 8 of the Consumers Complaint Redressal (Digital Addressable Cable TV Systems) Regulations, 2012;

(s) "pay channel", in respect of a cable television network, means a channel for which subscription fees is to be paid to the broadcaster by the cable operator and due authorisation needs to be taken from the broadcaster for its re-transmission on cable;

(t) "programme" means any television broadcast and includes;

(i) exhibition of films, features, dramas, advertisements and serials;

(ii) any audio or visual or audio-visual live performance or presentation; and----

the expression "programming service" shall be construed accordingly;

(u) "service provider" means the Government as a service provider and includes a licensee as well as any broadcaster, multi-system operator, cable operator or distributor of TV Channels;

(v) “set top box” means a device, which is connected to, or is part of a television and which allows a subscriber to receive in unencrypted and descrambled form subscribed channels through an addressable system;

(w) "subscriber" means a person who receives the signals of a service provider at a place indicated by him to the service provider without further transmitting it to any other person and includes ordinary subscribers and commercial subscribers unless specifically excluded;

(x) "subscriber management system" means a system or device which stores the subscriber records and details with respect to name, address and other information regarding the hardware being utilised by the subscriber, channels or bouquets of channels subscribed to by the subscriber, price of such channels or bouquets of channels as defined in the system, the activation or deactivation dates and time for any channel or bouquets of channels, a log of all actions performed on a subscriber's record, invoices raised on each subscriber and the amounts paid or discount allowed to the subscriber for each billing period;

(y) “TV channel” means a channel, which has been registered under -----

(i) the guidelines for uplinking from India, issued vide No.1501/2/2002-TV(I)(Pt.) dated the 2nd December, 2005; or

(ii) policy guidelines for downlinking of televisions channels, issued vide No. 13/2/2002-BP&L/BC-IV dated the 11th November, 2005, ---------

as amended from time to time, or such other guidelines for uplinking or downlinking of television channels, as may be issued from time to time by Government of India

(Ministry of Information and Broadcasting) and reference to the term ‘channel’ shall be construed as a reference to “TV channel”;

(z) all other words and expressions used in this regulations but not defined, and defined in the Act and rules and regulations made thereunder or the Cable Television Networks (Regulation) Act, 1995 (7 of 1995) and the rules and regulations made thereunder, shall have the meanings respectively assigned to them in those Acts or the rules or regulations, as the case may be.

CHAPTER II

CONNECTION, DISCONNECTION, RECONNECTION, TRANSFER AND SHIFTING OF CABLE TV SERVICES

3. **Procedure for connection, disconnection, reconnection, transfer and shifting . –** (1) Every multi-system operator or its linked local cable operator, as the case may be, offering digital addressable cable TV services, shall devise formats of application for seeking connection, disconnection, reconnection and for obtaining and returning of set top box as specified in Schedule I to these regulations.

(2) Adoption of common format as specified in Schedule I to these regulations by a multi-system operator or its linked local cable operator, as the case may be, shall be construed as compliance of the requirement under sub-regulation (1).

(3) Any person seeking connection or disconnection or reconnection or shifting of cable service connection or intending to obtain or return set top box at a place located within the area of operation of multi-system operator or its linked local cable operator, as the case may be, may submit an application in the format referred to in sub-regulation (1), in duplicate, duly signed and complete in all respect, to the multi-system operator or its linked local cable operator who shall return the duplicate copy of the application to the applicant as an acknowledgment of receipt of application.

(4) Every applicant whose application has been accepted by the multi-system operator or its linked local cable operator, as the case may be, shall be given a unique identification number.

4. Provision of cable service to every person subject to technical and operational feasibility .-- Every multi-system operator or its linked local cable operator shall provide the cable services to every person making request for the same, subject to technical and operational feasibility.

5. Response time and time limit for providing connection.-- (1) Every application from an applicant, submitted under sub-regulation (3) of regulation 3, shall be acted upon immediately by the multi-system operator or its linked local cable operator, as the case may be, and shortcoming or deficiency, if any, shall be communicated in writing to the applicant within two days of receipt of the application.

(2) In case the multi-system operator or its linked local cable operator finds that it is possible to provide connection, reconnection, shifting of services or supply of set top box, there being no technical or operational non-feasibility of providing the cable service, the connection, reconnection, shifting of service or supply of set top box shall be done within two days of receipt of such application from the applicant.

6. Communication of technical or operational non-feasibility.— In case it is technically or operationally non-feasible to provide connection, reconnection, shifting of service or supply of set top box at the location where the services are requested by the applicant, the multi-system operator or linked local cable operator, as the case may be, shall inform the applicant within two days of receipt of the application, indicating the reasons as to why it is technically or operationally not feasible to provide the service sought by the applicant and for the purposes of this regulation the technical non feasibility includes the following :-

(i) the location where the service is required is not accessible or is accessible at a cost, which the subscriber is not agreeable to bear;

(ii) the location where the service is required is accessible but it is not technically feasible to provide the quality of signals to the extent specified in sub-regulation (2) of regulation 18 of these regulations; and

(iii) the location where the service is required falls outside of the area of operation of multi-system operator or its linked local cable operator, as the case may be.

7. Discontinuing or Disconnection of cable service to the subscriber.— (1) No multi-system operator or its linked local cable operator, as the case may be, shall disconnect the cable services to the subscriber without giving prior notice of at least fifteen days to such subscriber indicating

the reasons for such disconnection and the period of fifteen days shall be reckoned from the date of receipt of the notice of disconnection by the subscriber.

(2) If the services to a subscriber have been discontinued on his request, no charge other than the charges for set top box, if any, shall be payable by such subscriber.

(3) If the services to a subscriber have been discontinued by the multi-system operator or its linked local cable operator, as the case may be, no charges for the period for which the services were discontinued including the charges of Set Top Box shall be payable by the subscriber.

(4) On a request being made for discontinuation of service by a subscriber, a multi-system operator or its linked local cable operator, as the case may be, shall suspend the supply of signal to such subscriber:

Provided that a multi-system operator or its linked local cable operator, as the case may be, may not discontinue the service to a subscriber at the request of such subscriber, if such request for suspension of subscription is for a period which comprises part of a calendar month:

Provided further that every multi-system operator or its linked local cable operator, as the case may be, shall suspend the service to a subscriber at the request of such subscriber, if such request for suspension of subscription is for a period of a calendar month or multiple of calendar months and the requested period of suspension does not exceed three calendar months:

Provided also that no charge for the services other than the rent for set top box shall be levied on the subscriber for the period during which the services were discontinued.

(5) Every multi-system operator or its linked local cable operator, as the case may be, shall disconnect the cable services, on receipt of written request from the subscriber, from the date indicated by the subscriber in his written request and no charge shall be payable by the subscriber from the date indicated by him in his written request even if the cable services are not disconnected:

Provided that the subscriber making request for disconnection shall give at least fifteen days prior notice to the multi-system operator or its linked local cable operator.

(6) If the services to a subscriber have been discontinued by the multi-system operator or its linked local cable operator, as the case may be, on their own or upon the request of the subscriber or for any other reason, no charges or reactivation charges for resumption of such service shall be payable by the subscriber.

8. Disruption of signals for preventive maintenance.-- If signals to a subscriber is required to be disrupted for facilitating preventive maintenance, the multi-system operator or its linked local cable operator as the case may be, shall give a prior notice of at least three days to the subscriber if the disruption of the signals is not likely to exceed twenty four hours and in case the disruption in the supply of signal is likely to continue for a period exceeding twenty four hours, the multi-system operator or its linked local cable operator, as the case may be, shall give prior notice of at least fifteen days to the subscriber.

