



भारतीय दूरसंचार विनियामक प्राधिकरण  
TELECOM REGULATORY AUTHORITY OF INDIA

भारत सरकार/Government of India

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DIRECTION

Dated: 13<sup>th</sup> June, 2016

**Subject:** Direction to M/s. Silverstar Communications Limited, under section 13 of the Telecom Regulatory Authority of India Act, 1997, read with regulation 8 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (9 of 2012) and proviso to regulation 5 of the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation 2004 (15 of 2004), to reduce the terms and conditions of its interconnection agreements in to writing for providing signals of its pay channels to its linked distributors of TV channels.

**No. 6-64/2014-B&CS.---** Whereas the Telecom Regulatory Authority of India [hereinafter referred to as 'the Authority'], established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) [hereinafter referred to as TRAI Act, 1997], has been entrusted with discharge of certain functions, *inter-alia*, to regulate the telecommunication services; maintain register of inter-connect agreements; lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunication service;

2. And whereas the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunications), vide its notification No.39,---

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

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

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

3. And whereas the Authority has, in exercise of its powers conferred by the TRAI Act, 1997, read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39, made the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004) dated the 10<sup>th</sup> December, 2004 (hereinafter referred to as Interconnection Regulation), the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation, 2004 (No. 15 of 2004) dated the 31<sup>st</sup> December, 2004 (hereinafter referred to as Register Regulation) and the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (No. 9 of 2012) dated the 30<sup>th</sup> April, 2012 (hereinafter referred to as DAS Regulation);

4. And whereas the Authority has, in exercise of its powers conferred by TRAI Act, 1997, read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39, made the Telecommunication (Broadcasting and Cable) Services (Second) Tariff Order 2004 (No. 6 of 2004) dated the 1<sup>st</sup> October, 2004 (hereinafter referred as Second Tariff Order) and the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010 (No. 1 of 2010) dated the 21<sup>st</sup> July, 2010 (hereinafter referred as Fourth Tariff Order);

5. And whereas regulations 4A.1 and 4A.2 of Interconnection Regulation read as under:-

*“4A.1 It shall be mandatory for the broadcasters of pay channels and distributors of TV channels to reduce the terms and conditions of all their interconnection agreements to writing.*

*4A.2 No broadcaster of pay channels or distributor of TV channels, such as multi system operator or headend in the sky operator, shall make available signals of TV channels to any distributor of TV channels without entering into a written interconnection agreement.”;*

6. And whereas sub-regulation (6) and sub-regulation (7) of regulation 5 of DAS Regulation read as under:-



*“5(6) It shall be mandatory for the broadcasters of pay channels to reduce the terms and conditions of the interconnection agreements into writing.*

***Explanation:** It shall be mandatory for the broadcaster to enter into written interconnection agreement with the multi system operator for retransmission of its pay channels including those pay channels for which no subscription fee is to be paid by the multi system operator to the broadcaster.*

*5(7) No broadcaster of pay channels shall make available signals of TV channels to any multi system operator without entering into a written interconnection agreement.”;*

7. And whereas pay channel has been defined under the sub-clause 3(za) of Fourth Tariff Order and under the sub-regulation 2(u) of DAS Regulation and the said definitions read as under:

*““pay channel”, in respect of a digital addressable system, means a channel for which subscription fees is to be paid to the broadcaster by multi-system operator or DTH operator or IPTV operator or HITS operator and due authorisation needs to be taken from the broadcaster for its re-transmission on the digital addressable system”;*

8. And whereas the clause 4 of the Second Tariff Order reads as under:-

***“4. Reporting Requirement.----- (1) Every broadcaster shall, within seven days from the coming into force of the Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Fourteenth Amendment) Order, 2015 ( 1 of 2015), furnish the following information to the Authority, namely:-***

- (a) names, genre and language of all free to air channels offered by the broadcaster;*
- (b) name, a-la-carte rate, genre and language of each pay channel offered by the broadcaster;*



- (c) *list of all bouquets offered by the broadcaster with prices of each bouquet, indicating the names of all the pay channels and free to air channels contained therein;*  
.....”;

9. And whereas the clause 9 of the Fourth Tariff Order reads as under:-

**“9. Reporting requirement.** (1) *Every broadcaster shall report to the Authority, the a-la-carte rates for its pay channels fixed by it under sub- clause (1) of clause 4 and the bouquet rate or bouquet rates, as the case may be, fixed by it under sub-clause (2) of clause 4 for its bouquets and shall also publish such rates on its web site.*

