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**RESPONSE BY SITI CABLE NETWORK LIMITED TO THE CONSULTATION PAPER ON
ISSUES RELATED TO AMENDMENTS TO THE INTERCONNECT REGULATIONS
APPLICABLE FOR DIGITAL ADDRESSABLE CABLE TV SYSTEMS AND TARRIFF
ORDER APPLICABLE FOR ADDRESSABLE SYSTEMS**

A. Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems:

CARRIAGE FEE:

16. Apropos the above, the issue for consultation is,

- (a) Whether the following proviso should be introduced in the clause 3(2) of the Interconnection Regulations for DAS and the clause 3(5) of Interconnection Regulation for DAS should be deleted.

“provided that the provisions of this sub-regulation shall not apply in the case of a multi-system operator, who seeks signals of a particular TV channel from a broadcaster, while at the same time demanding carriage fee for carrying that channel on its distribution platform.”

- (b) If No, the reason thereof.

RESPONSE:

Siti Cable Network Ltd. agrees to the said amendment and strongly advocates that clause 3(5) of Interconnection Regulation for DAS should be deleted.

MINIMUM CHANNEL CARRYING CAPACITY OF 500 CHANNELS FOR MSOs:

20. Apropos the above the issues for consultation are:

- (a) Whether there is a need to specify certain minimum channel carrying capacity for the MSOs in the Interconnection Regulation for DAS.
- (b) If yes, what should be the different categories (example cities/town/rural area) of areas for which minimum channel carrying capacity should be prescribed and what would the capacity for each category.

RESPONSE:

There is no need to specify certain minimum channel carrying capacity for the MSOs in the Interconnection Regulation for DAS and the same should be kept open for the market forces to decide as they play an important and significant role in the matter of channel carrying capacity of the MSO, therefore, the same should not be regulated.

If at all, the Authority deems it necessary to specify minimum channels carrying capacity for MSO the same should be limited to the minimum FTA channels as regulated by TRAI presently and for the remaining Pay channels, the market forces should be allowed to decide the minimum number of channels to be carried depending upon the demand and requirement of the subscribers in any particular area of operation.

In this regard, Hon'ble TDSAT in its judgement dated 19-10-2012 in Appeal No. 3 (c) of 2012 titled "United Cable Operator's Welfare Association V/s TRAI" has rightly observed as follows that:

"It is not in dispute that the DTH operators are having capacity of carrying on 300 channels. The operators in an analogue mode would be carrying about 80-90 channels.

In our opinion, what is more appropriate is that it is one thing to say that a particular system is capable of carrying maximum number of channels, but it is another thing to say that a head end with such capacity is necessary for the entire country.

It is now a well settled principle of law that unequals cannot be treated equally.

In that view of the matter, in the metropolitan towns like Delhi or in any town having more than ten million population, the choice of a customer may be wide ranged one, but the said requirement may not serve any purpose in rural and semi urban areas.

Mr. Malhotra would contend that in fact the DAS operators having been asked to have an head end having a capacity to carry 500 channels, they would have a march over the DTH operators. A large number of viewers, as it is not controverted at the Bar that most viewers prefer only a few channels. While they would have a choice to select the number of FTA channels or the number of Pay channels, they will exercise their right of choice according to their own need.

A direction by a Statutory Authority cannot be disproportionate.

There is, in our opinion, absolutely no reason as to why the Metros and the rural areas would be treated equally. Moreover, no such restriction has been placed on the DTH operators and having regard to the fact that the Petitioners have to compete the DTH operators, the Respondent cannot on one hand say that the market shall take care of the situation and at the same time issue a mandate that the capacity of the head end of the MSOs throughout the country should be to carry 500 channels."

Also, while calculating minimum channel carrying capacity for the MSOs it is pertinent to take into consideration that no such restriction exists in case of DTH Platform.