CHAPTER III
MANUAL OF PRACTICE

9. Manual of Practice. – (1) Every multi-system operator or its linked local cable operator, as the case may be, shall publish a Manual of Practice which shall, inter-alia, contain the following information, namely :-

(a) name and address of the service provider;

(b) terms and conditions of service offered by the service provider;

(c) customer care number, name, designation of the Nodal Officer and e-mail, contact telephone number, facsimile number and address of the Nodal Officer;

(d) procedure and benchmark for redressal of complaints through complaint centre and procedure to approach Nodal Officer;

(e) instruction for activation and operation of Set Top Box;

(f) the details of duties and obligations of the multi-system operator or its linked local cable operator and rights and duties of the subscriber as specified in these regulations;

(2) A copy of the manual of practice shall be provided by the multi-system operator or its linked local cable operator to each subscriber at the time of his subscription for service.

(3) The manual shall be prepared in English language and Hindi language and in the language of the state in which the service is provided to the subscriber.

(4) The manual shall be available for reference at every office of the service provider, customer care centre, at the sales outlets of the service provider and also at any other place which the service provider may consider appropriate.

CHAPTER IV

PROTECTION OF CONSUMERS AGAINST CHANGE IN COMPOSITION OF SUBSCRIPTION PACKAGES

10. Change in the composition of subscription package.-- (1) A multi-system operator shall not change the composition of subscription package subscribed by the consumer,----

(a) during the period of six months from the date of enrolment of the subscriber to such subscription package, if the subscriber is not in default of payment of monthly subscription charges; and

(b) during the entire period of validity of the subscription package if the subscription amount in respect of such subscription package has been paid in advance by the subscriber or, if the amount is payable in installment, the subscriber has paid the installments on due date;

if such channel continues to be available on the cable network of the multi-system operator.

(2) If any channel, which is a part of a package subscribed by a subscriber, becomes unavailable on the network of the multi-system operator, such multi-system operator shall reduce the subscription charges payable by the subscriber by an amount equivalent to the a-la-carte rate of such channel from the date of discontinuance of the channel:

Provided that the multi-system operator may offer an alternative channel of the genre and language of the channel discontinued and, if the offer is accepted by the subscriber, the multi-system operator or its linked local cable operator may not reduce the subscription charges for the channel which is not available on its network.

(3) No multi-system operator shall take off the air or discontinue exhibition of any channel without giving prior notice of fifteen days to its subscribers and such notice shall be published in the local news paper and displayed through scrolls on TV screen :

Provided that nothing contained in this sub-regulation shall apply in case the discontinuance in the provision of services has been caused by natural calamities or reasons beyond the control of such multi-system operator resulting in total disruption of the service.

CHAPTER V
TIME LIMIT FOR REDRESSAL OF THE COMPLAINTS

11. Time limit for redressal of complaints of the subscribers.– (1) Every multi-system operator or its linked local cable operator, as the case may be, shall adhere to the following time limit for redressal of complaints of the subscribers:-

(a) all complaints shall be responded to within eight hours of receipt of the complaint:

Provided that complaints received during the night shall be attended by the next day :

Provided further that in case the multi-system operator or its linked local cable operator, as the case may be, for any reason beyond its control, is not able to comply with the above mentioned Quality of Service parameter, he shall communicate such reasons to the subscriber at the time of responding to his complaint;

(b) at least ninety percent of all 'no signal' complaints received shall be redressed and signal restored within twenty four hours of receipt of such complaint;

(c) at least ninety percent of all complaints, except the complaints relating to billing, shall be redressed within forty eight hours;

(d) no complaint referred to in clauses (b) and (c) shall remain unresolved beyond three days;

(e) all complaints relating to billing shall be redressed within seven days of receipt of the complaint from the consumer and refunds, if any, shall be made to such consumer within thirty days of receipt of the complaint.

(2) Every multi-system operator or its linked local cable operator, as the case may be, subject to any other provision in these regulations, may specify a system of discount or

rebate to the subscriber due to interruptions in service and shall make the subscriber aware of such scheme.

12. Time limit for redressal of complaints by Nodal officer.—(1) In case a consumer is not satisfied with the redressal of his complaint by the Complaint Centre, such consumer may approach, the Nodal officer appointed or designated by the multi-system operator or its linked local cable operator, as the case may be, under regulation 8 of the Consumers Complaint Redressal (Digital Addressable Cable TV Services) Regulations, 2012.

(2) The Nodal officer shall resolve or redress the complaints of subscribers within ten days from the date of receipt of the complaint.

13. Complaints forwarded to the multi-system operator by the Authority.—(1) The complaints referred to the multi-system operator by the Authority shall be redressed or resolved by the multi-system operator or its linked local cable operator, as the case may be, in accordance with the provisions of the Consumers Complaint Redressal (Digital Addressable Cable TV Systems) Regulations, 2012.

(2) The multi-system operator or its linked local cable operator, as the case may be, shall resolve or redress such complaints within fifteen days from the date of forwarding of the complaints by the Authority.

(3) The multi-system operator or its linked local cable operator, as the case may be, shall inform the subscriber and the Authority regarding resolution or redressal of the complaint within thirty days from the date of forwarding of the complaints.

CHAPTER VI

BILLING FOR DIGITAL ADDRESSABLE CABLE TV SYSTEMS

14. **Billing for subscribers.—** (1) Every multi-system operator shall offer cable TV services on both pre-paid and post-paid payment options to the subscriber and shall be responsible for generation of bills for the subscribers.

(2) It shall be open to the subscriber to choose either the pre-paid or post-paid option.

15. **Providing usage details in respect of Post-paid service.—**(1) Every multi-system operator either directly or through its linked local cable operator, as the case may be, shall give to every subscriber the bill for charges due and payable by such subscriber for each month or for such other period as agreed between the parties, for which such charges become payable by the subscriber.

(2) In case of post-paid bills, the subscriber shall be billed, generally on monthly basis and the bill shall contain the Service Tax Registration Number and the Entertainment Tax Registration number of the multi-system operator.

(3) The entries in the bills shall be itemized to indicate the price of individual channels or bouquet of channels along with the names of channels in the bouquet, charges for basic service tier and the channels comprised therein, charges for set top box, taxes along with the rates of taxes levied and the charges for value added services availed by the subscriber, if any.

Provided that this sub-regulation shall not in any manner prevent the multi-system operator from promoting different schemes of payment.

(4) Every multi-system operator or its linked Local Cable TV Operator, as the case may be, shall give fifteen days time, from the date of the bill, to every subscriber for making payment of the bill and in case the subscriber fails to make payment after expiry of the due date of payment, the multi-system operator or its linked local cable operator may

charge simple interest of twelve percent per annum on the amount due for the delay in making payment.

(5) The multi-system operator or its linked local cable operator, as the case may be, shall issue a proper receipt for every payment made by the subscriber.

16. **Providing usage details in respect to Pre-paid service.—**(1) Every multi-system operator or its linked local cable operator, as the case may be, shall on request from a subscriber, who has been provided pre-paid service, supply to such subscriber, at a reasonable cost, the information relating to the itemized usage charges showing actual usage of service:

Provided that it shall not be mandatory for the multi-system operator or its linked local cable operator, as the case may be, to provide to the subscriber the information referred to in this sub-regulation for any period beyond six months preceding the month in which the request is made by the subscriber.

(2) Every multi-system operator shall, on request from the subscriber, change his payment plan from pre-paid to post-paid or from post-paid to pre-paid, without any extra charge.

