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TELECOM REGULATORY AUTHORITY OF INDIA

**THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES
(FOURTH) (ADDRESSABLE SYSTEMS) TARIFF (SECOND AMENDMENT) ORDER,
2013
(No. 4 of 2013)**

NOTIFICATION

New Delhi, the 20th September, 2013.

No. 1-9/2012- B&CS. ----- In exercise of powers conferred by sub-clauses (ii), (iii), (iv) and (v) 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. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----

the Telecom Regulatory Authority of India hereby makes the following Order further to amend the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010 (1 of 2010) , namely:-

1. (1) This Order may be called the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (Second Amendment) Order, 2013.

(2) This Order shall come into force from the date of its publication in the Official Gazette.

2. In clause 6 of the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010, (1 of 2010),---

(a) in the heading, the word “pay” shall be omitted;

(b) in sub-clause (1),----

(i) for the second proviso, the following proviso shall be substituted, namely:---

“Provided further that in case a multi-system operator or direct to home operator or Internet Protocol service provider or HITS operator providing broadcasting services or cable services to its subscribers, using a digital addressable system, offers channels as a part of a bouquet, the a-la-carte rate of such channels forming part of that bouquet shall be subject to the following conditions, namely:-

(a) the a-la-carte rate of a pay channel forming part of a bouquet shall not exceed two times the a-la-carte rate of the channel offered by the broadcaster at wholesale rate for addressable systems; and

(b) the a-la-carte rate of a pay channel forming part of a bouquet shall not exceed three times the ascribed value of the pay channel in the bouquet;

Explanation: Ascribed value of a pay channel in a bouquet means the value arrived at by multiplying the proportionate value of the pay channels in the bouquet with the a-la-carte rate of the same pay channel and divided by the sum of a-la-carte rates of all the pay channels in the bouquet, and proportionate value of the pay channels in the bouquet shall be calculated in the following manner:-

$$\frac{[\text{Bouquet rate} \times \text{sum of a-la-carte rate of pay channels}]}{[\text{sum of a-la-carte rate of pay channels} + \text{sum of a-la-carte rate of free-to-air channels in the bouquet, taking rate of free-to-air channel as one rupee}]}$$

(ii) after second proviso, so substituted, the following proviso shall be inserted, namely:----

“ Provided also that it shall be open to the multi system operator or direct to home operator or Internet Protocol service provider or HITS operator to specify the a-la-carte rate of channels, referred to in the second proviso, by adopting any one of the two conditions mentioned in para (a) and para (b) of the second proviso, till the 31st December, 2013 and from the 1st January, 2014, the a-la-carte rate of channels shall be subject to the conditions mentioned in the second proviso.”

(c) in sub-clause (2), the word “pay”, wherever appearing, shall be omitted;

(d) for sub-clause (4), and before Explanation, the following sub-clause and provisos shall be substituted, namely:--

“(4) It shall be open to the service provider providing services through addressable system to specify a minimum monthly subscription, not exceeding one hundred and fifty rupees (exclusive of taxes) per month per subscriber, towards channels chosen by the subscriber;

Provided that the subscriber of the addressable systems may subscribe to any bouquet or any bouquet and any pay or free-to-air channel or only free-to-air channels or only pay channels or pay channels and free-to-air channels.

Provided further that nothing contained in this sub-clause shall apply to the service provider providing service through digital addressable cable television system;”

(Sudhir Gupta)
Secretary(I/C), TRAI

Note 1.----- Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010 (1 of 2010) was published vide notification No. 11-14/2009-B&CS dated the 21st July 2010, and subsequently amended vide notifications No. 1-9/2012 -B&CS dated the 30th April 2012.

Note 2.----- The Explanatory Memorandum annexed to this Order explains the objects and reasons of the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (Second Amendment) Order, 2013 (4 of 2013).

