

**[To be published in the Gazette of India Extraordinary, Part-II
- Section 3 – Sub-Section (ii)]**

Ministry of Information and Broadcasting

NOTIFICATION

New Delhi, the 27th February, 2004

S.O.271(E).-- WHEREAS section 4A of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995) (hereinafter referred to as the Act) envisages "transmission of programmes of a pay channel through an addressable system" [hereinafter referred to as Conditional Access System (CAS)];

AND WHEREAS the Government of India in the Ministry of Information and Broadcasting, by notification number S.O. 39(E) dated the 14th January, 2003, made it obligatory for the cable operators to transmit programmes of every pay channel, through CAS in the Chennai Metropolitan area, Municipal Council of Greater Mumbai area, Kolkata Metropolitan area and the National Capital Territory of Delhi within six months from the 15th January, 2003;

AND WHEREAS by notification number S.O. 792(E) dated the 10th July, 2003, the implementation of CAS was deferred to the 1st September, 2003;

AND WHEREAS by notification number S.O. 1000(E) dated the 29th August, 2003, the implementation of CAS was withdrawn in the National Capital Territory of Delhi;

AND WHEREAS a number of parties approached the Hon'ble High Court of Delhi, against the withdrawal of CAS in the National Capital Territory of Delhi;

AND WHEREAS the Hon'ble Delhi High Court in its Order dated the 4th December, 2003 quashed the notification of the Government of India in the Ministry of Information and Broadcasting number S. O. 1000 (E) dated the 29th August, 2003;

AND WHEREAS the Cable operators in Delhi decided to implement CAS from the 15th December, 2003;

AND WHEREAS the Hon'ble High Court of Delhi in the Civil Writ Petition number 8993 and 8994 of 2003 in its order dated the 26th December, 2003, declined to restrain the Government from implementing CAS in the National Capital Territory of Delhi and decided to review the situation after three months;

AND WHEREAS the Hon'ble High Court of Delhi observed in its aforesaid order, *inter alia*, that ".....we desire that in this period of three months all the loopholes, difficulties faced by the consumers, effect of the implementation and problems, if any, arising out of the implementation can be assessed and remedial measures be taken in that regard.

There has to be some regulatory body in terms of the synopsis of comments which have been filed by the respondent to see the implementation. We would like the respondent to enlighten this Court of the steps taken in this direction before the next date of hearing.....”;

AND WHEREAS in compliance of order dated the 26th December, 2003 of the Hon'ble Delhi High Court and also with a view to address the issues arising on account of implementation of CAS, the Central Government, brought “broadcasting services and cable services” within the ambit of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) on the 9th January, 2004 and entrusted the additional functions to the Telecom Regulatory Authority of India (TRAI) by the notification of the Government of India in the Ministry of Communication and Information Technology number S. O. 45 (E) dated the 9th January, 2004;

AND WHEREAS the Central Government has requested the TRAI to specify standard norms for, and periodicity of, revision of rates of pay channels, including interim measures;

AND WHEREAS the TRAI was also requested to make recommendations regarding the terms and conditions on which the CAS shall be provided to customers and the parameters for regulating maximum time for advertisements in pay channels as well as other channels;

AND WHEREAS the State Governments of National Capital Territory of Delhi, Maharashtra, Tamilnadu and West Bengal have, from time to time, approached the Central Government for deferment or withdrawal of CAS citing various reasons relating to consumers' interest, including the issue of pricing of pay channels and terms and conditions for procurement of Set Top Boxes;

AND WHEREAS in the course of implementation of CAS, a deep divide has been noticed among the stakeholders, that is to say the broadcasters, multi-service operators and local cable operators, impinging on the consumers' interest;

AND WHEREAS consequent upon entrusting the additional functions to the TRAI, it initiated a number of steps to assess the difficulties faced by the consumers, the effect of the implementation of CAS and the problems faced during the course of implementation. As part of the consultation process, the TRAI obtained comments on relevant matters in writing as well as through its meetings with various stakeholders, examined the views or comments received from the four State Governments of Delhi, West Bengal, Maharashtra and Tamilnadu and also considered the regulatory practices in other countries. The TRAI is in the process of preparing a detailed Consultation Paper;

AND WHEREAS as the process of consultation and examination of various issues connected with the implementation of CAS is likely to take some more time, the TRAI, as an interim measure, has recommended that the implementation of CAS in the four metros be either denotified or kept in abeyance for at least three months and necessary action be taken keeping in view of the directions of the Hon'ble High Court of Delhi dated the 26th December, 2003 in the Civil Writ Petition number 8993 and 8994 of 2003;

Whereas it has been brought out by the TRAI in its Interim Recommendation that a large number of issues concerning particularly the general consumers need to be resolved for a meaningful implementation of CAS;

AND WHEREAS it has also been observed that the provisions of section 4A of the Act have not been uniformly implemented on ground, thereby resulting in illegalities;

AND WHEREAS the Hon'ble High Court, in its order dated the 26th December, 2003, has also stressed that the consumer grievances should be addressed by the providers of CAS;

AND WHEREAS it is essential for the Government to address the issues which have arisen during the course of implementation of CAS, particularly relating to the consumers' interest, such an exercise would involve detailed consultations with the concerned State Government and the TRAI requires some more time to examine these issues and make its final recommendations;

AND WHEREAS after careful consideration of all the relevant facts and circumstances, including the interim recommendations made by the TRAI, the Central Government is of the view that the implementation of CAS should be in a manner that is in the larger interest of the public and safeguards the interest of consumers, which unfortunately, in the present situation, is not possible unless the issues raised above are addressed;

AND WHEREAS it has now become necessary in the public interest to suspend the relevant notifications concerning implementation of CAS and simultaneously take a review, after due consultation with the TRAI and other agencies, with the objective of notifying fresh dates and areas; and

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 4A, read with section 9 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995), the Central Government, having been satisfied that it is necessary in public interest so to do, hereby suspends the operation of the notifications of the Government of India in the Ministry of Information and Broadcasting number S.O. 39(E) dated the 14th January, 2003 and S. O. 792(E) dated the 10th July, 2003 read with the notification dated 14th January, 2003 on and from the date of publication of this notification until such date as may be notified by the Central Government.

[F.No. 9/2/03-BP&L(Pt.)]

(U.S. BHATIA)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA