

Consultation

on

**Draft Tariff Order prescribing framework for commercial interoperability
of Customer Premises Equipment (CPE) in DTH services**

Written view/comments on this draft Tariff Order are invited from the stakeholders by 13th March 2015. The comments may be sent, preferably in electronic form to Mr. Wasi Ahmad, Advisor (B&CS), Telecom Regulatory Authority of India, Mahanagar Doorsanchar Bhawan, Jawahar Lal Nehru Marg, New Delhi – 110002 (Tel. No.011-23237922, Fax No. 011-23220442; E-mail: advbcs@traf.gov.in).

Comments will be posted on the TRAI's website www.traf.gov.in

Draft

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART III, SECTION 4

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the _____, 2015.

No. ----- B&CS.--- In exercise of powers conferred upon it under sub-section (2) of section 11, read with sub-clause (v) of clause (b) of sub-section (1) of the said section, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunications), No. 39,-----

(a) issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii),---

the Telecom Regulatory Authority of India hereby makes the following Order, namely:-

THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES

(SIXTH) (THE DIRECT TO HOME SERVICES) TARIFF ORDER, 2015

(-- of 2015)

PART-I

PRELIMINARY

1. Short title, extent and commencement.---(1)This Order may be called the Telecommunication (Broadcasting and Cable) Services (Sixth) (the Direct to Home Services) Tariff Order, 2015 (-- of 2015).

(2) This order shall come into force thirty days after the date of its publication in the Official Gazette.

2. Applicability.---This order shall be applicable to direct to home operators providing direct to home services throughout the territory of India.

3. Definitions.--- In this order, unless the context otherwise requires,-

(a) “Act” means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(b) “Authority” means the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(c) “bundled scheme” means a scheme offered by a direct to home operator for customer premises equipment at specified rate which include the charges for TV channels or bouquet or bouquets of TV channels for a specified period;

(d) “customer premises equipment” means the equipment, components and accessories installed at the premises of the subscriber to enable the reception of any broadcasting service offered through an addressable system and includes ----

- (i) the set top box and the remote control for set top box;
- (ii) Low Noise Block Converter with Feedhorn (LNBF), Cable, Connectors; and
- (iii) the dish antenna, where such dish antenna is essential for such services;

but shall not include a television receiver set, computer or any such end equipment;

(e) “direct to home operator” or “DTH operator” means an operator licensed by the Central Government to distribute multi channel TV programmes in Ku band by using a satellite system directly to the premises of the subscriber without passing through intermediary such as cable operator or any other distributor of TV channels;

(f) “direct to home service” or “DTH service” means distribution of multi channel TV programmes by using a satellite system by providing TV signals directly to the premises of the subscriber without passing through an intermediary such as cable operator or any other distributor of TV channels;

(g) “lock-in-period” means duration for which on surrender of connection the subscriber shall not be entitled for refund of payments made towards CPE and programme bundled with CPE applicable for the said period;

(h) “order” means the “Telecommunication (Broadcasting and Cable) Services (Sixth) (The Direct to Home Services) Tariff Order, 2015 (No. -- of 2015)”;

(i) “set top box” means a device, which is connected to a television and which allows a subscriber to receive in unencrypted/ descrambled form subscribed channels through an addressable system;

(j) all other words and expression used in this order but not defined, and defined in the Act and rules and regulations made thereunder or the Cable Television Networks (Regulation) Act, 1995 (7 of 1995) and the rules and regulations made thereunder, shall have the meaning respectively assigned to them in those Acts or the rules or regulations, as the case may be.

PART II

TARIFF FOR SUPPLY AND INSTALLATION OF CUSTOMER PREMISES EQUIPMENT

4. Tariff for supply and installation of the Customer Premises Equipment --- (1) Every DTH operator shall specify the price of all types of the customer premises equipment offered by it, their installation and activation charges and taxes, if any.

(2) DTH operator shall offer all types of customer premises equipment offered by it to every subscriber on outright purchase basis at the price and charges specified under sub-clause(1) which shall be called standard scheme for customer premises equipment:

Provided that DTH operator may also offer other schemes for the supply and installation of customer premises equipment including bundled scheme and shall specify separately for all schemes the charges for the customer premises equipment, installation and activation charges thereof, the channels or bouquet of channels or bouquets of channels bundled with customer premises equipment and the taxes, if any.

Provided further that DTH operator shall offer customer premises equipment at the same terms and conditions as applicable for customer premises equipment under the bundled scheme.

(3) DTH operator may specify a lock-in period not exceeding three months for all the schemes offered by it.

(4) DTH operator may specify installation and activation charges for the customer premises equipment not exceeding rupees three hundred and fifty.

5. Refund on surrender of connection – (1) DTH operator shall give an option to every subscriber to return the customer premises equipment in all schemes and for all types of customer premises equipment:

Provided that there shall be no obligation on DTH operator to take back the customer premises equipment if it is tampered with or is not in working condition at the time of return.

