

Cable Operators Federation of India

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The Chairman
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhavan
Jawaharlal Nehru Marg (Old Minto Road)
New Delhi – 110 002

**Sub: Comments on Consultation Paper on tariff issues for
cable TV services in non-CAS areas.**

Dear Sir,

We appreciate TRAI in coming up with such a detailed and well researched consultation paper, after putting in a sincere effort.

We also wish if the undermentioned issues, which are very basic and have great bearing on a De-Novo exercise in determining the tariff in non-CAS areas were also made a part of the consultation process. Unless the issues are studied from the time the pay channels were introduced in the country in 1995, a de-novo exercise will not be very practical in implementation.

Before 1995 there were no pay channels and thousands of cable operators provided video as well as FTA channels to the masses. When Pay channels were introduced, broadcasters demanded operators small lump sum amounts like Rs. 1000-2000 per month. We had requested the government at that time too to allow these channels to be distributed only through addressable systems which is the norm all over the world but our request was ignored.

Consumers were too happy to get more and more content without paying additional for that and the operators had to bear the burden to keep their business going as there was no addressability. The average tariff in cable TV has almost remained the same since then where as the pay channel rates have increased more than 1000%. Kindly note that the pay broadcasters knew that the people will get addicted to their content and so kept on forcing the operators to pay for these channels or face the wrath of the public as the government was too reluctant to control the broadcasters. Not only this, these few popular channels were bundled with newer and not so popular channels forcing operators increased bouquet rates but operators could not force the subscribers to pay more.

Even when CAS was legislated in 2003, it were the pay broadcasters who convinced the government that the people were not prepared for such a technology in spite of it having been cleared by both the houses of Parliament. It is this aspect of cable TV operation which has led to the present state of chaos in the industry which must be resolved soon. Like in the Telecom Industry, TRAI has always looked after the interest of the consumers, they must do the same here too irrespective of some stake holders not feeling very happy about it. Hence we request the following issues must also be dealt with as a part of this consultation:-

1. Are the present rates of pay channels which total to more than Rs 1000/- affordable to an average middle class family in India? It may be considered that at present the average cable TV subscription is only Rs. 150. **In the non-CAS areas where all these channels are forced on the consumers should we not make all these channels FTA?**
2. **Does the average consumer demand so many channels to be viewed for which we must have digital systems?** CAS areas can give a good indication of this (in Chennai Sun TV had to go FTA to maintain its viewership).
3. **Should there be any pay channels without addressability in Non CAS areas** where the consumer can not exercise his/her choice?

Kindly note that all other issues have emerged out of these basic ones concerning the Indian consumers. Hence, these need to be tackled first and should have been included in the consultation paper.

Issue 1. Are the figures in Annexure B3 representative for the different genres of broadcasters? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the genre, and not of your company.

Comments: Only subscription revenue and Ad revenue are shown in the data where as Broadcasters earn revenue from many other sources like **SMS, sponsorships, paid news and paid promotional programmes, merchandising, selling channel time to astrologers, religious gurus, telemarketing, multiple advertisements on screen, in programme advertisement, revenue from international markets, revenue from political parties for propaganda, dubbing the same content in many regional languages and selling it in different markets etc. Thus the figures are not the true representation.**

Most of the genres have been shown earning very little from subscriptions which is wrong. KPMG figures mentioned by TRAI in the consultation Paper (Para 2.1.2) itself show 66% earning from subscriptions and 34% from ads. These figures were given in FICCI Frames this year in March. Which one is correct?

If News channels were making losses, India would not have the largest number of news channels in the world (about 100). These people started their business to make profits unless they have some other motive like gaining political clout, blackmailing people through sting operations or other vested interests.

Issue 2. Are the figures in Annexure B5 representative for aggregators? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Comments: The data given in the Annexure indicates that maximum connectivity of a pay channel on record is **only 5.6 million out of 91 million**. These figures are not correct considering that aggregators provide channels to all platforms including DTH and IPTV. DTH and IPTV combined have a connectivity of 20 million as reported to TRAI and most of the channels are carried on all DTH platforms. Their actual revenue will be much more from subscriptions.

Issue 3. Are the figures in Annexure B7 representative for the national MSOs? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Comments: Figures in the Annexure don't seem to match what the MSOs declare to the media and the investment companies. Most of the national MSOs declare a **connectivity of about 10 million connections**. Only 2 million shown here is way below the declared figures. If in a small region or state wide the regional MSOs can have 1-2 million connections, a national MSO should have many times more.