CHAPTER VII
PROVISION RELATING TO SET TOP BOX

17. Quality of service of Set Top Box.—(1) Every multi service operator or its linked local cable operator, as the case may be, shall provide to the subscriber the Set Top Box conforming to the Indian Standard, if any, set by the Bureau of Indian Standards.

(2) A Set Top Box, not conforming to Indian Standard, if any, set by the Bureau of Indian Standards, provided to the customer by a multi-system operator or its linked local cable operator, before the commencement of these regulations, shall be replaced, without an extra charge, within seven days of commencement of these regulations, by a Set Top Box conforming to the Indian Standard , if any, set by the Bureau of Indian Standards.

(3) Every multi-system operator or its linked local cable operator, as the case may be, shall provide a minimum warranty of one year on Set Top Box which has been acquired by a subscriber on outright purchase basis from such multi-system operator or its linked local cable operator, as the case may be, and such subscriber shall not be required to pay any charge towards repair and maintenance of the Set Top Box during the period of warranty including visiting charges of the person deputed by the multi-system operator or linked local cable operator for repair or maintenance :

Provided that nothing contained in this sub-regulation shall apply if the Set Top Box has been tampered with.

(4) Every multi-system operator or its linked local cable operator, as the case may be, shall, within twenty four hours of the receipt of the complaint pertaining to malfunctioning of a Set Top Box from a subscriber, ensure that the Set Top Box is repaired or replaced without any extra charge with the new Set Top Box, if it is covered within the warranty or it has been acquired by the subscriber on hire purchase scheme or on rental basis:

Provided that nothing contained in this sub-regulation shall apply if the Set Top Box has been tampered with.

(5) Every subscriber shall be free to buy a set-top box of approved quality from the open market, if available, which is technically compatible with the system of the multi-system operator and the multi-system operator or the linked local cable operator shall not force any subscriber to buy or take on rent or on hire purchase the set-top box from him alone.

(6) The security deposit, if any, deposited by the subscriber for acquiring the Set Top Box, shall be refunded to him within seven days of return of the Set Top Box by the subscriber to the multi-system operator or its linked local cable operator, as the case may be.

(7) Every multi-system operator or its linked local cable operator, as the case may be, shall,--

(a) make available to its subscriber, information regarding the name, contact addresses and telephone numbers of persons from whom the Set Top Box, which is compliant with the standards set by Bureau of Indian Standards, can be purchased on outright purchase basis or obtained on rent or hire purchase basis;

(b) publicise the salient feature of various schemes available for outright purchase or rent or hire purchase of Set Top Boxes from it, in addition to the scheme as regards pricing, hire purchase or renting of Set Top Box, if any, specified by the Authority;

(c) make available a manual or pamphlet containing instructions for operation of Set Top Box and display such instructions through scrolls on TV screen.

(8) In case the installation and activation of Set Top Box is delayed beyond two working days after the completion of all formalities by the subscriber, the multi-system operator or its linked local cable operator, as the case may be, shall give rebate of rupees fifteen per day for the first five days of delay and rupees ten per day for the delay beyond five days to the subscriber.

CHAPTER VIII
TECHNICAL STANDARDS

18. Technical standards.—(1) Every broadcaster shall maintain technical standards of the signals as per the standards laid down by Digital Video Broadcasting for DVB-S or DVB-S2 standards, as the case may be, and shall also ensure that the quality of signals supplied at the headend of multi-system operator fulfill the following requirements :-

Sl.	Parameters	Value
1	Signal to noise ratio (SNR)	As specified by DVB-S (ETSI EN 300421) or DVB-S2 (ETSI EN 302307), as applicable
2	Operating Margin (Noise Margin)	Higher than 4 dB.

Explanation:- For the purpose of this sub-regulation, -

(i)"Noise Margin" means margin between the signal to noise ratio (SNR) leading to quasi error free (QEF) operation after the Reed Solomon decoder (BER $<2 \times 10^{-4}$ before Reed Solomon decoding) and the SNR of the system.

(ii) "Higher than 4 dB" is as per IS 13420 (Part I):2002, IEC 60728-1(2001), Para 5.11.1.2 page 54.

(2) Every multi-system operator or its linked local cable operator shall, in their networks, ensure compliance with BIS Standards specified by Bureau of Indian Standards from time to time relating to system performance in the cable distribution networks and shall further ensure the following parameters at the subscriber's premises:

Sl.	Parameters	Value
1	Maximum and Minimum Carrier levels	47 dB µV min. for 64 QAM 67 dB µV max. for 64 QAM 54 dB µV min. for 256 QAM 74 dB µV max. for 256 QAM
2	Signal to noise ratio	26 dB min for 64 QAM fall-off-the-cliff 32 dB min for 256 QAM fall-off- the-cliff.
3	Operating Margin (Noise Margin)	Higher than 4 dB
4	MER	30 dB (64 QAM) min. 34 dB (256 QAM) min.

Explanation: For the purpose of this sub-regulation,

(i) Maximum and minimum carrier levels are as per IS 13420 (Part 1):2002 IEC 60728-1 "Cabled distribution system for sound and television signals – Part 1: Methods of measurement and system performance".

(ii) "Noise Margin" as per IS 13420 – The noise margin is the margin between the SNR leading to a bit error rate of 1E-4 and the SNR value of cable system.

(iii) "MER" as clarified in ETSI: Technical Report: Measurement guidelines for DVB systems.

(3) The Authority may appoint M/s. Broadcast Engineering Consultants India Ltd., or any other agency to conduct technical audit of the broadcaster and the multi-system operator to measure the quality of signals provided by the broadcaster at the headend of the multi-system operator and the quality of signals provided by the multi-system operator on its network.

(4) The technical audit shall be carried out as per the measurement guidelines specified by Digital Video Broadcasting in European Telecommunications Standards Institute ETSI TR 101 290 V 1.2.1 (2001-05) and the picture quality measurement shall be carried out as per the methodology for subjective assessment of the quality of television pictures given in the recommendation by International Telecommunication Union (ITU).

Explanation: For the purpose of this sub-regulation:

(i) Recommendation by ITU is as per "ITU-R BT. 500-11 Methodology for subjective assessment of the quality of television pictures".

CHAPTER IX
MISCELLANEOUS

19. Setting up of website by the multi-system operator.-- Every multi-system operator, either directly or through his linked local cable operator, shall, before providing cable services through Digital Addressable System, establish a website which shall, inter-alia, contain the information pertaining to the services offered by such multi-system operator and the details of its complaint centre, complaint redressal system, complaint monitoring system, citizen charter, nodal officer etc.

20. Setting up and operationalisation of subscriber management system.- Every multi-system operator shall, before providing cable services through Digital Addressable System, establish, set up and operationalise its subscriber management system and such subscriber management system shall comply with the digital addressable cable TV system requirements as mentioned in the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012, for ensuring efficient and error-free service to the subscribers by recording and providing individualized preferences for channels, billing cycles or refunds.

21. Identification of personnel : Every multi-system operator or its linked local cable operator, as the case may be, shall ensure that its representatives carry proper identification along with a photograph duly certified by such multi-system operator or its linked local cable operator and exhibit the same as proof of identity to the subscriber.

22. Right of the subscriber to seek redressal under the Consumer Protection Act, 1986 or any other law for the time being in force.—(1) The provisions of these regulations are in addition to any right conferred upon the subscribers under the Consumer Protection Act 1986 (68 of 1986) or any other law for the time being in force.