Explanatory Memorandum

I. Background

1. In the last few years, the exponential growth in the number of TV channels (both free-to-air [FTA] and pay) combined with the inherent limitations of the analog cable TV systems has posed several challenges in the cable TV sector, mainly due to capacity constraints and non-addressable nature of the network. With time and evolution of technology, new addressable TV platforms like direct-to-home (DTH), internet protocol television (IPTV) etc. became available. The evolution of technology also paved way for introducing digitization with addressability in the cable TV sector. Accordingly, after studying the subject at length and undertaking a public consultation process, the Authority, on 5th August 2010, gave its recommendations on implementation of Digital Addressable Cable TV Systems (DAS) across the country along with a roadmap to achieve the same.
2. The Government accepted the recommendations of TRAI and on 25th October, 2011, promulgated an Ordinance amending the Cable Television Networks (Regulation) Act, 1995, enabling the implementation of Digital Addressable Cable TV Systems in India. Thereafter, the Government also issued a notification dated 11th November, 2011 and its amendment dated 21st June 2012, which laid down the roadmap for implementation of Digital Addressable Cable TV Systems in the country in a phased manner in four phases, with the first phase by 31st Oct. 2012 and the final phase to be completed by 31st December 2014. This will lead to sunset of Analogue Cable TV Systems in the entire country. With the Parliament passing the bill, the Ordinance dated 25th October, 2011, became an Act on 30th December, 2011. This amendment of the Act paves way for the implementation of DAS in the country.
3. Earlier, on 21st July 2010, TRAI had issued the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010, applicable to broadcasting services and cable services provided to subscribers, through addressable systems, throughout the territory of India except for cable services provided through cable television networks in the notified CAS areas. Considering the Cable Television Networks

(Regulation) Amendment Act 2011, and the notification mentioned above, suitable amendments were made in the tariff stipulations prescribed in the said tariff order after following the due consultation process. This tariff amendment order was notified on 30th April, 2012. The said tariff amendment order, amongst others, contains provisions pertaining to the tariff and composition of basic-service-tier (BST), retail tariff, tariff for advertisement free channels and revenue share between multi system operator (MSO) and local cable operator (LCO) (as a fall back arrangement in case the mutual negotiations fail).

4. One of the most important features of DAS is that, being an addressable system, it enables a consumer to choose the offerings of the platform operator and consequently, allows him to budget his bill accordingly. In this context, in the DTH sector, the dominant addressable system, where the operators are allowed to package and price the offerings, it has been observed that the uptake of channels on a-la-carte basis is negligible. One of the prime reasons for poor uptake of a-la-carte channels is that the a-la-carte rates of the channels are disproportionately high as compared to the bouquet rates, especially for those channels included in the entry level packs. In the said tariff amendment order, under Part-III (Retail Tariff), a proviso to clause 6(1) was inserted in the principal Tariff order, which prescribes a relationship between the a-la-carte rate of a channel and the rate of the bouquet, wherein the channel forms a part of the bouquet. This proviso was introduced at the retail level to ensure that the choice of channel on a-la-carte is not rendered illusory to the consumer. This provision prescribes two conditions for the purpose which is generally referred to as “twin conditions”.
5. The DTH Operator’s association submitted a representation to the Authority expressing certain concerns regarding implementation of the ‘twin conditions’ in the form as prescribed in the said tariff amendment order. As per the said representation, it was apprehended that as per the formulation, retail a-la-carte rate would be much less than the rate offered by the broadcaster to the operator at the wholesale level. Subsequently, four of the existing DTH operators also separately submitted their representations to the Authority raising the issue. Further, MSOs, in meetings with TRAI, had also raised certain apprehensions regarding implementation of the above mentioned ‘twin conditions’ at retail level.