Large MSOs have 3-10 or more video channels where advertising and subscription revenue collected from affiliate cable networks as well as content is sold to cable operators and others. They also have earnings like the broadcasters from SMS, sponsorships, paid news and paid promotional programmes, merchandising, selling channel time to astrologers, religious gurus, telemarketing, multiple advertisements on screen, in programme advertisement etc. without paying any license or registration fee to the government. This forms a major part of their revenue which has not been mentioned.

Carriage fee earnings of the MSOs have increased over the last few years and will go on increasing as the number of channels increase.

Issue 4. Are the figures in Annexure B7 representative for the regional MSOs? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Comments: Information is not complete.

Issue 5. Are the figures in Annexure B9 representative for the LCOs with > 500 subscribers? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Comments: Figures given do not represent the actual. A cable operator is a very small entity and does not have the Chartered Accountants or Company Secretaries to manipulate his accounts like it is evident from the figures of the broadcasters and the MSOs, hence the figures do not represent the actual operation of a cable operator.

If cable operators follow the BIS standards of equipment and quality of service, the figures will be very different. We are sure the government does not want the operators to work as a make shift to to survive. Actual costs and revenue were worked out by the finance committee of the Ministry of Finance in 2003 which declared the operation cost of Rs. 72 per subscriber. However, if the network costs were worked out meeting the BIS standards, a cost of Rs 180 per subscriber was the result.

Since there are many LCOs in an area and they work on small scale as family enterprises, their true costs will not come out in the statistics, The whole family works in these networks and their representative salaries and expenses are not accounted for.

Manpower in an LCO network does not normally work in shifts like in the case of MSO or broadcaster but provide 24x7 service. Hence costs will appear low.

Also the revenue lost due to non paying subscribers or subsidy given to a subscriber in whose house the amplifier is installed etc is quite substantial, to the tune of 10-15 % which has not been accounted for.

Issue 6. Are the figures in Annexure B9 representative for the LCOs with =< 500 subscribers? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Comments: Same as in Issue 5 above.

Issue.7. What according to you is the average analog monthly cable bill in your state or at an all India Level?

Comment: Average monthly cable bill in India would be Rs. 125/- plus taxes ranging from Rs 50-Rs 250.

Issue 8. Is the market for cable services in non-CAS characterized by the following issues:

- (i) Under reporting of the analog subscriber base.

Comment: No.

TRAI is well aware that there is nothing called under reporting in non-CAS areas. There is no scientific method used or some survey done all across the country by any agency to determine if there is any under reporting of subscribers by cable operators. When all deals between MSO/ Cable Operators and Broadcasters are based on mutual negotiations, we can not name it as 'Under Reporting'?

We feel TRAI has based their opinion on what the Pay Broadcasters have projected. If it be so, we wish to submit that there is no basis for the viewer-ship of a channel. It is not possible to measure this in the scenario where all channels are bundled and there is no addressability in the non-CAS areas.

TAM reports which are generally used as a basis for the viewership ratings of the TV channels are themselves under the scanner and Government wants to replace it with a better system.

TRAI should verify the claims of 'pay broadcasters' in determining each channel's viewership. Only in the addressable market where consumers have an a-la-carte choice, we can determine the subscription revenue of an individual channel.

TRAI should also take in to account the number of subscribers who only watch FTA channels? There may be millions of them. It may be noted that broadcasters like to count the total C&S Homes as pay TV homes which are reflected in the projections of organizations like the MPA or CASBAA which are broadcaster supported organizations and meant to be international market. TRAI needs to appreciate the actual position on ground and finalise their findings.

There is also a need to take in to account the number of black and white TV sets or old colour TV sets in India which receive only 11-30 channels out of the 500 odd channels available in the country? Five Doordarshan channels are mandatory to carry by all Cable Operators which leaves only 6 private channels for these subscribers. A similar argument applies for old colour TV set that can receive not more than 30 channels.

Considering all the above, under reporting of the analog subscriber base is a false allegation in the absence of addressability in India.

(ii) Lack of transparency in business and transaction models

Ans. Yes - Transparency can only come through addressable mechanism. As far as, Free to Air is concerned, the requirement of transparency is only to the Statutory Authorities which should be complied with. If statutory payments are getting under reported, it is because the LCOs fear that the same would be used by the pay broadcasters to extract more money from them.

(iii) Differential pricing at Retail level.

Comments: Yes- Paying capacity of various segments of Society are different. A high end subscriber would want all the premium movies / sports channels and will be willing to pay for them which would not be the case for a subscriber living in a labour colony.

In case of cable operators, who try to provide all popular channels to all their subscribers, they charge a differential pricing at the retail level without the content being different to accommodate different types of subscribers. Moreover, as the operators belong to those areas, it is difficult for them to ask the same price from a consumer having a large 42 inch LCD TV and another having a black and white TV having a limited channel reception.

Pricing of cable TV service, thus depends on:-

- Consumer Choice.
- Affordability
- Language of the region
- Type of TV set owned

(iv) Incidents of carriage and placement fee

Comments: Carriage and placement fee is not a universal phenomenon and is limited to certain markets catered by TAM only, which is a fraction of the total market. Broadcasters pay this fee to increase their ad revenue. This phenomenon is relatively new after the number of channels increased to more than 200. There is no need to regulate this practice as long as there is no cap on the price of pay channels. Many times even if the channel is not popular in a region, broadcasters pay the carriage fee to make the channel visible in an area so that they can show the same to the ad agencies to prove they are seen everywhere.

(v) Incidents of States and Region based monopolies

Comments: First of all as already accepted by TRAI, cable TV operation demands natural monopoly. This is also part of the process of consolidation. But in India monopolies are existing mostly due to the lackadaisical approach of the government in implementing cross media and other regulations.

Pay broadcasters create monopolies through their agents, distributors/MSOs owned by them so that they can create greater visibility for their channels and block the channels of their rivals from a particular area.

Many broadcasters and MSOs have strong political connections and they force monopolies all over the state exploiting small cable operators too. In many cases in connivance with the state authorities the franchisee operators have been barred or discouraged from registering themselves in the post offices so that they can be thrown out of their business any time.

(vi) Frequent dispute and lack of collaboration among stakeholders

Comments: Main causes of disputes in this business are due to the following:-

- 1) Unreasonable terms imposed by pay broadcasters on service providers leading to disputes.
- 2) Regulations /legislations have failed to protect business interest of stakeholders and investments done in the business are not safe leading to disputes.
- 3) Vertical integration in the business are encouraged by a weak regulatory system which does not allow collaboration among stakeholders as stakeholders mistrust each other.
- 4) Unlike Telecom which is 100% addressable, this pay channel business is not migrating to addressability.
- 5) Government does not plan for a long term solution and instead, resort to crisis management or is more dependent on the feedback from people with vested interests. We fail to appreciate the ground realities and go by the western rules. Otherwise what is the logic in allowing CAS on DTH all across the country and not on cable? Why should we introduce HITS with CAS in non-CAS areas in the name of Digitising the cable networks when we have no regulations to support migration of last mile networks to digital and CAS? Even today a digital network in non-CAS areas is not given pay channels on CAS area rates.

Issue 9: Are these issues adversely impacting efficiency in the market and leading to market failure?

Comments: Yes – Despite being a large market available and a constant revenue stream in sight, very few investors have come forward into this business, those who have done so are either vertically integrated or have invested to protect their broadcasting business.

These issues definitely impact efficiency in the market but the market failure is still far away. The market is becoming broadcaster dominated as the government regulations are unable to pin them down on their wrong doings. Not only this, government is convinced to help them grow without realizing the long term impact of their action.

For the market to become more efficient, all stake holders including Broadcasters, MSOs and LCOs would have been put on a growth path. Cable operators have the infrastructure which can not be replaced by any other stake holder. MSOs are the content aggregators and master distributors and the broadcasters are the content providers. Whereas we permitted newer platforms for broadcasters like DTH and IPTV, we neglected the cable infrastructure and let this platform become more inefficient in trying to push the other platforms in the name of competition. Our first attention would have been on improving the cable TV infrastructure so that after the launch of newer platforms, we would have a level playing field. Only then we can expect an effective competition.

We should not forget that it were the Broadcasters who introduced the DTH platform to sideline the cable operators. Broadcasters are not only getting growth from DTH and IPTV part of which is cable subscribers shifting to these platforms, at the same time they have been allowed to demand revenue growth from MSOs / LCOs despite both of them losing subscriber base continuously. Thus where the broadcasters are gaining, MSO/LCOs are losing revenue and unable to meet the expectations of the consumers in quality and service.

Government is not taking steps to either implement CAS or digitalization plan which is leading to losses to MSO/LCO and with no new investment coming, efficiency is getting eroded and may lead to market failure for cable if not addressed immediately.

Issue 10. Which of the following methodology should be followed to regulate the wholesale tariff in the non –CAS areas and why?

i) Revenue Share.

Comments: There is no scope of revenue share in non-addressable regime.

ii) Retail minus.

Comments: Not possible in a non-addressable regime where the base is negotiated.

iii) Cost plus.

Comments: Not Possible in a non-addressable regime. Since there is no control on the costs of channels, arbitrary rates exist in the market which can not be accepted by the consumers.

iv) Any other method approach you would like to suggest.

Comments: The methodology adopted by TRAI in the past for non CAS areas was **to freeze the tariff with a regulated growth along with a-la-carte choice given to MSOs** so that they are in a position to negotiate and settle till the time we are able to implement addressability. In the present circumstances this is the best approach, since, the prices given were broadcaster's prices and the same was frozen and the same was subject to a-la-carte choice being given, Broadcasters could not complain.

Broadcasters can only protest against the a-la-carte regime which would break their monopoly on negotiation strength and the arm twisting technique they adopt to force MSO/LCOs into signing lump sum huge amounts in the name of bouquets but **the MSOs/LCOs would be able to choose the most wanted channels in their areas and give it to their subscribers at affordable rates without paying hefty sum for bundled unwanted channels.**

Where ever the MSOs/ LCOs install digital headends and CAS in the non-CAS areas, they should be regulated by the CAS area tariff orders and other regulations. Only in the case of a new CAS and SMS, there should be a need to get it certified from BECIL or any other agency. Broadcasters must give the channels at the CAS area rates.

Issue 11: If the revenue share model is used to regulate the wholesale tariff, what should be the prescribed share of each stakeholder? Please provide supporting data?

Comments: It should be MSOs 35%, LCOs 35%, broadcasters 30%. The same ratio would be applicable since it is the MSO who bears the cost of upgradation, headend maintenance, digitalization etc.

LCOs have to upgrade and maintain the last mile infrastructure which is most important to provide the laid down QoS. This has been the weakest point in the progress so far because government is concentrating their efforts in helping the broadcaster reach the masses without improving the last mile networks who have to carry the content and service the subscribers 24x7.

They also have to compete with the other platforms like DTH and IPTV in price, quantity and quality to remain in service.

They need extra staff to collect subscriptions and pay channel revenue on behalf of the Broadcasters and MSOs.

They also face the wrath of subscribers for any undesirable content of the broadcasters.

Regulations have put a cap even on the operational expenses of these networks to a mere Rs 77 since 2003 where as on the average, an LCO needs atleast Rs 180 for the basic package per subscriber.

Also As far as broadcasters are concerned, they recover their cost not only by subscription but by advertisement also and they collect revenue from all across India and abroad from the same content. They also have devised many other ways to earn money like SMS, programme sponsorships, merchandising, paid news and programmes, promotional programmes etc.

Issue 12: If the cost plus model is used to regulate the wholesale tariff, should it be genre wise or channel wise?

Comments: If the cost plus model is used, it should be channel wise. In any case, broadcasters have not given their entire cost and earnings hence, it should be channel wise.

Issue 13: Can forbearance be an option to regulate wholesale tariff? If yes, how to ensure that (i) broadcasters do not increase the price of popular channels arbitrarily and (ii) the consumers do not have to pay a higher price.

Comments: No, forbearance can not be an option in our kind of environment and subscription tariffs needs to be regulated till the time addressability is established and market is mature enough both for competition and forbearance. **In the absence of addressability, a-la-carte at wholesale is a must.**

Issue 14: What is your view on the proposal that the broadcasters recover the content cost from the advertisement revenue and carriage cost from subscription revenue ? If the broadcaster is to receive both, advertisement and subscription revenue, what according to you should be the ratio between the two? Please indicate this ratio at the genre levels ?

Comments: In the non-CAS areas broadcasters are not sharing their revenue with the cable operators. This is done only in the CAS areas. There is no sure-shot way to ensure that the subscription revenue is utilized for carriage and ad revenue to recover the content cost. Neither can we fix their ratios as these depend on the business model of a company which can not be enforced. Also, broadcasters have many other ways to earn money like SMS, programme sponsorships, merchandising, paid news and programmes, promotional programmes, political propaganda etc. which have not been accounted for.

In mature markets, pay channels have a limitation on the advertisement they can carry for the fact that the subscribers do not pay for the advertisements. The same right is protected by the regulations. **But this is possible only in the addressable market where the pay channels get revenue based on the actual number of viewers of the channel. Subscriber's power to choose what he wants is very essential.**

Issue 15: What is your view on continuing with the existing system of tariff regulation based on freezing of a-la-carte and bouquet rates as on 1.12.2007; and the rate of new channels based on the similarity principle at wholesale level? You may also suggest modifications, if any, including the periodicity and basis of increase in tariff ceilings.

Comments: The existing freeze can continue and new channels should be allowed based on similarity principle at wholesale level, however, **new channels should not be allowed to form new bouquets or allowed to join existing bouquets** which would be mockery of freeze orders at retail/ wholesale level otherwise broadcasters would use the same to maximize revenues irrespective of the content, quality and cost. **All new channels should be permitted only on a-la-carte basis at the wholesale level. They must get approval of their rates from TRAI before introducing in the market**

Issue 16: Which of the following methodologies should be followed to regulate the retail tariff in non-CAS areas and why?

i) Cost Plus

Comments: Not possible as most of the cost data can be inflated or manipulated. Also no broadcaster advertise their MRP rates for the public. Broadcasters also pay heavy kickbacks to acquire the rights of major events including cricket to increase their ad rates many times and then make this an excuse to increase their rates for the subscribers too. It is the LCO who is accused by the subscribers of fleecing and cheating. Also the MSOs who are distributors of pay channels or are partly owned by the broadcasters get preferential treatment leads to discrimination and disputes.

ii) Consultative approach

Comments: Consultative approach has been tried but has not yielded positive results due to differences between the stakeholders.

iii) Affordability linked

Comments: Affordability linked approach has been tried and is successful as far as tariff to the subscriber is concerned by LCOs. Since in any case it is a common consumer who will suffer in non addressable regime if affordability linked approach is done away with. In non-addressable market, this combined with the regulatory caps can only be a viable solution. It is the broadcasters who must decide whether they want to market in a non-addressable market or not. Now government has already given them many addressable platforms to distribute their content like DTH, IPTV, Mobile TV and Broadband. These platforms already serve about 25 million subscribers.

iv) Any other method/approach you would like to suggest

Comments: We are agreeable to the approach and method adopted by TRAI in the first exercise done when this tariff order was formulated which was with consensus of all stakeholders and after much due diligence. **It was based on the existing rates and affordability.** It is the broadcasters who are aggrieved by this since in the new dispensation all stakeholders will have equal negotiating power and their dominance to some extent will get diluted.

Most important thing is that since the non-CAS markets have given the broadcasters such phenomenal reach, they must pay them back now to provide affordable rates that fit in to the present cap fixed by TRAI. They can increase their rates to any extent in the addressable markets.

Issue 17: In case the affordability linked approach is to be used for retail tariff then should the tariff ceilings be prescribed (i) single at national level or (ii) different ceilings at State level or (iii) A tiered ceiling (3 tiers) as discussed in paragraph 5.3.23 or (iv) Any other.

Comments: A tiered ceiling which is (3 tiers) as discussed in paragraph 5.3.23 is the correct approach for subscribers and the same should be allowed.

Issue 18: In case of retail tariff ceiling, should a ratio between pay and FTA channels or a minimum number of FTA/pay channels be prescribed? If so, what should be the ratio/number?

Comments: It should be defined since otherwise broadcasters use their monopoly and four to five major bouquets together can effectively drive other FTA channels out of the spectrum. The ratio of pay channels vs FTA in Analog should be in equilibrium of permitted free to air channels vs. permitted pay channels. We have today 450 channels out of which around 120 channels are pay and 335 channels are Free to Air, which is in the ratio of 1:3. All these 120 pay channels are in three to four bouquets whereas the channel carrying capacity on all analog networks is not more than 80. By virtue of their dominant position and their agreements, pay broadcasters occupy all analog frequencies and make scarce frequencies to Free to Air channels.