*Provided that the first such report, containing rates effective from 1<sup>st</sup> September, 2010, shall be submitted to the Authority by 1st September, 2010 and, thereafter, any changes in such rates --*

*(a) shall be reported to the Authority thirty days prior to the change; and*

*(b) shall also be published on the website of the broadcaster.*

(2) *Every broadcaster who, after the coming into force of this Order, introduces any new pay channel, shall, thirty days before introduction of such pay channel, report to the Authority the a-la-carte rate for such pay channel and shall also publish such rate on its website.*

(3) *Any broadcaster of a free to air channel intending to convert the channel into a pay channel or vice-versa shall, at least one month before the scheduled date of conversion, -----*

*(a) inform the Authority about the intended conversion;*

.....”;

10. And whereas M/s. Silverstar Communications Limited, vide its letter dated the 11<sup>th</sup> July, 2015, intimated that it has converted its three free-to-air channels namely “MEGA TV”, “MEGA MUSIQ” and “MEGA 24” in to pay channels with effect from the 8<sup>th</sup> April 2012 and the rates of these pay channels were reported to the Authority vide letter dated the 16<sup>th</sup> January, 2015;

11. And whereas regulation 5(a) of the Register Regulation provides that all broadcasters shall register with the Authority interconnect agreements entered into by them or modifications/amendments thereto within the time frame specified under regulation 5 (b);



12. And whereas regulation 5(b)(3) of the Register Regulation provides that the reporting of interconnection agreements shall be done on or before the 31<sup>st</sup> day of July of each year for all interconnection agreements including modifications or amendments made therein, which remained valid as on the 30<sup>th</sup> day of June of that year or during a part of the period from 1<sup>st</sup> July of the previous year till the 30<sup>th</sup> day of June of that year, as the case may be, or as may be specified by the Authority from time to time in terms of the second proviso to regulation 6;

13. And whereas regulation 6 of the Register Regulation reads as under:-

*“The broadcasters shall furnish to the Authority, information relating to the interconnect agreement in two parts namely, Part-A and Part B, as detailed below: -*

*a) Part A containing the standard affiliation agreement/service contract/memorandum of understanding, duly authenticated in duplicate and also containing—*

*(i) a certificate to the effect that the provisions of sub-regulation 4A.4 of regulation 4A of the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004 (13 of 2004) have been complied with in respect of all interconnect agreements included in Part B;*

*(ii) a certificate to the effect that all the interconnect agreements or the modifications or amendments to the interconnect agreements, as the case may be, included in Part B, are compliant with all regulations, Orders and Directions made or issued by the Authority under the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) and that they do not contravene the provisions contained in any such regulation, Order or Direction.*

*b) Part B containing in tabular form the details of individual agreements, of contracting parties with addresses, service area covered by the agreement, integrated receiver decoder number and terms of hiring of integrated receiver decoder, contract number, date of entering contract, date of expiry of contract, number of channels, details of channels, subscriber base, charges per subscriber per month and discounts in the case of non-Conditional Access System (CAS) areas.*



- c) *Part B for CAS areas shall additionally contain details of maximum retail price of each individual channel, bouquet of channels, minimum subscriber guarantee if any, besides what is required to be provided in non-CAS areas under clause (b) above.*

*Provided that the Authority may from time to time prescribe formats for seeking disaggregated information on such parts of standard affiliation agreement/ service contract/memorandum of understanding referred to as Part A over and above and in addition to what is required to be furnished as Part B, as may be necessary, for maintaining the register as provided in clause 3 of this regulation.*

*Provided further that the Authority may from time to time specify the requirements, in regard to the manner of filing of data or information, the form or formats of filing, the number of copies to be filed, and other procedural aspects connected and incidental to the filing of details of interconnect agreements.”;*

14. And whereas the Authority issued a direction No. 6-6/2009-B&CS dated the 29<sup>th</sup> July, 2009 directing all the broadcasters to follow the following procedure for filing the details of interconnection agreements with the Authority: -

- (a) annual reporting shall be done by 31<sup>st</sup> July of each year in Part A and Part B, containing details of interconnect agreements as updated upto the 30<sup>th</sup> of June of that year in print form with every page duly authenticated by an authorized representative of the broadcaster;
- (b) the two certificates to be included in Part A, as required under sub-clauses (i) and (ii) of clause (a) of regulation 6 of the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation, 2004, as amended from time to time, shall also be duly signed by the authorized representative of the broadcaster;
- (c) information in respect of Part B shall be furnished on separate sheets for each distribution platform, i.e., separately for Non-CAS cable television, CAS cable television, DTH, IPTV and HITS, and shall contain-----



