

Reliance Digital TV's Response to the Draft Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (Amendment) Order, 2015

Preamble

- I. Indian consumers today have the benefit of an array of choices in the highly competitive Television Distribution market. Besides the free DTH service of Doordarshan, there are six private DTH licensees, offering their services to the DTH subscribers. With the ongoing digitization of Indian Cable TV Industry, competition is becoming fierce as consumers have choice to avail their services and packages from DTH, IPTV and Cable TV operators.
- II. Thus, even in such a competitive market, for attracting and retaining customers, the DTH operators are offering services at affordable and customer-friendly tariffs that ensure their satisfaction.
- III. In fact, TRAI, while notifying the Telecommunication (Broadcasting and Cable) Services Order for Addressable System in 2010, had stated that ***the retail tariffs prevailing in the market are quite competitive. As the market forces appear to be operating effectively, the Authority is of the view that there is no need for regulatory intervention in the matter of retail tariff fixation at present.***
- IV. Therefore, the proposed tariff order **putting a twin condition** at retail level will kill the whole concept of keeping the retail tariff under forbearance which is unwarranted in view of the market competitiveness. If the proposed twin condition is enacted, it would definitely result in customers paying more for less. The tariff order would require major shakeup in product configurations and many high value channels may have to be moved out from most bouquets. In addition to the re-configuration of bouquets, many niche channels and new channels would also lose viewership which may have impact on programme diversity.
- V. Any intervention in retail tariffs offering would be taxing to the beleaguered DTH industry which subsidizes CPEs to make them affordable for customers.
- VI. **In view of the above, it is submitted that in a fiercely competitive Digital TV market where consumers have myriad choices to choose the services based on the offerings of the platform operators we see no reasonable basis for TRAI's intervention to include a precondition at the retail level which has been kept under forbearance. Therefore the retail tariffs if forborne would continue to fuel the growth of DTH industry in India.**
- VII. Our specific comments on the proposed twin conditions for regulating the retail prices in the digital Broadcasting Services are as below:

1. Television channels distribution market is highly competitive, regulating the same will lead to a paradox situation:

1.1. Today, consumers have multiple options for obtaining TV channels, including analogue & digital local cable operators, HITS operators, IPTV operators and six DTH service providers. In a clearly competitive market there is no plausible reason to regulate the packaging and pricing of TV channels. TRAI had also recognized the fact and hence kept the retail tariff under forbearance. Any conditional provisions/intervention at retail level will go against the principle of forbearance and will be seen as a paradox where with increase in competition, market is moving from forbearance to regulations.

1.2. The proposed twin conditions will **defy the concept of forbearance** at retail level and with availability of vast variety of TV channels packaging and price choices, **there should be no need to enact the tariff provisions to regulate the retail tariffs.**

2. The proposed twin conditions would require changes in the current business model:

2.1. The existing packaging model adopted by the distribution platform operators (DPOs) has produced a vast array of diverse, high-quality TV channels for consumers at an affordable price. The packaging of TV channels has expanded TV viewing market and now services ubiquitously available throughout the country on different platforms.

2.2. The proposed twin conditions would require the DPOs to frequently change their offerings/bouquet pricing and formation. Each bouquet will be required to reform with a channel mix so as to maintain the market affordability, compliance with Broadcaster contracts as well as compliance to the proposed twin conditions. It will eventually result in removal of high value channels/popular channels from the existing bouquets. TRAI should be particularly wary about implementing the proposed twin conditions as it will major changes in configuration of existing bouquets which may leave many subscribers unhappy and dissatisfied.

2.3. Since the channels offered in the packages created by the DPOs are also driven by the broadcaster contracts and the broadcasters rates to DPOs are partially determined by the packages where the channels are placed, changes to the packages to comply with the twin conditions would mean that broadcaster driven packaging changes cannot be made leading to a higher cost to the DPO which will eventually be passed on to the consumer.

3. Proposed Twin conditions does not commensurate with price protection:

3.1. For DTH operators implementing prices based on twin conditions will require restructuring the pricing and channel composition of bouquets consisting of channels offered by various broadcasters to bring them in line with the ceilings proposed, that too without any control over broadcasters' pricing.

