(By Email)

June 06, 2022

Shri Anil Kumar, Advisor (B&CS)
The Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg,
New Delhi - 110002

Sub: Response to Consultation paper on Issues related to New Regulatory Framework for Broadcasting and Cable Services

We, GTPL Hathway Limited ("**GTPL**"), are grateful to The Telecom Authority of India ("**Authority**") for granting us the opportunity to share our comments/response on the Consultation Paper titled "**Issues related to New Regulatory Framework for Broadcasting and Cable Services**" and would further like to thank you for taking up the initiative to address the concerns raised in the said Consultation Paper.

Please find attached our response to the Consultation Paper as Annexure A for your consideration.

Thanking You
Yours Sincerely

Chintan Dixit
Authorised Signatory

ANNEXURE A

COMMENTS TO CONSULTATION PAPER ON ISSUES RELATED TO NEW REGULATORY FRAMEWORK FOR BROADCASTING AND CABLE SERVICES BY GTPL HATHWAY LIMITED

Prologue: As the Authority is aware, the broadcasters derive their revenue from two sources i.e. subscription and advertisement. Unlike the pay broadcasters, who generate revenue through subscription fee paid by the subscribers as well as additional revenues from advertisements, the only source for the FTA broadcasters is advertisement revenue.

Here, we would like to draw your attention to the international markets where the subscribers pay for only premium/advertisement free channels and the advertisement supported channels are free of cost. However, in India, the broadcasters to maximize their advertisement revenues, are compelling subscribers to view commercial advertisements (*which on an average is 20% of the screen time*), despite charging hefty subscription amounts from them. This issue has also been recognized by the Authority as early as 2004, when the Authority issued recommendations titled "*Issues relating to Broadcasting and Distribution of TV channels*", based on the market situation prevalent at that point in time.

Under the old regulatory regime, the argument the broadcasters took to support advertisement-based model, even for their pay channels was attributed to regulated price cap by TRAI. However, under the new regulatory regime, there is no such price cap on a-la-carte rates of channels. Therefore, the broadcasters are free to price their channels as they may deem fit in order to ensure their revenues are secured.

Considering that the pricing under the new regulatory regime is now a broadcaster's prerogative, the so-called logic that may be advanced by the pay broadcasters of subsidizing the channel cost also does not hold water. Accordingly, there is an urgent need to address the aforesaid issue by ensuring that broadcasters are not permitted to display advertisements on any pay channels. This will ensure that the subscribers are also given choice to watch desired content and not forcing them to see unwanted advertisements. This will not only ensure healthy competition between the broadcasters but also shall potentially result in a larger number of channels turning free to air which shall be available to the consumers at lower cost.

Specific responses to the issues raised in the Consultation Paper are detailed below for your perusal:

Q.1. Should TRAI continue to prescribe a ceiling price of a channel for inclusion in a bouquet?

a. If yes, please provide the MRP of a television channel as a ceiling for inclusion in a bouquet. Please provide details of calculations and methodology followed to derive such ceiling price.

b. If no, what strategy should be adopted to ensure the transparency of prices for a consumer and safeguard the interest of consumer from perverse pricing?

Please provide detailed reasoning/ justifications for your comment(s).

The flexibility available to broadcasters to price their channels and on composition of bouquets has been grossly misused by the pay broadcasters. The same has also been acknowledged by the Authority. It is also pertinent to mention that the pay broadcasters still earn significant revenue from advertisements. Accordingly, as its also mentioned in our Prologue, the subscribers are compelled to view advertisements despite paying hefty subscription amounts. Hence, there is a need not only for a price cap for inclusion of channel in a bouquet but also to regulate composition of channels offered in bouquets by the broadcasters as well as advertisement time on pay channels.

In this regard, a price cap for inclusion of a channel in a bouquet is already duly consulted and the Authority has fixed a cap i.e. MRP Rs. 12/-, for inclusion of a channel in a bouquet, under the New Regulatory Framework. We support the said cap of MRP Rs. 12/-, for inclusion of a channel in a bouquet. Here it is also pertinent to mention that popular channels do not require any push by inclusion in a bouquet and will always have uptake despite it being priced above the said price cap of MRP Rs. 12/-. Such channels to be treated as premium/popular channels.