(2) On return of the customer premises equipment by the subscriber, DTH operator shall refund,-

(a) if the customer premises equipment has been acquired under the standard scheme, the total depreciated value of the said equipment;

(b) if the customer premises equipment has been acquired in a scheme other than the standard scheme, the amount paid by the subscriber for the customer premises equipment after deducting the amount of depreciation of the value of the said

equipment applied for the same type of customer premises equipment under the standard scheme;

(c) if the customer premises equipment has been acquired under bundled scheme, in addition to the refund towards customer premises equipment specified in para (b), the balance amount for the bundled programmes after deducting the charges for the number of completed month or part thereof for which DTH services were availed by the subscriber by applying average monthly charge for such programmes:

Provided that DTH operator may deduct additional one month average charge for surrender of connection before the expiry of the specified period for the bundled scheme:

Provided further that if a subscriber surrenders his connection within the lock-in period, DTH operator may deduct the amount of depreciation of the value of the customer premises equipment and the average monthly charge for the bundled programmes for the entire lock-in period.

(3) The depreciation on the price of the customer premises equipment specified by DTH operator under sub-clause (1) of clause 4 shall be calculated using straight line method at the rate of 1.7 per cent. for every completed month or part thereof.

(4) DTH operator shall designate one centre located in every district headquarter for surrender of customer premises equipment.

(5) Every DTH operator shall provide facility for registration of request of the subscribers for surrender of the connection on its toll free number and display it on its website.

(6) DTH operator shall, on the registered request of the subscriber, collect the customer premises equipment from the premises of the subscriber and deduct an amount not exceeding rupees one hundred and fifty as collection charge from the total amount refundable to the subscriber.

(7) The subscriber may surrender the customer premises equipment at the designated centre of the service provider and in that case DTH operator shall not charge any collection charge.

(8) DTH operator shall not deduct any other charge from the amount refundable to the subscriber on return of the customer premises equipment.

(9) There shall be no obligation on DTH operator to make any payment on return of customer premises equipment after it has been used by the subscriber for five years.

(10) Every DTH operator shall, within fifteen days of receipt of request from the subscriber collect the customer premises equipment from the premises of the subscriber.

(11) Every DTH operator shall, within seven days of receipt of the customer premises equipment, ensure payment of the refund amount at the premises of the subscriber.

6. Publication.--- (1) Every DTH operator shall publish on its website all schemes for customer premises equipment along with their terms and conditions.

(2) DTH operator shall, before entering into subscription agreement with the subscriber, explain to the subscriber details of all the schemes for acquisition of customer premises equipment and take the declaration of the subscriber on subscription agreement acknowledging that details of the schemes have been explained to him.

(3) Every DTH operator shall, on entering into subscription agreement with the subscriber, provide to the subscriber details pertaining to scheme opted by him, as specified in the Schedule I of this order.

(4) DTH operator shall display the refund table alongwith corresponding scheme on its website.

9. Repair and maintenance of CPE.---DTH operator shall, at the time of entering into subscription agreement with the subscriber, provide the details of repair and maintenance services to be provided by it to the subscriber and charges therefor, if any:

Provided that DTH operator shall repair and maintain the customer premises equipment for five years without any charges from the date of activation of services to the subscriber.

PART-III
MISCELLANEOUS

11. Reporting Requirement.----Every DTH operator shall report to the Authority, within fifteen days of launch of any new scheme or any modification in the existing scheme, the details of the scheme along with its terms and conditions.

12. Power of Authority to intervene.----The Authority may, by order or direction made or issued by it, intervene in order to ensure compliance of the provisions of this tariff order, or protect the interests of subscribers and service providers.

(Sudhir Gupta)

Secretary, TRAI

Note: The Explanatory Memorandum annexed to this order explains the objects and reasons of “The Telecommunication (Broadcasting and Cable) Services (Sixth) (The Direct to Home Broadcasting Services) Tariff Order, 2015 (-- of 2015)”.

Schedule I

Refund Table

Month	Refund Amount in Rs.	Month	Refund Amount in Rs.
Up to Lock-in period		--	
First Month after Lock in period		--	
Second month after lock-in period		--	
--		--	
--		--	
--		--	
--		--	

(the table should specify the month by month refund amount till any refund is due as per the scheme)

Details of Opted scheme

Name of the scheme			Signature of the subscriber	<i>Signature of the DTH operator/Authorized agent or franchisee of the DTH operator</i>
Installation & activation charges (Rs.)	A			
Taxes, if any (Rs.)	B			
Charges towards CPE (Rs.)	C			
Charges towards bundled programme, if any (Rs.)	D			
Total charges paid by the subscriber (Rs.)	$= (A+B+C+D)$			
Lock-in period (Months)				
Make/Model/Sr. No. of the STB offered as part of the CPE				
Owner of the entire CPE ¹ (excluding the viewing card)	(subscriber/DTH operator)			
Toll free No. for registration of requests for surrender of connection for availing buy-back/refund				

¹ excluding the viewing card, ownership of the entire CPE should be either with the DTH operator or the subscriber.

