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To
Shri Anil Kumar Bhardwaj, Advisor (B&CS)
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Sub: Comments on Consultation Paper No.13/2023.

Dear Sir,

I, on behalf of “**KOLKATA WELFARE ASSOCIATION OF BROADBAND AND CABLE TV OPERATORS**” (kwABCO), a leading Association of West Bengal, would like to thank TRAI for raising some of the issues and problems we are facing in our business in this Consultation.

We, the LCO/LMOs, who have started this industry, have put our blood and sweat to create not only the cable TV business but also we are indirectly responsible for flourishing the Broadcasting industry and even the broadband industry. What we want is a level playing field and a just and fair revenue share from various sources of revenue.

Please go through our comments below:

Issues for consultation:

Q 1) Should the present ceiling of Rs.130/- on NCF be reviewed and revised?

Ans: Yes, it must be reviewed upwardly on fixed regular basis to maintain the viability of the industry.

Q 1a) If yes please provide justification for the review and revision.

Ans: India is now a fast growing economy where logical and rational inflation is inevitable and accepted and the moderate inflation is seen as the sign of growth worldwide. Inflation increases the costs of everything in a country and naturally cost of cable TV accessories and components increases because of the inflation. NCF is a part of total MRP of cable TV and if NCF is not revised upwardly in yearly regular basis taking the inflationary effects into mind the increase of components, increment of staff salary due to the inflation eats on the net profit of the DPOs which affects the overall quality of service of the DPOs.

Q 1b) If yes please also suggest the methodology and provide details of calculation to arrive at such revised ceiling price.

Ans: To avoid too much intricacy and to maintain simplicity a rational and logical percentage of increment should be ascertained first taking the inflationary percentage into calculation. Then the NCF should be calculated, revised and increased to arrive at the desired ceiling level.

Q 1c) If not, provide reasons with justification as to why NCF should not be revised.

Ans: Not applicable.

Q 1d) Should TRAI consider and remove the NCF capping?

Ans: This point of consultation has scope for and may attract massive number of opinions in favour as well as against the capping. But to be precise and to avoid unnecessary dialogue it can be said here that in a market economy like India capping is not desirable for any sector and it should be left to be decided by the market forces. But at this growing sector of service where too much volatility and necessary questions are present and unanswered in the case of OTT services, DD Free Dish etc. capping is still necessary so as to give logical shape to the industry firstly.

Q 2) Should TRAI follows any indices (like CPI/WPI/GDP Deflator) for revision of NCF on a period basis to arrive at the revised ceiling? If yes, what should be the periodicity and index? Please provide your comments with detailed justification.

Ans: TRAI must be logical at the narratives to all the stakeholders of the industry including viewers if the NCF is revised. There must be a logically reliable basis and yardstick to follow to arrive at the desirable ceiling and naturally for which TRAI will remain accountable to all the stakeholders.

So in my opinion the most logical and reliable basis to apply is only the average GDP Deflator on yearly basis as this indic is calculated and published by the National Statistical Office under the ministry of Statistics and Programme Implementation, Govt. of India.

The other two indic should not be taken into consideration as those may vary too frequently.

Q 3) Whether DPOs should be allowed to have variable NCF for different bouquets/plans for and within a state/ City/ Town/ Village? If yes, should there be some defined parameters for such variable NCF? Please provide detailed reasons/ justification. Will there be any adverse impact on any stakeholder, if variable NCF is considered?

Ans: India is a vast country having various casts, religion, languages as part of its demography. Huge disparity also exists there among the individual average income level of families in a same area, town, city etc. in any of the states if taken into consideration. So it requires humongous task, if not impossible if the need for suitable NCF for every family is to be considered and addressed properly. But it is easier to adopt variable NCF for different bouquet, plans within a state/city/town/ village etc. and it may be adopted pan India if various bouquet of free to air channels with different number of channels are provided at various NCF prices respectively.

According to me such a policy can be and should be adopted pan India irrespective of state/city/town/village etc. Say for example if three bouquets of Free to Air channels are fixed and made available to the viewers those being the first one containing 100 number of free to air channels, the 2nd with 150 number of free to air channels and the 3rd one with 200+ numbers of free to air channels with different rates of NCF for different bouquet of free to air channels respectively then the viewer will have the liberty to choose the best suitable bouquet according to his/her family needs and it should be applied all India level.