(2) Any subscriber may, at any time,-

(i) during pendency of redressal of his grievance under these regulations; or

(ii) before filing of complaint under these regulations,----

exercise his right conferred upon him under the Consumer Protection Act, 1986(68 of 1986) or any other law for the time being in force and seek redressal of his grievance under that Act.

23. Public awareness campaign.-- Every multi-system operator and local cable operator, who is registered to provide digital addressable cable TV services, shall conduct a public awareness campaign about the salient features of the provisions contained in these regulations.

24. Intervention by Authority in certain cases.-- The Authority may, by order or direction, from time to time, intervene, for the purpose of protecting the interest of the subscribers or monitoring the performance of quality of service standards of the multi-system operator or its linked local cable operator or for ensuring compliance of the provisions of these regulations.

25. Application of other laws not barred.-- The provisions of these regulations shall be in addition to, and not in derogation of, any other law for the time being in force.

(Wasi Ahmad)

Advisor (B&CS)

Note.-----The Explanatory Memorandum explains the objects and reasons of the "Standards of Quality of Service (Digital Addressable Cable TV Systems) Regulations, 2012 (12 of 2012)".

SCHEDULE – I

(Reference sub-regulation (1) of regulation 3)

FORMAT OF APPLICATION

The application form shall be serially numbered and printed in Hindi, English and the regional language of the area of operation of the service provider and shall contain the following information.

(1) Name, address, telephone numbers, mobile numbers, fax numbers, e-mail address (if any), of the multi-system operator and the names of two or more authorized contact persons.

(2) Details contained in the certificate of registration issued under section 4 of the Cable Television Network (Regulation) Act, 1995 (7 of 1995), such as date of certificate, the date of expiry of Registration Certificate as well as any approval given by the Government of India.

(3) Details of Entertainment Tax, Service Tax Registration number, if applicable.

(4) Details of programming services offered, clearly indicating number and names of channels available, bouquets of channels, whether free to air channel or a pay channel, value added services, if any, available.

(5) Maximum retail prices of channels in a-la-carte form and also of bouquet(s) of channels, if any, along with names of the channels and bouquet(s) of channels offered.

(6) The details of all the three schemes of supply of Set Top Boxes (STBs) i.e. (1) Hire purchase, (2) Rental and (3) Outright purchase.

(7) Columns for getting basic information about the subscriber such as name, address, telephone/mobile number, etc. All such personal information should be kept confidential.

(8) Payment terms, indicating the due dates of payment, mode of payment, special discount schemes for lump sum or advance payment, security deposit, refund of security deposit, installation charges showing the refundable component, if any, at the time of surrender of the cable TV service, activation charges, penalty, charging of interest for delayed payment, or any other charge etc.

(9) Option for type of payment plan and the terms and conditions for conversion from one type of payment plan to another.

(10) Reasons and grounds on which the application is liable for rejection.

(11) The application form should facilitate subscribers to indicate location where connection is desired, individual channels and or bouquet(s) desired, value added services, if any, required.

(12) List of documents, including proof of residence, required to be furnished for new connection, re-connection, disconnection and transfer or shifting of connection.

(13) Procedure for handling complaints either in the application form or separately in the form of booklet/pamphlet indicating:

(i) Possible areas/causes of complaint.

(ii) Contact details of helpdesk, Concerned officer responsible for redressal of the complaint.

(iii) Procedure to be followed in getting the complaint redressed for each or group of causes or areas of complaint.

(14) Maintenance/service policy either as a part of the application or as a separate booklet/pamphlet.

(15) Policy for rebate in case of no signals or disruption in service.

(16) Obligations of the multi-system operator to ensure quality of service as stipulated in this regulation.

(17) Obligations of the subscriber to protect and guard the property of the cable operator placed at the premises of the subscriber where programming services have been requested for.

(18) Technical and non-technical parameters of standard of quality of service prescribed by the Authority.

(19) Any other item which the service provider may deem necessary.

Annexure

Explanatory Memorandum

I. Background

1. The inherent limitations, of capacity constraints and non-addressability, in the analog cable TV systems has posed several challenges in the sector such as limited consumer choice, non transparent business transactions etc. After undertaking a public consultation process, the Authority, on 5th August 2010, gave its recommendations to the Government on implementation of Digital Addressable Cable TV Systems (DAS) in the country along with a roadmap to achieve the same.

2. The Government, on 25th October, 2011, issued an Ordinance amending the Cable Television Networks (Regulation) Act, 1995, paving way for the implementation of digital addressable cable TV systems in India. Thereafter, the Government also issued a notification dated 11th November, 2011, which laid down the roadmap for implementation of digital addressable cable TV systems, in a phased manner in four phases, starting from July 2012 to December, 2014. The Ordinance dated 25th October, 2011, subsequently, in December, 2011, became an Act.

3. Considering the amended provisions of the Cable Television Networks (Regulation) Act, 1995, and the notification dated 11.11.2011 mentioned above, the Authority initiated a consultation process on the issues relating to implementation of digital addressable cable TV systems. In this connection a consultation paper titled "Issues related to Implementation of Digital Addressable Cable TV Systems" was issued on 22.12.2011 in order to facilitate the smooth implementation of Digital Addressable Cable TV Systems. An Open House Discussion (OHD) was also held in New Delhi on 13th March, 2012.

4. On the aspect of the quality of service in the Digital Addressable Cable TV Systems, the Authority has already issued Quality of Service (QoS) regulations for the cable TV services in the notified Conditional Access System (CAS) areas in the year 2006,

for Direct to Home (DTH) services in the year 2007 and for cable TV services in non-CAS areas in the year 2009. These regulations are:

(i) The Standards of Quality of Service (Broadcasting and Cable Television-CAS areas) Regulation 2006 dated 23.08.2006.

(ii) The Standards of Quality of Service (Broadcasting and Cable Services) (Cable Television Non-CAS Areas) Regulations, 2009 dated 24th February, 2009

(iii) The Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007 dated 31st August, 2007 along with its amendment dated 12.03.2009.

5. Since, these regulations were not specifically evolved keeping in view the Digital Addressable Cable TV Systems, the Authority identified certain issues for consultation with the stakeholders. The issues for the consultation pertain to provisions for connection, disconnection, transfer and shifting of the cable TV services, procedure for handling subscriber's complaints and redressal of complaints, procedure for obtaining/supplying the set top box, procedure for changing the positioning of channels/and/or taking the channel/s off-air etc., procedure for payment of bills, demarcation of obligation and responsibilities for multi-system operators and local cable operators for ensuring quality of services at the subscriber level.

II. Analysis of issues

6. The following is a summary of main issues, comments of the stakeholders and the analysis thereon.

A. Norms of quality of service for Digital Addressable Cable TV Systems

7. As a part of the consultation process, the Authority had formulated norms for the Quality of Service for the Digital Addressable Cable TV Systems and had incorporated the same as Annexure VI of the consultation paper dated 22nd December, 2011, for consultation with all the stakeholders.

8. In their comments, on the contents of Annexure VI of the Consultation paper dated 22nd December, 2011, majority of the broadcasters, DTH operators and multi-system operators have stated that they agree with the proposed quality of service norms annexed with the consultation paper. Few Stakeholders have suggested some minor modification in the proposed norms which are analyzed as under:

Change in the composition of subscription package

9. It has been stated that provision regarding offering consumer the same package for minimum period of six months from the date of enrolment should be reduced as there are cases where FTA channels are converted into pay channels, by broadcaster, after giving a notice of 30 days to the operator and in such cases the service provider cannot charge the consumer for this additional cost of channel paid by operator to the broadcaster.

