4th March 2016,

Mr. S.K. Gupta,
Principal Advisor (B&CS),
Telecom Regulatory Authority of India
New Delhi.

Sub: Consultation Paper on Tariff Issues related to TV Services

Dear Sir,

At the outset, we, at Asianet Satellite Communications Ltd, would like congratulate you on successful completion of 3 phases of cable digitalisation spanning the entire country which is a huge task which would not have been possible but for the dedicated approach of the Authority despite several obstacles.

We also applaud your monitoring and understanding of the intricate dynamics and issues of the cable TV industry –especially between multiple stake holders and your sincere efforts to address the same to find a balance between the stakeholders with the subscriber at the center of the picture.

It is the stated policy of TRAI in the past regarding tariff regulation (eg. para 17 of http://trai.gov.in/WriteReadData/WhatsNew/Documents/TTO_57th_Amendment_2014_dated_14.07.2014.pdf) that the twin objectives of tariff regulation is to:

a) Protect interests of consumers (by ensuring adequate choice and affordable tariffs to them by promoting competition)
b) To create incentives for service providers (by providing adequate returns to them).

We welcome the twin objectives of TRAI.

Authority has achieved the first objective of promoting choice and competition to the subscriber with 7 DTH players, 6000 MSOs and 2 HITS operators competing to provide service to subscribers and subscriber can choose the service provider instantly by a phone call.

But the same can not be said about the second objective.

Sir, as you are aware, while huge investments have been made in the Cable TV industry especially for digitalization - by the MSOs to bring transparency and equitable benefits to all stakeholders and avoid disputes, it is found that the problems and disputes have continued post digitisation of the industry due to :

a) A la carte system not able to take off as desired - resulting from very high a la carte rates and tendency of broadcaster to continue bundling of driver channels with unwanted channels

b) Discrimination by broadcasters giving flexible offers (in the form of fixed fee / CPS) to some DPOs – especially vertically integrated DPOs making a la carte an unviable option to the competing independent DPOs

c) Unsustainable economics in the value chain resulting in ironically disproportionate gains to broadcasters and losses to DPOs despite huge investments made by DPOs.

d) Faster changes in technologies like OTT leading to denial of content to independent DPOs while broadcasters want to promote their OTT platforms to reach subscriber

We welcome the consultation paper which raises some of the problems the industry is facing and it is our humble request to you to kindly analyse the financials of leading and listed broadcasters , MSOs / DPOs which shows that huge risks have been taken by the DPOs in investing Rs.40,000 cr in digitalisation of 160 Million C&S homes and almost all the DPOs have become weak financially with huge debts and high accumulated losses which are not sustainable. Some of the MSOs are on the verge of bankruptcy post digitalisation due to high investments and unsustainable negative returns.

The investor sentiment towards DPOs has turned from positive before digitalisation to negative after 3 phases of digitalization having realised what is in store for DPOs. The financials of leading broadcasters and MSO / DTH companies in listed space is given below which indicates the financial position and investor sentiment:

	Revenue FY 14-15 (Rs. Cr)	Profit FY 14-15 (Rs. Cr)	Profit FY 13-14 (Rs. Cr)
Prosperity of Broadcasters			
Zee Entertainment	3426	831	772
Sun TV	2243	737	716
Vs Plight of DPOs			
Hathway Cable	1022	-175	-125
Siti Cable	599	-117	-102
DEN Cable	846	-110	5

Source: www.moneycontrol.com

The financial condition of top three DPOs (loss of Rs. 402 crores in FY 2015) vs that of top two broadcasters (profit of Rs.1568 cr in FY 2015) in the same industry under the same regulating Authority clearly shows the imbalance and calls for solutions to modify the regulations in favour of DPOs so that DPOs having made huge investments in excess of Rs.40,000 cr for digitalization have a fair and equal opportunity to earn similar returns as broadcasters and invest further in new distribution technologies to serve the subscriber better and keep the industry healthy.

