

The response & Comments with reasons and justifications are submitted, in relation to the consultation posted by Telecom Regulatory Authority of India vide consultation paper No.3/2015, dated 14/07/2015, same areas under ;

1. Is there a need to define and differentiate between domestic subscribers and commercial subscribers for provision of TV signals?

**Comment:** No, the issue and question is based on misconception, More so in view of the fact that the definition has already been given by Authority for Ordinary Subscriber and Commercial Subscriber, in both regimes DAS and Non-DAS regimes, therefore when the definition is already in place, question dose only arises for altering the definition already in existence or with the purpose to give more appropriate, comprehensive and exhaustive definition, which will subserve the present and future requirement of the industry, first that issue has to be crystalized. This lead to another question and that is, what is the requirement for defining or differentiating the Commercial subscriber and Ordinary Subscriber?

The entire process of consultation and Commercial Tariff issues is at the instance of few Broadcasters only and due to the fact that they started charging additional sum from some Hotels and related bodies which gave rise to such Hotels to approach court and issue became grave. The entire process will lead to direction which is, that except "end consumer", any party or stake holder in value chain may get bad / good, rise/down in revenue sharing and profit margins, but ultimate burden will come on "end Consumer", (he may not be subscriber). Hence the very premises of this consultation are not been supported & propagated by any other stake holder except Broadcasters, least by any consumer body/association. Therefore in present market scenario and conditions when market is behaving slow, and this statement is supported by the fact that dates of DAS Phase III and IV, have already been deferred,

the issue of such commercial subscriber and tariff fixation does not hold good and effects the industry for core issue . The only result of this exercise would be nothing, except the additional revenue rise or determination of issue at present, under the guise of pending litigations at different forums.

Further the value chain shall also look at and include content maker/ author/ copy right holder (from whom Broadcaster buy's content) and "end consumer" with empathy in entire process as in entire consultation process.

Now who is this "end consumer"/Consumer, this has not been defined in entire regulations except in section 2 (d) of The Telecommunication Consumer Education and Protection fund Regulations,2007 which reads

"Consumer means a consumer of service provider under the Act and includes a customer and subscriber thereof",

So the definition excludes the actual consumer (viewer/watcher) who may not be actual subscriber.

In common parlance consumer is any person who enjoys, watch and witness the cable services or services, notwithstanding the fact whether he is subscriber or not.

At the same time the core issue remained un answered that "what the purpose of this entire process and exerciseis, without first determining that how it will affect the "ultimate" or "end consumer"/consumer.

This fact become more grave in view of the fact that entire TRAI Act1997, is guided by the thought of protecting the interest of telecom service provider and **Consumers"**

2. In case such a classification of TV subscribers is needed, what should be the basis or criterion amongst either from those discussed above or otherwise? Please give detailed justification in support of your comments.

**Comment:** issue stands invalidated in view of comment of issue no. 1.

**Justification/explanation:** The industry of cable and Broadcasting though are different but interlinked and complexed one, and to arrive at appropriate structure for any governing Regulation or Tariff order entire system to be seen in holistic manner with base/core issue and problems, instead of fixing tariff only. The core issue has been explained point wise:

a). The subscriber or consumer (viewer who may not be actual subscriber) is the key role player in the entire system, and to make service viable and easily accessible to him is key factor in revenue generation in this entire Cable TV/HITS/IPTV/DTH, platforms. (Hereinafter referred as cable TV services for short)

b). To understand this process few examples are detailed; one of the major factor is that whosoever falls under the commercial subscriber definition and if he is paying extra sum of cable TV services, he will pass on the extra burden to ultimate consumer or viewer, who is visiting or especially coming for any such sporting or other event to pubs /Cinema hall or stadiums. Whereas any hiked or additional sum/fee /entry charge amount will discourage the margin line visitors/ or viewers.

c) The point as stated above in para (b) is for great importance for Broadcaster's interest for their income and profit, at present the main sources of income to Broadcasters are (i). Advertisement booking Revenue (ii) Subscription collection from MSO and other "cable TV service providers" in both DAS and Non-DAS areas. However though exact figures are not available with us, but one thing is sure that

major part and income come from advertisement revenue, income from subscription fees comes on second pedestal.

d) How does it work? How the rate of advertisement and cost is worked out?

The system is very simple and basic, the fundamental rule is that more the number of people watching any particular programme, more the possibility of mass reach and scope of advertiser's product and services reaching and larger number of people gets increased. Now how to decide and know that when the larger and maximum number of people are watching a particular programme at given time, there are number of methodologies adopted by different agencies e.g. TAM ratings, Prime time slots, popular contents and programmes and other studies. Nowadays it has also become possible by sensors and "especially designed devices" to know number of people are watching programme on one TV set or display. Another mode is the fact and of common sense that larger & special events of sports and national importance are watched by larger number of people in comparison to ordinary days. Therefore the income and cost per second of advertisement is based on the number of people watching any programme at given point of time.