To keep the ratio of available Free to Air and pay channels in harmony wherein Free to Air does not have to pay exorbitant carriage fee, there should be a cap on pay channels in the same ratio as they are permitted to downlink, i.e. to say that in analog not more than 20 pay channels be permitted thus allowing Free to Air channels more space and less carriage burden.

Issue 19: Should the broadcasters be mandated to offer their channels on a-la-carte basis to MSOs/LCOs? If yes, should the existing system continue or should there be any modification to the existing condition associated with it?

Comments: Yes, broadcasters be mandated to offer their channels on a-la-carte basis to MSOs/LCOs. There should be a maximum ceiling of single a-la-carte channel which should not be more than Rs.5/- if the ceilings for LCOs to subscriber is to be maintained effectively. As explained above, allowing 20 pay channels in an analog network, maximum cost of pay channels will workout to Rs. 100/- making the total subscription to Rs 177 plus taxes which is well within the affordable rate for the subscribers.

Issue 20 :How can it be ensured that the benefit of a-la-carte provisioning is passed on the subscribers?

Comments: Since there is a ceiling on LCO to subscriber, benefit of a-la-carte provisioning stands automatically transferred to consumers and as addressability through digitalization penetrates further, the same benefit will further accrue.

Issue 21:Are the MSOs opting for a-la-carte after it was mandated for the broadcasters to offer their channels on a-la-carte basis by the 8th tariff amendment order dated 4.10.2007. If not, why?

Comments: MSOs and Independent Operators are opting for a-la-carte choice but broadcasters are refusing to pass on the benefits and are not agreeable on subscriber numbers. If existing MSOs who have earlier subscribed to bouquets approach the broadcasters, they demand the same revenue for a-la-carte also irrespective of the number of channels chosen. In other words, denying the benefit of a-la-carte to stakeholders.

As far as new service providers are concerned, broadcasters do not encourage competition in the areas where they have created monopolies and deny new entrants services which would be abundantly clear from the type of petitions filed in TDSAT and complaints received by TRAI. The question of giving them a-la-carte choice by broadcasters is far from reality.

It doesn't even happen in the case of MSOs who have digitized their networks and implemented CAS in the non-CAS areas. This is the major cause of failure of voluntary CAS and digitization. MSOs are forced to go to BECIL for a certificate who in turn charge Rs. 5 Lakh and more for the certification and still the broadcasters do not bother.

Issue 22: Should the carriage and placement fee be regulated? If yes, how should it be regulated?

Comments: No, it can not and should not be regulated as it is not a universal practice and LCOs do not get any benefit from this.

Issue 23: Should the quantum of carriage and placement fee be linked to some parameters? If so, what are these parameters and how can they be linked?

Comments: No, it can not be linked to any parameters as it is restricted to certain areas only, where TAM meters are installed and is not the universal phenomenon and is actually matter of demand and supply.

Issue 24: Can a cap be placed on the quantum of carriage and placement fee? If so, how should the cap be fixed?

Comments: If there is no cap on the amount of advertisement broadcaster can collect then there should not be any cap on carriage and placement fee. As suggested earlier, if there is a cap on number of pay channels that can be carried on analog then carriage fee paid by the free to air broadcasters will automatically stands corrected.

Issue 25.: Is there a need for a separate definition of commercial subscriber in the tariff order?

Comments: As far as Non Star category hotels and other commercial establishments are concerned the price of pay channels is same, there should not be any distinction or definition for such commercial subscribers. By keeping them separate under a definition it gives broadcaster a tool once again to extract more revenue from service provider under a different head. All are aware that such customers can not own a head-end and are dependent on cable operator service. They should be treated at par with other subscribers.

As far as Star hotels are concerned, they can continue under commercial subscriber category.

Issue 26: If the commercial subscriber is to be defined in the tariff order, then does the existing definition of “Commercial subscriber” need to be revised? If yes, then what should be the new definition for the commercial subscriber?

Comments: Commercial subscriber definition should be only for Five star or more than 50 rooms hotel and should not be for small establishments or Non star category hotels.

Issue 27: In case the commercial subscriber is defined separately, then does the present categorization of identified commercial subscribers, who are not treated at par with the ordinary subscriber for tariff dispensation need to be revised? If yes, how should it be revised?