Explanatory Memorandum

1. Consumer protection is one of the focus areas of Telecom Regulatory Authority of India (TRAI). The Authority has taken several measures, from time to time, to protect the interests of consumers, facilitate availability of broadcasting and cable television services at affordable prices and ensure that Quality of Service being provided to consumers in the broadcasting and cable television sector is in accordance with prescribed norms.
2. Direct-to-Home (DTH) services in India have been growing at a rapid pace since they were introduced in 2003. As on December 2014, the number of registered pay DTH subscribers has reached a figure of 73 million. The number of private DTH operators has also grown from one operator in 2003 to six operators today. These operators have launched their services at different points of time, deploying different transmission and compression standards and encryption solutions.
3. In DTH services, a subscriber needs Customer Premises Equipment (CPE) to be connected with the television set for reception of programmes as the signal received at his premises is in digital form and encrypted. CPE consists of an outdoor unit comprising a dish antenna, Low Noise Block Converter with Feed-horn (LNBF), cable and connectors. The indoor unit primarily comprises a Set-Top-Box (STB) along with a remote control. Since variegated technologies co-exist, the CPEs deployed by one operator may not be compatible with the network of another operator, hampering migration of the subscriber from one operator to another; in case the subscriber wishes to migrate, he cannot do so without re-investing in another CPE.
4. The Authority is of the view that interests of consumers in this regard can be largely protected through the provision for commercial interoperability of CPEs. Commercial interoperability provides an exit option for a subscriber in case the subscriber wishes to change the operator for any reason. Accordingly, in the relevant Regulations/ Tariff orders of TRAI, it was mandated that DTH operators shall give options to a subscriber to procure the CPE either on an outright purchase basis or a hire-purchase basis or rental basis, or in accordance with other scheme, if any, prescribed by the Authority.
5. It has been observed that in case of DTH services, the schemes offered by DTH operators for CPEs often are such that no viable exit option is available to subscribers. In case of migration from a particular

operator, the subscriber has to re-invest in another CPE. This also holds good in case of migration to another platform (e.g. DAS).

6. Earlier, a Tariff Order namely the Telecommunication (Broadcasting and Cable) Services (Sixth) (The Direct to Home Broadcasting Services) Tariff Order, 2013 (No. 2 of 2013) was notified by the Authority. The intent of this Tariff Order (TO) was, amongst others, to provide an easy exit option to subscribers and, at the same time, to protect the interests of the service providers. The said TO, inter alia, prescribed standard tariff packages for CPEs, to be offered mandatorily by all DTH operators. However, this TO was challenged by a few of DTH operators in the Hon'ble Telecom Disputes Settlement Appellate Tribunal (TDSAT). The Hon'ble TDSAT through its order dated 1st October 2014, while maintaining that TRAI has jurisdiction under section 11 of the TRAI Act to regulate the tariff of the STB along with other elements of CPE, set aside the said TO. The operative part of the said order states as under:

“.....we find that some elements of cost have not been taken into account and issues raised by the appellants have not been fully addressed by the respondent while passing the impugned tariff order and the same is, therefore, not tenable. The impugned tariff order is accordingly set aside. However, we make it clear that it will be open to the respondent-TRAI to issue a fresh tariff order after taking into consideration the inputs provided by the appellants and addressing the issues raised by them.”

7. In the judgment of 1st October, 2014, Hon'ble TDSAT has stated that, in its view, the following issues, raised by the appellants in their appeals, have not been satisfactorily addressed by TRAI:
 - i) Certain important elements of costs of the consumer-premises-equipment (CPE) such as antenna, LNBF, viewing card and connectors, and factors such as foreign exchange rate variations and custom duty have not been taken into account by TRAI in the Tariff Order;
 - ii) TRAI has not considered the 'modicum of profit' to the operator over the procurement cost of the CPE while making it available to its subscribers;
 - iii) Aspect of financing of the subsidy, which the operators give on the price of STB and is required to be recovered from subscribers, has not been considered by TRAI in its Tariff order;