10. The Authority has considered this suggestion. In this context the Authority has observed that, to avoid complaints from subscribers of frequent increases in the tariff of the subscribed packages/services, it is essential that a subscriber is assured that once he subscribes to any subscription package/services, the tariff for the same shall not be increased by the multi-system operator for the next six months for that subscriber, even if the same subscription package is offered at a higher price to new subscribers enrolled after a certain date as decided by the operator. Further, to cater to the situation where an FTA channel is converted to a pay channel, a provision has been made in the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (First Amendment) Order, 2012 (3 of 2012).

Warranty on set-top box

11. Some of the multi-system operators have opined that the period of warranty on set-top box, should be limited to six months even in the case of rental/ hire purchase.

12. On the aspect of warranty on set-top box, the Authority is of the view that in case of the set-top box is provided on rental/hire purchase basis, the ownership of the equipment remains with the service provider and the service provider gets adequately

compensated, for the use of the equipment by the subscriber, by charging certain amount as rent or the installment from the subscriber. Therefore, there exists no case for limiting the warranty period to six months for set-top boxes provided on rent or hire purchase.

Single set of QoS regulations for all addressable Systems

13. Some Broadcasters have suggested that a single set of QoS regulations for all addressable Systems should be drawn out from QoS regulation for CAS and DTH.

14. On the suggestion of stakeholders regarding single set of QoS regulations for all the addressable TV systems, the Authority is of the view that the Digital Addressable Cable TV distribution platform is different from the DTH Platform in the sense that the distribution chain in Digital Addressable Cable TV consists of one more entity i.e. local cable operator who provides last mile connectivity to the consumer. Therefore it is appropriate to have a separate QoS regulation for Digital Addressable Cable TV Systems. The QoS regulation for DTH service is already in place.

Technical quality of signals

15. Some of the stakeholders including local cable operators, multi-system operators and individuals have stated that TV signals received from broadcasters should have sufficient strength and quality so that the cable operator can maintain quality of signals at subscriber end. There is a suggestion that the broadcaster should provide professional IRDs to multi-system operators and BECIL certification (as per DVB norms) should be made mandatory for up-link stations & downlink stations for all the broadcasters to ensure the QoS from broadcasters end. The broadcasters on the other hand, have suggested that every cable operator or multi-system operator, as the case may be, shall maintain technical standards of signals in his entire cable television network as may, from time to time, be published by the Bureau of Indian Standards in accordance with the provisions of the Bureau of Indian Standards Act, 1986 (63 of 1986) for cable television networks.

16. On the issue of ensuring of technical quality of signal norms by broadcasters, multi-system operator and local cable operator, the Authority is of the view that quality of signals at the subscriber end depends upon many factors viz. local cable network of the local cable operator, Optical Fiber/ cable network of the multi-system operator and the quality of signal received at the input of the headend of the multi-system operator. The technical quality of signals received from broadcaster at multi-system operator headend is a joint responsibility of broadcaster and multi-system operator, as the receiving setup is generally owned by the multi-system operator. The Authority is of the view that the broadcaster shall ensure the quality of signal at the input of the headend of multi-system operator. Accordingly the technical parameters and its value have been prescribed in this regulation. As far as the quality of signal at the subscriber end is concerned, the responsibility of compliance of Quality of service norms has to be on the multi-system operator, unless it has been entrusted to the local cable operator through an agreement between multi-system operator and local cable operator. Therefore the Authority has mandated certain technical norms for quality of signals to be maintained at different interfaces in the network.

Standards for equipment

17. There is a suggestion from local cable operator association that all equipment meant for digital cable transmissions, whether imported or manufactured locally, must be of standard quality. It has also been mentioned that BIS standards are required to be revised/ made afresh for digital equipment and digital services. Few multi-system operators have opined that as there are no BIS standards set for MPEG4 set top boxes at present for Cable TV, all the MPEG4 boxes already imported by multi-system operators shall not be replaced, future imports shall be put under the BIS standards.

18. The Authority has observed that as per the provisions in the Cable Television Networks (Regulation) Act, 1995, all equipment to be used for cable TV system, including the set-top boxes, are required to be BIS compliant. Revision of BIS standards is an on-going activity of the office of the Bureau of Indian Standards and as & when the standards are revised, the same would be applicable.

B. Obligations of multi-system operator and local cable operator towards ensuring the Quality of Service (QoS) and billing

19. Regarding the obligation of multi-system operator and local cable operator towards ensuring quality of service and billing, the issue is to clearly demarcate the responsibility of multi-system operator and local cable operator for the same.

20. Most of the Broadcasters and multi-system operators have suggested that multi-system operator should be responsible for ensuring quality of service as well as for billing. There is a suggestion from some broadcasters, broadcasters association and multi-system operator that if local cable operator acts as franchisee of multi-system operator, responsibility for ensuring QoS norms should be with the multi-system operator and multi-system operator should set up billing system for local cable operator. Many cable operators and their associations have stated that the multi-system operators should manage and control the consumer details, generate the bills and handover the same to the local cable operators for final distribution and collection. Some stakeholders have suggested that ensuring compliance to QoS norms should be the responsibility of both the parties i.e. multi-system operator and local cable operator while billing should be done by multi-system operator alone. There is a suggestion from a local cable operator association that local cable operator should bill the consumers since, as per Tax laws, the final provider of service or product and recipient of the payment, can only bill the customer.

21. From the above views, it is clear that a number of different relationship models are possible between multi-system operators and local cable operators. It may not be appropriate for the Authority to prescribe one specific model and so would like it to be left to the market conditions. Since, the headend along with the Conditional Access System and Subscriber Management System are installed and maintained by the multi-system operator, the overall responsibility of quality of service and billing would remain with the multi-system operator. However, the local cable operators are an entity registered under the Cable TV Act and carry the TV signals through his cable network to the subscriber. The responsibility of compliance to QoS norms can be shared between the multi-system operators and local cable operators through

suitable service level agreements between them, depending on the model of the operator.

C. Introduction of Pre-paid billing in Digital Addressable Cable TV systems

22. On the issue of introduction of pre-paid billing model along with existing post-paid billing model in the Digital Addressable Cable TV Systems majority of stakeholders have suggested that pre-paid billing should be introduced similar to that of the DTH as it has been quite successful billing model across many sectors and such an option should certainly be introduced. It has been further mentioned that this will not only reduce the disputes between the multi-system operator and consumers but also reduce the collection and debt cost of the multi-system operator. Another Stakeholder has stated that the option of the billing model i.e. pre-paid or post-paid is to be left to the discretion of the individual operators. There is a suggestion from a local cable operator that the pre-paid billing should be introduced but only through local cable operator. It has also been suggested that in pre-paid scenario multi-system operator should give pre-paid cards for pay channel services to the local cable operator after deduction of their commission or multi-system operator can give terminal to the local cable operator for recharging the set-top boxes, then local cable operator can pay in advance to the multi-system operator.

23. Some local cable operators, consumer groups and few individuals have suggested that pre-paid billing should not be introduced. There is a suggestion that no pre-paid billing should be introduced as itemized billing is needed for the subscribers. Pre-paid billing although convenient, may create problems like in the mobile sector. Echoing the same argument there is a suggestion from an individual that pre-paid billing would not suit the cable TV environment and pre-paid billing may take away the motivation of the local cable operator in ensuring proper service.

