September 06, 2024

To,

Shri Deepak Sharma,

Advisor (B&CS),

Telecom Regulatory Authority of India.

Subject: Comments on behalf of GTPL Hathway Limited ("***GTPL***") on the Consultation Paper on "***Audit related provisions of Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 and The Telecommunication (Broadcasting and Cable) Services Digital Addressable Systems Audit Manual***" dated 09.08.2024 **("*CP*").**

Dear Sir,

We would like to thank the Authority for providing us with the opportunity to share our comments on the CP.

At the outset, we would like to put on record our sincere appreciation and gratitude for all the endeavors and measures that the Hon'ble Telecom Regulatory Authority of India (TRAI) has been putting forth in the recent past to improve the functioning of broadcasting and telecommunication sector by periodically introducing diverse regulations and processes with deep involvement of the concerned stakeholders. It is however stated that with respect to the broadcasting sector, the broadcasting industry has undergone significant changes and transformations over recent years, driven by a range of technological, economic and social factors.

The Authority is cognizant of the increasing popularity and subscriber base of DD Free Dish and Over the Top (OTT) platforms, as well as the existing disparities in content, pricing, and regulation compared to regulated distribution platforms. These disparities have created an imbalance, distorting the level playing field within the broadcasting sector. This inequity is widening with time, making it imperative for the Authority to adopt a comprehensive approach to address all prevailing issues in the broadcasting space and engage in a thorough consultation process.

It is important to note that the Authority acknowledged the said situation while amending the regulatory framework in July 2024 and recognized the need for a comprehensive consultation on all

the unaddressed and unresolved issues within the broadcasting sector. However, the current consultation appears to be fragmented and does not stand appropriate to address the consolidated concerns of all stakeholders and the industry at large.

Therefore, we respectfully request that the Authority either retract the current consultation and initiate a comprehensive consultation on all pending issues in relation to the broadcasting industry or issue a necessary corrigendum to this effect to ensure that all stakeholders including the consumers of all the platforms are brought to parity and are subjected to an equitable regulatory regime as the same will usher equal opportunities to all platforms for business growth and expansion.

Without prejudice to the aforesaid submissions and with a sense of hope that the Authority shall duly consider our request and initiate appropriate actions to address all the pending issues faced by the broadcasting industry, we would like to submit our comments on the issues highlighted in the CP. We stand ready to be involved in further consultation and industry dialogues that may be undertaken by the Authority before finalizing any view on these issues.

ISSUES FOR CONSULTATION

Q1. Should provision of Regulation 15(1) be retained or should it be removed in the Interconnection Regulation 2017?

i) In case you are of the opinion that provisions of Regulation 15(1) should be retained then:

a. Should it continue in its present form or do they need any modifications?

b. In case you are of the opinion that modifications are required in Regulation 15(1) of the Interconnection Regulation 2017, then please suggest amended regulations along with detailed justification for the same.

ii) In case it is decided that provisions of Regulation 15(1) should be removed then what mechanism should be adopted to ensure that the monthly subscription reports made available by the distributors to the broadcasters are complete, true and correct?

Response: Sub-regulation (1) of Regulation 15 of the Interconnection Regulations 2017 **mandates** all the distributors of television channels to cause audit of their system once in a calendar year. The said regulation is reproduced herewith for ready reference:

"Every distributor of television channels shall, once in a calendar year, cause audit of its subscriber management system, conditional access system and other related systems by an auditor to verify that the monthly subscription reports made available by the distributor to the broadcasters are complete, true and correct, and issue an audit report to this effect to each broadcaster with whom it has entered into an interconnection agreement."

It is imperative to state that the objective with which the mandate has been imposed on the DPOs is to ensure that the systems of all the DPOs are compliant with Schedule III of the Applicable Regulations on Interconnection. The only recourse to ascertain whether the DPOs are compliant to Schedule III of the Applicable Regulations on Interconnection is by ensuring that they have conducted the audit of their systems through an independent auditor. The Authority not only has empaneled reputed auditors but have from time to time, issued several directions and correspondence to the DPOs to ensure compliance with the aforesaid mandate of the regulatory framework and to get their respective digital addressable systems audited through any of such empaneled auditors as appointed. In light of the aforesaid, we are of the firm opinion that the mandate of audit in terms of sub-regulation (1) of Regulation 15 of the Interconnection Regulations, 2017 ("**Regulation 15(1**") should continue to subsist as is.

