

20-May-2019

By Courier / E-mail / Hand Delivery

To,
The Advisor (B&CS-II)
Telecom Regulatory Authority of India (TRAI)
Mahanagar Doorsanchar Bhawan
Jawaharlal Lal Nehru Marg
New Delhi – 110002

Kind Attn.: Mr. Anil Kumar Bharadwaj

Ref.: Telecom Regulatory Authority of India's ("TRAI" or "Authority") consultation paper dated 29-March-2019 on The Telecommunication (Broadcasting & Cable) Services Digital Addressable Systems Audit Manual ("Consultation Paper")

Dear Sir,

We write in reference to the Consultation Paper issued by the Authority.

At the outset, we thank the Authority for providing stakeholders with an opportunity to submit their counter-comments on the responses of other stakeholders to the Consultation Paper.

In this regard, please find attached our preliminary counter-comments on some of the issues raised by certain stakeholders in their responses to the Consultation Paper ("Counter-Comments").

The enclosed Counter-Comments are in addition to the comments submitted by TV18 on 13-May-2019 ("Comments") to the Consultation Paper.

We would be grateful if the Authority could kindly consider our Comments as well as Counter-Comments.

Yours Sincerely,
For TV18 Broadcast Limited



Authorized Signatory

Encl.: As above

TV18 Broadcast Limited

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TV18 Broadcast Limited's Counter-Comments on some of the issues raised by certain stakeholders in their responses to TRAI's Consultation Paper

1. Regarding changes made by DPOs to their systems and their reporting to broadcasters: We note that it has been proposed that all changes made by a DPO to its systems need not be reported to the relevant broadcaster. It has been further indicated that only certain / relevant changes made to systems may be reported. In this regard, we submit that since DPOs are interested parties having vested interest in the outcome of audit, hence, they should not be permitted to decide for themselves as to which all changes being made by them to their systems would qualify as being relevant for broadcasters, and which all changes would qualify as irrelevant. We strongly believe that if DPOs are permitted to decide this for themselves, then many unscrupulous DPOs will take undue advantage and would refrain from reporting even relevant changes to the broadcasters. As such, any change made to the systems (eg., CAS, SMS, STB) should be reported to broadcasters.

Further, any change to systems should be subject to re-evaluation by empanelled auditors for compliance with regulatory requirements, and such, re-evaluation certificate should be provided to broadcasters for their records. This is imperative so that suitable action can be taken against DPO and other concerned parties, in case the changes result in compromising integrity of systems or are found to be not in-line with the requirements prescribed under Schedule III of the Interconnection Regulation of 2017 ("Schedule III").

2. Regarding usage of laptops / machines by auditors: We note that it has been proposed that laptops to be used by auditors must be laptops that are provided by DPOs. Further, these laptops should have no internet / wi-fi connection and that such laptops should be used in offline mode only. Moreover, it has been suggested that laptops should not leave DPO's premises till publication of final audit report. In this regard, we wish to submit that all these suggestions are unreasonable and uncalled for. It is submitted that internet connectivity is inherent to conducting audits for *inter-alia* auditors to communicate with the auditee DPO on a day-to-day basis regarding various aspects, including the following:
 - (a) collection of data and information required for audit;
 - (b) planning and sharing of day-to-day activities related to audit;
 - (c) sharing of day-wise updates with the auditee DPO and all concerned parties;

(d) raising concerns regarding the audit with the auditee DPO and all concerned parties;

(e) circulation of audit queries.

We would like to take this opportunity to reiterate that it has been a standard practice that auditors use their own laptops / equipment during audit and in this regard, our Comments are reiterated. We humbly submit that any insistence of DPOs for use of laptops provided by them should be deprecated. This is so, because, data stored in DPOs' machines may be exposed to manipulation by IT or other teams of unscrupulous DPOs who will always have admin or super-admin access to such laptops.

