

Response to
Consultation Paper on
Review of Regulatory
Framework for
Broadcasting and
Cable services

suresh.babu@actcorp.in
sankara.tejasvi@actcorp.in

**ACT DIGITAL HOME ENTERTAINMENT PRIVATE
LIMITED NO.1, 2ND FLOOR, INDIAN EXPRESS
BUILDING, QUEENS ROAD, BANGALORE-
560001.**

INTRODUCTION:

Please do find below our comments on the Consultation Paper on Review of Regulatory Framework for Broadcasting and Cable services, we are of the firm opinion that this consultation would go a long way in ensuring Non-discriminatory and level playing field amongst all service providers and further the interest of consumers as envisaged by the authority, we also thank the Authority for giving us an opportunity to respond to the referred consultation paper.

OUR COMMENTS ON THE ISSUES FOR CONSULTATION

A. TARIFF RELATED ISSUES

Q1. Should the present ceiling of Rs.130/- on NCF be reviewed and revised?

- a. If yes, please provide justification for the review and revision.
- b. If yes, please also suggest the methodology and provide details of calculation to arrive at such revised ceiling price.
- c. If not, provide reasons with justification as to why NCF should not be revised.
- d. Should TRAI consider and remove the NCF capping?

ANS: We are of the opinion that the present ceiling of NCF should remain the same and gradually it should move towards forbearance.

Q2. Should TRAI follow any indices (like CPI/WPI/GDP Deflator) for revision of NCF on a periodic basis to arrive at the revised ceiling? If yes, what should be the periodicity and index? Please provide your comments with detailed justification.

ANS: We are of the view to bring stability to the market suggested NCF by the Authority should be at least remain constant for a period of 3 Years and gradually be left to market forces instead of having a regulated NCF.

Q3. Whether DPOs should be allowed to have variable NCF for different bouquets/plans for and within a state/ City/ Town/ Village? If yes, should there be some defined parameters for such variable NCF? Please provide detailed reasons/ justification. Will there be any adverse impact on any stakeholder, if variable NCF is considered?

ANS: Current regimen where DPO's are allowed to provide different NCFs region wise and report to the Authority is adequate.

Q4.Should TRAI revise the current provision that NCF for 2nd TV connection and onwards in multi-TV homes should not be more than 40% of declared NCF per additional TV?

- a. If yes, provide suggestions on quantitative rationale to be followed to arrive at an optimal discount rate.
- b. If no, why? Please provide justification for not reconsidering the discount.
- c. Should TRAI consider removing the NCF capping for multi TV homes? Please provide justification?

ANS: We feel the NCF should be in line with the number of channels opted by the Subscriber irrespective of the whether it is primary or second TV connection. The Secondary TV connection are taken by only very few households which are a creamier section of the society and the regulated discount is not going to help the common man. These prices should be left to market forces and distributor to decide the same subject to NCF prescribed by Authority for the first (one) TV households.

Q5.In the case of multi-TV homes, should the pay television channels for each additional TV connection be also made available at a discounted price?

- a) If yes, please suggest the quantum of discount on MRP of television channel/ Bouquet for 2nd and subsequent television connection in a multi-TV home. Does multi-TV home or single TV home make a difference to the broadcaster? What mechanism should be available to pay-channel broadcasters to verify the number of subscribers reported for multi-TV homes?
- b) If not, the reasons thereof?

ANS: The current method of invoicing for Pay channel cost for each additional system should be continued. As per the terms of Broadcaster Agreement, each TV is being considered as individual subscriber and billed accordingly. Hence discount only at end customer end by the distributor does not support the industry. In line with our comment on Query 4 above, the said multi TV connections are taken by the creamier section of society for their convenience and not by the common man. The Regulations should always address and support the concerns of the common man in the Society.

Q6.Is there a need to review the ceiling on discount on sum of MRP of a-la-carte channels in a bouquet (as prescribed through the second proviso to clause 4 (4) of the Tariff Order 2017) while fixing the MRP of that bouquet by DPOs?

- a. If yes, what should be the ceiling on such discount? Justify with reasons.

b. If not, why? Please provide justification for not reviewing the ceiling

ANS: In view of the Telecommunication (Broadcasting And Cable) Services (Eighth) (Addressable Systems) Tariff (Third Amendment) Order, 2022 is allowing broadcasters to give 45% discount on sum of a-la-carte channel prices while fixing the MRP of bouquet of channels and the parity should be provided in case of DPOs and hence there is a need to review the ceiling on discount on sum of MRP of a-la-carte channels in a bouquet by DPOs. The ceiling as provided to broadcasters should be provided to DPOs i.e., MRP of such bouquet of pay channels shall not be less than 55% of the sum of MRP of a-la-carte pay channels forming part of that bouquet.

