



Telecom Regulatory Authority of India



Draft

**THE TELECOMMUNICATION (BROADCASTING AND CABLE)
SERVICES
REGISTER OF INTERCONNECTION AGREEMENTS
REGULATIONS, 2019**

22nd April 2019

**Mahanagar Doorsanchar Bhavan,
Jawahar Lal Nehru Marg (Old Minto Road),
New Delhi – 110 002**

Written Comments on the Draft Telecommunication (Broadcasting and Cable) Services Register of Interconnection Agreements Regulations, 2019 are invited from the stakeholders by 6 May, 2019. Please support your comments with detailed reasons and justifications. Comments will be posted on TRAI's website www.trai.gov.in. The comments may be sent, preferably in electronic form, to Sh. Anil Kumar Bhardwaj, Advisor (B&CS), Telecom Regulatory Authority of India, on the e-mail:- advbcs-2@traigov.in or sapna.sharma@traigov.in. For any clarification/ information, Sh. Anil Kumar Bhardwaj, Advisor (B&CS) may be contacted at Tel. No.: +91-11-23237922, Fax: +91-11-23220442.

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

New Delhi the 22nd April, 2019

F. No. 6-1/2016- B&CS.— In exercise of the powers conferred by section 36, read with sub-clauses (vii) and (viii) 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, namely: -

**THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES
REGISTER OF INTERCONNECTION AGREEMENTS REGULATIONS, 2019
(No. __ of 2019)**

CHAPTER- I

PRELIMINARY

1. Short title, extent and commencement. -- (1) These regulations may be called the Telecommunication (Broadcasting and Cable) Services Register of Interconnection Agreements Regulations, 2019.

(2) These regulations shall be applicable to all commercial and technical arrangements entered into amongst broadcaster, distributor of television channels and local cable operator for providing broadcasting services relating to television provided through addressable systems throughout the territory of India.

(3) These regulations shall come into force from the date of their publication in the Official Gazette.

2. Definitions. — (1) In these regulations, unless the context otherwise requires:-

- (a) “Act” means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);
- (b) “active subscriber” means a subscriber who has been authorized to receive signals of television channels as per the subscriber management system and whose set top box has not been denied signals;
- (c) “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 transmission of programmes including re-transmission of signals of television channels can be done in encrypted form, which can be decoded by the device or devices at the premises of the subscriber within the limits of the authorization made, on the choice and request of such subscriber, by the distributor of television channels;
- (d) “a-la-carte” or “a-la-carte channel” with reference to offering of a television channel means offering the channel individually on a standalone basis;
- (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 (24 of 1997);
- (f) “average active subscriber base” means the number arrived at by averaging the

active subscriber base count in the manner specified in the Schedule VII of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017;

- (g) “bouquet” or “bouquet of channels” means an assortment of distinct channels offered together as a group or as a bundle and all its grammatical variations and cognate expressions shall be construed accordingly;
- (h) “broadcaster” means a person or a group of persons, or body corporate, or any organization or body who, after having obtained, in its name, downlinking permission for its channels, from the Central Government, is providing programming services;
- (i) “broadcaster’s share of maximum retail price” with reference to a pay channel or a bouquet of pay channels means any fee payable by a distributor of television channels to a broadcaster for signals of pay channel or bouquet of pay channels, as the case may be, and for which due authorization has been obtained by such distributor from that broadcaster;
- (j) “broadcasting services” means the dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly and all its grammatical variations and cognate expressions shall be construed accordingly;
- (k) “cable service” or “cable TV service” means the transmission of programmes including re-transmission of signals of television channels through cables;
- (l) “cable television network” or “cable TV 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;
- (m) “calendar quarter” means a period of three consecutive calendar months beginning from 1 January, 1 April, 1 July, or 1 October and it shall be termed as Quarter 1, Quarter 2, Quarter 3 and Quarter 4 respectively;
- (n) “carriage fee” means any fee payable by a broadcaster to a distributor of television channels only for the purpose of carrying its channels through the distributor’s network, without, specifying the placement of such channels onto a specific position in the electronic programme guide or, seeking assignment of a particular number to such channels;

- (o) “compliance officer” means any person designated so, under the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017;
- (p) “direct to home operator” or “DTH operator” means any person who has been granted license by the Central Government to provide direct to home (DTH) service;
- (q) “direct to home service” or “DTH service” means re-transmission of signals of television channels, by using a satellite system, directly to subscriber’s premises without passing through an intermediary such as local cable operator or any other distributor of television channels;
- (r) “distribution fee” means any fee payable by a broadcaster to a distributor of television channels for the purpose of distribution of pay channel or bouquet of pay channels, as the case may be, to subscribers and it does not include carriage fee;
- (s) “distribution platform” means distribution network of a DTH operator, multi-system operator, HITS operator or IPTV operator;
- (t) “distributor of television channels” or “distributor” means any DTH operator, multi-system operator, HITS operator or IPTV operator;
- (u) “electronic programme guide” or “EPG” means a program guide maintained by the distributors of television channels that lists television channels and programmes, and scheduling and programming information therein and includes any enhanced guide that allows subscribers to navigate and select such available channels and programmes;
- (v) “free-to-air channel” or “free-to-air television channel” means a channel which is declared as such by the broadcaster and for which no fee is to be paid by the distributor of television channels to the broadcaster for signals of such channel;
- (w) “head end in the sky operator” or “HITS operator” means any person permitted by the Central Government to provide head end in the sky (HITS) service;
- (x) “head end in the sky service” or “HITS service” means transmission of programmes including re-transmission of signals of television channels—
 - (i) to intermediaries like local cable operators or multi-system operators by using a satellite system and not directly to subscribers; and