It is however imperative to state that the broadcasters have not initiated any action against such DPOs who have failed to undertake the subscription and compliance audit in compliance with the regulatory framework. Neither the broadcasters have called for a broadcaster caused subscription and compliance audit of such DPOs nor have disconnected the supply of signals to such non-compliant DPOs. Lack of any strict action on part of the broadcasters is directly promoting an intra-discriminatory practice amongst the DPOs as despite the mandate provided under the regulatory framework, the broadcasters are transmitting signals to even those DPOs whose systems including CAS and SMS are not in compliance or have not complied with the mandate under Regulation 15(1), in blatant violation of the regulatory framework as notified by the Authority. This defeats the purpose of the regulatory framework and evidently leads to a situation wherein the stakeholders are deterred from having a level playing field as on one hand there are DPOs who have incurred time, effort and expenses to make their systems compliant and on the other hand there are certain DPOs who are being allowed not only to operate but also to flourish without even complying with the fundamental requirements.

Moreover, such non-compliant DPOs by not adhering to the mandates of Schedule III of the Interconnection Regulations, indulge themselves in the illegal act of piracy and on account of inaction

and lackadaisical approach on part of the broadcasters against such DPOs, they are operating and flourishing their business at the cost of the compliant DPOs.

It is thus imperative that the mandate under Regulation 15(1) should be followed by all the DPOs without any exception or artificial distinction. Further, the broadcasters shall be strictly prohibited from providing signals of their respective channels to the DPOs who are not in compliance with Regulation 15(1). It is further suggested, on account of any instance of deviation from the regulatory mandate as prescribed Regulation 15(1); the Authority should periodically, preferably on quarterly basis, recommend revocation/ cancellation of the DPO license of such non-compliant DPOs under the respective licensing frameworks.

We strongly believe that the abovementioned corrective process, if adopted and mandated in an effective manner by the Authority, will aid the DPOs in complying with the regulatory framework, thereby ensuring a level playing field across all DPOs, irrespective of their network worth and size.

Q2. **Should small DPOs be exempted from causing audit of their systems every calendar year, under Regulation 15(1) of Interconnection Regulation?**

A. **If yes, then,**

1. **Should 'subscriber base' of DPO be adopted as a criterion for defining small DPOs for this purpose?**

(i) **If yes,**

a. **what limit of the subscriber base should be adopted to define small DPOs for the purpose of exempting them from causing audit of their systems under Regulation 15(1)?**

b. **on which date of the year should the DPOs' subscriber base be taken into consideration for categorising whether or not the DPO falls in exempted category?**

c. **In case any distributor is offering services through more than one distribution platforms e.g. distribution network of MSO, IPTV, etc. then should the combined subscriber base of such distributor be taken into consideration for categorising whether or not the distributor falls in exempted category?**

(ii) **If 'subscriber base' criterion is not to be adopted, then what criteria should be selected for defining small DPOs?**

B. In case it is decided that small DPOs may be exempted from causing audit of their systems under

Regulation 15(1), then should broadcasters be explicitly permitted to cause subscription audit and/or compliance audit of systems of such DPOs, to verify that the monthly subscription reports made available by the distributor to them are complete, true and correct?

1. **If yes, what should be the mechanism to reduce burden on small DPOs that may result due to multiple audits by various broadcasters?**

2. **If no, what should be the mechanism to verify that the monthly subscription reports made available by the small DPOs to the broadcasters are complete, true and correct?**

If you are of the view that the small DPOs should not be exempted from the mandatory audit, then

i. **how should the compliance burden of small DPOs be reduced?**

ii. **ii. should the frequency of causing mandatory audit by such small DPOs be decreased from once in every calendar year to say once in every three calendar years?**

iii. **iii. alternatively, should small DPOs be permitted to do self-audit under Regulation 15(1), instead of audit by BECIL or any TRAI empaneled auditor?**

Response: We do not support the provision of any exemptions to DPOs based on any criteria.

