

**Telecom Regulatory Authority of India**  
**23/2/2004**  
**Press Note No: 14/2004**

**Telecom Regulatory Authority of India (TRAI) issues Interim Recommendation on Conditional Access System (CAS)**

The TRAI today provided its interim recommendations to the Government that the Notification No. SO 792 (E) dated 10<sup>th</sup> July, 2003 be kept in abeyance for at least three months and necessary action be taken keeping in view the directions of the Hon'ble High Court of Delhi dated 26.12.2003 in CW 89934/2003. It may be recalled that the Hon'ble Delhi High Court, vide orders dated 4<sup>th</sup> December 2003 quashed the Notification dated 29<sup>th</sup> August 2003 issued by Ministry of Information & Broadcasting, Government of India on the grounds that it was based on arbitrary exercise of power and extraneous considerations. The cable operators of the notified areas partially withdrew pay channels from mid-night of 15<sup>th</sup> December 2003.

2. Delhi High Court in CW No.8993-4/2003 in its order dated 26.12.03 refused to restrain the Govt. from implementing CAS in Delhi and decided also to review the situation after three months. The order also stated inter-alia:

*“.....We desire that in this period of three months all the loopholes, difficulties faced by the consumers, effect of the implementation and problems, if any, arising out of the implementation can be assessed and remedial measures be taken in that regard.”*

*“..... There has to be some regulatory body in terms of the synopsis of comments which have been filed by the respondent to see the implementation. We would like the respondent to enlighten this Court of the steps taken in this direction before the next date of hearing.”*

3. Thereafter, the Government appointed TRAI as the Regulator for the Broadcasting and Cable sector, vide a notification dated 9<sup>th</sup> January, 2004. The TRAI has taken a number of steps to assess the difficulties faced by the consumers, the effects of the implementation of CAS and the problems that arise, including implementation problems and feasibility of conducting legally required activity in this regard. In mid-January, the Authority began a consultation process, obtained comments on relevant matters within that context in writing as well as through its meetings with various stakeholders, examined the views of the four Governments that have to implement CAS, and considered the regulatory practices in other countries. The TRAI has obtained substantial information and views, and is in a position to take the process forward with a more detailed Consultation Paper.

4. This Interim Recommendation is one of the results of the Authority's assessment of the various above-mentioned inputs, and is part of the process of taking remedial measures to properly address the issue of CAS. The summary of relevant main underlying aspects for deciding on the Interim Recommendation of the TRAI is given below:

- (a) Chief Ministers/Chief Secretaries of Delhi, Maharashtra, Tamil Nadu and West Bengal, where the CAS is to be implemented in four metro cities, through their letters to the Central Government are unanimous in their views against implementing CAS in its present form.
- (b) The fact that all the four State Governments whose officers are charged with the responsibility of implementing CAS under the Cable Television Networks (Regulation) Act, 1995 have opposed the introduction of CAS in its present form makes it obligatory for us to streamline procedures etc. in consultation with State Governments, before ensuring its implementation.
- (c) Before the introduction of CAS, the broadcasters, multiple system operators and cable operators had assured that the introduction of CAS would lead to lower tariffs and wider choice to the consumers. This has not happened and due to the absence of a regulatory system the situation can neither be properly monitored nor the various assurances enforced. In recent years, there has been a sharp increase in charges of the pay channels, and moreover they are in several cases showing less channels than were shown prior to introduction of CAS. Showing of less than the specified number of channels not only is an infringement of the provisions of the Cable Television Networks (Regulation) Act and the notification issued thereunder but also has led to resentment in the public.
- (d) The CAS market today is an area-wise monopoly, often vertically integrated. Unless regulations prescribe the behaviour of stakeholders in the monopoly, the consumers are bound to be exploited, as is happening today. Regulations can only be eased once competition is introduced in the market by ensuring introduction of other services or ensuring more than one operator in a geographical area ( if that is a viable option).
- (e) At present Set Top Boxes between MSOs are not interchangeable. What will happen if the subscriber moves from one area to another. This requires regulation.
- (f) The present experience in regard to partial Implementation of CAS in Chennai requires closer re-examination of the whole issue. In the case of Chennai, out of about 2.5 lakhs consumers only about 20,000 consumers have reportedly gone in for Set Top Boxes (STB). Apparently, one of the impacts is that some regional channels have converted their pay channels into Free To Air (FTA). In such cases where the penetration of STBs is very low, the broadcasters would suffer not only on account of truncated generation of subscription fee but also on account of reduced advertisements due to lower viewership and may themselves want a change in the present system.
- (g) The present system of CAS needs immediate reconsideration, as offences are being committed by the cable operators in showing pay channels without Set Top Boxes and with State Governments having requested for reconsideration, the state authorities are not fully implementing the provisions of the Act. CAS or any other addressable system should be implemented only after TRAI in consultation with the State Governments is able to issue regulations in this regard and thereafter changeover can be effectively monitored.
- (h) Studies of the cable sector in various countries have shown that the sector needs regulation till effective competition can be introduced. The Authority would take about three months to finalise such regulation.

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