

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**AD INTERIM EX-PARTE ORDER cum SHOW CAUSE NOTICE**

**UNDER SECTIONS 11(1), 11(4) AND 11B(1) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992**

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In respect of

Entity No.	Name of the Entity	PAN
1.	Dish TV India Limited	AAACA5478M
2.	Mr. Jawahar Lal Goel	AAHPL1244J
3.	Mr. Ashok Mathai Kurien	AADPK4942J
4.	Mr. Bhagwan Das Narang	AAEPN3092R
5.	Mrs. Rashmi Aggarwal	ABPPS8037H
6.	Mr. Shankar Aggarwal	ADVPA6970F
7.	Mr. Anil Kumar Dua	ADWPD7220N
8.	Mr. Ranjit Singh	ASXPS7712E

In the matter of Dish TV India Limited

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**BACKGROUND AND COMPLAINTS RECEIVED BY SEBI**

1. The present matter emanates from a complaint dated December 31, 2021, filed by Yes Bank Limited (hereinafter referred to as '**YBL**'), alleging that Dish TV India Limited (hereinafter referred to as '**Company**'/'**DTL**') has wrongfully withheld the results of voting on various proposals put forth in its Annual General Meeting held on December 30, 2021 (hereinafter referred to as '**AGM**'). The said complaint was perfected by a representation dated January 13, 2022 of IndusInd Bank Limited (hereinafter referred to as '**IndusInd Bank**') *inter-alia* requesting SEBI to direct the *Company* to forthwith disclose the voting results of the AGM. IndusInd Bank also requested SEBI to take appropriate action against

the *Company* for non-compliance with the statutory provisions of law by misinterpreting an order passed by the Hon'ble High Court of Judicature at Bombay. SEBI has also received complaints from other shareholders of the *Company* and investors in the securities market on the issue of non-declaration of the results of the AGM by the *Company*.

2. DTL, having its registered office in Mumbai, Maharashtra, is a company listed on the BSE Limited (hereinafter referred to as '**BSE**') and the National Stock Exchange of India Limited (hereinafter referred to as '**NSE**' and hereinafter collectively referred to as '**Exchanges**') since April 18, 2007. The *Company* is part of the Essel Group which has diversified business interests in India. As per latest quarterly shareholding pattern disclosed by the *Company* to the Exchanges for quarter ended December 31, 2021, the promoters hold 5.93% of the paid-up equity share capital and the public shareholders hold 94.07% of the paid-up equity share capital of the *Company*. In the list of public shareholders, YBL and IndusInd Bank are among the largest shareholders holding 24.78% and 3.78% of the paid-up equity share capital of the *Company* respectively. Among the promoters, one entity namely World Crest Advisors LLP (hereinafter referred to as '**WCA LLP**') is holding 0.43% of total share capital of the *Company*.
3. The composition of the Board of Directors of the *Company*, as on December 31, 2021 is given below:

Sl. No.	Name of the Director	Category
1.	Jawahar Lal Goel	Promoter, Chairperson to the Board of Directors and Managing Director
2.	Ashok Mathai Kurien	Non-Executive - Non Independent Director
3.	Bhagwan Das Narang	Non-Executive - Independent Director
4.	Rashmi Aggarwal	Non-Executive - Independent Director

5.	Shankar Aggarwal	Non-Executive - Independent Director
6.	Anil Kumar Dua	Executive Director, CEO

Mr. Ranjit Singh (Membership No. A15442) is the Company Secretary and Compliance Officer of the Company.

4. I find from the material available on record that YBL had extended loans of INR 5,270 Crores to 10 different Essel Group entities (hereinafter referred to as “**Borrowers**”) between 2015 and 2018. As security for the said loans, a pledge over a total of 47,19,13,990 shares of the *Company* (amounting to 25.63% of total shareholding of the *Company*) was created in favour of YBL by two promoter entities of DTL namely, WCA LLP and Direct Media Distribution Ventures Private Limited (hereinafter referred to as “**DMDVPL**” and WCA LLP & DMDVPL hereinafter collectively referred to as “**Pledgors**”) through Deeds of Pledge executed between the Security Trustees of YBL (Catalyst Trusteeship Services Limited and IDBI Trusteeship Services Limited) and the Borrowers.
5. Subsequently, default in repayment by the Borrowers took place and the Security Trustees had invoked the pledge between May and July 2020. Consequently, steps were taken by Security Trustees to get those shares, pledged against the loan, to be transferred in their own names or in the name of YBL.
6. Aggrieved by this act of Security Trustees, WCA LLP filed a Commercial Suit No. 29569 of 2021 (hereinafter referred to as “**Suit**”) before the Hon’ble Bombay High Court alleging that YBL’s shareholding in the *Company* is bad in law and *inter-alia* prayed for an *ad-interim* injunction restraining YBL from voting at the AGM of the *Company* (which was scheduled on December 30, 2021) and to permit the Pledgor to exercise such voting rights with respect to pledged shares. WCA LLP has also prayed for postponement of the AGM and/or stay the effect and implementation of decisions taken in the said AGM.