The Hon'ble Authority should take into account the expenditure incurred by the MSOs to set up the infrastructure for carrying digital channels. The headend infrastructure, the network and the related paraphernalia is created by the MSO by making substantial investment. In addition, since as per amended Cable Network Act provisions, it is mandatory to encrypt the channels, there would be expenditure in the form of systems.

Accordingly, it is reiterated that there is no need to specify certain minimum channel carrying capacity for the MSOs in the Interconnection Regulation for DAS and the same should be left to the market forces.

PLACEMENT FEE:

23. Apropos the above, the issue of consultation is:

- (a) Whether there is a need for regulating the placement fee in all the Digital Addressable Systems. If so, how it should be regulated. The stakeholders are requested to submit their comments with justifications.

RESPONSE:

There is absolutely no need to regulate the placement fee in all the Digital Addressable Systems. The principal of "level playing field" should be applied herein where in case of DTH providers; no such regulation has ever been suggested by TRAI.

At the same time, the argument putforth by the Authority that in DAS, the technology provides for an EPG wherein the channels being carried on an MSOs network can be arranged in a simple easy to understand manner so that the subscriber can easily go through this guide and select the channel of choice instead flipping through all the channels, it is submitted that no such Regulation exists in case of DTH operators while in that platform also same facility of EPG is available.

It should be borne in mind that "Placement Fee" is purely a commercial transaction which will not impact the end consumer in any manner. Placement fee as rightly have been explained by Hon'ble TDSAT in its judgment dated 19-10-2012 in Appeal No. 3 (c) of 2012 is a fee paid by any broadcaster who is desirous to place its channel on better place or LCN of its choice.

The Hon'ble TDSAT held as follows:

"With a view to judge the correctness of the said submissions, we may notice the definition of "Placement Fee." It reads as under:-

"(v) "Placement Fee" means any fee paid by a broadcaster to a distributor of a TV channels for placement of the channels of such

broadcaster vis-à-vis channels of other broadcasters on the distribution platform owned or operated by such distributor of TV channels."

The Placement Fee, therefore, does not mean a fee payable only when a channel is placed on a better frequency. It may be necessary to put a particular channel at a better place so as to attract a higher viewership.

Moreover, if the contention of the Respondent to that extent is accepted, there is absolutely no reason as to why the DTH operators have been allowed to collect placement charges.

We, therefore, are of the opinion that the restriction placed on placement charges cannot be upheld. It is set aside accordingly.

It is difficult to comprehend as to if the Placement Fee is an evil for DAS operators; why it has not been found to be so for the DTH operators? Even in viewer wise classification, Placement Fee in view of its definition cannot be said to have lost all its relevance. If that be so, there is absolutely no reason as to why the same has expressly not been done away with for the DTH operators."

Therefore, there is no need because once the placement position has been given it cannot be changed in terms of regulation.

It is prerogative of the platform to decide as to how the channels will be clubbed and in what sequence and Broadcasters cannot demand a particular sequence as it is well known that normally "first cum first serve" principle works in the industry. Accordingly, it is suggested that the placement fee should not be regulated and it should be left for the market forces to determine and decide.

If the content provider and the MSO agree through mutual negotiations for payment of carriage fee/placement charges or technical cost for carriage of the channels, there cannot and should not be any objection. It is purely a matter in the private contractual domain and no regulatory intervention is called for.

B. ISSUES RELATED TO AMENDMENTS TO THE TARRIFF ORDER APPLICABLE FOR ADDRESSABLE SYSTEMS:

Twin conditions at retail level

29. Apropos the above, the stakeholders are requested offer their comments on the above conditions to prevent perverse a-la-carte pricing of the pay channels being offered as part of the bouquet (s). The stakeholders are also welcome to submit any formulation that can achieve the same objective, along with its justification.

RESPONSE:

The MSO is expected to fix the price of the a-la-carte channels but the ascribed values for each channel will be different for different bouquet.