6. The Authority took note of the issues raised by the DTH operators and the MSOs and initiated in-house consultation on the issues. It was also noted that, amongst a number of provisions, the provision of the twin conditions was also in appeal number 5(C) of 2012, 11 (C) of 2012 and 12 (C) of 2012 before Hon'ble Telecom Disputes and Settlement Appellate Tribunal (TDSAT). It was, therefore, considered appropriate that the matter may be decided by the judicial forum so that before taking a final view in the matter, the Authority would have the benefit of the views of the judicial forum on the matter. However, the Hon'ble TDSAT did not make any order/observations on the prescribed 'twin conditions' in its judgment pronounced on 19th Oct. 2012 on the said appeals. In view of the above, the Authority considered it appropriate to seek views of the stakeholders on the issue of 'twin condition'.
7. Further, during the internal analysis it was observed that certain provisions of the tariff order dated 21st July 2010, as amended, also need minor modifications/clarifications. These provisions pertain to prescription of minimum subscription period for FTA channels subscribed on a-la-carte basis, option to subscribers regarding choice of channel(s)/bouquet(s) or any combination thereof etc.
8. To address all the above mentioned issues, a consultation paper titled "Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems & Tariff Order applicable for Addressable Systems" was issued on 20th December, 2012. In response to this consultation paper, a total of 48 comments were received from stakeholders including consumers. Based on the views/comments of the stakeholders and the analysis of the issues, draft Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (Second Amendment) Order, 2013 was put up on the website of TRAI, seeking comments of the stakeholders. In response, 28 stakeholders offered their views/comments. Based on the above said consultation process, the tariff order applicable to addressable platforms has been amended through this tariff amendment order.

II. Analysis of Issues

9. The following is the summary of issues discussed in the consultation paper, stakeholder comments and analysis thereon.

A. Twin Conditions at Retail Level

10. While mandating the a-la-carte provisioning in the tariff order dated 21st July 2010, the Authority had decided to adopt a light touch approach and not to mandate any conditions on pricing of a-la-carte channels. It was stated in the explanatory memorandum, annexed to the said tariff order, that the Authority would, however, keep a close watch over the market and may intervene in public interest, whenever necessary. As stated earlier, the Authority has observed that the uptake of channels on a-la-carte basis, at retail level, is minimal. One of the prime reasons for the poor uptake is that the a-la-carte rates of the channels are disproportionately high as compared to the bouquet rates, especially in the entry level packs. To prevent skewed a-la-carte pricing and thus to ensure effective choice to the consumers through a-la-carte offering, the following ‘twin conditions’ were introduced for retail level pricing.

“(a) the sum of the a-la-carte rates of the channels forming part of such a bouquet shall in no case exceed one and half times of the rate of that bouquet of which such channels are a part; and

(b) the a-la-carte rate of each channel forming part of such a bouquet shall in no case exceed three times the average rate of channel of that bouquet of which such channel is a part;”

11. DTH Operators Association vide their representation and Multi-system operators in meetings with TRAI had raised certain apprehensions regarding implementation of the above mentioned twin conditions at retail level. To address the concerns of the DTH operators and Multi-System Operators and to protect the interest of the consumers, the Authority proposed the following ‘twin conditions’, in its consultation paper dated 20th Dec. 2012 :

“(a) The a-la-carte rates of pay channels forming part of bouquet(s) shall not exceed two times the a-la carte rate of the channel offered by the broadcaster at wholesale rates for addressable system.; and

(b) *The ceiling on the a-la-carte rates of pay channels forming part of bouquet(s) which shall not exceed three times the ascribed value[#] of the pay channel in the bouquet.*

#ascribed value of a pay channel in a bouquet is calculated in the following manner:

1. Proportionate value of the pay channels in the bouquet [A] =

$$\frac{\text{Bouquet Rate} \times (\text{Sum of a la carte rate of Pay channels})}{(\text{Sum of a la carte rate of Pay channels} + \text{Total no of FTA channels} \times \text{factor}^*)}$$

2. Ascribed value of a pay channel in a bouquet =

$$\frac{[A] \times \text{a-la-carte rate of a pay channel}}{(\text{sum of a-la-carte rate of all the pay channels})}$$

