

# Cable Operators Federation of India

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Ref/COFI/TRAI/06/2012

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The Chairman  
Telecom Regulatory Authority of India  
New Delhi-110002  
Kind Attention: Sh Wasi Ahmed

## **COMMENTS ON TRAI CONSULTATION PAPER No 7 OF 2012 ON ISSUES RELATED TO ADVERTISEMENTS IN TV CHANNELS DATED 16 MARCH 2012**

Sir,

Ref Consultation Paper No 7/2012 dated April 16, 2012 on issues related to Advertisements in TV Channels.

We highly appreciate TRAI for taking this important step of regulating the advertisement duration in TV channels. This will ultimately benefit the consumers who are literally fed up of viewing disturbing multiple ads on their TV screens. **However, we find that TRAI's argument for doing this *suo motu* and also recommend total digitalization to look after the commercial interest of the broadcasters is totally misplaced.**

Digitalisation should be done to increase the broadband penetration through two-way interactive cable networks and not to provide access to all broadcasters to more cable homes to help them increase their revenue, which in any case will happen when digitalization is implemented. Regulation of Ad timing is **essential to stop exploitation of consumers by the broadcasters who wish to make money in many ways, through all types of advertisements, subscriptions, sponsorships, paid news, international sales etc. for same content.**

Surprising that TRAI has **not thought of LCO's commercial interests in any of their consultation, so that they may earn more revenue and upgrade their last mile** to accommodate triple play to substantively contribute to increase the broadband penetration and consequent increase in GDP (Gross Domestic Product) of the nation.

**In Para 1.4 & 1.5 of the Consultation Paper**, TRAI has mentioned the report of FICCI- KPMG and MPA of Hongkong and concluded that the **non-addressable nature of the Cable networks has lead to gross**

**under-declaration** of the subscriber base by Cable Operators which resulted into a limited pass through of the subscription revenue to the broadcasters. They blame this phenomenon for broadcasters' resorting to more and more ads.

The above notion is completely out of sync with the ground realities which TRAI as well the Ministry officials must understand.

**India is not a Pay TV Market.** The fact is that India is not a pay TV market yet. MPA and FICCI are organizations whose research is supported only by large broadcasting groups and report only to push in their agenda and to lobby for them with government.

Since the market in India started as a non addressable one in the late eighties and proliferated in early nineties with number of free to air channels, majority of the networks are still non-addressable. How can an estimate be made of the viewership of a channel in such a non-addressable market?

**There is no pay channel market in India because consumers do not pay for the content.** These so called Pay channels were introduced in India in an illegal way in the non-addressable networks by forcing cable operators to pay to receive them, once they became popular as FTA channels.

For the last 18 years pay channels have been exploiting the cable operators using all unethical ways like blackmailing with threats of a black out, arbitrary increase in rates, forcing bouquets on consumers and making cartels for distribution.

**It is painful to see the Indian government and the Regulator ignoring pleas of Cable TV Industry to check their unethical methods and stop them to exploit the masses, forcing unwanted content, taking full advantage of non-addressability and weakness of the regulatory system.**

**The only pay channel market** that really exists today is in the CAS notified areas of Chennai since 2003, in some parts of other three metros since 2007 and in DTH since 2006. TRAI as an expert agency of the government must understand these realities rather than depend on the projections and data of these organizations like MPA who lobby for certain business groups.

TRAI has been mentioning the name of MPA (Media Partner Asia) in many of its consultations.

- a) We wish to know the criteria for relying on their reports.
- b) Who all are the companies giving their financial information to MPA to do such research on their financials? In fact, TRAI is in a better position to get the required financials of all broadcasting companies and make their own conclusion.
- c) In about 700 registered and operational TV channels, only about 160 are 'pay'. All others are FTA and rely only on advertisements. Statistics will reveal that these 160 odd pay channels command 80% of ad revenue as well as all the subscription revenue. TRAI is also trying to enable them to get more and more revenue, neglecting all other broadcasters.
- d) How, sitting in Hongkong/Singapore, MPA is doing research in India? Which Indian Agency is helping them in this Research?
- e) What is method of MPA's calculating advt Revenue and Subscription Revenue of Pay Channels?