7. The Hon'ble Bombay High Court, vide an order dated December 23, 2021 with respect to Interim Application filed in the aforementioned Suit by WCA LLP, passed an order rejecting the interim reliefs sought by it (WCA LLP). Further, the Hon'ble Bombay High Court made the following observations:

*“After the above Interim Application was argued for quite some time and I was not inclined to grant any ad-interim reliefs, Mr. Seervai, the learned senior counsel appearing on behalf of the Plaintiff, on instructions, stated that if this Court would observe that the result/ outcome of the Annual General Meeting (for short “AGM”) to be held on 30th December, 2021, will be subject to the outcome of the above Interim Application, the Plaintiff will not challenge the rejection of ad-interim reliefs. It is accordingly directed that the result/ outcome of the AGM to be held on 30th December, 2021, will abide by the decision in the above Interim Application.”*  
(emphasis supplied)

8. After this, the *Company* conducted its AGM on December 30, 2021. In terms of Rules 20 and 21 of the Companies (Management and Administration) Rules, 2014, the *Company* appointed Mr. Jayant Gupta (Membership No. F7288), Partner of M/s Jayant Gupta & Associates as the Scrutinizer (hereinafter referred to as ‘**Scrutinizer**’) to scrutinise the voting and remote e-voting process in a fair and transparent manner. Subsequent to the AGM, the *Company*, vide disclosure dated December 30, 2021, informed the Exchanges that it had requested the Scrutinizer to place all the information relating to e-voting in the AGM along with his Report in a sealed cover and hand the same over to the Company Secretary and Compliance Officer of the *Company*, who shall place the same before the Hon'ble Bombay High Court for further directions. The *Company* had also informed that it has moved a suitable application in order to place the voting results in a sealed cover before the Hon'ble Bombay High Court.
9. Aggrieved by the abovementioned acts of the *Company*, which YBL alleges to

have been taken at the behest of the Essel Group and are malafide in nature; so as to achieve what could not be achieved through various legal fora, YBL filed its complaint dated December 31, 2021 *inter-alia* requesting SEBI to ensure that the *Company*, being a listed entity, forthwith discloses the results of the AGM in terms of the requirement under Regulation 44(3) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as “**LODR Regulations**”).

## **ADVISORIES ISSUED BY SEBI**

10. Pursuant to the receipt of aforementioned complaint from YBL, SEBI, having examined the contents of the same, issued an Advisory to the *Company* vide letter dated January 17, 2022 (hereinafter referred to as “**First Advisory**”), which is reproduced below:

*“The High Court, in the aforementioned Order (dated December 23, 2021), has only recorded that the result / outcome of the AGM will “abide by” the decision in the Interim Application. There was no direction whatsoever from the Hon’ble High Court not to publish the voting results or to place them in a sealed cover before the Court. ...*

*... The Company is therefore advised to disclose the voting results/outcome of the AGM held on December 30, 2021, clearly mentioning the directions of the High Court, immediately.*

*You are also advised to disseminate this letter to the stock exchanges, who are advised to take note of the contents of this letter.”*

Separately, vide another letter dated January 17, 2022 (hereinafter referred to as “**Explanation letter**”), SEBI also sought an explanation from the *Company* for non-compliance with the provisions of Regulation 44(3) of LODR Regulations.

11. In response to the above, vide letter dated January 18, 2022, the *Company*

submitted its reply to the aforesaid Advisory of SEBI and letter calling for explanation, wherein it stated that the issue of declaration of results of the AGM was *sub-judice* before the Hon'ble Bombay High Court by virtue of IA 121 of 2022 filed by the *Company* and IA 376 of 2022 filed by YBL. The *Company* requested SEBI to suspend the Advisory pending a decision in the Interim Applications filed by it before the Bombay High Court in the above mentioned Suit.

I further note that the *Company* did not disclose the said First Advisory to the Exchanges, even though specifically asked for disclosing the said advisory to the Exchanges, vide the said Advisory dated January 17, 2022.

12. SEBI further examined the letter dated January 18, 2022 of the *Company* and the Order passed by the Hon'ble Bombay High Court in IA 376 of 2022 and observed that though the *Company* has claimed that the issue of declaration of voting results was *sub-judice*, there was no specific restraint imposed on declaring the results of voting of the above noted AGM, by the Hon'ble Bombay High Court at any point of time.

13. Since, there was no order passed by the Hon'ble High Court of Bombay prohibiting or restraining the *Company* from disclosing the outcome of the AGM, vide another letter dated February 9, 2022 (hereinafter referred to as "**Final Advisory**"), SEBI once again reminded the *Company* about its statutory obligation towards shareholders and other stakeholders and its failure to act in compliance with the provisions of Regulation 44(3) of the LODR Regulations. Vide the above referred letter, the *Company* was once again advised to immediately disclose the voting results of the AGM held on December 30, 2021, failing which SEBI shall initiate appropriate enforcement action against the *Company*. The *Company* was again advised to disclose this Final Advisory letter to the Exchanges who shall disseminate the same to the investors. The said letter

was sent to the Company by way of an email dated February 09, 2022 at 06:57:00 PM in the evening and the said email is available on record.