As far as adverse impact on any stakeholders is concerned there may be some decline in revenue for the DPOs but the viewer will have wider choice to select from available bouquets most suitable for him/her.

Moreover, want at least 75% of the NCF to be given to the LCOs. Our problem with NCF is because DD-Free Dish is giving all FTA channels and some Pay channels for free and not collecting the GST. We would like to request TRAI to immediately ask Free Dish to start collecting NCF and stop showing Pay channels free of cost, otherwise, we will lose whatever business is left in small towns and rural areas.

Q 4) Should TRAI revise the current provision that NCF for 2nd TV connection and onwards in multi-TV homes should not be more than 40% of declared NCF per additional TV?

Ans: According to me for multi-TV homes it should be revised to 60% on declared NCF for first connection (of it 20% to be allocated for MSOs and 40% to be allocated for LCOs/LMOs) and discount level should be 40% for 2nd connection and onwards.

Q 4a) If yes, provide suggestions on quantitative rationale to be followed to arrive at an optimal discount rate.

Ans: In most cases (spare the small MSOs) India wide the LMOs/LCOs invest in the local networks and MSOs bear no cost for the local area networks. So, for multi TV homes total cost incurred and service provided only by LCOs/LMOs. In a multi TV home each and every TV must be of equal importance and requires same dedicated service as the first TV or single TV homes require and the total cost of which is incurred by LCOs/LMOs.

Again, the components, accessories required for each TV of a multi TV home is same as for the first TV or single TV home. So the cost of each TV connection in a multi TV home is same as the first TV connection or a single TV connection. Multi TV home or single TV home makes no difference to the LCOs/LMOs service also. But the viewers enjoy the TVs as they do in case of first TV set. But to ensure their same level of enjoyment as per the first TV set why should a LCO/LMO will enjoy so meagre percentage of NCF when he/she have to bear all the same cost as per the first TV ? So, to carry on the service effectively LCOs/LMOs need this logical amount of percentage of NCF in the case of multi TV home.

Q 4b) If no, why? Please provide justification for not reconsidering

the discount.

Ans: Not applicable.

Q 4 c) Should TRAI consider removing the NCF capping for multi TV homes? Please provide justification.

Ans: First NCF must be revised upwardly and then the capping of NCF should be maintained as of now.

Please refer to the answer of question number 1d). This clarification is same as the answer of question number 1d).

Q 5) In the case of multi-TV homes, should the pay television channels for each additional TV connection be also made available at a discounted price?

Ans: Yes, in case of multi TV homes pay TV channels for each additional TV connection should be made available at a discounted price.

Q 5a) If yes, please suggest the quantum of discount on MRP of television channel/Bouquet for 2nd and subsequent television connection in a multi TV home. Does multi TV home or single TV home makes a difference to the Broadcasters? What mechanism should be available to pay channel Broadcasters to verify the number of subscribers reported for multi TV home?

Ans: In my opinion the discount level should be same as the answer of question number '4a)', the quantum of discount, all will be the same.

In addition another point to be mentioned here that if the discount for pay TV channels are introduced for multi TV homes the customers' MRP (Payable by customers) will also be reduced which will relief the customers from a comparatively higher cable bill.

Q 6) Is there a need to review the ceiling on discount on sum of MRP of a-la-carte channels in a bouquet (as prescribed through the second proviso to clause 4 (4) of the Tariff Order 2017) while fixing the MRP of that bouquet by DPOs?

Ans: We agree with the 40% Discount on MRP, as the same has been allowed to the Broadcasters. We want our MSO to share the details

of the discounts with the LCOs/LMOs which the Broadcasters are offering them.

Q 7) Whether the total channel carrying capacity of a DPO be defined in terms of bandwidth (in MBPS) assigned to specific channel(s).

If yes, what should be the quantum of bandwidth assigned to SD and HD channels? Please provide your comments with proper justification and examples.

Ans: In logical terms as HD channels require higher bandwidth than that of needed for SD channels carrying capacity of a DPO particularly of an MSO should be defined in terms of bandwidth assigned to specific channels.

