

## Comments on TRAI's Consultation Paper for Model and Standard Interconnection Agreement between MSO and LCO for offering Cable TV Services through DAS

### **3. TERMINATION OF THE AGREEMENT**

3.1 Either Party has a right to terminate the Agreement through an advance notice of 21 days in writing to the other Party in event of

#### **PROPOSED CHANGE(S) REQUIRED:**

*As per the clause if the parties do not cure the breach of the agreement within 30 days, then in that event 21 days termination notice can be sent after 30 days, which effectively deems that the default shall be a continuing one for 51 days period if not cured. Hence the period of 30 days should be including the 21 days' notice period.*

### **4. EFFECT OF TERMINATION AND EXPIRY.**

4.2 The LCO shall, within fifteen (15) days of the termination or expiry of the term, as the case may be, of this Agreement in terms of the provisions mentioned herein, hand over to the MSO all properties and assets belonging to the MSO, which are in the custody of the LCO. The LCO shall also be liable to make good all the losses or damages, if any, caused to such properties and assets belonging to the MSO, in custody of the LCO, within thirty (30) days from the receipt of notice to this effect from the MSO.

#### **PROPOSED CHANGE(S) REQUIRED:**

*Handing over the properties shall be subject to the scheme opted by the Subscriber as in terms of TRAI Regulations there are various schemes through which the hardware/ STBs may be provided to the consumers therefore, it depends on the scheme which has been opted by the consumers.*

*(Explanation to Clause 4.2 & 4.3 needs to be removed for e.g. The STBs if provided to consumers in a scheme in which it remains the property of the MSO than the same shall have to be returned back to the MSO by LCO)*

### **5. PROVISION OF SERVICE**

5.1 The MSO shall make available signal of TV channels to the LCO, in terms of this agreement and as per prevailing norms, policies, the applicable laws and rules, regulations, directions and orders of the concerned Authorities.

#### **PROPOSED CHANGE(S) REQUIRED:**

*The MSO shall non-exclusively make available signal of TV channels to the LCO in order to re-transmit the same (only in digital mode) to the Subscribers in the Territory in the same format and manner as received from MSO, in terms of this agreement and as per prevailing norms, policies, the applicable laws and rules, regulations, directions and orders of the concerned Authorities.*

## **7. RIGHTS OF THE LCO**

7.1 The LCO shall continue to have its right of ownership of its network used to deliver the cable TV services under this agreement and it can expand/ upgrade/ change/ replace/ re-design any part or full network subject to any such activity does not interrupt or degrade the Quality of Service (QoS) offered to the subscriber.

### **PROPOSED CHANGE(S) REQUIRED:**

*The LCO shall have the right of ownership of its network used to deliver the cable TV services under this agreement and it can expand / upgrade / change / replace / re-design any part or its full network subject to any such activity does not interrupt or degrade the Quality of service ( QOS ) offered to the subscriber **on its network.***

## **8. OBLIGATIONS OF THE MSO**

8.5 The MSO shall generate bills for subscribers on regular basis, for charges due and payable for each month or as per the billing cycle applicable for that subscriber, within 3 days from the end of the billing cycle.

### **PROPOSED CHANGE(S) REQUIRED:**

*The MSO shall generate bills within 7 days from the end of the billing cycle **as three days period is too short to put the data in the SMS system as the details of the same are being received from the LCOs which takes some time.***

8.7 The MSO shall not indulge in any piracy or other activities, which has the effect of, or which shall result into, infringement and violation of trade mark and copyrights of the LCO or person associated with such transmission.

### **PROPOSED CHANGE(S) REQUIRED:**

*The MSO shall not indulge in any piracy or other activities which has the effect of, or which shall result into, infringement and violation of trademarks and copy rights of the Broadcaster. **MSO does not carry any signals or content provided by the LCO.***

8.10 The MSO shall be responsible for encryption of the complete signal, transmitted through its network and the network of the LCO, up to the STB installed at the premises of the subscriber.