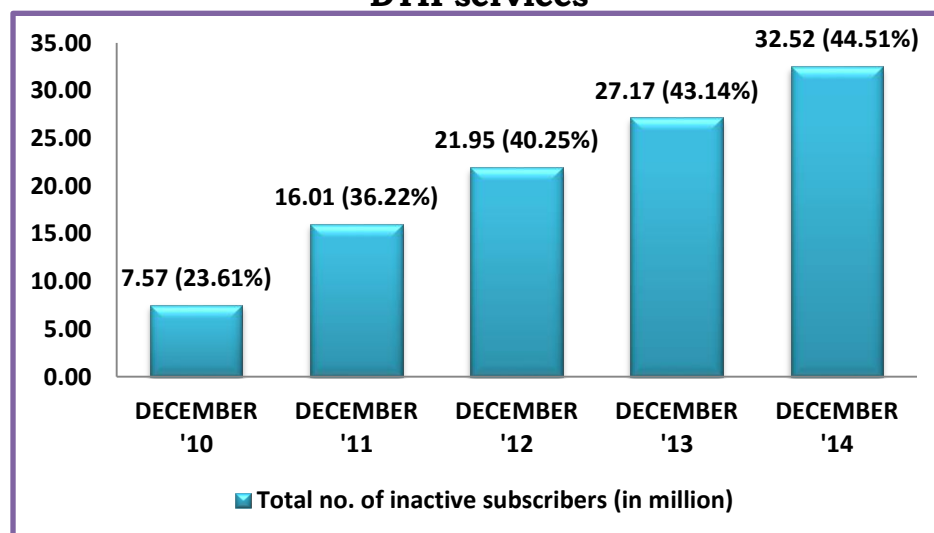
- iv) In the Tariff Order there is no protection to the appellants (DTH operators) in the event a customer defaults before paying off all the installments;
8. Subsequently, through an order dated 24th October 2014, TRAI sought following information from all the pay DTH operators:
- i) Details of various schemes regarding offering of CPE by an operator to its subscribers;
 - ii) Terms and conditions associated with the schemes, referred to above, and the manner of communicating the said terms and conditions to the subscribers;
 - iii) Costs of various elements of CPE offered by the operator to its subscribers;
 - iv) Profit margins over the input cost of the CPE; and
 - v) In the schemes under which the CPEs are offered by the DTH operator to its subscribers for availing of DTH services:
 - a) the amount of subsidy and the mechanism of recovery of the subsidy from its subscribers; and
 - b) the built in protection against defaulting subscribers with respect to CPE being offered by the operators to their subscribers under various schemes.
9. Taking into account the information obtained from the operators and other relevant aspects, the Authority has come out with this Draft Tariff Order for consultation with stakeholders.
10. The proposed Tariff Order aims to mandate DTH operators to declare price of all types of CPEs offered by them alongwith the installation & activation charges and applicable taxes towards CPE, if any. DTH operators may also declare these parameters for refurbished CPEs in addition to the brand new CPEs. Taking these declared parameters, DTH operator shall offer an outright purchase scheme, both, for brand new and refurbished CPEs, for each type of CPE. Such standard schemes shall, as proposed in this draft TO, be stand alone schemes for CPEs and shall not have any programme (channels or bouquets of channels) bundled with them. The draft TO further mandates that there needs to be a standard buy-back/refund mechanism built into each of the standard schemes offered by DTH operators.

11. DTH operator may also offer other schemes for CPEs on hire-purchase or rental basis.
12. Standard schemes are to be offered in addition to any other scheme offered by the DTH operators that they may offer for CPEs or bundled schemes. The proposed Tariff Order further mandates that for all other schemes offered by a DTH operator, including the bundled scheme(s), for any particular type of CPE, there shall be an inbuilt buy-back/refund mechanism which shall be broadly governed by the standard scheme prescribed for that type of CPE by the DTH operator.
13. *Need for a mandatory buy-back/refund scheme for CPEs*
 - 13.1 As stated above, the CPEs offered by one DTH operator may not be compatible with the networks of other operators and, in case, a DTH subscriber intends to move to another DTH operator, he will be required to reinvest in another CPE offered by the operator where the subscriber intends to migrate. Further, instead of migrating to another DTH operator, the DTH subscriber may like to migrate to cable TV platform or any other platform for which also he will be required to invest in the CPE/STB provided by the operator of that platform. Thus, in any case of migration, as of now, there is no protection for the investment made by the subscriber towards CPE.
 - 13.2 Operators have contended that, generally, they do not get back the CPEs when a subscriber migrates to another operator/platform, even in cases where the operators legally own them. There could be a number of reasons for such a situation. Some of these reasons are as under:
 - i) the operators themselves are not keen to collect CPEs on their own,
 - ii) there is belief that no subscriber would accept an old/refurbished CPE,
 - iii) subscribers are unaware whether any buy-back/refund mechanism is available to them

However, an important reason is that subscribers do not have any incentive to return the CPE.

13.3 As per the data submitted by DTH operators to TRAI, the percentage of total inactive subscribers till December, 2014 was close to 45% of the registered subscriber base of the DTH services. In absolute terms, it translates to 32.52 million subscribers. In other words, almost 32.52 million CPEs were lying idle. During discussions, the feedback from the DTH operators was that only an abysmally small percentage of such inactive CPEs are collected back by the operators. The graph below (Fig. 1) shows the growth in the inactive subscriber base of the pay DTH services in the last five years. Thus, CPEs have already contributed considerably to the e-waste in the country.

Fig. 1: Growth in the inactive subscriber base of the pay DTH services



13.4 Currently, the DTH operators offer various schemes for CPEs to their subscribers, including bundled schemes. In the bundled schemes, CPE along with programme is offered in a bundled form. In such schemes, programme charges are inclusive for a certain specified period. Charges for the bundled programme are levied upfront for the said specified period; after this period is over, subscribers are required to subscribe from amongst packages/channels offered by the DTH operators, independent of the bundled schemes. DTH operators may or may not charge towards CPE beyond the said specified period, depending upon their business model.

13.5 It has been observed from the schemes offered by the DTH operators that different operators are levying different charges for installation, activation, etc. and interestingly, in some cases, the same operator is charging different installation and activation charges in different

schemes offered by it. Operators are also levying charges such as 'get starter kit', 'viewing charges' etc. without any clarity as to what such charges exactly pertain to and whether there is any refund component built into these charges. This often leads to disputes and/or consumer complaints.