But being an LCO/LMO I do not have clear and specific idea about the quantum of bandwidth requirements for SD and HD channels. The answer may wrong and so it is avoided.

Q 8) Whether the extant prescribed HD/SD ratio which treats 1HD channel equivalent to 2SD channels for the purpose of counting number of channels in NCF should also be reviewed?

Ans: For the purpose of counting number of channels in NCF HD/SD ratio which calculate 1HD channel equivalent to 2SD channels should not be taken into consideration now and should not be redesigned for now till the total system of cable TV becomes stable and till that time when unresolved demands and questions about OTTs and DD Free Dish are satisfactorily resolved. It is to be left aside as it is going on now.

Q 9) What measures should be taken to ensure similar reception quality to subscribers for similar genre of channels? Please suggest the parameter(s) that should be monitored/checked to ensure that no television channel is discriminated against by a DPO. Please provide detailed response with technical details and justification.

Ans: Being an LCO/LMO I do not have the proper knowledge, technical expertise about the parameters to be monitored or checked nor it is necessarily required to become an LCO/LMO. So this question is not mandatorily necessary to be answered by me. Again any LCO/LMO does not have that mechanism, machinery to ascertain the measures

to be taken to ensure similar reception quality for similar genre of channels. They are completely dependent on MSOs for these technicalities. So parameters for monitoring to ensure that no channel is discriminated against by an MSO are out of reach for an ordinary LCO/LMO. So being an LCO/LMO no technical idea is there to provide for this question.

Q 10) Should there be a provision to mandatorily provide the Free to Air News / Non-News / Newly Launched channels available on the platform of a DPO to all the subscribers?

Ans: MSOs should provide Free to Air channels from all genre of channels into the bouquet of Free to Air channels and always maintain the number of channels he has to mandatorily provide. But after that they should not be mandated to provide extra newly launched channels whether it is News/ Non-News to all the subscribers. They should provide those if requested by a customer or by some customers.

Q 10a) If yes, please provide your justification for the same with detailed terms and conditions.

Ans. Nil.

Q 10b) If not, please substantiate your response with detailed reasoning.

Ans: The MSOs provide Free to Air Channels in their network against carriage fee.

Sometimes we experienced that all of a sudden one or more than one Free to Air channels was/were missing from the Free to Air bouquet of an MSO which were used to present there for a very long time and many customers became habituated watching those channels. We guess these happened when the commercials were not matched between the Broadcasters of those channels and the MSOs and ultimately the customers were harassed and the LCOs/LMOs became helpless pray in front of the uneasy questioning of the customers.

So every newly launched channel whether it is News or Non- News must not be provided beyond the mandatory number of channels the MSO had to provide.

Q 11) Should Tariff Order 2017, Interconnection Regulations 2017 and

Quality of Service Regulations 2017 be made applicable to non-addressable distribution platforms such as DD Free Dish also?

Ans: Nobody should be allowed to offer any channels in DAS in non-addressable system including Free Dish as it is against the Law. If government goes forward and breaks the Law what is the sanctity and point of making a law.

All channels on Free Dish must be fully addressable by encrypting them and Free Dish should also collect NCF and GST.

Also Free Dish should not carry any Pay channels as cable industry paying subscription money for such pay channel. Level playing field must be maintained and all the rules should be same for all business entity in its sector and legal action should be taken against Free Dish. Otherwise we should also be allowed to show all channels including pay channels without any encryption.

Q 12) Should the channels available on DD Free Dish platform be mandatorily made available as Free to Air Channels for all the platforms including all the DPOs ?

Ans: Yes, the channels available in Free Dish for free must be made available for all the platforms free to all the platforms including DPOs to create a level playing field.

Q 13) Whether there is a need to consider up gradation of DD Free Dish as an addressable platform? If yes, what technology / mechanism is suggested for making all the STBs addressable? What would be the cost implications for existing and new consumers? Elaborate the suggested migration methodology with suggested time-period for proposed plan. Please provide your response, with justification.

Ans: Yes, if Free Dish is allowed to show channels without encryption, we want TRAI to allow DPOs/ MSOs to distribute all channels without Encryption as have different rules cannot exist for different people operating in same business sphere.