Hence, to say that larger sporting events and special occasions where subscribers use Cable TV services for the benefit for their designated clients and charges extra money or to say make money from such cable TV telecast to be fall in category of commercial subscriber and be treated differently on tariff and cost related parameters is unjust, inequitable, and against the rule of fair play. Because at same time there is multi fold and undisclosed revenue hike in Broadcaster's income from advertisement, as larger number of people at common place are watching their content, without any extra cost to Broadcaster for that. In other perspective this

situation could be used by Bradocasters to maximize and increase their advertisement revenue.

- 3. Is there a need to review the existing tariff framework (both at wholesale and retail levels) to cater for commercial subscribers for TV services provided through addressable systems and non-addressable systems?

**Comment:** In view of above detailed points this issue dose not requires any specific comment. However what consequences and results may follow are likely to put the burden on common "end consumer", who is ultimate user of such cable TV service. Because in any case if commercial subscribers have been charged extra some, no such commercial subscriber is going to compromise on his profit and cost margins and other over heads. Secondly instead of fixing and doing this exercise stake holder and parties especially Broadcaster and commercial users should encouraged to share their data and put and use technologically advanced machines and gadgets to ascertain exact number of people watching such Cable TV services., which will surly get better advertisement revenue to broadcasters, in contrast of revenue they may get in case commercial subscriber Tariff order is passed in their favour by fixing higher amount from what is Ordinary subscriber is paying.

On the contrary, Broadcaster should give reasonably heavy subsides and discounts to such Event organizers or hotels or Pub, etc. so that greater number of people could visit such places and encourage them for common and joint watching. Further at such event with consent of such Hotel owner/pub/ cinema halls, Broadcaster can advertise and propagate their schemes and other lesser popular channels, which will have mass audience and viewer for them already.

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4. Is there is a need to have a different tariff framework for commercial subscribers (both at wholesale and retail levels)? In case the answer to this question is in the positive, what should be the suggested tariff framework for commercial subscribers (both at wholesale and retail levels)? Please provide the rationale and justification with your reply.

**Comment:** No comment required in view of afore-stated. Please refer afore stated discussion

5. Is the present framework adequate to ensure transparency and accountability in the value chain to effectively minimise disputes and conflicts among stakeholders?

**Comment:**It is submitted that present framework is unclear and confusing for the stakeholders and industry. However, it is suggested that there should be a clear cut regulation or direction to the broadcasters for not raising or causing extra or additional cost for the same content to commercial subscribers/Subscribers or it should be made clear that for the purposes of tariff commercial subscribers be treated as the ordinary subscriber. It must be noted that TRAI is not only a law/regulation making body, but it has been entrusted with the responsibility as protector of consumer and common man's right and interest in telecom sector, and it should cause such acts to discharge this duty as well.

6. In case you perceive the present framework to be inadequate, what should be the practical and implementable mechanism so as to ensure transparency and accountability in the value chain?

**Comment:**In response to this issue, the afore-detailed and discussed points are adequate, however, a few measures can be suggested, i.e. technical up gradation to

ascertain exact number of viewers from broadcaster side and also from cable TV service providers be it intermediaries like MSO/DTH/IPTV/Hits/hotels/commercial places/subscribers, as the case may be in DAS and Non-DAS regime respectively. Further, revenue sharing and costing be left to market forces or among the stakeholders with some basic guidelines or directions from the Authority.

7. Is there a need to enable engagement of broadcasters in the determination of retail tariffs for commercial subscribers on a case-to-case basis?

**Comment:**No comment required in view of above, however, there is no practical mechanism for such retail tariff determination on case to case basis. Because the system and entire process of generating or buying content and its end delivery is complex and becomes very subjective. Further several socio –economic factor also paly pivotal role.

8. How can it be ensured that TV signal feed is not misused for commercial purposes wherein the signal has been provided for non-commercial purpose?

**Comment:**Please refer the above points. However, there is no occasion of misuse or exploitation of content of the broadcasters for commercial or other purposes, in fact if a few measures are taken it will ultimately increase the advertisement revenue of the broadcaster to multifold and at the same time will not burden the common man/consumer, which in turn will be a booming factor for the entire industry and especially the broadcasters. Further Broadcaster can utilize such occasion for their personal advertisement and sell merchandise of sporting events and popularize lesser popular sporting event.



9. Any other suggestion which you feel is relevant in this matter. Please provide your comments with full justification.

**Comment:**The major suggestions and deliberation as detailed above which hits the crux of the matters and issues thereto, i.e. common man/consumer who is the key factor and the ultimate viewer of the broadcaster content, hence the effort and attempt should be to benefit and make services accessible to him at reasonably low costs. However, in case the Authority decides or arrives at the conclusion that tariff fixation is necessary then in that case first the cost of the content must be ascertained while dealing with the issue of commercial subscriber and tariff fixation in both regime, i.e. DAS or non-DAS.

Submitted accordingly.

Thanking you.

Regards

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