

**Response of Dish TV India Limited to -**

**THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES (FOURTH) (ADDRESSABLE SYSTEMS) TARIFF (SECOND AMENDMENT) ORDER.**

Submitted by

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**Response by Dish TV India Limited to the Draft Amendment in the Regulations/Tariff Order Prescribing the rates at which the Ala Carte Channels shall be made available in the Digital Addressable Cable TV Systems (DAS) including in the Direct to Home (DTH) services**

**Response to the proposed Clause 6 (b) (1) – Fixation of ala carte rates of Standard Definition Channels**

1. Dish TV, most respectfully, submits that the Draft Tariff Order issued by TRAI on 04.06.13 does not *inter alia* seem to meet the consumer interest. The Tariff Order, if put in place in the manner and form proposed and prescribed by TRAI, shall force the operators to increase the price of the bouquets being offered to the consumers thereby making the said Tariff Order anti consumer. It is most respectfully submitted that the regulations / tariff orders to be prescribed by the TRAI has to secure the interest of the consumers as well as the stake holders.
2. It is stated that the retail pricing on DTH platform has been on forbearance since the DTH industry has always been a highly competitive industry and the market has forced all the DTH operators to continue providing the services on competitive terms. It is a matter of fact that unlike cable where the consumers do not have a choice of an alternative cable service provider for availing the cable services, DTH has been providing the consumer with choice(s) at an affordable price and also the option to choose between the six DTH operators. Further, the movement of the subscribers from one DTH operator to other alternate DTH operator is also facilitated under the Commercial Interoperability provided for by the TRAI. It is also an established fact that the DTH operators have been providing much better service and mix of channels at an affordable pricing to the consumers. The said situation of a highly competitive industry is prevalent even today. However the way the proposed Tariff Order has been structured for airing at ala-carte rate ceiling, it would force the DTH operator(s) to revise/increase the rates of their bouquet(s) to the detriment of consumers.

3. In this regard, it is important to note that the Draft Tariff Order aims at prescribing the concept of “ascribed value” of a channel. To arrive at the ascribed value of the channel, the manner of calculation/formulae so prescribed does not consider the input price of the channel, i.e., the whole sale ala carte of the channel declared by the Broadcaster but provides for using the retail rate prescribed by the Operator. The said value is to be arrived at by considering the rate of the channels in the bouquet being offered by the DTH operator, the number of FTA Channels in the pack and the rate at which the pack is made available by the DTH operator to the subscribers.
4. If the DTH operators are made to arrive at the ascribed value of a particular channel and offer the same to the subscribers, the ala carte rate of such channel shall be different on each of the DTH platform since the ascribed value of the channel is dependent on the number of FTA Channels in the pack and the rate of the pack offered by the DTH operator. Thus, a particular channel will have different ascribed value on a single DTH platform as well as there will be multiple ascribed value(s) of the same channel across different operators. A tariff order of TRAI which provides for differential rates of a channel across various operators would only create anomalies in the market, thereby negating the very purpose sought to be achieved through the said proposed tariff order/regulation.
5. At this juncture, we would like to state that the current DTH market is highly competitive with each of the DTH operator providing the channels in bouquet(s) and ala carte where the bouquet price for Standard Definition Channels range between Rs. 200 per month to Rs. 400 per month. The table given below illustrates the rates at which the bouquets / packs are being offered by the DTH operator. The information given below clearly presents a picture of highly competitive DTH market wherein it is not easy for a DTH operator to increase the price of its bouquet / packs. However, as pointed out hereinabove, the proposed Tariff Order would force the DTH operators to increase the price of the bouquet so as to be able to provide the channel on such ala carte rate as is commercially feasible/viable for the DTH operator. The increase in the DTH pack price will not be in the interest of the

consumer as well as not being in the interest of the DTH platforms since would encourage the migration of the customers from DTH to cable.

