

Consultation on the draft Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2016

Written comments on the draft Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2016 are invited from the stakeholders by 24th October, 2016. The comments may be sent, preferably in electronic form, on the e-mail: pradvbcs@traigov.in or vk.agarwal@traigov.in. For any clarification/ information, Mr. S.K. Gupta, Pr. Advisor (B&CS), may be contacted at Tel. No.: +91-11-23220018, Fax: +91-11-23220442. Comments will be posted on TRAI's website www.traigov.in.

DRAFT

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PART III, SECTION 4**

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the , 2016

File No. -----/2016-B&CS. ----- In exercise of the powers conferred by sub-clause(iv) of clause (b) of sub-section (1) and sub-section (2) of section 11 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. S.O. 44 (E) and 45 (E) dated 9th January, 2004 in the Gazette of India, Extraordinary, Part II, Section 3,----

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

**THE TELECOMMUNICATION (BROADCASTING AND CABLE SERVICES)
(EIGHTH) (ADDRESSABLE SYSTEMS) TARIFF ORDER, 2016
(No. of 2016)**

PART I
PRELIMINARY

1. Short title and commencement. (1) This Order may be called the Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2016.

(2) This order shall come into force with effect from April 1, 2017

(3) This Order shall be applicable to television broadcasting and cable services provided to subscribers, through addressable systems, throughout the territory of India.

2. Definitions.----- In this Order, unless the context otherwise requires, -

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

(b) “**addressable system**” means an electronic device (which includes hardware and its associated software) or more than one electronic device put in an integrated system through which transmission of programmes including re-transmission of signals of television channels can be done in encrypted form, which can be decoded by the device or devices at the premises of the subscriber within the limits of the authorization made, on the choice and request of such subscriber, by the service provider;

(c) “**a-la-carte**” or “**a-la-carte channel**” with reference to offering of a television channel means offering the channel individually on a standalone basis;

(d) “**Authority**” means the Telecom Regulatory Authority of India established under subsection (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997(24 of 1997);

(e) “**bouquet**” or “**bouquet of channels**” means an assortment of distinct channels offered together as a group or as a bundle and all its grammatical variations and cognate expressions shall be construed accordingly;

(f) “**broadcaster**” means a person or a group of persons, or body corporate, or any organization or body who, after having obtained, in its name, downlinking permission for its

channels, from the Government, provides programming services;

(g) “**broadcasting services**” means the dissemination of any form of communication such as signs, signals, writing, pictures, images and sounds of all kinds by transmission through space or through cables intended to be received by the subscribers and all its grammatical variations and cognate expressions shall be construed accordingly;

(h) “**cable service**” means the transmission of programmes including re-transmission of signals of television channels through cables;

(i) “**cable television network**” or “**Cable TV network**” means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(j) “**calendar quarter**” means a period of three consecutive calendar months beginning on any of January 1, April 1, July 1, or October 1 and it shall be reckoned as January, February, March (**quarter 1**); April, May, June (**quarter 2**); July, August, September (**quarter 3**); and October, November, December (**quarter 4**);

(k) “**clause**” means the clause of the Telecommunication (Broadcasting and Cable) Services (Addressable Systems) Tariff Order, 2016;

(l) “**compliance officer**” means any person appointed by a service provider for the purpose of reporting the information as required under the provisions of this order and whose responsibilities include ensuring that the service provider does not contravene any provision of this order;

(m) “**direct to home operator**” or “**DTH operator**” means any person who has been granted licence by the Government to provide direct to home (DTH) broadcasting services;

(n) “**direct to home service**” or “**DTH service**” means transmission of programmes including re-transmission of signals of television channels, by using a satellite system, directly to subscribers premises without passing through an intermediary such as local cable operator or any distributor of television channels;

- (o) **“distribution platform”** means distribution network of a DTH operator, multi-system operator, HITS operator or IPTV operator;
- (p) **“distributor of television channels”** means any DTH operator, multi-system operator, HITS operator or IPTV operator;
- (q) **“electronic programme guide”** or **“EPG”** means a program guide maintained by the distributors of television channels that lists television channels and programmes, and scheduling and programming information therein and includes any enhanced guide that allows subscribers to navigate and select such available channels and programs;
- (r) **“free to air channel”** or **“free-to-air television channel”** means a channel for which no license fee is to be paid by a distributor of TV channel to the broadcaster for distribution of such channel to the subscriber;
- (s) **“head end in the sky operator”** or **“HITS operator”** means any person permitted by the Government to provide head end in the sky (HITS)service;
- (t) **“head end in the sky service”** or **“HITS service”** means transmission of programmes including re-transmission of signals of television channels---
- (i) to intermediaries like local cable operators or multi-system operators by using a satellite system and not directly to subscribers; and
 - (ii) to the subscribers by using satellite system and its own cable networks.
- (u) **“internet protocol television operator”** or **“IPTV operator”** means a person permitted by the Government to provide IPTV service;
- (v) **“internet protocol television service”** or **“IPTV service”** means delivery of multi channel television programmes in addressable mode by using Internet Protocol over a closed network of one or more service providers;
- (w) **“license fee”** with reference to a pay television channel or a bouquet of pay television channels means any fee payable by a distributor of television channels to a broadcaster for

distribution of signals of the latter's pay television channel or bouquet of pay television channels, as the case may be, and for which due authorization has been obtained by such distributor from that broadcaster;

(x) **“maximum retail price” or “MRP”** with reference to a-la-carte channel or bouquet of channels means the maximum price, excluding taxes, payable by a subscriber for that a-la-carte channel or bouquet of channels, declared by the broadcaster;

(y) **“multi-system operator” or “MSO”** means a cable operator who has been granted registration under rule 11C of the Cable Television Networks Rules, 1994 and who receives a programming service from a broadcaster and re-transmits the same or transmits his own programming service for simultaneous reception either by multiple subscribers directly or through one or more local cable operators;

(z) **“Order”** means the Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2016;

(za) **“pay channel”** means a channel which is declared as such by the broadcaster and for which license fee is to be paid to the broadcaster by the distributor of television channels and for which due authorization needs to be taken from the broadcaster for distribution of such channel to subscribers;

(zb) **“premium channel”** means a pay channel which is declared as such by a broadcaster;

(zc) **“programme”** means any television broadcast and includes

- (i) exhibition of films, features, dramas, advertisements and serials;
- (ii) any audio or visual or audio-visual live performance or presentation; and the expression "programming service" shall be construed accordingly;

and the expression “programming service” shall be construed accordingly;

(zd) **“Reference Interconnection Offer” or “RIO”** means a document published by a service provider specifying terms and conditions on which the other service provider may seek interconnection with such service provider;

(ze) “**retail price**” with reference to a-la-carte channel or bouquet of channels means the price, excluding taxes, declared by the distributor of television channels payable by a subscriber for that a-la-carte channel or bouquet of channels;

(zf) “**service provider**” means the Government as a service provider and includes a licensee as well as any broadcaster, distributor of television channels or local cable operator;

(zg) “**set top box**” means a device, which is connected to or is part of a television and which enables a subscriber to view subscribed channels;

(zh) “**subscriber**” means a person who receives television broadcasting services, provided by a service provider, at a place indicated by such person without further transmitting it to any other person and each set top box located at such place, for receiving the subscribed television broadcasting services from the service provider, shall constitute one subscriber;

(zi) “**television channel**” means a channel, which has been granted permission by the Government of India under the policy guidelines issued or amended by it from time to time and reference to the term ‘**channel**’ shall be construed as a reference to “**television channel**”;

all other words and expressions 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 meanings respectively assigned to them in those Acts or the rules or regulations, as the case may be.

Part II

TARIFF

3. Manner of offering channels by broadcasters. – (1) Every broadcaster shall declare ----

(a) the nature of each channel as ‘free to air’ or ‘pay’ for different relevant geographical areas as specified in Schedule I; and

(b) the maximum retail price, excluding taxes, of each pay channel on a-la-carte basis, to be paid by the subscriber:

Provided that the maximum retail price of a pay channel shall be more than ‘zero’:

Provided further that the maximum retail price of a channel in a relevant geographical area shall be uniform for all distribution platforms in that area:

Provided further that it shall be open for a broadcaster to declare any pay channel as a premium channel.

(2) Every broadcaster shall offer all channels on a-la-carte basis to the subscriber.

(3) It shall be open for a broadcaster to offer pay channels in the form of bouquet(s) and declare the maximum retail price, excluding taxes, of such bouquet(s) to be paid by the subscriber:

Provided that it shall be open for a broadcaster, while making a bouquet of pay channels, to combine pay channels of its subsidiary company or holding company or subsidiary company of the holding company, which has obtained, in its name, the downlinking permission for its television channels, from the Government, after written authorization by them, and declare maximum retail price for such bouquet of pay channels:

Provided further that the maximum retail price of such bouquet of pay channels shall not be less than eighty five percent of the sum of maximum retail prices of the a-la-carte pay channels forming part of the bouquet:

Provided further that the maximum retail price of such bouquet of pay channels in a relevant geographical area shall be uniform for all distribution platforms in that area:

Provided further that such bouquet shall not contain any free to air channel:

Provided further that such bouquet shall not contain high HD and SD variants of the same channel:

Provided also that such bouquet shall not contain any premium channel.