There is no fixed threshold value of the wholesale price declared by the broadcaster for e.g Animax RIO rate is INR 0.21 , Channel V RIO rate is INR 0.45 and Star Plus is INR 7.87. So as per the twin condition (b) the maximum a-la-carte rate of Animax channel will be INR 0.42 for retail but the minimum retail rate of a free-to-air channel fixed by MSO is INR 3 (except for DD channels).

Moreover, under the proposed formula, for a same channel there can be multiple rates as there are multiple bouquets being offered by service providers and thus for each channel there can be multiple ascribed value of the channel. Thus, the "ascribed value" condition/criteria as sought to be suggested is unworkable.

Also, a call by the subscriber on our Toll Free Number costs us somewhere between INR 12-15/- . Hypothetically, if a subscriber calls for subscription of an additional one channel which (as in case of Animax) is priced 21 paisa, then the amount earned by MSO, even charging double or thrice will be 63 paisa X 12 = Rs. 7.56/-. Keeping this calculation in view, it can be concluded that an MSO will be losing for every additional subscriber INR 4 to 5/- which is commercially unviable and detrimental for its business.

The LCO revenue share as per the regulation is 35% of the retail price as per above mentioned example his share will be negligible.

The suggested twin condition restricts the Operator for providing the package / bouquet at the attractive price.

SUGGESTION:

The a-la-carte rates of pay channels forming part of the bouquet shall not exceed three times the alacarte rate of the channels offered by the broadcaster at the wholesale rates to MSO or FTA (Free to Air) channel rate of the MSO whichever is more, for addressable system_so as to also cover the cost of encryption, SMS & other distribution costs.

It may also be pointed out that each request made for addition or deletion of the channel or product has a cost to the service platforms. While making some basic guidelines on the provision of the ala carte channels those costs needs to be taken care of. Costs like the call in to the call centre, the processing costs, the bandwidth costs, conditional access costs are the factors which are required to be taken into consideration while arriving at the a-la-carte rate of the channel at the retail level.

Minimum Subscription Period

32. Apropos the above the stakeholders are requested to offer the comments, if any, on the proposed deletion of the word "pay" in clause 6 and 6(2) of the principal tariff order dated 21-07-2010.

RESPONSE:

It is submitted that Siti Cable has always stood for maximum consumer satisfaction and welcomes the step to expand the scope of a-la-carte to FTA channels also and delete the word "pay" in clause 6 and 6 (2) of the principal tariff order dated 21-07-2010.

Freedom to choose the channel (s) on a-la-carte and/or bouquet (s)

34. Apropos the above, the stakeholders are requested to offer their comments, if any, on the proposed inclusion of the above mentioned provision after sub-clause 6(4) in the tariff order dated 21-07-2010, as amended.

RESPONSE:

Siti Cable welcomes the step taken by the Authority to bring all the addressable systems to bring in parity as well as to ensure that consumers of these platforms are on equal footing.

Offering of bouquet (s) if channels which require special set top boxes (STBs) such as High Definition Television (HDTV) or 3D TV channels etc.

36. Apropos the above, the issue for consultation is,
- (a) Whether the channels that require special type of STB be offered only on a-la-carte or as part of separate bouquets that consists of only those channels that require a particular type of specialized STB.

RESPONSE:

In our view the channels that require special type of STBs be offered both on a-la-carte and also part of separate bouquets that consists of only those channels that require a particular type of specialized STB as it will give wide choice to the subscriber to either opt for a-la-carte channels or from bouquets offered by the Multi System Operator.

Having said so, the Authority have to give special attention to perverse pricing of a-la-carte/bouquet of channels by some of the broadcasters which is totally anti consumer and highly unethical. Recently, one such example of perverse pricing which came to the limelight was by renowned broadcaster namely ESPN which asked exorbitant prices for its HD content. The Authority should strive to achieve healthy competition amongst the market players for the best interest of the consumer.