Given below is an illustrative table of the rates at which the Packs are being generally offered by the DTH operators currently. The below table is a clear and complete indication of an effective and intense competition in the DTH market which is the most beneficial situation for the customer:

Dishtv	Tata Sky	Airtel Digital TV	Videocon	Reliance Digital TV
Super Family 220	Dhamaal Mix Pack 220	Value Sports 220	Super Gold 220	Bronze Pack 220
Super Gold 280	Supreme Sports Kids 300	Economy Sports 300	New Gold Sports 285	Silver Sports 285
Super World 320	Metro pack 320	Mega 350	New Diamond 340	Gold Pack 335
Super Platinum 400	Grand Sports 410	Ultra 430	Platinum 395	Platinum 402

6. We would also like to bring to the attention of the authority that DTH service operators procure channels from the broadcaster(s) in two manner

- a. Fixed fee basis which is generally arrived on the basis of the Cost per sub (CPS) multiplied by the total no of subscriber and where there is an understanding between the broadcaster and DTH Operator where the DTH operator pays a fixed amount per annum and in lieu of which broadcasters seeks and is provided favorable placements in all the packages offered by DTH operator. In such cases where the DTH operator has entered into a CPS deal and in case the DTH service provider provides the channel on ala carter basis then the DTH service provider has to pay for the full price of the bundle brought from the broadcasters. For example if Dish TV has a deal with broadcaster A to on INR 15 per sub per month for its 10 channels , then Dish

TV reports to the broadcaster the average no of subscribers in its monthly report and pay for that many subscriber. Now if Dish TV sells the sells the channels of Broadcaster A on ala carte basis also then even if the sub chooses to have one channel of the bouquet then too Dish TV will have to pay for full the bouquet which is INR 15 in this case irrespective of the fact that subscriber choose to have one channel. This will put additional burden on the service provider , we will also like to mention here that currently the interconnect regulations do not provide such provisions that from the same content provider the channel is taken on ala carte basis and bouquet basis simultaneously

b. RIO rates as published by the broadcasters.

As stated above, if the deal is on the CPS and the operator sells the channel on ala carte basis then also the operator has to pay for the whole bouquet even if the consumer has taken one channel, which is as per the Interconnection regulation of the authority. Hence the interconnection regulations will have to be amended to include such provisions.

In case of the ala carte deal of the channels between the broadcaster and the DTH platform, if the DTH platforms are forced to package the channel in a particular package due to market considerations then it is going to a situation where the derived a la carte rate basis ascribed value of the channel will be lower than the rate at which the platform buys the channel from the broadcaster.

7. It is also submitted that the concept of determining the “ascribed value” for the purpose of finalizing the ala carte rate of the channel by using the retail rate of the DTH operator and not the input rate, i.e., the whole sale rate declared by the Broadcaster has two additional anomalies:

(a) **Circular Reference:** As stated above, the draft Regulation under consultation prescribes for using the retail rate of the DTH operator and not the input rate,

i.e., the whole sale rate declared by the Broadcaster for determining the ascribed rate. Thereafter, the operator is to charge the lower of 3 times of the Ascribed Value of the channel and 2 times of the Whole sale ala carte rate of the channel. In most of the cases, 3 times of the Ascribed Value of the channel shall be lower than 2 times of the Whole sale ala carte rate of the channel and hence the DTH operator shall be bound to fix the same as the ala carte rate of the channel. Accordingly, the said rate shall need to be declared by the DTH operator as the ala carte of the channel. However, as soon as this becomes the ala carte rate, sum of the ala carte rate of the pay channels will change and accordingly, the ascribed value will again change. This process will continue till the rate of the ala carte channels becomes zero. This is an inherent anomaly in the prescribed formula. An example of the same is given hereunder for further clarification:

**EXAMPLE:**

Rate of the Bouquet	:	100
Number of FTA Channels	:	70
Number of Pay Channels	:	30
Sum of Ala Carte rate of pay channels	:	450
Whole sale ala carte rate of the channel	:	6
Ala carte rate of Channel "X"	:	15

Using the formula prescribed in the draft regulation, the Ascribed value of Channel "X" will be Rs. 2.88 and hence the ala carte rate will be finalized at Rs. 8.64. Accordingly, the DTH operator will have to fix the ala carte rate of the channel at Rs. 8.64. It is to be noted that as soon as the ala carte rate of the channel is reduced from Rs. 15 (current retail ala carte rate) to Rs. 8.64 (rate derived from the formula), the sum of the ala carte rate will get changed and hence the calculation will again need to be done. Such a situation would not arise in case the DTH operator is required to fix the rate of ala carte channel as a rate not exceeding twice the whole sale rate of the channel prescribed by the Broadcaster.