- (ii) to the subscribers by using satellite system and its own cable networks;
- (y) “interconnection” means commercial and technical arrangements under which service providers connect their equipments and networks to provide broadcasting services to the subscribers;
- (z) “interconnection agreement” with all its grammatical variations and cognate expressions means agreements on interconnection providing technical and commercial terms and conditions for distribution of signals of television channel;
- (aa) “interconnection regulation” means the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 dated 3rd March 2017;
- (bb) “internet protocol television operator” or “IPTV operator” means a person permitted by the Central Government to provide IPTV service;
- (cc) “internet protocol television service” or “IPTV service” means delivery of multi channel television programmes in addressable mode by using Internet Protocol over a closed network of one or more service providers;
- (dd) “local cable operator” or “LCO” means a person registered under rule 5 of the Cable Television Networks Rules, 1994;
- (ee) “maximum retail price” or “MRP” for the purpose of these regulations, means the maximum price, excluding taxes, payable by a subscriber for a-la-carte pay channel or bouquet of pay channels, as the case may be;
- (ff) “multi-system operator” or “MSO” means a cable operator who has been granted registration under rule 11 of the Cable Television Networks Rules, 1994 and who receives a programming service from a broadcaster 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;
- (gg) “pay broadcaster” means a broadcaster which has declared its one or more channels as pay channel to the Authority under the provisions of applicable regulations or tariff order, as the case may be;
- (hh) “pay channel” means a channel which is declared as such by the broadcaster and for which a share of maximum retail price is to be paid to the broadcaster by the distributor of television channels and for which due authorization needs to be obtained from the broadcaster for distribution of such channel to subscribers;

- (ii) “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;
- (jj) “register” means the register of interconnection agreements maintained by the Authority in the form as it may decide from time to time;
- (kk) “set top box” or “STB” means a device, which is connected to or is part of a television receiver and which enables a subscriber to view subscribed channels;
- (ll) “subscriber” for the purpose of these regulations, means a person who receives broadcasting services, from a distributor of television channels, at a place indicated by such person without further transmitting it to any other person and who does not cause the signals of television channels to be heard or seen by any person for a specific sum of money to be paid by such person, and each set top box located at such place, for receiving the subscribed broadcasting services, shall constitute one subscriber;
- (mm) “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 utilized by the subscriber, channels or bouquets of channels subscribed 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;
- (nn) “television channel” means a channel, which has been granted permission for downlinking by the Central Government under the policy guidelines issued or amended by it from time to time and reference to the term ‘channel’ shall be construed as a reference to “television channel”.

(2) All other words and expressions used in these 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
PROCEDURE FOR REPORTING OF INFORMATION

3. Reporting of information relating to interconnection agreements by broadcaster and distributor of television Channels. —

(1) Every broadcaster, through its compliance officer, shall report to the Authority, the information relating to all the interconnection agreements of its pay and FTA channel or modifications or amendments or addenda thereto, pursuant to the interconnection regulation, 2017, in the manner and in the format as specified in regulation 4, within thirty days from the end of every ‘calendar quarter’ in which such agreements or modifications or amendments or addenda, as the case may be, have been signed.

(2) Every distributor of television channels, whose average active subscriber base of its entire distribution network (including joint venture(s), if any) in the month of March of that year is equal to or more than two lakhs (Two hundred thousand), shall through its compliance officer, report to the Authority, the information relating to all interconnection agreements or modifications or amendments or addenda thereto, pursuant to the interconnection regulation, 2017, in the manner and in the format as specified in regulation 4, within thirty days from the end of every ‘calendar quarter’ in which such agreements or modifications or amendments or addenda, as the case may be, have been signed.

Provided further that in cases where the average active subscriber base of the entire distribution network of a distributor, who once has been under obligation to file the report under this sub-regulation, falls below two Lakhs (Two hundred Thousand) in the month of March of any of the subsequent years, then such distributor shall within thirty days from the end of the month of March of that year, furnish to the Authority, a certificate, in electronic format, duly signed by its compliance officer, to the effect that the average active subscriber base of the entire distribution network of such distributor was below two Lakhs (Two hundred Thousand) in the month of March of that year.

(3) In case no interconnection agreement or modification or amendment or addendum, is signed in a ‘calendar quarter’ by a broadcaster or by a distributor of television channels who is required to report such agreements under these regulations, the broadcaster or the distributor, as the case may be, through its compliance officer, shall furnish to the Authority, a certificate, in electronic format, to the effect that no agreement or modification or amendment or addendum has been signed in that ‘calendar quarter’, as the case may be, within thirty days from the end of such ‘calendar quarter’.

(4) Every broadcaster or distributor of television channels, while filing any report as required under sub-regulations (1) and (2) of regulation 3, shall also simultaneously furnish to the Authority a certificate, in electronic format, duly signed by the concerned compliance officer, to the effect that all information in the report is true and correct and all interconnection agreements or modifications or amendments or addenda thereto reported under these regulations are compliant with all regulations, orders and directions made or issued by the Authority and that they do not contravene the provisions contained in any such regulation, order or direction.

4. Details of information to be reported. — (1) Every broadcaster shall report the information, as required under sub-regulations (1) of regulation 3, in electronic format, in three parts namely, Part A, Part B and Part C, where:

(a) Part A shall contain, in tabular form-

(i) the details of all individual agreements signed with distributor of television channels in respect of which request for re-transmission of television channel has been received, such as; names and addresses of contracting parties, date of signing of the agreement, validity period of the agreement, and target market covered by the agreement,

(ii) the details of all individual agreements signed with distributor of television channels in respect of which request for re-transmission of television channel has been made, such as; names and addresses of contracting parties, date of signing of the agreement, validity period of the agreement, and target market covered by the agreement;

(b) Part B shall contain, in tabular form-

(i) the details of all individual agreements covered under clause (i) of clause (a) of sub-regulation (1), such as; name of a-la-carte pay and/or FTA channel

and bouquet of pay and/or FTA channels, if any covered under the agreement, names of constituent pay and/or FTA channels of each bouquet of pay and/or FTA channels, if any, distribution fee agreed in respect of each a-la-carte pay and/or FTA channel and each bouquet of pay and/or FTA channels, if any, amount of discount on maximum retail price of each a-la-carte pay channel and each bouquet of pay channels, if any, other details of any agreement including any incentive (monetary or otherwise) for marketing or support or visibility or placement signed between Broadcaster and distributor of television channels and any other details which may be specified by the Authority, through direction, from time to time;

(ii) the details of all individual agreements covered under sub-clause (ii) of clause (a) of sub-regulation (1), such as; name and nature of channel covered under the agreement, carriage fee agreed in respect of each channel, details of discounts agreed, other details of any agreement including any incentive (monetary or otherwise) for marketing or support or visibility or placement signed between Broadcaster and distributor of television channels and any other details which may be specified by the Authority, through direction, from time to time,

and,

(c) Part C shall contain copies of each interconnection agreement or modification, or amendment or addendum covered under clause (a) of this sub-regulation.