Explanation: For the purpose of these regulations, the definition of “subsidiary company” and “holding company” shall be the same as assigned to them in the Companies Act, 2013 (18 of 2013).

(4) The maximum retail price of a pay channel or a bouquet of pay channels may vary for different relevant geographical areas.

(5) The broadcaster shall not increase the maximum retail price of a pay channel or a bouquet of pay channels for a period of six months from the date of declaration of maximum retail price of such pay channel or bouquet of pay channels.

(6) No broadcaster shall change the nature of a channel as declared under section (a) of sub-clause (1) of clause 3 for a period of six months from the date of such declaration:

Provided that a broadcaster, before making any change in the nature of any channel, shall at least ninety days prior to the scheduled change ---

- (a) inform the Authority;
- (b) inform the distributors of television channels; and
- (c) inform the subscribers by running scroll on the channel.

(7) Every broadcaster, before making any change, in the maximum retail price of a pay channel or a bouquet of pay channels or in the nature of a channel, as the case may be, shall follow the provisions of the Regulations including but not limited to the publication of Reference Interconnection Offer.

4. Genres of television channels: (1) Every broadcaster shall declare a genre for each of its channels under any one of the genres specified below:

- (a) Devotional
- (b) General Entertainment

- (c) Infotainment
- (d) Kids
- (e) Movies
- (f) News and Current Affairs
- (g) Sports

(2) The broadcaster shall not change the genre of a channel, once declared, for a period of six months from the date of such declaration:

Provided that a broadcaster, before making any change in the genre of any channel, shall at least ninety days prior to the scheduled change ---

- (a) inform the Authority;
- (b) inform the distributors of television channels; and
- (c) inform the subscribers by running scroll on the channel.

5. Cap on maximum retail prices for pay channels in addressable systems: (1) The maximum retail price of a pay channel transmitted in SD format in a given genre shall not exceed the rate specified for such genre in Schedule II:

(2) The maximum retail price of a pay channel transmitted in HD format shall not be more than three times the maximum retail price of corresponding channel transmitted in SD format:

Provided that if the corresponding SD channel of a HD channel is not available, the maximum retail price of such HD channel shall not exceed three times the rate specified for corresponding genre in Schedule II.

(3) The ceiling on maximum retail price contained in sub clause (1) above shall apply to all the existing pay channels as well as to new pay channels that are launched or converted from free to air channel to pay channel after the commencement of this tariff order.

(4) Nothing contained in the sub-clause (1), (2) and (3) of this clause shall apply to a premium channel.

(5) The maximum retail price of a premium channel transmitted in HD format shall not be more than three times the maximum retail price of such premium channel transmitted in SD format.

6. Manner of offering of channels by the distributor of television channels: (1) No distributor of television channels shall charge a rental amount exceeding rupees one hundred and thirty, excluding taxes, per month per set top box from a subscriber for providing a capacity so as to enable the subscriber to receive the signals of up to one hundred SD channels:

Provided that one HD channel shall be treated equal to two SD channels for the purpose of calculating capacity of one hundred channels offered to the subscriber.

(2) Every distributor of television channels shall offer all the channels available on its network on a-la-carte basis and declare retail prices of pay channels payable by the subscriber.

(3) It shall be open for a distributor of television channels to offer a-la-carte pay channels of one or more broadcasters in the form of bouquet(s) and declare the retail price of such bouquet(s) to be paid by the subscriber:

Provided that the retail price of such bouquet of pay channels shall not be less than eighty five percent of the sum of retail prices of the a-la-carte pay channels forming part of the bouquet:

Provided further that such bouquet shall not contain any free to air channel:

Provided further that such bouquet shall not contain HD and SD variants of the same channel:

Provided further that such bouquet shall not contain any premium channel.

Explanation: For the removal of doubt it is hereby clarified that a distributor of television channels while forming bouquet under this clause shall include only a-la-carte channels of broadcasters.

(4) Every distributor of television channels shall offer its subscribers each bouquet of channels formed by the broadcasters, and which are available on its platform, without any alteration and declare the retail price for such bouquet(s) payable by the subscriber.

(5) No distributor of television channels shall charge any amount, other than the rental amount, from its subscribers for subscribing to free to air channels or bouquet(s) of free to air channels.

(6) Within the capacity of one hundred SD channels, as referred to in sub-clause (1), in addition to channels notified by the Central Government to be mandatorily provided to subscribers, a subscriber shall be free to choose any free to air channel(s), pay channel(s), premium channel(s) or bouquet(s) of channels offered by the broadcasters or bouquet(s) of channels offered by the distributor of television channels:

Provided that if a subscriber opts for pay channels or premium channels or bouquet of pay channels, he shall be liable to pay retail price for such channels or bouquets separately.

(7) Every distributor of television channels shall offer at least one bouquet, referred to as basic service tier, of one hundred free to air channels including all the channels notified by the Central Government to be mandatorily provided to the subscribers and such bouquet shall contain at least five channels of each genre as referred to in the sub-clause (1) of clause 4:

Provided that in case sufficient number of free to air channels of a particular genre is not available on the network, the distributor of television channels shall be free to include the channels of other genres.

(8) Subject to the availability of capacity on its network, each distributor of television channels shall offer additional capacity to a subscriber in the slabs of twenty five SD channels each, beyond initial one hundred channels capacity referred to in sub-clause (1), at an amount not exceeding rupees twenty, excluding taxes, per such slab per set top box per month for such capacity:

Provided that the subscriber shall also be liable to pay the retail price of the pay channels subscribed within these twenty five channels.

(9) The retail price payable by a subscriber to a distributor of television channels for subscribing to a pay channel or a premium channel or a bouquet of pay channels formed by the broadcaster shall in no case exceed the maximum retail price declared by the broadcasters for such pay channel or premium channel or bouquet of pay channels.

(10) The retail price of a bouquet of pay channels offered by a distributor of television channels in no case shall exceed the sum of a-la-carte maximum retail prices of the pay channels forming the bouquet.

(11) A distributor of television channels shall not increase the rental amount for a period of six months from the date of subscription by the subscriber.

PART III
MISCELLANEOUS

7. Reporting requirement. (1) Every broadcaster shall furnish the following information to the Authority, namely:-

- (a) names, genre, language and relevant geographical area of all free to air channels offered by the broadcaster;
- (b) name, maximum retail price, genre, language and relevant geographical area of each pay channel offered by the broadcaster;
- (c) list of all bouquets of pay channels offered by the broadcaster with maximum retail prices of each bouquet, indicating the names of all the pay channels contained therein;
- (d) name, maximum retail price, language and relevant geographical area of each premium channel offered by the broadcaster;
- (e) whether the pay channels are pay channels in whole of the country or only in part of the country. (relevant geographical market(s) must be specified if a channel is a pay channel in part of the country);
- (f) advertisement revenue for the last financial year;
- (g) any other information relevant to free to air channels, pay channels, premium channels, maximum retail prices and bouquets offered by a broadcaster as called for by the Authority from time to time:

Provided that the first such report, containing maximum retail prices effective from April 1, 2017, shall be submitted to the Authority by March 1, 2017 and, thereafter, any changes in such rates ---

- (a) shall be reported to the Authority thirty days prior to the change; and
- (b) shall also be published on the website of the broadcaster.

Provided further that every broadcaster shall provide to the Authority the advertisement revenue for each financial year within ninety days of the end of that financial year,

(2) Every broadcaster who, after the commencement of the Telecommunication (Broadcasting

and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2016 (of 2016),-----

- (a) introduces any new pay channel or free to air channel or premium channel; or
- (b) converts any pay channel or premium channel into free to air channel; or
- (c) converts any free to air channel into pay channel or premium channels; or
- (d) converts any premium channel into free to air channel or pay channel; or
- (e) discontinues any free to air channel or pay channel or premium channel; or
- (f) introduces any new bouquet or discontinues any bouquet or changes rate of existing bouquet; or
- (g) changes genre, language, name etc. of any existing channel,

shall, ninety days prior to such introduction or conversion or discontinuation or change, furnish to the Authority, the following information, namely:-

- (i) name of the channel to be introduced, converted or discontinued,
- (ii) the date on which the new channel is to be introduced, converted or discontinued;
- (iii) the maximum retail price of the pay channel if it is a newly introduced or converted pay channel;
- (iv) the maximum retail price of the premium channel if it is a newly introduced or converted premium channel
- (v) composition of new bouquet or bouquets to be introduced along with maximum retail price for each such new bouquet;
- (vi) in the case of a new channel, the genre and language of the new channel;
- (vii) changed maximum retail price of the existing bouquet;
- (viii) changed maximum retail price, genre, language, name etc. of the existing channel.

(3) Every broadcaster shall display on its website the information furnished under sub-clauses (1) and (2), except the information specified under sub clause (f) of clause (1), simultaneously with its submission to the Authority.