The financial condition of DPOs is poor because of several problems including lopsided regulatory framework:

a) Which allows very high price caps to broadcasters and they realise only 10% of the cap as stated by the consultation paper

b) Very low price caps to MSO & LCO – for example, in this inflationary economy it is unviable to provide 100 FTA channels at Rs.100 including all costs like :

- ROW costs
- Capital cost of Digital Headend (which varies based on quality and make)
- Capital cost of STBs including service (several lakhs of STBs were given free to customers to digitalise fast)
- Domestic Leased line cost for 1.5 – 2 Gbps to deliver digital signals to LCOs (whose tariff is regulated by TRAI – Tariff ceiling for 2 Gbps or 3 STM-4 is **3x Rs.1.81 cr = 5.5 cr pa** for 500 Km and above is a fixed cost irrespective of subscriber base at the end delivery point)

- Electricity to all active components including amplifiers and nodes
- Capital cost to lay last mile cables to homes
- Increasing Labour cost to maintain network and manage digital headend, SMS
- Material cost to run the network
- Cost of collection of subscription
- Provision for bad debts

While regulations consider that different genres of channels need different price caps to meet the expenses, it is not considered by the regulation that the cost of operations vary from state to state and Rs.100 is insufficient to deliver the signals from Digital headend to the subscriber home a few hundreds / thousands kilometres away and ensure the QOS.

Over and above, since fixed fee / CPS deals are more prevelant DPOs end up paying to broadcaster from its pocket as the ground realisations are far lower than the pay out to the broadcaster.

MSOs are clutching on to the last straw – carriage fee for survival while providing the much needed visibility to the channels enabling broadcasters to earn advertisement revenues. With broadcasters trying to cut the carriage fee post digitalization to further boost the profits, it will further hurt the MSOs- which are already in dire financial conditions - as well as the subscribers down the value chain. (addressed in detail in Q 31 to 34)

We have put forth our views on the issues raised in the consultation paper below.

We thank the Authority for giving us this opportunity to express our views and hope that the Authority comes out with regulations in such a manner that both broadcasters and DPOs have equal opportunity to earn returns on capital deployed and make the industry healthy for all stake holders involved.

Yours Sincerely,

Authorised signatory.

Summary of issues for consultation

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.

A: Over all, among the wholesale, retail and integrated models, we recommend Distribution Network Model under an integrated model.

Within the suggested models at wholesale level, Regulated RIO model is the most suitable model for the following reasons:

Other suggested models have shortcomings as below:

a) Price forbearance model is not recommended as it will lead to :
   - unregulated pricing power in the hands of broadcasters
   - discrimination of certain DPOs vis a vis vertically integrated entities
   - pushing unwanted channels with driver channels

b) Cost based model is not recommended as :
   - it will pass on cost inefficiencies to DPOs/ LCOs and subscribers
   - it will make the price fixation a complicated and
   - it is not transparent and gives scope for manipulation
   - it is highly regulated.

c) Universal RIO model is not recommended as:
   - it will lead to steep increase in the subscription cost as there is no price cap for genres
   - It will lead to monopolistic situation of some channels while blanking out other channels

d) Flexible RIO model will lead to steep subscription price increases due to lack of price caps, will also bring in discrimination as it allows mutual negotiations.

This leaves us with an option of **Regulated RIO model** which stipulates price caps by regulator in addition to transparency. However, the following modifications are suggested to overcome the shortcomings in Regulated RIO MODEL:

a) To make a la carte a success, price caps should be lowered to make it a viable proposition. The a la carte system has not taken off in DAS I,II and III as the price caps are very high and broadcasters have set their prices also at such a high level where by each broadcaster can get more than Rs.200- 250 per month per subscriber for its 30-40 channels. If we add the RIO rates of all broadcasters, the subscription will exceed Rs.1100 p.m. as can be seen from the table below, which is 4-5 times the prevailing ARPU against which MSOs are realizing only Rs. 50-80 from subscribers.

Broadcaster	No. of channels	Amount for all SD channels as per a la carte rate of broadcaster
STAR	29	186.27
Sun	28	217.94
TAJ (incl Turner)	39	243.37
Icast	33	150.36
MSM Sony	12	97.32
Discovery	7	39.76
Times Now	5	25.73
Neo	2	29.96
TV Today	3	5.53
Jaya	4	10.5
Maa	4	20.77
TV Today	3	5.54
Disney	9	49.16

NDTV	4	13.93
Total	182 channels	1096.

As long as the RIO prices are artificially high compared to ground reality as mentioned above, broadcasters will continue to force DPOs to choose between devil (accept their terms on bundling, packaging and placements) or deep sea (pay the RIO rates and go out of business).