14. In response to the abovementioned Advisory letter dated February 09, 2022, the *Company* made its second submissions vide letter dated February 10, 2022 wherein it once again reiterated that the issue of declaration of AGM results was pending with the Hon'ble Bombay High Court and requested SEBI to await the outcome of the aforementioned proceedings, pending before the Bombay High Court. I note that the *Company* has however, disclosed the Final Advisory to the Stock Exchanges on February 10, 2022 at 9:58:36 PM.

15. I note that the Hon'ble Bombay High Court, vide its order dated December 23, 2021, while rejecting any ad-interim relief, has only allowed that the result/outcome of the AGM to be held on December 30, 2021, will abide by the decision in the above Interim Application. No order prohibiting the *Company* from disclosing the outcome of the AGM was passed in the matter, however, the *Company*, by taking an erroneous plea that the matter is *sub-judice*, has been delaying the disclosure, knowing fully well that there is no such stay in operation, restraining the *Company* from disclosing the outcome of the above AGM held on December 30, 2021. It is also noted that subsequently, the Hon'ble Bombay High Court's itself clarified the position in its order dated February 17, 2022 in IA 376 of 2022 wherein the Hon'ble Bombay High Court made the following observations:

*“Mr. Khambata finds that the reason for delay in declaring of the results is said to be pendency of Interim Application (L) no. 29574 of 2021 and defendant no. 3 has claimed that the matter is sub-judice. It is clarified that pendency of the above two Interim Applications have no bearing on the requirement reiterated by SEBI...”* (emphasis supplied)

16. I note that, despite issuance of the above quoted clarification by the Hon'ble Bombay High Court itself and repeated advisories issued by SEBI, the *Company*

has not disclosed the results of voting in the AGM held on December 30, 2021 even after a passage of 68 days since the date of AGM.

17. In such circumstances, the matter has been placed before me to decide the action, if any, required to be taken under the provisions of Sections 11(1), 11(4) and 11B of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as ‘SEBI Act’).

18. Before dwelling upon the issues at hand, I find it appropriate to reproduce the provision of Regulation 44(3) of the LODR Regulations, which is the main provision of law, alleged to be violated by the *Company* in the instant case. I find it relevant to reproduce the text of the sub-regulation as below:

*“44(3) The listed entity shall submit to the stock exchange, within two working days of conclusion of its General Meeting, details regarding the voting results in the format specified by the Board.”*

19. I find that the AGM of the *Company* was held on December 30, 2021 in which the following resolutions were put to vote before the members:

- Adoption of the Audited Standalone and Consolidated Financial Statements (for the financial year ended March 31, 2021) and Report of the Board of Directors and Auditors thereon.
- Re-appointment of Mr. Ashok Mathai Kurien, Director liable to retire by rotation.
- Ratification of remuneration of Cost Auditors for the financial year 2021-22.

20. In terms of provisions of Regulation 44(3) of LODR Regulations, the *Company* ought to have disclosed the voting results of the AGM in the prescribed format within two working days i.e. on or before January 03, 2022. However, the *Company* did not make the said disclosure in the prescribed format and on the



contrary, stated vide its disclosure dated December 30, 2021 that it has requested the scrutinizer to keep the voting results in sealed cover in order to comply with the directions of Bombay High Court and hand over the same to the Company Secretary & Compliance Officer of the *Company*, who shall in turn place the same before the Hon'ble Bombay High Court for further directions, which was neither as per the order passed by the Hon'ble High Court nor in compliance with any provisions of law.

21. A perusal of the order dated December 23, 2021 of the Hon'ble Bombay High Court, which is being referred by the *Company* repeatedly to justify the delay in disclosure, reveals that it does not contain any such direction to the *Company*. There was never a direction from the Hon'ble High Court to place the voting results in a sealed cover. Further, there was no restraint imposed on the *Company* from declaring the voting results. The same has been once again clarified by the Hon'ble Bombay High Court in its order dated February 17, 2022 in IA 376 of 2022 which has been reproduced above in pre-paragraphs of this order.

I, therefore, find the reasons provided by the *Company* for not declaring the results of the AGM as specious, unconvincing and unacceptable and *prima-facie* find that the *Company* has failed to comply with the provisions of regulation 44(3) of the LODR Regulations.

22. From the information available in public domain and as brought to the notice of SEBI by YBL, the controversy pertains to the invocation of pledged shares by YBL. In this regard, as discussed above, certain entities of Essel Group had taken loans in the range of thousands of Crores from YBL which, upon default, caused the invocation of the shares pledged as security for such loans and resulted in the alleged transfer of ownership of such shares in the name of YBL. I note that WCA LLP is a promoter group entity of the *Company* which is involved in a dispute with YBL on the ownership of the aforementioned Pledged

shares. I also note that YBL has, from time to time, brought to SEBI's notice, various actions and litigations (allegedly frivolous), taken by the promoters to prevent YBL from exercising its voting rights at the AGM of the *Company*. This litigation has gone upto the Hon'ble Supreme Court of India, where the Hon'ble Supreme Court has intervened in one of the cases and restored voting rights of YBL.