**factor=1 if uniform rate of free-to-air channel is less than or equal to Rupees three. The factor = uniform rate of free-to-air channel/3, if the uniform rate of free-to-air channel is greater than Rupees three.”*

12. Most of the DTH operators and MSOs were of the view that these conditions are difficult to implement. As per their submission, while the first condition restricts them from providing bouquets at attractive rates, the second condition forces them to fix the a-la-carte rates of the channels, forming part of the bouquet, below their RIO rates, in case they offer bouquets at reasonable rates. They suggested that the first condition should be dispensed with and the second condition be modified by replacing ‘two times’ with ‘three times’.

13. The opinion of the broadcasters in their response to the above mentioned issue was divided. One group of the broadcasters stated that these conditions are fair and acceptable, while the second group of broadcasters was in favour of complete forbearance of retail tariff and packaging. One of the cable operators association which responded on this issue, was in favour of the proposed ‘twin conditions’. Several consumers, in their response, suggested that the pay channel rates (MRP)/a-la-carte price ceilings should be fixed by TRAI as in CAS and the service providers may be asked to determine the bouquet price based on these a-la-carte prices, not the other way round. One consumer has stated that the proposed formula is complicated and the existing ‘twin conditions’ should be continued.

14. Analysis of the issue revealed that the operators are offering the consumers different monthly packs. Notably, these packs also include a sizable number of FTA channels alongwith pay channels. It is observed that these packs consist of variety of channels of different genres such as news, entertainment, sports etc. Due to large size of bouquet and presence of large number of FTA channels in the bouquet, the ceiling derived from the flat average rate (as per the existing ‘twin conditions’) of a pay channel in the bouquet, at times, may be considerably low and, therefore, may not offer a viable business proposition for the service providers.

15. The prime concern raised by the MSOs and DTH operators, with regard to the ‘twin conditions’ as proposed in the consultation paper dated 20th Dec 2012, pertains to their difficulty in offering of bouquets at attractive prices. The Authority took note of the concerns of the service providers.

16. Therefore, to strike a balance between the consumer interests and the business interests of the service providers, the ‘twin conditions’ proposed in the consultation paper dated 20th Dec 2012 were modified in the draft amendment to the tariff order put up for consultation with the stakeholders on 4th June 2013 which read as under:

“(a) the a-la-carte rates of pay channels forming part of bouquet(s) shall not exceed two times the a-la-carte rate of the channel offered by the broadcaster to addressable systems at wholesale level; and

(b) the a-la-carte rate of a pay channel forming part of bouquet shall not exceed three times the ascribed value of the pay channel in the bouquet.

#ascribed value of a pay channel in a bouquet is calculated in the following manner:

Proportionate value of the pay channels in the bouquet [A] =

$$\frac{\text{Bouquet Rate} \times (\text{Sum of a la carte rate of Pay channels})}{(\text{Sum of a la carte rate of Pay channels} + \text{Sum of a-la-carte rate of FTA channels taking rate of FTA channel as Rs. 1})}$$

Ascribed value of a pay channel in a bouquet =

$$\frac{[A] \times \text{a-la-carte rate of the pay channel}}{(\text{sum of a-la-carte rate of all the pay channels in the bouquet})}$$

”

Stakeholder Comments

17. The DTH operators and MSOs have, in general, maintained that the prescription of ‘twin conditions’ is neither in the interest of the platform operators nor it is beneficial to the consumers. Operators are of the view that they need to offer bouquets having good number of channels to cater to the consumers’ choice. They have stated that, as compared to the present day bouquets offered by the operators, the implementation of ‘twin conditions’ would result into either reduction in the number of channels in the bouquet or drastic hike in the bouquet rate.