The root cause of high price cap in DAS traces back to linkage with Analog price cap which is fixed based on an assumption of huge under declaration to the extent of 90-95% which varied from MSO to MSO. Setting the digital rates at 42% effectively means that there is an under declaration to the tune of 45% to 47.5%.

It is clear that in DAS, there is 100% declaration and hence the effective DAS rate should be 5-10% of the analog rate rather than 42% of analog price cap.

b) The consultation paper also notes that the broadcasters are realizing only 10% of the prices declared which means the rate card is artificially priced only to arm twist the DPOs to carry all channels at their terms. The purpose of digitalization is thus defeated. The price caps can be decided in line with the average prices as per current agreements signed between DPOs and Broadcasters.

c)

Based on the agreements signed with various broadcasters, Authority can arrive at the average rate of the channel in a bouquet and apply twin conditions to arrive at the realistic RIO (RRIO) rate to be applied in place of RIO.

d) Lowering the price caps of genre wise channels will help DPOs in popularising a la carte system.

e) There should be checks to prevent favours in favours between broadcasters and DPOs related to / promoted by the same group to bring in non discrimination.

f) As OTT is gaining ground and MSOs have launched mobile TV apps but the broadcasters have been denying content to the apps while the broadcasters have been providing the same on their own apps free of cost leading to discrimination. A regulation is needed to allow MSOs to provide OTT services on non discriminatory basis.

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.

We recommend Price Forbearance model at Retail level for the following reasons:

a) There is enough competition among DPOs (with DTH having all India foot print and wide distribution) to ensure that market forces will allow a fair price discovery considering the costs and services offered.

b) DPOs will come out with innovations to woo the subscribers

c) DPOs can package the channels and offer deals to subscribers in a non discriminatory manner.

d) DPO sector which has been seeing very poor returns so far on huge investments made in digitalisation, will have some pricing flexibilitiy and can attract much needed investments in the distribution sector of television channels.

The other suggested model – Exclusive a la carte model blocks a lot of content to subscriber (to about10 channels which a customer normally watches) as there is no flexibility to DPO to bundle the channels. The subscriber should be allowed bouquets as in the case of Price forbearance model which facilitates subscriber to try the channels offered. Exclusive a la carte is highly regulated model and is not recommended.

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.

At wholesale level, Regulated RIO model :

a) will provide transparency as there is ceiling on channel prices. Transparency comes with a la carte model. To promote a la carte, the a la arte rates should be moderated by the authority to encourage a la carte system as current RIO rates are very high.

b) The following suggestion may kindly be considered:

i) The necessary reporting and compliance checks should be implemented to ensure the non discrimination vis a vis vertically intergrated DPOs

ii) The must provide clause should be extended to all platforms (including the new platforms like Mobile TV/ OTT) at the same terms and the broadcaster should not be allowed give the same content to its vertically intergrated distribution arms at lower prices.

At Retail level, in view of wide options available to any subscriber between DTH and MSOs and the industry will derive the market driven pricing under Forbearance Pricing model which will ensure transparency and non discrimination.

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.

Choice of channels: Customer choice of channels are taken care of if a la carte is implemented at Wholesale and retail levels. As suggested in Q1 above, RIO rates / Price caps of genres are to be modified to be reasonable (The current RIO rates of some broadcasters are so high that all channels of a single broadcaster will cost about Rs.200 per month (without MSO – LCO margins) as against current ARPU of about Rs.200 for all channels. The same broadcaster offers at a CPS of Rs.20 which is 10% of card rates making the RIO rate irrelevant.

The suggested models – Regulated RIO model at wholesale and Forbearance Pricing model at retail level will help in achieving transparency.

Budgeting: Subscriber can plan his cable tv budget based on the channels he wants – a la carte and bouquets. Regulated RIO at wholesale and Forbearance Pricing model at retail level will help in budget control of a subscriber.

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.

At a broad level, integrated distribution model will help in aligning all the stake holders – Broadcasters, DPOs including LCOs.

However, the model will succeed only if there is a healthy commission structure to the DPOs (including LCOs). We strongly object to discretion of broadcaster in deciding the commission structure to MSO & LCO in MRP model and request TRAI to regulate the commission. It is humbly requested that the commission structure to DPO (MSO &LCO in cable TV) is determined by the Authority considering the Capital employed by MSO and its operational costs.