3.2. Assuming that the TWIN conditions be applied dynamically and a service provider carries out changes or need to recalibrate both in prices and compilation of bouquet, but the

DTH (QoS) Regulation of 2007 prohibits the operators to make the changes in the composition of package during first six months of enrolment or for the duration of the long duration offer opted by the consumer. This anomaly has not been addressed by the Regulation.

- 3.3. Thus, to overcome the above issue, the DTH operators should be allowed to recalibrate their pricing and compilation of bouquet without any restriction from the 6 month tariff protection Regulation. **It is to be noted that addition/dropping of channels from any bouquet will result in restructuring of the entire bouquets/channels pricing to comply with the said conditions and the six month protection under DTH QoS Regulations will be no longer relevant.**
- 3.4. Additionally, since the prices of a pay channels are fixed by broadcasters and any change in price of a channel will require DTH Operator to recalibrate all subscription packs/bouquets. Hence, this exercise will have to be repeated with the frequency of change in broadcasters' wholesale RIO rates. The interconnection regulation allows a broadcaster to change their tariffs with a prior notice of 21 days. We therefore request that Retail price protection should be reduced to 21 days to match the wholesale price protection regulation.
- 3.5. **In view of the above, concept of Twin Rule is neither practical nor viable and should not be taken into consideration while arriving at retail rate on a-la-carte basis.**
4. **Condition 1 that the a-la-carte rate of a pay channel forming part of a bouquet shall not exceed two times its RIO rate offered by the broadcaster is not feasible:**
 - 4.1. The Authority has proposed a condition which provides linkage between the a-la-carte rates of pay channels to the a-la carte rates of the channels offered by the broadcaster at the wholesale level for addressable systems. The Authority has proposed that retail rate for a-la-carte channel on DTH platform should not exceed two times the a-la-carte rate at wholesale level.
 - 4.2. We would like to highlight that the wholesale rate of a pay channels charged by a broadcaster is one of the major input cost. However, a uniform linkage to the wholesale rate for all kinds of channels is not correct. The DTH operators have invested billions of rupees in infrastructure and satellite bandwidth to provide DTH services. Considering the huge operational costs incurred by DTH Operators the uniform formula of retail price not to exceed the wholesale price would not be sufficient in all cases to recover the cost incurred. This will result in dropping of many niche channels from the platform as offering of the same on a-la-carte basis would become unviable in view of the proposed condition.
 - 4.3. In view of the above, there should not be any ceiling on a-la-carte pricing/tariffs/packaging of the channels. However still in case Authority wishes to stipulate some conditions, then the Authority may mandate that the channel in a-la-carte offering by the platform should not be priced more than 'three times' the wholesale RIO

Rates offered by the broadcasters. This would enable DPO to recover the capital and operational cost and to provide flexibility to DTH operators to construct bouquet of channels keeping the requirements of the customers on priority.

5. Condition 2 that sum of a-la-carte rates of all the channels in the bouquet shall not exceed three times the bouquet rate is not workable and non implementable.

- 5.1. The condition 2 as mentioned above does not allow enough flexibility/head room to the operators to place the pay channel in multiple bouquets. It will take away the flexibility available with operators to design the packaging of TV channels as per the customer's requirement. It will eventually lead to a situation where higher value channels may no longer be available to many consumers in their existing bouquets. Thus, it is unlikely that the proposed tariff order would benefit many consumers.
- 5.2 Today, the operators are offering as many as 250-300 channels in their platform and further looking to add more channels to serve the consumers subject to availability of bandwidth. These 250-300 channels comprises of all type of genres and placed in different bouquet(s) at different prices to fulfil the requirements of all category of consumers. Imposing the proposed condition 2 will require changes in all existing bouquets and eventually result in removal of many pay as well as FTA channels.
- 5.3 The formation of bouquets is a continuous exercise where operators add/delete the channel(s) as per the market demand, availability of bandwidth and availability of the channel from the broadcaster's end. Every time, an addition or deletion of any channel from any bouquet will require the changes in all the existing bouquets in order to comply with the proposed condition. It is reiterated that these changes will further be subject to the DTH QoS Regulations which mandates minimum six months protection for the subscribers. Further, frequent changes in the pricing of the bouquet / a-la-carte channels will lead to confusion in the minds of the consumers on the pricing of the Channels and their monthly payout will become dynamic leading to consumer dissatisfaction and eventual churn. Thus, the compliance to the said provision standalone as well as with the QoS norms is impossible and will create perplexity in the market.
- 5.4 Today, the DTH subscribers enjoy a plethora of channels at an average low price point of around Rs. 220/- per month and operators offer very innovative packages to suit the various customer needs on a national level. However, the implementation of this order in the same form will remove the innovative tariff schemes from the market as well as adversely impact the subscribers as the value being delivered today to DTH subscribers will no longer be available on offer. In view of the above, we strongly feel that it will be a gigantic task to implement the condition 2 as the formation of the bouquet keeps changing. It will disturb the current ecosystem of the distribution market which will be disadvantageous for the consumers as well as for the DPOs.