(2) Every distributor of television channels shall report the information, as required under sub-regulations (2) of regulation 3, in electronic format, in three parts namely, Part A, Part B and Part C, where:

(a) Part A shall contain, in tabular form-

(i) the details of all individual agreements signed with broadcasters in respect of which request for re-transmission of television channel has been made, such as; names and addresses of contracting parties, date of signing of the agreement, validity period of the agreement, and target market covered by the agreement;

(ii) the details of all individual agreements signed with broadcasters in respect of which request for re-transmission of television channel has been received, such as; names and addresses of contracting parties, date of signing of the

agreement, validity period of the agreement, and target market covered by the agreement,

(iii) the details of all individual agreements signed with local cable operators, such as names and addresses of contracting parties, date of signing of the agreement, validity period of the agreement, and target market covered by the agreement;

and

(b) Part B shall contain, in tabular form-

(i) the details of all individual agreements covered under clause (i) of clause (a) of sub-regulation (2), such as; name of a-la-carte pay and/or FTA channel and bouquet of pay and/or FTA channels, if any covered under the agreement, names of constituent pay and/or FTA channels of each bouquet of pay and/or FTA channels, if any, distribution fee agreed in respect of each a-la-carte pay and/or FTA channel and each bouquet of pay and/or FTA channels, if any, amount of discount on maximum retail price of each a-la-carte pay channel and each bouquet of pay channels, if any, other details of any agreement including any incentive (monetary or otherwise) for marketing or support or visibility or placement signed between Broadcaster and distributor of television channels and any other details which may be specified by the Authority, through direction, from time to time;

(ii) the details of all individual agreements covered under sub-clause (ii) of clause (a) of sub-regulation (2), such as; name and nature of channel covered under the agreement, carriage fee agreed in respect of each channel, details of discounts agreed, other details of any agreement including any incentive (monetary or otherwise) for marketing or support or visibility or placement signed between Broadcaster and distributor of television channels and any other details which may be specified by the Authority, through direction, from time to time,

(iii) the indication, in respect of each of the individual agreements covered under sub-clause (iii) of clause (a) of sub-regulation (2), as to whether the agreement has been signed on the basis of Standard Interconnection Agreement or Model Interconnection Agreement, settlement of service charges (in case of Model Interconnection Agreement) details of revenue share

(discounts if any) agreed, if any, and any other details which may be specified by the Authority, through direction, from time to time;

and

(c) Part C shall contain copies of each interconnection agreement or modification or amendment or addendum covered under sub-clause (i) and (ii) of clause (a) of sub-regulation (2).

(3) The Authority may from time to time specify through a direction, the manner of filing of data or information (including but not limited to online submission through or without a portal), the form or formats of filing, the copies of interconnection agreements, any additional requirements and other procedural aspects connected and incidental to the filing of details of interconnection agreements.

5. Consequences of delay in reporting.— (1) If any broadcaster or distributor of television channels fails to furnish the information or the certificate required to be submitted under regulation 3 by the specified date, it shall, without prejudice to the terms and conditions of its license/permission/registration, or the Act or rules or regulations or order made, or direction issued there under, be liable to pay, by way of financial disincentive,---

(a) an amount of rupees one thousand per day for up to thirty days beyond the date specified in regulation 3,

(b) additional amount of rupees two thousand per day in case the default continues beyond thirty days from the due date,

as the Authority may, by order, direct.

Provided that the cumulative financial disincentive levied by the Authority under this sub-regulation shall in no case exceed Rupees Two Lakhs (Rs. Two hundred Thousand).

(2) No order for payment of any amount by way of financial disincentive shall be made by the Authority unless the broadcaster or the distributor of television channels has been given a reasonable opportunity of representing against the contravention of the regulations observed by the Authority.

(3) 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.

CHAPTER- III

PROCEDURE FOR MAINTENANCE OF REGISTER AND ITS INSPECTION

6. Maintenance of the register.— The Authority shall maintain register in two parts, namely Part I and Part II, where:

(i) Part I shall consist of the information as contained in Part A furnished by the broadcaster or distributor of television channels under regulation 4.

(ii) Part II shall consist of the information as contained in Part B and Part C furnished by the broadcaster or distributor of television channels under regulation 4.

7. Inspection of the register.— (1) Part A shall be treated as non-confidential and where any party to an Interconnect Agreement requests the Authority to keep the whole or any part of the agreement reported in Part B or Part C as confidential, the Authority shall take a decision thereon in accordance with the relevant provisions of the Telecom Regulatory Authority of India (Access to information) Regulation, 2005.

(2) The register shall be kept open for inspection to any member of public and would be governed by the relevant provision of the Telecom Regulatory Authority of India (Access to information) Regulation, 2005 and the rules made thereunder.

(3) Nothing contained in this regulation shall apply to an interconnection agreement entered in the register—

(i) in respect of which a period of three years has expired from the date of reporting of such agreement, or

(ii) in respect of which the period of validity as specified in the agreement has expired,

whichever is later.

CHAPTER- IV
MISCELLANEOUS

8. Obligations of the compliance officer.— (1) The compliance officer shall be responsible for—

- (a) reporting to the Authority, with respect to compliance with these regulations and directions of the Authority issued under these regulations; and
- (b) ensuring that proper procedures have been established and are being followed for compliance of these regulations.