It is our firm position that the requirement for subscription and compliance audits should be universally and uniformly applied to all DPOs, without exception. Allowing any form of exemption would undermine the principles of fairness and transparency within the industry, creating disparities that could lead to competitive imbalances.

A uniform application of the mandatory audit requirement is crucial to maintaining the integrity of the regulatory framework. It ensures that all DPOs, regardless of their size, market position, or any other distinguishing factor, are held to the same standard of accountability. This approach fosters a level playing field where compliance is not only expected but enforced uniformly, thereby preventing any DPO from gaining an unfair advantage by bypassing regulatory obligations.

Furthermore, the consistent enforcement of subscription and compliance audits across all DPOs is vital for the accurate reporting of subscription data, which in turn supports fair revenue distribution and accurate market assessments. By ensuring that all DPOs are subjected to the same audit

requirements, the industry can avoid discrepancies that may arise from partial compliance, thereby protecting the interests of all stakeholders involved.

The universal application of the subscription and compliance audit requirement is essential to promote fairness, transparency, and accountability within the broadcasting industry. It is the only way to ensure that the regulatory framework operates effectively and that all DPOs contribute equally to a well-regulated and balanced market environment.

Furthermore, the word like self- audit is contrary to itself, as audit itself means scrutiny of data or system by an independent third party. TRAI has empanelled more than 50 auditors, whose credentials are thoroughly reviewed, and their reports/audit can be relied upon. However, TRAI in consultation with BECIL, can consider prescribing caps/upper limits on the audit fees charged by the empanelled auditors (like cap on carriage fees), based on number of headend(s), subscribers, CAS, SMS, STB models, so that the small DPOs are not subject to any arbitrary/exorbitant cost related to such mandatory audits. Needless to state that there should not be any exception/relaxation on complying with 15(1), on account on the amount of audit fees involved/charged by the empanelled auditor(s).

Q3. As per the existing Interconnection Regulation, all the distributors of television channels have been mandated to cause audit of their system once in a calendar year. Should the existing provision of "calendar year" be continued or "financial year" may be specified in place of calendar year? Please justify your answer with proper reasoning.

Response: We propose that the requirement for the subscription and compliance audit should be aligned with the financial year rather than the calendar year. This adjustment would provide several practical and regulatory benefits that would enhance the effectiveness of the audit process.
Most businesses, including DPOs, operate and report their financials on a financial year basis. By aligning the audit requirement with the financial year, the audit process would naturally integrate with the DPOs' existing financial audit and reporting cycles. This alignment would streamline the audit process, reducing administrative burden and ensuring that the audit captures a complete and accurate representation of the DPO's operations over a consistent period. Moreover, subscription revenue(s) is a key component of the broadcasting segment, and aligning the audit period with the financial year would ensure that subscription and compliance audits are consistent with the financial data reported. This consistency would improve the reliability of audit outcomes, as the audit would be based on data that has already undergone financial scrutiny.

It is also imperative to note that regulatory frameworks and tax authorities typically operate on a financial year basis. Shifting the audit to a financial year timeline would enhance coherence with other regulatory requirements, ensuring that all compliance activities are synchronized. This would make it easier for both the Authority and DPOs to manage and enforce compliance requirements. Conducting audits on a financial year basis would allow DPOs to plan and allocate resources more efficiently. It would also enable auditors to conduct the audit at a time when the financial year-end activities are already underway, thus reducing the disruption to DPO operations and enhancing the audit's effectiveness.

We believe that transitioning the audit requirement from a calendar year to a financial year basis would provide a more logical, efficient, and effective approach. It would align the audit process with the financial operations of DPOs, enhance the coherence of regulatory compliance, and support the accurate and consistent reporting of subscription data, ultimately contributing to a more robust regulated broadcasting framework.

However, as stated above in Q2, the applicability as well as the periodicity of one mandatory audit by the DPOs to be maintained/adhered, without any exception or artificial distinction.

