

Dated:- 23<sup>rd</sup> August 2013

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Telecom Regulatory Authority Of India  
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**Re:- Consultation Paper No.: 8/2013  
Sub:- Comments on "Distribution of TV Channels from Broadcasters to  
Platform operator" by M/S Scod 18 Networking Pvt Ltd.**

Dear Sir,

Telecom Regulatory Authority of India vide its consultation Paper NO 8/2013 invited comments on Distribution of TV Channels from Broadcasters to Platform Operators.

Whilst we appreciate the effort of TRAI for considering several complaints filed by Multi System Operators (MSO) raising the question on modus operandi of Content Aggregators/ Distribution Agencies and propose to pass necessary amendments, however, the issues highlighted by TRAI in the consultation Paper may not be addressed only by making the amendments proposed by TRAI for the reasons mentioned below:-

1. The aggregators have no role to play in a transparent digital system. Their presence also weans away a part of the revenue in the value chain of pay TV Broadcasting, putting more burdens on the subscribers. We are of the view that other than limiting their role to assist the broadcasters in signing deals with the MSOs/ Cable Operators on behalf of broadcasters or not changing the composition of bouquet. It is important to restrict the role of Aggregator to single broadcaster and they may not be allowed to be deal with multiple broadcasters in view of the concern raised by TRAI in para 3 of the Consultation Paper accepting the

fact that *“as on date, the distribution business of around 73% of the total pay TV market, including high definition (HD) TV channels, is controlled by a few authorised distribution agencies. These channels include almost all the popular pay TV channels. These authorised distribution agencies wield substantial negotiating power which can be, and is, often misused leading to several market distortions.”* Further, the authority should also make a provision that an MSO may ask a Broadcaster directly for the content if he is not satisfied with the broadcaster's agent.

2. The main issue is that many such agencies/ aggregators operate as authorized agents of more than one broadcaster creating cartel of pay channels and deciding the content to be consumed by the consumers at the prices settled by them. Thus one of the major actions to be taken for getting the industry rid of growing monopolies is to get rid of aggregators of Pay channels so that consumers have more power to decide what content they should consume rather than a cartel of pay channels deciding that.
3. The modus operandi aggregator uses is that it buys all the pay TV channels exclusively under a minimum guarantee amount from various broadcasters and sells the channels in bouquets or a-la-carte making heavy profit, from the market particularly independent MSOs or large MSOs who are not part of the broadcast group that owns the aggregator. In addition to the aforesaid, due to Vertical Business Integration between the Broadcaster, Content Aggregator and selective MSO's unfair trade practices are prevailing including the lesser prices which are charged from such MSO on the pretext of wholesale discount. We request TRAI to make payment terms of all service providers (DTH/ Cable TV/ IPTV/ OTT) at par to overcome the unfair trade practices. It is also observed that a denial is sent to MSO's when the content is demanded on “Reference Interconnect Offer” (RIO) by giving technical excuses which reflects a strong monopoly of Broadcasters.

4. Further , due to absence of any law on “On Screen Display” (OSD), Content aggregators are using it as an arm twisting technique and displaying such “On Screen Display” (OSD) in such a manner that it covers the entire screen and make the channel literally invisible thereby disrupting the channels of the MSO's /LCO.
5. These Aggregators work as authorized distribution agencies of pay broadcasters as defined in the Cable TV Act. Pay broadcasters used aggregators in this role and became super broadcasters with many pay channels and dominate the market which needs to be restricted.
6. The authority has mentioned in Para 3 that distribution business of around 73% of the total pay TV market available today is controlled by the top four aggregators. These Channels includes almost all the popular pay TV Channel. Hence they are misusing dominant position.
7. Further, the authority has pointed out in Para 11 under Explanatory Memorandum that 233 pay channel offered by 59 pay broadcasters/agents of broadcasters are distributed by 30 broadcasters/ aggregators.
8. Only disallowing bundling of channel of more than one broadcasters and restricting such Distribution Agencies to form separate bouquet will not resolve the issue. **The Aggregators may not be allowed to distribute channels of more than one broadcaster as the aggregator proposing number of channel of more than one broadcaster may always be in a bargaining position and impose a deal on MSO/ LCO that suits their marketing proposition.** The consolidation of Distribution Agencies to cater services of various broadcasters including cross holdings in the aggregators failed to fetch any benefit to MSO or the subscribers.
9. Power granted by law to treat Content Aggregator at par with Broadcasters has resulted in to the monopoly of Aggregators. The