18. It has also been stated by the operators that each bouquet being offered by them may have to be recalibrated with different channels, based on price of the channel rather than genre of the channel, which are more affordable while the higher value channels may not be available to many consumers which are a part of their current bouquets. Some operators have also expressed the view that recalibration of pricing and packaging would make it difficult to fulfill price protection obligations to the consumers as prescribed in clause 8 of the tariff order. Quite a few operators have also mentioned that the ‘twin conditions’ are too cumbersome to implement and monitor on a continuous basis. Operators have also put forth their apprehension that a channel, forming part of more than one bouquet, may have different ascribed values corresponding to different bouquets and so, may lead to anomalous situations. One leading MSO has opined that the ‘twin conditions’ would be difficult to comply with as the broadcasters are not likely to give their channels to the operators at the rates they are offering now (under fixed fee deals) and may demand RIO rates.

19. Accordingly, it has been suggested by the operators that a-la-carte rate should only be linked to the RIO rate and not the bouquet rate and so, condition that relates the a-la-carte rate of a channel with its ascribed value in a bouquet, should be dispensed with. According to them, as

the RIO rates are the published rates, and linkage of a-la-carte rates with only RIO rates will enable uniform a-la-carte rates of channels, irrespective of the distribution platform. This, according to them, will allow consumer to take informed decision whether to subscribe a channel on a-la-carte basis or not and broadcaster will also be clear how the billing for these a-la-carte customers will happen. Operators have suggested different linkage between a-la-carte rates and the RIO rates, ranging from two times to four times the RIO rate. One leading MSO has also suggested that, in case, both the conditions are to be kept then the a-la-carte rate of the channel should be less than two times the RIO rate and less than five times its ascribed value in the bouquet. One national level MSO has stated that RIO rate of some of the channels is so low that the a-la-carte rate, fixed as per 'twin conditions', comes out to be even less than the FTA a-la-carte rate prescribed by an operator. It has been requested that, in such cases, in view of considerable overhead costs in addressable systems, the rate of such pay channels should be allowed to be fixed equal to FTA a-la-carte channel rate.

20. One cable operators association has submitted a view that broadcasters should offer pay channels only on a-la-carte basis and the bouquet should be formed by the platform operators only and they should not include any FTA channel in such bouquets. As far as consumers are concerned, one of them has suggested that the first condition should limit the a-la-carte rate by 1.5 times the wholesale rate and second condition should restrict it by two times the ascribed value of the concerned channel. Another view put forth by a consumer is that there should be only one condition which restricts the a-la-carte rate of a channel to be not more than 1.5 times its wholesale rate.

21. One leading broadcaster has opined that the wholesale rates of channels do not reflect the true value proposition of the content offerings and so, to link the effective a-la-carte retail rates with wholesale rate is irrational and will stifle the market growth in the long run. It has been further stated that the distortions that were created by the wholesale price freeze will then be replicated at the retail level and will extend and perpetuate the price stagnation at the last mile; such a formulation would never allow a channel to find its own price via the market route.

22. Another leading broadcaster has stated that though it supports forbearance at both the retail and wholesale level, in the present scenario with tariff regulation only at the wholesale, there is a room for manipulation at the retail level particularly where inter-linkages between MSOs and channel owners exist. To prevent this happening and only for such time as full digitization takes place, a formula for pricing at the retail level may be considered. The proposed formula is in line with current market realities.

Analysis

23. The intention of the Authority for prescribing the 'twin conditions' is basically to link the a-la-carte rate of channels to the bouquet rates, in order to ensure effective choice to the consumer, in the form of a-la-carte, bouquet or a combination thereof. Prescription of these conditions, however, does not intend to take away the freedom of the platform operators to price and package their offerings at the retail level.

24. In the 'twin conditions' proposed in the consultation paper dated 20th Dec. 2012, the ceiling for the pay channel rate was linked to the ascribed value of the channel instead of flat average value of the channel in the bouquet as prescribed in the Tariff (Amendment) Order dated 30th April 2012. The ascribed value of a channel in a bouquet is basically its a-la-carte rate, rationalized with respect to the bouquet's rate. Therefore, the proposed ceiling on the a-la-carte rates for pay channels, also offered in bouquet(s) at retail level, was linked to the ascribed value and hence to the a-la-carte rate of that channel which is decided by the operator, depending upon his cost for the channel and the business model adopted.

