

IP Hotline

October 07, 2008

IPTV GUIDELINES - A PRAGMATIC STEP TOWARDS REGULATION OF CONTENT CARRIAGE

HISTORY AND ADVENT OF INTERNET PROTOCOL TELEVISION ("IPTV")

The history of Internet Protocol Television ("IPTV") service dates back to 1994, when the American Broadcasting Corporation's 'World News Now' became the first ever television show to have been broadcasted over the internet. Since then there has been a robust growth in IPTV around the world.

IPTV is a system where a digital television service is delivered using Internet Protocol over a network infrastructure, which generally includes delivery by a broadband connection. A general definition of IPTV is television content that, instead of being delivered through traditional broadcast and cable formats, is received by the viewer through the technologies used for computer networks.¹ IPTV is generally provided as a 'Triple Play' service, which is also inclusive of Voice over Internet Protocol (VoIP) and internet access.

The first IPTV service in India was launched in October 2006 by the Mahanagar Telephone Nigam Limited ("MTNL"). Sensing the growth and significance of this sector and to enable consumers to have access to television content over broadband, the Union Cabinet on August 21, 2008 approved guidelines for allowing broadcasters to share their content with IPTV service providers.

The Minister for Information and Broadcasting ("MIB"), Priyaranjan Dasmuni, while announcing the Cabinet's decision stated, "Issuance of guidelines on IPTV will bring clarity on defining the parameters in which such providers will work as also clarifying how these services are going to be regulated."

In pursuance of the Cabinet approval, the MIB issued policy guidelines for operation of IPTV services in India ("Guidelines").

THE GUIDELINES

The Guidelines which are in consonance with the recommendations of Telecom Regulatory Authority of India ("TRAI") have primarily been issued with an object to establish cogent principles relating to various platforms capable of providing IPTV services and to encourage various stake holders to launch IPTV services in Indian markets. The policy guidelines for downlinking of channels ("Downlinking Guidelines") have also been amended to include authorized IPTV service providers.

The main features of the Guidelines are as follows:

1. STAKE HOLDERS & LICENSING REQUIREMENTS

The following service providers have been granted the right to provide IPTV services under the Guidelines.

1. Telecom service providers having license to provide 'Triple Play' services²,
2. Internet Service Providers ("ISPs") with net worth of more than Rs. 100 crores and having permission to provide IPTV services
3. Any other telecom service provider authorized by the Department of Telecom ("DoT"),
4. Cable TV operators registered under Cable Television Network (Regulation) Act, 1995 ("Cable Act")

These Guidelines do not cast any obligation on the above service providers to obtain any fresh licenses or registrations, but stipulate that such service providers would be required to give a self certified declaration to the concerned authorities giving details of their existing license/registration under which the IPTV services are proposed to be provided.

2. LEGISLATIVE FRAMEWORK

The Guidelines do not propose any new law to regulate IPTV services. Cable operators shall continue their operations in conformity with the Cable Act along with the programme and advertisement codes prescribed thereunder. These programme and advertisement codes shall also be applicable for the governance of all content provided by any IPTV service provider.

3. CONTENT AND CHANNEL RESTRICTIONS

All IPTV service providers shall transmit only such broadcast satellite channels, which have been approved by the

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MIB. This is to ensure that telecom service providers are not allowed to create content as this in turn may indirectly breach the prescribed Foreign Direct Investment ("FDI") cap in the respective media and telecom sectors³.

4. SPECIAL RESPONSIBILITY OF CABLE OPERATORS

Cable operators providing IPTV services need to ensure that within a period of six months the set top boxes provided by them abide by the specifications as prescribed and published by the Bureau of Indian Standards.

5. CONSUMER INTERESTS

To ensure that consumer interests are not ignored, the Guidelines prescribe that IPTV service providers are required to provide commercial interoperability. Such interoperability would ensure that if the subscribers intend to switch over to any other service provider or platform they would be able to do so at minimum costs. Commercial interoperability has been described to include options of procuring the 'receiver set' not only on outright purchase basis but also on hire purchase/rental basis, with a provision to return such receiver sets.

6. LICENSE FEE

There has been no change in the license fee payable by the telecom service providers and the providers shall continue to pay a percentage of Adjusted Gross Revenue (AGR) as license fee applicable from time to time. In case, if a telecom service provider registers itself as a cable operator and provides IPTV services using telecom resources, it shall still be liable to pay fees as applicable to a telecom service provider providing IPTV services.

CONCLUSION

The Guidelines are a progressive step towards recognition of alternative platforms for carriage of content. However concerns regarding the non-level playing field between the telecom service providers and the media service providers on the following front remain unaddressed -

The FDI Cap in the telecom sector is 74% while the FDI Cap in cable TV services (media sector) is 49%. This in turn may give an advantage to the telecom service providers proposing to provide IPTV services as they have greater infusion of FDI along with the possibility of better infrastructure. On the other hand, telecom service providers providing IPTV services shall continue to share their revenue with the Government while the cable operators shall only be required to pay a fixed fee and they need not share their revenue with the Government. While addressing this issue TRAI had observed that **“justice will be met if they (service providers) are permitted to operate within the ambit of their respective licenses/registrations”**⁴. However this issue would only be examined once the IPTV services are rolled out to end subscribers.

Further, the Guidelines do not specify any price computing mechanism to determine the licence fee at which the television content shall be licensed to the proposed IPTV service providers by the existing broadcasters. However, TRAI in its recommendations has observed that pricing and other ancillary issues would be addressed later and based on such observations it is expected that in the days to come TRAI would undertake necessary modifications to the tariff orders so as to appropriately address issues relating to pricing and tariffs for broadcast on IPTV.

- Vivek Kathpalia, Huzefa Tavawalla & Uphar Shukla

1. The International Telecommunication Union defines IPTV services as, "An IPTV service (or technology) is the new convergence service (or technology) of the telecommunication and broadcasting through QoS controlled Broadband Convergence IP Network including wire and wireless for the managed, controlled and secured delivery of considerable number of multimedia contents such as Video, Audio, data and applications processed by platform to a customer via Television, PDA, Cellular, and Mobile TV terminal with STB Module or similar device."
2. No minimum net worth has been prescribed with respect to any other kind of service provider.
3. It is to be noted that the FDI cap in the Media Sector is 49% while the cap in Telecom sector is 74%. Any Telecom Service Provider intending to create content will have to ensure that it abides by the cap prescribed for the Media Sector. Similarly the FDI cap for production and telecast of news content is 26%, which is lower as compared to the Telecom Sector.
4. TRAI's recommendations on Provision of IPTV Services dated November 28, 2007.

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