settlement must allow for aggregation, but avoid granting any kind of Monopoly. The value of aggregation is often worth the risk of corruptible power. But if the Content Aggregators/ Distribution Agencies are allowed to distribute channel of more than one broadcaster, it will be considered as creation and continuation of monopoly/ monopolistic practice, imposed by law, is hard to break down and leads to slack business practices. The misuse of market dominance of the aggregators can be abridged only by restricting Aggregator to operate as authorized agents of more than one broadcaster. This will encourage decentralization of Content Aggregators. The usefulness, and therefore the success of Content Aggregator would be determined not by its catalogue of channels but by the convenience and support it offered to its Customers (MSO/LCO).



10. Dominance of existing aggregators may not be eliminated by cosmetic changes of restricting authorized Distribution agent for making change in the composition of bouquet or bundling it with bouquet or channels of other broadcasters or directing them to act for and on behalf of Broadcasters. The Concentration of power lies in the hand of aggregators holding 73% of the total pay TV market by only 4 Aggregators may be eliminated only when the content aggregator may not be allowed to operate as authorized agents of more than one broadcaster.

11. Apropos to the rights available to Broadcasters, a swindle is played by them wherein an immense Broadcaster having popular channels (which are charged at a fixed rate under TRAI regulations) launches new channels wherein the charge of such channel at initial level itself is on higher side and the content being shown on such popular channel is shifted to the new channel. Upshot of such transfer is directly borne by customer and MSOs'.

12.Hence, we propose additional amendments in the proposed notifications enclosed hereto and request you to impose restrictions on Broadcasters on shifting the contents of their channels.

Yours Sincerely,

**For SCOD18 Networking Pvt. Limited**

**Vinit .C.Sharma**

**Vice President Legal & Commercial**

**Encl : Proposed Amendment**

**AMENDED DRAFT**

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,  
PART III, SECTION 4  
THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES  
(FOURTH)(ADDRESSABLE SYSTEMS)TARIFF(THIRLD AMENDMENT) ORDER,  
2013  
(NO. OF 2013)  
TELECOM REGULATORY AUTHORITY OF INDIA  
NOTIFICATION

New Delhi, the August , 2013.

No. /2013- B&CS. ----- In exercise of the powers conferred by sub-clauses (ii), (iii), (iv) and (v) of clause (b) of sub-section (1) and sub-section (2) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunications), No.39 ,-----

(a) issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----

the Telecom Regulatory Authority of India hereby makes the following Order further to amend the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems ) Tariff Order, 2010 (1 of 2010), namely:-

1. (1) This Order may be called the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (Third Amendment) Order, 2013 (--- of 2013).
- (2) This Order shall come into force from the date of publication of this Order in the Official Gazette.
2. In clause 2 of the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010 (1 of 2010), (hereinafter referred to as the principal Tariff Order),-----,

For sub-clause (f), the following sub-clause shall be substituted, namely:---

“(f) “broadcaster” means any person including an individual, group of persons, public or private body corporate, firm or any organisation or body who or which is providing broadcasting services;”

3. After clause 9 of the principal Tariff Order, the following clause shall be inserted, namely:---

**“9A. Engagement of distribution agencies by the broadcasters.---- (1) If a broadcaster appoints a person as its authorised distribution agent, it shall ensure that----**

**(a) there is no change in the composition of its bouquet provided by the authorized distribution agent to distributors of TV channels;**

**(b) while acting as an authorised distribution agent, such person acts exclusively for and on behalf of the single broadcaster.**

**(c) if MSO is not satisfied with the deal provided by its distribution agent then Broadcaster can be contacted directly.**

**(2) Every broadcaster shall ensure that the authorized distribution agent appointed by it under sub-clause (1) shall----**

**(a) not publish Reference Interconnection Offer by itself or on the behalf of the broadcaster; and**

**(b) not enter into interconnection agreement with the distributor of TV channels.”**

**AMENDED DRAFT**

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,  
PART III, SECTION 4  
THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES  
(SECOND) TARIFF (TENTH AMENDMENT) ORDER, 2013  
(NO. OF 2013)

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the August , 2013.

