

Comments on the issues raised in the Consultation Paper on Tariff issues related to TV services

- 1. Which of the price models discussed in consultation paper would be suitable at wholesale level in broadcasting sector and why? You may also suggest a modified/ alternate model with detailed justifications.**
- 2. Which of the corresponding price models discussed in consultation paper would be suitable at retail level in broadcasting sector and why? You may also suggest a modified/ alternate model with detailed justifications.**
- 3. How will the transparency and non-discrimination requirements be fulfilled in the suggested pair of models? Explain the methodology of functioning with adequate justification.**
- 4. How will the consumers interests like choice of channels and budgeting their expenses would be protected in the suggested pair of models? Give your comments with detailed justifications.**
- 5. Which of the integrated distribution models discussed in consultation paper would be suitable and why? You may also suggest a modified/ alternate model with detailed justifications.**
- 6. How will the transparency and non-discrimination requirements be fulfilled in the suggested models? Explain the methodology of functioning with adequate justification.**
- 7. How will the consumers interests like choice of channels and budgeting their expenses would be protected in the suggested integrated distribution models? Give your comments with detailed justifications.**

We have considered Question No. 1 to Question No. 7 together, as all these questions relate to pricing of a channel (at wholesale and retail level), transparency and consumer choice. We understand the ultimate aim of the Consultation Paper dated 29.01.2016 is to achieve most optimal structure for the consumers/subscribers while at the same time attracting fresh investment into the broadcasting sector.

PRICING

We understand that TRAI has proposed the following structures/models for pricing:

Wholesale Pricing

1. Price forbearance model
2. Cost based model
3. RIO based model – Universal, Flexible or Regulated

Retail Pricing

1. Price forbearance model
2. Exclusive a-la-carte model.

Integrated model

1. Conventional MRP model
2. Flexible MRP model
3. Distribution network model

It is though true that since 2004 till date, we have been working in the price regulated regime at wholesale level while price forbearance has existed at the retail level.

Under the current regulated regime the broadcasters have faced issues which lead to high price distortions at wholesale level as stated below:

- The mandatory channel prices frozen since the year 2004
- This gave an opportunity to newer channels who gamed the system by pricing high & resorting to various discounting practices for deals
- Further there were irrational genre caps, which are purely unscientific and not on the basis of viewership patterns.
- Irrational genre definition – language based caps for GEC, single cap for Movies across languages

By way of example we provide herein below the rates of some of the channels which clearly demonstrates the irrationality:

Star Plus – 7.87	Epic TV - 10.50 (New GEC)	Life OK - 9.21 (New GEC)
Sun TV - 5.57	Star Vijay – 5.30	Asia Net – 5.23
Sony SAB - 6.17	Sony Pal - 9.21 (New GEC)	

From the aforesaid it can be seen that new channels have had advantage in terms of pricing their channels vis-à-vis established popular channels launched earlier. It is high time that this anomaly is rectified so as to allow broadcasters to increase the price of such established driver channels and obtain a return on their investments.

We feel that price forbearance model works best for the broadcasting industry both at wholesale and retail level since there is effective competition in the broadcasting sector. We would therefore propose “Price forbearance model” and have provided herein below justification for the same.

Price forbearance model

The economic dynamics works on the principle of *Laissez Faire*. The driving idea behind laissez-faire as a theory is that the less the government is involved in private enterprise, the better off business will be.

Freedom of pricing in favour of the broadcaster will lead to better content production amongst the broadcasters, leading to better variety and quality of content, increase in investor confidence, thereby resulting in higher advertisements revenue. If the broadcasters receive higher advertisement revenue, they will be more inclined to reduce the wholesale prices of their channels for the following reasons:

1. Broadcasters know the optional wholesale rates at which their channels will sell best to ensure a higher number of subscribers. The prices, (to the contrary of TRAs belief) will go lower than the current genre prices, as effective competition will keep the prices under check. The rates of the channels will be market and competition driven, and actual demand and supply will control the pricing. It could lead to effective price reduction in the rates, with innovative offers from the broadcasters.
2. TRAs belief that the market is not ideal, matured and pluralistic is absolutely incorrect. Consumer will be educated only if the schemes are offered and the consumer is encouraged to study these schemes. Merely stating that the consumer and the market is not mature will never help, as the market has never been tested. The market as it exists today thrives only on bouquets and no other innovative offering is available because of the distorted tariff structure and freeze of

bouquets. Consumers simply opt for bouquet and tend to take the entire bunch of channels in the bouquets. Hence, no independent mind is applied to the offers or offering on a-la-carte channels.