24. The pre-paid billing is a popular option in DTH and telecom services. It helps the consumer to efficiently budget their bills in accordance with the paying capacity. For the service providers the pre-paid billing option ensures better collection and realization of the revenue. Also majority of stakeholders have suggested for

introduction of pre-paid billing. The Authority is of the view that pre-paid billing option should be permitted along with the existing post-paid option and the subscriber should have option to choose the subscription model and the provisions for the same have been made in these regulations. Further a provision has also been made in the regulations for providing itemized details of the usage in the pre-paid model.

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TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART III, SECTION 4

STANDARDS OF QUALITY OF SERVICE (DIGITAL ADDRESSABLE CABLE TV SYSTEMS) (AMENDMENT) REGULATIONS 2015 (4 OF 2015)

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 25th March, 2015

F. No. 16-2/2012-B&CS.----In exercise of the powers conferred by section 36, 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), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) 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. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----

the Telecom Regulatory Authority of India hereby makes the following regulations to amend the Standards of Quality of Service (Digital Addressable Cable TV Systems) Regulations, 2012 (12 of 2012), namely:-

1. (1) These regulations may be called the Standards of Quality of Service (Digital Addressable Cable TV Systems) (Amendment) Regulations, 2015 (4 of 2015).

   (2) They shall come into force after sixty days from the date of their publication in the Official Gazette.

2. In regulation 14 of the Standards of Quality of Service (Digital Addressable Cable TV Systems) Regulations, 2012 (12 of 2012) (hereinafter referred to as the principal regulations), after sub-regulation (1), the following Explanation shall be inserted, namely,---

"Explanation: The pre-paid payment option offered to the subscriber shall be an electronic pre-paid mechanism wherein the amount paid by the subscriber is adjusted automatically for the services availed by him."

3. In regulation 15 of the principal regulations, for sub-regulation (4), the following sub-regulation shall be substituted, namely,---

"(4) Every multi-system operator or its linked local cable operator, as the case may be, shall give fifteen days time, from the date of the bill, to every subscriber for making payment of the bill and in case the subscriber fails to make payment up till expiry of the due date of payment, the multi-system operator or its linked local cable operator shall not charge from such subscriber an amount exceeding the amount calculated at the simple rate of interest of fifteen percent per annum on the amount payable by the subscriber for delayed payment."

4. In regulation 15 of the principal regulations, for sub-regulation (5), the following sub-regulation shall be substituted, namely,---

"(5) The multi-system operator, either directly or through its linked local cable operator, shall issue a receipt for every payment made by a subscriber and shall enter the details of the receipt including the date and serial number of the receipt, amount paid by the subscriber into the subscriber management system, against the name of the subscriber, within seven days of the payment made by a subscriber."

5. In regulation 16 of the principal regulations, for sub-regulation (2), the following sub-regulation shall be substituted, namely,---

"(2) Every multi-system operator shall, within thirty days from the date of receipt of request from the subscriber, change his payment plan from pre-paid to post-paid or from post-paid to pre-paid without any extra charge."

6. After regulation 16 of the principal regulations, the following regulation 16A and regulation 16B shall be inserted, namely,----

"**16A**. **Consequences for contravention of the provisions of regulation 15 or regulation 16.----** (1) If any multi-system operator contravenes the provisions of sub-regulation (1) or sub-regulation (5) of regulation 15, it shall, without prejudice to the terms and conditions of its registration or the provisions of the Act or rules or regulations or orders made, or, directions issued thereunder, be liable to pay an amount, by way of financial disincentive, not exceeding rupees twenty per subscriber, as the Authority may, by order direct.

(2) If any multi-system operator contravenes the provisions of sub-regulation (2) of regulation 16, it shall, without prejudice to the terms and conditions of its registration or the provisions of the Act or rules or regulations or orders made, or, directions issued, there under, be liable to pay an amount, by way of financial disincentive, not exceeding rupees one hundred for each contravention, as the Authority may, by order direct.

(3) No order for payment of an amount by way of financial disincentive under sub-regulation (1) or sub-regulation (2) shall be made by the Authority unless the multi-system operator has been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority.

16B. Deposit of amount payable by way of financial disincentive under these regulations.— The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by order by the Authority."

(Sudhir Gupta)
Secretary, TRAI

Note 1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 16-2/2012-B&CS dated 14th May 2012.

Note 2: The Explanatory Memorandum explains the objects and reasons of these regulations.

Explanatory Memorandum

1. The Telecom Regulatory Authority of India (TRAI) notified the Standards of Quality of Service (Digital Addressable Cable TV Systems) Regulations, 2012, laying down, amongst others, norms for Quality of Service (QoS) and provisions for issue of bills to subscribers of Digital Addressable Cable TV Systems (DAS). Chapter VI of the Regulations, amongst others, prescribe the payment options, the issue of bills to subscribers with usage and other details, and the issuing of a receipt for every payment made by a subscriber.

2. The Authority received a large number of complaints where subscribers reported that they are neither getting bills for the services subscribed on cable TV nor receipts for the payments made.

3. It has been observed that the cited prescribed norms are not being complied with by the Multi-System Operators (MSOs). Such non-compliance has resulted in numerous legitimate consumer grievances. In the absence of a bill, a subscriber cannot know whether or not the payment being made for the cable TV services availed is correct. Similarly, in the absence of a receipt for the payment made, there is no means to get a grievance redressed in case of any QoS related issues, in general, and any billing related dispute with the operators.

4. The Regulations/Directions issued from time to time require the cable operator (MSOs) to issue bills and receipts. Because of the non-delivery of such bills and receipts by the MSOs, information on actual subscription vis-a-vis payment details are not being entered into the Subscriber Management System (SMS). Consequently, commercial deals and financial transactions amongst operators are not being carried in a transparent manner. This has proved to be a major road block in the sector especially since the transition to a DAS regime was to bring in greater transparency and a more consumer friendly environment. The absence of billing/ payment records has resulted in a number of disputes amongst MSOs and their linked Local Cable Operators (LCOs). It has also been adversely affecting smooth implementation of DAS as mandated by law.

5. One of the prime objectives of implementation of DAS was to make cable TV systems addressable and thereby measurable. Due to non addressability of analog cable TV systems, the business transactions were taking place on the basis of estimation and

negotiation instead of actual subscriber base. Due to this limitation in the system it was possible to under declare the number of subscribers at various stages in the value chain and the tax paid to the Government was not commensurate to estimated market size. Implementation of DAS as per the Regulations removes such limitations. However, non delivery of bills and receipts to a subscriber re-introduces these limitations in the system which otherwise is fairly transparent and auditable. This leaves scope for under declaration/ evasion of tax due to the Government.

6. As per the Regulations, an MSO is responsible for generating the bills indicating the subscription amount and the applicable taxes, such as service tax, entertainment tax etc., along with the rate of taxes levied. Proper billing and accounting of receipts is necessary to ensure that the entire amount collected by an MSO from its subscribers is completely accounted for in the books of the MSO. Further, it is also necessary for the purpose of verification and audit to ensure correctness of the tax amount collected from the subscribers and deposited with the Government. In the absence of proper billing and accounting of receipts, there is a distinct possibility of a loss of revenues accruable to the Government. It is essential that the Government gets its due tax revenues arising out of the business of the cable TV services sector.