No. /2013- B&CS. ----- In exercise of the powers conferred by sub-clauses (ii), (iii), (iv) and (v) of clause (b) of sub-section (1) and sub-section (2) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunications), No.39 ,-----

(a) issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----the Telecom Regulatory Authority of India hereby makes the following Order further to amend the Telecommunication (Broadcasting and Cable) Services (Second) Tariff Order, 2004 (6 of 2004) , namely:-

1. (1) This Order may be called the Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Tenth Amendment) Order, 2013 ( of 2013).  
(2) This Order shall come into force from the date of publication of this Order in the Official Gazette.

2. In clause 2 of the Telecommunication (Broadcasting and Cable) Services (Second) Tariff Order, 2004 (6 of 2004) (hereinafter referred to as the principal Tariff Order), for the existing sub-clause (aaa), the following sub-clause shall be substituted, namely:---  
“(aaa) “broadcaster” means any person including an individual, group of persons, public or private body corporate, firm or any organisation or body who or which is providing broadcasting services;”

3. In clause 3C of the principal Tariff Order, the following sub-clause shall be inserted,---

“(3) if for any reason, a bouquet comprising channels of more than one broadcaster is reconfigured in a manner to include channels of only a single broadcaster, the rate of such reconfigured bouquet shall be calculated in the following manner:-



Bouquet rate of the reconfigured bouquet= [rate of the bouquet being reconfigured]x[sum of a-la-carte rate of pay channels comprising the reconfigured bouquet/sum of a-la-carte rate of all the pay channels comprising the bouquet being reconfigured]

Provided that if after reconfiguration of a bouquet, there remains only one channel in such bouquet, the broadcaster shall be free to offer such channel at its reported a-la-carte rate; “

4. After clause 4D of the principal Tariff Order, the following clause shall be inserted, namely:----

**“4E. Engagement of distribution agencies by the broadcasters.---- (1) if a broadcaster appoints a person as its authorised distribution agent, it shall ensure that----**

**(a) there is no change in the composition of its bouquet provided by the authorised distribution agent to distributors of TV channels;**

**(b) while acting as an authorised distribution agent, such person acts exclusively for and on behalf of the single broadcaster.**

**(c) if MSO is not satisfied with the deal provided by its distribution agent then Broadcaster can be contacted directly.**

**(2) Every broadcaster shall ensure that the authorized distribution agent appointed by it under sub-clause (1) shall----**

**(a) not publish Reference Interconnection Offer by itself or on the behalf of the broadcaster; and**

**(b) not enter into interconnection agreement with the distributor of TV channels.”**

**AMENDED DRAFT**

TO BE PUBLISHED IN THE GAZETTE OF INDIA,  
EXTRAORDINARY,  
PART III, SECTION 4

THE TELECOMMUNICATION (BROADCASTING AND CABLE  
SERVICES) INTERCONNECTION (SEVENTH AMENDMENT)  
REGULATIONS, 2013

No. of 2013  
TELECOM REGULATORY AUTHORITY OF INDIA  
NOTIFICATION

New Delhi, the August, 2013

F. No. / 2013 - B&CS.-- In exercise of the powers conferred by section 36, and by sub-clauses (ii), (iii), (iv) and (v) of clause (b) of sub-section (1) and sub-section (2) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39,

(a) issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----the Telecom Regulatory Authority of India hereby makes the following regulations further to amend the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004), namely:-

1. (1) These regulations may be called the Telecommunication (Broadcasting and Cable Services) Interconnection (Seventh Amendment) Regulations, 2013.