### **PROPOSED CHANGE(S) REQUIRED:**

*The MSO shall be responsible for encryption of the complete signal, transmitted through its **network till it reaches the network of the LCO and thereafter the LCO shall be responsible for the same up to the STB installed at the premises of the subscriber***

**9. OBLIGATIONS OF THE LCO**

9.5 The LCO shall –

(iii) not interfere in any way with the signals provided by the MSO and also not use any decoding, receiving, recording equipment(s), counterfeit set top box or Smart card and any other like equipment's;

**PROPOSED CHANGE(S) REQUIRED:**

*The LCO shall not interfere in any way with the signals provided by the MSO and also not use any decoding; receiving, recording equipment (s), counterfeit set top box or smart card and any like equipment's or migrate to any other distributor of signals without following due process of law. Same shall be followed even in case of deactivation.*

9.6 The LCO shall not provide connection to any entity for further retransmission of the Cable T.V. signals.

**PROPOSED CHANGE(S) REQUIRED:**

*The LCO shall not provide connection to any Commercial Subscriber and to any other entity using the signals for further retransmission of the Cable T.V. signals.*

**10. ROLES AND RESPONSIBILITIES OF THE MSO AND THE LCO:**

10.6	a. Establishment of Complaint centre for (i) addressing service requests of subscribers, (ii) redressal of complaints of subscribers. b. Establishment of web based Complaint Monitoring system. c. Providing Toll free Consumer Care Number and its publicity. d. Maintenance of records of all complaints filed by the consumer as provided in the Complaint Redressal Regulations.	<b>MSO</b>	The MSO shall communicate to the LCO the details of complaint centre for onward communication to subscribers.
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**PROPOSED CHANGE(S) REQUIRED:**

*The responsibility of establishment of Complaint Monitoring system shall also be of LCO along with MSO as the LCOs are directly dealing with the subscribers and are aware of the technical issues at their network (Request for amending the QOS Regulations)*

10.9	Issue of Unique Identification Number (UIN) for the applicant.	<b>LCO</b>	The UIN shall be generated from the SMS.
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**PROPOSED CHANGE(S) REQUIRED:**

*The responsibility to issue Unique Identification Number shall be of MSO as the SMS belongs to MSO however, the LCO shall provide the same to the consumer.*

10.17	Redressal of consumer complaints as per the norms of the QoS regulations:- (iv) any other complaint.	<b>Overall responsibility of MSO, faults in the network of the LCO shall be rectified by the LCO.</b>	The complaints redressed by the LCO shall be immediately updated in the web based complaint monitoring system.
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**PROPOSED CHANGE(S) REQUIRED:**

*Remove the sub clause 17 (iv) as it has too wide interpretation and would lead to unnecessary litigations.*

10.20	Delivery of system generated itemized bills to subscribers.	<b>MSO</b>	In cases where on mutual agreement basis, the system
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**PROPOSED CHANGE(S) REQUIRED:**

*Delivery of system generated itemized bills to subscribers.*

- a) *The MSO shall generate Bills/Invoices on OYC (to be delivered to the Subscribers) on the last day of every month.*
- b) *The LCO shall take print outs from OYC of Subscriber's bills/invoices and distribute/issue all such Bills/invoices to the respective Subscribers on or before 7th days of the date of the invoice*
- c) *The LCO shall Collect activation charges, subscription fee (as fixed by MSO) applicable taxes, rental amount of STB and/or any other charges due from Subscribers on or before 15th days of the date of the invoice*
- d) *Deposit all payments received from subscribers to MSO in bank account of MSO on or before 24 hours of such collection from the Subscribers.*
- e) *Provide receipts for all the payment received from each Subscriber as generated*
- f) *In addition to uploading/submitting the subscriber-wise details of monthly subscription fee (including taxes) and all amount collected/to be collected by the LCO on OYC shall provide hard copy of the said report to the MSO in every fortnight*

10.22	Electronic acknowledgement to subscriber within three (03) days of making of payment by the subscriber.
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**PROPOSED CHANGE(S) REQUIRED:**

*Electronic acknowledgement to the subscriber by the MSO within 24 hrs. from the date of updating of records by LCO in the SMS.*