23. Be it as it may, dispute between two shareholders, wherein promoter group is one side and YBL, being the largest individual shareholder of the *Company* as on the quarter ended December 2021, on the other side, cannot be allowed to be the ground for a listed entity to withhold the results of its AGM, affecting availability of vital information to lakhs of shareholders and investors in the securities market.

24. I note that the Chairperson and Managing Director of the *Company* is one of the promoters. From the material available on record, I also note that the dispute is between WCA LLP, one of the promoters of the *Company*, and YBL over invocation and transfer of Pledged Shares. From the records available, I note that the *Company* had earlier postponed its AGM twice and had declined to call an Extraordinary General Meeting (EGM) when requested by the Bank(YBL). Now, even after conducting the AGM, the *Company* has withheld the voting results in the guise of non-existent directions of the Hon'ble Bombay High Court. The *Company* decided on its own to place the said voting results in a sealed cover before the Hon'ble Bombay High Court, without any specific direction for the same from the Court. The intention behind such act may be ascertained from the below mentioned paragraph of IA 121 of 2022 filed by the *Company*:

*“6. The Applicant (Dish TV) further states that disclosure of the outcome of the AGM to the public at large, particularly when the outcome of the AGM is subject to the outcome of the final hearing of the Interim Application, may have detrimental effects to the*

*Defendant No.3 Company (Dish TV), whose effects may be irreversible. In view of the same, the Applicant seeks leave of this Hon'ble Court to file all the information relating to the e-voting along with his Report of the AGM prepared by the Scrutinizer, which will be delivered by the Scrutinizer in a sealed envelope in the captioned Interim Application....*

8. *The Applicant states that grave loss and harm will be caused to the Applicant if the said Application is not allowed. However, no harm or loss will be caused to the Respondents, if the same is allowed....*

11. *In light of the same, the Applicant most humbly prays that:*

*a. This Hon'ble Court be pleased to allow the Applicant to file the Report of the AGM prepared by the Scrutinizer, as sealed and delivered by the Scrutinizer, with this Hon'ble Court;...”*

25. It appears from the above quoted para of the IA that the *Company* is attempting not to disclose the voting results of the AGM till the time the IA filed by WCA LLP is decided by the Hon'ble High Court, on the ground that it would have detrimental effects on the *Company* and could cause grave loss and harm to the *Company*. The *Company*, however, has not explained at all as to how such disclosure would harm the *Company*. Notwithstanding the above, the said facts have been brought to the cognizance of the Hon'ble Bombay High Court and the Hon'ble High Court, vide its order dated February 17, 2022, has clarified that pendency of the above two Interim Applications have no bearing on the requirement reiterated by SEBI.

26. Under the circumstances, withholding information from its shareholders and public at large would hinder the decision-making ability of the said shareholders and prospective investors who are now kept in dark with respect to such crucial matters of the *Company*. In this context, I find it appropriate to refer to the principles governing the obligations of a listed entity as enumerated in regulation 4 of the LODR Regulations:

“4.(1) The listed entity which has listed securities shall make disclosures and abide by its obligations under these regulations, in accordance with the following principles:

.....

(c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.

(d) The listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors.

(e) The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely and presented in simple language.

...

(h) The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.

(i) Filings, reports, statements, documents and information which are event based or are filed periodically shall contain relevant information...”

27. In the facts and circumstances of the present case, I observe that the *Company* has *prima-facie* failed to act in accordance with principles specified in the above cited Regulations 4(1)(c), 4(1)(d), 4(1)(e), 4(1)(h) and 4(1)(i) of LODR Regulations. At this stage, I am of the view that the *Company* cannot justify its non-compliance with the provisions of securities laws on the ground of dispute between shareholders being *sub-judice*; whereas the disclosure of voting results is in fact not *sub-judice*. Compliance with applicable principles laid down in LODR Regulations is the foundation stone of good corporate governance and any deviation is a serious concern not just for the shareholders but also for the regulators. In this regard, I find it relevant to refer to the observations of Hon’ble Supreme Court of India in the matter of N Narayanan vs. Adjudicating Officer,

SEBI [AIR 2013 SC 3191] as below:

“10. ....*Capital market, as already stated, has witnessed tremendous growth in recent times, characterized particularly by the increasing participation of the public. Investor’s confidence in capital market can be sustained largely by ensuring investors’ protection.*

35. ....*The object of the SEBI Act is to protect the interest of investors in securities and to promote the development and to regulate the securities market, so as to promote orderly, healthy growth of securities market and to promote investors protection. Securities market is based on free and open access to information, the integrity of the market is predicated on the quality and the manner on which it is made available to market.....*

43. ....*People with power and money and in management of the companies, unfortunately often command more respect in our society than the subscribers and investors in their companies. Companies are thriving with investors’ contributions but they are a divided lot. SEBI has, therefore, a duty to protect investors, individual and collective, against opportunistic behavior of Directors and Insiders of the listed companies so as to safeguard market’s integrity.” (Emphasis supplied)*