In the existing regulations the Authority laid down the revenue sharing pattern between MSO and LCO and also stipulated twin conditions to arrive at the retail price based on wholesale price.

We are also surprised to see in para 4.12.8, a low figure of 20% commission (suggested as an example) to the DPOs as handling charges which is a retrograde step compared to the current retail pricing regulation which allows DPO to price the channel at twice the wholesale price (i.e. 50% margin on MRP). The twin conditions at retail level say:

a) *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 for addressable systems and*
b) *Sum of a la carte rates of all the channels in the bouquet shall not exceed three times the bouquet rate*

The suggested integrated model is welcome only if the commission structure to the DPO is existing 50% or more on pay channels.

It may kindly be noted that MSO will need to part with 35% of the commission to LCO as per the current regulation which means that MSO will retain (65% of 50% i.e. 32.5% of the MRP and pass 17.5% of the MRP to LCO).

Since there are costs to be incurred by DPOs for carrying a channel, it may be ensured that commission per channel to DPO (including LCO) is not lower than what DPO charges on average for carrying FTA channels. This is to be ensured in the context that some pay channels are priced at lower end of minimum wholesale RIO price today eg. Rs.0.21 (for kids) / 0.63 (for news channels)

Since the MSO needs to share the commission with LCO also, the commissions to MSO should be more than those offered to DTH to the extent of LCO commission,

Coming to the models suggested in the CP, among the 3 suggested models:

1) Conventional MRP model is not suitable because:
    a. the DPOs are not allowed to repackage the channels from different broadcasters. This is needed as for example, a sports fan would like sports channels from different broadcasters but may not want channels across all genres from the same broadcaster.
    b. This model encourages Broadcaster to package its channels and push unwanted channels in its bouquet which is highly undesirable
    c. Commission on MRP to the DPO should not be allowed to be decided by broadcaster as broadcaster does not appreciate the cost structure of the

MSOs .We recommend TRAI to decide commission structure in MRP based models as in the current system considering the Capital deployed by MSO and the operational costs.

d. It is not clear if there is a scope for Volume based discounts to DPOs. Such discounts should be based on state level volumes so that a regional DPO is able to compete against national DPO based on the volumes in that particular state (A national DPO should not get higher commission based on volumes in Kerala based on the national numbers which will put regional DPOs to disadvantage).

2) Flexible MRP model is not recommended as the negatives mentioned in conventional MRP model are applicable here except that DPO can also bundle the channels.
3) Distribution network model would be suitable for the following reasons:

A) It brings in MRP concept of pricing thus aligning objectives of broadcaster and MSO /LCO. MRP concept can minimize the disputes between Broadcaster and MSO.

B) It gives a rental option based on capacity to carry number of channels. It may be noted that rentals not only depend on the bandwidth but also on several other factors like :
   i) Investment by MSO in digital headend / CAS/SMS etc vs subscriber base
   ii) density of customers (which is high in a city vs in a rural area),
   iii) ROW charges, labour costs etc.
   iv) Prices vary as per Service standards

   Since the rentals need to be shared by MSO and LCO, a low price cap will have adverse impact on MSO /LCO.

   While a high price cap is allowed to broadcasters and they charge only 10% of it on average as stated in the consultation paper, a low price cap (like Rs.100 per 100 channels) will put MSO /LCO out of business and hence price forebearance is suggested. It may also be noted that DPOs today carry upto 400 channels and are investing further in upgrades. DPOs bear costs including bandwidth to carry all the channels in the network even if a subscriber chooses much fewer channels. (for 500 SD channels, a bandwidth of 2 Gbps is needed which as per the tariff ceiling stipulated by TRAI costs about Rs.5.8 cr per annum for each destination link).

Since the cost to DPO does not come down if the subscriber does not subscribe to all channels, it is suggested to keep the rentals at say Rs.200 minimum per month for 100 FTA channels including the Doordarsan channels.and charge additional Rs.25 for slabs of 25 channels.

OR beyond 100 FTA channels, DPO may be allowed to charge a uniform FTA channel rate for all additional FTA channels demanded by the subscriber.

Further:

No subscriber shall be allowed to pick only pay channels without subscribing to the BST of Rs.200 pm, as DPO needs to meet minimum expenses to run the network.