Q7. Whether the total channel carrying capacity of a DPO be defined in terms of bandwidth (in MBPS) assigned to specific channel(s). If yes, what should be the quantum of bandwidth assigned to SD and HD channels. Please provide your comments with proper justification and examples.

ANS: The no of channels being carried or broadcasted by the MSO are transported in the terms of TS. The bandwidth capacity of each TS depends upon the kind of modulation and constellation being adopted by the MSO. Technically the bandwidth for each TS might vary between 38 Mbps to 50 Mbps. (DVB-C or DVB-C2). The no of channels that can be included in the TS should be left to the MSOs and there is no need for defining the total channel carrying capacity.

Q8. Whether the extant prescribed HD/SD ratio which treats 1HD channel equivalent to 2SD channels for the purpose of counting number of channels in NCF should also be reviewed?

a. If yes, should there be a ratio/quantum? Or alternatively should each channel be considered as one channel irrespective of its type (HD or SD or any other type like 4K channel)? Justify with reasons.

b. If no, please justify your response.

ANS: Each channel should be considered as one channel irrespective of its type. It has also been observed that many of the MSO's carry the quality (bitrate) of the channels at lowest bitrate compromising the quality just to adopt more channels in the available TS bandwidth.

It should ideally be mandated that the MSO must maintain the QoS of the channel at par being received as source from Broadcaster. This will ensure the quality of the channels are maintained across operators.

Q9. What measures should be taken to ensure similar reception quality to subscribers for similar genre of channels? Please suggest the parameter(s) that should be monitored/checked to ensure that no television channel is discriminated against by a DPO. Please provide detailed response with technical details and justification.

ANS: In the current regime, the BC provides the STB (Decoder) to the MSO to receive their channels which can provide only the analogue output (RCA), The MSO must encode it using AV input with few converters / encoders which deteriorates the quality to large extent. To maintain the quality at par with the being transmitted by BC, it should be mandated that the broadcaster must provide the PIRD so that the IP out with source quality can be received by MSO and can be transcoded locally to retransmit as per policy guidelines. It should be mandated that the MSO must maintain the QoS of the channel at par being received as source from Broadcaster. This will ensure the quality of the channels is maintained across operators.

Q10. Should there be a provision to mandatorily provide the Free to Air News / Non-News / Newly Launched channels available on the platform of a DPO to all the subscribers?

a. If yes, please provide your justification for the same with detailed terms and conditions.

b. If not, please substantiate your response with detailed reasoning.

ANS: There should not be any provision to mandatorily provide Free to Air News / Non-News / Newly Launched channels available on the platform of a DPO to all the subscribers. The present regulations of choice for subscribers to choose and view channels of their choice to be continued.

Q11. Should Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 be made applicable to nonaddressable distribution platforms such as DD Free Dish also?

ANS: We do not have any comments in this regard.

Q12. Should the channels available on DD Free Dish platform be mandatorily made available as Free to Air Channels for all the platforms including all the DPOs?

ANS: The channels available on DD Free Dish platform should be mandatorily made available as Free to Air Channels for all the platforms including all the DPOs, to create a level playing field between all the stakeholders in the industry.

Q13. Whether there is a need to consider upgradation of DD Free Dish as an addressable platform? If yes, what technology/ mechanism is suggested for making all the STBs addressable? What would be the cost implications for existing and new consumers? Elaborate the suggested migration methodology with suggested time-period for proposed plan. Please provide your response, with justification.

ANS: We do not have any comments in this regard.

B. INTERCONNECTION RELATED ISSUES

Q14. In case of amendment to the RIO by the broadcaster, the extant provision provides an option to DPO to continue with the unamended RIO agreement. Should this option continue to be available for the DPO?

- a. If yes, how the issue of differential pricing of television channel by different DPOs be addressed?
- b. If no, then how should the business continuity interest of DPO be protected?

ANS: The extant provision that provides an option to the DPO to continue with the unamended RIO agreement should continue for the period for which the Agreement is in force, the only exception to this can be when there is a change of tariff and consumer interest is involved, under these circumstances RIO agreement amendment can be allowed when it becomes expedient due to amendment of tariff order.

Alternatively any Amendment to RIO should be linked to Calendar year / Financial year and then made effective so that DPOs also get some time for implementation based on market requirements and to inform the subscribers as well.

Q15. Sometimes, the amendment in RIO becomes expedient due to amendment in extant Regulation/ Tariff order. Should such amendment of RIO be treated in a different manner? Please elaborate and provide full justification for your comment.

ANS: RIO agreement amendment can be allowed when it becomes expedient due to amendment of extant regulations/tariff order as it would be in consumer interest & bring uniformity in the RIO agreements.

Q16. Should it be mandated that the validity of any RIO issued by a broadcaster or DPO may be for say 1 year and all the Interconnection agreement may end on a common date say 31st December every year. Please justify your response.

