

Telecom Regulatory Authority of India
Press Release No.50/2007
TRAI direct cable operators to carry Doordarshan Channels

Telecom Regulatory Authority of India today directed all the cable operators to carry Doordarshan channels on their cable services as per the various notifications issued by the Prasar Bharati. As per these notifications, certain Doordarshan channels are required to be carried in Prime Band and certain other Doordarshan Channels in Non-Prime band.

It has come to the notice of the Authority that some cable operators are not following these notifications. Non-compliance of these notifications by the cable operators result in the poor reception of these channels in some cases and in totally depriving the viewers from these Doordarshan channels of the public broadcaster in some other cases. All cable operators are required to follow the notifications of Prasar Bharati as mandated by sub-section (3) of section 8 of the Cable Television Networks (Regulation) Act, 1995.

TRAI, in order to ensure adherence with the provisions of the Cable Act by the cable operators and to protect the interests of the viewers in particular, has directed all the cable operators to strictly follow these notifications of Prasar Bharti. Any violation of this direction may lead to prosecution of the errant cable operators under section 29 read with section 34 of the TRAI Act, 1997.

The Direction has also been placed on TRAI's website www.traigov.in.

Contact Address in case of any clarification:

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Authorised for Issue

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Subject:Direction under section 13, read with sub-clauses (i), (ii), (iii) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) regarding compulsory carriage of Doordarshan channels by all Multi System Operator and cable operators.

No.1-2/2007-B&CS.---Whereas the Telecom Regulatory Authority of India [hereinafter referred to as the Authority] has been established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) (hereinafter referred to as the TRAI Act, 1997) and entrusted discharge of certain functions, *inter alia*, to regulate the telecommunication services, protect the interests of consumers of the telecom sector, ensure technical compatibility and effective inter-connection between different service providers, lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunications service;

2. And whereas the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunications), vide its notification No.39, --

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

(b) Published under notification number.S.O.44(E) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part III, Section 4, has notified broadcasting services and cable services to be telecommunication services;

3. And whereas the provisions contained in sub-sections (1) and (2) of section 8 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995) (hereinafter referred to as the Cable Act) require that every cable operator shall re-transmit, from the commencement of the Cable Television Networks (Regulation) Amendment Act, 2000, at least two Doordarshan terrestrial channels and one regional language channel of a State in the prime band in satellite mode on frequencies other than those carrying terrestrial frequencies and such Doordarshan channels shall be re-transmitted without any deletion or alteration of any programme transmitted on such channels;

4. And whereas---

(a) the provisions contained in sub-section (3) of section 8 of the Cable Act, provide that the Prasar Bharati (Broadcasting Corporation of India) (hereinafter referred to as Prasar Bharati) established under sub-section (1) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (25 of 1990) may, by notification in the Official Gazette, specify the number and name of every Doordarshan channel to be retransmitted by cable

operators in their cable service and the manner of reception and retransmission of such channels;

(b) the Prasar Bharati had, in exercise of the powers conferred upon it by sub-section (3) of section 8 of the Cable Act, issued the following notifications mentioned under clauses (i) to (v) of this sub-paragraph, specifying such number and name of every Doordarshan channel which shall be re-transmitted, in the States and Union Territories mentioned therein, by the cable operators in their cable service and the manner of reception and re-transmission of such channels, namely:-

(i) notification issued under S.O.823(E) dated the 13th September, 2000 published on the 13th September, 2000, in Part II, Section 3, sub-section (ii) of the Gazette of India

Extraordinary;

(ii) notification issued under S.O.82 (E) dated the 29th January, 2001 published on the 29th January, 2001 in Part II, Section 3, sub-section (ii) of the Gazette of India

Extraordinary;

(iii) notification issued under S.O.157 (E) dated the 4th February, 2002 published on the 4th February, 2002 in Part II, Section 3, sub-section (ii) of the Gazette of India

Extraordinary;

(iv) notification issued under No.16(1)/Cable-2000-E-III dated the 24th October, 2003 published on the 24th October, 2003, in Part III, Section 4 of the Gazette of India

Extraordinary;

(v) notification issued under No.16(1)/Cable-2005-E-III dated the 25th February, 2005 published on the 25th February, 2005, in Part III, Section 4 of the Gazette of India

Extraordinary;

(vi) notification issued under No.16(1)/Cable/2000-E-III dated the 25th February, 2005 published on the 25th February, 2005, in Part III, Section 4 of the Gazette of India

Extraordinary;

5. And whereas, the notifications referred to in sub-paragraph (b) of the preceding paragraph require certain Doordarshan channels specified therein to be,—

(a) compulsorily carried by the cable operators on their network in prime-band on the frequencies other than those carrying terrestrial frequencies; and,

(b) carried compulsorily in the non-prime band.

6. And whereas it has been brought to the notice of the Authority that a number of service providers, being the cable operators (including multi system operators) are not retransmitting such Doordarshan channels in the manner specified in the provisions and notifications referred to in paragraphs 3,4 and 5 above and the viewers either miss the Doordarshan channels altogether or are deprived of good visual quality of the broadcast in respect of such channels due to default in re-transmitting such Doordarshan channels in the manner specified in the provisions and notifications referred to in paragraphs 3,4 and 5 above;

10. Now, therefore, in exercise of the powers conferred under section 13, read with sub-clauses (i), (ii), (iii) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the provisions and notification referred to in paragraph 2 above and for the reasons mentioned in the preceding paragraph, the Telecom Regulatory Authority of India hereby directs that all service providers, being the cable operators (including multi-system operators) who are registered under section 4 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995) shall re-transmit the Doordarshan channels in accordance with the provisions referred to in section 8 of the Cable Television Networks (Regulation) Act, 1995 and notifications issued by the Prasar Bharati as referred to in sub-paragraph (b) of paragraph

(R.N. Choubey)
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To

1. All Multi System Operators.
2. All cable operators.

Extracts from TRAI ACT 1997

Penalty for contra- vention of directions of Authority.

29. If a person violates directions of the Authority, such person shall be punishable with fine which may extend to one lakh rupees and in case of second or subsequent offence with fine which may extend to two lakh rupees and in the case of containing contravention with additional fine which may extend to two lakh rupees for every day during which the default continues.

Offences by companies.

30. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in such sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation – For the purposes of this section-

a. "company" means any body corporate and includes a firm or other association of individuals; and

"director", in relation to a firm, means a partner in the firm.

Offences by Government Departments.

31. (1) Where an offence under this Act has been committed by any Department of government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the Commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Exemption from tax on wealth and income.

32. Notwithstanding anything contained in the Wealth-tax Act, 1957, the Income Tax Act, 1961, or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth-tax , income tax or any other tax in respect of their wealth, income, profits or gains derived.

Delegation

33. The Authority may, by general or special order in writing, delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle dispute under Chapter IV and to make regulation under section 36 as it may deem necessary.

Cognizance of offences

34. (1) No court shall take cognizance of any offence punishable under this Act or the rules or regulations made thereunder, save on a complaint made by the Authority.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate of first class shall try any offence punishable under this Act.