25. In order to provide further flexibility to the operators in fixing of the a-la-carte rates of their pay channels, the 'factor' has been given a fixed value of '1' in the formula for calculating the proportionate value of the pay channels in the bouquet. This effectively assigns a value of Rs. 1 to all the FTA channels, included in the bouquet for calculating the proportionate bouquet rate w.r.t. the pay channels. The value of FTA channels as Rs. 1 has been used taking clue from the value assigned to an FTA channel when offered as part of the BST, which is mandatory for the multi system operators to offer, who are providing cable TV

services through digital addressable systems. This is envisaged to provide realistic ceilings for the retail pricing of the channels/bouquets.

26. The operators are, however, free to fix the rate of the FTA channels, offered on a-la-carte basis, which has to be uniform, as per the extant tariff provisions. Since, the FTA channels, offered on a-la-carte basis, are to be priced uniformly, it is expected that market forces will ensure that such uniform rate would be reasonable. However, the Authority will keep a close watch and intervene, as and when required.
27. The criterion prescribed in condition (a) provides a linkage between the a-la-carte rates of pay channels, forming part of bouquet(s), and the a-la carte rates of the channels offered by the broadcaster at the wholesale level (i.e. the RIO rate) for addressable systems. The linkage has been provided with an intention that the operator has flexibility to package the channels as per his business plan while, at the same time, the restriction prescribed through the linkage (of two time the a-la-carte rate at wholesale applicable for addressable platforms) ensures that the a-la-carte prices are not rendered illusory to the consumers.
28. These twin conditions, on the one hand, give the operators sufficient room to price a-la-carte rates of channels reasonably vis-à-vis the bouquet rates prescribed by them and, on the other hand, allows the consumers to subscribe to channels on a-la-carte basis at reasonable rates thereby, enabling effective choice to the consumer and consequently, allowing them to budget their bills accordingly.
29. The stakeholders who have claimed to prove that the implementation of 'twin condition' will result into either exorbitant bouquet rate or sub-RIO a-la-carte channel rates, have based their calculations on their existing bouquet and a-la-carte rates. Without rationalizing the a-la-carte rates vis-à-vis the bouquet rates, this is an inevitable outcome and this is exactly why the 'twin conditions' are being prescribed.
30. The apprehension of service providers that multiple ascribed values of a single channel, forming part of multiple bouquets, will lead to un-ending calculations is not well founded.

Though, there could be multiple ascribed values for a channel, but the operator is just required to fix a single a-la-carte rate for such channel so that it satisfies the ‘twin conditions’ for each of such bouquet. For a consumer there will a single a-la-carte rate for a particular channel based on which he has to decide whether it makes a value proposition for him to go for a channel or not. In other words, the consumer is not concerned with the details of the pricing mechanism.

31. As regards the pricing of channels having very low RIO rates, the operators are free to offer such channels only in a-la-carte, in case their business model does not support offering of such channels as part of some bouquet.
32. **Considering the fact that the operators would be required to make appropriate changes, both in pricing and packaging, the Authority has decided to make the ‘twin conditions’, prescribed through this tariff order, mandatory w.e.f. 1st January 2014. However, during the period from the notification of this tariff order till 31st December 2013, operators would be required to offer channels, complying to either of the two conditions, specified in the ‘twin conditions’. The operators are, however, free to make their offering, complying to the ‘twin conditions’, if they wish to do so before 1st of January 2014.**
33. Further, in case a channel forms part of more than one bouquet then the above conditions will have to be satisfied for all such bouquets. Further, if the operator offers discounts to its subscribers on bouquet rates, the above said ‘twin conditions’ should also be satisfied with such discounted bouquet rates.