Q 14) In case of amendment to the RIO by the broadcaster, the extant provision provides an option to DPO to continue with the unamended RIO agreement. Should this option continue to be available for the DPO?

- a. **If yes, how the issue of differential pricing of television channels by different DPOs be addressed?**
- b. **If no, then how should the business continuity interest of DPO be protected?**

Ans: No Comments

Q15. Sometimes, the amendment in RIO becomes expedient due to amendment in extant Regulation/ Tariff order. Should such amendment of RIO be treated in a different manner? Please elaborate and provide full justification for your comment.

Ans: No Comments

Q16. Should it be mandated that the validity of any RIO issued by a broadcaster or DPO may be for say 1 year and all the Interconnection agreement may end on a common date say 31st December every year. Please justify your response.

Ans: No Comments

Q17. Should flexibility be given to DPOs for listing of channels in EPG?

- a. **If yes, how should the interest of broadcasters (especially small ones) be safeguarded?**
- b. **If no, what criteria should be followed so that it promotes level playing field and safeguard interest of each stakeholder?**

Ans: No Comments

Q 18) Since MIB generally gives permission to a channel in multiple languages, how the placement of such channels may be regulated so that interests of all stakeholders are protected?

Ans: What we want is that the MSO should provide all channels with same language to all the subscribers so that it becomes easy for the customer to find his/her required channel and MSO should also mention the same in their Marketing brochure or on advertisements or make arrangements in such way that those appear on the screen of the TV with the channel numbers.

Q 19) Should the revenue share between an MSO (including HITS Operator) and LCO as prescribed in Standard Interconnect Agreement be considered for a review?

Ans: Yes, it is to be reviewed. All the revenues should be shared transparently by the MSOs with the LCOs as the MSOs get carriage, advertisement and generate other revenues from various sources because of the subscribers of the LCOs.

LCO should get more than 50% of revenue in total as MSOs are wholesaler in nature and in any business the wholesaler gets less margins than the retailer. The wholesalers generate revenue from large scale sales volumes.

We, the LCOs are the retailer and we have very small count of subscribers and many LCOs are catered or connected by the MSOs and so they should get less revenue share. This is how it is goes in any other business model. But TRAI has been favouring the MSOs and the Broadcasters all time and depriving us of our legitimate revenues.

Q 19i) Should the current revenue share on NCF be considered for a revision?

Ans: Yes, we want TRAI to allocate LCOs at least 75% of NCF and also in case of Pay channels' MRP we want 50% revenue share to DPOs (LCO + MSO) and 50% to Broadcaster.

Q19ii) Should the regulations prescribe revenue share on other revenue components like Distribution Fee for Pay Channels, Discount on pay channels etc.? Please list all the revenue components along-with the suggested revenue share that should accrue to LCO.

Ans: As LCO we want at least 50% share from all the sources if revenue generated using our last mile network such as carriage fees, placements fees, advertisements fees and from that revenue which MSO earns from its own broadcasted channels.

Q 20) Should there be review of capping on carriage fee?

Ans: There should be no capping on Carriage fees and 50% of Carriage Fees should be shared with the LCOs.

Q21. To increase penetration of HD channels, should the rate of carriage fee on HD channels and the cap on carriage fee on HD channels may be reduced. If yes, please specify the modified rate of carriage fee and the cap on carriage fee on HD channels. Please support your response with proper justification.

Ans: Not Specially for LCOs/LMOs

Q22. Should TRAI consider removing capping on carriage fee for introducing forbearance? Please justify your response.

Ans: Not Specially for LCOs/LMOs

Q23. In respect of DPO's RIO based agreement, if the broadcaster and DPO fail to enter into new interconnection agreement before the expiry of the existing agreement, the extant Interconnection Regulation provide that if the parties fail to enter into new agreement, DPO shall not discontinue carrying a television channel, if the signals of such television channel

remain available for distribution and the monthly subscription percentage for that television channel is more than twenty percent of the monthly average active subscriber base in the target market. Does this specified percentage of 20 percent need a review? If yes, what should be the revised prescribed percentage of the monthly average active subscriber base of DPO. Please provide justification for your response.