We also state that to ensure that such premium/popular channels are not unnecessarily clubbed with unpopular channels, a price range/band(s) should also be introduced and adhered to for inclusion of channels in a bouquet. Accordingly, we suggest price range/band(s) for inclusion of a channel in a bouquet as is stated in the table below:

Sr. No.	Band(s) for inclusion of a channel in a Bouquet	Lower Range (In Rs)	Upper Range (In Rs)

1	Band 1	0.01	1.00
2	Band 2	1.01	4.00
3	Band 3	4.01	8.00
4	Band 4	9.01	12.00

** Any Channel with MRP above Rs. 12/- to be treated as premium/popular channels should not be permitted to be part of a bouquet.*

Further with respect to regulating advertisement time on pay channels, we state that there should be cap of maximum permissible time for advertisement during a clock hour i.e. 60 minutes ("**Ad-Cap**"), based on the aforesaid price range/band(s). Accordingly, we suggest an Ad-Cap as is stated in the table below:

Sr. No.	**Band(s) for the purpose of Ad-Cap**	**Lower Range (In Rs)**	**Upper Range (In Rs)**	**Ad-Cap per 60 Minutes**
1	Band 1	0.01	1.00	12
2	Band 2	1.00	4.00	9
3	Band 3	4.01	8.00	6
4	Band 4	9.01	12.00	3

**Any Channel with MRP above Rs. 12/- to be treated as premium/popular channels and to mandatorily made ad free*.

Q.2. What steps should be taken to ensure that popular television channels remain accessible to the large segment of viewers. Should there be a ceiling on the MRP of pay channels? Please provide your answer with full justifications/reasons.

In continuation to our response to Q.1., we state that there is no need for any cap on MRP of pay channels since popular channels will attract subscribers irrespective of their MRP. Further, such channels do not require any push by including such channels in a bouquet. Channels with MRP above Rs. 12/- to be treated as premium/popular channels and to be mandatorily made ad free, as suggested in our response to Q.1.. This will also attract more investment in popular channels and enable the subscribers to view high quality content.

We also state that price Band(s) for inclusion of a channel in a bouquet as mentioned in our response to Q.1. should be introduced and strictly adhered to, so that unpopular channels are not pushed to the subscribers along with popular channels and thereby maintain sanctity of both a-la-carte and bouquet offerings.

Q.3. Should there be ceiling on the discount on sum of a-la-carte prices of channels forming part of bouquets while fixing MRP of bouquets by broadcasters? If so, what should be appropriate methodology to work out the permissible ceiling on discount? What should be value of such ceiling? Please provide your comments with justifications.

The need for capping of discount on bouquet(s) is not only extensively consulted but also duly accepted by all the stakeholders in the past. Accordingly, the Authority to establish an effective co-relation between the price of the channels forming part of the bouquet and the overall bouquet price and after due consultation, introduced twin conditions under the New Regulatory Framework.

The first of such condition under the New Regulatory regime states as under:

"*the sum of maximum retail prices per month of the a-la-carte pay channels forming part of a bouquet shall in no case exceed one and half times of the maximum retail price per month of such bouquet*."

The said condition under the New Regulatory Framework thereby effectively capped maximum discount on broadcaster bouquet to 33%. The said provision of maximum 33% cap on discount on broadcaster bouquet along with price range i.e. Band(s) for inclusion of channels in a bouquet along with corresponding Ad-Cap based on such Band(s) as is stated in our response to Q.1, should be introduced and strictly implemented to avoid perverse pricing and composition of bouquets and also to maintain sanctity of a-la-carte offerings. This will further ensure that the subscriber is able to make intelligent choice from amongst a-la-carte and bouquet offerings. Additionally, such provisions will also curb the practice of hefty discounting of broadcaster bouquet(s).

Alternatively, the twin conditions as prescribed under the New Regulatory Framework and as has been the practice in the past may be continued.

Furthermore, on parity basis and in the interest of the subscribers, the maximum discount on DPO packages, who are in a better position to analyse and cater to the subscriber preferences, should also be capped at 33% *(instead of existing 15%)*, so that the DPOs can pass on such benefit to the subscribers.

Q.4. Please provide your comments on following points with justifications and details:

a. Should channel prices in bouquet be homogeneous? If yes, what should be an appropriate criteria for ensuring homogeneity in pricing the channels to be part of same bouquet?