B. Minimum Subscription Period for FTA channels subscribed on a-la-carte basis by subscribers

34. In order to provide a measure of stability to the service providers in servicing the choices made by the subscribers, the Authority, in its principal tariff order dated 21st July 2010 had permitted the operators to stipulate a minimum commitment period, up to a maximum of

three months, for the a-la-carte choice of pay channels by the subscriber. Considering the fact that the operators have subsequently been mandated to offer all the channels on their platform on a-la-carte basis, it has raised the issue whether the minimum commitment period should be applicable for all the channels i.e. both pay and FTA. Accordingly, in the consultation paper it was proposed to delete the word “pay” from clause 6(2) of the principal tariff order dated 21st July 2010.

Stakeholder Comments

35. Most of the stakeholders including broadcasters, addressable platform operators, one cable operator association are in favour of the proposed deletion. While accepting the proposal, the consumers have suggested that the minimum subscription period should be reduced to one month.

Analysis

36. The primary benefit to the consumer that an addressable TV system can provide is the ability to subscribe to the channels of his choice. In the tariff order dated 21st July 2010, the operators were mandated to offer all the pay channels carried over their network, on a-la-carte basis. It was observed by the Authority that around 75% of all the channels permitted by the Ministry of Information and Broadcasting are FTA channels. Thus, offering only the pay channels on a-la-carte basis, largely deprives the subscribers from exercising their choice of channels. Therefore, the Authority felt it appropriate to extend the a-la-carte provisioning of channels to cover both the FTA and pay channels carried over the network of an operator. Accordingly, vide the tariff amendment order dated 30th April 2012, it was mandated that every operator providing services to its subscribers using an addressable system shall offer or cause to offer all channels, whether pay or FTA, offered by it to its subscribers on a-la-carte basis. In sync with this provision, the word “pay” has been deleted from the heading of clause 6 and also from the clause 6(2) of the principle Tariff order dated 21.07.2010. With the removal of word ‘pay’, an operator can specify a minimum commitment period, not exceeding three months for both ‘pay’ and ‘FTA’ channels, subscribed on a-la-carte basis.

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

37. The issue is that whether the provision, enabling a subscriber to choose channels on a-la-carte basis or bouquet/package basis or any combination of a-la-carte and bouquet/package basis, should be introduced for the subscribers of addressable platforms other than DAS. Same provision already exists for DAS.

Stakeholder Comments

38. In their response to the issue, the broadcasters, consumers and one of the LCO associations have supported the proposal. Except one MSO, others have stated that it should be incorporated in the tariff order as it ensures parity amongst various addressable platforms. The DTH operators and their association, in their response, have stated that since a subscriber already has a choice to opt for any channel on a-la-carte basis, therefore, subscriber choosing a bouquet offered by the DTH operator should not be permitted to opt for only select channels in a retail bouquet offered to the subscriber.

Analysis

39. In the principal tariff order dated 21st July 2010, it has been provided that every service provider in addition to the offering of pay channels on a-la-carte basis may also offer bouquets of channels. It has been observed that, some of the DTH service providers have been imposing pre-condition for subscribing to a particular bouquet before add-on-bouquets and/or a-la-carte channel(s) can be subscribed. The Authority is of the view that such conditions are unreasonable and the consumer should be free to choose any combination of the channel(s) or bouquet(s) offered by the operator. In the tariff amendment order dated 30th April 2012, a provision was made which allowed the DAS subscriber to subscribe to basic service tier or basic service tier and one or more pay channel or only free to air channels or only pay channels or pay channels and free to air channels at his option i.e. consumer is free to choose any combination of the channel(s) or bouquet(s) offered by the operator. Accordingly, sub-clause (4) of clause 6, applicable for addressable platforms other than DAS, has been suitably amended and a proviso has been added to bring in parity amongst various addressable platforms as well as to ensure that consumers of these platforms are on equal footing.
