

**To,**  
**Mr. S.K. Singhal,**  
Advisor (B&CS),  
Telecom regulatory Authority of India  
New Delhi

9<sup>th</sup> May, 2016

**Ref: 1. Counter Response to Consultation Paper on the Register of  
Interconnection Agreements (Broadcasting and Cable Services)  
Regulation dated 23<sup>rd</sup> March 2016**

**2. Our Response dated 25<sup>th</sup> April 2016**

Dear Sir,

We would like to enclose herewith our detailed counter response on the above captioned Consultation Paper for your consideration and records.

Thanking you,

Yours faithfully

For **Videocon d2h Limited**

  
Shivendra Krishna Singh  
Head-Regulatory & Compliance

Encl: A/a

**COUNTER RESPONSE OF VIDEOCON d2h LIMITED TO  
CONSULTATION PAPER ON THE REGISTER OF  
INTERCONNECTION AGREEMENTS (BROADCASTING AND  
CABLE SERVICES) REGULATION DATED 23<sup>RD</sup> MARCH 2016**

At the outset we reiterate our stance mentioned in our detailed response dated 25th April 2016.

We have gone through the comments of stakeholders and in this regard we would like to submit our counter-comments as follows:

**1. Certain Unfathomable Viewpoint Of Certain Stakeholders**

It is rather surprising to find that some of the stakeholders have found none of three ways suggested by the Hon'ble Authority to preserve the confidentiality and to prevent misuse of information to be shared by and amongst the stakeholders. It is also surprising to note that these stakeholders opine that making access easy to commercial information will create chaos and constant disruption in the sector making business environment uncertain. The comments that there would be no sanctity to written contracts or agreements in case the ways in which the Hon'ble Authority has suggested to make information available to stakeholders are also incorrect. Suggesting either *suo motto* intervention by the Authority in case it finds contracts and agreements discriminatory in nature and then asking the Authority to initiate appropriate proceedings against the stakeholders is too far-fetched a proposition given by one of the stakeholders. This according to us is not proper and such approach would culminate in unnecessary legal proceedings.

**2. Comments Encouraging Unwarranted Litigation**

Another suggestion by a stakeholder that the Authority may initiate proceedings against a defaulting stake holder who has executed a discriminatory contract in case the adversary files specific complaint to that effect is equally hazardous and negative and cannot be acceptable. It is ironical to see that one of the stakeholders has even suggested recourse by

service providers to the Telecom Disputes Settlement and Appellate Tribunal ('TDSAT') by filing proceedings. We sincerely feel that such suggestions if implemented would certainly encourage unnecessary and multiple proceedings resulting in loss of productive time and also monetary loss to stakeholders themselves.

### **3. Disclosure Of Information Of The Seeker Not Required**

One of the stakeholders has stated that the name of the information seeker should be disclosed to the service provider is also objectionable and not in true spirit. There is no logic in disclosure of the name of the seeker of the information to the stakeholder whose information is being sought by such seeker. Similarly, a suggestion that the information should be used for internal use only and on need to know basis is also not prudent as if such approach is either adopted and implemented then the entire exercise of seeking information for demonstrating discrimination and for initiating appropriate proceedings would be defeated.

### **4. Schedules Proposed By The Hon'ble Authority Well Carved Out And Needs No Meddling**

One of the stakeholders has attempted to revamp the most ideal schedules appearing at both part A and part B and drafted by the Hon'ble Authority suggesting to include additional columns of areas wise segregation, number of active subscribers, number of inactive subscribers, bouquet and a-la-carte, universe, name of channels offered both a-la-carte and bouquet and the last column of rate / price is not only unnecessary, unwarranted but the same is going to make things complicated for the stakeholders. We need to appreciate that the present consultation paper has been issued by the Authority with the prime objective of keeping and maintaining the register of interconnect agreements between the stakeholders and not for the purpose of going to the reporting requirements *inter se* between the stakeholders. As the Authority is aware, every DTH operator has been mandated to file quarterly Performance Monitoring Report ('PMR') giving all such details which a stakeholder wants to be given under the table mentioned in the

schedules to the present consultation paper. This suggestion of a stakeholder is misplaced and therefore while objecting to the same, we earnestly urge the Authority to go ahead and implement the tables to the schedule of the current consultation paper as it would serve the definite purpose and objective for which the present exercise have been undertaken by the Hon'ble Authority.

