

REGULATORY IMPLICATIONS IN DIGITAL ADDRESSABLE SYSTEMS (DAS)

DAS – THE FUTURE

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What is DAS?

- Digital Addressable System
- An electronic system using an electronic device put in an integrated system through which signals of TV channels are distributed in an encrypted form
- Ensures transparency
- Enables determination of the number of subscribers of a particular TV channel

Implementation of DAS

- In terms of Section 4A of the Cable Television Networks (Regulation) Act, 1995, the Central Government has notified that DAS is to be implemented in the following 4 phases:
 - Phase I – covered the metropolitan cities (implemented w.e.f. November 1, 2012)
 - Phase II - covered 38 major cities (implemented w.e.f. April 1, 2014)
 - Phase III – will cover 7500+ cities (i.e. cities with an active municipal corporation) (proposed to be implemented w.e.f. January 1, 2016); Nainital will be covered in this phase.
 - Phase IV – rest of India (proposed to be implemented w.e.f. January 1, 2017)

Procurement of License

- Rule 11 A of the Cable Television Networks Rules, 1994, inter alia provides that, *“a distributor of TV channels in a DAS notified area must obtain licence from the Ministry of Information and Broadcasting for operating the DAS headend”*.

- Procedure for Registration as a DAS MSO:
 - Application to be submitted comprising Form 2 & 6
 - Supporting documents as specified in Form 6
 - Affidavit confirming no pending criminal actions, etc.
 - Postal Registration Certificate from Post Office to recognize a DPO as a cable operator

Procurement of License...

- Rule 11 E of the said Rules provides for provisional licence from the MIB. Once Provisional licence is received from the MIB, a DPO can function as a DAS MSO.

How to seek signals from broadcasters?

- Make a request to the Broadcaster or its designated agent along with the following documents:
 - Regulatory requirements:
 - DAS Licence obtained from MIB - provisional or final
 - Installation of Subscriber Management (SMS), Conditional Access System (CAS) and maintenance thereof in terms of Schedule I of Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012. (Interconnect Regulations)
 - Certification from Broadcast Engineer Consultants India Ltd. (BECIL) or the Broadcaster.
 - Certification from the vendor of SMS and CAS confirming that the system is compliant with Schedule I of the Interconnect Regulations.

How to seek signals from broadcasters...

▣ Other requirements:

- Income Tax, Entertainment Tax and Service Tax details
- Incorporation documents including MoA and AoA of the entity
- Details of proprietor(s)/ partner(s)/ director(s)/ authorized signatory(ies)

How to seek signals from broadcasters...

- After submitting the aforesaid documents, the MSO may negotiate with the Broadcaster or execute a Reference Interconnect Offer (RIO).
- Broadcasters must provide signals on non-discriminatory terms.
- Broadcaster is obliged to give acceptance or rejection, within 60 days of the receipt of the request from the MSO.
- Non reversal by the Broadcaster within stipulated time is considered deemed refusal. It provides the MSO the right to approach the Telecom Disputes Settlement and Appellate Tribunal (TDSAT).

How to conduct business?

- Obligation towards Broadcasters:
 - ▣ Regularly maintain the SMS and CAS, in accordance with Schedule I to the Interconnect Regulations;
 - ▣ Provide regular monthly subscriber report to the Broadcasters;
 - ▣ Ensure strict, absolute compliance of the RIO or the mutually agreed deal, as the case may be;
 - ▣ Ensure same quality signals of the broadcaster to the consumer/subscriber; and
 - ▣ All channels must be carried in the same genre and must maintain the same genre/ EPG.

How to conduct business...

- Obligation towards Consumers/ Subscribers:
 - Offer channels on a-la-carte as well as through various packages;
 - Provide a basic service tier for Rs. 100 consisting of 100 “free to air” channels, including Prasar Bharti channels;
 - Specify the Maximum Retail Price (MRP);
 - Compliance of the Standards of Quality of Service (Digital Addressable Cable TV Systems) Regulations, 2012 (i.e. QoS Regulations); and
 - Customer Service, carried out in terms of the QoS Regulations.

How to conduct business...

- The QoS Regulations provide for the following:
 - ▣ Procedure for connection, dis-connection, re-connection, transfer and shifting including mandatory execution of customer application form and other such details to be entered in the SMS;
 - ▣ Time limit for providing connections;
 - ▣ Maintenance of STBs;
 - ▣ Composition and change of packages;
 - ▣ Redressal of complaints; and
 - ▣ Billing to the consumer.

Nature of Disputes

- Disputes between MSOs and LCOs relating to:
 - ▣ Agreement w.r.t. revenue sharing, subscriber details, CAF, collections.
 - ▣ Obligations of taxation.
 - ▣ Wrongful migration including without payment to MSOs or without notice to the MSO.
 - ▣ Services
 - ▣ Parity

(Though it is not a requirement under the Interconnect Regulations, this is a nature of dispute brewing up amongst few LCOs of a single MSO.)

Nature of Disputes...

- Disputes between Broadcasters and MSOs relating to:
 - Signal
 - Agreement and renewal thereof
 - Subscriber report
 - Payment/Invoice
 - Systems

Remedies

- Pre-litigation mediation - TDSATs initiative to provide cheap and quick remedy to small MSOs and LCOs though it is not limited to small MSOs and LCOs.
- Reference of disputes to TDSAT under Section 14A of the TRAI Act.
- Mediation during pendency of the disputes.

Suggestions

- More independent audit agencies be recognised by MIB/TRAI.
- Parity, non-discrimination and transparency should prevail.
- End customer should get the best choice and best signal quality.



Thank You !