Response of Siti Cable Network Limited

With reference to -

DRAFT THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES (FOURTH) (ADDRESSABLE SYSTEMS) TARIFF (AMENDMENT) ORDER dated ________

This has reference to Draft Amendment in the Tariff Order issued by the Authority on the issues relating to fixation of a-la-carte price of the channels by the Service Provider and their relations with the Bouquet price for which the responses of the stakeholders are sought. Before submitting our comments we state that the provision advised by the Authority would not come out as consumer friendly and will not be in the interest of the service provider, we hereby give our comments as follows:

1. **The proposed draft is not in consonance to the earlier views and opinion of the Authority and based upon wrong assumptions:**

   At the outset it is pertinent to mention that the Authority has on various occasions vividly recognized and acknowledged that there is enough competition at the retail level and the consumer has sufficient choice and options to opt the services and hence there is no need to regulate the retail price, however by this draft Tariff Order the Authority is striving to regulate the retail price which is totally contradictory to the earlier views taken by the Authority.

   We would like to mention that the need for regulation of the price arise whenever there is a scarcity of services and the manufacturer/Service provider intends to take undue advantage of such a situation. Since the Authority itself has acknowledged that there is enough competition on the ground, hence there is no requirement of regulating the retail price but by this Draft Tariff Order the Authority is going to regulate the retail price which is not only going to affect the MSO but also the consumers adversely as there is no effective regulation at the wholesale tariff except the price freeze by the Authority.

   The basis and assumption of the Authority to introduce this Draft Tariff Order is highly misplaced and far away from the practical reality on the ground. In this regard it is stated that the example cited by TRAI in the explanatory memorandum attached with the draft tariff order where the total sum of the a-la-carte rates of the channels forming part of the bouquet has been mentioned as Rs.1605/- which is wholly erroneous since there are large number of channels available in the market which are subscribed by the MSO accordingly the sum of the a-la-carte channels are bound to be high in proportion to the number of channels. The Authority has calculated Rs.1605/- for all number of channels while MSO introduce various bouquet(s) considering the market condition and the interest of the subscribers and not a single bouquet as wrongly presumed by TRAI.

2. **The proposed draft is contradictory to the various orders passed by the Judicial Authorities:**

It is submitted that the present exercise of fixation of retail price is not only contradictory to the various orders passed by the Judicial Authorities but also would be formed on wrong basis.

TRAI has been advised by various Judicial Authorities and is being required to undertake the exercise of fixation of Tariff Orders a fresh. The said exercise of introducing the fresh Tariff Order is pending since long as TRAI has not introduced the fresh Tariff Order till date therefore by introducing the present Draft Tariff Order which would not only be violative of the various orders passed by the Judicial Authorities but would also be premature and temporary in nature since the fixation of retail price is being linked with the RIO prices of the channel which RIO prices have to be determined by the TRAI which will cause another complication and confusion in the industry. Considering the impact of various orders and in order to avoid any ambiguity, we are of the views that the TRAI should undertake a complete exercise instead of introducing such kind of tariff orders in tranches.

3. **The proposed draft is constructed upon wrong basis without considering the market realities :**

A. The Authority, despite being fully aware, has completely ignored the prevalent industry practice for entering into interconnect agreement and basis of prices between the broadcaster and MSOs which are (i) RIO basis (ii) CPS basis and (iii) Fixed fee basis. We would like to reiterate that the prevalent practice is that upon being agreed by MSO to subscribe all the channels from the broadcasters and placing the channel(s) in a particular package desired by a Broadcaster, the MSO gets a CPS / Fixed fee deal which are normally different that of the RIO Pricing, else the MSO is forced to enter into RIO deal. It would not be possible for the MSOs to offer the bouquet at reasonable prices in case we follow the proposed twin conditions. MSOs would be forced to either reduce the number of pay channels from the bouquet or increase the price of bouquet as reduction of price of channels would further lead to bleeding the margin of MSOs.

   The purpose of regulating the retail price would be defeated if the whole sale price is not regulated by the Authority effectively. Presently there is no regulation (except the price freeze) at the whole sale level due to which the prices specially the A La Carte price being offered by Broadcasters are not reasonable and realistic there by forcing MSOs to subscribe the bouquet of channels having unpopular and/or FTA channels and redistribute the same to the consumers.

B. It is further submitted that MSOs introduce various bouquets having different number of channels considering the market conditions and the interest of the consumers for the different territories and part of the country. By applying the suggested formula it would be difficult to form a bouquet as per the market conditions and MSOs have to add or remove the channels from the bouquet or introduce various bouquets keeping in mind the twin conditions which may not be as per the taste and preference of the consumers, market conditions and competitive scenario. We therefore have to rework the entire packaging / price of a bouquet currently being offered and at the time of every change / introduction of a new bouquet, this will not only be an colossal working (due to change in the composition and introduction of various bouquet from time to time considering the area specific market) but also deprive the consumers to view their favorite channels in the bouquet and forcing them subscribe the a-la-carte mode which will be an extra financial burden on them. In order to meet the twin conditions, the MSOs would be forced to form a package with the less number of channels or low in price or more FTAs, which would deteriorate the benefits being offered to the consumers. In addition, a channels is placed in various packages, in such a condition fixing the price of same channel as per draft Tariff Order would be impractical as different MRP may come out for the same channel.