3. Regarding cross-checking of data dump: We note that it has been proposed that only sample of data-dump may be cross-checked, and that sample should vary on the size of DPOs. In this regard, it may be noted that Schedule III *inter-alia* specifies that both CAS and SMS system should be able to independently generate records and maintain logs for a period of at least immediately preceding two (2) consecutive years corresponding to each command executed in the CAS, including but not limited to activation and deactivation commands issued by SMS. Schedule III also provides that it shall not be possible to alter the data and logs recorded in the CAS and the SMS. Whether an auditee DPO is in compliance of these regulatory requirements cannot be ascertained till such time as the entire data dump (including transaction logs) is not cross-checked. Further, it defeats the purpose of verification / audit if only samples are to be cross checked since, this would motivate DPOs to swindle with their systems. As a standard practice, in all audits that have been conducted so far, 100% data dump (including transaction logs) have been provided by all DPOs, including DTH operators, on the laptops of the auditors and verification/audit of such transaction logs have neither resulted in delay of audit, nor have that resulted in interference with the routine activities of the DPOs. In addition to the above, the relevant portions of our Comments are reiterated.
4. Regarding data extraction methodology: We note that it has been proposed that the size of data dump for a single month may run into several terra-bytes and accordingly, TRAI should not specify storage period for transactional logs for more than six (6) months. We strongly recommend that TRAI should not bring in any such provision in the Audit Manual, which would result in DPOs getting to bypass the regulatory requirement of maintaining logs for a period of at least immediately preceding two (2) consecutive years. We also take this opportunity to recommend that at the time of an auditee DPO getting its systems audited, extraction of any / all data for audit purposes from live systems should occur only in the presence of the auditors, meaning thereby that the auditee DPO should not insist that audit be conducted on basis previously extracted

data. Additionally, when an auditee DPO's systems is to be audited at the behest of a broadcaster, then extraction of any / all data for audit purposes should occur only in the presence of the auditors and representative of the applicable broadcaster. It is also submitted that irrespective of whether audit is being conducted by DPO on its own or at the request of a broadcaster, suitable stipulation should be prescribed in audit manual to the effect that empanelled auditor must specify in its audit report as to who extracted the data and who ran the commands. It is also critical to note that all commands / tests / demos cannot be performed on extracted data and that it is imperative that certain tests / demos are conducted on live systems as well. We would like to take this opportunity to clarify that the above has been a standard practice being followed during audits and the same need not be diluted or done away with.

5. Regarding reporting or verification of city, state and headend wise data: We note that it has been proposed that there should not be any reporting or verification of city, state, headend wise subscription reports since, subscriber data is very sensitive for the DPOs. It has also been proposed that such data has no bearing on the pay-outs to be made by DPOs to broadcasters. In this regard, we wish to reiterate that no personal data of any subscriber is either reported to broadcasters or are disclosed to auditors therefore, apprehensions being suggested are uncalled for. Further, the requirement of city, state and headend wise subscriber numbers is inter-alia required for the purposes of ascertaining whether DPO is entitled to certain discounts / incentives and whether DPO is in compliance with its obligations for a particular region. We refer and rely on our Comments, which may be read as forming part of present Counter-Comments and are not being repeated for the sake of brevity. We also take this opportunity to highlight that submission of city, state and headend wise reports and verification of the same to ascertain non-compliance of stipulations of agreements is a standard practice and there is no reason that the same should be diluted or done away with.

6. Regarding variations in subscriber numbers on account of migration from earlier regime to the new regime: We note that it has been proposed that auditors should consider period from 1-Feb-2019 to 31-Mar-2019 as a transition phase from the earlier regime to the new regime and as such, there may be variations in subscriber numbers for the months of February and March of 2019. It is submitted that the above suggestion should be rejected since, permitting the same would be ultra-vires to the regulatory framework and would result in undue benefit accruing to DPOs. It may be noted that requirement of capturing complete and accurate subscriber number data has remained unchanged and is also the very essence of conducting business by a DPO in an ethical and transparent manner. The very purpose of implementing addressability across the nation was to eliminate the glitches of analogue system, including under reporting of subscriber numbers and the said purpose would get defeated if the above request is entertained.

