

The Register of Interconnect Agreements (Broadcasting and Cable Services) Regulations, 2004

UNION OF INDIA

India

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Regulation

THE-REGISTER-OF-INTERCONNECT-AGREEMENTS-BROADCASTING of 2004

- Published on 1 January 2004
- Commenced on 1 January 2004
- [This is the version of this document from 1 January 2004.]
- [Note: The original publication document is not available and this content could not be verified.]

The Register of Interconnect Agreements (Broadcasting and Cable Services) Regulations, 2004

1. Short title, extent and commencement. -

(i) This regulation shall be called the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulations, 2004 (15 of 2004). (ii) This regulation prescribes the modalities for the maintenance of the register of interconnect agreements entered into by broadcasters, multi system operators and cable operators. (iii) This regulation shall be applicable to- (a) All broadcasters, direct to home operators, head ends in the sky operators, multi-system operators and cable operators; (b) All interconnect agreements entered into by broadcasters, direct to home operators, head ends in the sky operators, multi-system operators and cable operators throughout the territory of India; and (c) All interconnect agreements entered into by the broadcasters, direct to home operators, head ends in the sky operators, multi-system operators and cable operators before or after coming into effect of this regulation. (iv) This regulation shall come into effect from the date of its publication in the Official Gazette.

2. Definitions. -

In the regulation, unless the context otherwise requires, - (i) "Act" means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997); (ii) "Authority" means the Telecom Regulatory Authority of India; (iii) "broadcaster" means any person who/which is providing broadcasting service and includes his/her authorised distribution agencies; (iv) "broadcasting service" means the

dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of elector magnetic waves through space or through cables intended to be received by the general public either directly or indirectly and all its grammatical variations and cognate expressions shall be construed accordingly;(v)"cable operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network;(vi)"cable service" means the transmission by cables of programmes including re-transmission by cables of any broadcast television signals;(vii)"cable television network" means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable services for reception by multiple subscribers;(viii)"consumer" means any person, who is subscriber of any broadcasting service(s) in the country;(ix)"direct to home operator" means an operator licensed by the Central Government to distribute multi channel TV programmes in KU band by using a satellite system directly to subscriber's premises without passing through intermediary such as cable operator or any other distributor of TV channels; ¹ [(ixa) "distributor of T.V. channel" means any person including an individual, group of person, public or body corporate, firm or any organisation or body re-transmitting T.V. channels through electromagnetic waves through cable or through space intended to be received by general public directly or indirectly and such person may include, but is not limited to, a cable operator, direct to home operator, multi system operator, head ends in the sky operator and a service provider offering Internet Protocol television service](x)"fee" means any charge(s) prescribed by the Authority from time to time for inspection of the register of interconnect agreements, or for copies thereof;(xi) ² ["head ends in the sky operator" or HITS operators means] any person permitted by the Central Government to distribute multi channels TV programmes in C band by using a satellite system to the intermediaries like cable operators and not directly to subscribers;(xii) "interconnection" means the technical arrangements under which service providers connect, including through electro-magnetic signals, their equipment, networks and services to enable their customers to have access to the customers, services and/or networks of other service providers;(xiii)"interconnection agreement" for the purpose of this regulation means agreements on interconnection including standard affiliation agreement/service contract, memorandum of understanding and all its grammatical variations and cognate expressions providing, inter alia, also the commercial terms and conditions of business between the parties to the agreement; ¹ [(xiiia) "Internet Protocol television service" or "IPTV service" means delivery of multi channel television programmes in addressable mode by using Internet Protocol over a closed network of one or more service providers;](xiv)"multi system operator" means any person who receives a broadcasting service from a broadcaster and/or their authorized agencies and re-transmits the same to consumers and/or re-transmits the same to one or more cable operators and includes his/her authorised distribution agencies;(xv)"Person" includes-(i)a firm whether registered or not;(ii)a Hindu undivided family;(iii)a cooperative society;(iv)a company registered under the Companies Act, 1956;(v)every other association of persons whether registered or not under Societies Registration Act, 1860 (21 of 1860).(xvi) "register" means the register of interconnect agreements maintained by the Authority either in the print form as a Register and/or maintained as a data base in electronic medium or in any other form as the Authority may prescribe from time to time;(xvii)words and expressions used in this regulation and not defined here shall bear the same meaning as assigned to them in the Act.

3. Contents of the register. -

The register shall be maintained in two parts. Part A will contain list of all interconnect agreements with the names of interconnecting service providers, service areas of their operation and the dates of execution of such agreements and such other information which are not declared confidential in terms of clause 4 of this regulation. Part B of the register will contain information which the Authority may direct to be kept confidential and it shall not be open to inspection by the public.

