Submission by SATELLITE & CABLE TV Magazine

To

The Telecom Regulatory Authority of India Consultation Paper on

Issues related to Tariff for Cable TV services in CAS notified Areas

Consultation Paper No. 7/2010 dated April 22, 2010

We take this opportunity to thank the TRAI for inviting comments on various issues related to Tariff for Cable TV services in CAS notified areas. This is a pivotal issue for the entire revenue chain within the cable TV industry. This revenue chain includes the Broadcasters,, Cable TV operators and consumers.

The TRAI has invited comments from various stakeholders and consumers on various categorical issues, including ***"Any other related issue, you would like to comment upon or suggest."*** *We are therefore taking the liberty to respond to this question, as a preamble to our submission, as it forms the central theme of our suggestions on the way forward in this matter.*

There are 2 main points we would like to make:

1. **PILOT PROJECT – Hence Implement Fully Or Scrap it.**

It is important to recall that CAS was mandated in select areas of New Delhi, Mumbai Kolkata & Chennai ***as a pilot project****, i.e. to lead the way for a similar countrywide roll out of CAS.*

Now, 4 years later, CAS has not been extended to a ***single*** *additional, mandated CAS home. This clearly points to either a failure for CAS or the failure of political will to implement it.*

*Either way**, the I&B Ministry needs to** acknowledge the fact and **either remove mandated CAS altogether, or declare a firm road map for CAS roll out countrywide.***

a. *This will uniformly provide all Indian Cable TV consumers, everywhere in India, the same choice (or absence) of a-la-carte pricing.*

b. ***It will also provide the industry a** (much needed & overdue) **clear and pre-specified road map for future investments and growth** of the Indian Cable TV market, which provides direct employment to over 1 million Indians.*

There is little point in the TRAI seeking temporary fixes such as amended channel rates in the mandatory CAS areas.

2. CAS & NON CAS AREA PRICES MUST BE EQUITABLE

*Even if ultimately the TRAI decides to continue with an isolated pocket of 0.75 million mandated CAS subscriber STBs and a separate countrywide universe of 80 million Cable TV homes, mandatory **CAS area pricing should only be relooked at after the TRAI unfolds its own pricing policy for Cable TV in non-CAS areas.***

Unless this is done, the dichotomy between the mandated CAS areas and non-CAS areas will widen, unnecessarily isolating a small group of urban consumers and cable TV networks.

Given the above preamble, my response to each of the issues raised by the TRAI for consultation are:

1. **Should there be only two broad tariff regulatory frameworks, one for analogue non-addressable (Non-CAS) and another for digital addressable systems.**

2. ***YES.** There should there be only 2 broad tariff regulatory frameworks, one for analogue non-addressable (Non-CAS) and another for digital addressable systems.*

This is MOST important, and one of the 2 central themes of our submission.

3. **If yes, should such a framework be same for wholesale and retail.**

Yes, it should be the same for Wholesale & Retail, unless the TRAI has decided otherwise in its recommendations for the Cable TV tariff structure in Non CAS areas.

It is one of our key beliefs that mandatory CAS and non CAS consumers MUST be provided equitable deals.

4. **Should usage of STB be mandated in CAS notified areas for viewing both FTA and pay channels?**

The TRAI has confirmed (in this consultation paper) that in non-CAS areas digital STBs rarely provide an a-la-cart choice to subscribers. Clearly broadcasters have refused to provide their channels a-la-carte to consumers, unless they are forced to, by the Government. As a result, non notified area digital Cable TV STB consumers typically benefit from digitalisation, without the benefit of a choice of subscribed channels.

Hence, the compulsory / mandated use of digital STBs in notified CAS areas will only help promote digitalisation, and not choice of channels /CAS.

This issue should therefore be deferred from the current discussion, and taken up as part of an All India digitisation of TV roll out plan.

5. **Which of following method should be used to regulate the tariff ceilings for basic service tier in CAS notified areas?**

   c. Any other method you may like to suggest

In consonance with the one of the 2 central themes of our submission, the tariff ceilings should closely reflect the TRAI's revised plans for tariff in Non CAS areas, which are anticipated by 30th June 2010.

6. Which of following method should be used to regulate the retail tariff for pay channels in CAS notified areas?

e. Any other method you would like to suggest

In consonance with the one of the 2 central themes of our submission, the tariff ceilings should closely reflect the TRAI's revised plans for Cable TV tariff in Non CAS areas, which are anticipated by 30th June 2010.

6. **Should a relation between a-la-carte and bouquet price be prescribed to prevent perverse pricing?**

*YES. A reasonable relation **MUST** be established between a-la-carte and bouquet price be prescribed to prevent perverse pricing.*

If, so what should be the relation? Should it be different for broadcaster and MSO?

a. *The sum total of individual channel's a-la-Carte price should not exceed bouquet price by more than 30%. Larger than a 30% difference will make the pricing perverse, discouraging the consumer to exercise his choice for specific, individual channels.*

b. *It should be the same for Broadcasters & MSOs.*

8. How should the retail tariff for advertisement free channels be regulated in CAS notified areas? Should it be different from other pay channels?