28. I have already noted above that SEBI has issued two separate advisories dated January 17, 2022 and February 09, 2022 to the *Company* asking it to act to ensure compliance with appropriate provisions of the law. However, the *Company* has shown complete impunity to such directives of SEBI and has continued to withhold the voting results in the garb of a non-existent direction of the Hon’ble Bombay High Court. The said impunity of the *Company* has continued even after the clarification was issued by the Hon’ble Bombay High Court. In fact, the *Company* has unilaterally decided not to disclose the First Advisory of SEBI dated January 17, 2022, to the Exchanges despite clear directions to do so. I also note that the *Company* has disclosed the Final Advisory beyond 24 hours from the time of issue of the letter in view of the fact that the email was sent by SEBI to the *Company* on February 09, 2022 at 06:57 PM and the same was disclosed to

the Exchanges on February 10, 2022 at 9:58:36 PM. It is of utmost importance to mention here that the Advisory letters have been issued to the *Company* in the interest of investors of securities market, which SEBI is duty bound to protect under the provisions of Section 11(1) of SEBI Act.

29. However, the *Company* allegedly in defiance of all the norms of corporate governance has completely disregarded its compliance with the LODR Regulations. In such circumstances, in compliance with its duty to protect the interest of shareholders of the *Company* as well as the general investors in securities market, SEBI is required to take measures to protect the interest of investors of securities market directing the *Company* to act in compliance with relevant provisions of law.

30. I also note that SEBI's directions are not contrary to any direction/order passed by the Bombay High Court as the Hon'ble High Court has graciously clarified the same in its order dated February 17, 2022 in IA 376 of 2022. Further, the *Company* has also failed to disclose the clarification provided by the Bombay High Court in its order dated February 17, 2022 in IA 376 of 2022 that the disclosure of voting results is not *sub-judice*, when it had claimed in its disclosures dated December 24, 2021, December 30, 2021 and February 10, 2022 that disclosure of the voting results of the AGM was *sub-judice* with IAs pending before the Bombay High Court.

31. In this context, I find it appropriate to refer to the principles governing the obligations of a listed entity as enumerated in regulation 4 of the LODR Regulations and the provisions relating to disclosure of events or information as specified in regulation 30 of the LODR Regulations:

*“4. (1) The listed entity which has listed securities shall make disclosures and abide by its obligations under these regulations, in accordance with the following principles:*

.....

*(g) The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable.”*

*“30. (6) The listed entity shall first disclose to stock exchange(s) of all events, as specified in Part A of Schedule III, or information as soon as reasonably possible and not later than twenty four hours from the occurrence of event or information:*

*Provided that in case the disclosure is made after twenty four hours of occurrence of the event or information, the listed entity shall, along with such disclosures provide explanation for delay:”*

*(7) The listed entity shall, with respect to disclosures referred to in this regulation, make disclosures updating material developments on a regular basis, till such time the event is resolved/ closed, with relevant explanations.*

*(12) In case where an event occurs or an information is available with the listed entity, which has not been indicated in Para A or B of Part A of Schedule III, but which may have material effect on it, the listed entity is required to make adequate disclosures in regard thereof.*

*“Schedule III*

*PART A: Disclosures of events or information: Specified Securities (see regulation 30)*

*The following shall be events / information, upon occurrence of which listed entity shall make disclosure to stock exchange(s):*

*.....*

*D. Without prejudice to the generality of para (A), (B) and (C) above, the listed entity may make disclosures of event/ information as specified by the Board from time to time.”*

32. I am of the view that the *Company*, having failed to take steps;

- (i) to act in accordance with the aforesaid Advisories,
- (ii) to disclose the Advisories to the Exchanges on time, and
- (iii) disclosing the clarification issued by the Bombay High Court vide its order dated February 17, 2022 in IA 376 of 2022,

has *prima-facie* violated the provisions of Regulation 30(6) read with Para D of Part A of Schedule III as well as Regulations 30(7) and 30(12) and has also failed to comply with the principle laid down in Regulation 4(1)(g) of the LODR Regulations.

### **ROLE OF THE BOARD OF DIRECTORS, THE COMPLIANCE OFFICER AND THE SCRUTINIZER:**

33. I note that the LODR Regulations casts obligations on the Board of Directors of a company in ensuring listed entity's compliance with applicable provisions of law and upholding high standards of governance. The relevant provisions in the LODR Regulations is given below:

*“4(2)(f) Responsibilities of the board of directors: The board of directors of the listed entity shall have the following responsibilities:*

...

*(ii) Key functions of the board of directors-*

...

*(6) Monitoring and managing potential conflicts of interest of management, members of the board of directors and shareholders, including misuse of corporate assets and abuse in related party transactions...*

.....

*(8) Overseeing the process of disclosure and communications.*



...

*(iii) Other responsibilities:*

...

*(2) The board of directors shall set a corporate culture and the values by which executives throughout a group shall behave.*

*(3) Members of the board of directors shall act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the listed entity and the shareholders.*

....