- f) What is MPA's method of calculating under-declaration of individual channels in a non-addressable market? Can TRAI treat these channels as Pay Channels who, without the knowledge of their consumers, collect the subscription money from cable operators every month on a forced negotiated rate?
- g) Is TRAI sponsoring any research by MPA, if so, how much manpower do they have in India to carry such Research in a 140 million household market?
- h) Has TRAI carried out any research on its own initiative, to assess the pay TV market in India?

It is well known that even TRPs do not project the right picture of viewership as India is a vast diversified market and requires a large sample for this. TRAI has already condemned the existing TRP system as inadequate as it exists only in a few large cities to enable broadcasters to earn more ad revenue.

The whole system of subscriber numbers and viewership depends on estimates. How can TRAI rely on these research figures and say with confidence that there is under-declaration. It reeks of TRAI's bias in favour of broadcasters.

TRAI is not ignorant of the viewership of channels in Chennai, which is the only fully addressable market. Why have they not found out the viewership of each channel and put it on their website so that it can estimate what may be the approximate share of a channel in a market of more than 700 channels.

80% of consumers in India cannot afford pay channels (70% being poor). **They watch, so called Pay channels because these are given to them as free to air channels in a single package.** Only cable operators are forced to pay for them in the name of 'Pay Channels'. Hence, **contrary to what TRAI mentions in Para 1.13 of the paper, there was never a market force for pay channels in India. The rates of pay channels solely depended on how much the broadcasters could blackmail cable operators.**

**The above fact is substantiated by the statement of MPA mentioned in Para 1.17 of the Paper saying that ad revenue of pay channels is on the decline.** It is happening because where ever pay channels are being given as 'paid for channels', consumers reject them, like in Chennai and on DTH. It is also happening because market is getting crowded with these channels, dividing the ad revenue.

**TRAI's inference that Digitisation will lead to increase in subscription revenue is completely wrong,** considering the existing addressable markets in the country. Even on DTH, ARPU is as low as Rs 180/- because majority of subscribers only demand the basic package of Rs. 150/- and reject the pay channel packages. Only very few subscribers can afford to get all the pay channels in a DTH service and pay Rs. 500 for them.

**Definition of a 'Pay channel'.** Surprising that TRAI has even tried to modify the very definition of Pay channel as a channel for which a Cable Operator has to pay to distribute it in his network and not the subscriber, **only to help the Pay TV Broadcasters and cover up their past illegal deals.**

In such a scenario, how will TRAI determine the true viewership of a pay channel, when it is not known, how many subscribers are watching that particular channel in a Cable network? Why blame a Cable

Operator for under-declaration? Broadcasters are forcing him to pay for all his subscribers for all the channels transmitted in his network and TRAI is encouraging them to exploit them.

**Why forget that Broadcasters have always had an upper hand on a small cable operator because he is easily susceptible to their arm twisting; by switching off the decoder and destroy his business. This is the reason that small operators are on their way to extinction.**

**These wrong notions in the mind of Regulator are the main cause for failure of most of the government policies for the industry.** Even total digitalization will fail if forced to be implemented in the way it has been planned in the law. When people do not want a technology, we cannot force it on them. Using forcing will only increase the chaos already existing.

Why did the government permit pay channels to exist illegally for 18 years in the country when it is well known to all that pay channels must pass through an addressable system and subscribers must pay if they view them?