Q4. As per the existing Interconnection Regulation, the annual audit caused by DPO under regulation 15 (1), shall be scheduled in such a manner that there is a gap of at-least six months between the audits of two consecutive calendar years and there should not be a gap of more than 18 months between audits of two consecutive calendar years. Instead of above, should the following schedule be prescribed for annual audit?

i. The DPOs may be mandated to complete annual audit of their systems by 30th September every year.

ii. In cases where a broadcaster is not satisfied with the audit report received under regulation15(1), broadcaster may cause audit of the DPO under Regulation 15(2) and such audit shall be completed latest by 31st December.

iii. In case DPO does not complete the mandatory annual audit of their systems by 30th September in a year, broadcaster may cause audit of the DPO under Regulation 15(2) from 1st October to 31st December year. This shall not absolve DPO from causing mandatory audit of that year by 30th September and render the non-complaint DPO liable for action by TRAI as per the provisions of Interconnection Regulation 2017?

Response: We are in firm agreement with the schedule as suggested by the Authority. It is proposed that all Distribution Platform Operators (DPOs) be required to complete the annual audit of their systems by the 30th of September each year. This timeline will also ensure that DPOs maintain compliance with the regulatory requirements in a timely manner, allowing sufficient time for any necessary corrective actions to be taken before the end of the financial year.

Further, with respect to 'Broadcaster-Initiated Audit in Case of Discrepancy', i.e. in situations where a broadcaster finds the audit report provided under Regulation 15(1) unsatisfactory due to qualifications made by the empanelled auditor, the broadcaster may initiate a further audit of the DPO under Regulation 15(2). The said broadcaster-initiated audit must be completed by the 31st of December of the same year. This provision ensures that any discrepancies or concerns raised by broadcasters are addressed promptly, maintaining the integrity and accuracy of the audit process.

Furthermore, in the event a DPO fails to comply with the audit requirement under 15(1) within the prescribed timelines, then the broadcaster shall not provide signals to such DPO. We also suggest that 15(2) can be exercised by a broadcaster only if the DPO has complied with the requirement 15(1) and the empanelled auditor has issued a qualified audit report and not otherwise. It is important that 15(2) should not become a fishing inquiry or a tool for the broadcaster to arm twist the DPOs.

Q5. In case you do not agree with schedule mentioned in Q4, then you are requested to provide your views on the following issues for consultation:

1. **As per the existing Interconnection Regulation, the annual audit caused by DPO under regulation 15(1), shall be scheduled in such a manner that there is a gap of at-least six months between the audits of two consecutive calendar years and there should not be a gap of more than 18 months between audits of two consecutive calendar years. Does the above specified scheduling of audit need any modification? If yes, please specify the modifications proposed in scheduling of audit. Please justify your answer with proper reasoning.**

2. **For the audit report received by the broadcaster from the DPO (under regulation 15(1)), should the broadcasters be permitted to cause audit under regulation 15(2) within a fixed time period (say 3 months) from the date of receipt of that report for that calendar year, including spilling over of such period to the next year?**

- **If yes, what should be the fixed time period within which a broadcaster can cause such audit. Please support your answer with proper justification and reasoning.**

- **If no, then also please support your answer with proper justification and reasoning?**

3. **In case a DPO does not cause audit of its systems in a calendar year as specified in Regulation 15(1) then should broadcasters be permitted to cause both subscription audit and/or compliance audit for that calendar year within a fixed period (say 3 months) after the end of that calendar year?**
   - **If yes, what should be the fixed time period (after the end of a calendar year) within which a broadcaster should be allowed to get the subscription audit and/or compliance audit conducted for that calendar year? Please support your answer with proper justification and reasoning.**
   - **If no, then also please support your answer with proper justification and reasoning?**

Response: We have expressed agreement with the Schedule and timeline specified under Question 5, hence we have no comments to this question.

Q6. What measures may be adopted to ensure time bound completion of audits by the DPOs? Justify your answer with proper reasoning.

Response: We suggest that for timely completion of audit the following measures may be adopted:

1. **Time bound submission of Transport Stream and other related Queries by Broadcasters**:
   Broadcasters should be mandated to provide the Transport Stream (TS) and all audit-related queries, if any to the empaneled auditor or the concerned DPO, at least 15 days in advance from the date of commencement of the audit of the concerned DPO. This measure will ensure that the auditor will have all the necessary queries as may be required to conduct and conclude the audit process efficiently.

2. **Imposition of financial disincentive**:
   Financial disincentives should also be levied on the broadcasters in case there is a delay of more than 15 days in providing the required response to the Auditor/DPO.

