



# SUN TV NETWORK LIMITED

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May 30<sup>th</sup>, 2022

To:

Shri Anil Kumar Bhardwaj,  
Advisor (B & CS),  
Telecom Regulatory Authority of India (TRAI),  
E-mail: [advbcs-2@traai.gov.in](mailto:advbcs-2@traai.gov.in); [jtadvbcs-1@traai.gov.in](mailto:jtadvbcs-1@traai.gov.in)

Re: Consultation Paper on Issues related to New Regulatory Framework for Broadcasting & Cable Services (**Consultation Paper**)

Dear Sir/Ma'am:

1. We, Sun TV Network Limited (**Sun TV**), thank you good offices for undertaking the present consultative exercise on the Issues Relating to the New Regulatory Framework for Broadcasting & Cable Services and allowing stakeholders such as Sun TV to present our suggestions and concerns.
2. At the outset, we seek to highlight that the TRAI's objective has always been to veer towards a forbearance model of regulation for the broadcasting industry, akin to the practice followed by it for the telecom sector. In fact, as far back as 2004, TRAI had expressed its intention to move towards forbearance<sup>1</sup>, stating *"The regulation of prices as outlined above is only intended to be temporary and till such time as there is no effective competition. The best regulation of prices is done through competition. Therefore as soon as there is evidence that effective competition exists in a particular area price regulation will be withdrawn. TRAI will conduct periodic reviews of the extent of competition and the need for price regulation in consultation with all stakeholders."* This intention has been reiterated by TRAI in the event held on May 17, 2022 for celebration of TRAI's 25<sup>th</sup> year anniversary.
3. The only pre-condition to the exercise of forbearance in the broadcasting sector was the existence of effective competition in the industry. Since the number of broadcasters in the country in 2019 was 350<sup>2</sup>, it is evident that effective competition exists in the industry for prices to be fairly determined by market forces.
4. TRAI has, on several occasions, recognized the importance of forbearance in the growth of industry. Particularly, TRAI had highlighted the significance of 'forbearance' in relation to the telecom industry in its 'Consultation Paper on Regulatory Principles for Tariff Assessment': *"Currently, except for the tariffs for national roaming, fixed rural telephony and leased lines, tariffs for other telecommunication service are under forbearance. In accordance with the policy of 'lighttouch' regulation being followed, the tariff framework gives the TSPs...the freedom to design the tariffs according*

<sup>1</sup> TRAI, *Recommendations on Issues relating to Broadcasting and Distribution of TV channels*, October 1, 2004, Accessed online at - <https://www.traai.gov.in/sites/default/files/01octcable%5B1%5D.pdf> (Pg. 15)

<sup>2</sup> Nathan Economic Consulting India Private Limited, *Socio-Economic Analysis of Tariff Regulation governing Indian Television Industry*, December 25, 2019



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*products in the market that are designed to provide telecom services at affordable and competitive price to the consumers.”<sup>3</sup>.*

5. It is important to note that light-touch regulation of the broadcasting sector (which forms a significant part (40%) of the overall media sector) is equally important for the Indian economy as well as for the society which is uniquely diverse, aspirational and deserves to access best in class quality content. In 2021, linear television accounted for 44.6% of the revenues of the entire M&E sector. The linear television broadcasting industry generated revenue worth INR 720 billion in 2021<sup>4</sup>.
6. As has been noted in the Consultation Paper, the broadcasting industry is currently losing subscribers as well as revenue. As per a recent report, subscription revenue continued to fall in 2021, for the 2<sup>nd</sup> consecutive year, mainly due to a reduction in six million pay TV homes<sup>5</sup>. What is required, in these circumstances, is flexibility to make commercial decisions in relation to pricing and content that help to retain and increase viewership. The time is ripe to implement a forbearance model, at least vis-à-vis pricing of content and packaging/offer of such content.
7. Accordingly, regulation of prices of channels to be included in a bouquet or the MRP of *à-la-carte* channel is antithetical to the needs of the industry and is a step away from forbearance, which has always been TRAI's stated objective.
8. The formation of bouquets of television channels, or bundling of channels, is not just an internationally followed norm amongst broadcasters, bouquets are also the preferred choice of consumers. Bouquet and *à-la-carte* offering of television channels are two different and distinct methods of offering channels to consumers. They target different audience i.e., (i) those who choose to view a limited number of channels only and would opt for *à-la-carte* method; and (ii) those, particularly families having diverse preferences, who would want a mix of variety of channels and hence would choose bouquets or a bundle of channels.
9. *A-la-carte* programming increases costs to consumers significantly<sup>6</sup>. Under an *a-la-carte* system, consumers who choose as few as a dozen channels would end up with higher bills than they currently pay for a bouquet comprising hundreds of channels. A typical Indian family consisting of parents, grandparents and children seeking a variety of content as per the