*(6) The board of directors shall maintain high ethical standards and shall take into account the interests of stakeholders.*

*“17(3). The board of directors shall periodically review compliance reports pertaining to all laws applicable to the listed entity, prepared by the listed entity as well as steps taken by the listed entity to rectify instances of non-compliances.” (emphasis supplied)*

34. In the instant case, the *Company* has shown a blatant disrespect for the law by not disclosing the outcome of the AGM held on December 30, 2021. Such disregard to the law of the land has further continued with non-disclosure of the First Advisory and delayed disclosure of the Final Advisory issued to it by SEBI. In fact, I find that not even the subsequent clarification from the Hon'ble Bombay High Court in this regard could make the *Company* disclose the voting results of the AGM. The Board of Directors, having regard to the obligations cast under the LODR Regulations, must have stepped in to ensure that the *Company* makes necessary disclosures as required under law and complies with all the applicable statutory provisions. It is not only desirable but obligatory upon the Board of Directors that the conflict, if any, between the promoters and the largest public shareholder need to be managed in an appropriate manner while

ensuring that the *Company* complies with relevant provisions of law. However, there is no material on record to suggest that the Board of Directors have discharged their duties as envisaged under the LODR Regulations, including setting a culture of ensuring high standards of corporate governance and disclosures; acting in the best interest of the listed entity and the shareholders. Due to this, the *Company* has continuously remained non-compliant with the LODR Regulations. Therefore, I am of a *prima-facie* view that the Board of Directors have failed to comply with the provisions of Regulations 4(2)(f)(ii)(6), 4(2)(f)(ii)(8), 4(2)(f)(iii)(3), 4(2)(f)(iii)(6) and 17(3) of the LODR Regulations. I also note that the same Board of Directors had earlier postponed the AGM on two occasions and thereafter refused to call an EGM, allegedly at the behest of the promoters, when requested by YBL.

35. The LODR Regulations has also entrusted specific responsibility on the Compliance Officer of a listed entity in ensuring compliance with applicable regulatory provisions. The text of regulation 6(2)(a) is reproduced below:

*“6.(2) The compliance officer of the listed entity shall be responsible for-*

*(a) ensuring conformity with the regulatory provisions applicable to the listed entity in letter and spirit.”*

36. I note that the Company Secretary and the Compliance Officer of the *Company*, on December 29, 2021, wrote letters to Link Intime India Private Limited (hereinafter referred to as “**RTA**”), the Registrar and Share Transfer Agent of the *Company*, as well as to the Scrutinizer, requesting them not to disclose the voting results to anyone and to provide the same in a sealed cover to place it before the Bombay High Court. This was done notwithstanding the fact that there was no such direction from the Hon’ble Bombay High Court to that effect.

37. As the Compliance Officer, it is his bounden duty and responsibility to advise the *Company* to ensure compliance with the applicable provisions of law.

However, in this case, the Compliance Officer, on the pretext of complying with a non-existent Order of the High Court, has disregarded compliance with the LODR Regulations. This *prima-facie* shows that the Company Secretary cum Compliance Officer of DTL has failed in discharging his duties and appears to be acting aiding, abetting and assisting the Company and its management in the mischief being played upon the shareholders if the *Company* and their blatant disdain to the law of the land. Therefore, he is *prima-facie* guilty of violating Regulation 6(2)(a) of the LODR Regulations.

38. I find it appropriate to give reference to the Code of Conduct for Directors and Senior Management (hereinafter referred to as ‘**Code of Conduct**’), as available on the website of the *Company*, framed pursuant to Regulation 17(5) of the LODR Regulations. In this respect, I find it relevant to mention here that, in terms of Regulation 26(3) of the LODR Regulations, the Board of Directors and senior management personnel are mandatorily required to affirm compliance with the code of conduct on an annual basis. I note that the said Code of Conduct lays down elaborate standards of conduct and behaviour expected of the Board of Directors and Senior Management in the *Company*. Certain specific clauses that are relevant for the purpose of present proceedings are being reproduced below:

**“4.1. Duties, Responsibilities and Function of the Directors**

*Every Director shall conduct the affairs of the Company and perform his duties with due care, diligence, dignity, honesty, transparency and integrity and shall conform to the highest moral and ethical standards and at all time and act in good faith and in the best interest of the Company.*

*Besides the duties and functions of the Directors as prescribed under the applicable laws, Articles of Association and the Code, as set out hereinbefore, a Director is also expected to adhere to all the duties prescribed under the Act which inter alia include:*

- *Act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, shareholders, community and for the protection of environment.*
- *Exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.*
- *Not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company...*

#### **4.4 Duty to review Reports/Compliances**

*The Directors are required to review reports / compliance statements with respect to the affairs of the Company at such intervals as may be prescribed from time to time. The following is an indicative list of such reports / compliance statements. The Directors may add or modify the reports as they deem appropriate to ensure statutory compliance and smooth & transparent operations of the Company.*

- *Statutory Compliance Report*
- *...*
- *Report on compliance of code of corporate governance...*

#### **5.1. Regulatory compliance**

*The Directors and Senior Management are required to comply with every applicable law for the time being in force and rules and regulations made there under. They are also expected to encourage and promote statutory compliance in its true letter and spirit. Should they come across or witness any non-compliance, they are expected to notify the same at the earliest to the Chief Executive Officer / Company Secretary.*

#### **5.2. Conflicts of Interest:**

*While performing their duties, Directors and Senior Management shall carry out their responsibilities to the exclusion of any personal advantage, benefit or interest. The Directors*