One of the stakeholders has made many unwarranted changes and modifications to the three fine schedules circulated by the Hon'ble Authority by suggesting inclusion of certain unnecessary columns into them. Some of these suggestions are as under:

- ✓ **Control Key:** For e.g: In the Table A-1 of Part A of Schedule I, a column of "Control Key" (Unique code to identify a customer) has been suggested, which we believe is not required. This suggestion of having a control Key is apparently based on the expectation that it would help and serve as a link between various reports. We believe that such control key and linkage of various reports through it is not what the present consultation paper is aiming to achieve. Suggesting to include a-la-carte channels in table A-2 is also not acceptable as the Hon'ble Authority has taken care of the same in Part B.
- ✓ **Deletion of Columns Pertaining to Discount On Subscription Fee:** Whilst, reiterating our objection to the inclusion of control key (Unique code to identify a customer) in the Table given in Part B of Schedule I, we state that one of the stakeholders has suggested the omission / deletion of the columns No. 10 and 11 drafted by the Hon'ble Authority which pertains to "**discount of subscription fee in Rs.**" Applicable for both "**fixed**" and "**variable**" components. We state that the Hon'ble Authority was absolutely correct in having these columns in place in Part B and we strongly suggest that there is no need to tinker with the Tables suggested by the Hon'ble Authority in either Part A or Part B of Schedule I.

- ✓ **Schedule II incorrectly made Applicable to DTH:** We would like to state that one of the stakeholders has misconstrued the applicability of Part A to Schedule II in as much as this does not apply to DTH and applies to MSO and HITS platform. Similarly, there is an apparent error to the applicability of Part A to Schedule III.
- ✓ **Contents Of Schedule II should have been part of Schedule III:** Similarly, Part A which refers to MSO / DTH should ideally refer to IPTV instead of MSO and should have been a part of Schedule III and not Schedule II. Whilst, strongly objecting to the suggestion of one of the stakeholders for inclusion of certain columns, we suggest that columns 1 and 9 to 13 as suggested by one of the stakeholders in Table A-1 to Part A of Schedule II should not be given consideration at all and the Table as suggested by the Hon'ble Authority should be continued with. Similarly, we object to inclusion of column 1 and 9 to 13, (which actually ought to be 14), to Part A of Table A-1 to Schedule III as a certain stakeholder has repeated column 9 twice. We strongly suggest that these columns are irrelevant in the context of reasons discussed by us in the forgoing paragraphs and thus need not be considered and the columns suggested by the Hon'ble Authority in both schedule II and III be retained as they are.

One of the stakeholders has commented that all obligations contained in these regulations must be made applicable to all service providers across the value chain in order to effectively achieve the principles of non-discrimination and transparency. We strongly object to this observation in as much as it is based on wrong assumption that stakeholders do not observe the regulations and specific obligation needs to be cast on them to make them comply.

## **5. Objective Of Level Playing Field Can Be Achieved By Declaring New Platforms (Over The Top, Edge, Mobile, etc) as DPOs**

Similarly, one of the stakeholders has also asked the Authority to clarify that the entire regulatory framework is applicable only for licensed

Similarly, one of the stakeholders has also asked the Authority to clarify that the entire regulatory framework is applicable only for licensed satellite television channels via cable, DTH, HITS, IPTV in keeping with the existing up-linking / down-linking guidelines of Ministry Of Information and Broadcasting and specifically excludes all internet, intranet Over The Top, Edge, Mobile and any other similar delivery technologies. According to us, there is no merit in this response in as much as although existing up-linking / down-linking guidelines specifically refers to five distribution platforms, they do not carve out any specific excluded category of platforms. We strongly believe that level playing field could possibly be achieved only by amending the existing up-linking / down-linking guidelines by including the above mentioned technologies such as internet, intranet Over The Top, Edge, Mobile and any other similar delivery technologies.

One of the stakeholders has commented that divulging of commercial understanding between two parties to a third party is a violation of privacy. However, we disagree with this view in as much as the Hon'ble Authority is endeavoring to create a level playing field by eliminating discrimination of any kind prevalent in the broadcasting sector and amongst the stakeholders therein. We strongly believe that sharing of commercial information between two parties to a third party would help the Broadcasting industry and its stakeholders reach a destination where parity will rule, which ultimately be conducive for the growth and development of all.

In view of the above counter comments, we urge the Authority to introduce the Schedules proposed by the Hon'ble Authority in letter and spirit with few modifications as suggested in our response dated 25<sup>th</sup> April 2016.