<sup>3</sup> TRAI, Consultation Paper on 'Regulatory Principles for Tariff Assessment', February 17, 2017, Accessed online at: [https://www.trai.gov.in/sites/default/files/Consultation\\_paper\\_03\\_17\\_feb\\_17\\_0.pdf](https://www.trai.gov.in/sites/default/files/Consultation_paper_03_17_feb_17_0.pdf)

<sup>4</sup> FICCI & EY, Media & Entertainment Report, *Turning into Consumer*, March 2022, Accessed online at: [https://assets.ey.com/content/dam/ey-sites/ey-com/en\\_in/topics/media-and-entertainment/2022/ey-ficci-m-and-e-report-tuning-into-consumer.pdf](https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/topics/media-and-entertainment/2022/ey-ficci-m-and-e-report-tuning-into-consumer.pdf) (Page 10)

<sup>5</sup> *Ibid*, at 4. (Page 34)

<sup>6</sup> The Dutch Independent Post and Telecommunications Authority, *Bundling. The economic theory and a framework for regulatory ex-ante assessment*, Economic Policy Note No. 4, September 2004.



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preferences of all members of the family, if made to opt for *à-la-carte* channel prices will have to pay up to 50% more than earlier to obtain the same variety of channel offerings<sup>7</sup>.

10. Bundling is problematic only when there is reason to believe that the intent is to affect competition, for instance, when one firm has strong market power or a monopoly on at least one component part of the bundle.<sup>8</sup> As stated before, the level of competition in the Indian television, cable and satellite market itself is high<sup>9</sup>, any anticompetitive behaviour through bundling is unlikely, and does not require any ex-ante or blanket regulation. All these players, in the linear broadcast television market are competing aggressively to provide greater choice to consumers through technology and content, and also extensively competing on price.
11. Moreover, the cost of creating and programming/distributing content is also impacted by factors such as input costs and inflation, and asking broadcasters to reduce prices of channels to take it to a level that existed 7-8 years ago, would either result in closure of business or at the very least cause broadcasters to compromise on the quality of content being offered. Any further restrictions on manner of offering would also drive out niche/regional channels, which may appeal to a limited section of society/viewers. One of the consequences of the said course of action would be to severely impact the plurality of content, thereby impacting freedom of speech and expression – both of the creator as well as the viewer. These channels would not just suffer the consequences of lower subscription revenues, but the lack of wide viewership will also significantly affect overall advertisement revenues and increase marketing expenses of such channels, impacting their ability to survive. Similarly, the distribution platforms also offer bundles as they provide the ability to bring value to the customer. Hence, as many smaller DPOs only exist because of the support that more subscribed channels provide through bundling, bundles are not anti-consumer but pro-consumer.
12. In fact, TRAI has itself acknowledged in the Consultation Paper that finding a uniform formula to determine the cost of production of a channel is impossible, leading to the natural conclusion that there cannot be a uniform cost structure for different channels. TRAI has also acknowledged that *“such determination of price would be dynamic in nature and may vary with changes in programs in a channel and programs on television channels change dynamically”*. As a consequence, to prescribe uniform pricing and bundling mechanisms is to either incapacitate businesses from being able to recoup costs or create harmful incentives.
13. It is pertinent to note that the practice of is not limited to India nor to television programming as an industry. Bundling is beneficial to all stakeholders. Bundles exist and are popular with consumers across a range of goods and services: Computer software (e.g., Microsoft Office sold as a bundle comprising of Word, Excel and PowerPoint), automobile trim and option packages, restaurants (e.g., buffet and *à-la-carte* meals), gym memberships, even amusement park tickets.