(4) Every distributor of television channels shall furnish the following information to the Authority, namely:-

- (a) monthly rental amount charged from subscribers
- (b) list of all pay, free to air and premium channels available to subscribers on its network
- (c) list of all the bouquets of pay channels and bouquets of free to air channels available to subscribers on its network
- (d) retail price for pay channels, premium channels and bouquets of pay channels available to subscribers on its network
- (e) all terms and conditions, associated with the supply of set top boxes to the subscribers
- (f) all the platform services and their rates

Provided that the first such report, containing monthly subscription charges and retail prices effective from April 1, 2017, shall be submitted to the Authority by March, 2017 and, thereafter, any changes in such rates ---

- (a) shall be reported to the Authority ninety days prior to the change; and
- (b) shall also be published on the website of the distributor of television channels:

Provided further that every such distributor of television channels who commences its services after coming into force of this Tariff Order shall submit to the Authority such reports before commencement of its services and thereafter any changes in the rates shall be reported thirty days prior to the change.

(5) Every distributor of television channels who, after the commencement of the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2016 (of 2016),-----

- (a) introduces any new pay channel or free to air channel or premium channel on its network; or
- (b) discontinues any free to air channel or pay channel or premium channel from its network; or
- (c) introduces any new bouquet or discontinues any bouquet or changes rate of existing bouquet;

shall, ninety days prior to such introduction or conversion or discontinuation or change, furnish to the Authority, the following information, namely:-

- (i) name of the channel to be introduced or discontinued,
- (ii) the date on which the new channel is to be introduced or discontinued;
- (iii) retail price of the pay channel or premium channel if it is a newly introduced;
- (iv) composition of new bouquet or bouquets to be introduced along with retail price for each such new bouquet;
- (v) changed retail price of the existing bouquet;

(6) Every distributor of television channels shall display on its website the information furnished under sub-clauses (4) and (5), simultaneously with its submission to the Authority.

8. Appointment of compliance officer and his obligations.-- (1) Every service provider shall, within thirty days from the date of commencement of this order, appoint a compliance officer:

Provided that nothing contained in this sub-clause shall apply to a distributor of television channels having average subscribers base, over the immediately preceding calendar quarter, less than two lakh or such other number of subscribers which may be prescribed by the Authority through direction from time to time:

Provided further that this sub-clause shall also not apply to a free to air broadcaster and a local cable operator.

(2) Every service provider which is a company shall, within ten days from the date of appointment of the compliance officer under sub-clause (1), furnish to the Authority, the name, complete address, contact number and e-mail address of the compliance officer along with authenticated copy of the board's resolution authorizing the appointment of such compliance officer.

Explanation: For the purpose of this order, the definition of "company" shall be the same as assigned to it in the Companies Act, 2013(18 of 2013).

(3) Every service provider which is not a company shall, within ten days from the date of

appointment of the compliance officer under sub- clause (1), furnish to the Authority the name, full address, contact number and e-mail address of the compliance officer along with authenticated copy of the authorization letter authorizing the appointment of such compliance officer.

(4) In the event of any change in the name of the compliance officer so appointed under sub-clause (1), the same shall be reported to the Authority by the service provider within ten days from the date of occurrence of such change along with authenticated copy of board's resolution or authorization letter, as the case may be.

(5) In the event of any change in the address or contact number or email address of the compliance officer, the same shall be reported to the Authority by the service provider within ten days from the date of occurrence of such change.

(6) The compliance officer shall be responsible for-

(a) ensuring conformity with the provisions of this order applicable to the service provider.

(b) reporting to the Authority, with respect to compliance with this order and other directions of the Authority issued under this order.

(c) ensuring that proper procedures have been established and followed by the service provider that would result in the correctness, authenticity and completeness of the information, statements and reports filed by the service provider under this order.

9. Power of Authority to intervene. (1) The Authority may, by order or direction made or issued by it, intervene in order to secure compliance of the provisions of this Tariff Order, or protect the interests of subscribers and service providers of the broadcasting services and cable services, or promote and ensure orderly growth of the broadcasting services and cable services, or facilitate competition and promote efficiency in the operation of broadcasting services and cable services so as to facilitate growth in such services.

10. Repeal and Saving. (1) The Telecommunication (Broadcasting and Cable) Services (Third) (CAS Areas) Tariff Order, 2006, the Telecommunication (Broadcasting and Cable) Services

(Fourth) (Addressable Systems) Tariff Order, 2010 and the Telecommunication (Broadcasting and Cable) Services (Fifth) (Digital Addressable Cable TV Systems) Tariff Order, 2013 along with all their amendments and directions issued there under are hereby repealed:

Provided that such repeal shall not affect-

- (a) the previous operation of the repealed order(s) or anything done or any action taken under the repealed order(s); or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the order(s) so repealed; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the order(s) so repealed; or,
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture and punishment may be imposed, as if the aforesaid order(s) had not been repealed.

(Sudhir Gupta)
Secretary, TRAI

Note.-----The Explanatory Memorandum annexed to this Order explains the objects and reasons of the Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2016.

EXPLNATORY MEMORANDUM

I. Background

1. Regulation of broadcasting and cable TV services was entrusted to the Telecom Regulatory Authority of India (hereinafter referred to as the Authority) in 2004. The sector then was analogue, *non-addressable*, and looked largely unregulated, without operational transparency, experienced erratic price fluctuations and had a number of litigations amongst the stakeholders. Channels were offered to consumers mainly in pre-determined bouquets of channels. TRAI issued the first tariff order for cable TV services on 15th January 2004 wherein the prices of TV channels and bouquets that existed in the non-addressable regime as on 26th December, 2003 were frozen.
2. The legacy analogue systems in the non-addressable era lacked transparency. While broadcasters were holding a view that distributor of television channels were underreporting the total number of subscribers viewing their channels, distributors of television channels argued that broadcasters demanded an unjustified hike in subscriber base year to year. Further their demand for charges per channel was unjustifiably high. These differences of opinion frequently turned in litigations adversely impacting smooth business. The distribution models were heavily skewed in favour of advertisement driven revenues due to difficulties in maintaining transparency in the flow of subscription revenues across the analog value chain. The major thrust by the broadcasters was to ensure that their channels reached the maximum number of viewers rather than providing quality content. This approach encouraged broadcasters to provide their channels to MSOs/LCOs in a bouquet form by resorting to perverse pricing of bouquets vis-à-vis the individual channels. A discount of upto 80% to 90% of the sum of a-la-carte rates of pay channels constituting a bouquet were offered on bouquets. The bouquets were sometimes formed so as to contain only few popular channels, while rest of the channels in the bouquet did not offer value for money to the subscribers. The cost of these not so popular channels was usually passed on by the MSOs/LCOs to the consumers. This resulted in formulation of bouquets by distributors of television channels under commercial compulsions by

broadcasters with little or no consideration to consumer choice. This skewed model was fraught with discrimination and non-transparent practices and resulted in a large number of disputes affecting growth of the sector.

3. In view of limitations of analog TV distribution platforms and the advantages of digital addressable platforms, TRAI initiated efforts towards digitalization of cable TV distribution networks. TRAI recommended that the process of digitisation may be executed in four phases for creating a conducive regulatory framework. The Government amended the Cable TV Act on 25th October 2011 and the rules made thereunder on 28th April 2012 led to the implementation of the Digital Addressable Cable TV System in India. The digitalization process was envisaged to be completed in four phases. Of these, the first three phases have been completed to a large extent and the final phase is slated for completion by December 2016.
4. With digitalisation, though the addressability, capacity and quality of signal of cable TV networks have improved, the real benefits of digitalisation such as, choice of selecting channels on a-la-carte basis, provisions of bill and receipt, availability of multimedia services have yet not reached the customers. Bundling of channels by broadcasters and pushing their channels to maximum number of customers continue even in the present digital addressable domain as the broadcasters continue to offer a discount on bouquets upto 90% of the sum of a-la-carte RIO rates of pay channels constituting those bouquets. Broadcasters very often provide incentives to distributors of television channels for carrying all their channels in a particular bouquet. As a result some MSOs end up getting signals only on RIO rates, which are very high resulting in discrimination and non-transparency. As such the issues related to transparency, non-discrimination and level playing field continued even after introduction of addressability.
5. On the other hand new broadcasters often face artificial entry barriers while entering the market even after invoking “must carry” clause, as MSOs demand significant amount in the form of carriage fees for carrying new channels over their networks. Any channel that is not subscribed by a subscriber, does not appear in the Electronic Program Guide (EPG). As a result channels of new broadcasters are not visible to the customers even if they are available on the platform of distributors of television channels.

6. Further there are concerns about maintaining transparency in the flow of subscription revenues across the value chain. Collection of subscription revenue from subscribers is not disclosed transparently to MSOs by LCOs, impacting flow of revenue from LCOs and MSOs to broadcasters. Huge pendency of payments results in disconnection of signals impacting quality of experience of customers and resulting in litigations at various levels.
7. Due to non transparent and discriminatory practices, a large number of disputes have taken place among the various stakeholders and channels are frequently blocked or discontinued from the platforms without any intimation to subscribers. This results in consumer dissatisfaction and in avoidable complaints.
8. TV has become a basic social need today and it has transcended across different social strata of society. The information and entertainment needs of all levels of the society are now important. In this context the Authority has decided to examine the tariff structure so that the business models provide all consumers freedom to choose from an array of attractive and affordable a-la-carte channels and bundled broadcast TV services as per their preferences and paying capacity. The sheer number and diversity of platforms delivering digital TV signals in an increasingly converged scenario may not address the concerns of customers and industry stakeholders due to the fact that each TV channels is unique in itself and has the potential to be monopolistic. Hence it requires an overhaul of the tariff regulatory framework to address the concerns of the stakeholders.
9. Accordingly, in order to create an enabling environment ensuring transparency, non-discrimination, consumer protection and growth of the sector, a comprehensive review of the existing regulatory framework, which includes tariff, interconnection and quality of service, has been undertaken by TRAI. TRAI issued a consultation paper on “Tariff issues related to TV services” on 29th January 2016. The objectives of the consultation were:-
 - i. To carry out a review of existing Tariff arrangements and developing a Comprehensive Tariff Structure for Addressable TV Distribution of “TV Broadcasting Services” across Digital Broadcasting Delivery Platforms (DTH/ Cable TV/ HITS/ IPTV) at wholesale and retail level.