Comments: We do not think that it should be defined separately.

Issue 28: Should the cable television tariff for these identified commercial subscribers be regulated? If yes, then what is your suggestion for fixing the tariff?

Comments: For Five Star hotels, the tariff should not be more than two times the normal subscriber tariff. The content is same, the delivery is same and the subscriber is same, for example, if the subscriber who at his own home is watching a serial goes to another town and for the sake of continuity wants to see the same in his hotel room, he should not be penalized five to six times as in the present case being done.

Issue 29: Do you agree that complete digitalization with addressability (a box in every household) is the way forward?

Comments: In our view, for Cable TV to survive complete digitalization with addressability is a must but it can not be implemented in one go. It has to be done in phases. In the semi urban and rural areas where the demand for premium content is low, analog networks will continue to serve effectively for many more years. Proper regulations will force the broadcasters to formulate a strategy of turning pay or free to air in the non-CAS areas. If majority of broadcasters turn free to air then analog would be a reality for times to come but if all broadcasters turn pay then complete digitalization would be a way forward.

Also there is a need to work the process of digitization considering the cable TV infrastructure as the broadband infrastructure of the country with a view to integrate it with the national NGN networks providing triple play to the masses.

Issue 30: What according to you would be an appropriate date for analog switch off? Please also give the key milestones with time lines.

Comments: In a poor country like India, where more than 30% population lives below poverty line, analog switch off would be difficult to achieve in short time. In fact in smaller towns analog transmission is only for 30-40 channel and we still have to cover lot of distance before we achieve complete digitalization. TRAI has already done lot of deliberations on the issue and recommended to the government the digitization of the 55 cities having more than a million population. Even a committee in the PMO on this issue had given their recommendations in 2005 to achieve complete digitization by 2012. Sad that no action has been taken to implement the decision either by the PMO or the Ministry.

The main point is to start the process giving a five years time and then monitor the progress and review it after three years to assess extension of the time if needed. The process should go on phase wise as recommended by TRAI to the ministry earlier.

Issue 31: What is the order of investment required for achieving digitization with addressability, at various stakeholder levels (MSOs, LCOs, and Customers)?

Comments: This is purely a business decision by the operators as there are many variations in price of equipment depending on quality and features. Providing figures for the purpose is not the right way as was done by TRAI while recommending HITS technology for the purpose. In

spite of that HITS has not succeeded. Hence it is the regulatory support to the operators which will encourage them to go for digitization once they know that there is a wide scope for growth in the business. At present this does not exist as explain in the above paras. Instead the present state of inaction by the government has made operators feel insecure and invest more. A live example of CAS implementation after the regulation was cleared by the Parliament in 2003 is already in front of us. Set top boxes worth 800 crores were imported and lying in the ware houses till the Court had to order a limited CAS implementation in the Metros.

Government has to also ensure that the equipment, services and infrastructure are made available within the country soon so that expenditures can be reduced. All these things can happen only once strong regulatory support is provided to the business like the government is doing for telecom services where tax soaps, waiver of duties, subsidies from USO fund are the norm to encourage progress.

Issue 32: Is there a need to prescribe the technology/standards for digitization, if so, what should be the standard and why?

Comments: There is a need to prescribe standards for digitalization. Already standards for the set top boxes and services exist as per BIS standards. We will also have to address issues like open architecture, commercial inter-operability, technical inter-operability etc. to ensure the problems like MPEG 2 to MPEG 4 migration etc. do not exist.

Issue 33: What could be the possible incentives that can be offered to various stakeholders to implement digitization with addressability in the shortest possible time or make a sustainable transition?

Comments:

- (a) The first incentive would be to implement the tariff order for a-la-carte and make a provision for addressable digitalization by giving concessions in tariff to the stakeholders who migrate from analog to addressable systems.
- (b) Create manufacturing facilities for set top boxes and digital headends.
- (c) Till the manufacturing facilities come up, exempt the Headend equipment from custom duties like it has been done for the telecom sector.
- (d) Distribution equipment used in HFC networks and other related equipment including fiberoptic cables etc. should be exempt from duties.
- (e) All digital networks should be exempt from service Tax and entertainment Tax for five years.
- (f) Digitalisation in semi-urban and rural areas should be subsidized from the USO Fund.
- (g) Financial Institutes should be directed to provide financial assistance to the operators migrating to digital networks.