**(b) Multiple ala carte rates within the platform and across the platform and continuous changes** It is a common knowledge that unlike the bouquets made by the Broadcaster, the Bouquets formed by the DTH operators undergo regular changes due to various reasons like addition / removal of the channel(s), change in composition of bouquet due to market demand, change in composition of bouquet due to competitive scenario etc. In case a DTH operator is made to finalize the rate of the channel on the basis of ascribed value derived from the retail ala carte rate, each change in the bouquet, no matter how small the change be (even to the extent of removal of one FTA Channel), the ascribed value of the channels comprised in the bouquet will change and the DTH operator will have to provide a revised rate. In addition to the same being an operational nightmare, it will also create confusions and unrest in the minds of the consumers. As mentioned earlier that the whole concept of trying to bring in the transparency and uniformity in the ala carte rates will not be achieved as there will be multiple ala carte rates within the platforms as there will be multiple bouquet prevalent on a platform and then it will vary across the DTH service providers and cable operators. However, if the retail rate is linked to the whole sale rate declared by the Broadcaster, no change would need to be done in the retail rates of the channels and this would bring consistency in the entire process of provisioning of ala carte channels to the subscribers.

### **Suggestion**

**In view of the above submissions , we would request that the condition regarding fixation of the price on the basis of derived ascribed value of the Channel be removed from the Tariff Order as the same is impracticable and full of anomalies and in order to take care of the perverse pricing at the retail level, the ala carte rate at which the channels are to be made available by the DTH operator may be fixed at – *“the a-la-carte rate of a pay channel forming part of a bouquet shall not exceed two times the a-la carte rate of the channel offered by the broadcaster at wholesale rates for addressable systems.”***

This will ensure that

- a) Consumer will get ala carte rates of the channels transparently across the platforms and can then take an informed decision as to what to subscribe to and what not to.
- b) The channels also will be clear how the billing for these alacarte customers will happen
- c) There would be uniformity in the pricing of the channels
- d) The buying and selling rates in this arrangements will not be disturbed for the ala-carte channels

#### Response to the proposed Clause 6 (e) (5) – Manner of provision of High Definition Channels

The absence of regulations governing the wholesale tariffs for HD channels make negotiations between the access operators and Broadcasters impossible and lead to opportunistic and arbitrary pricing, by abuse of the dominant position by the Broadcasters.

Such unregulated wholesale tariff in a monopolistic market also gives undue advantage to the broadcasters to force the DTH platforms to enter into a fixed fee deal with them.

Accordingly, it is suggested that before the authority prescribes an amendment on the offering of the HD channels on the proposed lines, the forbearance on the HD pricing by the Broadcasters at wholesale level needs to be removed and HD channels should also be brought within the purview of tariff regulations. It may be noted that the HD market has also expanded and the end price to the customer can only be protected when HD pricing at wholesale level is also brought under tariff regulations.

Currently under the forbearance regime, the HD ala carte rates published by the Broadcasters are exorbitant which make the provision of channel on ala carte basis totally non commercially feasible, both for the DTH operator as well as the consumer. For example, the Ala carte price of a HD channel of the ESPN is INR 140 per sub per month and taking the formula of the rate at which the ala carte channel not more than twice the ala carte rate of



the broadcaster, a subscriber will have to shell out around Rs. 300 for a single channel. Such a situation defeats the entire process and purpose of provision of channels on ala carte basis to the subscribers. It is the need of the hour that the forbearance on the rate of the HD Channels is removed.

In view of the above, it is suggested that authority should come out with the tariff regime for the HD channels also at wholesale level. Upon the Tariff Regulations becoming applicable to the HD Channels, the regulation regarding making the same available to the DTH subscriber at a rate not exceeding twice the ala carte rate can be made applicable.