3. Transparency and discrimination may have existed sometime, but necessary regulation is available to control non-transparency and discrimination. Vertical integration is also an aspect which has been taken care of by providing policing clauses for discrimination and non-transparency.
4. TRAI's belief that "Price Forbearance Model" may lead to monopolistic control of TV channels is absolutely wrong. There is no channel or broadcaster that has a monopoly in the market. For e.g. news of all kinds is available on innumerable channels and no single news channel can be considered to be monopolistic. Similarly, there are so many GECs, not only in Hindi but also in regional languages. The CCI has approved mergers in the broadcasting industry as it saw no adverse impact on the competition.
5. TRAI's belief that more bundling may take place has no basis whatsoever, and is neither backed by any facts and statistics. In fact, there will be higher degree of investment as certainty and lower prices will increase lead to higher reach and increased revenues.
6. The biggest fact in favour of forbearance at wholesale level is the fact that forbearance at retail level has existed for the longest time, and there has never been any complaint that the prices are high and /or leading to any kind of adverse situation for the consumer. India remains the country with the cheapest tariff whether it is in telecommunication or broadcasting.
7. This model will definitely boost investments in high quality and differentiated content thereby benefiting the consumers to have varied choice of contents. Freedom of pricing content will boost

broadcasters interest and bring in variety and quality of content including niche channels for education, health etc.

8. Government has now brought non-news broadcasting under the “automatic” route for foreign direct investment (FDI). FDI will increase for broadcasters and platform operators bringing in more direct/indirect employment.
9. Now with the deadline for DAS Phase IV being kept as 31st December, 2016, the growth of multiple digital addressable platforms will inevitably lead to a sunset of analog cable TV system in the country. There is already effective competition in the market and hence any monopolistic control of TV channels by large broadcasters is completely ruled out. Further, implementation of DAS would lead to consolidation at the MSO level, which will give MSOs more leverage in negotiations.
10. Today’s market is a mature market. There is control on abnormal price increase. With the availability of different channels, consumers will stop taking channels of a particular broadcaster if the price of the channel is increased without any justification. Consumers have various choices of television channels of multiple broadcasters.
11. There can be transparency and non-discrimination and authorities like TRAI and Competition Commission of India are able to look into any issues in this regard. Discrimination, if any, can be taken care of by comparing the comparable, which is even done today.

Thus we believe that in today’s scenario, the broadcasting industry should be under minimal regulatory control.

Alternate Model suggested:

Having provided our preferred model as stated aforesaid, if TRAI feels that for smooth and effective transition from analogue to digitalization, there should be certain regulatory framework within which the broadcasters and DPOs should function, we will support TRAI's endeavor. If TRAI feels that the price forbearance model will not be workable till the time DAS is fully implemented and may create adverse situation, we feel that the alternate method to regulate the future of the broadcasting market would be adopting a blend of flexible RIO model and Regulated RIO model.

In this model TRAI may specify price cap for channels of each genre, linkage between prices of a-la-carte and bouquet of channels, which is akin to the position existing as on date, except in addition to the provisioning of discounts offered by broadcasters within the regulatory framework provided.

TRAI can keep the existing genre wise price ceilings as stated herein below:

Genres	Maximum RIO price
GEC (English)	6.52
GEC (Hindi)	10.58
GEC (Regional)	6.72
Infotainment	6.74
Kids	5.62

Lifestyle	12.60
Movies	9.66
Music	3.47
News	3.86
Religious	2.10
Sports	18.90

In the event TRAI wants to reduce the number of genres i.e. keep only one GEC genre, then the maximum RIO price for the said genre should be the highest one prevailing today non-sports viz. 12.60. Further in the event TRAI comes out with a single GEC genre, TRAI should clearly make out provisions to ensure that the placement of the channels of various broadcasters should be carried by the DPOs as a category i.e. channels under the category of Hindi GEC is carried together, so should be the case for Hindi and Regional GEC channels. Broadcaster should be allowed to execute mutual agreements, basis details provided in the

RIO. This, in effect will take best note of transparency and non-discrimination issues raised by TRAI time and again. TRAI's belief that discrimination will increase is mis-conceived, as the mutual deals will be executed between the parties on the broad contours provided in the RIO itself. This model in fact will result in creating a level playing field, if TRAI feels that it does not exist at this stage, though we maintain that level playing field exists even today.