Because our government and the regulatory system is ineffective, we have the present situation where **Broadcasters are minting money from advertisements as well as Cable Operators.** As a consequence of a weak government control, we have hundreds of channels waiting for registration and exploit the Indian Market. **If they were so hard pressed, we would not see broadcasters growing from one channel to dozens in a span of a few years and still growing clout.**

It is the cable operators who are losing their business every day to broadcasters who have started their own distribution through DTH and MSOs. **It is foolish to think that a small operator in a small colony can harm the interest of a multimillion dollar broadcaster.**

- So the basic premise of broadcasters inserting more and more ads on TV screen is because they are greedy and they are competing among themselves.
- A few large groups take the lion's share of ad revenue because they control powerful monopolies and control many ad agencies.
- Because of their cartelization in distribution, they can manipulate viewership of all their channels serving them in bouquets.
- As has been reported in the international press, some of these multinational broadcasters even manipulated the TRP system to earn more ad revenue.

It is all the above that TRAI should aim to regulate, keeping in mind the interest of the viewers.

In fact, it is time we should also regulate the onscreen interactive shopping menus that will start coming up on screen soon, once the digital networks are in place.

Regulations regarding the time duration already exists. Instead of implementing them **strictly, why are we trying to make more laws? Like Government officials talk of arresting the Cable Operators if they don't stop analog after the deadline, why has no government official initiated cases against the channels which are violating these regulations and put some of the owners in jail. The fact is that they have no guts to do that against these powerful people who are well connected. It is very easy to arrest**

a small operator having 1000-2000 connections than a mediamoghol like Rupert Murdoch who carries a non-bailable warrant on his head since many years.

Our comments on various stipulations are given below.

**i. The limits for the duration of the advertisements shall be regulated on a clock hour basis i.e. the prescribed limits shall be enforced on clock hour basis.**

**Comments:**

The Limit for the duration of the advertisement should be regulated on a clock hour basis as well as on 24 hr basis. An upper limit of 12 mnts per hr in general and 200 mnts in 24 hours will check the overfill of ads in a single programme and also allow broadcasters to balance the ad insertions on 24 hr basis based on limitations on different type of programmes like for kids, movies etc.

**ii. No FTA channel shall carry advertisements exceeding 12 minutes in a clock hour. For pay channels, this limit shall be 6 minutes.**

**Comments:**

Agreed 12 min limit for FTA channel is in line with international norm. For pay channels, they should not be allowed to carry any ads as they would get 100% subscription in the digital regime.

**iii. The 12 minutes of advertisements in the FTA channels will not be in more than 4 sessions in one hour. In other words, there will be continuous airing of the TV show for at least 12 minutes each. Not more than three advertisement breaks shall be allowed during telecast of a movie with the minimum gap of 30 minutes between consecutive advertisement breaks.**

**Comments:**

Agreed, only for the FTA channels.

**iv. In case of sporting events being telecast live, the advertisements shall only be carried during the interruptions in the sporting action e.g. half time in football or hockey match, lunch/ drinks break in cricket matches, game/set change in case of lawn tennis etc.**

**Comments:**

There should be no ads in a sports channel as they already charge the highest amount amongst all pay channels.

**v. There shall only be full screen advertisements. Part screen advertisements will not be permitted. Drop down advertisements will also not be permitted.**

**Comments:**

*Agreed*

**vi. In so far as News and Current Affairs channels are concerned, they are allowed to run not more than two scrolls at the bottom of the screen and occupying not more than 10% of the screen space for carrying non-commercial scrolls, tickers etc.**

**Comments:**

*Agreed*

**vii. The audio level of the advertisements shall not be higher than the audio level of the programme.**

**Comments:**

*Agreed*

We also wish to make some additional comments that we have been doing many times earlier too, in the interest of the industry.

- a) As these regulations affect millions of subscribers and cable operators operating in far off areas of the country, much wider circulation of the consultation in Hindi and other languages is required so that realistic feedback is received from all corners. Also, TRAI should take help of state governments in circulating them on their websites and local news papers. Even the broadcasters should be asked to carryout debates on their channels to inform the viewers and get their feedback.
- b) There should be a proper grievance redressal system against violations by the broadcasters of these norms and strict action must be taken as a deterrent.
- c) Once the Regulations are finalized, they should be informed to the public through Doordarshan and other broadcasters as well as the print and state level media.

Yours Faithfully,

(Roop Sharma)  
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