4. Confidential portion of the register. -

Where any party to an Interconnect Agreement requests the Authority to keep the whole or any part of the agreement as confidential, the Authority shall take a decision thereon in accordance with the relevant provisions of the Telecom Regulatory Authority of India (Access to Information) Regulations, 2005.]

5. Registration of interconnect agreements by broadcasters]. -

(a)All broadcasters shall register with the Authority interconnect agreements entered into by them or modifications/amendments thereto with the Authority within the time frame specified under clause 5(b).(1) First Reporting for existing broadcasters. -February 15, 2005 for all interconnect agreements, which had been entered into prior to the date of this notification including amendments and modifications made upto December 31, 2004.(2)First Reporting for new broadcasters. -Thirty days from the signing of the interconnect agreements.

5. [(3) Annual Reporting. -The reporting of interconnection agreements shall be done on or before the 31st day of July of each year for all interconnections agreement including modifications or amendment made therein, which remained valid as on the 30th day of June of that year or during a part of the period from 1st July of the previous year till the 30th day of June of that year, as the case may be, or as may be specified by the Authority from time to time in terms of the second proviso to regulation 6: Provided that the Authority may, without prejudice to its powers under section 12 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), at any time, call for the details of any interconnect agreement from any broadcaster, and such broadcaster shall furnish such details within such time limit as may be specified by the Authority in the communication calling for such details.]

(b)The time limit for registering the interconnect agreement and amendment/ modifications thereof shall be-

6. [5A Registration of interconnect agreements by 7 [Direct to Home (DTH) operators, HITS operators and/PTV service providers]. -(a) 8 [All direct to home operators, HITS operators and/PTV service providers] shall register with the Authority interconnect agreements entered into by them with broadcasters as well as subsequent modification/amendment thereto, within the time frame specified under clause 5A(b).(1) First Reporting for existing DTH operators.-30th April, 2006 for all interconnect agreement, which had been entered into prior to the date of this notifications made upto March 31, 2006.

9. [(2) First Reporting for new DTH operators and for HITS operators and H-TV service provides. -The first reporting of interconnection agreement shall be done-(i) within thirty days from the signing of the interconnect agreements in the case of DTH operators; and

(ii)within thirty days from the signing of the interconnect agreement or the 31st day of July, 2009, whichever is later, in the case of HITS operators and IPTV service provides.(3)Annual Reporting. -The reporting of interconnection agreements shall be done on or before the 31st day of July of each year for all interconnections agreement including modifications or amendment made therein, which remained valid as on the 30th day of June of that year or during a part of the period from 1st July of the previous year till the 30th day of June of that year, as the case may be or as may be, specified by the Authority from time to time in terms of the second proviso to regulations 6A: Provided that the Authority may, without prejudice to its powers under section 12 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), at any time, call for the details of any interconnect agreement from any direct to home operator, HITS operator or IPTV service provider, and such direct to home operator, HITS operator or IPTV service provider, as the case may be, shall furnish such details within such time limit as may be specified by the Authority in the communication calling for such details.]](b)The time limit for registering the interconnect agreement and amendment/modifications thereto shall be-

10. [6 The broadcaster shall furnish to the Authority, the information relating to the interconnect agreement in two parts namely, Part A and Part B, as detailed below:(a) Part A containing the standard affiliation agreement/service contract/memorandum of understanding, duly authenticated in duplicate, 11 [and also containing-(i) a certificate to the effect that the provisions of sub-regulation 4A.4 of regulation 4A of the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004 (13 of 2004) have been complied with in respect of all interconnect agreements included in Part B;

(ii) a certificate to the effect that all the interconnect agreements or the modifications or amendments to the interconnect agreements, as the case may be, included in Part B, are compliant with all regulations, Orders and Directions made or issued by the Authority under the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) and that they do not contravene the provisions contained in any such regulation, Order or Direction.](b) Part B containing in tabular form the details of individual agreements, of contracting parties with addresses, service area covered by the agreement, integrated receiver decoder number and terms of hiring of integrated receiver decoder, contract number, date of entering contract, date of expiry of contract, number of channels, details of channels, subscriber base, charger per subscriber per month and discounts in the case of non-Conditional Access System (CAS) areas.(c) Part B for CAS areas shall additionally contain details of maximum retail price of each individual channel, bouquet of channels, minimum subscriber guarantee if any, besides what is required to be provided in non-CAS areas under clause (b) above: Provided that the Authority may from time to time prescribe formats for seeking disaggregated information on such parts of standard affiliation agreement/service contract/memorandum of understanding referred to as Part A over and above and in addition to what is required to be furnished as Part B, as may be necessary, for maintaining the register as provided in clause 3 of this regulation: Provided further that the Authority may from time to time specify the requirement, in regard to the manner of filing of data or information, the form or formats of filing, the number of copies to be filed, and other procedural aspects connected and incidental to the filing of details of interconnect agreements.]

