

13<sup>th</sup> October, 2015

To,

**Mr. Sanjeet Singh**

Advisor (B & CS)

Telecom Regulatory Authority of India

Mahanagar Doorsanchar Bhavan,

Jawahar Lal Nehru Marg,

New Delhi-110 002

**Ref:- Consultation Paper dated 30<sup>th</sup> September 2015 on the Draft Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (Amendment) Order, 2015 proposing simplified 'Twin Conditions' at retail level pricing of TV broadcasting services in order to link the a-la-carte rates of channels to the Bouquet rates.**

Dear Sir,

On the captioned subject, we Sun Direct TV Pvt Ltd have the following to state by way of our comments:

- A. As you are aware, DTH Service providers are currently providing multiple retail packages to subscribers at large, which packages are in place since the inception of DTH Industry in the country. There were no specific packages or conditions recommended by the Authority at any time since 2003 when DTH Industry started functioning in the country.
- B. Now after such a long period of time, of about 12 years and after entry of 6 DTH players in the market ensuring effective competition and beneficial and cost effective retail packages for the DTH subscribers, the authority has once again proposed a draft tariff order which prescribes the conditions on which DTH Operators should provide their services to their subscribers and leads to excessive interference and difficulty in doing business for the DTH operators. The twin conditions not only rob the DTH operators of their flexibility to competitively price their packages but also would lead to increased costs for the end consumer and thus are counter productive and detrimental to the interests of both the DTH companies and the DTH subscribers. We would like to state that the proposed tariff order is arbitrary and unjust on trade as a whole and would only result in further losses for the DTH industry.
- C. The DTH segment has always been transparent and addressable since inception. DTH Industry has maintained its course in accordance with all applicable regulations introduced by the Authority, from time to time. However, the proposed tariff order presents areas of some serious concerns and impinges upon the operational and commercial domain of the DTH Service providers.



D. Our detailed objections on the captioned tariff order as follows:-

**OBJECTIONS:**

**1. TRAI should continue to maintain forbearance:**

TRAI in its Tariff Order dated 21st July 2010 mandated MSOs/DTH/IPTV/HITS operators (herein after referred to as platform operators) to offer all the pay TV channels on a-la-carte basis. In addition to this, platform operators were also permitted to offer bouquets or a combination thereof. While prescribing a mandatory a-la-carte offering of pay TV channels, the Authority had decided to maintain forbearance. It therefore did not mandate any conditions on pricing of the a-la-carte channels vis-à-vis the pricing of bouquets of which these channels formed a part. Thus, the proposed TO is contrary to TRAI's own decision of maintaining forbearance for the DTH industry with regard to retail tariff pricing.

**2. TRAI needs to first regulate the wholesale tariff:**

TRAI has raised the following contentions towards justifying implementation of proposed twin conditions:

*That on examining the prevalent market conditions, it has been observed that though the platform operators are allowed to package and price the offerings as bouquets in addition to offering them on a-la-carte basis, the uptake of channels on a-la-carte basis remains negligible as compared to the bouquet subscriptions. TRAI analysis has yielded that the prime reason for such poor uptake of a-la-carte channels was that the a-la-carte rates of channels were disproportionately high as compared to the bouquet rates and further, there was no dynamic relationship between these two rates. TRAI has also observed that many popular channels are being distributed among different bouquets or packs compelling a consumer to subscribe to more than one pack to be able to view all his desired channels, as the a-la-carte rates of channels are exorbitantly high. TRAI has also contended that, under such circumstances, in order to view his desired channels, the consumer is ultimately paying more on this account and consequently, the very purpose of addressability is being defeated.*

In reply to the above, Sun Direct would like to state that the aforesaid is because the subscriber finds it advantageous and cost effective to opt for a bouquet than subscribe to an a la carte channel. Most of the a la carte channels are taken on RIO basis by DTH from Broadcasters whereas the bouquets are obtained on fixed fee / CPS basis and this is the reason why the a la carte rates of channels are higher. In fact, if TRAI goes ahead and implements the twin conditions, to comply with the conditions, Sun Direct will have to increase the cost of all its bouquets just to meet the twin conditions. Thus, first and foremost TRAI needs to ensure that the wholesale RIO prices of the a la carte channels are regulated and brought down.