Broadcasters should be allowed to have flexibility to price their channels within the limits prescribed by TRAI. Broadcasters are aware of the actual rates at which their channels would sell and hence, will never price channels at an adverse rate, and which would, in turn, reduce eye balls for the broadcaster's channels, as such reduction would adversely affect the advertisement rates for the broadcaster. If the prices at wholesale level are market determined, then the pricing at retail level will automatically be controlled.

It is stated that the broadcasters and its authorized agent is absolutely ready and equipped to provide best prices of the channels, with best of minds working on the pricing formula.

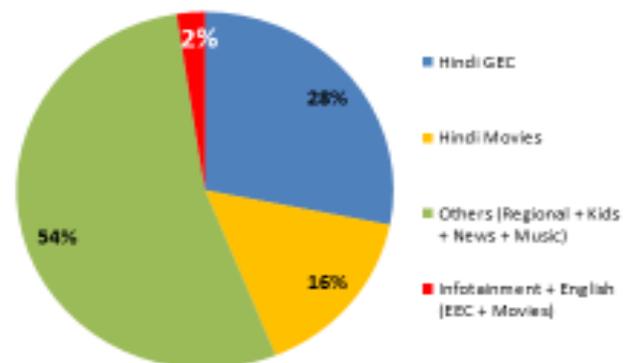
This would take care of non-discrimination, transparency, and transparent declaration of number of subscribers of each channel/bouquet, manner of providing TV channel signals to DPOs etc. In fact, an additional proposal by TRAI is welcome whereby a window is being opened to allow forbearance for certain category of channels, such as niche and new technology (HD, 3D). However, currently, the said position continues to exist, as High Definition channels are under forbearance. However, we would like to make certain additional suggestions, which may be considered by TRAI, while taking a decision

on the structure of the pricing mechanism. We feel that this model could work well as the industry is mature to handle this formulation, and partly acquainted with the manner of its working.

In this connection, it is pertinent to note that viewership of English genre (GEC + Movies) including infotainment genre, contributes to only 2.5% of the Total Urban TV viewership in India as per the report released by BARC only on Urban, as reproduced below for ready reference.

Viewership Trend on BARC (Only Urban)

Genre	Avg Wkly Gross Viewership (Millions)	Avg Weekly Share% of viewership
Hindi GEC	2137	28.1
Hindi Movies	1197	15.8
English Ent	3	0.0
English Movies	35	0.7
Infotainment	121	1.6
Any Channel	7597	100.0



Viewership of English genre (GEC + Movies) including Infotainment genre, contributes to around 2.5% of the Total TV viewership in India

Source: BARC, All India, CS 4+, wk 21'15 to wk 40'15

Further, it is also pertinent to note that the viewership of English genre (GEC + Movies) including infotainment genre is shrinking and now contributes only 1.5% of the Total TV viewership in India as per the

report released by BARC for Urban and Rural, which is reproduced below for ready reference.

Viewership Trend (Post BARC releasing Urban + Rural split)

Genre	Average Weekly Gross Viewership (Millions)			Average Weekly Share% of viewership		
	All India (Urban+Rural)	All India (Urban)	All India (Rural)	All India (Urban+Rural)	All India (Urban)	All India (Rural)
Hindi GEC	5901	3084	2817	27.6	27.9	27.3
Hindi Movies	2682	1553	1129	12.5	14.0	10.9
English GEC	5	3	2	0.0	0.0	0.0
English Movies	93	59	34	0.4	0.5	0.3
Infotainment	217	131	87	1.0	1.2	0.8
Any Channel	21398	11067	10330	100.0	100.0	100.0

Viewership of English genre (GEC + Movies) including Infotainment genre **shrinks**, contributes to now around 1.5% of the Total TV viewership in India (Urban & Rural)

Source: BARC, All India, CS 4+, wk 41'15 to wk 7'16

In view of the foregoing, the English genre itself is a niche genre. It is therefore suggested that English genre (GEC + Movies) including infotainment genre should be kept outside the purview of price control and broadcasters should be allowed freedom to price such channels basis their respective content.