10.24	Payment of taxes to the Government.	<b>MSO and/ or LCO</b>	<b>MSO and/ or LCO</b>	The specific details of tax payment responsibilities need to be filled in the adjoining cells at the time of signing of the agreement as per the rules and regulations of the respective Tax authorities.
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**PROPOSED CHANGE(S) REQUIRED:**

1. *Addition of words “ as per applicable rules and regulations of the respective tax authorities”*
2. *In Column (3) & (4) it shall be MSO or LCO as jointly both of them cannot be held liable at the same time*

**12. REVENUE SETTLEMENT BETWEEN THE LCO AND THE MSO AND RELATED RIGHTS AND OBLIGATIONS**

12.1 The revenue settlement between the LCO and the MSO shall be in the following manner:-

- a) the charges collected from the subscription of channels of Basic Service Tier, free to air channel and bouquet of free to air channels shall be shared in the ratio of \_\_\_\_\_ : \_\_\_\_\_ between MSO and LCO respectively; and
- b) b) the bills to the subscribers are issued and subscription payments have been received by the MSO, the MSO shall share the complete information with the LCO enabling him to raise invoice for its dues for the services rendered by the LCO. The monthly invoice issued to the MSO towards revenue share payable by the MSO shall clearly specify the current payment dues and arrears, if any, along with the due date of payment which shall not be less than seven days.

**PROPOSED CHANGE(S) REQUIRED:**

*The charges collected from the bouquet of channels of Basic service tier, free to air channel and bouquet of free to air channels shall be shared in the ratio of \_\_\_\_\_; \_\_\_\_\_ between MSO and LCO respectively: and*

*The charges collected from the bouquet of channels other than those specified under clause (a) shall be shared in the ratio of \_\_\_\_\_; \_\_\_\_\_ between MSO and LCO respectively: and*

12.2 In cases where:-

- a) The bills to the subscribers are issued and subscription payments have been received by the LCO, the MSO shall issue monthly invoice to the LCO towards dues payable by the LCO and such invoice shall clearly specify the current payment dues and arrears, if any, along with the due date of payment which shall not be less than seven days. All amounts billed as per statements/ invoices shall be payable on or before the due dates as mentioned therein.

OR

- b) The bills to the subscribers are issued and subscription payments have been received by the MSO, the MSO shall share the complete information with the LCO enabling him to raise invoice for its dues for the services rendered by the LCO. The monthly invoice issued to the MSO towards revenue share payable by the MSO shall clearly specify the current payment dues and arrears, if any, along with the due date of payment which shall not be less than seven days.

**PROPOSED CHANGE(S) REQUIRED:**

*The bills to the subscribers are issued and subscription payments have been received by the LCO, the MSO shall issue monthly invoice to the LCO towards dues payable by the LCO and such invoice shall clearly specify the current payment dues and arrears, if any, along with the due date of payment which shall not be less than seven days. All amounts billed as per statements/ invoices shall be payable on or before the due dates as mentioned therein. **However in case there are two consecutive defaults by the LCO, MSO may instruct the MSO to deposit the provisional amount in advance.***

12.3 In cases where the subscription amount has not been realised from the subscriber, the LCO or the MSO, whoever is issuing bills to the subscriber, shall update the details in the SMS within three days from the due date.

**PROPOSED CHANGE(S) REQUIRED:**

*Request to remove the said Para as the same is not required and may create confusion. Once the LCO gives the detail of subscriber payment and the same is entered in SMS, the system would automatically provide the details of subscribers who have not made the payment.*

### **13. DEFAULTS**

13.1 Without prejudice to such rights and remedies that the MSO or the LCO may have in law or under the provisions of this Agreement, in the event of any delay or failure by the MSO or the LCO to make payments of dues on or before the respective due dates, the MSO or the LCO shall have the right:-

- (iii) To charge a simple interest at the rate of base rate of interest of the State Bank of India plus two per cent from the date such amounts became due until they are fully and actually paid;

**PROPOSED CHANGE(S) REQUIRED:**

*Simple rate of interest shall be rate of interest of SBI plus **four (4%) per cent.***

#### **14. UNDERTAKINGS**

14.3 It is expressly understood by the parties that “ \_\_\_\_\_ ” logo(s) is a Registered Trade Mark of the MSO, and the LCO shall use the said logo only during the currency of this Agreement for the benefit of the cable television networking business of the MSO. Consent of the MSO be and is hereby given to the LCO to use the said logo, to the extent of or in connection with the business of the MSO.