- i. complete addresses of the contracting parties with details of the State, District and also telephone numbers of the parties where available, in separate sub-columns;
  - ii. complete details of the service areas covered under the agreement with details of State(s), District(s), Tehsil(s) or area(s), as the case may be; and
  - iii. in respect of addressable platforms like CAS cable, DTH, IPTV and HITS, the actual subscriber base for each month during the year for each individual channel and bouquet or bouquets of channels, as the case may be; and
- (d) a copy each of the data furnished in print form as referred to in sub-paragraphs (a), (b) and (c) above shall also be filed in electronic form through a non-writable CD, duly signed by an authorized representative of the broadcaster, giving Part A in Microsoft Word format and Part B in Microsoft Excel format;

15. And whereas sub-regulation (4) of regulations 9 of DAS Regulation provides that every broadcaster shall furnish the details of carriage fee paid by him to the multi system operator along with the information furnished by him under the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation 2004 (15 of 2004), as amended from time to time and such information henceforth shall also include details of carriage fee paid to the multi system operator by the broadcaster;

16. And whereas all the broadcasters of pay channels were required to furnish, for the period from the 1<sup>st</sup> July, 2013 to the 30<sup>th</sup> June, 2014, information, as referred to in the preceding paras by the 31<sup>st</sup> July, 2014;

17. And whereas it was observed that M/s. Silverstar Communications Limited has not furnished the information, as required by the Register Regulation and the DAS Regulation, for the period from the 1<sup>st</sup> July, 2013 to the 30<sup>th</sup> June, 2014 by the 31<sup>st</sup> July, 2014;

18. And whereas the Authority issued a letter dated the 26<sup>th</sup> September, 2014 to M/s. Silverstar Communications Limited to explain the reasons, latest by the 15<sup>th</sup> October, 2014, as to why the information relating to interconnect agreement has not been filed with the Authority as



per the provisions of the Register Regulation but M/s. Silverstar Communications Limited failed to furnish the information;

19. And whereas the Authority, vide its letter dated 23<sup>rd</sup> December, 2014, informed all the broadcasters including M/s. Silverstar Communications Limited to attend a meeting convened by it on the 6<sup>th</sup> January, 2015;

20. And whereas the Authority, vide its letter dated 25<sup>th</sup> February, 2015, asked M/s. Silverstar Communications Limited to ensure compliance of the Authority's regulations and direction related to filing of information within seven days from the date of issue of the letter;

21. And whereas M/s. Silverstar Communications Limited has failed to furnish the information sought as referred to in the preceding paras, within the time so allowed;

22. And whereas the Authority, issued a notice dated 9<sup>th</sup> April, 2015 whereby M/s. Silverstar Communications Limited was called upon to show cause within fifteen days from date of said notice as to why action should not be initiated against it and why a complaint should not be filed as contemplated by section 34 of the Telecom Regulatory Authority of India Act 1997, before the court for violation of the regulations of the Authority (the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation, 2004 (No.15 of 2004) and the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulation 2012 (No.9 of 2012)) and if no written statement of explanation is received within the time so allowed, the matter will be proceeded with the presumption that M/s. Silverstar Communications Limited has nothing to offer in defence;

23. And whereas M/s. Silverstar Communications Limited, in response to above mentioned show cause notice, sent an e-mail dated 23<sup>rd</sup> April, 2015 mentioning that it has submitted all the required, necessary documents as per the norms with regard to reporting to TRAI and enclosed the copies of the letters dated 10.3.2014, 5.7.2014 & 18.10.2014 sent to TRAI.