7. Regarding Network Audit requirement under Audit Manual: We note that it has been proposed that it is irrelevant for a broadcaster to know the network arrangement / configuration of DPOs and the same need not be disclosed or verified. This has been suggested on the flawed understanding that network arrangement / configuration of DPO does not have any commercial impact on broadcasters or any bearing on the reported numbers and hence, Network Audit should be excluded from the scope of audit. It is submitted that the above proposal / suggestion is incorrect, misleading and devoid of any merits. It may be noted that at multiple instances, DPOs operating digital addressable cable television system inter-alia install multiple CAS in different cities, without declaring or reporting the same to the broadcasters. The signals of channels that are retransmitted through such undeclared systems do not get reported to the broadcasters. Further, time and again, it has also been noted that unscrupulous DPOs also tend to engage in retransmission of unencrypted signals of channels and at times, channels are added at LCO's end as well. All the above cited instances result in loss of revenue to the broadcasters. In view of the above, it is absolutely essential that Network Audit gets conducted by auditors so as to ascertain:

- (a) if multiple systems / CAS have been deployed by a DPO which are not reflecting at the headend(s) of the DPO;
- (b) if signals are being retransmitted in unencrypted mode;
- (c) if channels have been added at LCOs end.

It is submitted that in order to conduct network audit, an auditor would also be required to visit the auditee DPO's digital headends / sub-headends and undertake the validation exercise as per audit manual. Additionally, auditor would also be required to visit 3-4 sample cities / LCOs (last mile) to ascertain veracity of correctness of disclosures made with respect to distribution system / network by auditee DPO. We would like to take this opportunity to highlight that the above has been a standard practice followed during audits and there is no need for dilution or doing away the same since, it is only aimed to bring in transparency and accountability.

8. Regarding DPO providing details of STB inventory for Audit: We note that it has been proposed that DPOs need not declare STB details as DPOs are required to pay broadcasters on the basis of Active STB's in the SMS. In this regard, we submit that it is necessary for auditors to know the total number of STBs that are there in the digital addressable system of the auditee DPO so that the auditor can ascertain if such number corresponds with the number of active STBs, de-active STBs and STB that are in stock of the auditee DPO or with its distributors.

This will help in bringing in transparency and checks to address any malpractice of unscrupulous DPOs having multiple CAS or SMS.

9. Regarding insertion of logo from Encoder: We note that it has been proposed that it should not be made compulsory for DPOs to insert logo only from Encoder. They have suggested that the same should be permitted to be done through STB and that insertion of logo from Encoder may require DPOs to invest monies. It is submitted that insertion of logos from Encoder is a regulatory requirement and otherwise also a good industry practice, which helps in checking any misuse of fiddling with systems / channels signals. It is for these reasons that the Authority is humbly requested not to agree to the proposal that DPOs should not be mandated to insert logo only from Encoder. Continuing with mandate to insert logo at Encoder level will help in preserving sanctity of Interconnection Regulation of 2017 as well as ensure that regulatory requirements get strengthen and are not compromised.

10. Regarding VCs getting activated directly from CAS: We note that it has been proposed that all current CAS systems have the feature / facility to activate the STBs / VCs directly and hence, a declaration cannot be given to the effect that *'all activations and deactivations of a Set Top Box (STB) directly from the CAS terminal are not done as a part of normal business operations'*. Further, it has been proposed that DPOs can declare that they do not encourage/practice such activations.

In this regard, it is submitted that once CAS system has been installed and successfully commissioned on the addressable system of the DPOs, the CAS vendor should block any direct activation from CAS. Activation should be only from SMS since, this is regulatory requirement and that failure to ensure activation through SMS may result in under-declaration of subscriber numbers. Accordingly, TRAI should mandate that DPOs should write to their respective CAS vendor to block the facility of direct activation of STBs/ VCs from CAS. Further, TRAI should also mandate that both DPOs and CAS vendors should provide suitable declaration, as and when necessary, confirming that CAS is incapable of accepting or implementing any direct command for activation /deactivation of VCs / STBs, and that all such commands can come only through SMS.

11. Regarding individual STB messaging through scroll: We note that it has been proposed that currently, functionality of individual STB messaging through scroll is not present with certain DPOs and that individual STB messaging through scroll would again require investments, which would be financially inconvenient for DPOs. It has also been suggested that there are different methods already existing like sending Bmail, etc. which can serve the purpose. Further, the Authority may allow OSD message to be sent to individual subscriber. In this

regard, it is submitted that the Authority should not pay any heed to the request made by the DPOs since, such request results in dilution of the provisions of Schedule III. Further, no efforts ought to be spared by DPOs to have systems and equipment in place that comply with Schedule III.