Minimum margin of 50% (as per the retail twin condition) be allowed on pay channel as commission

Q6. How will the transparency and non-discrimination requirements be fulfilled in the suggested models? Explain the methodology of functioning with adequate justification.

On retail side, MSO / LCO need to compete with DTH and market will determine the price vs service.

This will reduce the disputes between Broadcasters and MSOs significantly as Broadcaster needs to sell the channel to subscribers than dump it on MSOs as is the case now.

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.

Since consumer decides the channels he wants to watch (on ala carte or bouquets) and he pays MRP of channels he selects, consumer is in control of the channel selection and budgets as if is in a super market with various products competing for his wallet.

On the fixed rentals, MSO can also set MRP which will be shared with LCO. Since the market is competitive with multiple DPOs, market will discover the price of rentals to be charged.

Q8. Is there a need to identify significant market powers?

In a competitive market with several broadcasters and DPOs, the subscriber decides his choice and if there is a market leader in the segment, it would be based on service vs price combination. There is no need to identify significant market power as long as the power is not misused.

Q9. What should be the criteria for classifying an entity as a significant market power? Support your comments with justification.

For Broadcasters: viewership ratings like BARC in a genre / Territory. But, the ratings are dependent on the content as well as the placement of the channels.

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?

There is no need for a differential regulatory framework for significant market power other than ensuring that the market power is not misused by the players with dominant power.

Within the regulatory framework, if the player becomes strong due to better content / service vs price to customers, there is no need to regulate further.

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?

The present channel rates in DAS are derived from the analog rates which are pegged at the high end of the prescribed price cap. As the paper mentions, the broadcasters kept it at the highest point as they were afraid that they can not revise upwards later.

After setting the a la carte prices, even popular broadcasters are rather reluctant to offer on a la carte and prefer to push the channels on fixed fee / CPS basis, as they strongly feel that the viewership of the channel drop significantly at the prices they have fixed.

Neither the subscriber nor DPO nor broadcaster who fixed the price himself trusts that the a la carte prices are reasonable or marketable.

The RIO prices should be revised downwards significantly to be in line with what the broadcasters are realizing today – 10% of declaraed prices.

The basic pricing framework should be delinked from analog pricing and the price caps should bein line with the current market prices.

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.

The Genres suggested in the CP is adequate.

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.

While fixing the price caps, it may please be noted that the regional channels should not be allowed the same price as Hindi channels – especially in GEC/ movies as the cost of content including movies is lower in regional languages compared to Hindi content.

As mentioned above the high artificial a la carte rates must be replaced with rates which are prevalent in the market – 10% of the declared prices. The prices may be allowed to be revised every 2 years as suggested in the CP.

Q14. What should be the measures to ensure that price of the broadcast channels at wholesale level is not distorted by significant market power?

v) The broadcaster should not be allowed to bundle channels – especially leading channels (measured by ratings like BARC) with other channels .

vi) Lowering the genre price caps significantly will make subscribers opt for a la carte channels which will generate higher revenues for broadcaster even if price caps are lowered as more subscribers will opt for such channels and will avoid pushing unwanted channels to subscribers.

Q15. What should be the basis to derive the price cap for each genre?

The authority may consider the agreements signed by the leading MSOs to arrive at the current realization % and fix it as the price cap.

This can be based on the past experience that the actual realizations are only 10% of the notified RIOs, the overall genre price cap can be kept at 20% of the current price cap.

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?

Genre wise price ceiling can be revised Once in 3 years. Broadcaster may be allowed to revise the prices within the ceiling every year.

Q18. What should be the criteria for providing the discounts to DPOs on the notified wholesale prices of the channels and why?

The discounts can be worked out based on :

a) the subscriber volumes a DPO has for a channel +
b) overall revenue by the DPO to the broadcaster

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?

Maximum discount based on cumulative aggregated subscription can be 50%.

To avoid discrimination of a state level DPO vs national DPO, the revenues from state should be considered. Otherwise higher discount to a national MSO / DTH can distort the market against the state level DPO.

Q20. What should be parameters for categorization of channels under the "Niche Channel Genre"?

Niche Channels should be classified based on content than the format of the content. The content which does not have a mass viewership (say less than 1% viewership) can be classified as Nich content.

The Niche channels should be advertisement free as they claim to be dependent on subscription revenue alone as they do not have mass viewership.