(2) The provisions contained in the sub-regulation (1) above shall be in addition to the liability of the broadcaster or distributor of television channels to comply with the requirements laid down under these regulations.

9. Repeal and Saving. — (1) The Register of Interconnect Agreement (Broadcasting and Cable Services) Regulation, 2004 dated the 31st December 2004 is hereby repealed.

(2) Notwithstanding the repeal of regulations mentioned, under sub-regulation (1), anything done or any action taken or proposed to have been done under the said regulation shall be deemed to have been done or taken under the corresponding provision of these regulations.

(Sunil Kumar Gupta)
Secretary, TRAI

Note: The Explanatory Memorandum annexed herewith explains the objects and reasons of the Telecommunication (Broadcasting and Cable) Services Register of Interconnection Agreements Regulations, 2019.

The Explanatory Memorandum to the Register of Interconnection Agreements (Broadcasting and Cable Services) Regulations, 2019 (___ 2019)

Background

1. The Telecom Regulatory Authority of India Act, 1997 (the TRAI Act) entrusts the Authority, amongst others, the functions to ensure technical compatibility and effective interconnection between different service providers, fix the terms and conditions of interconnectivity as well as regulate arrangement amongst service providers for sharing their revenue. Broadcasting and Cable Services were brought within the ambit of telecommunication services in terms of section 2(k) of the Telecom Regulatory Authority of India Act 1997 in the year 2004.
2. The interconnection between service providers is a technical arrangement under which service providers connect their equipment and networks to enable subscribers to have access to the services. Accordingly, the Authority had put in place regulatory framework for interconnection by making the Telecommunication (Broadcasting and Cable Services) Interconnection Regulations, 2004 dated 10th December 2004 and the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable TV Systems) Regulations, 2012 dated 30th April 2012. Based on this framework the broadcaster or distributor of television channels finalize the commercial and technical terms and conditions to arrive at an agreement. Under the existing interconnection regulatory framework broadcasters are required to provide the signals of TV channels to the distributors of TV channels on non-discriminatory terms. Similarly, distributors of television channels are also required to provide access to their networks to the broadcasters on non-discriminatory terms.
3. Section 11 (1) (b) of the TRAI Act, 1997 mandates the Authority to maintain register of interconnection agreements and keep it open for inspection. The said provisions are reproduced below:

“11 (1) (b)-----

vii. Maintain register of inter-connect agreements and of all such other matters as may be provided in the regulations;”

viii. Keep register maintained under clause (vii) open for inspection to any member of public on payment of such fee and compliance of such other requirements as may be provided in the regulations;

ix.-----”

4. Keeping in view the aforesaid provisions of the TRAI Act and the regulatory framework for interconnection, the Authority notified separate regulations namely, “The Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation 2004” (15 of 2004) on 31.12.2004, (herein after referred as the Register of interconnection regulations) which prescribe modalities for the maintenance of the Register of Interconnection Agreements for broadcasting and cable services. The said regulations were amended from time to time, in line with changes in interconnection regulations.

5. As per Register of interconnection regulations, the broadcasters were required to report the details of the interconnection agreements signed with the distributors of TV channels on annual basis. Similarly, the DTH operators, HITS operators and IPTV operators were required to report their interconnection agreements signed with broadcaster on annual basis. A direction dated 29th July 2009 was issued to the broadcasters directing them to report the details of interconnection agreements in electronic form (in non-writable CDs) along with its print form. A direction dated 29th July 2009 was issued to DTH, HITS and IPTV operator to furnish copy of each interconnection agreement with the Authority and also to furnish the details of interconnection agreements in electronic form. The register of interconnect agreements was to be maintained in two parts: part A and part B wherein part A was kept open for inspection by any member of public on payment of prescribed fee and part B was not open for the public inspection. Part B contained information which was decided by Authority on request of service provider to be kept confidential. While deciding the confidentiality of the information, the Authority was required to follow the relevant provisions of the Telecom Regulatory Authority of India (Access to Information) Regulation, 2005. The Telecom Regulatory Authority of India (Access to Information) Regulation, 2005 had a provision for exemption of following information from disclosure:
 - (i) trade and commercial secrets and information protected by law;

- (ii) Commercially and financially sensitive information, the disclosure of which is likely to cause unfair gain or unfair loss to the service provider, or to compromise his competitive position.
- 6. On examination of the interconnection filing/details made by the broadcaster or distributor of television channels under Register Regulation, 2004, the Authority had, inter-alia, observed that:
 - a) There was a lack of uniformity in filings received from various broadcaster or distributor of television channels ;
 - b) Often the reports/filings were not submitted on time;
 - c) There were varied interpretations of the requirement in the Register Regulation, 2004 regarding filing of standard affiliation agreement;
 - d) Reporting of information in print form became a time-consuming and laborious task and was also not eco-friendly.

Therefore, review of the Register Regulation, 2004 was expedient.

- 7. In line with the established practice, for reviewing the regulatory framework for register of interconnection agreements, the Authority issued a consultation paper titled as “the Register of Interconnection Agreements (Broadcasting and Cable Services) Regulations, 2016” on 23rd March 2016. In response to the said consultation paper, a total of 26 comments & 2 counter-comments were received from stakeholders. Subsequently, an Open House Discussion (OHD) was held on 26th May 2016 in Delhi, which was attended by a large number of stakeholders.
- 8. Meanwhile, the Authority notified a new regulatory framework on 3rd March 2017, which is uniform for all types of addressable systems. The said framework comprises of the following regulations and Tariff Order.
 - a. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 [*hereinafter referred as* Interconnection Regulations, 2017]
 - b. The Telecommunication (Broadcasting and cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 [*hereinafter referred as* QoS Regulations, 2017]

c. Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 [*hereinafter referred as Tariff Order, 2017*]