- 13.6 The observations of the Hon'ble TDSAT, stated in para 7 above, as well as the issues discussed above can be suitably addressed by permitting DTH operators to themselves declare the price of the CPEs, taking into account various costs and a reasonable modicum of profit. In order to ensure effective commercial interoperability, the draft Tariff Order proposes to mandate DTH operators to declare price of all types of CPEs offered by them alongwith the installation & activation charges and applicable taxes towards CPE, if any. DTH operators may also declare these parameters for refurbished CPEs in addition to the brand new CPEs. And, taking these declared parameters, DTH operators shall offer an outright purchase scheme, both, for brand new and refurbished CPEs, for each type of CPEs. Such standard schemes shall, as proposed in this draft TO, be stand alone schemes for CPEs and shall not have any programme (channels or bouquets of channels) bundled with them. To ensure that such schemes offered by a DTH operator are not illusory for subscribers vis-à-vis other schemes offered by it, it is important that every scheme, including bundled schemes, offered by the operator should have the buy-back/refund mechanism built into it. And, the buy-back/refund mechanism in each scheme, offered by the operator, should be governed by the buy-back/refund mechanism of the standard scheme for the same type of CPE.
- 13.7 To facilitate the subscriber to have access to all the schemes offered by the DTH operator, the draft Tariff Order mandates that all the schemes, including the standard schemes offered by the DTH operator, for each type of CPEs offered by it, should be published prominently by the DTH operator on its website. Further, the DTH operators should ensure that the details of all the schemes for CPEs offered by them should also be available to the subscribers at the time of registration.

14. *Price of CPE*

Under the Standard Buy-back/refund Scheme

- 14.1 As per the information submitted by the DTH operators, the expenditure incurred by them for procuring CPE varies from Rs. 2,582 to Rs. 3,252 and the total customer acquisition cost (also including dealer/distributor margin, installation charges, secondary Freight, Service Tax, Finance Charges etc.) varies from Rs. 3,557 to Rs. 4,605. It has been observed from the details of costs of different elements of CPE and various charges levied for providing CPE that these vary from operator to operator and from scheme to scheme. Moreover, certain elements of CPEs are imported where the price would vary with time with any change in foreign exchange rates.
- 14.2 In view of the above and the fact that there are 6 pay DTH operators besides the cable platform competing in the market, in the scheme of things proposed in this draft Tariff Order, no pre-determined prices have been assigned by TRAI to CPEs offered by DTH operators. DTH operators are free to set the prices/charges of STB and other CPE components. The DTH operator can also keep an appropriate 'modicum of profit' as per their business plan.
- 14.3 DTH operators are, however, required to offer standard scheme for each type of CPE offered by them. Such standard schemes are to be offered by DTH operators at the declared price of the CPE, and indicating separately, installation & activation charges and applicable taxes, if any.

Under schemes other than Standard Scheme

- 14.4 In all the schemes offered by a DTH operator, the operator will have to clearly specify the charges being levied towards the CPE and in case of bundled schemes, charges towards both, the CPE and the programmes are to be specified separately. It is worth mentioning here that if the subscriber, having a particular type of CPE, wants to surrender the connection and return the CPE then the amount of refund shall be arrived at by considering the price of same type of CPE, specified under the standard scheme.

15. *Installation and activation charges*

- 15.1 At the time of providing a new connection, DTH operators incur certain expenditure to install the CPE at the subscriber premises and activate the subscribed services. The costs involved for carrying out installation and activation of a new connection, are – i) transportation cost of CPE and the installation team and ii) wages for the team which carries out the said job. Generally, a team of two skilled workers is required for carrying out installation and activation. As per the Order dated 29.9.2014 of the Office of the Chief Labour Commissioner (C) under the Ministry of Labour and Employment, GOI, the minimum wages for a skilled worker, as applicable w.e.f. 1.10.2014, varies from Rs.312 to Rs.404 per day, depending upon the area. Accordingly, the average minimum wage is Rs.358 per day. Considering that one team can install, on an average, 3 connections in a day and transportation cost is say Rs.200, the average installation cost comes out to be roughly Rs.300 per connection. This is in the same range as reported by three DTH operators. These three DTH operators have quoted installation charges in the range of Rs.250 to Rs.375. The others have not reported the same explicitly.
- 15.2 In addition, the activation charges reported by the operators widely vary from scheme to scheme and operator to operator. The variation is from Rs.0 to Rs.1600. The activation basically refers to creation/configuration of subscription details in the operator's system. Therefore, it stands to reason that the costs of activation should be more or less the same across various schemes and operators. It would, therefore, seem that the activation charges reported/levied by various operators do not actually represent an activation charge but involves some other considerations. The Authority is of the view that activation should cause a nominal cost to an operator, say Rs.50 or so.
- 15.3 In view of the above, the draft TO proposes to keep a cap on installation along with activation charges at Rs.350. For clarity and ease of calculation of the buy-back/refund amount at the time of surrender of connection by the subscriber, DTH operators should indicate any such charges separately in the standard scheme as well as in all other schemes for CPEs offered by them, including bundled schemes. However, the cap on installation & activation charges may be reviewed from time to time by the Authority.