<sup>7</sup> Gaurav Laghate, *Come December 1, TV viewers may have to shell out 50% more*, Economic Times, October 18, 2021, Accessed online at - <https://economictimes.indiatimes.com/industry/media/entertainment/media/come-december-1-tv-viewers-may-have-to-shell-out-50-more/articleshow/87113603.cms?from=mdr>

<sup>8</sup> Kai-Uwe Kuhn, *Economic Theories of Bundling and their Policy Implications in Abuse Cases: An Assessment in Light of the Microsoft Case*, Law & Economics Working Papers Archive: 2003-2009

<sup>9</sup> *Ibid*, at 2.



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DPO's themselves offer television channels in a variety of bundled packages to the consumer, comprised of different broadcasters' channels and their own Platform Services and/or curated channels alongside their offerings of the broadcasters' channels.

14. Further, in almost all other countries – and certainly in all major television markets – channel bundling is standard and widely-accepted as it is regarded as generally beneficial to consumers. Bundling is a widely prevalent market practice in Malaysia, Hong Kong, Singapore, Indonesia, South Korea, Japan, Taiwan, United Kingdom, South Africa, Ireland, United States of America, Russia, Canada and Australia, and restrictions on bundling exist only in India. Most countries have chosen to adopt a light-touch regulatory approach to tariff regulations of channels and related market practices such as bundling.
15. We remain hopeful that the Authority would keep the aforementioned factors in mind while implementing any regulatory changes, and would make an effort to proceed towards a light-touch regulatory regime, as envisaged in 2004. Further, it may be mentioned that the industry had withdrawn the legal challenge to the regulatory regime for broadcasting sector in order to support the required regulatory reset, without prejudice to the statutory and fundamental rights of broadcasters. In the given background, it may be appreciated that it is incumbent for us to preserve our rights while whole heartedly collaborating with TRAI to achieve the best result for the sector which is central to our existence and operation.



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## Responses to Issues raised in the Consultation Paper

- 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

### Response to Q1 (a):

- A. No. There should be no ceiling price of channels for inclusion in bouquets.
- B. As detailed in the preface, bundling of channels offers several advantages, and is adversely affected by price ceilings. There is no empirical study linking consumer satisfaction to bundling of channels as per their choice, in order to lend credibility to the conclusion that Indian consumers prefer to make higher payment, if necessary, in exchange for receipt of channels of their choice alone. There is also lack of data on the impact of such price restrictions and regulation on the entry of niche and smaller players in the market. On the contrary, ample evidence exists, in the form of global regulatory practices, that forbearance in relation to channel tariff and bundling thereof is the norm.
- C. As has been observed by TRAI in the Consultation Paper, price ceilings on channel prices for inclusion in bouquets and regulation of bouquet prices have neither resulted in consumer satisfaction nor have they benefitted stakeholders such as broadcasters and DPOs. The aforementioned restrictions on bouquet pricing have led to market disruptions, such as decrease in active subscriber base as well as revenues of broadcasters. Moreover, the change necessitated in all broadcasters' bouquet offerings has led to distributors being tasked with repeating the large-scale consumer migration exercise that had been completed, with much difficulty, less than 2 years ago. This has also impacted consumer interest, as many consumers, after having been compelled to migrate to a new regime by exercise their choice, are now left without the bouquet offerings that they had chosen under the earlier regime.
- D. That apart, as has been observed by TRAI itself in the Consultation Paper, since it is not possible for a third-party to determine the price of a TV channel, any formula for linking á-la-carte or bouquet and/or determining either á-la-carte price of bouquet price would undoubtedly suffer from unworkability and speciousness.
- E. Accordingly, TRAI should discontinue prescribing ceiling price of a channel for inclusion in a bouquet and leave the fixation of prices of channels as well as bouquets to market forces of demand and supply.