#### **PROPOSED CHANGE(S) REQUIRED:**

*It is expressly understood by the parties that” \_\_\_\_\_ ” logo (s) is a registered trade mark of MSO, and the LCO shall use the said logo only during the currency of this agreement for the benefit of the cable television networking business of the MSO as a franchisee of the MSO. Consent of the MSO be and is hereby given to the LCO to use the said logo, to the extent of or in connection with the business of the MSO as a franchise of the MSO.*

14.6 In case of the LCO or the MSO, as the case may be, decides to transfer its interest in respect of its business of providing Cable T.V. Service to any other party / person (third party), in whole or in part, the LCO or the MSO, as the case may be, shall give prior notice to the MSO or the LCO. Parties shall not have any objection to such transfer if the other Party has complied with its obligations under this contract and has paid all its dues.

Provided, however, that such other third party shall sign and execute a deed of adherence to the terms & conditions of this Agreement and other undertaking/ bonds to the satisfaction of the MSO or the LCO, as the case may be, in order to give effect to the provisions of this Agreement.

#### **PROPOSED CHANGE(S) REQUIRED:**

*Proviso to be removed regarding the third party signing any deed as the present agreement is between the MSO and LCO and there is no requirement of any third party coming into the picture. .*

#### **18. FORCE MAJEURE**

18.1 Failure on the part of the MSO or the LCO to perform any of its obligations, shall not entitle either party to raise any claim against the other or constitute a breach of this Agreement to the extent that such failure arises from an event of Force Majeure. If through Force Majeure the fulfilment by either party of any obligation set forth in this Agreement is delayed, the period of such delay shall not be taken into account in computing periods prescribed by this Agreement. Force Majeure will include act of god, earthquake, tides, storm, flood, lightening, explosion, fire, sabotage, quarantine, epidemic, arson, civil disturbance, terrorist attack, war like situation, or enactment of any law or rules and regulation made by the Authorities or any circumstances beyond the reasonable control of the parties herein that directly or indirectly hinders or prevents either of the parties from commencing or proceeding with the consummation of the transactions contemplated hereby. The Party affected by such Force Majeure event shall promptly notify the other party of the occurrence of such event. It is agreed between the Parties that lack of funds shall not in any event constitute or be considered an event of Force Majeure. If the conditions of Force Majeure to continue for a period exceeding one month, the Parties shall meet to decide upon the future

performance of the Agreement. If the Parties are unable to agree upon a plan for future performance, then the Agreement shall be terminated upon notice of either party to the other, on expiry of one month from the date of such notice.

**PROPOSED CHANGE(S) REQUIRED:**

*It should also include order of any statutory or regulatory authority.*

**19. NOTICES**

19.1 Any notice to be served on any party by the other shall be deemed to have been validly sent if sent by Registered Post Acknowledgement Due (RPAD) or by hand delivery duly acknowledged at the address mentioned in the beginning or at such other changed address as the party may inform and the date of receipt of such notice shall be the date of receipt by the other party or 7 days from the date of dispatch of the notice by RPAD, whichever is earlier.

**PROPOSED CHANGE(S) REQUIRED:**

*Notice can also be served on email or first class courier company as now the same has become an effective means of communication and the same also saves time.*

**21. CONFIDENTIALITY**

21.1 The parties shall keep in strict confidence, any information received by one from the other while participating in the affairs/business of each other and shall not disclose the same to any person or party not being a party to this Agreement.

**PROPOSED CHANGE(S) REQUIRED:**

*The parties shall keep in strict confidence, any information received by one from the other while participating in the affairs/business of each other and shall not disclose the same to any person or party not being a party to this agreement except regulatory/Statutory authorities as may be asked by them.*

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