Issue 34: What is your view on the structure of license where MSOs are licensed and LCOs are franchises or agents of MSOs?

Comments: The license conditions should be such where if MSOs are licensees then LCOs should be agents of MSOs with proper revenue share and accountability wherein both prosper and grow. We should ensure that MSOs do not exploit the LCOs and force them to sell their networks.

Surprisingly, TRAI has recommended all service providers including DTH (using MDUs and HITS on Ku-Band), HITS Operators MSOs to have their own last mile connections. If these operators are permitted their own last mile networks, why should they use the LCOs to reach the subscribers. They may use them initially to set-up their business and then usurp them slowly with their arm twisting tactics and rate wars like the broadcasters did by using DTH platform and making certain MSOs their partners / agents. This can never be an effective competition and will always lead to disputes and mistrust. This is also the main reason why the industry does not function harmoniously.

If the government or the regulator feels that at one time all LCOs will disappear, it will not happen in the near future. LCOs started the business for their livelihood to support their families and so will resist till the end if some one tried to snatch away their business. The best solution is to give them the regulatory security so that they make their business grow and consolidate their networks with the help of the MSOs or Broadband operators. LCOs are performing very important function in the whole chain, that of laying the last mile, maintaining it 24x7, keeping liaison with the subscribers, teaching the subscribers about the new technologies and use of gadgets like STBs and DVRs and most important, collecting revenue on behalf of all stake holders.

Issue 35: What would be the best disclosure scheme that can ensure transparency at all levels?

Comments: For transparency in transactions, migration of subscriber from one player to another from one platform to another and from one channel to another channel can only be achieved and disclosed if there is a addressability. We need to move forward to regime where subscribers disclose their choice between pay and free to air channels. Channels disclose their choice between free to air and pay mode and a-la-carte to bouquet mode and the MSOs choose the channels of their consumer's choice and offer them at reasonable prices.

Issue 36: Should there be a 'basic service' (group of channels) available to all subscribers? What should constitute the 'basic service' that is available to all subscribers?

Comments: As already said, free to air channels with a limited number of pay channels should form basic service at a fixed cost as per the availability of spectrum in analog. Additional choice can be met through by addressable digitalization at reasonable prices controlled by tariff order initially and forbearance when market is mature enough. Best person to decide the package for basic service is the cable operator dealing with the subscribers. It should be left to him as he can decide what his subscribers would like to watch considering their language, culture, education level and status.

Issue 37: Do you think there is a need for a communication programme to educate LCOs and customers on digitization and addressability to ensure effective participation? If so, what do you suggest?

Comments: Yes there is a need to do so. An all India effort along with all stakeholders i.e. LCO/MSO/Broadcaster/TRAI/Ministry of I&B and Ministry of Consumer Affairs be taken into confidence on the benefits of digitalization and addressability both for QOS /transparency and choice to consumers and a mass communication drive be sustained at least for two years to achieve the same. Also, Doordarshan Engineers and AIR personnel posted in various transmitting stations can be utilized to educate the LCOs in the semi urban and rural areas. We should also introduce education in subjects of broadcasting, broadband and cable television in the ITIs and other government funded technical institutes.

Issue 38: Stakeholders are free to raise any other issue that they feel is relevant to the consultation and give their comments thereon.

Comments: Some of the suggestions have been given in the beginning of these comments. Basically our industry is marred by:-

1. Ineffective competition.
2. No addressability
3. At retail level it is not platform agnostic.
4. Ineffective Monitoring Mechanism and implementation of the Cable TV Act by Class A officers.
5. Lack of education of consumers regarding the technologies and their rights to choose the content of their choice.

Regulations must encourage growth of the industry which can come only through consolidation of Cable Networks and sustainable revenue generation. Cable networks must be considered broadband infrastructure to reap full benefit from them. Digitalisation in isolation will not make much difference. The whole chain has to be in sync.

TRAI has failed to bring the broadcasters into a regulated tariff regime where as Cable Networks were tied up with a basic tariff of Rs 72 which was accepted as a short term solution to get the regulatory process rolling in 2003. Pay channels costs have doubled since then but these Rs 72 have become only Rs 77 in these seven years. A tariff regime to solve these anomalies is very essential otherwise uncertainty and mistrust will never leave this industry.

Yours Truly,

Roop Sharma