16. *Lock-in period*

- 16.1 A subscriber should be able to change his operator if he desires to do so for any reason. However, for a subscriber to make an informed decision regarding migration, he should experience services of the operator for an adequate time period. Further, this will also allow opportunity to an operator to recover a service lapse. However, if this period is too long, it would effectively deny the benefit of commercial interoperability to subscribers. To strike a balance, in the draft TO, a lock-in period of a maximum of 3 months has been proposed for all the schemes offered by DTH operators.
- 16.2 As far as refunds are concerned, if a subscriber surrenders his connection before the specified lock-in period, the DTH operator need not refund the charges, for the duration of the lock-in period, attributable towards CPE in the case of the standard and other schemes where a CPE is offered on a standalone basis. Similarly, in case of bundled schemes, charges for the lock-in period attributable to both CPE and bundled programme need not be refunded by the operator. The mechanism for calculation of refund, in case a subscriber surrenders his connection within the lock-in period, is explained through Examples given in Annexure-A.

17. *Rate of depreciation*

- 17.1 As per the Annual Reports² of the respective DTH operators, the useful lifetime of CPE as used by DTH operators ranges from 5 years to 7 years except for one operator who has taken it as 3 years. Therefore, Authority is of the view that it would be reasonable to peg the useful life of CPEs for the purpose of calculation of depreciation at 5 years. In other words, there will be no refund on account of charges paid by the subscriber towards CPE after a period of 5 years. Taking the useful lifetime of STB and other components of CPE as 5 years and using the straight line method for calculating depreciation, annual rate of depreciation works out to 20%. Accordingly, the rate of depreciation has been taken as 1.7% for a completed month (or a part thereof) in the Draft TO for the standard scheme.

² Source: Annual Reports of respective DTH operators- Operator 1 – 5 to 6 years. (FY 2013-14), Operator 2 – 5 years (FY 2013-14), Operator 3 – 3 years (FY 2013-14), Operator 4- 5years (FY 2012-13), Operator 5- 7 years (FY 2012-13), Operator 6- 5 years (FY 2012-13).

17.2 The refund/buy-back mechanism in all other schemes offered by the DTH operators is proposed to be governed by the refund/buy-back mechanism of the standard scheme of the corresponding type of CPE. This, in effect, means that the rate of depreciation applicable for all schemes shall be the same i.e. 1.7% for a completed month (or a part thereof) on the price of the CPE indicated by the DTH operator in the standard scheme.

18. *Repair and maintenance of CPE*

18.1 The repair and maintenance of the CPE shall be the responsibility of the operator till the time any refund is due to the subscriber. The mechanism for repair and maintenance and charges thereof, if any, thereafter should be clearly specified at the time of providing the connection.

18.2 It is up to the DTH operator to either carry out the repair/maintenance at the subscriber premises or at its own service centre. However, in either case, the DTH operator shall not charge anything extra beyond the specified charges in the schemes offered.

19. *Buy-back/refund option can be availed of only with CPEs in working condition*

19.1 To avail of the benefit of buy-back /refund option and get the refund towards CPE on surrender of connection, a subscriber needs ensure that the CPE returned is not tempered with and is in working condition.

20. *Buy-back/refund mechanism*

Under the Standard scheme for CPEs

20.1 The installation and activation charges levied by a DTH operator are one-time charges for costs that the operator bears at the time of providing a new connection. Therefore, the Authority is of the view that these charges need not be refunded. The same is the case with regard to the taxes, if any pertaining to the CPE, levied on the subscriber. However, an operator cannot levy any other charge such

as porting charge, exit charge or any such charge by any other name. Therefore, the amount of refund, at the time a subscriber surrenders its connection, shall be equal to the total depreciated value of the CPE at that point in time. To explain how to arrive at the amount of refund, an example (Example 1) has been given in Annexure-A of this Explanatory Memorandum.

Under the schemes other than the Standard scheme for CPEs

- 20.2 Buy-back/refund for CPEs in any scheme other than the standard scheme offered by a DTH operator, is to be governed by the buy-back/refund mechanism prescribed in the Standard scheme for the corresponding type of CPE. In all the schemes offered by a DTH operator, the operator will have to clearly specify the charges being levied towards the CPE and in case of bundled schemes, charges towards both, the CPE and the programme are to be specified separately. The amount of refund for charges levied towards CPE, at the time a subscriber surrenders his connection, shall be equal to the difference between charges paid by the subscriber, towards a particular type of CPE (excluding installation and activation charges and taxes), and the amount by which the CPE of that type gets depreciated under its standard scheme, at the time of surrender of connection. In case, the difference is zero or negative, no refund/payment shall be made by either party. Moreover, no refund on account of CPE is required to be made by the DTH operator after 5 years from the date of activation of the connection. To explain how to arrive at the amount of refund, an example (Example 2) has been given in Annexure-A of this Explanatory Memorandum.

