

counter comments on consultation paper on tariff issues for cable TV services in non-CAS areas

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Dear Sir,

I am a consumer of cable TV services from Lucknow and have been going through the website of TRAI to know the rule and regulations governing the cable and DTH services. I am impressed by the way in which TRAI comes out with its rules and regulations by taking view of all the stakeholders including the consumers.

First of all I would like to submit that I am a bit late in submitting my counter comments. This is because that some of the stakeholders specially the broadcasters continue to put forward their comments even after the due date and as late as on Monday the 10th May 2010. For putting forward counter comments one need to go through all the comments submitted by different stakeholder, then only one will be able to put his counter arguments. Therefore it is my humble request that my counter comments may kindly be considered by the TRAI in this background. Moreover, although the paper touched upon various related issues, but it remained silent on various important associated issues, some of them are listed below

- i. Definition of so-called “pay channels”
- ii. Under-declaration vis-à-vis negotiations
- iii. Regulation of advertisement rate/revenue/time vis-à-vis regulation of carriage fee

You may be aware that these issues were discussed, and identified as the issues to be posed for consultation for de-novo exercise in the interactive pre-consultation meetings with various stakeholders on 23.06.2009 and 24.06.2009.

It is not known to the stakeholders that at what stage, and reasons best known to the Authority, these issues have been dropped and not included in the consultation paper. The consultation paper appears to be incomplete, and may require additional issues to be posed to the stakeholders.

I understood that there is a deadline submitted by the Authority to complete the exercise within a specified time frame. But for the interest of the ultimate subscribers, the paper require your personal intervention to include all the relevant issues, which at one stage Authority itself recognized as the issues. May we request you to include these issues and issue a brief “addendum to the Consultation Paper” before concluding on the decision.

However, my counter comments are on the following issues which most of the broadcasters have submitted in their comments:-

1. Regulation of wholesale and retail tariff (Question no 10 and 16)
2. Broadcasters to recover only the carriage cost from the subscription revenue and content cost from the advertisement revenue (Question no 14)
3. A-la-carte offering of channels by the broadcasters (Question no 19)

1. Regulation of wholesale and retail tariff (Question no 10 and 16)

All the broadcasters have favored for keeping retail as well as wholesale tariff under forbearance. As a consumer I have deep reservations against the proposal of the broadcasters. The reasons for my reservations as a consumer of cable and DTH are mainly as under:-

i) Cable Operator and all others in this sector are such notorious people that once there is forbearance at any level then the consumer will definitely suffer. For example if wholesale tariff is under forbearance then the cable operator will only say that how can I provide you this service at this cost when I am getting the same channels so costly. He can also show you only cheaper channels if he is not able to get the channels at reasonable rates. In brief a consumer requires a regulated tariff at retail level and for retail tariff regulation to be really effective one should be enabled to get the same thing at whole sale level also at regulated price. Otherwise consumer is going to suffer either by getting the cable services at higher prices or getting the cable services within the ceilings but the good quality channels will be missing in the cable TV services.

ii) 7(11) of the cable television network Rule framed under cable television network (Regulation) Act 1995 provides that no programme shall carry any advertisements exceeding 12 minutes per hour, which may include upto 10 minutes per hour of commercial advertisement and upto 2 minutes per hour of a channel's self promotional programmes. However, none of the channel follows this rule. This can be easily measured by a common man while watching any channel. For example any movie which is of around 2 hours and 30 minutes to 2 hours to 40 minutes will not be completed in less than 4 hours. Therefore in four hours they are broadcasting advertisement for around 80 to 90 minutes, whereas this should not be of more than 48 minutes duration. Similarly in a cricket match an over last for around 3 minutes and in between there is time gap of half a minute. All the sports channels will not use only this half a minute for the advertisement but also the time from the 3 minutes when live telecast of the match is so important. In addition for most of time screen of the TV is 40% covered with ticker broadcasting some advertisement. In brief all the sports channels will be publishing advertisement for around 50% of the time i.e. 30 minutes per hour which is much higher than the prescribed time limit of 12 minutes. Consumers are compelled to watch these advertisements in which channel is earning some money at the cost of valuable time of the consumers. In brief, on one hand all the broadcasters are flouting the existing rules and on the other hands are hard pressing that there should be no tariff regulation for them. One can easily imagine the situation when there is no regulation for the tariff for these money minded broadcasters.

iii) How the broadcasters befool the consumers can easily be understood by one single example. The ongoing T-20 world cup is being telecasted by ESPN. In the initial stage

matches were being telecasted on Star Cricket channel of ESPN. Later on these channels were shifted to their other channel named as ESPN. A subscriber on DTH who has subscribed only Star Cricket will now have to subscribe their other channel also in compulsion. In brief, broadcasters are fooling the consumers and flouting the rules and regulations framed by Government. In such a situation these notorious community cannot be left under forbearance otherwise consumers will be adversely affected.

iv) Tariff has been under forbearance for on class of subscribers i.e. Hotels with rating of three stars and above. This high class of subscribers who have the bargaining powers are unable to bargain properly with the notorious class of broadcasters and asking for some regulatory intervention then how a common man or cable operator can be expected to get a fair deal from the broadcasters without the protection of a proper rules and regulations framed by TRAI.

