

R.B Sahajpal  
**Counter Comments**  
on  
**TRAI CP<sup>1</sup>PR<sup>2</sup>**

## **Introduction:**

The New Regulatory Framework 2017 came into effect from 29th December 2018. **Inter-alia** the subscriber could choose any channel that she/he wished to view. However, after implementation of the New Regulatory Framework 2017, TRAI noticed some inadequacies impacting the consumers and it was also observed that few service providers were exploiting available flexibilities of the framework to their advantages.

2. Ostensibly, as a remedial measure to remove the shortcomings of New Regulatory Framework 2017, TRAI notified the New Regulatory Framework 2020 by amending the New Regulatory Framework 2017, on 1st January 2020. However, the measure resulted in perverse effect in the form of perverse pricing<sup>4</sup>.

3. It may not be possible to stall the dwindling subscriberbase<sup>5</sup> by Regulatory Framework alone. The trend is most likely to continue in coming years **inter-alia** due to Cord Cutting<sup>6</sup>.

4. In the New Regulatory Framework 2020 TRAI has tried to define a linkage between a la carte price & bouquet price of a channel without providing any empirical, statistical or economic basis for the same. Incidentally no avowed benefit has accrued to customer instead, for viewing popular channels' is forced to either use a bouquet/bouquets to get discounted rate coupled with **piggyback channels** or choose a la carte to view popular channels at a higher rate.

5. There is a reference to article<sup>7</sup> by Crawford and Yurukoglu in their 2011 paper titled<sup>6</sup>, '**The Welfare Effects of Bundling in Multichannel Television Market**' conclude that, 'Any implementation or marketing costs of à la carte could make it worse for all'. Conclusion in quotes is end part of ABSTRACT of the said Article. The full ABSTRACT is as follows:

"We measure how the bundling of television channels affects short-run social welfare. We estimate an industry model of viewership, demand, pricing, bundling, and input market bargaining using data on ratings, purchases, prices, bundle composition, and aggregate input costs. We conduct counterfactual simulations of à la carte policies that require distributors to offer individual channels for sale to consumers. We estimate that negotiated input costs rise by 103.0% in equilibrium under à la carte. These are passed on as higher prices, offsetting consumer surplus benefits from purchasing individual channels. Mean consumer and total surplus change by an estimated -5.4% to 0.2% and -1.7% to 6.0%, respectively. Any implementation or marketing costs would reduce both, and would likely make à la carte welfare-decreasing."

5.1 Conclusion from article<sup>8</sup> 'La Carte v. Channel Bundling: The Debate over Video Programming Distribution Christopher T. Buckley' is as follows:

"X. Conclusion The desire to change to an A la carte system for video programming will likely continue so long as subscribers feel they are paying too much and receiving too many channels they do not watch. Neither side in the ongoing debate will be content with the opposite extreme-pure bundling or pure A la carte. Although there are alternatives to the two extremes, nothing has emerged as a viable compromise. Regulators and lawmakers will have difficulty establishing a workable compromise without definitive data on the potential impact of a change in the cable and satellite distribution system on price, diversity and choice. Without more conclusive findings, it is unlikely the antitrust laws will invalidate the current large bundle system. And if lawmakers do decide to mandate a change, the potential First Amendment implications are unclear. Nevertheless, evolving technology may eventually produce a change. New alternatives to cable and satellite may lead to an increase in competition and a resulting increase in choice and decrease in prices. Additionally, the internet is currently offering an alternative to networks unable to find a place in the current large tier system.<sup>161</sup> If lawmakers do decide to implement a mandated A la carte system, and it survives the inevitable Constitutional challenges, niche networks that do not survive the competition for subscribers and advertising may find a home on the **internet**."

6. Acronym TRP appearing in quotes “Various programs on a given channel also get changed frequently based on their Television Rating Points (TRP)”<sup>9</sup> is neither defined in CP<sup>10</sup> nor could be traced explicitly in BARC LINK<sup>11</sup>.

7. “BARC is the sole TV rating service provider”. “BARC should conduct a study in collaboration with the Indian Statistical Institute or any other institute of repute, to estimate the appropriate sample size, and to get the correct representation of the viewership including regional and niche channels”<sup>12</sup>.

8. Prasar Bhati is an Autonomous Organisation<sup>13</sup> “ which is the sole broadcaster with elements of PSB”<sup>14</sup>.