Further, though TRAI feels that periodic interventions to re-adjust pricing is a challenge, however, we feel that TRAI is well acquainted with the system of adjusting inflation from time to time based on market conditions and development status of the sector. We believe that TRAI

should carry out yearly adjustment in prices based on Consumer Price Index.

The aforesaid model would have the following advantages:

a) We believe that this model will ensure level playing field with non-discrimination and transparency and equity amongst various stakeholders in the value chain.

b) this model would protect the interest of the distributors and consumers.

c) various disputes, as existing between different stakeholders are likely to be reduced to a great extent.

d) This would encourage the broadcasters to offer niche channels

e) This model would encourage investment in and growth of the broadcasting sector

f) This model would provide flexibility to the broadcasters to price their channels within the prescribed price caps.

g) This would ensure effective consumer choice & protection from irrational price hikes

h) Creation of high quality and differentiated content

g) This model will work very smoothly keeping in view the present status of various stakeholders and maturity of the broadcasting sector.

Retail Level- Price Forbearance model

We feel that if price forbearance is provided at the wholesale level then price forbearance as is existing shall continue to be applied at the retail level, with the twin conditions for bouquets.

- 8. Is there a need to identify significant market powers?**
- 9. What should be the criteria for classifying an entity as a significant market power? Support your comments with justification.**
- 10. Should there be differential regulatory framework for the significant market power? If yes, what should be such framework and why? How would it regulate the sector?**

We feel that there is no need to identify market powers as there is neither any broadcaster nor any DPO, who can be called a market power. More so, as the current regulatory regime exists, the concept of dominant market position is covered under the Competition Act, 2002. Remedies against dominance are contained in that Act, which system is working well. If TRAI attempts to create another definition or system parallel to the one provided under the Competition Act, it would lead to an anomaly, leading to different interpretative precedents. This will create more chaos and confusion in the market.

- 11. Is there a need to continue with the price freeze prescribed in 2004 and derive the price for digital platforms from analog prices? If not, what should be the basic pricing framework for pricing the channels at wholesale level in digital addressable platforms?**

- 12. Do you feel that list of the Genres proposed in the consultation paper (CP) are adequate and will serve the purpose to decide genre caps for pricing the channels? You may suggest addition/ deletion of genres with justification.**
- 13. Is there a need to create a common GEC genre for multiple GEC genre using different regional languages such as GEC (Hindi), GEC (English) and GEC (Regional language) etc.? Give your suggestions with justification.**
- 14. What should be the measures to ensure that price of the broadcast channels at wholesale level is not distorted by significant market power?**
- 15. What should be the basis to derive the price cap for each genre?**
- 16. What percentage of discount should be considered on the average genre RIO prices in the given genre to determine the price cap?**
- 17. What should be the frequency to revisit genre ceilings prescribed by the Authority and why?**
- 18. What should be the criteria for providing the discounts to DPOs on the notified wholesale prices of the channels and why?**
- 19. What would be the maximum percentage of the cumulative discount that can be allowed on aggregated subscription revenue due to the broadcasters from a DPO based on the transparent criteria notified by the broadcasters?**

We feel that in all the methods where TRAI has suggested price forbearance, this question does not assume importance and need not be answered.

Regarding methods where price freeze/regulatory caps have been suggested by TRAI, TRAI may consider the views of the broadcasters. We feel that the TRAI should re-look at the price freeze prescribed in 2004 for the analog network. TRAI provided certain marginal inflation hikes of 7%, 4%, 4%, and 7% since 2004 ending in 2007, and no inflation related hikes have been given since then. An attempt for the same was made by TRAI to provide Inflation related hikes, which was set aside by TDSAT vide Judgment dated 28.04.2015 in Appeal No. 1(C) of 2014- 6(C) of 2014 affirmed by the Supreme Court in Appeal Civil 5159-5164 of 2015 vide Order dated 4.8.2015.

We are also happy to note in para no. 4.14.2 that TRAI recognizes that the price framework must be transparent, flexible and growth oriented to ensure a balance between freedom of the broadcasters to price their content, and to protect the interests of the consumer. TRAI in the same paragraph also notes that the pricing framework must be designed in a manner that it ensures flexibility to broadcasters to prescribe content price. Having noted this aspect, the only form that can achieve the intent behind pricing is price forbearance. There is no method whatsoever which could take care of a balanced growth in the sector, and at the same time, keeping in mind the content growth as well.

