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भारतीय दूरसंचार विनियामक प्राधिकरण
महानगर दूरसंचार भवन, जवाहर लाल नेहरू मार्ग,
(पुराना मिनटो रोड), नई दिल्ली-110002

TELECOM REGULATORY AUTHORITY OF INDIA
Mahanager Doorsanchar Bhawan, Jawahar Lal Nehru Marg,
(Old Minto Road), New Delhi-110002
Fax : 91-11-23213294

F. No. 11-14/2009- B&CS

Dated 29th June 2011

To,

Shri Viresh Dhaibar,
Sr. Vice President - Legal
& Company Secretary,
M/s Zee-Turner Ltd.
2nd Floor, Plot No. 9, Film City,
Sector 16 A, NOIDA - 201301 (U.P.)

Sub: Reference Interconnect Offer (RIO) for Operators of Addressable Platforms

Sir,

Please refer to TRAI's letter of even number dated 30th May, 2011 and your response dated 6th June 2011.

2. That the Authority on 21st July, 2010 made the "Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010".
3. Part II of the said Tariff Order deals with "Wholesale Tariff". Clause 4 provides for the "Manner of offering pay channels *by broadcasters* to distributor of TV channel using addressable systems". It has been clearly provided therein that Broadcasters shall offer their pay TV channels mandatorily on *a-la-carte basis* and in addition optionally in bouquet(s) to the distributors, at a rate not more than 35% of their corresponding rates in the non-addressable systems (*subject to the substitution to the figure 42% in place of 35%, as per the order dated 18th April, 2011 passed by the Hon'ble Supreme Court*). Thus so far as broadcasters are concerned, they are required to offer channels only on *a-la-carte* or in bouquet at the maximum rate of 42%. As a broadcaster, you have introduced separate tariff for the basic tier and add on packages, which is not prescribed and cannot be charged, as per the said Tariff Order. Please note that for the broadcasters, a uniform rate with maximum of 42% is to be charged, on *a-la-carte* or in bouquet, as per clause 4 of the Tariff Order (*read with the order dated 18th April, 2011 passed by the Hon'ble Supreme Court*).

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4. A perusal of RIO and your letter dated 06.06.2011 makes it amply clear that your RIO is not in accordance with the Tariff Order dated 21.07.2010 inasmuch as a broadcaster you are required to offer a-la-carte and bouquet at uniform rate with maximum of 42% of rates for non-addressable systems, however you are claiming rates on the add on package at 75% of rates for non-addressable systems – which on the face of it is in violation of the said Tariff Order. The channel/ bouquet rates offered by you have been linked to their placement in basic or add on package. In other words, you have admittedly prescribed different rates in the basic and add on package.
5. The legal issues raised in your letter dated 06.06.2011 have been examined and the response is as follows:-
- (i) In calling upon the service provider to modify the RIO in terms of the tariff order, does not amount to adjudicating disputes;
 - (ii) In the tariff order dated 21.07.2010, the Authority has duly considered the issue regarding "Tariff for Add on Packages". After duly considering the views of all concerned, the Authority has concluded that it is not possible to standardize packaging or to prescribe separate tariff for the same. So far as broadcasters are concerned, a uniform maximum limit of 42% of the rates for non-addressable systems are required to be charged by them, for a la carte or bouquet. As per the order dated 18.04.2011 passed by the Hon'ble Supreme Court, the Tariff Order is operating and binding on all concerned (*with substitution of the figure of 42% in place of 35% in the proviso to clause 4(1) and in proviso (b) to clause 4(2) of the Tariff Order*). All concerned, including you as a broadcaster, are required to comply with these provisions.
 - (iii) The contentions raised by you with regard to the arguments held on 18.04.2011 before the Hon'ble Supreme Court, apart from being misleading, are misplaced. All the parties concerned, including the Authority are required to follow the order dated 18.04.2011, as it stands. A broadcaster, as per clause 4, is required to provide only *a-la-carte* and bouquet (optionally) and charge within a maximum limit of 42%.
 - (iv) Clause 13.3 of the interconnect regulation, inter alia, provides for intervention by the Authority in the event RIO requires modifications, so as to protect the interests of the service providers or consumers of the broadcasting and cable TV sector. It may be noted that the issue of power of the Authority to intervene requiring modification of the RIO, in terms of clause 13.3 of the interconnect regulation, has not been a subject matter before the Hon'ble Supreme Court. The exercise of power by the Authority to seek modification in RIO under clause 13.3 of the



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interconnect regulation, is irrespective of any complaint having been received by the Authority from any service provider.

- (v) The Authority has undertaken and completed the exercise and accordingly formulated the tariff order dated 21.07.2010.
- (vi) In so far as the clarification on paragraph 8 of the TRAI's letter of even number dated 30.5.2011 is concerned, the language of the paragraph itself is self explanatory. However, it is once again clarified that if other modifications are required in the RIO of M/s ZEE Turner Ltd., the same would be sought separately.
- (vii) Your response has been suitably considered. You are hereby granted final opportunity to modify your RIO in accordance with the provisions of the interconnect regulation so as to realign the same with the provisions of the tariff order dated 21.7.2010. The said modifications are to be carried in the RIO by M/s ZEE Turner Ltd. on or before 06.07.2011 and the compliance thereof be reported to the TRAI within the time frame indicated herein above.
- (viii) Please further note that in case the necessary modifications are not carried out, the same would amount to violation of the provisions of the Tariff Order dated 21.07.2010 and directions of the Authority.


(Amit Sharma)
Dy. Advisor (B&CS)

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