24. And whereas on examination of the letters, referred to in the preceding para, and e-mail sent by Silverstar Communications Limited, it was noticed that M/s. Silverstar Communications





Limited had failed to report the details of interconnect agreement as mandated in the provisions of Register Regulation;

25. And whereas M/s. Silverstar Communications Limited sent a letter dated the 30<sup>th</sup> June, 2015 wherein it has stated that it was in touch with MSO and LCOs for entering in to agreement and so far it has not entered in to any kind of agreement with them;

26. And whereas M/s. Silverstar Communications Limited has also failed to furnish the information, as mandated by Register Regulation and DAS Regulation, for the period from the 1<sup>st</sup> July, 2014 to the 30<sup>th</sup> June, 2015 by the 31<sup>st</sup> July, 2015;

27. And whereas the Authority issued a notice dated the 8<sup>th</sup> September, 2015 whereby M/s. Silverstar Communications Limited was called upon to show cause within twenty one days from date of this notice, as to why action should not be initiated against it and why a complaint should not be filed as contemplated by section 34 of the Telecom Regulatory Authority of India Act 1997, before the court for violation of the regulations of the Authority (The Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation, 2004 (No.15 of 2004) and The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulation 2012 (No.9 of 2012)) and if no written statement of explanation is received within the time so allowed, the matter will be proceeded with the presumption that Silverstar Communications Limited has nothing to offer in defence;

28. And whereas M/s. Silverstar Communications Limited, in response to above mentioned show cause notice, sent a letter dated the 19<sup>th</sup> September, 2015 mentioning that so far it has not entered into any written interconnect agreements with Distribution Platform Operators(DPOs) and is not charging any fee to supply content of TV channels though declared as pay channels as the contents of the said channels are being provided to Multi system Operators for popularizing and promoting TV channels to the public without any cost and it has not mentioned anywhere in the reporting that it is collecting money as per rate card, if at all anything mentioned as per rate card inadvertently, the same may be ignored and also that it doesn't have any agreements with DPOs for carriage fee;



29. And whereas the Authority examined the above-mentioned response of M/s. Silverstar Communications Limited in light of the provisions contained in regulations 5(6) and 5(7) of DAS Regulation, regulations 4A.1 and 4A.2 of Interconnection Regulation, clause 4 of Second Tariff Order, clause 9 of Fourth Tariff Order and the definition of pay channel given in the sub-clause 3(za) of Fourth Tariff Order, and concluded that once a TV channel is declared by a broadcaster to be a Pay channel to the Authority, a written interconnection is required to be entered in to by such broadcaster with all its linked distributors of channels for providing signals of such pay channel, irrespective of the fact as to whether the broadcaster is charging any money/subscription fee/license fee for its pay channel or not from any distributor, so long as such channel remains to be a pay channel;

30. And whereas the provisions of the Register Regulation are applicable to all broadcasters of pay channel and once a channel is declared as pay channel, further discounts(even to the extent of 100% discount)/not charging any amount does not exempt the broadcaster from filing the information relating interconnect agreement as required by the Register Regulation;

31. And whereas regulation 8 of the DAS Regulation reads as under:-

*“8. Intervention by the Authority.- The Authority may, in order to protect the interest of the consumer or service provider or to promote and ensure orderly growth of the broadcasting and cable sector or for monitoring and ensuring compliance of these regulations, by order or direction, intervene, from time to time.”;*

32. And whereas proviso to regulation 5 of the Register Regulation reads as under:-

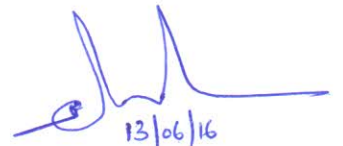
*“.....Provided that the Authority may, without prejudice to its powers under section 12 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), at any time, call for the details of any interconnect agreement from any broadcaster, and such broadcaster shall furnish such details within such time limit as may be specified by the Authority in the communication calling for such details.”;*



33. Now, therefore, the Authority, in exercise of the powers conferred upon it under section 13 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with regulation 8 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (9 of 2012) and proviso to regulation 5 of the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation 2004 (15 of 2004), to protect the interest of service providers and consumers and to maintain register of inter-connect agreements, directs M/s. Silverstar Communications Limited to reduce the terms and conditions of its interconnection agreements in to writing for providing signals of its pay channels to all its existing linked distributors of TV channels, report the information relating to such written interconnection agreements, in the manner/format provided under provisions of regulation 5 and 6 of Register Regulation, regulation 9 of DAS Regulation and clause 9 of direction dated 29<sup>th</sup> July, 2009, within forty five days from the dates of issue of this Direction, and

(a) not to make available the signals of its pay channels henceforth to any new distributor of channel without entering in to written interconnection agreement, and

(b) discontinue the supply of signals of its pay channels to the existing distributors, after giving public disconnection notice, in case it fails to enter in to written interconnection agreement with such distributor within forty five days from the date of issue of this Direction.



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