Secondly, TRAI has proposed digitization of the entire cable industry, which will be completed by the end of 2016. Hence, using the prices for analog network of 2004 as the reference point will not be a feasible option. TRAI recognizes that the pricing framework should be growth oriented. With the gradual cost increases in the broadcasting sector, the broadcasters should be given the flexibility to fix the prices of the channels per market forces of supply and demand.

Considering the aforesaid, TRAI could fix a maximum wholesale price (MWP) for all channels, without limiting it to any genre, and nature of the channel, and hence, MWP could be based upon the current pricing in different genre, and a figure in the range of Rs. 20 could be fixed as MWP. The justification for Rs. 20 is as under:

- (i) Table 2 on page 55 under para 4.14.4 provides the highest RIO price as Rs. 18.90 in respect of sports genre channels.
- (ii) MWP will act as the maximum price for any channel. Demand and supply will actually control the pricing of the channels. Broadcasters, DPOs and consumer are well informed about the pricing, and the demand in the market.
- (iii) Effective competition will lower the prices in the market.
- (iv) While TRAI will be able to maintain a maximum wholesale price, at the same time, provide flexibility to the broadcasters to offer their channels at a rate which is most beneficial to all the stakeholders.
- (v) Bouquet of channels could be prepared by the broadcasters keeping in mind the actual prices of the channels, and twin condition could apply.

Alternatively, TRAI can keep the existing genre wise price ceilings as stated herein below but after removing anomalies like pricing “Lifestyle” genre higher than “GEC” genre.

Genres	Maximum RIO price
GEC (English)	6.52
GEC (Hindi)	10.58
GEC (Regional)	6.72

Infotainment	6.74
Kids	5.62
Lifestyle	12.60
Movies	9.66
Music	3.47
News	3.86
Religious	2.10
Sports	18.90

TRAI should ensure that the rates of the channels in the category of SPORTS should be greater than HINDI GEC, which in turn should be greater than MOVIES and LIFESTYLE.

We further feel that if the formula of MWP is created and demand and supply is allowed to control the prices, the issue of discounts will be taken care off between the parties without any further regulatory interference. Furthermore, transparent and non-discriminatory access to channels, being the basis of all regulations, and that being the intent of TRAI, we feel that stakeholders will be able to deal with the issue of discounting, without any regulation existing in this regime.

However, in spite of the foregoing, TRAI feels that there is a need to have a ceiling on the discount that can be offered by the Broadcasters to the DPO, it is suggested that TRAI should fix the discount ceiling taking into account the MWP that TRAI proposes to keep for the channel rate.

For e.g.:

- 1) If the MWP is kept at Rs. 20/- - the discount ceiling can be kept at say 45% to 50%
- 2) If the MWP is kept at Rs. 15/- - the discount ceiling can be kept in the range of say 30% to 40%

However quantum of incentive on each parameter should be individual broadcasters' prerogative. Different broadcasters can have different incentives for the same parameter

- 20. What should be parameters for categorization of channels under the "Niche Channel Genre"?**
- 21. Do you agree that niche channels need to be given complete forbearance in fixation of the price of the channel? Give your comments with justification.**
- 22. What should the maximum gestation period permitted for a niche channel and why?**
- 23. How misuse in the name of "Niche Channel Genre" can be controlled?**
- 24. Can a channel under "Niche Channel Genre" continue in perpetuity? If not, what should be the criteria for a niche channel to cease to continue under the "Niche Channel Genre"?**

We feel that niche channel should be language, content and reach based. We feel that the parameter of gestation period cannot be the criteria for defining niche channel for the reason that there could be various genres under the niche channel category. A single gestation period may or may not apply to each genre, and / or there is no basis for prescribing this genre. There seems to be a lack of statistics and study to know the exact gestation period for any of these genres of the niche

channels. TRAI should clearly define which channels would fall under the “Niche” category so as to avoid any ambiguity at a later point in time. We believe that parameter of “viewership” can also be taken into account for deciding “Niche” category i.e. if the long term viewership of a particular channel is very limited, it should be considered as Niche for e.g. a “Golf” channel, which focuses only on coverage of the sport of golf will always remain niche since it would have a very limited viewership.