Mechanism for refund towards charges for programmes offered in bundled schemes

- 20.3 DTH operators offer different bundled schemes where the CPE along with programme (package/channels) is offered in bundled form.
- 20.4 In case of bundled schemes, it has been proposed in the Draft Tariff Order that appropriate refund for, both, CPE and bundled programme shall be made by the operator. As far as refund/ buy-back for CPE is concerned, the same mechanism, as in case of other schemes explained above, is to be adopted. Accordingly, the amount of refund, at the time a subscriber surrenders his connection, shall

be equal to the difference between charges paid by the subscriber towards CPE (excluding installation and activation charges and taxes) and the amount by which the same type of CPE gets depreciated, under its standard scheme, at the time of surrender of connection.

- 20.5 In bundled schemes, normally the DTH operators offer programmes at a lesser rate as compared to the rates of the same programmes when offered independent of bundling. Subscribers opt for such schemes knowing well in advance that the rates for programmes in bundled schemes are valid only when there is a commitment from them to avail services for a certain minimum specified period. Therefore, the Authority is of the view that, in case, a subscriber wants to surrender the connection before the said minimum specified period, the DTH operator may recover the benefit, in terms of charges for the programmes, that were given to the subscribers due to bundling, in addition to the charges for the programmes for the period for which the subscriber availed the services.
- 20.6 In the draft TO, it has been proposed that, in case, a subscriber surrenders his connection before the said specified period, the refund towards programmes in the bundled schemes should be calculated by deducting an amount, equal to the average monthly charge towards programmes in the bundled schemes for an additional month beyond the actual number of completed months of a part thereof, for which the subscriber availed the services, from the total charges specified for the programmes in the bundled scheme. To explain how to arrive at the amount of refund, an example (Example 3) has been given in Annexure-A of this Explanatory Memorandum.
- 20.7 In case of bundled schemes, it also needs to be ensured that the pricing of CPE in bundled schemes is not skewed so that the subscriber gets no refund in case of an early surrender of connection and is effectively unable to utilize the benefits of commercial interoperability. For example, such a situation can arise if the charges attributed to CPE, in a bundled scheme, are kept unrealistically low. To address such situations, a condition has been imposed in the Draft TO that in such schemes, DTH operators need to specify the charges and terms and conditions for CPE separately. And, at the same charges and terms and conditions, they are required to offer CPEs, independent of bundling.

21. *Buy-back /refund scheme is to be independent of the type of CPE*

21.1 So far, the tariff orders prescribing commercial interoperability covered only those subscribers having CPE with a plain vanilla Set-Top-Box (STB). The percentage of subscribers having plain vanilla STB as a part of their CPE is around 90% for majority of operators (with approx. 67% for only one operator). Presently, DTH operators offer a wide variety of STBs like SD, SD with DVR, HD and HD with DVR. Due to continuous advancements in technology, more varieties of STB may be introduced in future. Also, some of DTH operators do not offer plain vanilla STB. As the CPE pricing and packaging is left to the operators, the Authority is of the view that this TO be made applicable to all CPEs, irrespective of the type of STB, or any other element of the CPE, forming part thereof.

22. *Options regarding surrender of CPEs*

22.1 In the draft TO, it is proposed that the following two options shall be offered by the DTH operator to its subscribers for surrender of the CPEs and it would be up to the subscriber to avail of either of the options:

- (i) The subscriber can surrender the CPE and get the refund at his premises. In this case the operator shall arrange for the same and can deduct a maximum of Rs 150/= on account of CPE collection charges. The quantum of this charge may be reviewed by the Authority from time to time.
- (ii) The subscriber can deposit the CPE and get the refund at centre(s) designated by the DTH operator. Accordingly, the operator shall ensure that there is at least one such conveniently located centre preferably within every city, and, in any case, in each district headquarter.

23. *DTH operator to specify toll-free number for surrender of connection*

23.1 To ensure that the consumer is able to avail the benefit of commercial interoperability in a convenient manner, operators have been mandated to specify and widely publicise (on its website, barker channel and subscriber agreement form) a toll-free number where subscribers can register their request for surrender of their

connections. This number can be the same as the toll-free number that a DTH operator specifies under the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulation, 2007 (8 of 2007).

24. *Time limit to settle buy-back / refund claims of the subscribers*

24.1 It is expected that operators would devise suitable mechanisms to settle refund/buy-back claims of subscribers who intend to avail of the benefit of commercial interoperability. However, a reasonable time needs to be allowed to DTH operators. Accordingly, in the draft TO, it has been proposed that every DTH operator shall, within fifteen days of receipt of request from the subscriber collect the CPE from the premises of the subscriber. Regarding payment of refund, it has been proposed that every DTH operator is required to ensure payment of the refund amount at the premises of the subscriber within seven days of receipt of the CPE.

25. *Terms and conditions are to be clearly spelt out in the offer/ subscriber agreement form*

25.1 As per the provisions proposed in the draft TO, every DTH operator is required to publish on its website all schemes for CPE along with their terms and conditions. DTH operator are also required to ensure that, before entering into subscription agreement with the subscriber, the details of all the schemes for acquisition of CPE are explain to the subscriber. DTH operators are also mandated to take the declaration of subscribers on subscription agreement, acknowledging that the details of the schemes have been explained to them. Further, every DTH operator is required that, on entering into subscription agreement with the subscriber, the operator provides to the subscriber the details pertaining to the scheme opted by the subscriber, as specified in the Schedule I of this order. DTH operators are also required to display the refund table alongwith corresponding scheme on their websites.