9. The new regulatory framework was notified in March 2017. However, pursuant to a legal challenge to the said regulations, the regulations have come into effect on 3rd July 2018 in compliance with the orders of the High Court of Madras and High Court of Delhi. Hon'ble Supreme Court has since upheld the powers of TRAI vide its order dated 30.10.2018 and adjudicated that the Regulations and Tariff Order are *intra vires* the TRAI Act. Some Service Providers have also challenged the Regulations and Tariff Order at the High Court of Delhi. After the coming into effect of the new regulatory framework, all the service providers are required to enter into the interconnection agreement in accordance with the said framework; consequently, the reporting requirements under these regulations are dependent upon the parameters prescribed by the new framework. The salient features of the new regulatory framework are given below:

- a) Every broadcaster is required to declare the maximum retail price (MRP) of its pay channels on a-la-carte basis. However, such MRP shall be uniform for all types of addressable systems.
- b) Every Broadcaster must declare a distribution fee at a minimum of 20% of the MRP of pay channel or bouquet of pay channels which can be upto 35%
- c) In addition to the distribution fee, Broadcasters may offer discounts to distributors which cannot exceed 15% of the MRP of pay channels or bouquet of pay channels. However, in no case, the sum of distribution fee declared by a broadcaster and discounts offered can exceed 35% of the MRP of pay channel or bouquet of pay channels, as the case may be.
- d) Every broadcaster should publish, on its website, the Reference Interconnection Offer (RIO) containing the information such as MRP of its pay channels and bouquet of pay channels, distribution fee, discounts etc.
- e) Every broadcaster is required to enter into written interconnection agreements on the basis of the RIO published by it for providing signals of pay channels to a distributor of television channels.
- f) Similarly, every distributor of television channels is required to publish RIO on its website for carrying a channel on its distribution network. Such RIO must necessarily contain the information such as target market, rate of carriage fee, manner of calculation of carriage fee etc.

- g) The rate of carriage fee has been capped at Re. 0.20 per Standard Definition channel and Re. 0.40 per High Definition Channel. The manner of carriage calculation is as prescribed in the regulations. The distributor can offer a discount on the carriage fee. However, such discount cannot be more than 35%.
- h) Every distributor is required to enter into written agreement, on the basis of its published RIO, with the broadcaster for carrying television channels in respect of which the request has been received from such broadcasters.
- i) Any other kind of fee for a channel such as marketing fee, placement fee etc, between two service providers should be made part of interconnection agreement and reported to the Authority.
- j) Some distributors (for example Multi-Service Operators) provide the Broadcasting Service through LCOs. For such distributors it is mandatory to enter into a written agreement before providing the signals. Such interconnection agreement must comply with the standard provisions as per the Model Interconnection Agreement (MIA)/Standard Interconnection Agreement(SIA) as prescribed by the Authority.

Disclaimer: The salient points as above are for general explanation only and have no bearing on the relevant clause(s) in the regulations.

10. The following paragraphs provide gist of the comments/views of the stakeholders received on the issues, analysis of these comments and objects & reasons of these regulations.

Reporting requirements relating to interconnection agreements

11. The value chain in the distribution of television channels comprises of the broadcaster, the distributor of television channels, the local cable operator and the end subscriber. The business of distribution of television channels from the broadcaster to the subscriber has two levels – i) the broadcaster provides the signals of television channels to distributor of television channels and ii) the distributor of television channels offers these channels, either directly or through local cable operator, to the subscribers. Amongst the distributor of television channels, DTH operator serves the subscriber directly, while MSO and the HITS operator generally serve the subscribers through its linked LCOs. Thus, in the business process of provisioning of television channels, television signals flow from the broadcasters to the subscriber via the

distributors of television channels. However, a broadcaster or distributor of television channels in the value chain may act as a seeker or as a provider. For example, when a distributor seeks signals of TV channels from a broadcaster, it acts as a seeker and the broadcaster in such case becomes a provider of the signals of TV channel. Similarly, when a broadcaster approaches a distributor requesting the distributor to carry its TV channels on the distributor's network then it acts as a seeker and the distributor becomes a provider of access to the network.

12. Therefore, in the consultation paper it was envisaged that the provider of television signals or access to the network, as the case may be, should be made responsible for furnishing the information relating to the interconnection agreements to the Authority. Accordingly, it was proposed in the consultation paper that the details of interconnect agreements between broadcaster of pay channel and distributor of TV channels shall be reported by the broadcaster of pay channel. Similarly, the interconnect details between distributor and LCO shall be reported by the distributor. Further, the carriage details wherever applicable shall be reported by the distributors. However, the Authority is of the view that to ensure transparency all the Interconnect agreements must be reported by both the broadcaster and distributor of television channels, as discussed in subsequent paragraphs.
13. During the consultation process, one stakeholder commented that the carriage fee/placement fee agreements are not interconnect agreement. Therefore, there should not be any requirement on the Distribution Platform Operators (DPOs) to report the carriage fee/placement fee. Some stakeholders commented that in order to ensure complete transparency and non-discrimination, the parties should be directed to submit all the agreements with any kind of compensation (in monetary terms or otherwise¹), whether carriage / marketing / support or any other tag, signed among them.
14. The assertion of the stakeholder that the carriage fee/placement fee agreements are not interconnection agreements, is devoid of any merit. In terms of Interconnection

¹ For example: an agreement without any direct monetary benefits, but providing or availing assured advertisement slots or assured LCN number etc.

Regulations, 2017, the terms “interconnection” and “interconnection agreements” have been clearly defined to include all commercial and technical arrangements between broadcasters and the distributors of television channels. Regulation 10 (1) of Interconnection Regulation 2017 mentions that no broadcaster shall provide signals of pay channels to a distributor of television channels (DPO) without entering into a written interconnection agreement with such DPO. Similarly Regulation 10(2) of abovementioned regulation mentions that no DPO shall distribute pay channels of any broadcaster without entering into a written interconnection agreement with such broadcaster.