As regards audience attributes, we feel that audience attributes is related to content. For e.g. if the channel is a “cooking” and “food” related channel, then it would target a particular kind / special interest groups of consumers, and hence, it would be covered if the definition of niche channel is based on content, production, distribution and marketing costs. Further, we feel that a study of the niche channels at a regular interval would be required so to ensure that the particular genre remains a niche channel or could be brought in the mainstream genres.

We feel that Niche channel is under price forbearance at present and should continue under price forbearance.

We feel, as stated above, that it is not necessary to fix a gestation period but a periodic study of the viewership in that particular genre could reveal whether the channel should be considered as a niche channel or not.

As has been discussed in response to Issue No. 20 as stated aforesaid, the tag of Niche channel should be given only after the channel fulfils all

the criteria and hence, there cannot be any misuse in the name of Niche Channel genre.

In our considered opinion, the Niche channel genre should continue to be exist under the same category. The categorization of any channel under niche channel genre is determined due to the technological difference (4K) and the varied investment cost involved. The content also is audience specific and hence, such channel should continue to exist under the Niche Channel genre in perpetuity.

- 25. How should the price of the HD channel be regulated to protect the interest of subscribers?**
- 26. Should there be a linkage of HD channel price with its SD format? If so, what should be the formula to link HD format price with SD format price and why?**
- 27. Should similar content in different formats (HD and SD) in a given bouquet be pushed to the subscribers? How this issue can be addressed?**

We feel that HD channel is premium quality content aimed at a specific (high ARPU) audience and hence, it should continue to exist under the same category. HD channels are for Elite classes and not for masses. These Elite classes of consumers can easily afford the price of HD channels. The prices should also remain under forbearance, and the market forces would determine the prices. In fact, it needs to be added that if the forbearance is allowed to exist at all levels and in respect of all channels, in that event, market forces will better control the prices of the channels. HD channels pricing should be genre neutral

- HD channels have a niche audience base (around 5 million out of 80 million digital subs), irrespective of language or genre
- Therefore, HD channels should be allowed premium pricing-
 - If HD/SD channel is Ad free, it should be on forbearance
 - For ad supported HD channel, TRAI can look at a MWP cap of say Rs. 40/- per channel and not linked with the SD channel price

In our considered opinion, there cannot be a linkage between the prices of HD channel with its SD format. The uplinking cost involved in HD channel is significantly high owing to the high band width used in order to provide better quality content.

Broadcasters should be allowed to create an exclusive bouquet consisting of HD channels.

28. Do you agree that separation of FTA and pay channel bouquets will provide more flexibility in selection of channels to subscribers and will be more user friendly? Justify your comments.

We feel that broadcasters should be provided a greater liberty to package their channels in the manner they feel best.

29. How channel subscription process can be simplified and made user friendly so that subscribers can choose channels and bouquets of their choice easily? Give your suggestions with justification.

We feel that the following processes would streamline the simplified subscription process:

- (i) Simplified websites of DPOs with a format to be provided by the Regulator of the website designs, which should be followed largely as regards its offerings.
- (ii) Website layout should be friendly.

- (iii) The DPOs should be provided regular training in offering channels to the consumers in a transparent and non-discriminatory manner.

30. How can the activation time be minimized for subscribing to additional channels/bouquets?

We feel that the DPOs should set up operations closer to the consumer i.e. creating more customer service centres. DPOs should also carry out comprehensive training of their work force employed in their call centres to understand the consumer problems.

31. Should the carriage fee be regulated? If yes, what should be the basis to regulate carriage fee?

32. Under what circumstances, carriage fee be permitted and why?

33. Is there a need to prescribe cap on maximum carriage fee to be charged by distribution platform operators per channel per subscriber? If so, what should be the “price Cap” and how is it to be calculated?

34. Should the carriage fee be reduced with increase in the number of subscribers for the TV channel? If so, what should be the criteria and why?

35. Should the practice of payment of placement and marketing fees amongst stakeholders be brought under the ambit of regulation? If yes, suggest the framework and its workability?

We feel that in the current regime of digitization on the verge of being achieved by the end of the year 2016, the concept of carriage fee no more requires consideration. The bandwidth issue that existed during the regime of analog cable has ended, and as such, higher number of channels can be carried by the DPOs. Thus, ‘must carry’ must be mandated. However, the same could be mandated in a phased wise manner.