26. *No other charges to be levied by operators*

26.1 In the Draft TO, the pricing of CPEs has been left to DTH operators. Moreover, the pricing and packaging of channels is also done by DTH operators only, subject to certain conditions that link the relative pricing between bouquet rate and a-la-carte rate of channels ('twin conditions'). DTH operators are also allowed to prescribe a minimum monthly subscription charge up to Rs.150 (excluding taxes) for availing of their services. Therefore, the Authority is of the view that no other charges, by any name, other than installation and activation charges, taxes, CPE collection charges (where applicable), bundled programme charges and charges towards CPE(rental charges, charges for hire-purchase, charges for outright purchase and repair and maintenance charges, wherever applicable) shall be levied by DTH operators under any scheme offered by them.

27. *Reporting requirements*

27.1 In order to monitor compliance of the provisions of this TO, certain reporting requirements have also been prescribed.

A. Buy-back/refund mechanism for CPEs for the Standard scheme

Example 1:

Let

- the CPE charges levied by an operator under the Standard scheme = Rs. 3000;
- lock-in period = 3 months;
- Additional charges paid by the subscriber:
 - the charges for installation and activation = Rs. 350;
 - taxes levied = Rs. 50;

Case I: the subscriber surrenders his connection in the 6th month i.e beyond the lock-in period;

then the amount of refund = depreciated value of the CPE (taking depreciation @1.7% per month for six months
= Rs. 2700

Case II: the subscriber surrenders the connection in the second month (or for that matter any time within the lock-in period)

then the amount of refund = depreciated value of CPE taking 3 month depreciation
= Rs.2850

B. Buy-back/refund mechanism for CPEs for the schemes other than the Standard scheme

Example 2:

Let

- the CPE charges levied by an operator under the Standard scheme = Rs. 3000;
- lock-in period = 3 months;
- Additional charges paid by the subscriber:
 - the charges for installation and activation = Rs. 350;
 - taxes levied = Rs. 50;

Case I: the subscriber surrenders his connection in the 9th month i.e beyond the lock-in period;

Let the payment already made by subscriber towards CPE = Rs. 2700;

then the amount of refund = [payment already made by the subscriber towards CPE - (the amount by which the CPE under the standard scheme gets depreciated at the time of surrender of connection)]

$$= \text{Rs. } [2700 - (15\% \text{ of } 3000)]$$

(as the depreciation is @ 15% for 9 months as per the standard scheme)

$$= \text{Rs. } 2250.$$

Case II: the subscriber surrenders in the 2nd month (or for that matter any time within the lock-in period);

Let the payment already made by subscriber towards CPE = Rs. 600

then the amount of refund = [payment already made by the subscriber towards CPE - (the amount by which the CPE under the standard scheme gets depreciated during the lock-in period)]

$$= \text{Rs. } [600 - (5\% \text{ of } 3000)]$$

(as the depreciation is @ 5% for 3 months (lock-in period) as per the standard scheme)

$$= \text{Rs. } 450.$$

C. Buy-back/refund mechanism for the bundled schemes

Example 3:

Let

- the charges for bundled package = Rs. 4000 for six months;
- the CPE charges levied by an operator under the standard scheme = Rs. 3000;
- the charges specified by the operator towards CPE in the bundled scheme = Rs.1600;
- the lock-in period = 3 months;

- Additional charges paid by the subscriber:
 - the charges for installation and activation = Rs. 350;
 - taxes levied = Rs. 50;

therefore, total charges for programmes in the bundled scheme = Rs. (4000-1600)
= Rs. 2400;

and

the average monthly charge for programmes = Rs. 400;

Case I: the subscriber surrenders the connection in the fourth month i.e. beyond the lock-in period.

then the amount of refund:

- i) on account of programmes = [(total charges for programme in the bundled scheme) – (no. of completed months, or part thereof, for which the subscriber availed services + 1) x (average monthly charges for the programmes bundled with CPE)]

$$= \text{Rs. } [2400 - (5 \times 400)]$$

$$= \text{Rs. } 400;$$

- ii) on account of CPE = [payment made by the subscriber towards CPE - (the amount by which the CPE under the standard scheme gets depreciated at the time of surrender of connection)]

$$= \text{Rs. } [1600 - (6.8\% \text{ of } 3000)]$$

(depreciation is to be considered for 4 months @ 1.7% per month)

$$= \text{Rs. } 1396.$$

Case II: the subscriber surrenders the connection in the second month (or for that matter any time within the lock-in period) then

then the amount of refund:

- i) on account of programme = [(total charges for programme in the bundled

scheme) – (lock-in period in months x monthly charges for the same programme offered independently)]

= Rs.[2400- 3x500]

= Rs.900;

ii) on account of CPE = [payment already made by the subscriber towards CPE
- (the amount by which the CPE under the standard scheme gets depreciated during the lock-in period)]

= Rs.[1600- (5% of 3000)]

(depreciation is to be considered for the entire lock-in period (3 months) @ 1.7% per month)

= Rs. 1450.