15. In addition, para 100 of the Explanatory Memorandum to the Interconnection Regulation, 2017 clearly mentions that from the comments received from the stakeholders and the agreements entered by service providers, it is noted that varied terms like marketing fee, bandwidth support fee, channel visibility fee etc. are used for different purposes and commercial arrangements between broadcasters and DPOs. Any such commercial arrangement is a type of interconnection agreement and therefore it has to be on non-discriminatory basis. From the above it is clearly inferred that as per Interconnection Regulation 2017 any commercial arrangement between broadcaster and the distributors of television channels is a type of interconnection agreement. Carriage and placement agreements essentially involve the interconnectivity between broadcaster and distributor of television channels. Therefore, there is no basis to state that the carriage fee/placement fee agreements are not interconnection agreements. Interconnection Agreements are techno-commercial agreements for provisioning/carriage of the television channel(s) and includes carriage or marketing or support or visibility or placement or any similar agreement signed between Broadcaster and distributor of television channels.
16. Since the interconnection agreement is signed by the two parties, therefore, the Authority considers that obligation of reporting in respect of pay and FTA channels shall rest with both the broadcasters and the distributors of television channels. Further, in terms of Interconnection Regulations, 2017, every distributor of television channels is required to enter into a written agreement with the broadcaster where the broadcaster has made request to carry its television channels on the network of the distributor. Therefore, in such cases also, as the carriage agreement is signed by both

the parties, the responsibility of reporting the information relating to such agreements shall rest with the distributor of television channels as well as the broadcaster.

17. As regards the placement fee, the Authority noted that as per the extant regulatory framework, the broadcaster may offer discount within the prescribed limit or pay the mutually agreed fee, after signing the interconnection agreement, to a distributor for placing the channel at the desired position in the EPG. It is important to note here that such agreements are required to be filed with the Authority. Since the placement agreements are also signed by both the parties therefore, the placement fee details shall also be reported by both the distributors of television channels and broadcasters. Also, the marketing fee details and for that matter any kind of fee for a channel, between broadcaster and distributor shall be reported to the Authority. Thus any incentive (monetary or otherwise) for marketing or support or visibility or placement signed between Broadcaster and distributor of television channels shall be reported to the Authority. In case of interconnection agreement between distributor of television channels and LCO wherever applicable, the information shall be reported by the distributor.
18. The reporting of all the details of the Interconnection agreement by both the parties shall help in verifying the accuracy of the information submitted, as and when the need arises. Accordingly, necessary provisions have been incorporated in the regulations.

Exemption from reporting the interconnection details

19. In the consultation paper, it was proposed that Authority may exempt certain class of service providers from reporting information relating to interconnect agreements. On this issue, some stakeholders stated that any exemption provided by the Authority should be transparent and should be made equally applicable.
20. The Authority observes that there are 1143² active MSOs and approximately 100,000 LCOs working in the industry. It has been observed that many MSOs are small players providing service in remote rural areas or in small towns catering to small

² As per information received from MIB on January 20, 2019.

number of subscribers. Also, since the digitisation of cable TV has been completed in India in March 2017 only, therefore, some of the MSOs are at the nascent stage of operations in digital addressable distribution platform. Such small MSOs may have capacity constraints both in terms of manpower as-well-as financial. Therefore, initially, it may be appropriate to seek information, only from those distributors who have a significant subscriber base. Accordingly, it has been decided by the Authority that only distributors, having average active subscriber base of two lakh or more in the month of March of a year, shall be under obligation to report the information relating to their interconnection agreements for the next calendar quarters (let us say a distributor has average active subscriber base of 2,00,000 subscribers in March 2019 then it would report the interconnection details on quarterly basis in respect of all the agreements signed during the next calendar quarters i.e. April-June, 2019, July-September 2019, October-December 2019 and Jan-March 2019). The average active subscriber base for the month of March will be calculated as prescribed in Interconnection Regulations, 2017. For a distributor having multiple head-ends, the calculation shall include the subscribers of all the distribution networks including those of all the head-ends operated by him.

21. There are few MSO's who are operating different companies as Joint Ventures. In case any MSO or any of its JV partner becomes eligible to report for the register of interconnection i.e. becomes 'reporting distributor' then all its joint venture partners/ associate companies working as distributors must submit the interconnection agreements.
22. Further, these regulations provide that if any distributor once crosses the reporting threshold then it will attain the status of "reporting distributor". Afterwards, if the subscriber base of any reporting distributor, falls below threshold in any of the subsequent years, it shall furnish a certificate duly signed by compliance officer to the Authority that its subscriber base is below the threshold for that year.
23. In cases where the average active subscriber base of the entire distribution network of a distributor, who once has not been under obligation to file the report under this sub-regulation, reaches above two Lakhs (Two hundred Thousand) in the month of March of any of the subsequent years, then such distributor shall file the report under

this sub-regulation for all the immediately succeeding four calendar quarters from the month of March of a year.

24. As such, the distributor having average active subscriber base below the reporting threshold have been exempted from the obligation of reporting. However, such distributors are also encouraged to report the information voluntarily so that Authority is in possession of holistic data of the industry. This will help the authority in better monitoring of the industry and to take suitable measures/ decisions for the orderly growth of the industry. The reporting threshold of two lakh subscribers may be reviewed by the Authority in future.

Periodicity of reporting

25. Initially, when the Register Regulation 2004 was notified on 31st December 2004, it had the provision for quarterly reporting of the information. But in the year 2009, this provision was revised for annual reporting. The consultation paper espoused for monthly reporting, wherein the service provider would need to report the information about all its agreements signed during a month, within 10 days from the end of that month.
26. On this issue, some stakeholders commented that the periodicity of the report should continue to be once in a year only. It has been suggested that at best the periodicity can be changed to twice a year for all service providers as there is considerable increase in the number of distributors of television channels. Further that the information is quite dynamic with frequent launching of new channels by the broadcasters, amendments or addendums etc. Updating the data on monthly or quarterly basis will be extremely cumbersome and a tedious exercise. Few stakeholders suggested that the service providers should report the details of their interconnection agreements on quarterly basis. One of the stakeholders commented that if during a quarter, no agreement is signed then the service provider should furnish a blank submission stating that no agreements executed during that quarter. Some other stakeholders agreed with the monthly-reporting of interconnection agreements as proposed in the draft regulations during consultation. According to

them, as soon as interconnection agreements are signed, the information about such agreements should be reported to TRAI without any delay or manipulations.