- ii. To ensure that the tariff structure is simplified and rationalized so as to ensure transparency and equity across the value chain.
 - iii. To reduce the incidence of disputes amongst stakeholders across the value chain encouraging healthy growth in the sector.
 - iv. To ensure that subscribers have adequate choice in the broadcast TV services while they are also protected against irrational tariff structures and price hikes.
 - v. To encourage the investment in the TV sector
 - vi. To encourage production of good quality content across different genres.
10. In response, a total of 60 comments and 10 counter-comments were received from stakeholders including consumers. Subsequently, two Open House Discussions (OHDs) were held, first on 8th April 2016 in New Delhi and second on 21st April 2016 at Raipur, Chhattisgarh, where the issues were discussed at length with the stakeholders present. Based on the comments/views of the stakeholders and the analysis, various provisions related to the tariff have been worked out.

II. Analysis of issues

A. Tariff models

11. In chapter 4 of the consultation paper, possible tariff models were broadly categorized into three categories for a holistic re-examination of the existing business model of digital addressable TV broadcasting sector viz - Models at wholesale level, Models at retail level and integrated models. Comments of the stakeholders were solicited on these suggested models.

Models at wholesale level

12. At wholesale level, signals of TV channels are provided by the broadcasters to the distributors of television channels. Distributors of television channels receive the FTA channels free of cost. Pay channels are provided to distributors of television channels at the wholesale prices declared by Broadcasters.
13. Various models for wholesale level tariff were suggested in the consultation paper. Most of the broadcasters have favoured forbearance as their first choice as a tariff model at

wholesale level. They have submitted that TRAI should prescribe a sunset date for removal of tariff ceilings after digitization of TV sector is completed. They have advocated for forbearance to continue thereafter as in their opinion the industry is mature enough and the rates of TV channels should be controlled by the market forces of demand and supply. They are of the view that active competition at all levels of the Pay TV industry will automatically discourage perverse pricing. Other than 'price forbearance' at wholesale level, the broadcasters have favoured 'regulated RIO model' or a blend of 'regulated and flexible RIO model'. They have opined that the broadcasters should be allowed to price a-la-carte and bouquet of channels, and modify the same annually alongwith the new interconnection agreement depending upon demand and supply of the TV channel.

14. Most of the large distributors of television channels have favoured 'integrated distribution model' with the broadcasters providing all its pay channels on a-la-carte with rates of each channel prescribed directly for the consumers. They have further submitted that the option of bundling or packaging should not lie with the broadcasters and maximum discounts which can be provided by broadcasters on non-discriminatory basis should also be defined by TRAI. Thereafter, the revenue share between broadcasters, MSOs and LCOs may be prescribed by TRAI. Majority of other distributors of television channels have favoured 'regulated RIO model' while, a few of the DTH operators have favoured 'cost-based model' at wholesale level.
15. Other stakeholders i.e. associations, consumer organizations and individuals who have submitted their response have suggested exclusive a-la-carte model, or universal RIO Model with safeguards for review after certain duration apart from forbearance and integrated distribution model.

Models at retail level

16. At the retail level, TV channels are distributed to subscribers by the distributors of television channels either directly or through LCOs. The distributors of television channels aggregate TV channels from different broadcasters and provide them on a-la-carte and bouquets basis to the subscribers. At present the retail tariff in addressable system for both

FTA and Pay channels is under forbearance i.e. the distributors of television channels are free to decide their price as per market conditions.

17. Various models for retail level tariff were suggested in the consultation paper. Most of the broadcasters favoured continuation of price forbearance at retail level. They have further submitted that the cap on minimum monthly subscription fee should be increased from Rs. 150 to Rs. 250 and there should be uniform pricing of channels across all geographies and distribution platforms. One of the broadcasters has suggested exclusive a-la-carte model.
18. Most of the distributors of television channels have favoured price forbearance at the retail level. They have opined that the price forbearance has enabled innovative packaging of channels and hence should be continued. However, some of the distributors of television channels have submitted that under price forbearance, issues like lack of transparency, discrimination and favouritism will continue to plague the industry. A few of the distributors of television channels have favoured integrated distribution model and exclusive a-la-carte model. One of the federations of the cable operators has favoured exclusive a-la-carte model with pay TV channels offered in different slabs and free to air channels can be priced at Re 1.
19. Consumer organizations, individuals and associations have expressed mixed opinion regarding the tariff model at retail level favouring price forbearance or a-la-carte model or MRP based model.

Integrated model

20. In the integrated model there are no separate wholesale and retail level tariffs. Broadcasters declare the price of their pay channels and bouquets of channels directly for customers.
21. Most of the broadcasters have not favoured integrated distribution model. They have opined that the offering of channels from a large number of broadcasters may confuse the consumers and it may be rendered unfeasible and impractical.
22. Majority of the MSOs and few DTH operators have favoured integrated distribution

models. They have submitted that the broadcasters should provide all its pay channels on a-la-carte basis with rates of each channel directly prescribed for consumers. They have also opined that FTA channels should be bundled by the distributors of television channels and hence provided to the subscribers. Also, the option of bundling or packaging should lie with the distributors of television channels and not the broadcasters. The a-la-carte rate prescribed by the broadcasters should be consistent with the regulated genre-wise caps as decided by TRAI.

Manner of offering- Exclusive Pay and FTA bouquet

23. In the consultation paper stakeholders were asked to suggest whether separation of FTA and pay channel bouquets will provide more flexibility in selection of channels to subscribers and will it be more user friendly.
24. In response, majority of broadcasters suggested that flexibility to package channels should lie with the distributors of television channels and there should not be any separate bouquets for pay and FTA channels. They have pointed out that separate bouquets may result in higher subscription revenue to be paid by subscribers for same number of channels.
25. Majority of distributors of television channels and associations of cable operators are in agreement with separate bouquets for pay and FTA channels for greater consumer choice.
26. A few distributors of television channels and an individual are of the opinion that there is no need for separate packaging of FTA and pay channels and it should be left to the distributors of television channels to decide.
27. In the TV broadcasting service value chain, there are three main stakeholders – broadcasters, distributors of television channels including LCOs and customers. Broadcasters provide content in form of channels. Distributors of television channels establish their networks for distributing TV signals obtained from broadcasters to their customers. Customers pay price for the TV services they get from distributors of television channels. Broadcasters tend to recover the cost of content; distributors of television channels tend to recover the capital and operational expenditure on their networks and

customers look for affordable pricing and adequate choice in a transparent manner.

28. As discussed in para 2 above, existing tariff model has resulted in revenue of the broadcasters being heavily skewed from advertisements. Heavy dependence of broadcasters on advertisement revenue has influenced content development for increasing eyeballs. This has resulted in minimal investments in niche channels having lesser eyeballs, and also bundling of not so popular channels in basic service tier package to widen its reach. While doing so, the consumer choice has been totally neglected.
29. In the current scenario, the wholesale transactions between broadcasters and distributors of television channels are being carried out in different modes such as:
 - (a) Fixed fee (lump sum) deals in which either entire/all TV channels of the broadcaster (including its group companies) or for a part of their channels are taken at the fixed annual cost irrespective of the number of subscribers viewing such channels.
 - (b) Cost per subscriber (CPS) deals in which a broadcaster gives all or a group of its channels to a distributor of television channels at a fixed charge per subscriber irrespective of the fact that whether subscribers opt for all or few of the channels.
 - (c) RIO based deals as per notified RIO by broadcasters. In these deals the broadcasters ask for the RIO price per channel notified by it. Such prices are pitched very high as compared to those offered under a CPS deal or a fixed fee deal. As a result distributors of television channels are generally forced to negotiate with the broadcasters, and/or settle for a CPS or a fixed fee deal which in effect translate into non transparent deals.

All these deals are generally non-transparent and discriminatory in the name of mutual negotiations thus flouting the regulatory framework. Further, hugely discounted prices under fixed fee deal or CPS deal ensure that most of the channels are pushed to the consumers irrespective of their choice, resulting in offering almost no choice to the consumers.