(2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. In regulation 2 of the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004), (hereinafter referred to as the principal regulation), for sub-clause (e), the following sub-clause shall be substituted, namely:-----

“(e) “broadcaster” means any person including an individual, group of persons, public or private body corporate, firm or any organisation or body who or which is providing broadcasting services;”

3. After regulation 13 of the principal regulations, the following regulation shall be inserted, namely:-

**“ 13A. Engagement of distribution agencies by the broadcasters.---- (1) if a broadcaster appoints a person as its authorised distribution agent, it shall ensure that---**

**(a) there is no change in the composition of its bouquet provided by the authorised distribution agent to distributors of TV channels;**

**(b) while acting as an authorised distribution agent, such person acts exclusively for and on behalf of the single broadcaster.**

**(c) if MSO is not satisfied with the deal provided by its distribution agent then Broadcaster can be contacted directly.**

**(2) Every broadcaster shall ensure that the authorized distribution agent appointed by it under sub-regulation (1) shall---**

**(a) not publish Reference Interconnection Offer by itself or on the behalf of the broadcaster; and**

**(b) not enter into interconnection agreement with the distributor of TV channels.”**

**AMENDED DRAFT**

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,  
PART III, SECTION 4

THE TELECOMMUNICATION (BROADCASTING AND CABLE SERVICES)  
INTERCONNECTION (DIGITAL ADDRESSABLE CABLE TELEVISION  
SYSTEMS)  
(SECOND AMENDMENT) REGULATIONS, 2013

No. of 2013

TELECOM REGULATORY AUTHORITY OF INDIA  
NOTIFICATION

New Delhi the August, 2013

F. No. /2013- B&CS – In exercise of the powers conferred by section 36, read with sub-clauses (ii), (iii), (iv) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39,-----

(a) issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----the Telecom Regulatory Authority of India hereby makes the following regulations to amend the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations 2012 (9 of 2012), namely:-

1. (1) These regulations may be called the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) (Second Amendment) Regulations, 2013.

(2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. In regulation 2 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (9 of 2012), (hereinafter referred to as the principal regulations), for sub-clause (g), the following sub-clause shall be substituted, namely:----

“(g) “broadcaster” means any person including an individual, group of persons, public or private body corporate, firm or any organisation or body who or which is providing broadcasting services;”

3. After regulation 9 of the principal regulations, the following regulation shall be inserted, namely:----

“ 10. Engagement of distribution agencies by the broadcasters.---- (1) if a broadcaster appoints a person as its authorised distribution agent, it shall ensure that----

(a) there is no change in the composition of its bouquet provided by the authorised distribution agent to distributors of TV channels;

(c) while acting as an authorised distribution agent, such person acts exclusively for and on behalf of the single broadcaster.

(d) if MSO is not satisfied with the deal provided by its distribution agent then Broadcaster can be contacted directly.

(2) Every broadcaster shall ensure that the authorized distribution agent appointed by it under sub-regulation (1) shall----

(a) not publish Reference Interconnection Offer by itself or on the behalf of the broadcaster; and

(b) not enter into interconnection agreement with the distributor of TV channels.”

**AMENDED DRAFT**

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,  
PART III, SECTION 4

THE REGISTER OF INTERCONNECT AGREEMENTS  
(BROADCASTING AND CABLE SERVICES) (FIFTH AMENDMENT)  
REGULATIONS, 2013

(OF 2013)

TELECOM REGULATORY AUTHORITY OF INDIA  
NOTIFICATION

New Delhi, the August, 2013

F. No. - /2013- B&CS.-- In exercise of the powers conferred by section 36, read with sub-clauses (iv), (vii) and (viii) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39,

(a) issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----

the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation 2004 (15 of 2004) , namely:-

1. (1) These regulations may be called the Register of Interconnect Agreements (Broadcasting and Cable Services) (Fifth Amendment) Regulations, 2013.

(2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. In regulation 2 of the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation 2004 (15 of 2004), (hereinafter referred to as the principal regulations), for sub-clause iii, the following sub-clauses shall be substituted, namely:---

“iii. “broadcaster” means any person including an individual, group of persons, public or private body corporate, firm or any organisation or body who or which is providing broadcasting services;”