Ans: Not Specially for LCOs/LMOs

Q 24) Whether the extant charges prescribed under the 'QoS Regulations' need any modification required for the same? If yes, justify with detailed explanation for the review of:

Ans: On one hand the cost of running our business is going up gradually and on the other we are losing our business because of OTT and Free Dish. We therefore request TRAI to review and increase the Activation charges for new connection and also for reconnection.

Q 24 a) Installation and Activation charges for a new connection.

Ans: Keeping the inflationary effects in mind installation and activation charges for a new connection should be increased on regular basis after fixed time duration.

Q 24b) Temporary Suspension of broadcasting services.

Ans. Charges for Temporary Suspension of broadcasting services must not be levied on a customer for a pre-declared reasonable period of time such as 30 days, 45days, 60 days or even 90days. After that a pre-declared charge should be applied.

Q 24c) Visiting Charge in respect of registered complaint in the case of DTH services

Ans: Not applicable for LCOs.

Q 24d) Relocation of connection.

Ans: Relocation of connection charge must be there and it should be on actual basis as per the cost incurred by the LCO.

Q 25) Should TRAI considers removing capping on the above mentioned charges for introducing forbearance? Please justify your response.

*Ans: Application of capping on the above charges is not desirable and not reasonable as these charges except the charges for Installation and activation of a new connection are not necessarily be incurred by each and every customer of an LCO.
But the Installation and activation charges for a new connection must be as actual basis. Otherwise, the LCO may suffer loss in many cases as far as new connection is concerned.*

Q 26) Whether the Electronic Programme Guide (EPG) for consumer convenience should display
a) MRP only
b) MRP with DRP alongside
c) DRP only.

Ans: Only the MRP should be displayed as the consumers pay on the basis of MRP. If the MRP with DRP is displayed alongside they are bound to be confused and the payment system will get upside-down.

Q 27) Not specifically for LCOs.

Q 28) Not specifically for LCOs.

Q 29) Not specifically for LCOs.

Q 30) Not specifically for LCOs.

Q 31) Not specifically for LCOs.

Q 32) Any other issues.

Ans: a) There should be channels for adult movies in the system of Cable TV. LCOs' customers are common general people, they are made of flesh and blood, they have emotions, lust, love and emotional-biological need. We feel that many of our customers want

to watch adult movies if not porn. There is a massive demand about these adult movies and many enquire about those movies with us.

Moreover watching adult or porn movies in private spaces is not illegal in India as per Article 21 of the Indian Constitution, which gives the right to life and personal liberty to Indian citizens. This was also orally remarked by the Supreme Court of India in 2015.

Again, the OTTs which are now altogether being broadcasted without any regulation by law showing anything such as use of vulgar crude tongue and languages, showing obscene materials publicly without any regulatory mechanism.

After initiation of addressable digital cable TV system in India all channels are particularly addressed to the person only who intends to watch them and which are not for common general watch and use.

So, after taking proper technical mechanism for controlling and maintaining the Indian culture and values there must be scope for adults channel viewing for the customers of cable TV which will augment the scope for financial growth of LCOs as well as all the stakeholders.

b) Post paid payment system should be reintroduced again. From 2019 onwards all the MSOs in India shifted from "Post paid" payment to 'Prepaid ' payment system. Nowadays LCOs associated with large MSOs have to deposit money first into the portal of the concerned MSO and from that deposited amount in portal he/she can perform the recharge of their customers. Whereas the MSOs pay towards the Broadcasters are in post paid mode.

For this reason most of the LCOs do not opt for automatic renewal option and as a result most of the set top boxes of their customers go switched off according to pre set due date resulting in less renewal months in a year instead of twelve months renewal.

Again, for this switching off system on due date a behavioural pattern change among a certain percentage of customers are observed resulting in much delay of renewal say for example after two days to one week or more they try for renewal after switching off on pre set due date.

c) It is to be mentioned further that OTTs must be regulated.

d) Any Pay channel for which customers are paying in the system of cable TV must not be shown free of cost to any customer in India in any other system such as FREE DDISH.

Thanks with Regards,

For kwABCO

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