ANS: It can be mandated that the RIO's are for a period for one (1) year and the agreements will end on the 31st December every year, this would bring uniformity in the execution of RIO agreements across different stakeholders in the value chain. Any price change and RIO amendments can also be made effective from 1st January of the year with at least 3 months prior notice to educate the customers also on the revision in price and to take their selection of channels based on revised pricing.

Q17. Should flexibility be given to DPOs for listing of channels in EPG?

- a. If yes, how should the interest of broadcasters (especially small ones) be safeguarded?
- b. If no, what criteria should be followed so that it promotes level playing field and safeguard interest of each stakeholder?

ANS: The present regulations regarding "*Listing of channels in electronic programme guide*" address this issue and no further regulatory regime may be prescribed. We feel the Authority can ask the DPOs to maintain the list of the channels allowed with their genre and LCN in their website. This would avoid any conflict of interest among different stakeholders.

Q18. Since MIB generally gives permission to a channel in multiple languages, how the placement of such channels may be regulated so that interests of all stakeholders are protected?

ANS: In our view the current technology enhancements available broadcasting of multilingual channels is possible, there is no separate need to transmit the same channels in different placements (LCN). The choice should be given to the user to select the appropriate language from the STB RCU button. This will go a long way in helping with channels capacity and also optimize the total bandwidth.

Q19. Should the revenue share between an MSO (including HITS Operator) and LCO as prescribed in Standard Interconnect Agreement be considered for a review?

- a. If yes:
 - i. Should the current revenue share on NCF be considered for a revision?
 - ii. Should the regulations prescribe revenue share on other revenue components like Distribution Fee for Pay Channels, Discount on pay channels

etc.? Please list all the revenue components along-with the suggested revenue share that should accrue to LCO.

Please provide quantitative calculations made for arriving at suggested revenue share along-with detailed comments / justification.

b. If no, please justify your comments.

ANS: The revenue share between an MSO & LCO as prescribed in the Standard Interconnect Agreement should suffice as it covers both NCF and Distribution fee. However, there is a strong need to strengthen the regulations pertaining to LCO's vis-a-vis implementation of these regulations. The Authority should introduce adequate regulations to ensure the compliance of LCO's to the referred regulations thereby safeguarding the interests of MSO or HITS operators in the value chain.

Q20. Should there be review of capping on carriage fee?

a. If yes, how much it should be so that the interests of all stakeholders be safeguarded. Please provide rationale along with supporting data for the same.

b. If no, please justify how the interest of all stakeholders especially the small broadcasters can be safeguarded?

ANS: On the one hand, Broadcasters are allowed freely to determine the prices of their channels and advertisement revenues are not under the purview of regulations. On the other hand the distributors are regulated from NCF, distribution fee, discount, bouquet charges including carriage fees. In the present inflation rate 0.20 paise for SD channel and 0.40 paise for HD Channel per subscriber has no relevancy and on top of it the ceiling of aggregate fee of INR 4 lakhs and 8 lakhs leaving those broadcasters with a free hand of fixing advertisement revenue, the regulations does not serve the purpose of principles of equality. The carriage fees should be ideally left to market forces and under forbearance.

Q21. To increase penetration of HD channels, should the rate of carriage fee on HD channels and the cap on carriage fee on HD channels may be reduced. If yes, please specify the modified rate of carriage fee and the cap on carriage fee on HD channels. Please support your response with proper justification.

ANS: In our opinion and in line with comments to query no 20 above, there is no need cap the carriage fee of either HD or SD channels, it should be ideally left to forbearance. The consumer shall choose the channel he wishes to subscribe.

Q22. Should TRAI consider removing capping on carriage fee for introducing forbearance?
Please justify your response.

ANS: TRAI should consider removing capping of carriage fees for introducing forbearance, leaving the carriage fees to market forces would give a lot of flexibility to the MSO's and the consumer is free to subscribe the channels as he/she wants to watch.

Q23. In respect of DPO's RIO based agreement, if the broadcaster and DPO fail to enter into new interconnection agreement before the expiry of the existing agreement, the extant Interconnection Regulation provide that if the parties fail to enter into new agreement, DPO shall not discontinue carrying a television channel, if the signals of such television channel remain available for distribution and the monthly subscription percentage for that television channel is more than twenty percent of the monthly average active subscriber base in the target market. Does this specified percentage of 20 percent need a review? If yes, what should be the revised prescribed percentage of the monthly average active subscriber base of DPO. Please provide justification for your response.

ANS: The relevant regulations which provide for discontinuation of channels after giving adequate notice is given to consumers should suffice, independence to the MSO and Broadcaster to continue with an interconnection agreement on their free will should be continued. The intention of Regulations that any channel to be carried or signals be provided only with the valid agreement to be upheld.