7. In view of the foregoing, and in order to ensure compliance with the Regulations and to ensure proper collection of revenue due to Government, the Authority envisaged amending certain provisions of the Regulations pertaining to billing for the subscribers, by incorporating provisions for levying financial disincentives on cable operators. Accordingly, a draft amendment to the said QoS Regulations, incorporating provisions for levy of financial disincentives, was put up for consultation with stakeholders. The draft amendment was uploaded on TRAI website www.trai.gov.in on 28th August 2014, inviting comments from stakeholders latest by 8th September, 2014. The last date for submission of comments was extended upto 14th September, 2014 on request of stakeholders. In response to this consultation process, a total of 32 comments were received from stakeholders, including consumers. Subsequently, an Open House Discussion was also held on 29th September 2014 in Delhi, which was attended by a large number of stakeholders. Further time up to 10th October 2014 was given to stakeholders for any additional views/comments on the draft amendments to the Regulations.

Comments of Stakeholders

On Jurisdiction

8. Only one MSO stated that TRAI cannot prescribe financial disincentive as it does not have penal power.

Analysis

9. The TRAI Act confers powers on the Authority not only to regulate but also to ensure compliance with the provisions of the Regulations. The word "ensure" has a mandatory connotation; it means "make certain". Furthermore, the Hon'ble Supreme Court, in its judgment dated 17th August, 2007, in Civil Appeal No. 2104/2006 (Central Power Distribution Co. & Ors Vs. CERC & Anr), inter-alia, held that ***"it is well settled that a power to regulate includes within it power to enforce".*** It will not be out of place to mention that there are a catena of judgments by the Supreme Court wherein the Hon'ble Court has repeatedly re-stated the proposition that legislation should be read and interpreted so as to further the purpose of its enactment and not in a manner that derogates from its main objectives. The Hon'ble Supreme Court in its judgment in the case of State of Karnataka Vs. Vishwabharthi House Building Co-operative Societies and Ors. [(2004) 5 SCC 430], quoted with approval the judgment of Hon'ble Guwahati High Court in the case of Arbind Das Vs. State of Assam & Ors. [AIR 1981 Gau 18 (FB)] wherein it was, inter-alia, held that where a statute gives a power, such power implies that legitimate steps may be taken to exercise that power even though these steps may not be clearly spelt out in the statute. The Hon'ble Court further held that in determining whether a power claimed by a statutory authority can be held to be incidental or ancillary to the powers specially conferred by the statute, the court must not only see whether the power may be derived by reasonable implication from the provisions of the statute, but also whether such powers are necessary for carrying out the purposes of the provision of the statute which confers power on the Authority in exercise of such powers. The relevant part of the said judgment reads as under:-

"We are of firm opinion that where a statute gives a power, such power implies that all legitimate steps may be taken to exercise that power even though these steps may not be clearly spelt in the statute. Where the rule-making authority gives power to certain

authority to do anything of public character, such authority should get the power to take intermediate steps in order to give effect to the exercise of the power in its final step, otherwise the ultimate power would become illusory, ridiculous and inoperative which could not be the intention of the rule-making authority. In determining whether a power claimed by the statutory authority can be held to be incidental or ancillary to the powers expressly conferred by the statute, the court must not only see whether the power may be derived by reasonable implication from the provisions of the statute, but also whether such powers are necessary for carrying out the purpose of the provisions of the statute which confers power on the authority in its exercise of such power."

10. In view of the above, the Authority has the power to impose financial disincentives on service providers for non-compliance with the provisions of the Regulations.

On the levy of financial disincentives

11. LCO associations opined that since the Regulations and Tariff orders applicable to DAS have been challenged in various courts, therefore, amendments to the Regulation should not be carried out. A HITS (Head-end In The Sky) operator stated that the financial disincentive for MSOs operating in Phase-III and Phase-IV areas of DAS implementation should be made applicable only after the implementation of digitisation in these areas is completed.

Analysis

12. It was seen that even though some of the provisions of the Tariff Orders and the Regulations are sub-judice, no court of law has passed any order or judgement staying the Regulations and the Tariff Orders. Hence, the Authority, in the interest of consumers, can amend the provisions of the Regulations, as deemed fit, in exercise of powers conferred upon it under the TRAI Act.

13. The QoS Regulations for DAS are applicable for cable TV services provided through Digital Addressable Systems. Therefore, applicability cannot be linked to any particular phase of DAS implementation or particular area. The norms laid in the Regulations would be applicable for all areas where cable TV services are being provided through DAS. Further, it was noted that one of the objectives of introducing an addressable system (DAS) was to ensure that all transactions in the value chain are carried out in a

transparent manner. Issuing of bills and receipts for services being availed of by the subscriber is vital for all stakeholders concerned with the flow of revenue in the value chain. For consumers, such transparency is essential; it is available to consumers in other commercial markets, so why not in the cable TV market? The Authority is of the view that enabling the imposition of financial disincentives will be an effective deterrent and will incentivise MSOs to issue bills and payment receipts to subscribers while carrying out their business transactions based on verifiable parameters. This will vastly benefit the entire sector and strengthen DAS implementation on the ground.

On applicability and quantum of financial disincentives

14. MSOs stated that the financial disincentives are very onerous. They stated that the LCO is the de-facto owner of the subscriber base and the MSO has very little or no say in the LCO-subscriber relationship. MSO also opined that financial discipline has to percolate to the end-subscriber level too and there should be a provision for a penalty of Rs 25 or 5% of amount due, whichever is higher, recoverable from subscribers who pay beyond the due date. A provision may also be made to empower the LCO to charge a reconnection fee of Rs 100.00 for reactivating STBs which were, deactivated because of non-payment.

15. The LCO Association stated that the option for an MSO to directly bill the end-subscriber should be dispensed with and a two - level mechanism [MSO to LCO and LCO to subscriber] should be made mandatory. This will help both sides immensely. MSOs will be relieved of the financial disincentive risks. LCOs will be relieved of the fear of the network being usurped and, for this affirmation of their rights, they would be glad to assume the onus of complying with billing and receipt obligations**.**

16. A HITS operator stated that, to begin with, financial disincentive should be just Rs.1-2 for the first contravention and Rs. 5 for subsequent ones. Once awareness is built up, the Authority may revise the amount after a period as per market conditions prevailing at that time.

17. Consumers stated that financial disincentives should be applied in respect of <u>all</u> provisions of the Regulation. They opined that financial disincentive amounts should be Rs. 100 to Rs. 500 and independent checks / feedback should be carried out.

18. Some LCO associations stated that they do not oppose imposing financial disincentive for deficient services. However, it should be applicable for all stakeholders and encompass all sectors (DTH and broadcasting sector).

Analysis

19. In DAS, as per the Regulations, before providing cable TV services to a subscriber, a subscription agreement [popularly known as Consumer Application Form (CAF) or Subscription Application Form (SAF)] has to be signed between the MSO and the prospective subscriber. The MSO is responsible for providing services to the subscriber in accordance with the subscription agreement. The Head end, Conditional Access System and SMS are installed and maintained by the MSO and the responsibility for QoS and billing reposes with the MSO. The SMS contains information regarding the subscriber, the channels or bouquets that have been subscribed to, the prices of such channels or bouquets, the taxes along with rate of taxes levied, invoices raised on each subscriber and the amounts paid or discount allowed to the subscriber for each billing period. As per the Regulations, the MSO is responsible for generation and delivery of bills to subscribers. Further, the MSO is also responsible for issuing the receipts for payments made by the subscriber. In cases where cable TV services are being provided by an MSO through its linked LCOs, the responsibility of compliance with QoS norms and billing can be shared between the MSOs and LCOs through suitable service level agreements between them. However, the responsibility for meeting the norms for billing and receipt remains with the MSO. Therefore, the Authority is of the view that the financial disincentives ought to be imposed on MSOs for the contravention of provisions relating to the billing of the subscriber.