Hence these conditions would not only affect prejudicially, the interest of the subscribers but it would take away the freedom of MSOs to form the package considering the commercial scenarios and equilibrium.

C. It is also to be submitted that MSOs are required to share the revenue with the LCOs, which are mostly in the higher ratio than the sharing ratio as suggested by TRAI (35%), and a major portion is shared by the LCOs leaving a very negligible share with MSOs; wherein MSO has to bear the cost of the content, upkeep and maintenance of services including SMS, Call Centre, Digital Headend, distribution cost etc.. Therefore in case the price is regulated by the proposed twin conditions, MSOs would neither be able to exploit the market optimally nor would be able to recover their cost of operations and would be forced to wind up their business.

4. The proposed draft Tariff Order is neither in the interest of consumers nor in the interest of the industry:

We need to consider whether consumer or any of the stake holder is going to be benefitted by this draft Tariff Order. The straight answer would be not of-course. As stated above that in order to meet the twin conditions the MSOs would be forced to form a package with the less number of channels or low in price or more FTAs, which would force the consumer to pay extra money for viewing the channels by subscribing them in a-la-carte mode. As acknowledged by the Authority that the consumer is always benefitted while subscribing the channels in bouquet as they get the economies benefit, but by introduction of this Draft Tariff Order, TRAI is forcing to introduce either more bouquets or distribute the maximum channels in a-la-carte mode, and thereby forcing the subscribers to pay more money.

As the subscriber would be forced to subscriber more a-la-carte channels this would reduce the turnover of the channels of MSO, and thereby the revenue of MSOs would also be reduced drastically.

We further submit that in some of the areas the discount being offered is higher (depending upon the paying capacity of the subscribers) and in some of the areas the discount being offered by MSOs are negligible (where paying capacity of consumer is high), the higher discount can be set off with the lesser discount by the MSO, but by applying these twin conditions MSO would not be able to higher discount to the consumers having low payment capacity, which will not only affect consumers but also the MSOs prejudicially.

5. Our Further Submissions :

A. There is no fixed threshold value of the wholesale price declared by the broadcaster. For instance, Animax RIO rate is INR 0.21 , Channel V RIO rate is INR 0.45 and Star Plus is INR 7.87. So as per the twin condition (b) the maximum a-la-carte rate of Animax channel will be INR 0.42 for retail but the minimum retail rate of a free-to-air channel fixed by MSO is INR 3 (except for DD channels) in that case compliance of the existing provisions and draft twin condition would not be applicable simultaneously.

B. Also, since the establishment of call Center is a compulsory obligation of MSO, a call by the subscriber on our Toll Free Number costs us somewhere between INR 12-15/- . Hypothetically, if a subscriber calls for subscription of an additional one channel which (as in case of Animax) is priced 21 paisa, then the amount earned by MSO, even charging double or thrice will be 63 paisa X 12 = Rs. 7.56/- in a year. Keeping this calculation in view, it can be concluded that an MSO will be losing for every additional subscriber INR 4 to 5/- which is commercially unviable and detrimental for its business. In fact there are certain channels in every bouquet which allegedly are pay channels (as specified in above point A) but should fall in the category of FTA as there is no viewership however they are forced on the MSOs as a pay channel in a bouquet. It is suggested that there should be a minimum retail price for these kind of channels as specified by the Authority in case of FTA channels. The draft twin conditions has completely ignored this issue.

C. Retail pricing has been considered for forbearance as it has always been a highly competitive market and all the operators are forced to follow the market equilibrium and thereby provide the services on competitive terms. Further, it is evident that MSOs have been providing an optimum mix of channels at an affordable pricing to the consumers. The said situation of a highly competitive industry is prevalent even today, but by complying with the Twin conditions (which are based upon fallacy) would force MSOs to revise/increase the rates of their bouquet(s) which shall neither be in the best interest of consumers nor for MSOs .

In fact, under the free market conditions of competition, the cable television market has grown rapidly and presently provides to the consumer a wider choice of larger number of channels of different genres at less than Re. 1 per day per household. Price controls will distort the market's ability to reach equilibrium price levels unless the whole sale price is regulated in its true letter and spirit.

In view of the abovementioned preliminary submissions it is submitted that the exercise of fixation of a-la-carte price of the channels at retail level should be undertaken only after considering the abovementioned submissions and since there exist competition we are, therefore, of the opinion that let the market forces play its own role and price be determined by the law of demand and the forbearance to be continued at retail level unless the price at whole sale level is regulated in realistic manner instead of price freeze.

We request the authority to give us an opportunity of personal appearance either through open house or otherwise.