HD and 3D should not be classified as Niche Channel Genre as nowadays all the content is shot in HD and converted to SD. With HD service picking up, some channels may stop SD transmission in a few years from now – with HD production and HD STBs becoming cheaper.

The niche channels should not be part of a bouquet.

Q21. 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.

To encourage novel content, price forbearance may be allowed to Niche channels with a monitoring mechanism to ensure price forbearance is not misused.

However, the following rules may be implemented :

- the pricing should be transparent and non discriminatory between DPOs.
- The broadcasters compensate DPOs enough – in terms of higher commission for the channels/ carriage fee for sharing resources and carrying the niche channel.
- The channel should not have advertisements.

Q22. What should the maximum gestation period permitted for a niche channel and why?

The suggestion to allow a gestation period of 12- 18 months for a niche channel to be classified so is fine to allow observe the nature of content and decide on further course.

Q23. How misuse in the name of "Niche Channel Genre" can be controlled?

Since the Niche channels are supposed to have niche audience and can not generate advertisement revenues, :

Such channel should be advertisement free channel and

A close monitoring of the content is needed to ensure that content continues to be niche and exclusive and not like any other genre of channels classified by TRAI.

Q24. 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"?

While niche channel needs to be supported during its initial years to sustain itself, the status needs to be reviewed based on:

a) Subscriber no.s the channel has
b) Subscription revenues of the channel
c) Content the channel is carrying

Once the channel has subscriber numbers in excess of 1%, the channel can be declassified from niche category.

Q25. How should the price of the HD channel be regulated to protect the interest of subscribers?

Since

a) HD has become a common production format for many broadcasters including SD channels

b) HD Channels also carry advertisements

c) HD subscriber base is growing fast helped by lower HD STB prices,

The HD prices should be capped at 1.5 times the SD channel price cap.

Q26. 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?

The HD channel prices should be linked to SD prices as:

HD price Cap <= 1.5 SD Price Cap

HD price of a channel at wholesale <= 1.5 times SD Price of a channel

HD price of a channel at retail level <=1.5 times SD Price of a channel at retail level

Q27. Should similar content in different formats (HD and SD) in a given bouquet be pushed to the subscribers? How this issue can be addressed?

If a subscriber opts for a HD format of a channel, he should not be forced with SD version of the same channel. Once a la carte system is implemented strictly , subscriber will not opt for SD channel of the same content if he chooses the same channel in HD format.

Q28. 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.

In the current regulation too, FTA is separate from pay channel from consumer selection and payment point of view. The FTA channels are classified as FTA at wholesale and retail levels.

To bring more awareness and promote among subscribers, the FTA channels may be grouped separately from pay channels.

Q29. 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.

a) DPO can provide access to portal to a subscriber to manage his account including the channel activation (subject to credit balance) and deactivation.
b) SMS from RMN is a good option.
c) DPO can provide an app to subscriber to manage his account and also make payments.

Q30. How can the activation time be minimized for subscribing to additional channels/bouquets?

a) Allowing access to subscriber to access portal / app for online payment and activation of channels / bouquets can eliminate the delays.
b) For those subscribers not accessing the portal, the call center should have facility to activate the subscriber against a credit in subscriber account.

Q31. Should the carriage fee be regulated? If yes, what should be the basis to regulate carriage fee?

To answer this question, the following facts need to be noted:

A) India needs Rs.40,000 crores investment to digitalise 160 Mn C&S homes
B) In the distribution value chain of Broadcaster→ MSO /DPO→ LCO → Subscriber, this entire investment is borne by MSO/DPO.
C) As is normally done in the telecom tariff regulation by Authority (eg. Para 57 of the 57th tariff amendment - http://trai.gov.in/WriteReadData/WhatsNew/Documents/TTO_57th_Amendment_2014_dated_14.07.2014.pdf), it is fair to consider:

a) ROCE (Return on Capital Employed) by DPO (say 20% considering technology risk, market risk and financial risks DPO undertakes),

b) useful life of the Headend and STBs which may be considered as 6 years for headend and 4 years (25% per year) for STBs

c) fixed operational costs per subscriber like Bandwidth, ROW, labour

d) variable operational costs like content cost, maintenance cost etc

Thus DPO should be able to generate a minimum return of (20% + 25%) of present cost of Digital Headend and STBs + Average annual operating cost of operations.