Further, in the event TRAI fixes the pricing as per the regulated RIO model, carriage (including placement, market fee etc) components get subsumed in the incentive structure/parameters

For FTA channels, however, the carriage may require to be regulated. It can be on the basis of per STB etc. The same should be left to market forces to govern the same, and on the basis of parity and non-discrimination

The authority in the past also had the occasion to consider the issue relating to carriage fee and had undergone the process of consultation on the said subject in its consultation paper titled “Issues related to Implementation of Digital Addressable Cable TV Systems” dated 22.12.2011. During the consultation process, it was suggested by majority of the stakeholders that the provision of “must carry” should be mandated in order to balance the obligation on the broadcasters to “must provide”. Further the manner of offering should be on non discriminatory listing of channels and all channels should feature genre-wise in the EPG of the DPO. The authority after considering the suggestions, brought into force the clause 3(12) of The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012” dated 30.04.2012 which mandated the publication by the MSO in its RIO the carriage fee for carrying the channel of a broadcaster for which no request has been made by the MSO, which shall be uniform for all the broadcasters and not to be revised for a period of 2 years from the date of publication of the RIO. However, this clause has been misused by the DPOs by resorting to the limited bandwidth excuses, and in fact, no one till date has exercised the RIO option for carriage fee, as the rates were exorbitant.

In our considered opinion, the carriage fee need to be prohibited completely and under no circumstances, the carriage fee should be permitted. “Must Carry” provision needs to be brought in with full force in order to balance the equity and the must provide obligation on the broadcasters. However, this could be done in a phased wise manner in order to allow digitization to get further deep rooted in the industry.

In the RIO regime, there will be no requirement for a separate placement and marketing fees.

- 36. Is there a need to regulate variant or cloned channels i.e. creation of multiple channels from similar content, to protect consumers' interest? If yes, how should variant channels be defined and regulated?**

We feel that pricing of the variant channels should be left to market forces.

- 37. Can EPG include details of the program of the channels not subscribed by the customer so that customer can take a decision to subscribe such channels?**

- 38. Can EPG include the preview of channels, say picture in picture (PIP) for channels available on the platform of DPOs but not subscribed by the customers at no additional cost to subscribers? Justify your comments.**

We feel that the details of the programme as well as the trailers of the programmes whether or not being shown on the channel should be allowed to be published on EPG so that the subscriber can make informed decision about the same. The programmes/channels that are offered by the DPOs should be made known to the consumers so that they can opt for the same, if required at a future date.

The EPG, which is man machine interface, need to be improvised and made more user friendly. The composition of the bouquet can also be made available. The preview may also indicate the cost of subscribing to such channels to enable the consumer to take an informed decision accordingly. This will enable better utilization of the platform operators' latent capacity, improved monetization to broadcasters and may also help enhance the ARPUs. Since the preview is to be made available only for providing information, no additional cost should be levied on such preview options. The regulator may also introduce a set format of offerings on websites of each DPO so that the DPOs are not able to offer the channel in their own format and as per their own requirements. The website layout should be made user friendly after being pre-approved from the regulator so that the offerings can be similar on all websites. Further user friendly apps should also be introduced so that the customer is properly informed about the offerings by the DPOs.

39. Is the option of Pay-per-program viewing by subscribers feasible to implement? If so, should the tariff of such viewing be regulated? Give your comments with justification.

40. Will there be any additional implementation cost to subscriber for pay-per-view service?

Pay-per-view (PPV) is a type of pay television service by which a subscriber of a television service provider can purchase events to view via private telecast. The broadcaster shows the event at the same time to everyone ordering it (as opposed to video-on-demand systems, which allow viewers to see recorded broadcasts at time of their choosing). Events can be purchased using an on-screen guide, an automated telephone system, or through a live customer service representative. Events often include feature films, sporting events and other entertainment programs.

We agree that the option of “Pay-per-program viewing” by subscribers is feasible to implement. Further, the tariff for the same should not be regulated.

41. Do you agree with the approach suggested in Para 5.8.6 for setting up of a Central Facility? If yes, please suggest detailed guidelines for setting up and operation of such entity. If no, please suggest alternative approach(s) to streamline the process periodic reporting to broadcast and audit of DPOs with justification.