27. The Authority noted that the industry practice is largely to sign interconnection agreements on yearly basis. Since, the periodicity of the reporting under previous regulations was also once in a year, sometimes when these agreements were reported, their validity was already over. Therefore, in such cases, it was not feasible to take any corrective action even if it was necessary. Keeping in view of the experience, the Authority observed that the reporting of information relating to interconnection agreements should be within a reasonable time after its execution for effective implementation of the principles of non-discrimination and monitoring. There is a requirement to create a balance between the necessary oversight by regulator vis-a-vis the compliance burden on stakeholders. Accordingly, the Authority having considered various comments, market information and its own analysis has decided that information relating to interconnection agreements shall be reported on quarterly basis.
28. The broadcaster or distributor of television channels shall report to the Authority about the details of all their interconnection agreements signed in any calendar quarter within thirty days from the end of such calendar quarter. For example, a broadcaster may have signed 50 agreements with different distributors during the period of any calendar quarter- let us say in the first calendar quarter (i.e. the period from 1st January to 31st March of the year) then all these agreements are required to be reported by the 30th April of that year. The Authority is of view that in order to avoid duplication of reporting, once a particular agreement is reported with TRAI then the same should not be reported again until any change/ modification is made in such agreement. Such change or amendment should also be reported within 30 days from the end of the calendar quarter in which such amendment or modification has been carried out. A new broadcaster shall report the information relating to interconnection agreements on quarterly basis. For example if a broadcaster starts its operations in say April of a year then such a broadcaster shall start reporting the above mentioned details for quarter ending in June.

29. There is also a possibility that a broadcaster or distributor of television channels may not have signed any agreement/modification during any calendar quarter, in such cases the broadcaster or distributor of television channels shall report to the Authority certifying the same. This will help in checking the malpractice of signing of agreements on retrospective basis (pre-dated agreements).

Mode and Format of reporting

30. As regards the mode of reporting, all the stakeholders are in-agreement with the electronic mode as proposed in the consultation paper. The Authority noted that information relating to interconnection agreements being voluminous in nature, it will be in the interest of the broadcaster or distributor of television channels that such information is reported through electronic means. It will also be easy to retrieve and manage such information by the authority and the stakeholders. There may be various alternatives for reporting the information in electronic mode like CD-ROM, e-filing through emails or by uploading the e-documents or information related to Interconnection agreements on the website/e-portal. The Authority would separately specify the mode of e-reporting through suitable direction.
31. During consultation, comments were sought from the stakeholders on the formats of reporting as proposed in the draft regulations. In addition to the formats, the requirement of filing of the copies of actual agreements was also proposed. Stakeholders have given divergent views on these formats. Also, the parameters mentioned in the formats/tables were according to the previous interconnection regulatory framework which has now been replaced by the new framework therefore some of the suggestions of stakeholder may not be relevant in the present context. On the issue of filing of actual copies of agreements, some stakeholders have suggested to remove the requirement of filing copies of agreements while some other stakeholders have pressed for mandating the service providers to file the copies of their actual agreements so that the tabular details provided by them may be cross-checked. Majority of the MSOs have suggested that they may be exempted from filing the copies of their interconnection agreements signed with LCOs as such agreements have already been pre-defined by TRAI in the form of Model Interconnection Agreement (MIA) and Standard Interconnection Agreement (SIA).

32. It was noted by the Authority that the formats of reports may require changes over a period depending on the changes in interconnection framework and other relevant requirements. Therefore, instead of prescribing any particular schedule or format or table in the regulations, the Authority has prescribed the broad headings/parameters under which a broadcaster or distributor of television channels shall furnish the information. The specific format in line with the regulatory framework in vogue may be prescribed by the Authority through suitable direction from time to time. This methodology will obviate the need of amendments to the regulations.
33. The regulation mandate that the information shall be reported by the broadcasters and distributors of television channels in three parts- Part A, Part B and Part C. Part A shall contain certain basic details of each individual agreement/modification /amendment or addendum thereto such as name and address of contracting parties, date of signing of agreement, validity period of agreement, etc. The authority may prescribe a format and an e-form to fill-in this information. Part B shall contain commercial details in tabular form, as prescribed. Part C shall contain the actual copy of such agreement/modification/amendment or addendum thereto. The Authority may examine Part C on complaint basis. The Authority has accepted the suggestion of stakeholders that that the distributors should not be mandated to file the copies of agreements signed with LCOs. Distributor-LCO agreements are standardized as the regulations prescribe for signing of such agreements on MIA/SIA and therefore asking the same may amount to duplication of work. Accordingly, the distributors have been exempted from filing the copies of actual agreements signed with LCOs.
34. The information in Part A and Part B shall be in form of tabular details in the format prescribed by the Authority though direction. The copy of interconnection agreement may be the scanned copy of the written agreement in non-editable PDF format or in any other format which the Authority may prescribe through direction. Filing of copies of actual agreements is necessary. It will help the Authority to have a comprehensive and complete data including the terms and conditions of the interconnection arrangement between the broadcaster and distributor of television channels.