C. QUALITY OF SERVICE RELATED ISSUES

Q24. Whether the extant charges prescribed under the 'QoS Regulations' need any modification required for the same? If yes, justify with detailed explanation for the review of:

- a. Installation and Activation Charges for a new connection
- b. Temporary suspension of broadcasting services
- c. Visiting Charge in respect of registered complaint in the case of DTH services
- d. Relocation of connection
- e. Any other charges that need to be reviewed or prescribed.

ANS: We are of the opinion that the extant charges under the QOS regulations suffice and there is no need for any further modification in this regard.

Q25. Should TRAI consider removing capping on the above-mentioned charges for introducing forbearance? Please justify your response.

ANS: Authority can consider removing the capping on the charges under the QOS regulations and introduce forbearance as DPO is the best judge on the charges to be charged installation, activation, relocation. There might be instances when the technician from the DPO has to make multiple visits for the above refereed activities.

Q26. Whether the Electronic Programme Guide (EPG) for consumer convenience should display

- a. MRP only
- b. MRP with DRP alongside
- c. DRP only?

Justify your response by giving appropriate explanations.

ANS: We are of the opinion that the MRP should not be mandated on the EPG Channel list. It can be made available in the respective operators' Information Channel or website. Many operators put the price as a suffix to channel name which we feel further dilutes the user experience. Neither the channel name nor the price is displayed clearly.

Q27. What periodicity should be adopted in the case of pre-paid billing system. Please comment with detailed justification.

ANS: We are ok with the current periodicity with the pre-paid billing.

Q28. Should the current periodicity for submitting subscriber channel viewership information to broadcasters be reviewed to ensure that the viewership data of every subscriber, even those who opt for the channel even for a day, is included in the reports? Please provide your comments in detail.

ANS: The current periodicity for submitting subscriber channel viewership information to broadcasters should be sufficient for the broadcaster to invoice the DPO's and any further changes in this regard would require a lot of changes, system upgradation, stress on the system and huge captive investment on the SMS of the DPO's.

Q29. MIB in its guidelines in respect of Platform Services has inter-alia stated the following:

- a. The Platform Services Channels shall be categorized under the genre 'Platform Services' in the EPG.

b. Respective MRP of the platform service shall be displayed in the EPG against each platform service.

c. The DPO shall provide an option of activation /deactivation of platform services.

In view of above, you are requested to provide your comments for suitable incorporation of the above mentioned or any other provisions w.r.t. Platform Services channels of DPOs in the 'QoS Regulations'.

ANS: We agree with the authority that "capping the total number of permitted PS channels to 5% of the total channel capacity, labelling all Platform Services channels as "Platform Services" to differentiate them from linear channels, and ensuring that the content is exclusive to the platform and not shared with other distribution operators.

It is also a good suggestion to have all Platform Services channels to be grouped together under the genre "Platform Services".

Also, we suggest to have an independent policy by the Authority to monitor the content of the Platform Services channels. A regulation to mandate the LCOs to comply with certain content guideline will definitely help to secure and to keep a check on the content.

Q30. Is there a need to re-evaluate the provisions outlined in the 'QoS Regulations' in respect of:

- a. Toll-free customer care number
- b. Establishment of website
- c. Consumer Corner
- d. Subscriber Corner
- e. Manual of Practice
- f. Any other provision that needs to be re-assessed

Please justify your comments with detailed explanations.

ANS: We are of the considered view that there is no further need to re-evaluate/relax the provisions in the QoS regulations referred to above. However the Authority may look into relaxing some of these provisions for the identified smaller MSO's based on their subscriber threshold.

D. Financial Disincentive

Q31. Should a financial disincentive be levied in case a service provider is found in violation of any provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?

a. If yes, please provide answers to the following questions:

- i. What should be the amount of financial disincentive for respective service provider? Should there be a category of major/ minor violations for prescription of differential financial disincentive? Please provide list of such violation and category thereof. Please provide justification for your response.
- ii. How much time should be provided to the service provider to comply with regulation and payment of financial disincentive. and taking with extant regulations/tariff order?
- iii. In case the service provider does not comply within the stipulated time how much additional financial disincentive should be levied? Should there be a provision to levy interest on delayed payment of Financial Disincentive?
 1. If yes, what should be the interest rate?
 2. In no, what other measures should be taken to ensure recovery of financial disincentive and regulatory compliance?
- iv. In case of loss to the consumer due to violation, how the consumer may be compensated for such default?

b. If no, then how should it be ensured that the service provider complies with the provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?

ANS: We are of the view that financial disincentives can be introduced in those areas where there is no dependency of the MSO with other stakeholders, where there are dependencies involved for implementation of relevant regulations like with LCO's and other stakeholders in the value chain financial disincentives only on MSOs must not be imposed unless there are provisions protecting the interests of the MSOs in the regulations.

E. ANY OTHER ISSUE

Q32. Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in present consultation.

ANS: No further Comments.