In consonance with the one of the 2 central themes of our submission, the tariff ceilings should closely reflect the TRAI's revised plans for Cable TV tariff in Non CAS areas, which are anticipated by 30th June 2010.

9. How should the retail tariff for niche channels which requires specialised STB be regulated in CAS notified areas? Should it be different from other pay channels?

In consonance with the one of the 2 central themes of our submission, the tariff norms should closely reflect the TRAI's revised plans for Cable TV tariff in Non CAS areas, which are anticipated by 30th June 2010.

10. Should there be any provision of minimum period of subscription for pay channels? If yes, what should be that period?

In consonance with the one of the 2 central themes of our submission, the minimum subscription period should closely reflect the TRAI's revised plans for Cable TV tariff in Non CAS areas, which are anticipated by 30th June 2010.

11. How should the tariff for supply of STB be regulated?

b. Left to the market forces.
It should be left to market forces for the following reasons:

i. *Competition within the DTH industry has shown that consumers are often offered STBs at subsidised prices. These subsidies may soon extend to even a free STB, packaged with a specified subscription period.*
ii. *Technology continually drops existing STB prices, as well as offers new STB options such as HDTV (High Definition TV) STBs, PVR (Personal Video Recorder) STBs, MPEG-4 STBs. These new technology STBs may or may not be inter-operable. (eg: An HDTV STB may or may not have a built in PVR).*

12. How should the sharing of revenue from pay channels subscription between broadcaster, MSO and LCO be regulated?

In consonance with the one of the 2 central themes of our submission, the revenue sharing should closely reflect the TRAI's revised plans for Cable TV tariff in Non CAS areas, which are anticipated by 30th June 2010.

13. How should the sharing of revenue for basic service tier between MSO and LCO be regulated?

In consonance with the one of the 2 central themes of our submission, the revenue sharing should closely reflect the TRAI's revised plans for Cable TV tariff in Non CAS areas, which are anticipated by 30th June 2010.

14. Any other related issue, you would like to comment upon or suggest.

In our submission above, we have already listed our 2 central themes in this matter, viz :

1. **PILOT PROJECT – Hence Implement Fully Or Scrap it.**

*CAS was mandated in select areas of New Delhi, Mumbai Kolkata & Chennai **as a trial, a pilot project**, to lead the way for similar countrywide roll out of CAS.*

Now, 4 years later, the I&B Ministry needs to either remove mandated CAS altogether, or declare a firm road map for mandated CAS roll out countrywide, if necessary, modifying the original roll out rules, to incorporate the benefit of hindsight. It cannot be permitted to continue in 4 isolated pockets in the country, providing grossly different terms of business & pricing for consumers and the industry in CAS and Non CAS areas.

2. **CAS & NON CAS AREA PRICES MUST BE EQUITABLE**

*Even if ultimately the TRAI decides to continue with an isolated pocket of 0.75 million mandated CAS subscribers and a separate countrywide universe of 80 million Cable TV homes, mandatory **CAS area pricing should only be relooked at after the TRAI unfolds its own pricing policy for Cable TV in non-CAS areas.***

Unless this is done, the dichotomy between the mandated CAS areas and non-CAS areas will widen, unnecessarily isolating a small group of urban consumers and cable TV networks, subjecting them to disparate pricing & business practices.

In addition to the above we would like to caution against Commoditising & Destroying Industry Value

3. **DO NOT COMMODITISE & DESTROY INDUSTRY VALUE**

During the past several years, the TRAI has often reiterated its stand in favour of the consumer. While this is generally an honourable approach that has yielded *near miraculous results in the telecom sector, the same needs to be carefully reviewed and implemented in the broadcast sector where cross media holdings and non ideal practices are rampant in an environment which cannot genuinely be made into a free market.*

The Cable TV sector has been subjected to unsubstantiated broadcaster claims on subscriber numbers and mischievous implications of "Under Declarations". Cable TV consumers have been subjected to perverse pricing by broadcasters. While regulating prices , the Regulator & the Government have failed to provide a fair revenue model for MSOs and Cable TV networks.

*Before the regulator further breaks down even the cable TV industry's residual value, it needs to consider the existing revenue chain. This should include what the Cable TV customer is willing to pay and balance the broadcaster's subscription demands accordingly, while factoring in a reasonable Return-On-Investment for cable TV ground distribution**. Unless this is done firmly & urgently, the Indian Cable TV industry will not see fresh investments or growth.***

While consumers may see short term benefits of receiving monthly cable TV services at a price below that of the broadcaster's list price the consumer will ultimately lose when cable TV networks refuse to upgrade, leaving consumers to the mercy of DTH operators who will (almost certainly) quickly withdraw their existing predatory pricing.

It is therefore essential that cable TV services and their pricing are not reduced to a commodity. There must be scope for the cable TV industry to build up and deliver value. This can only happen if the regulator ensures that the cost of content to cable TV networks does not exceed 40% of their gross subscription revenues.