Accuracy and Authenticity of reports

35. To ensure accuracy and authenticity, the consultation paper envisioned mandatory affixing of the digital signatures on the documents by the authorised representative and the company secretary for registered company/ limited liability partnership. In case(s) of partnership firm/ proprietorship firm/ individual the consultation paper proposed affixing of digital signatures of partner/ authorised signatory and of the Company Secretary /the general counsel.
36. Most of the comments concurred with the proposal of submission of digitally signed documents. However, the stakeholders in general did not agree with the requirement of two sets of digital signatures. Some stakeholders suggested that the reports should be authenticated by the legal officer or the compliance officer. However, a few stakeholders opined that procuring and affixing digital signatures will be an additional burden, especially on small service providers, and therefore will be difficult to comply. Some stakeholders also suggested that to deter inaccurate filings, some penal provisions against any inaccurate reporting should be added to the regulations.
37. The Authority is of the view that accountability is necessary for ensuring accuracy of reports. Therefore, it is necessary to make a person/entity accountable for reporting in addition to the accountability of the broadcaster or distributor of television channels . The Authority noted that in terms of the new regulatory framework notified on 3 March 2017, provision for designation of compliance officer by the service providers has been made. The Authority is of the view that the compliance officer under this regulation should be the one as declared under the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017.
38. On the issue of electronic verification/ digital signature, it is prudent that the information filed should be authentic and verifiable. Therefore, the Authority considers that digitally signed information will bring in better accountability. The regulation engenders prescription of the format and manner of reporting of the information. The relevant directions may also include appropriate clause(s) as regards the digital signatures.

Financial Disincentive for delay in reporting

39. On several occasions it has been noticed that the broadcaster or distributor of television channels do not submit the requisite information within the stipulated time. Stakeholders will appreciate that time-bound compliance is essence of any regulatory regime. Many stakeholders observed that the prevailing regime did not include appropriate clauses that deter late filing. Based on comments and discussions it emerged that some disincentive on late submissions is necessary to improve in adherence of timelines. Therefore the Authority has prescribed levying of financial disincentives on the broadcaster or distributor of television channels for delay in reporting. The financial disincentive is proposed on a graded scales. That is if the information is not reported by the due date, then the broadcaster or distributor of television channels will be liable to pay an amount of rupees one thousand per day for the delay of first thirty days. In case of delay beyond thirty days, the financial disincentive will increase and will be @Rs. 2000/- per additional day beyond first thirty days. Therefore in case a broadcaster or distributor of television channels files an information 40 days after the due days, the financial disincentive shall be calculated as under:

a. Example: Calculation of Financial Disincentive for delay of 40 days:

Financial disincentive for first 30 days = Rs. 30000/- (@1000 *30)

Financial disincentive for next 10 days= Rs. 20000/- [@2000*(40-30)]

Total Financial Disincentive = Rs. 50000/-

40. In addition, the authority considers that the maximum financial disincentive may be restricted to an upper limit. Therefore, the authority has prescribed a maximum limit of Rs Two Lakhs (Rs. Two Hundred Thousand only) only. The maximum limit is applicable for each requisite submission and each of the due date as prescribed in the regulations. To re-iterate, the financial disincentive will be calculated distinctly for mandatory filing with respect to each quarter.

41. Imposition of any financial disincentive by the Authority on the broadcaster or distributor of television channels for its failure to furnish any information, in no way should be considered as the discharge of liability of broadcaster or distributor of television channels from reporting such information. The Authority retains the right to take suitable action, besides imposing financial disincentive, against a defaulting

broadcaster or distributor of television channels and its compliance officer as per the provisions of the TRAI Act, 1997.

Maintenance of Register and Accessibility of information

42. During the consultation process, it was specifically asked by the Authority from the stakeholders as to why all the commercial information submitted by the service providers should not be made accessible to the interested stakeholders. On this issue, divergent views from the stakeholders have been received.

43. Some stakeholders suggested that preserving the confidentiality of sensitive commercial information is a vital safeguard in respect of commercial contracts hence it should not be disclosed to any third party. Some broadcasters commented that protection of commercially sensitive information is their fundamental to right to trade and profession guaranteed under Article 19(1)(g) of the Constitution. They have further suggested that TRAI should adopt the same procedure which is provided under Regulation 35 of the Competition Commission of India (General) Regulations 2009 for keeping certain information as confidential or non-confidential. Some stakeholders suggested that Authority should itself scrutinize all the interconnection agreements filed by service providers and upon securitizing if the Authority finds any violation of the principle of non-discrimination then Authority should take appropriate action. Some stakeholders suggested that only trend analysis of the information should be disclosed to the public.

44. On the other hand, some stakeholders suggested information should be made available only to interested service providers holding a valid licence. Some stakeholders suggested that the true essence of non-discrimination can only be achieved if every type of information is disclosed so that anyone can get the channels on non-discriminatory basis. They are of view that providing access to relevant commercial information will help service providers to engage in interconnection arrangements looking at the data and trends and it will support level playing field and encourage competition based on efficiency and quality of service and effectively it will lead to transparency and non-discrimination.

45. As per the Register Regulation, 2004, the basic details of interconnect agreements were kept open for inspection to any member of public while access to commercial portion of the register was governed in accordance with the relevant provisions of the Telecom Regulatory Authority of India (Access to Information) Regulation, 2005 notified by the Authority on 4th March 2005. The Authority is of the view that the provisions of the above mentioned Regulations are adequate and access to commercial information contained in the Register shall be governed in accordance with the Telecom Regulatory Authority of India (Access to Information) Regulation, 2005. Part A shall be treated as non-confidential and where any party to an Interconnect Agreement requests the Authority to keep the whole or any part of the agreement reported in Part B or Part C as confidential, the Authority shall take a decision thereon in accordance with the relevant provisions of the Telecom Regulatory Authority of India (Access to information) Regulation, 2005.
46. The Authority has decided to maintain the register of interconnection agreements in two parts viz. Part I and Part II. The basic information about interconnection agreements received from the broadcaster or distributor of television channels under Part A shall be kept in Part I of the register while the commercial information including the copies of interconnection agreements received from the broadcaster or distributor of television channels under Part B and Part C shall be kept in Part II of the register. Inspection to Part II of register shall be governed in accordance with the Telecom Regulatory Authority of India (Access to Information) Regulation, 2005 , as amended from time to time.