Maintaining the homogeneity of price of the channels in a bouquet under the MRP regime is neither feasible nor practical, since the same will only discourage investment in broadcasting sector.

Accordingly, in continuation to the prologue and our response to Q.1., we reiterate that to ensure that premium/popular channels are not unnecessarily clubbed with unpopular channels, a price range/band(s) should also be introduced and adhered to for inclusion of channels in a bouquet. Accordingly, we have suggested a price range/band(s) for inclusion of a channel in a bouquet and the same is/are reproduced hereinbelow:

Sr. No.	**Band(s) for inclusion of a channel in a Bouquet**	**Lower Range (In Rs)**	**Upper Range (In Rs)**
1	Band 1	0.01	1.00
2	Band 2	1.01	4.00
3	Band 3	4.01	8.00
4	Band 4	9.01	12.00

Further, any channel whose MRP is above Rs. 12/- should not be permitted to be part of a bouquet and mandatorily made ad free.

Furthermore, the aforesaid provisions should be in addition to the Ad-Cap provision based on aforesaid Band(s) as is also stated in our response to Q.1.

b. If no, what measures should be taken to ensure an effective a-la-carte choice which can be made available to consumers without being susceptible to perverse pricing of bouquets?

We reiterate that mandatory advertisement free premium/popular channels *(i.e. with MRP above Rs. 12/-),* Rs. 12/- cap along with price range i.e. Band(s) for inclusion of channels in a bouquet along with corresponding Ad-Cap as is stated in our response to Q.1. and the discount cap of 33% on the bouquets offerings as is stated in our response to Q.3., collectively will not only provide sanctity to both a-la-carte as well as bouquet offerings but also will enable the subscribers to make intelligent choices from the options available for subscription.

c. Should the maximum retail price of an a-la-carte pay channel forming bouquet be capped with reference to average prices of all pay channels forming the same bouquet? If so, what should be the relationship between capped maximum price of an a-la-carte channel forming the bouquet and average price of all the pay channels in that bouquet? Or else, suggest any other methodology by which relationship between the two can be established and consumer choice is not distorted.

In continuation to the prologue and our response to Q.1., we reiterate that to ensure that premium/popular channels are not unnecessarily clubbed with unpopular channels and to maintain sanctity of both a-la-carte as well as bouquet offerings, a price range/band(s) should also be introduced and adhered to for inclusion of channels in a bouquet. Accordingly, we have already suggested a price range/band for inclusion of a channel in a bouquet in our response to Q.1. and the same is not reproduced for the sake of brevity. The aforesaid provisions should be in addition to the Ad-Cap provision based on Band(s) as is stated in our response to Q.1.

Further, we also reiterate that any channel whose MRP is above Rs. 12/- should not be permitted to be part of a bouquet.

Q.5. Should any other condition be prescribed for ensuring that a bouquet contains channels with homogeneous prices? Please provide your comments with justifications.

In continuation to the prologue and our response to 4a., We reiterate that maintaining the homogeneity of price of the channels in a bouquet under the MRP regime is neither feasible nor practical, since the same will only discourage investment in broadcasting and deprives subscribers of quality content.

We further reiterate that mandatory advertisement free premium/popular channels (*i.e. with MRP above Rs. 12/-*), Rs. 12/- cap along with prince range i.e. Band(s) for inclusion of channels in a bouquet along with corresponding Ad-Cap as is stated in our response to Q.1. as well as discount cap of 33% on the bouquets offerings, as is stated in our response to Q.3., collectively will not only provide sanctity to both a-la-carte as well as bouquet offerings but also will enable the subscribers to make intelligent choices from the options available for subscription.

Q.6. Should there be any discount, in addition to distribution fee, on MRP of a-la-carte channels and bouquets of channels to be provided by broadcasters to DPOs? If yes, what should be the amount and terms & conditions for providing such discount? Please provide your comments with justifications.

The Authority is aware that the New Regulatory Framework provides for minimum distribution fee of 20% on the MRP of on a-la-carte as well as bouquet offerings by the pay broadcasters to the DPOs. Additionally, the said framework also provides for offering additional maximum discount of 15%, in such a way that cumulatively the sum of distribution fee and the said discounts does not exceed 35%.