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## Response to Q1 (b):

- A. It is reiterated that market forces of demand and supply are the best parameters for determining prices of channels, and broadcasters seeking to ensure highest market penetration will be incentivised to invest in high quality content and to price the same competitively. Market forces will also ensure that these prices remain stable.
- B. The focus of NTO was to ensure effective consumer choice, which can only be done by ensuring the consumer has viable options and is informed about his/her choices. Under the present regulatory regime, the consumer has readily available information on the pricing and packaging of a broadcaster's bouquet, a DPO's bouquet as well as *a-la-carte* prices of channels, thus ensuring that consumer can exercise his/her choice in the manner he/she sees fit. Any regulation of pricing of channels in a bouquet would adversely affect the choice being offered to a consumer.
- C. Between 2004 and 2019 (when the new regulatory regime of 2017 (NTO) was brought into effect), there was no evidence that consumers were exploited as far as pricing was concerned. India has always been a market that provides the most affordable access to content across the world. The fierce and intense competition in the sector explains this stability of channel pricing. In fact, NTO only led to a marginal decrease in end customer prices, which declined 1% on an average to reach INR 223 net of taxes as compared to INR 226 in 2020<sup>10</sup>.
- D. Accordingly, no strategy is required to be adopted, apart from a complete forbearance on regulation of channel pricing, which should be left to market forces.

**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.**

## Response to Q2:

- A. There is no requirement to take any steps to ensure accessibility of 'popular' channels, and no ceiling ought to be imposed on the MRP of pay channels.
- B. At the outset, it is reiterated that TV watching patterns differ from person to person, and accordingly, there is no definition of what constitutes a 'popular' channel. Preference for channels may differ across regions, languages and genres, as also in the same household. In fact, uptake of a particular channel may even change seasonally or on the happening of a particular event. For instance, viewership of devotional channels increases around festivals such as Navratri, while sports channels find more viewers during events like IPL, FIFA World Cup etc.

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<sup>10</sup> *Ibid*, at 4. (Page 38)



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- C. Broadcasters are conscious of market dynamics and are keen to make available good content at affordable prices to consumers. Accordingly, categorization of channels as 'popular' for the purpose of access is not in the interest of the public. It is of utmost importance, in keeping with the freedom of speech and expression – both of the creator as well as the viewer – that there should be access to plurality of views and it is hence arbitrary to classify channels as 'popular' and certainly not in line with good regulatory practice to use that classification to make regulatory decisions. No study has been conducted to appreciate the specifics of consumer behaviour that drives TV consumption patterns in a home.
- D. It is also relevant to highlight that the proposal for capping of *a la carte* MRP of pay channels was deliberated upon and rejected by the TRAI during consultations held prior to NTO, as it was felt that "*full freedom and business flexibility should be given to the broadcasters to monetize their channels*". Therefore, there is no requirement for a renewed consideration of this aspect, and TRAI ought to instead move towards forbearance and de-regulation.
- E. Further, as per TRAI's own report, the active subscriber base of pay TV users has shrunk exponentially since the implementation of the NTO<sup>11</sup>. Active paid subscriptions reduced from 131 million in 2020 to 125 million in 2020.<sup>12</sup> The implementation of NTO also impacted subscription revenues, which witnessed a fall owing to the uncertainties caused by the NTO.<sup>13</sup> Non-renewal of subscription revenues, transition of viewership to other platforms such as FreeDish and blackouts in the cable ecosystem led to erosion in the active subscriber base.<sup>14</sup>
- F. This is because any regulatory intervention, though well-intentioned, in the pricing of channels, which should be prerogative of the broadcaster (who is the owner of copyright in the content on the channel as well as the broadcast reproduction right in the telecast of such content), is counter-productive and has a cascading effect on broadcasters' offering and business.
- G. Further, any proposal to impose a price ceiling on channel or bouquet prices effectively curtails the fundamental rights guaranteed to the creator of the content, and even more-so to the creator of niche, regional or diversity content, for whom the medium of TV broadcast is existential, in achieving dissemination of its expression and speech through its work.
- H. In view thereof, no price ceiling ought to be imposed on the MRP of pay channels.

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<sup>11</sup> Consultation Paper on Issues related to New Regulatory Framework for Broadcasting & Cable Services (Pg. 8)

<sup>12</sup> *Ibid*, at 4. (Pg. 38)

<sup>13</sup> *Ibid*, at 2.

<sup>14</sup> *Ibid*, at 4.