12. Regarding area-wise active and de-active STBs and package-wise STB & VC details: We note that it has been proposed that only count of active/de-active STBs and count of pack wise subscribers should be provided since, providing VC numbers will be voluminous and time-consuming exercise that will not serve purpose during audit. It has also been suggested that data requirement may be restricted to counts only and any requirement of VC numbers or any individual subscriber level data may be excluded from the Audit Manual. In this regard, we state that it is imperative that VC numbers are provided by DPOs since, all authentication / entitlement / enabling of channels / product authorisation takes place at VC level. Cross verification of VC numbers will bring in transparency and will be more authentic.
13. Regarding LCN/Genre audit: We note that it has been proposed that LCN/Genre audit should be excluded from the Audit Manual. In this regard, it is respectfully submitted that TRAI should not entertain such request since, LCN/Genre audit is a regulatory requirement and any exception granted would result in non-compliance of Interconnection Regulation of 2017. We would like to take this opportunity to highlight that the above has been a standard practice followed during audits and there is no need for dilution or doing away the same since, it is only aimed to bring in transparency and accountability.
14. Regarding audit of prepaid systems: We note that it has been proposed that prepaid systems may be excluded from the Audit Manual. In this regard, it is submitted that all STBs, whether running on pre-paid subscription or post-paid subscription basis, should form part of audit activity. Since DTH operators generally operate on pre-paid model and if pre-paid STBs are excluded, then major chunk of the data will remain out of the purview of the audit. We state that such request is also unprecedented.
15. Regarding requirement of extracting month-end data: We note that it has been proposed that the requirement of extracting month-end data will place additional and unnecessary burden on DPOs and as such, it has been suggested that Audit Manual should clarify that month-end data implies the data extracted on 28th of the month. In this regard, it is submitted that TRAI ought not entertain such request since, doing so would entail entertaining dilution of regulatory requirements under Schedule VII of the Interconnection Regulation of 2017.

16. Regarding data related to transactional logs: We note that it has been proposed that the Audit Manual should exclude any processing of data related to transactional logs. In this regard, it is submitted that such request ought not be entertained by the Authority since, maintaining all types of logs both from CAS and SMS is mandatory under Schedule III.
17. Regarding audit on a sampling basis instead of data extraction for large DPOs: We note that it has been proposed that for large DPOs, the process of audit should be on a sampling basis instead of data extraction as prescribed under Audit Manual. It is submitted that such request / suggestion should not be entertained by TRAI so that no favourable treatment gets afforded to large DPOs. In the interests of maintaining non-discrimination, audit process must be uniform for all DPOs, irrespective of their area of operation and volume of subscribers catered.
18. Regarding grant of time to auditee DPO to revert on findings of auditors: We note that it has been proposed that the auditee DPO should be given at least 30 working days to give comments on the draft report submitted by auditors. It is submitted that such request should be outrightly rejected by the Authority since the same, if accepted, would result in unnecessary delay in completion of audit process. In this regard, we would like to reiterate our suggestion made in the Comments with respect to timeframe of the entire audit process, which are not being repeated for the sake of brevity.
19. Regarding requirement of historic data for two (2) years: We note that it has been proposed that the data to be examined during the audit should be strictly confined to the period for which audit is being conducted and that as audit is an annual feature therefore, the requirement of historic data for two (2) years is not appropriate. We are of the view that such request should not be entertained by TRAI since maintaining historic data of preceding two (2) consecutive years is required under Schedule III.
20. Regarding tagging and blacklisting of VCs and STBs: We note that it has been proposed that the requirement of CAS being able to tag and blacklist VCs and STBs should be done away since, while activation and deactivation can be done through CAS however, CAS cannot differentiate between VC that has been deactivated on account of piracy or due to insufficient funds. It is submitted that such request should not be entertained by the Authority since, the requirement of CAS being able to tag and blacklist VCs and STBs is required under Schedule III.