*acknowledge their obligations under the provisions of the Act, Listing Regulations, Disclosure and Investor Protection Guidelines issued by the Securities and Exchange Board of India and shall strictly comply with applicable Indian and foreign laws, regulations and shall not act by themselves or aid or abet any person acting contrary to any such provisions, judgments, orders, judicial, quasi-judicial, administrative or otherwise issued by a competent authority...*

### **5.11. Goodwill and Reputation of the Company**

*The Directors and Senior Management of the company shall contribute towards enhancing the goodwill and reputation of the Company through their deeds and acts and shall not tarnish the image of the Company and bring immediately to the notice of the Company, Director or Committee, any act and deed which is harmful and detrimental to the goodwill and reputation of the Company...*

## **SCHEDULE-A**

### **Additional Duties of Independent Directors pursuant to provisions of Schedule IV of the Companies Act, 2013**

#### **1. GUIDELINES OF PROFESSIONAL CONDUCT:**

*An independent director shall:*

- *uphold ethical standards of integrity and probity;*
- *act objectively and constructively while exercising his duties;*
- *exercise his responsibilities in a bona fide manner in the interest of the company;*

...

- *assist the company in implementing the best corporate governance practices*

#### **2. ROLE AND FUNCTIONS:**

*The independent directors shall:*

....

- *safeguard the interests of all stakeholders, particularly the minority shareholders;*
- *balance the conflicting interest of the stakeholders;*
- ...
- *moderate and arbitrate in the interest of the company as a whole, in situations of conflict between management and shareholder's interest”*

39. In view of the findings in the pre-paragraphs, I find that, along with the *prima-facie* violations listed in para 34 of the present order, the Directors on the Board of the *Company* have also *prima-facie* failed to comply with the clauses 4.1, 4.4, 5.1, 5.2 and 5.11 of the said Code of Conduct read with Regulation 26(3) of the LODR Regulations.

40. In view of the *prima-facie* failure on part of the Independent Directors on the Board of the *Company* to uphold high ethical standards; assist the *Company* in implementing the best corporate governance practices; safeguard the interest of all stakeholders; balance the conflicting interest of the stakeholders; moderate and arbitrate in the interest of the *Company* as a whole in situations of conflict between management and shareholder's interest, they are also *prima-facie* found guilty of violation of clauses 1 and 2 of Schedule A of the Code of Conduct read with Regulation 26(3) of the LODR Regulations, in addition to the violations mentioned above.

41. I also note that, in terms of provisions of Regulation 26(3) of LODR Regulations, the said Code of Conduct is also applicable to the Company Secretary and Compliance Officer of the *Company*. The relevant provisions of Code of Conduct have been quoted in pre-paragraphs.

In view of the findings mentioned in pre-paragraphs, I also *prima-facie* find the Compliance Officer to have violated the provisions of clauses 5.1, 5.2 and 5.11 of the Code of Conduct read with Regulation 26(3) of the LODR Regulations.

42. I further note that Regulation 5 of the LODR Regulations requires the listed entity to ensure that its key managerial personnel, directors, promoters or any other person dealing with the listed entity, complies with responsibilities or obligations assigned to them under these regulations. In view of the non-compliances mentioned in the preceding paragraphs, I am of the view that the *Company* is *prima-facie* in violation of Regulation 5 of the LODR Regulations.

43. I find it necessary to summarize the provisions and violations, *prima-facie* found against the *Company*, its Board of Directors and the Compliance Officer at this stage. I find them to have *prima-facie* violated the following provisions of the LODR Regulations:

- i. The *Company* has been *prima-facie* found to have violated the provisions of Regulations 4(1)(c), 4(1)(d), 4(1)(e), 4(1)(g), 4(1)(h), 4(1)(i), 5, 30(6) read with Para D of Part A of Schedule III as well as 30(7), 30(12) and 44(3) of the LODR Regulations.
- ii. The Board of Directors of the *Company* has been *prima-facie* found to have violated the provisions of Regulations 4(2)(f)(ii)(6), 4(2)(f)(ii)(8), 4(2)(f)(iii)(2), 4(2)(f)(iii)(3), 4(2)(f)(iii)(6) read with Regulation 17(3) of LODR Regulations. The Board of Directors of the *Company* has also been *prima-facie* found to have in violation with clauses 4.1, 4.4, 5.1, 5.2 and 5.11 of the Code of Conduct read with Regulation 26(3) of the LODR Regulations.
- iii. In addition to the above *prima-facie* violations, the Independent Directors on the Board of the *Company* have separately been found to be in *prima-facie* violation of the provisions of clauses 1 and 2 of Schedule A of the Code of Conduct read with Regulation 26(3) of the LODR Regulations.
- iv. The Compliance Officer cum Company Secretary of the *Company* is

prima-facie found to be in violation with Regulation 6(2)(a) of LODR Regulations as well as clauses 5.1, 5.2 and 5.11 of the Code of Conduct read with Regulation 26(3) of the LODR Regulations.

