

Bharti Telemedia response to TRAI Consultation Paper on Distribution of TV Channels from Broadcasters to Platform Operators

At the outset we would like to thank the Authority for initiating a Consultation paper in this matter.

We also welcome the Authority's attempt to clarify the roles and responsibility of authorized aggregators/distribution agencies to facilitate distribution of broadcasting channels. We believe that proposed interconnect regulations will not only address the issues faced by the distribution platforms ('DTH, Cable TV, IPTV etc'.) while buying the content from the broadcaster/aggregators but ,will also avert creation of any monopoly and vertical integration in the field of broadcasting sector.

TRAI vide the provisions of the Telecommunication (B&CS) interconnection regulation 2004 dated 10th December 2004, has allowed/mandated **broadcaster or its authorized agent/aggregator** to enter into interconnection agreements on a non- discriminatory basis with all distribution platforms ('DTH, LCO, MSO & IPTV') in the form of RIO.

As on date the, distribution business of around 73% of the total pay TV market, including high definition (HD) TV channels, is controlled by four authorized distribution agencies/aggregators of broadcasters. These aggregators publish the RIOs, negotiate the rates for these bouquets/channels with distribution platform operators and enter into interconnection agreement(s) with them.

However, in the absence of any regulatory framework for the aggregators, these agencies have started bundling the channels of one or more broadcasters to form their own bouquets. These bouquets consist of popular and non- popular channels marketed by these aggregators to distribution platforms. The aggregator of multiple broadcasters formulates large bouquets of their channels for offering to DTH, Cable TV operators etc., leading to difficult protracted negotiations, the output of which is often not in favor of DTH, Cable TV operators.

The Authority has rightly mentioned in the explanatory memorandum of this Consultation paper that '*these aggregators wield substantial negotiating power which can be, and is often misused and lead to several market distortions*'. In this regard, we would like to submit that in order to address this pertinent issue of dominance of a few handful aggregators and in order to bring in parity amongst all stakeholders it will be ideal if the proposed regulation is implemented in its letter and spirit.

The Authority has also rightly pointed out the problems faced by the distribution platform due to the monopoly of the aggregation companies. These include – *forcing to accept all the channels of the aggregator, fixed fee deals, charging based on the entire subscriber base and not as per actual uptake of channels, insisting on minimum guarantee and other unreasonable terms and conditions*. Some of the issues faced by the distribution platform on grounds are listed as below:

- Aggregators try to include channels with low viewership along with high viewership channels. Due to this uneven blend of channels, be it a popular channel or not in such a bouquet, DTH players find it reprehensible to offer the same to their subscribers. Also, this kind of arbitrary bundling of channels gives unjust and undue advantage to content supplier vis-à-vis the DTH players/cable TV operators.
- As the bulk of the high viewership channels are being distributed by the four main aggregators, the negotiating power of the distribution platform significantly reduces. In most of the cases, distribution platform are forced to accept the launch of low viewership channels which not only leads to high wholesale prices but also waste the critical bandwidth of the delivery platforms due to carriage of non-popular/unwanted channels.
- The aggregators are also dictating the Packaging commitments, which limit the distribution platform's ability to monetize the content through differential packaging.
- RIO rate of some of the High-definition (HD) channels is very high that makes it unfeasible for distributors to carry on RIO terms. Aggregators negotiate the prices of SD+HD Channels together leading to high wholesale rates for the delivery platforms.

Over a period of time, the leading content aggregators and distribution companies have started merging and formed a single company leading to vertical integration of content for distribution. Viz.:

- Aggregators through joint venture or alliance have created monopoly in the distribution platform leaving little or no choice with the DTH or cable operators for negotiation.
- Aggregators in their bouquets include some highly popular channels which DTH/cable platforms shall have to carry due to high consumer demand. However, the uncontrolled freedom of bundling of these aggregators leads to **high wholesale prices of channels which in turns results in high retail prices for end customers.**

In light of the above, it is clear that creation of aggregators amongst large channel groups has created larger aggregations of channels which does not serve the purpose of any efficiency but is creating high concentration of content that promises only to hike the distribution platform's cost of content and thereby resulting in higher retail prices for the customers.

We would further like to emphasize the direct negotiations and understanding between the broadcaster and DTH player will benefit the consumers at large in as much as there will always

be clarity as to the nature of channels and their RIO rates without reference to any third party involved in the process.

Also the direct understanding between the Broadcasters and DTH Operator will ensure the continuity of the contracts already signed for the Channels of the Broadcasters, which otherwise become invalid when an aggregator takes over the distribution of the Channels. This will benefit the consumers as many times DTH Operators are forced to change the composition of their packages due to unreasonable demands or discontinuity of the signed deal by the Aggregator.

Therefore, demarcations as mentioned in the proposed regulations are absolutely justifiable and would serve the right purpose of creating a level playing field in the market.

The proposed regulation will certainly ensure that the broadcaster offerings by the aggregators do not change the composition of the bouquet formed by the broadcasters while providing the same to a DTH player and the customers will also be benefitted from this. Another proposed stipulation that the aggregators will not bundle the bouquet or channels of the broadcaster with the bouquet or channels of the other broadcaster is equally welcome as this will ensure the clarity as to packages in the minds of the end subscriber and there will be no confusion even as to the rates being offered.

We therefore agree with the proposed Regulations on aggregators and the role/responsibilities of such entity as specified below:

(1) if a broadcaster appoints a person as its authorised distribution agent, it shall ensure that---

- a. there is no change in the composition of its bouquet provided by the authorised distribution agent to distributors of TV channels;*
- b. its authorised distribution agent does not bundle its bouquet or channels with the bouquet or channels of other broadcasters. In other words, in case the authorised distribution agency represents more than one broadcaster, they shall not link offerings of the broadcasters they represent.*
- c. while acting as an authorised distribution agent, such person acts for, on behalf and in the name of the broadcaster.*

(2) Every broadcaster shall ensure that the authorized distribution agent appointed by it shall--

- a. not publish Reference Interconnection Offer by itself or on the behalf of the broadcaster; and*
- b. not enter into interconnection agreement with the distributor of TV channels.*

Further, TRAI its proposed Regulation has defined a broadcaster as below:

“broadcaster” means any person including an individual, group of persons, public or private body corporate, firm or any organisation or body who or which is providing broadcasting services;”

In this regard, it may be noted that there are cases of larger group companies that own multiple broadcasting companies which leads to aggregation of services while signing interconnection agreements with the delivery platforms like DTH. We therefore submit that the proposed regulation should ensure that broadcasting services of each broadcaster is represented individually and not aggregated for interconnection by its group entity.