6. The proposed Tariff Order if implemented will impact the programme diversity and market for the niche channels:

6.1 New and niche services that are offered in a bouquet with other popular services have a much better chance to attract viewers than if offered a-la-carte so that such channels can create their own viewership. In case bouquets are made unattractive vis-a-vis a la carte rates, many niche TV channels, which appeal to somewhat narrower viewing interests, or new TV channels, which have not had an opportunity to be sampled or to attract a significant following, would draw even smaller audience.

6.2 Thus the proposed twin condition is likely to make many bouquets unattractive to consumers which will impact the programme diversity. Also, the niche channels and newly launched channels will be unable to make any audience as it will be unviable to incorporate such channels in all the bouquets as customers won't subscribe the new channels or niche genre channels on a-la-carte basis.

7. Views expressed by Hon'ble TDSAT during the hearing in the case of M/s Dish TV India Ltd and others against TRAI Tariff (amendment) Order dated 20th September 2013 :

7.1 As mentioned in the draft Tariff Order of TRAI that during the course of hearing on the petition filed by M/s Dish TV India Ltd. against the tariff order dated 20th September 2013, Hon'ble TDSAT had raised issues e.g. workability of the ascribed value condition in case few channels are added or dropped from the bouquet. The proposed condition 2 will also face the similar situation of workability issue if channels are added or dropped from any bouquet. Thus, in our view, the proposed condition 2 will not address the issues raised by the Hon'ble TDSAT.

8. Inflation hike should be allowed to the platform operators on minimum monthly subscription charges:

8.1 The sub clause (4) of Clause 6 of the Tariff order states that:

..."It shall be open to the service provider 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, either a-la-carte or bouquet, for availing the services of such service provider..."

Thus, the operators are not allowed to prescribe a minimum monthly subscription more than Rs. 150/-. While prescribing the above provision, TRAI had of the view that :

"With the availability of all pay channels on a la carte basis, more choices can be made available to subscribers. The viability and sustainability of the distributors' operations also needs to be kept in mind. Keeping in view the present market conditions and at the same time, looking at the need to protect the interests of the consumer, the Authority has decided that while the service provider in an addressable system can be permitted to

prescribe minimum subscription charges, the amount of such minimum monthly subscription charges should not exceed Rs.150/-.”

The decision of the Authority to prescribe a minimum monthly subscription charges maximum at Rs. 150/- was taken keeping in mind the viability and sustainability of the DPOs and the then prevailing market conditions.

- 8.2 In 2014, TRAI issued an order and allowed the broadcasters an overall 27.5% inflation hike at the wholesale level. This increases the a-la-carte and bouquet rates at the wholesale level. While, prescribing the inflation hike at the wholesale level, TRAI didn't consider the requirement to provide a similar inflationary hike at the retail level for the sustainability of the DPOs.
- 8.3 In view of the above, **we request the Authority that while prescribing any provision at the retail level the inflation hike as given to the broadcasters at the wholesale level should be allowed at the retail level as well and accordingly the upper limit to the minimum monthly subscription charges should also be modified.**

9. Our Recommendations. In view of the above we suggest that:

- 9.1 **The retail tariff should be left to market and should be kept under forbearance without any conditions. Any regulatory intervention will only lead to a paradox situation where regulatory intervention increase with increase in the competitiveness in the market.**
- 9.2 **If at all, Authority is of the view to regulate the a-la-carte offerings, then the proposed condition 2 should not be made applicable and the condition 1 should be modified as three times the wholesale RIO rate.**
- 9.3 **The inflation hike as given to the broadcasters at the wholesale level should be allowed at the retail level as well and accordingly the upper limit to the minimum monthly subscription charges should also be modified.**