30. The Authority envisions that the new regulatory framework must ensure-
 - (i) transparency, non-discrimination, non-exclusivity for all stakeholders in value chain,

- (ii) affordable TV services for customers,
 - (iii) adequate choice to consumers and,
 - (iv) balance the commercial interests of broadcasters and distributors of television channels to enable the distributors of television channels to recover their network cost and the broadcasters to recover their content cost.
31. Regarding the comments of some of the stakeholders that forbearance may be allowed at the wholesale level tariff as there is sufficient competition at all levels of the pay TV industry, the Authority is of the view that the argument is not tenable. The Authority noted that though there are 48 broadcasters providing 275 pay channels at present, there is no effective competition among them. The content of each channel is unique and a channel cannot be substituted by another channel even by one of the same genre. The content of a channel in some sense becomes monopolistic in nature and more so when the channel is being viewed by a large number of subscribers. Similarly, availability of large number of MSOs and other distribution platforms also does not encourage competition as distributors of television channels are primarily dependent on the broadcasters for provisioning of channels to their customers. Hence, the Authority is of the view that a new regulatory framework needs to be prescribed to ensure transparent and non-discriminatory behavior of broadcasters and to protect interests of the customers. While doing so, the Authority has taken adequate care that utmost freedom and business flexibility is given to the broadcasters within the prescribed framework.
32. Generally a channel consists of number of the programs. The cost of the production of different programs drastically varies based on the actors, setup cost, script, copy rights if required, and other miscellaneous factors. The various programs in a given channel also frequently change based on their Television Rating Points (TRP), advertisement potential and other ground reports. Hence, determining the cost of production of a channel at all times is an extremely difficult process, perhaps almost impossible. Moreover, such determination of price would be dynamic in nature and may vary with change in programs in a channel.
33. A broadcaster gets revenue for a channel from two visibly distinct streams, subscription

and advertisements. The heavy dependence of broadcasters on advertisement revenue has influenced wholesale pricing and method of delivery of channels to the customers. Broadcasters provide popular content for mass viewing to get large viewership of their channels and hence more revenue from advertisements. The broadcasters have flagged that many a times a given channel has been priced by distributors of television channels differently at different distribution platforms. It is alleged that distributors of television channels by having freedom to price a channel at retail level can influence the possibility of subscription to a channel by creating artificial price barrier where the broadcasters have no such control.

34. The distributors of television channels on the contrary are of the view that several channels are priced very high by the broadcasters which have no demand by subscribers at that price. However, Broadcasters use their dominance or power of driver channels to force such channels to consumers without them opting for such channels.
35. The Authority is of the view that a customer should be able to exercise his choice while selecting the channels at reasonable prices. While it is difficult to determine the real cost of a channel, the true value of a channel is that as perceived by a customer. Hence, it will be in fitness of things if broadcasters prescribe the maximum retail price (MRP) of their pay channels to consumers who should be free to choose channels of their choice. These rates will be platform agnostic i.e. uniform across the platforms (cable TV, DTH, HITS and IPTV) across a relevant geographical market.
36. Prescribing of MRP of by the broadcasters to consumers will in a manner self regulate the pricing of the pay channels as higher price will reduce the number of customers who will opt for such channels thereby impacting the advertisement revenue. It will provide flexibility to broadcasters so that they can optimise the retail price of pay channels in such a way that they can maximise their sum of revenue from subscription and advertisements. This will also give power to broadcasters to reduce the cost of the channel if they so desire to enhance its viewership.
37. The popularity of a channel could vary from region to region. It may be possible that a channel is more popular in a particular geographical market as compared to other

geographical markets. The regional preferences of the subscriber are very evident. In the northern states entertainment channels in Hindi language are watched by a large number of people, while these channels are watched by relatively small number of subscribers in southern states. Therefore, the value of a channel could vary from one geographical area to another. Accordingly, the Authority is of the view that broadcasters should be provided flexibility for fixing different MRPs for different geographical areas as long as the MRPs are within the genre ceiling. The broadcasters are also permitted to declare a channel as pay in one geographical market and free to air in another geographical market.

38. In addition to offer their pay channels on a-la-carte basis, a broadcaster can also offer bouquet of its own channels to the customers. The Authority has noted that at present the uptake of channels on a-la-carte basis is negligible as compared to the bouquet subscriptions. Analysis yield that the prime reason for such poor uptake of a-la-carte channels is that the a-la-carte rates of channels are disproportionately high as compared to the bouquet rates and further, there is no well defined relationship between these two rates. As per data available with TRAI, some bouquets are being offered by the distributors of television channels at a discount of upto 80% -90% of the sum of a-la-carte rates of pay channels constituting those bouquets. These discounts are based on certain eligibility criteria/conditions to be fulfilled by the distributor of television channels in order to avails those discounts. This indicates that a-la-carte rates of pay channels constituting the bouquet are kept exorbitantly high with a purpose to force the customers to take bouquets only and kill consumer choice. As a result, while technically, a-la-carte rates of channels are declared, these are illusive and customers are left with no choice but to opt for bouquets. Bouquets formed by the broadcasters contain only few popular channels. The distributors of television channels are often forced to take the entire bouquet as otherwise they are denied the popular channels altogether. To make the matters worse, the distributors of television channels have to pay as if all the channels in the bouquet are being watched by the entire subscriber base, when in fact only the popular channels will have high viewership. In such a scenario, at the retail end, the distributors of television channels have no option but to somehow push these channels to maximum number of customers so as to recover costs. This marketing strategy based on bouquets essentially results in 'perverse pricing' of bouquets vis-à-vis the individual channels. As a result, the

customers are forced to subscribe to bouquets rather than subscribing to a-la-carte channels of their choice. Thus, in the process, the public, in general, ends up paying for “unwanted” channels and this, in effect, restricts consumer choice.

39. In the new framework the broadcasters will declare to customers the MRP of their a-la-carte channels and bouquets of channels. In order to ensure that price of the a-la-carte channel is kept reasonable, the maximum permissible discount in formation of the bouquet has been linked with the sum of the a-la-carte price of the bouquet. The Authority has now decided to prescribe a maximum amount of discount of 15% that a broadcaster can offer while offering its bouquet of channels over the sum of MRP of all the channels in that bouquet to enable customer choice through a-la-carte offering and also prevent skewed a-la-carte and bouquet pricing. The bouquet(s) offered by the broadcasters to subscribers shall be provided by the distributors of television channels to the subscribers without any alteration in composition of the bouquet(s). Here it is worth noting that cap on maximum discount that can be given while forming a bouquet has been prescribed to ensure that a-la-carte price declared by the broadcaster is reasonable so that consumer are encouraged to take channels of its choice on a-la-carte basis. In case a broadcaster feels that more discount can be provided in formation of the bouquet, it indirectly means that a-la-carte prices at the first stage has been high and there is a need to revise such a-la-carte prices downwardly. Full flexibility has been given to broadcasters to declare price of their channels on a-la-carte basis.
40. The comments of various stakeholders regarding tariff models at retail level for distributors of television channels are already discussed in paras 16 to 22. The Authority, after holistic examination of responses from the stakeholders, is of the view that the new tariff model for distributors of television channels should be a cost based model which enables distributors of television channels to recover their respective costs, ensures a healthy growth of the industry and protects interests of consumers and service providers. Accordingly, the Authority has proposed an integrated distribution model for TV services in India i.e. separation of charges for distribution networks and subscription of pay TV channels as described in para 4.12.4 of the consultation paper. The model will enable a framework ensuring transparency, non-discrimination, non-exclusivity for all stakeholders

in value chain. The consumers will have greater flexibility in exercising their choice and the model will also ensure effective price to the subscribers due to competition at the broadcasters' level. The model will also boost innovation and quality of content development.

41. The Authority has considered the demand of distributors of television channels to let the price forbearance at retail level continue in the new framework also. The Authority has noted that distributors of television channels get channels or bouquets of channels from broadcasters at varying prices as broadcasters usually offer very high discounts to some distributors of television channels and lower discounts some other distributors of television channels. Through this discount broadcasters often push all their channels in bouquet to distributors of television channels. As a result distributors of television channels are not able to price their offerings reasonably to customers. In order to address this concern, the Authority has decided that the broadcasters shall offer their channels to distributors of television channels on a-la-carte basis and also rationalized the prices for channels offered by broadcasters by prescribing a cap of 15% on the discount to distributors of television channels. This will ensure that there will be little variance in prices of channels offered by broadcasters to different distributors of television channels. On the other hand, the Authority has decided to continue the forbearance at the retail level and provided freedom to distributors of television channels to fix the retail prices of a-la-carte channels for their customers by offering discount on the MRP of channels declared by the broadcasters. distributors of television channels are also free to form and price the bouquets from a-la-carte channels of different broadcasters with a condition that the retail price of such bouquet of pay channels shall not be less than eighty five percent of the sum of retail price of the a-la-carte pay channels forming part of the bouquet.
42. The content produced by broadcasters is distributed through the network of distributors of television channels. Distributors of television channels have made significant investment in establishing and maintaining their networks which is independent of the broadcaster's requirements. Additional investment is further needed in the distribution networks to expand their reach and upgrade their capabilities. In addition, distributors of television channels have to carry out various tasks such as subscriber management, billing, complaint

redressal, collection of subscription revenue etc. In the present framework distributors of television channels do not have any fixed source of revenue and to a large extent depends on the revenue share earned from the pay channels of broadcasters distributed to customers. As a result chances of mutual mistrust and litigations increase in value chain. This is also one of the basic reasons of conflict between MSOs/ HITS operators and LCOs. Therefore the Authority is of the view that the distributors of television channels should have sources of revenue independent of revenue share from pay channels subscription revenue to ensure reasonable rate of return on investment in the existing distribution networks and to ramp up further investment to ensure better quality of service to the customers.