In view of various issues that the broadcasters had faced in the past with DPOs on the subscriber numbers being under declared, the audit process becomes a critical part in ensuring smooth running of the business of the broadcasters and also to ensure that there is no loss of revenue to the government because of under declaration of the subscriber numbers by the DPOs. The audit primarily is a mechanism to ensure the compliance of contractual stipulations including authentication of periodic reports by the digital MSOs/DTH service providers so as to safeguard the subscription revenue of the broadcasters. We suggest that TRAI can look at the following methodology:

- i) An independent audit firm can be appointed by IBF on behalf of its member broadcasters

- ii) The audit firm so appointed can be one of the big 5 CA firms
- iii) Each member broadcaster would refer to IBF any disputes/issues involved in respect of DPOs and basis such reference, IBF can finalise the scope of audit and mandate the independent audit firm to carry out the audit on a particular DPO.
- iv) The audit team of the CA firm can also be accompanied by representatives of IBF

Thus if one single centralized agency conducts audit of the CAS and SMS system of the DPO on behalf of the broadcasters, all the issues raised by the DPOs to TRAI in respect of the audit can be resolved. Further such exercise of audit can be allowed to a maximum of 2 times a year, and the report so generated by the independent audit firm can be provided to all the member broadcasters except for broadcaster specific numbers, which can be divulged, shared and audited by each broadcaster separately.

42. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

1. Pre-paid model

In order to address the issue of timely payments by the stakeholders at the various levels, TRAI should explore the possibility of issuing Regulation for adoption of pre-paid model from consumers to MSOs as is prevalent in the DTH Sector. This model would also ensure that the litigations between MSOs and LCOs are kept at minimal. The Pre-paid model is already existing in the Telecom space and it is a huge success. We feel that this model can be easily replicated in the broadcasting sector too. If implemented, dependence of MSO on carriage fee will come down since they are assured of the earnings from the subscriber. Further there are

many mobile payment options available, which the consumers are well aware of and adapt to ensure success of this model.

2. Tariff for commercial subscribers

It is suggested that it is a right time that TRAI resolves the issue revolving on the tariff applicable to commercial subscribers, which has been long pending and is currently a subject matter of appeal filed by IBF before the Honourable TDSAT. We feel that TRAI can cap the rate to be charged to the commercial subscriber to around 4 times the rate that is charged to ordinary subscribers. The broadcasters be allowed to have the flexibility in executing a mutually negotiated deal with the commercial establishment within the aforesaid cap. We think that this will best serve the interest of all the concerned stakeholders.

3. Local channels operated by MSOs

As TRAI is aware that in addition to the re-transmission of permitted TV channels of various broadcasters, cable TV operators (MSOs and/ or LCOs) also operate their own “local ground based channels” which generally provide movies, music related programs, local community based programs, local news and current affairs to their own subscribers. These “local ground based channels” operated by cable TV operators are presently not subject to any specific guidelines unlike private satellite TV channels permitted under the uplinking/downlinking guidelines of MIB.

4. Earlier, TRAI in its recommendations on ‘Restructuring of cable TV Services’ dated 25 July, 2008 had, *inter alia*, recommended that LCOs shall be permitted to transmit their ground based channels, which will be subjected to Programming code and Advertisement code as prescribed in the Cable Television Network (Regulation) Act, 1995 and any other instructions issued by MIB from time to time. As part of the recommendations, TRAI had requested MIB to issue detailed guidelines for provision of ground based channels by LCOs.

To summarise, cable TV (MSOs in areas covered by DAS and MSOs and/ or LCOs elsewhere (“cable operators”)), operate certain kind of

programming services which are specific to their platform and are not obtained from broadcasters (hereinafter referred to as “Platform Services (PS)). Cable Operators use PS to offer innovative services and product differentiation. It acts as unique selling proposition (USP) for cable operators and also helps them in meeting the specific needs of their subscribers. Provisioning of such services also results in an additional source of revenue for the cable operators as they earn revenue not only from their subscription but also from the advertisements transmitted along with such PS. Unlike TV channels broadcast by the authorized broadcasters, PS is largely unregulated at present. There is no requirement for registration of PS channels. TRAI had proposed to put in place a proper regulatory framework for PS channels being operated by the cable operators and with that end in view had rolled out a detailed consultation paper dated 23rd June, 2014 on “Regulatory Framework on Platform Services” . However, the regulations in this regard has not seen the light of the day so far. It is suggested that TRAI should revisit the same and bring out suitable regulations with an intent to address the concerns and protect the interests of all stakeholders adequately.