9. PSB- “The generally accepted definition of Public Service Broadcasting is the eight principles outlined by Michael Tracey (1998):- (1) Universality of availability. (2) Universality of appeal. (3) Provision for minorities, especially those disadvantaged by physical or social circumstances. (4) Serving the public sphere. (5) A commitment to the education of the public. (6) Public broadcasting should be distanced from all vested interests. (7) Broadcasting should be structured as to encourage competition in good programming rather than competition for numbers. (8) The values of broadcasting should liberate rather than restrict the programme-makers. The above outlines do not explicitly mention the absence commercial or governmental control, in ways financial and administrative. But this can be inferred from (6) which says, “Public broadcasting should be distanced from all vested interests” as both political control and commercial control will bring in accountability to the sponsoring body thereby control over content. **Public Service Broadcasting content is concentrated towards what the public ought to be given and not public needs**”<sup>15</sup>.

10. In the figure ‘1’<sup>16</sup> of CP the consumer payout is for all the other stake holders. The benefits accruing to him are intangible and defy monetisation. The real benefit will occur to customer will occur if this pay out is decreased vis-a-vis cost of channels as per his/her needs.

### Issues for Consultation:

**Q1.** 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).

**Ans1.** Please refer to **Ans.7.**

**Q2.** 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.

**Ans.2.** Please refer to **Ans.7.**

**Q3.** 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.

**Ans.3.** Please refer to **Ans.7.**

**Q4.** 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?  
b. If no, what measures should be taken to ensure an effective a-lacarte choice which can be made available to consumers without being susceptible to perverse pricing of bouquets?  
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.

**Ans4.** Please refer to **Ans.7.**

**Q5.** Should any other condition be prescribed for ensuring that a bouquet contains channels with homogeneous prices? Please provide your comments with justifications.

**Ans5.** Please refer to **Ans.7.**

**Q6.** 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.

**Ans6.** Please refer to **Ans.7.**

**Q7.** Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in present consultation.

**Ans.7.**

The following, based on the submission under Introduction above, is for kind consideration please:

1. CP under consideration is perhaps floated to look into issues impacting the implementation of the New Regulatory Framework (2020), and it is sincerely hoped that the outcome of this consultation is fruitful for all stakeholders and especially customer @ consumer, subscriber who pays for all the other stakeholders in the value chain given in Figure '1' of CP.

2. The revenue in the value chain<sup>17</sup> collected from CUSTOMER @ USER/SUBSCRIBER is for all others in the value chain. The discernible benefits accruing to the paymaster are intangible and thus cannot be monetised- still better than to be always at the receiving end.

3. Action may please be taken ASAP on suggestion given paragraph '7' of **Introduction** above.

4. View of a Behaviour Economist individually/collectively of repute may perhaps be consulted before finalising any recommendations.

## References

1. [https://traf.gov.in/sites/default/files/CP\\_07052022.pdf](https://traf.gov.in/sites/default/files/CP_07052022.pdf)

2. [https://traf.gov.in/sites/default/files/PR\\_No.29of2022.pd](https://traf.gov.in/sites/default/files/PR_No.29of2022.pd)

3. <https://www.oxfordreference.com/view/10.1093/oi/authority.20110803100319544>

An unforeseen negative consequence of an action or policy that produces exactly the opposite to the intended effect. Free-market economists often claim that labour market regulation has perverse effects; for example, that the introduction of a minimum wage hurts the very people well-meaning reformers are trying to help by raising wages and thereby depressing the demand for low-skilled labour. Free marketeers are not the only ones to use this kind of argument, however, and free-market reforms have themselves been said to generate perverse effects. For example, attempts to stimulate the economy through deregulation simply encourage companies to adopt strategies of cost minimization, which in the long term depress the rate of economic growth. The opposite of a perverse effect is a benign effect, an unanticipated positive consequence of change. It is claimed that minimum wages can generate benign effects; for instance, by raising wages they can reduce labour turnover which, in turn, provides more incentive for employers to invest in training to raise labour productivity.

4. <https://www.oxfordreference.com/view/10.1093/oi/authority.20110803095458551>

This concept was developed by the German political scientist, Wolfgang Streeck. It refers to institutions that constrain employer behaviour, and which may initially be resisted as a consequence, but which generate beneficial consequences for business in the longer term. Streeck's initial example was the system of codetermination in Germany, which inhibits employer freedom to restructure businesses and requires them to share information and consult with worker representatives. The effect of this restriction, Streeck argues, has been to encourage the development of a long-term cooperative relationship between German employers and their employees, which in turn has provided the basis for competition on the basis of quality enhancement and high value-added and allowed German manufacturing to thrive in world markets. Other institutions that might function as beneficial constraints are minimum wage laws, training levies, and union recognition procedures

5. Figure '2', Figure '3' of supra '1'.

6. <https://cordcuttinglab.com/cord-cutting-statistics/>

7. para 2.22 of supra '1'.

8. Loyola Consumer Law Review Volume 20 | Issue 4 Article 4.

9. para '2.4' supra '1'.

10. supra '1'.