43. As per data available, the cost of carrying 100 SD channels by a distributor of television channels comes to approximately Rs 80/- per month and cost of other activities like subscriber management, billing, complaint redressal, call center etc comes out to be Rs. 50/- per month. Accordingly, the Authority has proposed that distributors of television channels may charge a maximum fixed amount of upto Rs 130/- per month, excluding taxes, from its subscribers towards its network cost to carry 100 SD channels including mandatory channels of Prasar Bharti, as notified by the Government from time to time. A subscriber may request for additional network capacity in bundles or lots of 25 SD channels at a rate of Rs 20/- per month for subscribing to more than 100 channels. This accounts for additional bandwidth cost by distributors of television channels.
44. According to industry estimates, on an average, one HD channel occupies a bandwidth that would otherwise accommodate 2 SD channels with appropriate compression processes in place. Accordingly, the Authority has decided that in case a customer subscribes to an HD channel, it will be considered equivalent to two SD channels for the purpose of counting of channels. For example, in case a subscriber opts for 100 channels and subscribes to 1 HD channel, than he will get 99 channels (98SD+1HD). In case a subscriber subscribes to 2 HD channels, than he will get 98 channels (96SD+2HD).
45. The flexibility of packaging at retail level is presently given to distributors of television channels. However, it is primarily being influenced by the broadcasters. The entry level bouquets are formed by distributors of television channels with both FTA and pay

channels. Such formation of bouquets and restricted availability of a-la-carte channel due to higher prices has worked against the interest of the consumers. Further, subscribers are not able to choose channels according to their choice. Here it is important that one of the primary objectives of digitalization is to serve the subscriber interest better, giving them more choice of the channels, better quality of content and at a reasonable price. In view of above, the Authority has decided that subscribers should have freedom to choose the channels, both FTA and pay or combination of pay and FTA, of their choice other than mandatory channels of Prasar Bharti. In order to ensure this, the Authority has also decided that broadcasters will provide all their channels to distributors of television channels only on a-la-carte basis. Further there will be no influence of broadcasters, in agreements or in providing any discounts either directly or indirectly or through any activity which may influence formation of bouquets by distributors of television channels. This will ensure that broadcasters do not force distributors of television channels to bundle their less popular channels along with their driver channels in the bouquets without taking option of the customers.

46. In the present framework consumers are generally provided bouquets of channels. They do not have adequate information about all the channels available on distributors of television channels network and their prices. As a result consumers are not able to take an informed decision and exercise their choice in selecting the channels of their choice. In order to protect the interest of consumers, the government enacted the Consumer Protection Act 1986, that gives a consumer six basic rights. These rights include 'Right to Choose' and 'Right to be Informed'.
47. In order to ensure that consumers get adequate information about all the channels available on distributors of television channels network and their prices enabling them to make informed choice, the Authority has decided that broadcasters shall publish the MRP of their pay channels on their website, report to the Authority and also inform to all the distributors of television channels. It is also decided that such MRP will be visible to all the customers in the Electronic Program Guide (EPG), details of which will be discussed later.
48. It may be possible that some customers may not find it convenient to choose channels of

their choice. Distributors of television channels interact with customers either directly or through LCOs and are aware about their choices and interests. Therefore distributors of television channels will be able to form bouquet(s) from the channels obtained from different broadcasters which suit the requirement of their customers. In view of this, distributors of television channels are permitted to repackage the channels from different broadcasters to form a bouquet of channels. However, a distributor of television channels shall not make smaller bouquet(s) of channels for customers by disassembling the bouquets of channels for which MRP for customers have been declared by broadcasters. A distributor of television channels shall also not form any bouquet containing any bouquet of channels for which MRP for customers have been declared by broadcasters.

49. Many a times a customer does not know that FTA channels are given to distributors of television channels free of cost whereas subscription fee has to be given for pay channels. When a bouquet contains both pay and FTA channels, customer may not be able to appreciate the price difference resulting in lack of information. This need to be addressed. Accordingly, the Authority has decided that bouquets of pay channels and FTA channels have to be separate i.e. there can be no bundling of pay and FTA channels both at the broadcaster as well as at the distributor of television channels level as it will help to reduce forced bundling of packages with FTA channels in view of fixed fee/CPS deals being executed by the broadcasters.
50. A subscriber will be free to choose any channel on a-la-carte basis out of the a-la-carte pay and FTA channels of different broadcasters available on the network of the distributor of TV channels. In addition to such a-la-carte choice, a subscriber will also be free to choose any bouquet(s) offered by a broadcaster or any bouquet(s) formed by distributor of TV channels from a-la-carte pay channels of different broadcasters or any bouquet(s) formed by distributor of TV channels from a-la-carte FTA channels of different broadcasters. This will ensure increased choice at effective prices. Here it is important to mention that subscribers will not be charged either by the broadcaster or distributors of TV channels for subscribing to any a-la-carte free to air channel or bouquet of free to air channels available on the network of the distributors of TV channels.

51. Though the broadcasters are mandated to declare MRP of their pay channels for customers, the channels will be provided to customers by distributors of television channels only. Distributors of television channels will collect revenue for subscription of pay channels or bouquets of pay channels from its subscribers and remit it to the broadcasters. This will require deployment of manpower and other resources by distributors of television channels. In case a distributor of television channels delegates the responsibility of collection of revenue to LCOs, then it has to share revenue with LCOs. Further, the subscription fee cannot be more than the MRP of pay channels or bouquet of pay channels declared by the broadcasters. Accordingly, in order to compensate this cost of collection and remittance, the Authority has decided that broadcasters will provide twenty percent (20%) distribution fee to distributors of television channels for collection and remittance of pay channel revenue. In addition to distribution fees, a broadcaster may, at its discretion, offer a discount of not more than fifteen percent (15%) on MRP to distributors of television channels based on fair, objective and quantifiable parameters. Parameters for discounts will be disclosed by broadcasters in RIO which will be transparent and uniform for all distributors of television channels.
52. In order to provide flexibility to distributors of television channels, the Authority is of the view that after receiving any discount from the broadcasters in MRP of a pay channel or a bouquet of pay channels, a distributor of television channels may provide discount to its subscribers on the MRP of pay channels or the bouquet of pay channels declared by the broadcasters and notify the retail price to its subscribers. In order to prevent perverse pricing of bouquets vis-s-vis a-la-carte price of channels, the Authority has decided that a distributor of television channels may also offer a maximum discount of 15 % to its subscribers while forming the bouquet (s) of pay channels over the sum of retail price offered by it to subscribers for those channels.

B. Rationalization of genres

53. The channels at present are divided into 11 genres. This classification has been done on the basis of similar type of content grouped into same genre. The existing categories of genres have resulted into some anomalies e.g. there are many common channels in

different GEC genres but their prices are not uniform. The genre categorization was therefore proposed to be re-examined keeping in view the development of new and different type of content.

54. Few broadcasters and majority of the distributors of television channels along with few individuals agree with the genre classification as given in the consultation paper suggesting that there is no reason to discriminate channels on the basis of language. While, one stakeholder disagrees with this and has suggested that the channels should be classified into two genres on basis of its target audience i.e. national channels and regional channels, both defined separately for News & Current Affairs and Non-News Channels. Another has suggested that the genre classification by Broadcast Audience Research Council (BARC) may be adopted by TRAI as well.
55. On the contrary, few of the stakeholders including both broadcasters and distributors of television channels do not favour genre classification as given in the consultation paper. Some have opined that music and lifestyle should not be clubbed with infotainment channels and others have suggested that there should be separate genres for general entertainment i.e. GEC Hindi, GEC English and GEC Regional. Another suggestion that has emerged is that there should be complete clarity regarding the definition of a genre and inter-changeability of a channel between genres.
56. The market has clearly demonstrated that similar content in different languages only have different area of dominance but nature of uptake and popularity remains very similar. Clubbing of such channels in one genre will reduce the number of genres and will give greater flexibility to the broadcasters in channel pricing. Therefore, the Authority has decided to club together similar genres of different language channels for fixation of the genre price cap. However, in order to provide adequate information to subscribers about the channels available on its network, the distributors of television channels may form sub categories of genres prescribed and display channels in these sub categories , on the EPG so that it continues to be consumer friendly in finding a channel of the choice.

C. Genre price cap

57. The broadcasters are required to declare genre of a channel, from the ones defined by TRAI, while declaring their RIO rate. The Authority had prescribed a genre-ceiling subject to inflation linked hikes. All the channels have to prescribe channel rate in accordance with the applicable genre-ceilings in non-addressable and addressable systems.
58. Some broadcasters has submitted that they agree with genre-wise pricing, maximum and minimum defined for channel pricing with regular revision of caps from time to time. Broadcasters have also submitted that the price cap should be based on channel popularity, number of channels in a particular genre and actual viewership based on distributor of television channels disclosures. They have further opined that a maximum of 33% discount on wholesale price across all genres must be allowed with the frequency to revisit genre ceilings be 1 to 2 years.
59. One stakeholder has submitted that the concept of pricing similar channels similarly and genre based pricing does not hold good since two different channels belonging to the same genre may have varied contents and the costs incurred for procurement/creation of this content may also drastically vary.
60. Majority of the distributors of television channels have submitted that the price caps may be determined by TRAI using the existing commercial agreements data filed with TRAI. According to them one such method to arrive the genre-wise price caps can be a simple average of current RIO rates of channels in a genre. Most of the distributors of television channels have further submitted that there exists an inverse relation between price of a channel and popularity-viewership. As a-la-carte rates increase, penetration of the channel decreases thereby decreasing ad-revenue. They are of the opinion that a maximum of 40-50% discounts should be allowed on the RIO rates for fair and non-discriminatory pricing of channels to all the distributors of television channels. They further suggested that the frequency to revisit genre ceilings may be 1- 5 years.
61. The existing framework for genre ceiling is working well. Therefore in order to have continuity, the Authority is of the view that existing genre ceiling should continue.

