

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 10th March, 2006

No 6-1 /2006 –B &CS – In exercise of the powers conferred upon it under Section 36 read with clauses (iv),(vii)and (viii) of sub-section 1(b) of Section 11 of the Telecom Regulatory Authority of India Act, 1997, the Telecom Regulatory Authority of India makes the following regulation, namely:-

1.Short title, extent and commencement

- (i) This regulation shall be called “The Register of Interconnect Agreement (Broadcasting and Cable Services) (Third Amendment Regulation, 2006 (3 of 2006).”
- (ii) This regulation shall come into force from the date of its publication in the Official Gazette.

2. In “The Register of Interconnect Agreements (Broadcasting & Cable Services) Regulation, 2004” (15 of 2004) in place of the existing heading of regulation 5 and entries relating thereto, the following heading shall be substituted:-

“5. Registration of interconnect agreements by broadcasters”.

3. In “The Register of Interconnect Agreements (Broadcasting & Cable Services) Regulation, 2004” (15 of 2004), after regulation 5, the following new regulation shall be inserted as regulation 5-A:-

“5-A. Registration of interconnect agreements by Direct to Home (DTH) operators

- (a) All direct to home operators shall register with the Authority interconnect agreements entered into by them with broadcasters as well as subsequent modifications/amendments thereto, within the time frame specified under clause 5-A(b).
- (b) The time limit for registering the interconnect agreement and amendments/modifications thereto shall be:

(1) First Reporting for existing DTH operators

30th April 2006 for all interconnect agreements, which had been entered into prior to the date of this notification, including amendments and modifications made upto March 31, 2006.

(2) First Reporting for new DTH operators

Thirty days from the signing of the interconnect agreements.

(3) Quarterly Updation

30th April, 31st July, 31st October and 31st January of the calendar year for the modifications/amendments made in all interconnect agreements as well as new interconnect agreements during the preceding quarter of January to March, April to June, July to September and October to December, respectively or as may be specified from time to time in terms of the 2nd proviso to regulation 6-A of this regulation.”

4. In “The Register of Interconnect Agreements (Broadcasting & Cable Services) Regulation, 2004” (15 of 2004), after regulation 6 and entries relating thereto, the following new regulation and entries relating thereto shall be inserted as regulation 6-A:

“**6-A.**The direct to home operator shall furnish to the Authority, a duly authenticated copy of each of the agreement/contract/memorandum of understanding entered into with the broadcaster signed by the parties to the contract/agreement/Memorandum of Understanding with all its annexures containing, inter alia, the full addresses of the parties to the contract, contract number, date of entering into the contract, dates of commencement and expiry of the contract, number of subscribers including minimum subscriber guarantee, if any, number and details of names of channel(s)/ bouquet(s), price(s) of each individual channel(s)/bouquet(s)

Provided that the Authority may, from time to time, prescribe formats for seeking disaggregated information on such parts of agreement/contract/memorandum of understanding, 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 information on interconnect agreements.”

5. This regulation contains an Explanatory Memorandum at **Annex A** that explains the reasons for the above amendments.

By Order

RAKESH KACKER
Acting Secretary cum Advisor (B&CS)

Annex A

EXPLANATORY MEMORANDUM

TRAI issued separate regulations on 31.12.2004 for filing and registration of interconnect agreements entered into by broadcasters with service providers under different platforms. In line with the detailed recommendations of TRAI on Issues relating to broadcasting and distribution of TV channels it was stated in para 5 of the explanatory memorandum to the above regulation that the agreements entered into by between MSO and LCO shall be registered with the Authorized officers. Subsequently on 2nd December 2005 these regulations were amended to facilitate to provide flexibility in adopting procedures as regard to the manner of filing, formats of filing etc of the interconnect agreements.

2. There have been developments, which point to the likelihood of the DTH platform having more operators in the next 6-9 months. Further the details of agreements as applicable to the delivery through the cable medium would also require changes with reference to DTH platform of delivery. Therefore a provision making the DTH operator to also file the interconnect agreements is considered necessary from the point of view of better monitoring. Since the number of agreements that would be entered into by a DTH operator with the broadcaster will not be voluminous as in the case of cable it should be possible to provide for filing of copies of individual agreements. This would also obviate the need to require filing of information in tabular form in Part B, the details of individual agreements. To this extent the filing requirements would be different to that of agreements entered into between broadcaster and MSO/LCO.

3. The definition of broadcaster read with the clause 1(iii) would cover even interconnect agreements entered into by a broadcaster or its distribution agencies with DTH operator throughout the territory of India. The operating clause 5(a) of the existing regulation limits the filing to broadcasters only and this could pose difficulties in roping in the agreements entered into by broadcasters who may avoid compliance on the ground that they are operating from outside the country and therefore not governed by Indian laws. In such an event it would be desirable to make the DTH operator also file the interconnect agreements entered with the broadcasters with TRAI. Unlike the MSOs the number of DTH operators is not expected to be large, the reason why TRAI decided to make the agreements between MSOs and LCOs to be filed with the Authorized officer.

4. It has therefore been decided by the Authority to amend the Register of Interconnect Agreement Regulation (15 of 2004) by requiring the DTH service provider also to file interconnect agreements entered into with the broadcaster with the Authority. Two clauses namely, clause 5A and 6A are being added to the existing regulation.

5. This would be besides the existing obligation placed on the broadcasters, in terms of the 31st December regulation referred to above, to file their interconnect agreements entered with a DTH operator. The amendment to provide for filing by the Direct to Home operator has been done to facilitate better monitoring and to provide for specific informational requirements relevant to DTH platform. The Authority would separately be specifying the procedure to be adopted by the Direct to Home Operator for the filing(s) due after amended regulations are notified.