3. Scheduling Auditor Training Programs at Intervals:

We suggest that improving the quality of auditors empaneled by TRAI is crucial for ensuring that audits are conducted with accuracy, integrity, and professionalism. The Authority in collaboration with BECIL undertake periodic training programs in line with new regulations, technological advancements, and emerging industry practices for upgrading skills of the auditors. Well-trained auditors are better equipped to identify discrepancies, ensure compliance, and provide constructive feedback. Enhanced training ensures that auditors are up to date with the latest industry standards, leading to more effective audits. It also reduces the risk of errors or oversight during audits, thereby improving the overall quality of the audit process.

Q7. Stakeholders are requested to offer their feedback on the amendments proposed in the Audit manual in this consultation paper (CP) in the format as given in Table 2.

Response: We are in agreement with the proposed amendments to the existing Audit manual.

Q8. Please provide your comments/any other suggested amendment with reasons thereof in the Audit Manual that the stakeholder considers necessary (other than those proposed in this consultation paper). The stakeholders must provide their comments in the format specified in Table 3 explicitly indicating the existing clause number, suggested amendment and the reason/full justification for the amendment in Audit Manual.

Response: No Comments.

Q9. In light of the infrastructure sharing guidelines issued by MIB, should clause D-14 (CAS & SMS) of Schedule-III of Interconnection Regulation 2017), be amended as follows:

"The watermarking network logo for all pay channels shall be inserted at encoder end only.

Provided that only the encoders deployed after coming into effect of Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Amendment) Regulations, 2019 (7 of 2019) shall support watermarking network logo for all pay channels at the encoder end.

In case of infrastructure sharing, the infrastructure sharing provider shall insert its watermarking network logo for all pay channels at encoder end while each DPO taking services from infrastructure provider distributor shall insert its own watermarking network logo for all pay channels at STB end."

Please support your answer with proper justification and reasoning. If you do not agree then suggest an alternative amendment, with proper justification?

Response: We firmly believe that insertion of watermarking logo should essentially happen at encoder end only to prevent any unnecessary incidents of piracy. However, in case of infrastructure sharing, the watermarking logo can be inserted either at the encoder end or STB end.

The decision on insertion of watermarking logo from the encoder end or FTB end should be mutually decided between the infrastructure provider and seeker such that it does not hamper subscribers viewing experience and does not become ground for frequent disputes between the infrastructure provider and seeker.

Q10. In case of infrastructure sharing, if it is decided that the infrastructure sharing provider shall insert its watermarking network logo for all pay channels at encoder end while each DPO taking services from infrastructure provider distributor shall insert its own watermarking network logo for all pay channels at STB end

i. **does the specification of the logos (transparency level, size, etc), of both Infrastructure provider and infrastructure seeker distributors, need to be regulated? If yes, please provide detailed specification (transparency level, size, etc) of the logos of both Infrastructure provider and infrastructure seeker distributor**
ii. **Since appearance of the logos of more than one DPO on the TV screen may compromise the quality of the video signal at the subscriber's end, what measures such as overlapping logos of the DPOs or any other solution, should be adopted to ensure that while logo of the DPO (infrastructure seeker) is prominently visible on the subscriber's TV screen, the objective of tracing piracy is also met through watermarking the network logo of the infrastructure provider DPO suitably? Please provide details of measure proposed.**

Please support your answer with proper justification and reasoning

Response: Refer to our response to Question 9 and hence not repeated for the sake of brevity.

Q11. In light of the infrastructure sharing guidelines issued by MIB, should clause C-14 (CAS & SMS) of Schedule-III of Interconnection Regulation 2017), be amended as follows:

"The CAS shall be independently capable of generating, recording, and maintaining logs, for a period of at least immediate preceding two consecutive years, corresponding to each command executed in the CAS including but not limited to activation and deactivation commands issued by the SMS.

In case Infrastructure is shared between one or more distributors, the CAS shall be capable of generating, recording, and maintaining logs for each distributor separately for the period of at least immediate preceding two consecutive years, corresponding to each command executed in the CAS including but not limited to activation and deactivation commands issued by the SMS."

Please support your answer with proper justification and reasoning. If you do not agree then suggest an alternative amendment, with proper justification?