However, in the new framework, broadcasters will provide distribution fee of 20% on the MRP to distributors of television channels. Accordingly, the Authority has proposed a new genre-ceiling for MRP to customers with adequate scope to cater for additional business margins at 20% of the existing genre ceilings for addressable systems. It is expected that the prices will be regulated by the market forces based on the demand of channels or TRP.

62. In the new framework, number of genres have been reduced to 7 from existing 11. Some of the existing genres have been grouped together to form a new genre, while some genres have been retained as it is. In case, a genre has been retained as it is, maximum retail price of a channel to the customer in that genre will be 1.20 times the existing price cap for that genre for addressable systems. In case, multiple genres have been clubbed to form a new genre, maximum retail price of a channel in that genre to the customer will be 1.20 times the existing price cap of that genre which has the highest price cap for addressable systems.
63. A broadcaster is free to place a channel provided by it in any of the prescribed genres and fix the MRP of the channel within the price ceiling prescribed for that genre. Alternatively the broadcaster can decide to declare its channel as 'premium' for which no price ceiling has been prescribed. This is in line with the demand of broadcasters to get flexibility to price their content directly to subscribers.
64. In case the genre of a channel is changed by a broadcaster then its price cap will also change and the broadcaster will have to change the MRP for such channel. In case genre and MRP of a channel is changed frequently then its MRP will also vary accordingly, causing inconvenience to subscribers. This will also result in frequent amendment in RIOS published by broadcasters and hence in agreements between broadcasters and distributors of television channels. Accordingly, the Authority has decided that there will be no change in genre and MRP of a channel within one year from the date of declaration of genre and MRP by broadcasters.
65. Though the Authority has prescribed the ceiling on MRP based on genre of channels at present, it expects that such ceilings will be in operation for a limited period. The

Authority will keep a watch on the developments in market and once there is effective competition, may consider deregulation and do away with the genre ceilings in a time period of 3 to 4 years.

D. Premium channels & pricing

66. With a maturing TV audience, a demand has been felt for content that may not have mass following. This is borne by the fact that there have been an increasing number of channels that cater to a niche audience. A number of niche channel issues like redefinition, classification criteria, tariff fixation, gestation and related facets were posed for consultation.
67. Most stakeholders responded enthusiastically to the idea of redefining 'Niche channel' in the new scenario and their regulation in a manner that is different from mass viewing channels like general entertainment etc. The stakeholders also expressed concerns about possible misuse if genre price cap is totally withdrawn for certain category of the content while submitting their suggestions for classification of such niche channels.
68. The Authority has noted that Broadcasters provide popular content for mass viewing to get large viewership of their channels and hence more revenue from advertisements. This has resulted in minimal investments in development of content which is viewed by a select class of viewers. Such content is not limited to niche channels only; there is other type of content which has very select viewership such as education, health, women welfare etc. In view of this the Authority has decided to introduce a new category of channels called 'Premium' channels. Broadcasters are free to notify any channel as premium channel in their RIO. There shall be no price cap on maximum retail price notified by broadcasters for customers.
69. The Authority considered all the issues relevant to the classification and pricing of 'Premium channels'. The Authority recognises the fact that encouragement of good quality content through a rational classification and a distinctly different pricing policy for 'Premium channels' will benefit all stakeholders including mature audiences that will patronize such offerings.

70. The Authority has decided that a broadcaster will be free to declare any of its channels as ‘Premium channel’ and its MRP to the subscriber. The distributors of television channels will also display MRP of Premium channels in their EPG and also provide a special flag in EPG for easy identification of Premium channels by subscribers.
71. Premium channels will always cater to smaller group of viewers unlike mass viewed channels like general entertainment etc. The advertisement revenues for such channels may also be relatively limited due to the limited viewership. Therefore the Authority is of the view that the MRP of a premium channel will be under forbearance. It can be argued that forbearance may allow the broadcasters to fix high MRP for premium channels. However, high MRP may deter customers to subscribe to such channels impacting the subscription as well as advertising revenue of broadcaster. This will compel broadcasters to price their premium channels reasonably. Further, in case premium channels are not offered only on a-la-carte basis, then such channels may be bundled in bouquets resulting in high price of bouquets and that too without the knowledge of subscribers. Accordingly, the Authority has decided that the premium channels shall be offered only on a-la-carte basis to subscribers and shall not form a part of any bouquet or package in the entire value chain.
72. The categorization of a ‘Premium channel’ will be agnostic of the content, format (SD/HD etc). Once a broadcaster has reported a channel as a ‘Premium channel’, it will continue to do as long as the broadcaster chooses to subject to a minimum period of six months from the date of its launch. Any reported change in the category of a ‘Premium channel’ to other genre would then be subject to the reporting related to the genres & associated ceilings.

E. HD channels pricing

73. The growth in the number of HD channels and the widespread consumer acceptance of HD channels is due to declining hardware costs including TVs and set-top-boxes. Therefore, the rapidly rising acceptance and percolation of the number of HD channels across the subscriber population calls for re-examination of the large differential in prices of HD channels viz-a-viz their SD versions.

74. Most broadcaster are in favour of price forbearance continuing on HD channels both in a-la-carte and bouquet form and with no linkage of the HD price to SD price. Some have also suggested a fixed price of Rs 25 per channel per month at the wholesale level while the retail price should be double the wholesale price. No justification to arrive at these prices have however been communicated. The distributors of television channels on the other hand favour price regulation while suggesting a cost based analysis to work out the costs.
75. The distributors of television channels have also suggested that the retail price of an HD channel must be 1.5 to 2 times the price of the SD channel. It has also been suggested by distributors of television channels that the HD channels must be offered in an add-on package and must not be offered in the same bouquet along with SD channels. A few other stakeholders have also opined that both broadcasters and distributors of television channels must be restrained/ disallowed to bundle HD channels & SD channels in the same bouquet.
76. The Authority has examined and analysed the data on HD channels that was obtained from various sources. Based on available data it is clear that HD channels have gained a large viewing acceptance owing to the widespread availability of HD content across all distribution platforms, genres and at the consumer end. The large scale consumer viewership of HD channels across all genres has also been facilitated by the dropping prices of HD ready consumer acquired equipment including TVs and set-top-boxes. It is also observed that same content is being broadcasted on both HD and SD version of a given channel and sometimes both the channels are provided to subscribers in the same bouquet resulting in additional charges for the subscribers.
77. Earlier the cost of production of HD channels particularly HD only content was high, which has come down substantially given the decreasing cost of electronics and IT equipment in general. Today, it is a known fact the cost of HD content produced is a one-time cost and the SD feed is only a down-converted version of the same HD content at very little extra cost. The monetisation of such costs occur across the entire consumer base. Further, the broadcasters have misused the price forbearance and kept the prices of HD channels abnormally high as compared to corresponding SD channels. Therefore, the

Authority is of the view that the HD channels will no longer be under the price forbearance.

78. The pricing relation of HD channels with corresponding SD channels is to be worked out based on the differential in the bandwidth utilisation. A standard 36 MHz transponder for up-linking & down-linking of TV channels can accommodate around 24-28 SD channels. Industry estimates also indicate that on an average, one HD channel occupies a bandwidth that would otherwise accommodate 2-3 SD channels with appropriate compression processes in place. Accordingly, the Authority is of the view that the cost of an HD channel will not exceed 3 times the cost of a corresponding SD channel.
79. The Authority also recognises the fact that many HD channels may not have a corresponding SD channel with the same content. The cost of such a HD channel cannot be thus worked out in isolation. The ceiling on MRP of the reported genre of such an HD channel shall be used as cost of the corresponding SD channel to determine permissible cost of HD channel. The price ceiling on such a channel will be 3 times the ceiling of MRP of that genre. This will give adequate flexibility in pricing any HD channel in a given genre and its reporting while also being consistent with the HD pricing formula for other HD channels. These measures are aimed at improving a consumer's choice in his selection of HD channels without him being saddled with SD & HD channels with the same content while also allowing a price differential on an HD channel's MRP viz-a-viz its SD counterpart. Distinct SD & HD bouquets for a consumer to choose from are aimed to protect the consumers from additional charges because of bundling of SD and corresponding HD channel in the same bouquet.