12. [6A 13 [Every direct to home operator, HITS operator and IPTV service provider]. -

Shall furnish to the Authority, a duly authenticated copy of each of the agreement/contract/memorandum of understanding entered into with the broadcaster signed by the parties to the contract/agreement/Memorandum of Understanding with all its annexures containing, inter alia, the full address of the parties to the contract, contract number, date of entering into the contract, dates of commencement and expiry of the contract, number of subscribers including minimum subscriber guarantee, if any, number and details of names of channel(s)/bouquet(s), price(s) of each individual channel(s)/bouquet(s): Provided that the Authority may, from time to time, prescribe formats for seeking disaggregated information on such parts of agreement/contract/ memorandum of understanding, as may be necessary, for maintaining the register as provided in clause 3 of this regulation: Provided that the Authority may, from time to time specify the requirements, in regard to the manner of filing of data or information, the form or formats of filing, the number of copies to be filed, and other procedural aspects connected and incidental to the filing of information on interconnect agreements.]

7. Access to the register. -

Subject to the provisions contained in clauses 3 and 4 of this regulation, the register shall be open for inspection by any member of the public on payment of prescribed fee and on his fulfilling such other conditions as may be provided for in the regulation or as may be notified by the Authority from time to time: 14 [Provided that the provisions of this regulation shall not apply to an

interconnection agreement entered in the register-(i) in respect of which a period of three years has expired from the date of reporting of such agreement, or(ii)in respect of which the period of validity as specified in the agreement has expired, whichever is later.]

8. Any person seeking inspection of the register shall apply to the officer designated for the purpose by the Authority, detailing therein the information he/she seeks.

9. The designated officer shall allow inspection of the register and also make available extracts of the relevant portions of the register on payment of such fee as may be prescribed from time to time.

10. The Authority may also allow access to the register through the web-site maintained by the Authority on the same conditions and on payment of such fee as may be prescribed from time to time.

11. Levy of fees and other charges. -

(i)There shall be levied a fee of Rs. 50 per hour for inspection of the register.(ii)A fee of Rs. 20 per page shall be charged for copies of extracts from the register.

12. General. -

In case of any doubt with regard to the interpretation of any of the provisions of the regulation, the decision of the Authority shall be final and binding.

1. Ins. by Notification No. 6-4/2009-B&CS, dated 18th March, 2009 (w.e.f. 18-3-2009).

2. Subs. by Notification No. 6-4/2009-B&CS, dated 18th March, 2009, for "'head ends in the sky operator' means" (w.e.f. 18-3-2009).

3. Subs. by Notification No. 6-6/2005-B&CS, dated 4th March, 2005, for regulation 4.

4. Subs. by Notification No. 6-1/2006-B&CS, dated 10th March, 2006, for the heading" Registration of interconnect agreements ".

- 5. Subs. by Notification No. 6-4/2009-B&CS, dated 18th March, 2009, for sub-clause (3) (w.e.f. 18-3-2009). Earlier sub-clause (3) was substituted by Notification No. 6-20/2005-B&CS, dated 2 December, 2005.**
- 6. Ins. by Notification No. 6-1/2006-B&CS, dated 10th March, 2009.**
- 7. Subs. by Notification No. 6-4/2009-B&CS, dated 18th March, 2009, for "Direct to Home (DTH) operators" (w.e.f. 18-3-2009).**
- 8. Subs. by Notification No. 6-4/2009-B&CS, dated 18th March, 2009 for "All direct to home operators" (w.e.f. 18-3-2009).**
- 9. Subs. by Notification No. 6-4/2009-B&CS, dated 18th March, for sub-clauses (2) and (3) (w.e.f. 18-3-2009).**
- 10. Subs. by Notification No. 6-20/2005-B&CS, dated 2nd December, 2005, for regulation 6.**
- 11. Ins. By Notification No. 6-4/2009-B&CS, dated 18th March, 2009 (w.e.f. 18-3-2009).**
- 12. Ins. by Notification No. 6-1/2006-B&CS dated 10th March, 2006.**
- 13. Subs. by Notification No. 6-4/2009-B&CS, dated 18th March, 2009, for "The direct to home operator" (w.e.f. 18-3-2009).**
- 14. Ins. by Notification No. 6-4/2009-B&CS, dated 18th March 2009 (w.e.f. 18-3-2009).**