

11th March, 2016

Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan
Jawahar Lal Nehru Marg,
(Old Minto Road)
New Delhi – 110002

JA-15
for
11/3/16

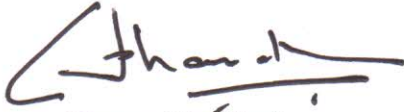
Subject: Response to the Consultation Paper on Tariff Issues related to TV Services ('Consultation Paper')

Kind Attn: Mr. S.K. Gupta, Pr. Advisor (B&CS)

Dear Sir,

We thank the TRAI for this opportunity to express our views on the above captioned Consultation Paper and attach Tata Sky's response to the same.

Yours faithfully,



Himavat Chaudhuri
Chief Legal and Regulatory Affairs Officer

Encl: As above

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| दिनांक 11/3/16 |

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for collation & analysis & upload
SO-I(B&C)/RA(Sharma)

TATA SKY'S RESPONSE TO THE CONSULTATION PAPER ON TARIFF ISSUES
RELATED TO TV SERVICES DATED 29th JANUARY, 2016

ISSUES FOR CONSULTATION

QUERY

- Q1. 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.
- Q2. 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.
- Q3. How will the transparency and non-discrimination requirements be fulfilled in the suggested pair of models? Explain the methodology of functioning with adequate justification.
- Q4. 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.
- Q5. 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.
- Q6. How will the transparency and non-discrimination requirements be fulfilled in the suggested models? Explain the methodology of functioning with adequate justification.
- Q7. 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.
- Q8. Is there a need to identify significant market powers?
- Q9. What should be the criteria for classifying an entity as a significant market power? Support your comments with justification.
- Q10. 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?
- Q11. 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?
- Q12. 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.

- Q13. 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.
- Q14. What should be the measures to ensure that price of the broadcast channels at wholesale level is not distorted by significant market power?
- Q15. What should be the basis to derive the price cap for each genre?
- Q16. What percentage of discount should be considered on the average genre RIO prices in the given genre to determine the price cap?
- Q17. What should be the frequency to revisit genre ceilings prescribed by the Authority and why?
- Q18. What should be the criteria for providing the discounts to DPOs on the notified wholesale prices of the channels and why?
- Q19. 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?

TATA SKY RESPONSE

We remain concerned on this issue for consultation and would like to bring the following to the attention of the TRAI:

CURRENT SITUATION OF THE DTH INDUSTRY

It is over a decade since DTH services have been available in India. During this period, DTH operators have incurred substantial losses. One of the reasons for such losses is that DTH operators incur heavy taxes at multiple levels. Under the current laws, DTH operators are required to pay the following:

- An initial entry fee and an annual License Fee (which is 10% of its gross revenue in a financial year) payable to the Government of India in accordance with the Guidelines for DTH Broadcasting Services;
- Entertainment tax levied by the States which varies for each state and could range between 10% and 30%. When the Government opened up the DTH sector to private operators in India, entertainment tax was not levied on DTH services. Provision of DTH services was only subject to service tax. However, currently, there is a simultaneous levy of Central and State taxes, leading to double taxation. ; and
- Service tax at the rate of 14.5% levied by the Central Government and which is going to be increased to 15%.
- In addition, several import duties are also paid by the DTH operators.
- Despite the above, there continues to be a requirement for huge investment in the DTH industry which all operators need to continue to do to remain in business.

Multiplicity of DPOs and Broadcasters

We would request the TRAI to recognize that there is no platform, or any member of a platform, which is able to dominate the distribution space with respect to delivery of services to the consumer. In any given market today there are 7 DTH platforms (6 privately run, and 1 owned by Doordarshan) available for a consumer to choose from.

In addition, in each of those markets, there are multiple MSOs/cable operators, IPTV platforms available to the consumer.

Likewise there are over 800 broadcasters approved by the MIB for broadcast in India. There are several broadcasters competing within each genre to get the eyeballs of the viewer offering multiple options. At points in time one channel is popular, and other points in time, other channels are popular, therefore, no one channel really has significant market power, especially after the TRAI has regulated the functioning of channel aggregators.

The TRAI has already put in place regulations to ensure non-discriminatory access, including, a must carry obligation, and platforms are offering a wide variety of content and channels based on consumer preferences. DPOs as well may be focussed on different geographic or socio economic segments, and will therefore be willing to pay a higher or lower amount for channels according to their targeted customer base.

In fact, due to the hyper competition that is playing out in the market place today consumers have access to diversified content at the best possible prices.

Further, there are sufficient laws that already provide safeguards against monopolies.

In light of the above, it is necessary that the DTH Industry is not further burdened with onerous tariff obligations and regulations as otherwise it will affect the economic viability of the DPO's operations.

We therefore, urge the TRAI to allow the Price Forbearance Models at the wholesale and the retail level. Further, the channel pricing framework and methodologies should also be left to the parties involved, allowing the market forces and negotiation between the parties to decide the same.

We would request the TRAI to consider also:

- It should be kept in mind that in the past, attempts to regulate tariff have resulted not in simplification or ease of business, but have only resulted in multiplicity of litigation, as a result of which the industry is in a state of constant uncertainty.
- Further, the industry is operating on a completely different footing as compared to other industries. Across industries, parties have the right to negotiate commercials with various members of the value chain. However, in a regulated tariff system all scope for commercial negotiation is wiped out, and instead parties are litigating around regulation.
- In our view, it would be best for the DPO to have the freedom to decide whether or not to carry a costly channel and the flexibility to package the same. This will also automatically