F. Channel visibility on Electronic Program Guide (EPG)

80. Presently Electronic program guide (EPG) lists only those channels which are subscribed by a subscriber; the issue of provisioning of all channels, available on a DPO's platform, in the EPG was raised in the consultation paper.
81. In response majority of the broadcasters agree that the EPG should include details of the program and rates/ price of the channels that are not subscribed by the customer. They

have pointed out that such provision will help customer to take an informed decision to subscribe to such channels. One stakeholder has pointed that such a provisioning should not be regulated and left for open negotiation between broadcasters and distributors of television channels. They have further submitted that no additional cost should be levied on the subscribers or broadcasters for the same.

82. While, majority of the distributors of television channels resonate the same feeling of including details and rates/price of all the channels, some however disagree with the above. The distributors of television channels have submitted that they will have to incur incremental costs on EPG for additional frequency bandwidth.
83. At present, EPG does not give details, including price/rate, of those channels which are not subscribed by a consumer. Thus, a consumer makes a choice without being informed of all channels. This also amounts to a “lost opportunity cost” to the platform operator as well as to the broadcaster. Visibility of all the channels on EPG may result in subscription of more number of pay and premium channels. This will generate more revenue for distributors of television channels that can offset the cost of additional bandwidth required for EPG. Hence, the Authority is of the view that to facilitate consumer choice, EPG must display details of all channels and their MRP, carried over the DPO’s network. The channels should be arranged genre-wise for easy navigation.

G. Variants or Cloned Channels

84. In the consultation paper comments of stakeholders were sought on the issue of definition and need for regulation of variant or cloned channels.
85. Majority broadcasters are not in favour of regulating variant or cloned channels. They have opined that variant or cloned channels does not hamper consumer interests as they have been introduced to cater different mass/class of population and to increase the reach of content of broadcasters. They have further suggested that by regulating variant or cloned channels, TRAI would thereby be regulating channel content which falls outside the purview of TRAI. On the other hand, some of the broadcasters are in favour of regulating variant or cloned channels with no separate charges for the channels having

same content but multiple audio feed. One has suggested that the HD channels may however be exempted from the provisions of any such clause.

86. Distributors of television channels have submitted that variant or cloned channels should be clearly defined and it should definitely encompass two channels offering same or almost similar content in multiple languages. They believe that the consumers should be able to make choice based on his preference of region, language, SD or HD mode and thus, variant or cloned channels may not be placed in the same bouquet.
87. One individual has suggested that two or more channels which has 60% of the same content and two or more channels offering same or almost similar content but in multiple languages should be categorized as a 'cloned channel'. Consumers should have the freedom to subscriber to any one variant of the cloned channels and should not be forced in same bouquet.
88. Presently variant or cloned channels are placed in the same bouquet of channels as original channel, thereby burdening the consumers with additional tariffs. At present, no regulatory framework exists to check such activities. The Authority does not want to regulate the cloned or variant channels at present. However, it is desirable that broadcaster or distributor of TV channels should not bundle a cloned channel with the original channel in the same bouquet and, the consumers should have the option to select language based on his/her preference.

H. Pay-per-program viewing and tariff options

89. In the consultation paper, stakeholders were asked to suggest whether the option of Pay-per-program viewing (PPV) be made available to the subscribers and if so, whether the tariff of such viewing be regulated.
90. In response most of the stakeholders including broadcasters and distributors of television channels are not in favour of pay-per-viewing option. They suggested that it is not feasible to implement PPV because it will be difficult for the broadcasters and the MSOs to keep track in reference to such volatile changes.

91. While, some stakeholders believe that pay-per-program viewing should be allowed as it gives consumers better choice and flexibility and, it may be an innovative way of introducing new content. Distributors of television channels favouring pay-per-program viewing have suggested that it is technically feasible to implement and the cost will be less than the monthly a-la-carte cost of the channel. These stakeholders suggested that the PPV service should be left on forbearance and the Authority may intervene on case-to-case basis.
92. Digitalization has enabled implementation of value-added services (VAS) such as video-on-demand (VOD), pay-per-view, pay-per-program etc. Pay-per-program viewing will enable greater consumer choice and flexibility. This may be conducive for a subscriber who wishes to selectively view only a particular program of his choice on a particular channel, which he may not have otherwise subscribed either on a-la-carte or as a part of a bouquet. This may also enable distributors of television channels and broadcasters to derive higher ARPUs.
93. However, the value-added-services are not very popular among the consumers at present. Hence, pay-per-programming seems a forward looking approach for ensuring greater consumer choice. Moreover, as pointed out by majority of the stakeholders, there will be an additional cost associated with it for increased investments in technology and manpower. In view of the above, the Authority is of the view that there is no need to regulate pay-per-program viewing at present as it is at a nascent stage and, the industry may provide option to consumers at an appropriate time when the stakeholders including consumers and the infrastructure are ready to implement pay-per-program viewing.

I. Significant Market Power

94. In the consultation paper stakeholders were asked to suggest whether there is a need to identify significant market power. The stakeholders were also asked to suggest the criteria for classifying an entity as a significant market power.
95. Most broadcasters aver that the issue of identifying SMP's is in the purview of Competition Commission India (CCI) and there is no need for TRAI to do so. Further that

CCI provides adequate safeguards for preventing anti-competitive behavior. A few broadcasters however do favour the idea of SMP identification and have suggested criteria to identify SMPs. A few distributors of television channels submitted that there is no need to identify SMPs while the others do believe that such a distinction be made. Some distributors of television channels have suggested that vertically integrated entities in the distribution sector be subjected to additional regulation.

96. The Authority has noted that the monopolistic behaviour of significant market power is well demonstrated both by broadcasters as well as distributors of television channels. However, the Authority is prescribing a new framework for television broadcasting sector and therefore does not want to identify and regulate the significant market power at present. The Authority will keep a watch on the developments after implementation of new framework and in case any monopolistic behavior of significant market power is observed or brought to its notice, the Authority may intervene in future.

**Schedule I to the Telecommunication (Broadcasting and Cable Services) (Eighth)
(Addressable Systems) Tariff Order, 2016**

(See section (a) of sub-clause (1) of clause 3)

PART II

Relevant Geographical areas for television broadcasting services

1	All India
2	Andhra Pradesh and Telangana
3	Arunachal Pradesh
4	Assam
5	Bihar
6	Chhattisgarh
7	Delhi
8	Goa
9	Gujarat including UTs of Dadra & Nagar Haveli and Daman & Diu
10	Haryana
11	Himachal Pradesh
12	Jammu & Kashmir
13	Jharkhand
14	Karnataka
15	Kerala including UT of Lakshadweep
16	Madhya Pradesh
17	Maharashtra
18	Manipur
19	Meghalaya
20	Mizoram
21	Nagaland
22	Odisha
23	Punjab including UT of Chandigarh
24	Rajasthan
25	Sikkim
26	Tamil Nadu including UT of Puducherry
27	Tripura
28	Uttar Pradesh
29	Uttarakhand
30	West Bengal including UT of Andaman & Nicobar Islands

**Schedule II to the Telecommunication (Broadcasting and Cable Services) (Eighth)
(Addressable Systems) Tariff Order, 2016**

(See sub-clause (1) of clause 5)

PART II

Ceiling on maximum retail prices for pay channels for addressable systems

S. No.	Genre of Channel	Ceiling on maximum retail price
1.	GEC	12.0
2.	Infotainment	9.0
3.	Movies	10.0
4.	Kids	7.0
5.	News and Current Affairs	5.0
6.	Devotional	3.0
7.	Sports	19.0

Example 1

(See first proviso to sub-clause (3) of clause 3)

PART II

Determination of MRP of Bouquet formed by the Broadcaster

1. Suppose, there are 10 pay channels (Ch-1 to Ch-10) offered by a broadcaster.
2. Suppose, the maximum retail price (MRP) of the channels declared by the broadcaster for the customers are as under:-
 - Ch-1= Rs. 5/-
 - Ch-2= Rs. 3/-
 - Ch-3= Rs. 4/-
 - Ch-4= Rs. 6/-
 - Ch-5= Rs. 7/-
 - Ch-6= Rs. 2/-
 - Ch-7= Rs. 1/-
 - Ch-8= Rs. 3/-
 - Ch-9= Rs. 4/-
 - Ch-10= Rs. 5/-

Sum of MRP of these 10 channels is Rs. 40/-

3. In case the broadcaster offers a bouquet of these 10 channels then MRP of such bouquet will not be less than 85 % of the sum of MRP of these 10 channels i.e. $Rs. 40 \times 85/100 = Rs. 34/-$

Example 2

(See first proviso to sub-clause (3) of clause 6)

PART II

Determination of retail price of bouquet formed by the distributor of television channels

1. Suppose, a distributor of television channels offers a bouquet of 10 pay channels (Ch-1 to Ch-10) offered by a broadcaster.
2. Suppose, the maximum retail price (MRP) of the channels declared by the broadcasters for the customers and their retail price declared by the distributor of television channels are as under:-

S. No.	MRP of channels declared by broadcasters (in Rs.)	Retail price of channels declared by the distributor of television channels (in Rs.)
1	5	4.50
2	6	5.50
3	8	7
4	6	5
5	7	6.50
6	8	7
7	10	9
8	12	10
9	9	8
10	4	3.50
SUM		66

3. In case the distributor of television channels forms a bouquet of these 10 channels then retail of such bouquet will not be less than 85 % of the sum of retail prices of these 10 channels i.e. Rs. $66 \times 85/100 = \text{Rs. } 56.10$