**3. TRAI has not excluded HD channels under the twin conditions:**

That TRAI has kept HD wholesale tariff pricing under forbearance, however in the proposed draft TO, it is nowhere clarified that HD packs or bouquets having a mix of SD and HD channels shall be excluded from the applicability of the twin conditions. If TRAI



applies the twin conditions to HD channels as well, then in order to ensure compliance, the DTH operators will have to substantially increase the package costs leading to making such packages cost prohibitive for the subscribers.

#### **4. Breach of Interconnection agreements:**

DTH operators get the channels from the broadcasters on 3 different terms – (i) RIO basis (ii)CPS basis and (iii)Fixed fee basis. If DTH operators purchase the channels on a-la-carte RIO basis, the DTH operators would not get the channels on Fixed fee/CPS basis from the broadcaster. If some of the DTH operators have fixed fees agreements then it has mandate to offer maximum numbers of channels in entry package, which packages cannot be altered under the agreement. In case of implementation of proposed Twin Condition the DTH operator necessarily will have to make small bouquets with less channels and cannot be in compliance of contractually committed to packaging obligation to the broadcasters. As such a DTH operator shall be in breach of its interconnection/ distribution agreements.

#### **5. Implementation of the twin conditions will increase the costs for the subscribers:**

*As per data available with TRAI, TRAI has itself observed that: a platform operator offered a bouquet, containing pay channels, at Rs. 290/-, while the sum of a-la-carte rates of pay channels constituting this bouquet was Rs. 1605/-. Therefore the bouquet was being offered by the platform operator at a discount of 82% to the sum of a-la-carte rates of pay channels constituting that bouquet. According to TRAI this indicates that that a-la-carte rates of pay channels constituting the bouquet were exorbitantly high. As a result, while technically, a-la-carte rates of channels were declared, these were illusive and customers were left with no choice but to opt for bouquets.*

However, TRAI has missed the core reason behind such skewed pricing i.e. the bouquets are provided by the broadcasters at more than 66.66% discounted rates compared to rates of a la carte channels. And as stated above, TRAI needs to first regulate and bring down the RIO rates of the a la carte channels. If RIO rate is correctly priced by broadcaster then there would be no necessity for such tariff order as retail a-la-carte rate would become affordable to the consumer vi-a-vis the bouquet rate.

Similarly as per condition (b) of the Twin Conditions, offering of bouquet of Channels three times the total a-la-carte price of the channels offer in such bouquet, would have the following impact:

- (i) The Bouquet price would increase substantially, since it is linked to the sum of a-la-carte price of all the channels in that bouquet.
- (ii) Platform Operators would be forced to reduce the number of channels in the bouquet, in order to align the bouquet price with the proposed twin conditions.

#### **6. Violation of QoS norms:**



Proposed Twin condition forces DTH to recalibrate both in prices and composition of bouquet. However, Quality of Standards Regulation prohibits the operators to make the changes in the price or composition of subscribed channels during first six months from the date of enrolment. Thus, there would be a scenario where one regulation of TRAI would conflict with a prior regulation of TRAI intended to protect subscriber interests.

Also it is pertinent to mention at this juncture the rate of pay channels are fixed by the Broadcasters and any change in price of a channel by broadcaster or due to change in regulatory regime for wholesale tariff would force DTH operators to recalibrate all its subscription packs and bouquet

#### **7. Loss of level playing field**

The Authority is aware that despite implementation of DAS in some parts of the country, the competitors such as LCOs in most of the cities do not offer any package, bouquets but offer all the channels on the platform in bulk bouquet to the subscribers without any choice. If due to implementation of twin conditions if DTH operator is forced to create bouquet with lesser number of channels then it would cause to great prejudice to DTH operators and loss of level playing field.

#### **Conclusion:**

Any new requirement in the pricing for DTH retail pricing is likely to lead to difficulty of doing business for the DTH operators and entail suffering of further additional losses by the DTH operators who are already reeling under the burden of heavy taxation, license fee, custom duty etc.

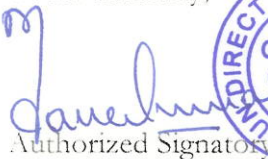
Sun Direct submits that regulation and competition have already made DTH a highly commoditized market. There is enough competition within operators and with cable TV and now HITS. Consumers are better placed than they ever were when cable was the only means of getting TV. That is the reason DTH has been successful in India and the proposed tariff order is not required.

We further request you, to call for an open house discussion for discussing and explaining the proposed tariff order which will further clear and clarify all pros and cons of the same.

In the light of the above, we earnestly request the Hon. Authority to drop the captioned proposed Tariff Order.

Thanking you

Yours faithfully,

  
Authorized Signatory