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**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.**

Response to Q3.:

- A. No, there should be no ceiling on the discount on sum of a-la-carte prices of channels forming part of bouquets while fixing MRP of bouquets by broadcasters.
- B. Ceiling of discounts offered by broadcasters on bouquets is intended to encourage consumers to opt for *a la carte* options, which are viewed by TRAI as being in consumer interest. The benefits of bouquet/bundling over *a la carte* offerings have been elaborated above, in addition to the fact that prevalence of bundling is owing to consumer preference, which favours bouquets. This is also acknowledged by TRAI in its press release dated February 12, 2019<sup>15</sup>, where it noted that 35% of cable subscribers and 65% of DTH subscribers had not yet exercised their "choices" for *a la carte*/bouquet channels and directed DPOs to migrate them to best fit plans created for such consumers.
- C. Bundling of channels has been shown to improve the quality of service provided to subscribers by allowing more consumer choice, variety and differentiation for subscribers at an affordable price. Further, *a la carte* offerings are typically subscription dependent, while bouquet offerings are a reasonable mix of subscription and advertisement revenues and accordingly are more affordable for consumers<sup>16</sup>. A Stanford study conducted in 2011 found that an *a la carte* regime would result in increase of 103% in the total input costs for 49 channels<sup>17</sup>.
- D. It is pertinent to note that the reasoning for imposing such a cap on viz., that high discounts force the subscribers to take bouquets only and thus reduce subscriber choice, has already been considered and rejected by the division bench of the Madras High Court in *Star India Private Limited v. Department of Industrial Policy and Promotion*, wherein the court struck down the ceiling of additional discount on MRP, on account of the same being arbitrary. This decision was not interfered with by the Supreme Court of India. Accordingly, the aforementioned reasoning cannot now be used to bring in a cap on discounts.
- E. Tariff forbearance in broadcasting sector should also be exercised given the success of such regulatory approach adopted in the telecom sector. The rates for voice calls, SMS and data in telecom are the lowest only because the Authority has, since 2002, left the tariff fixation to market forces and, prices are fixed depending on the demand and supply of services.

<sup>15</sup> TRAI, Information Note to the Press Release No. 11/2019, *Implementation of New Regulatory Framework for Broadcasting and Cable Services*, February 11, 2019, Accessed online at - [https://www.trai.gov.in/sites/default/files/data/PR\\_No.11of2019.pdf](https://www.trai.gov.in/sites/default/files/data/PR_No.11of2019.pdf)

<sup>16</sup> *Ibid*, at 2.

<sup>17</sup> Gregory S. Crawford and Ali Yurukoglu, *The Welfare Effects of Bundling in Multichannel Television Markets*, April 2011, Working paper accessed online [https://web.stanford.edu/~ayurukog/bundling\\_welfare.pdf](https://web.stanford.edu/~ayurukog/bundling_welfare.pdf) (Page 31)





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- F. Accordingly, TRAI ought to exercise forbearance and permit the broadcasting sector to freely bundle the TV channels, keeping the overall consumer interest in mind.



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- 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 la carte 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.**

G. Response to Q4. (a):

- A. No, channel prices in bouquets should not be homogenous.
- B. TRAI's assumption that a consumer's choice between *a la carte* channel and bouquets is merely determined on the basis of price is an oversimplification of consumer preferences. This arises from TRAI's assumption that choosing channels *a la carte* is the consumer preferred route. There is no data provided by TRAI to substantiate this assumption.
- C. On the contrary, the FICCI Media & Entertainment Report 2022<sup>18</sup> reveals that most consumers continued to opt for packs created by the MSOs and LCOs with minimal customization. Nearly 80% of subscribers are still choosing to procure bouquets<sup>19</sup>, despite the fact that the sum of all *a la carte* prices of channels has significantly decreased for subscribers after implementation of NTO. This shows that the preference of Indian consumer is bouquets, irrespective of the low price of a-la-carte channels.
- D. Indian consumers TV consumers prefer bundled channel offerings since they find significantly more value for money in the same. For instance, a monthly bill of INR 190 for 80 channels in 2004, when adjusted for inflation would have been as high as INR 402 in 2018, but bundling has reduced the monthly bill by INR 180 (INR 401 - INR 222) and increased the number of channels per household to 315<sup>20</sup>. Under the NTO, the monthly bills of viewers wishing to watch the same

<sup>18</sup> *Ibid*, at 4.