Based on the current financial situation of the large DPOs mentioned above, the MSOs are generating negative returns despite the fact that MSOs are collecting carriage fee in addition to subscription from the LCOs.

In a situation where DPOs are struggling to make both ends meet despite carriage fee income which is an important revenue stream, any move to regulate carriage fee will push the MSO into deep red.

D) Digital video signals of 500 SD channels need minimum 2 Gbps bandwidth and the distances of transport vary depending on LCO location vis a vis MSO. As per the Domestic leased line tariff ceiling, the cost of transport beyond 500 Km will be about Rs.5.8 cr per annum. Even if the MSO spends on bandwidth, the cost per subscriber is not certain as it depends on the subscriber base MSO gets from the end point. The prescribed Rs.100 for FTA channels and the margins on the pay content are too small to recover the fixed cost of bandwidth which is not dependent on the number of subscribers. This risk / cost is not considered while arriving at the tariff ceiling.

E) At Rs.100 /month for 100 FTA channels, the ARPU is one of the lowest in the world. With a move towards preventing bundling, more channels may become free to air for broadcasters to earn advertisement income. This may mean that ARPUs may not go up. With huge capital deployed and high fixed costs, MSOs will continue to incur losses. Further if carriage fee is regulated, it will make broadcasters further strong and weaken DPOs further financially.

F) One of the reasons heard for abolishing / regulating carriage fee is that the channel capacity has increased post digitalization compared to analog and hence the carriage needs to be reduced/ regulated.

   It appears that the advocates of this proposal have forgotten that DPOs have invested thousands of crores in digitalization of cable Tv networks which led to increase in channel capacity and need to earn returns on the capital deployed.

   This is analogous to a proposal of scrapping toll collection because road widening is already done by NHAI (National Highway Authority of India) and because roads are widened compared to the past, vehicles should be allowed without paying toll as vehicles also pay road tax.

G) It is to be noted that several MSOs carry 250 to 300 channels and are in the process of upgrading the capacity and there are about 900 channels on air. This also presents a huge constraint in capacity and DPOs need to invest in increasing the capacity further and need capital to expand the capacity. If the carriage fee is regulated which amounts to clipping one of the wings of the DPO, the DPO will be further handicapped to invest and improve services.

H) With more channels turning HD which needs 75-100% more bandwidth, the channel carrying capacity is further reduced and DPO needs to make continuous investments to upgrade the digital headend and also increase the bandwidth to carry more HD channels.

I) Within the given bandwidth available, MSO would like to offer services like Value added services like VOD which can earn MSO revenue rather than allocating the same bandwidth at sub optimal terms to carry a linear channel.

J) Such regulation of carriage fee leading to weakening of the MSOs will impact the QOS levels and MSOs will try to recover the revenue shortfall from subscribers and stop investing in the improvement of services in view of the financial crunch.

K) Since the carriage fee is a B2B transaction much like a transaction between advertiser and broadcaster whose rates are not regulated, there is no logic in regulating a B2B transaction between two stake holders. Broadcasters pay carriage fee because it leads them to earn advertisement revenue.

L) It may kindly be noted that broadcasters are making profits from advertisements because their channels are being carried by the MSOs and it is only fair that they share the burden MSO is incurring to carry the channel.

M) MSOs have invested huge amounts in building and digitalizing the cable TV network and in the entire value chain of the industry, have very poor balance sheets – High capital deployment, high debt, with negative returns.

This is because of low ARPUs Indian consumer pays and high costs including content costs. Digitalisation with high ceiling of RIO has resulted in higher content cost along with unwanted content pushed to subscribers.

Even in DAS, whatever little MSO collects from LCO, is not sufficient to meet the broadcaster pay outs leaving deficit on account of other costs like bandwidth, manpower

Carriage fee income is a revenue stream for MSOs and is clearly a B2B transaction without affecting the consumer, based on the value MSO provides to the broadcaster in a territory and should be left to both the parties to conclude without being regulated.

It may be noted that if carriage fee comes down, the MSO will be forced to bridge the revenue shortfall by increasing the subscription charges from subscribers.

Q32. Under what circumstances, carriage fee be permitted and why?

Carriage fee is to be permitted whether or not DPO requests for a channel on "must provide" basis as:

a) The subscription revenue net of broadcaster costs alone will not be sufficient to meet the DPO's infrastructure cost.

b) Broadcaster and MSO may negotiate for a lower carriage fee if the channel can fetch additional net subscription (net of pay out to broadcaster).