44. The blatant disregard for compliance with applicable provisions of law, as discussed above, as well as contempt shown to the two Advisories issued by the Regulator puts SEBI in a position where it has no option but to take strong deterrent action against all the persons responsible for such a grave lapse in compliance.
45. It appears now that the said voting results regarding resolutions placed in AGM are currently in possession of the Company Secretary-cum-Compliance Officer of the *Company* who, through a representative, has moved IA no. 121 of 2022 before the Hon'ble Bombay High Court for placing the voting results in a sealed cover before the Court. I note that the Court has not taken a final decision on the IA but has clarified that pendency of the IA has no bearing on the disclosure requirements under the LODR Regulations.
46. I note, from the applicable statutory provisions, that it is the responsibility of the Scrutinizer to prepare the consolidated Report on the voting at the AGM on the resolutions put to vote at the meeting. I find it relevant to refer to the provision of Rule 20(4) of The Companies (Management and Administration) Rules, 2014 which mandates the Scrutinizer to maintain a register, either manually or electronically, to record the assent or dissent received along with all the relevant details of shareholders mentioned therein. Further, the register and all other papers relating to voting by electronic means shall remain in the safe custody of the scrutinizer until the Chairman considers, approves and signs the minutes. Therefore, I am of the view that necessary directions must also be issued to the Scrutinizer to provide a copy of his Report to the Exchanges for dissemination to the investors, if the *Company* continues to suppress the voting



results of the AGM.

## **ORDER**

47. Considering the facts narrated in the preceding paras and in order to protect the interests of investors and public shareholders of the *Company* as well as the integrity of the securities market and to uphold the principles of good corporate governance, I, in exercise of powers conferred upon me by virtue of Sections 11(1), 11(4) and 11B(1) of the SEBI Act hereby issue the following directions in the peculiar facts and circumstances of this case:

- i. The Compliance Officer viz. Mr. Ranjit Singh (Entity No. 8) shall immediately, and in any case not later than 24 hours from delivery of this Order, ensure compliance with Regulation 44(3) of the LODR Regulations by disclosing the voting results of the AGM to both the Exchanges in the format prescribed. Further, the Board of Directors of the *Company* is directed to ensure strict adherence of the aforesaid direction, by the Compliance Officer.
- ii. The Depositories shall immediately, upon receipt of this order, freeze the demat accounts of the Directors and the Compliance Officer of the *Company*, listed as Entities no. 2 to 8 in the beginning of this order, till the time the voting results of the AGM held on December 30, 2021 are disclosed on the stock exchanges or till further orders, whichever is earlier.
- iii. The Scrutinizer Mr. Jayant Gupta, Partner of M/s Jayant Gupta & Associates, shall forthwith, and in any case not later than 24 hours from the delivery of this Order, provide a copy of the report on the voting results of the AGM to the Exchanges.
- iv. In case of non-compliance with the directions mentioned at the above para 47(i), the Stock Exchanges shall disseminate the Scrutinizers Report on their platform for the information of the investors.

v. The stock exchanges shall inform the depositories about disclosure of voting results of AGM as soon as the same are disclosed at the exchange platform.

48. I find it necessary to clarify here that the directions issued hereinabove are ad-interim directions which shall be independent of actions, if any, taken or proposed to be initiated by the Stock Exchanges under SEBI Circular no. SEBI/HO/CFD/CMD/CIR/P/2020/12 dated January 22, 2020.

49. Considering the *prima-facie* observations and allegations mentioned in the present order, Entities no. 1 to 8, as listed in the beginning of this order, are hereby called upon to show cause as to why further appropriate directions under the provisions of Sections 11(1), 11(4) and 11B(1) of SEBI Act should not be issued against them and also why appropriate penalty shall not be imposed:-

- i. Under Section 15A(b) of SEBI Act for alleged non-disclosure to the stock Exchanges, about the voting results of the AGM, the First Advisory issued by SEBI on January 17, 2022, and order dated February 17, 2022 of the Bombay High Court as well as for the delayed disclosure to the Stock Exchanges about the Final Advisory issued by SEBI on February 09, 2022, in violation of provisions of Regulations 44(3) and 30 of LODR Regulations; and
- ii. Under Section 15HB of SEBI Act for alleged non-compliance of the two advisories issued by SEBI;
- iii. Under Section 15HB of SEBI Act for alleged non-compliance of relevant provisions under Regulations 4, 5, 17(3) of LODR Regulations as well as relevant provisions of Code of Conduct for Directors and Senior Management read with Regulation 26(3) of LODR Regulations;

in terms of provisions under Section 11B(2) read with 11(4A) of SEBI Act for the aforementioned alleged violations of law committed by them. They may file

their respective replies, if any, within fourteen (14) days from the date of receipt of this Order and may also indicate whether they desire to avail an opportunity of personal hearing, which shall be fixed accordingly in the matter.

50. A copy of this order shall be forwarded to Dish TV India Limited, its Promoters, its Directors, Compliance Officer, the Scrutinizer to the AGM dated December 30, 2021, the Stock Exchanges and the Depositories for strict compliance with the directions issued above.

51. This order shall come into force with immediate effect and shall be in force until further orders.

Sd/-

**Date: March 07, 2022**

**S.K. MOHANTY**

**Place: Mumbai**

**WHOLE TIME MEMBER**