<sup>19</sup> Comments of Asia Video Industry Association to the Consultation Paper on Tariff Related Issues for Broadcasting and Cable Services, Accessed online at [https://www.trai.gov.in/sites/default/files/Asia\\_Video\\_Industry\\_Association\\_25092019.pdf](https://www.trai.gov.in/sites/default/files/Asia_Video_Industry_Association_25092019.pdf)

<sup>20</sup> STAR India's Response to TRAI's Consultation Paper on Tariff related issues for Broadcasting and Cable services, September 23, 2019, Accessed online at



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number of channels as earlier has gone up. In certain cases, the monthly bill has risen to INR 600 from INR 350 to watch the same channels.<sup>21</sup>

- E. Internationally, there is no precedent for mandating homogeneity of channel prices in a bouquet. In fact, across the world, bouquets have been firmly established as the preferred route by consumers. A Canadian study conducted in 2014 concluded that in “unbundling” could have adverse effects for the broadcasting sector and could result in 26% of the channels operative in Canada then becoming unviable<sup>22</sup>. As per CASBAA, in a study of broadcast regulations in 10 countries, apart from India, no country mandated a la carte selling, and bouquets were the preferred choice of consumers. Compared to countries like the USA, Canada and countries in South Asia, India is much more culturally and linguistically diverse and a bouquet would be the most cost-effective solution for a consumer to receive a variety of channels.
- F. Pay TV ARPU (Average Revenue per user) in India is one of the lowest in the world. Low ARPU of USD 4 per month makes Pay TV one of the most affordable and preferable medium of entertainment in India<sup>23</sup>. ARPU reflects the bill paid by a Pay TV customer to a DPO. The fact that consumers at large prefer bouquets demonstrates that they prefer lower monthly outgo than the so-called convenience of a-la-carte choice. Such a choice should be left to be decided by market forces instead of the regulator mandating it.<sup>24</sup>
- G. Since there is no empirical basis to suggest that the choice between a la carte channel and bouquets has any basis in the price of the channel as opposed to the composition of the bouquet and variety/diversity of channel/content therein, the need for homogeneity in channel offerings does not arise.

#### Response to Q4. (b):

As has been elucidated in the response to Issue 4 (a) above, consumer preference is for bouquet/bundling, with or without any price ceilings. Accordingly, there is no need for any measures to push a la carte choice, which is more costly and less desirable by consumers.

#### Response to Q4. (c):

- A. No, the maximum retail price of an a-la-carte pay channel forming bouquet should not be capped with reference to average prices of all pay channels forming the same bouquet.

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[https://main.trai.gov.in/sites/default/files/STAR\\_India\\_Pvt\\_26092019.pdf](https://main.trai.gov.in/sites/default/files/STAR_India_Pvt_26092019.pdf)

<sup>21</sup> Moneylife, *Consumers Finding Cable, TV Bills Going Up after New Tariff Rules; TRAI Says 'All Is Well'*, Accessed online at <https://www.moneylife.in/article/consumers-finding-cable-tv-bills-going-up-after-new-tariff-rules-trai-says-all-is-well/56681.html>

<sup>22</sup> Oliver Wyman, *TV Unbundling: An Economic And Consumer Experience Impact Assessment Of The CRTC's Proposed Approach*, July 2014, Accessed online at [https://www.oliverwyman.de/content/dam/oliver-wyman/global/en/2014/jul/2014\\_Oliver\\_Wyman\\_CMT\\_TV\\_Unbundling.pdf](https://www.oliverwyman.de/content/dam/oliver-wyman/global/en/2014/jul/2014_Oliver_Wyman_CMT_TV_Unbundling.pdf) (pg. 2)

<sup>23</sup> Zee Entertainment, *Zee Entertainment Investor Presentation June 2021*, Accessed Online at <https://assets.zee.com/wp-content/uploads/2021/06/14140423/Corporate-Investor-Presentation-June-2021.pdf?zee> (pg. 7)

<sup>24</sup> *Ibid*, at 2.