Response: While we are in agreement with the proposed amendment, in case of infrastructure sharing the following should be ensured:

1. CAS instances for the infrastructure provider and seeker should be separate logical instance with separate database. The hardware and associated infrastructure (space and power) requirements may only be shared.

2. Each CAS instance will communicate to only one SMS. We cannot allow a CAS instance to be addressed by multiple SMS, since in such a situation the one-to-one correspondence is lost.

Q12. For those cases of infrastructure sharing where the CAS and SMS are not shared by the infrastructure provider with the infrastructure seeker,

i. **do you agree that in such cases, the audit of the infrastructure seeker so far as the shared infrastructure is concerned, should extend to only those elements of the infrastructure of the provider which are being shared between the DPOs?**

ii. **should a broadcaster be permitted to cause the complete technical audit of all the DPOs, including the audit of the shared infrastructure, as a precondition for the broadcaster to provide the signals of television channels, if the broadcaster so decides?**

Please support your answers with proper justification and reasoning.

Response: With respect to the audit scope for Infrastructure Sharing, we suggest that if the CAS and SMS are not shared between the infrastructure provider and the infrastructure seeker, the audit of the infrastructure seeker, in relation to the shared infrastructure, should be limited only to the elements of the provider's infrastructure that are being shared. There should be no prerequisite for a broadcaster's audit in such cases, as comprehensive audits of all DPOs are already conducted during the annual audit cycle.

Further, with respect to Broadcaster's Precondition for Audit, we state that a complete technical audit of all DPOs, including the audit of shared infrastructure, should not be a precondition for a broadcaster to provide signals of television channels. Imposing such a requirement would not be in the best interest of the industry, as it would significantly delay the time-to-market process due to the involvement of multiple broadcasters and the extended time required to conclude an audit.

Q13. In case CAS and SMS are shared amongst service providers,

i **what provisions for conducting audit should be introduced to ensure that the monthly subscription reports made available by the distributors (sharing the infrastructure) to the broadcasters are complete, true, and correct, and there are no manipulations due to sharing of CAS/DRM/SMS?**

ii **should a broadcaster be allowed to simultaneously audit (broadcaster-caused audit) all the DPOs sharing the CAS/DRM/SMS, to ensure that monthly subscription reports are complete, true, and correct in respect of all such DPOs, and there are no manipulations due to sharing of CAS/DRM/SMS? Support your answer with proper justification and reasoning.**

Response: No Comments.

Q14. Do you agree that in case of infrastructure sharing between DPOs, suitable amendments are required in the Schedule III of the Interconnection Regulation and the audit manual for assessment

of multiplexer's logs during audit procedure? If yes, please suggest the proposed amendment(s), keeping in mind that no broadcaster should be able to see the data of another broadcaster. Please support your answer with proper justification and reasoning. If you do not agree, then also please support your answer with proper justification and reasoning?

AND

Q15.In light of infrastructure sharing, does clause 4.5 of the existing Audit Manual require any amendment? If yes, please suggest the amended clause. Please provide proper justification for your response. If no, then also please support your answer with proper justification and reasoning?

Response: We do not have any comment to offer. Our views on this subject are already covered in the previous responses.

Q16. In light of the infrastructure sharing guidelines issued by MIB, should clause 5.3 and clause 5.4 of Audit Manual be amended to read as follows:

"5.3 Certificate from all the CAS vendors (Format as in Annexure 1).

5.4 Certificate from SMS vendors (Format as in Annexure 2).

Note: In case of Infrastructure sharing, all the certificates/ documents related to CAS and SMS, should be given by the infrastructure provider distributor on the basis of certificate issued to it by CAS and SMS vendor."

Response: We are in agreement with the proposed amendment to clauses 5.3 and 5.4 of the Audit Manual.

Q17. In light of the infrastructure sharing guidelines issued by MIB for sharing of infrastructure amongst MSOs, amongst DTH operators and between MSO and HITS operator, do you think that there is a need to amend any other existing provisions of Interconnection Regulations 2017 or introduce any additional regulation(s) to facilitate infrastructure sharing amongst MSOs, amongst DTH operators and between MSOs and HITS operators? If yes, please provide your comments with reasons thereof on amendments (including any addition(s)) required in the Interconnection Regulation 2017, that the stakeholder considers necessary in view of Infrastructure guidelines issued by MIB. The stakeholders must provide their comments in the format specified in Table 4 explicitly indicating the existing Regulation number/New Regulation number, suggested

amendment and the reason/ full justification for the amendment in the Interconnection Regulation 2017.

Response: We do not have any comment to offer. Our views on this subject are already covered in the previous responses.

Q18. In light of the infrastructure sharing guidelines issued by MIB for sharing of infrastructure amongst MSOs, amongst DTH operators and between MSO and HITS operator, do you think that there is a need to amend any other existing provisions of Audit Manual or introduce any additional clause(s) to facilitate infrastructure sharing amongst MSOs, amongst DTH operators and between MSOs and HITS operators? If yes, please provide your comments with reasons thereof on amendments (including any addition(s)) required in Audit Manual, that the stakeholder considers necessary in view of Infrastructure guidelines issued by MIB. The stakeholders must provide their comments in the format specified in Table 5 explicitly indicating the existing clause number/New Clause Number, suggested amendment and the reason/ full justification for the amendment in Audit Manual.

Response: We do not have any additional comments to offer. Our views on this subject are already covered in the previous responses.

Q19. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

Response: In furtherance to our response to Question 2, we state that the right of the broadcaster under Regulation15(2) is frequently misused by the broadcasters to harass, or arm twist the DPOs. Broadcasters frequently resort to issuing needless or belated issues on the audit report under Regulation 15(1), issued by independent empaneled auditors.

The present clause 15(2) of the regulation states as under:

*In cases, where a broadcaster is **not satisfied with the audit** report received under sub-regulation (1) or, if in **the opinion of a broadcaster** the addressable system being used by the distributor does not meet requirements specified in the Schedule III or the Schedule X or both, as the case may be, it shall be permissible to the broadcaster, after communicating the reasons in writing to the distributor, to*

audit the subscriber management system, conditional access system and other related systems of the distributor of television channels, not more than once in a calendar year:

The two conditions mentioned in Regulation 15(2) i.e. "***Not satisfied with the audit report***" and secondly "***in the opinion of a broadcaster***", are too open ended and subject to wider or rather beneficial interpretation by the broadcasters. The said conditions are frequently misused by the broadcasters to harass, or arm twist the DPOs.

Therefore, the Authority should put adequate qualifying conditions for the broadcasters, which if triggered, then only broadcasters be permitted to exercise right of audit under Regulation 15(2). We suggest that Regulation 15(2) can be exercised only in the event of following circumstances/qualifications in the **audit report** issued under Regulation 15(1):

a. More than 0.5% variation is found between the number of subscribers submitted by DPO and verified by the TRAI empaneled auditor in its audit report.
b. Undeclared CAS / SMS/Head End found during audit.
c. If Unencrypted signal is found during Audit.
d. More than 5% variation is found between ground STB samples given by Broadcasters and actual availability in the system.

Accordingly, we also suggest that Regulation 15(2) shall be suitably amended and to be read as under:

"In cases where the auditor referred in 15(1) (a), issues a qualified report, with respect to the subscription reports submitted by the DPO to the broadcaster or with respect to non-confirmation of the requirements *specified in the Schedule III or the Schedule X or both, as the case may be, it shall be permissible to the broadcaster, after communicating the reasons in writing to the distributor, to audit the subscriber management system, conditional access system and other related systems of the distributor of television channels, not more than once in a calendar year:*

Provided that, the auditor raises any of the following qualifications in its audit report:

a. More than 0.5% variation is found between the number of subscribers submitted by DPO and verified by the TRAI empaneled auditor in its audit report;
b. Undeclared CAS / SMS/Head End found during the course of audit ;
c. If Unencrypted signal is found during Audit;

d. More than 5% variation is found between ground STB samples given by Broadcasters and actual availability in the system.

The above changes in Regulation 15(2), will help DPOs to complete audit in the prescribed time period and also ensure that they are not subject to any undue harassment by the broadcasters.

Furthermore, it is reiterated that in the event a DPO fails to comply with the audit requirement under 15(1) within the prescribed timelines, then the broadcaster shall not/prohibited from providing signals to such DPO.