The Authority will agree and acknowledge that the said provision is grossly misused by the broadcasters. The broadcasters have resorted to offering discounts/incentives by inter-alia seeking placement and penetration under their respective Reference Interconnect Offers (RIOs), which are not only anti-regulatory but itself defeats the purpose of the New Regulatory Framework. We therefore suggest that the distribution fee on both a-la-carte as well as bouquet offerings by the broadcasters should be made flat at 35% of MRP, to curb such anti-regulatory activities by the broadcasters. Alternatively, the broadcasters may be permitted to offer discounts on provisions like submission of MSR reports on or before due date, compliance with mandatory audit or any such parameters which are in conformity with the essence of the New Regulatory Framework. Additionally, the Authority should also continuously monitor the RIOs of the broadcasters and ensure that the broadcasters do not provide any discounts/incentives based on placement and penetration, which itself defeats the purpose of the New Regulatory Framework.

Further, we have already stated that on parity, a maximum discount 33% should also be made available to both the broadcasters as well as DPOs, on their bouquet offerings, to enable the subscribers to make intelligent choices from amongst the options available for subscription.

Q.7. Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in present consultation.

1. Discontinuation threshold to be consulted in detail.

The threshold for discontinuation of a channel as prescribed under the New Regulatory Framework needs to be revisited since the grid prescribed under Schedule VIII of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment) Regulations, 2020 is based on decade old 2011 census data that is not only irrelevant but also impractical. Hence, the said threshold needs to be meaningfully consulted with the stakeholders and till such time the implementation of the same must be suspended by the Authority.

2. NCF - Inflation linked hike to be permitted on NCF

NCF is a crucial source of revenue for the DPOs including LCOs. It has already been more than 3 years since the introduction of capping on NCF under the new regulatory regime which came into effect on February 2019, and it is only prudent that existing cap on NCF levels to be reviewed and a suitable inflation linked raise should be permitted. The DPOs have already invested and continuously investing on upgrading their infrastructure and hence a regulated inflation linked hike is more than justified. Accordingly, considering the current inflation levels, we suggest an inflation linked hike of 20% on the existing levels.

Furthermore, we state that NCF cap of Multi TV is not justified since subscribers with multi-TV are affluent subscribers and subsidizing NCF at the cost of the DPOs is only an unjust enrichment of such subscribers. Even otherwise, there is no discount/cap on MRP of channels offered by the broadcasters, on such multi-TV subscribers.

Hence, we suggest that either the said cap on NCF on multi-TV to be removed or at least correspondingly seek cap of 40% on MRP of channels for multi-TV subscribers.

3. Audit requirements under new regulatory regime

The provision for mandatory audit by the DPOs was introduced under the new regulatory regime and even after 3 years since its implementation, till date majority of the DPOs are still not in compliance with the said audit provisions. While major DPOs seem to be soft targets for ensuring such compliance, the other majority of the DPOs go Scott free and are rampantly indulging in piracy. The said fact is already highlighted and within the knowledge of both the broadcasters as well as the Authority.

Various representations have also been made to the broadcasters to initiate action against such non-complaint DPOs. However, the broadcasters have not acted positively by disconnecting their signals on the network of such non-compliant DPOs.

We therefore urge the Authority to urgently address the said issue of discrimination against major DPOs and direct the broadcasters to discontinue providing signals to the DPOs who are not in compliance with the mandatory audit requirements for the calendar years 2019 and/or 2020 and/or 2021.

4. OTT and Free Dish offering pay channels to be brought within regulatory ambit of TRAI.

TRAI has not only witnessed but also acknowledged the growth of Free Dish and OTT as competing platform of regulated DPOs, which as of now are not adequately regulated by TRAI under the existing regulatory framework. It is only apparent that both the said platforms are creating a non-level playing field and thus a need for such platforms to be immediately brought within the regulatory framework of TRAI. The said issue has time and again been raised through several representations and meetings with the Authority by various stakeholders including DTH, MSOs, LCOs and the Authority is aware about the said burning issue. Hence, it is not elaborated in detail again for the sake of brevity.

However, we urge the Authority to urgently intervene and protect the interest of the DPOs who are on the verge of being out of business and the employees of such DPOs who are staring loss of earnings and livelihood.