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- B. It is pertinent to note that the aforesaid capping was earlier sought to be accomplished by TRAI by way of the second of the twin conditions. This condition was struck down by the Bombay High Court, which decision was not challenged by TRAI in appeal before the Supreme Court. Any attempt to put a cap on discounts directly or indirectly would therefore be not only inconsistent with the spirit of the Court rulings on the subject but may again lead to considerable uncertainty resulting in loss of viewership thus affecting the growth of the sector.
- C. It is pertinent to highlight that, the “twin conditions” did exist in the earlier regulatory regime, but only at the wholesale level. In fact, prior to NTO 2.0, twin conditions have never existed at the retail level and certainly not in the DAS regime. Since the workability of the twin conditions had not been tested in relation to its impact on the end-consumer relationship, these were consciously rejected by TRAI while formulating NTO.
- D. Further, imposition of any formula/measure such as the twin condition on the pricing of bouquets or the channels within such bouquets would ignore the complex economics involved in pricing of *a la carte* channels as opposed to pricing of bouquets. Pricing of a TV channel depends on the direct costs incurred towards the production and distribution of a TV channel and the expected revenue from advertisement. The expected advertisement revenue is the risk factor for broadcasters. Prices of bouquets are uniquely determined taking into account the supply and demand factors of two markets viz Advertisement market and TV broadcasting market for content.<sup>25</sup>
- E. Offering of bouquets facilitates subscribers who may not be able to afford *a la carte* offerings yet are desirous of plurality and diversity of views and may be keen to explore different content, thereby enabling them to enjoy a wide array of quality programming through bouquets. The importance of viewpoint plurality has also been highlighted by TRAI<sup>26</sup>. Thus, any attempt at linking the price of bouquet of channels with its *a la carte* prices or cap the discount on the sum of a-la-carte is bound to adversely impact consumers who prefer bouquets.
- F. Moreover, any mathematical formula for price fixation is likely to cause market distortions owing to different interpretations and market practices arising therefrom. Any such exercise will be ultimately unworkable, and is also likely to lead to increased market uncertainty, which is ultimately harmful to the consumer.
- G. Accordingly, pricing of channels and bouquets as well as bouquet composition ought to be left to be decided by broadcasters on the basis of market dynamics, competition, consumer uptake, etc.

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<sup>25</sup> *Ibid*, at 2.

<sup>26</sup> Consultation Paper on Issues Relating to Media Ownership, Accessed online at [https://www.trai.gov.in/sites/default/files/CP\\_IRMO\\_12042022.pdf](https://www.trai.gov.in/sites/default/files/CP_IRMO_12042022.pdf) (Page 3)



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

Response to Q5.:

No. There is no need for homogeneity in channel prices within a bouquet, as the pricing considerations for bouquets vary across broadcasters and channels and it is not possible to prescribe a uniform mathematical formula which will accurately capture the cost structure for every broadcaster and/or channel.

- 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.**

Response to Q6.:

- A. NTO permitted broadcasters to provide discount of up to 15% on both *a la carte* and bouquet offerings. The decision of whether or not to offer such discounts, subject to the maximum ceiling prescribed, and the exact quantum of the discount was left to broadcaster's discretion.
- B. However, NTO 2.0 restricted discounting to *a la carte* channel prices alone, and prohibited discounting on bouquets, thereby taking away a broadcaster's discretion. The discounts offered by broadcasters/distributors are beneficial to the subscriber, who gets to enjoy greater diversity of content at lower rates. It has already been established above that consumer choice is in favour of bouquets, and hence, there is no reasonable justification for preventing discounts being offered on bouquets, besides TRAI's belief that such a practice will "*enable consumer choice through a-la-carte offering and prevent skewed a la carte and bouquet pricing*".
- C. Accordingly, the existing practice of allowing discount of up to 15% in addition to mandatory minimum distribution fee of 20% should be continued.
- D. As the ultimate beneficiaries of discounts are consumers, TRAI should also allow discount on bouquets, since the same are evidently more preferable to consumers. The NTO contains sufficient safeguards to ensure that discounts and commission are offered on non-discriminatory basis and as such, no additional stipulations are required.



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We thank you for the opportunity given to put forth our views and suggestions on the captioned subject and hope the same are considered favourably.

Your sincerely,

*Mr. R. Maheshkumar*

*Managing Director*

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