2. Broadcasters to recover only the carriage cost from the subscription revenue and content cost from the advertisement revenue (Question no 14):- All the broadcasters have vigorously opposed this good proposal put forward by TRAI. I do not understand why the broadcasters have problem to this proposal. In non addressable system a consumer gets only a bundle of channels of which hardly 5 to 10% of his use and rest are only useless which one only sees for few seconds while surfing the TV or shifting the other channel. On classical example of this is that wherever there is addressability say in CAS notified areas of four metro cities then many of these channels

become free to air channels instead of pay channels. This only implies that for their advertisement revenue which is their main source of income they need the eyeballs and becomes pay. The list of channels on your website shows that there are 140 pay channels in CAS areas whereas this number comes down to 120 for CAS areas. Further, if we include the channels in specific cities then the number of pay channels in Chennai CAS areas will come down to less than 100. What a joke it is that some channel is free if it is watched within the CAS areas of Chennai and as you comes out of Chennai even with in the State of Tamilnadu it becomes a valuable commodity and you will have pay for watching for this channel.

In brief one out of three pay channel is just a dummy pay channel, a fact which is accepted by the broadcasters themselves. Even out of the remaining 2 channels most of the subscribers do not watch either both of these channels or just watch only one channel. Even the survey conducted by TRAI shows that generally consumers do not watch more than 10-12 channels which include free to air channels of Doordarshan also. As indicated by TRAI in the consultation paper that digitalization with addressability is the ultimate solution to the issue, so in the mean time this is the way forward that pay channels only charge nominal fee of say Rs.1 towards expenditure for carriage of their channel till the full addressability is achieved in next 2-3 years. After the addressability is achieved then the channels can charge reasonable amount for their content from the subscribers too. At that stage even the forbearance is not the bad option.

3. A-la-carte offering of channels by the broadcasters (Question no 19):- On this issue also all the broadcasters seems to be sailing in the same boat and asking for removing any such regulation which requires them to offer their channels to MSO/LCO on a-la-carte basis.

Their demand is very illogical and needs to be rejected. The reasons for not accepting such a demand are given below.

As per information available on TRAI website the popular bouquet of major broadcasters have more than 10 channels and out of these 10 channels only one or two channels are those which are generally watched by a common consumer. For example bouquet-I of Zee has 10 channels and most of the consumers do not watch any other channel than the Zee TV only. Similarly bouquet-II of MSM discovery has 13 channels in it and not more than one or two news channels are of any use for a common subscriber. In the same way bouquet-I of Star Den has 9 channels in it and one or two channels are of any use for a common consumer. In brief, out of 3 bouquet of 3 popular broadcasters have 33 channels and only 4-5 channels are useful for the consumers. As indicated in the consultation paper that an analogue non addressable system can carry around 70 channels. Out of these 70 channels one will carry some free to air channels of Doordarshan and other broadcasters, say this number is around 25-30 then the remaining capacity is only 40 channels. So if this remaining capacity of 40 channels is occupied by more than 30 channels of three bouquets of 3 broadcasters then where the remaining channels will be accommodated. Why a consumer should pay for these useless channels. Even though the subscribers have not the power to choose channels of his choice but a cable operator is expected to take care of the choice of his consumers if he has to run his cable business.

Forcing of bouquets by the broadcasters can be easily compared with two examples in real life. In first example a shopkeeper says that you can purchase these 5 shirts at a time but you are not allowed to purchase a single shirt. If you want to purchase even a single shirt then you will have to pay for 5 shirts only. Similarly a father of 5 sons says to the father of 5 daughters that you can marry all of your 5 daughters to all of my 5 sons. In this case father of sons very well know that only one of his son is physically and financially fit. Out of the remaining four, one son is deaf and dumb, other is unable to see, third one is unable to watch and the last one is suffering from a serious disease. If in the current example, demand of the father of 5 sons can be called logical by any means then only the demand of broadcasters for forcing of bouquets can be accepted. Otherwise by no means the demand and argument of broadcasters for not offering of channels on a-la-carte basis is logical, whether the a-la-carte choice can be passed on to the consumers or not in non addressable system.

I therefore request to the respected TRAI that these counter comments may kindly be considered favorably while deciding the issue. Illogical and ill-conceived thinking of the broadcasters on the above three issues does not have merit and needs to be rejected by TRAI while deciding the issue.

With Kind regards,
Prakash Sharma