Hence, carriage fee should not be ruled out because the DPO sought the channel from broadcaster.

Q33. 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?

c) There is no need for a price cap on maximum carriage fee as it is a B2B transaction and it is for broadcaster and MSO to decide based on the nature of market, reach and deliverables.

d) If a scientific method is needed to arrive at carriage fee, each channel should be treated as 4 Mbps domestic leased line from headend to the subscriber as per the tariff order for Domestic Leased Cicruits multiplied by number of subscribers which will be very high.

Q34. 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?

Carriage fee has nothing to do with the subscriber base of a channel. Many channels including FTA channels are provided by default by the DPO and hence we may not know the actual subscriber base watching the channel.

On the contrary, broadcasters say that they can afford to pay more carriage fee if viewership goes up and ask support from DPOs.

Q35. 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?

Placement and marketing services are provided by DPO to broadcaster to improve channel visibility and the specific needs are discussed and the price is arrived at between Broadcaster and DPO and hence the there is no scope for regulating it.

Q36. 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?

Broadcaster is coming up with same genre of content on different genres of channels – sports are shown on new GEC / Movie channels to popularize the channels. Within sports, it is important to sub divide the content – game wise / sport wise.

In the past a cricket fan would have subscribed to Star Cricket / Ten Cricket. Now cricket is distributed on multiple channels which results in lack of clarity to subscriber as well as higher pay out.

Broadcasters are also promoting the sports content on their apps free of cost while asking MSOs to pay for the same leading to discrimination.

Since the simulcast audio feed channels cater to different groups of subscribers. Similarly channels with HD and SD format are treated as clone channels.

While they can exist, regulation should ensure that there is no bundling or charging of cloned channels on the subscribers.

Q37. 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?

EPG can include the programs of channels not subscribed by the customer as this will give more information to the subscribers about the channels he has not subscribed to and can be a marketing tool for DPO.

Q38. Can Electronic Program Guide (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.

No. If a subscriber has not subscribed to a channel, he can’t watch the channel in PIP. IF such a facility is allowed, subscriber can watch the same without subscribing to the channels.

Q39. 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.

The p-p-p is not feasible to implement now due to the following reasons:

a) This will lead to high call volumes and need a robust back end infrastructure and need to automate through SMS from RMN / app/ portal facilities rather than a manual call center.

b) Since broadcasters have a lot of content rights for movies etc but are restricted by distribution through their channel, it would be useful to work out a mechanism to share content through DPOs to popularise VOD which can increase the revenue of broadcasters and DPOs.

Q40. Will there be any additional implementation cost to subscriber for pay-per-view service?

This needs investment by DPO in backend provisioning.

This requires flexible and open approach from broadcasters and MSOs to try on these innovations for both to evolve the business.

Q41. 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 of periodic reporting to broadcasters and audit of DPOs with justification.

It is observed that even after an organization like BECIL certifies the DPO, broadcasters again want to audit individually not to just get the subscriber numbers for the channels, but with a motto “ get all the information you can”.

Auditors even ask subscriber addresses and LCO details, though disallowed by the Authority.

It is time for both sides to be practical and trust with a mind to improve over the shortcomings

In view of sensitive information and security threats related to centralized data storage, it is suggested to avoid central server facility.

As a first step, it is suggested that all broadcasters put together do one time audit of DPO using BECIL as an auditor which is a neutral party with a lot of expertise - rather than each one doing separate audits of DPO so that it saves cost and time for both sides. The auditor can share only the details of respective channels to the broadcaster. More importantly, the Authority should prescribe the bare minimum data needed their revenue protection of broadcasters than gather unnecessary information which puts the entire business of DPO at risk.

Q42. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

With the fast changing technology, growing smart phone population and the concept of Internet of Everything, broadcast content is available on online / OTT platforms. OTT is a reality and broadcasters are trying to reach the subscriber directly by denying the content to the third party OTT platforms of MSOs and others, which is an unhealthy practice.

MSOs have started providing OTT services on complimentary basis to their digital TV customers and it is essential that broadcasters allow the apps to access their content on non discriminatory basis within the purview of the digital agreements signed between the MSOs and the broadcasters.