20. The subscriber has the right to get a bill and a receipt for every payment made for cable TV services. The collection of monthly subscription charges from subscribers without delivery of bills, and without issue of receipts for payments made by the subscriber amounts to an unfair trade practice. Further, in cable TV service, the service tax and entertainment tax, as applicable, are required to be collect from the subscriber and deposited with Government. To assess the exact amount of tax collected from a subscriber, the bill should have the breakup of the charges for services and taxes. In absence of such a breakup, and in absence of bills and receipts, the information about breakup of the amount collected from the subscriber remains opaque and there is a

distinct possibility of tax evasion. Further, proper billing and accounting of receipts would make it incumbent upon the MSOs to pay the Governments the taxes collected from the subscribers. Therefore, to ensure proper billing and accounting of receipts, the amount of financial disincentives that ought to be levied for each contravention should be commensurate to the breach and work as a credible deterrent. This disincentive should not be so large as to make the business unviable. In view of the above, the Authority has decided to levy financial disincentives on the MSO for each non-compliance of the Regulations 15(1) or 15(5) at a rate not exceeding Rs. 20 per subscriber.

21. On the issue of levy of such financial disincentives on DTH operators, it is observed that DTH subscribers are mostly prepaid whereas cable TV subscribers are largely post-paid. This amendment to the Regulations enables the levy of financial disincentives on MSOs who fail to provide bills and receipts to post-paid subscribers. As and when such a requirement arises in respect of pre-paid subscribers, then the Authority may consider amendment to the Regulations applicable for both kinds of operators i.e. cable and DTH, simultaneously. At this stage, no financial disincentives are envisaged on the billing of pre-paid customers. Moreover, in DAS, non-issuance of bills and receipts to the post-paid subscribers has proved to be a major roadblock in effective implementation of DAS. This defeat on the prime objective of implementation of DAS. However, in order to safeguard the interest of all subscribers of all the segments of broadcasting and cable TV sector, the Authority would keep a close watch and intervene in the public interest wherever necessary.

22. On the issue of imposition of penalty recoverable from subscribers who make payments beyond the due date, the Authority is of the view that along with the service provider, the subscriber should also follow certain financial discipline. It is expected that subscribers make the payment of the bills within its due date. Delay in payment affects the cash flow of the service provider. Therefore, to deter the subscriber from making payment after the due date, a reasonable financial charge can be levied on subscriber for delayed payment. Also, it compensates the additional cost of working capital to the service provider. Therefore, these financial charges should be comparable to Weighted Average Cost of Capital (WACC) of the service provider. The Authority, from time to time, has used 15% per annum WACC for the purpose of costing. Therefore, it is legitimate that in case a subscriber makes payment after due date, the MSO or its linked

LCO, as the case may be, may charge a simple interest on due amount at a rate up to 15% per annum. Accordingly, the Regulation 15(4) has been amended.

23. On the issue of charging a reconnection fee, it is observed that in DAS, reconnection of an existing subscriber can be done automatically through SMS on entry of receipt of payment and therefore, there is no reason for levy of such reconnection fee by the MSO or its linked LCO.

Electronic pre-paid billing

24. Many LCOs stated that pre-paid billing may lead to disputes and delays in the payment of their share of revenue. LCO associations stated that any amendments like introduction of pre-paid cards, levying of financial disincentives on LCOs, etc. would be detrimental to LCOs**.**

Analysis

25. The QoS Regulation for DAS, notified in 2012 mandates that cable TV services shall be offered to the subscribers both on pre-paid and post paid payment models, with subscribers having the option to choose. The amendment to Regulation 14(1) is simply an explanation which clarifies that the pre-paid payment option mentioned in the Regulation is to be implemented through electronic pre-paid mechanisms; such mechanisms are already in place for mobile telephones and DTH operators. The electronic pre-paid systems have the facility to record the amount paid by the subscriber in each subscriber account, calculate automatically the validity period based on the price of the subscribed services, automatically adjust the available amount as per the services already availed by the subscriber, and recharge the account through various modes like recharge vouchers, ATM machine, short-message-service, mobile/net-banking, auto-debit facility etc., as may be offered by the MSO. In the prepaid model, the revenue share between LCO and MSO would be based on the interconnection agreement between the MSO and its LCO. Further, for ensuring that the LCO gets the due revenue shares in time, necessary provisions can be incorporated in the interconnection agreements signed between the MSO and the LCO.

26. The MSO may offer several modes and multiple denomination schemes for recharging the subscriber's account depending on the convenience of subscribers and the business model of the MSO. However, as cable TV charges are generally paid by the subscribers

on a monthly basis, it is expected that an MSO would offer a monthly recharge scheme to its subscribers as one of the options.

27. On the issue of implementation of the electronic pre-paid model, the Authority observed that MSOs have already been directed through its Direction dated 27th May 2014 to provide, within 45 days of issue of the Direction, an on-line payment option in its SMS for payment of bills by the subscriber. With an on- line payment system in place and the availability of SMS, the Authority is of the view that a time of 60 days would be sufficient to stakeholders to align their business processes to comply with the provisions of these Regulations.

28. In order to check MSOs from preventing a subscriber to opt for pre-paid option or post paid option, the Authority is of the view that a financial disincentive not exceeding Rs. 100 per subscriber will be levied on the MSO for each contravention. The Authority has provided a reasonable time of 30 days to accept and activate the request of the subscriber for a change in the payment options. The subscriber can make such request, through verifiable means, to the MSO and the MSO must ensure that an acknowledgement is provided to the subscriber regarding receipt of the request. Accordingly, Regulation 16(2) has been amended.

Time limit for entry of details into SMS

29. On the time limit of 3 days for entry of details of the receipts into the SMS, one HITS operator has stated that the time given for the entry of details of the receipt is not sufficient as LCOs lack understanding of computer systems. On the other hand, LCO associations have stated that payment details should be updated at the MSOs' end in real time to avoid STB deactivation for those who pay towards the end of the grace period.

Analysis

30. In case of post-paid bills, the subscriber is billed on a monthly basis and the due date for payment is generally kept 15 days from the date of issue of bills. The Authority is of the view that details of payment received should be entered into the SMS as soon as possible but no later than 7 days from the date of payment made by the subscriber so that the subscriber account is updated well before the next billing cycle starts.

Other Misc. Comments

31. MSOs stated that the Authority should clarify as to whether delivery of bills/invoices/receipts etc. through alternate mediums such as e-mail, broadcast-mail and through mobile phone could be considered as compliance with the Regulation before imposition of financial disincentives on the service providers.

Analysis

32. On delivery of bills/invoices/receipts etc. through alternate mediums such as e-mail, broadcast-mail and through mobile phone, the Authority is of the view that broadcast-mail can be used for providing information to the subscriber but it cannot be considered as compliance with the Regulation. It does not provide the facility of storing the information. In respect of other options, such as print and e-mail, the choice of the subscriber shall prevail. The choice of the subscriber must be collected in a verifiable manner before adopting such alternatives.

33. The Authority is of the view that a reasonable opportunity should be given to stakeholders to represent to the Authority before a conclusion is reached about an alleged contravention and the imposition of a financial disincentive. Accordingly, a suitable provision has been incorporated in this amendment to the Regulations.

34. The levy of financial disincentives is necessary to protect the interests of subscribers, strengthen transparent business practices and ensure that revenues due to the Government are paid and deposited in full. It is the Authority's expectation that imposition of disincentives would effectively curb non-compliance with the provisions of the Regulations.

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