

11th March, 2016

To,

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

Ref: Consultation Paper on Tariff Issues related to TV Services dated 29th January, 2016.

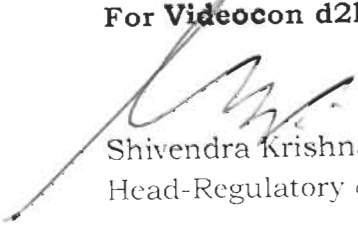
Dear Sir,

We would like to enclose herewith our detailed response on the above captioned Consultation Paper for your consideration and records.

Thanking you,

Yours faithfully

For Videocon d2h Limited


Shivendra Krishna Singh
Head-Regulatory & Compliance

Encl: A/a

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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.

Out of the various models suggested by Telecom Regulatory Authority of India ('Authority'), we strongly recommend **C(iii) Regulated RIO Model** be implemented at wholesale level for the reasons mentioned herein after.

We have also separately mentioned the reasons for not supporting the rest of the models i.e., (A) Price Forbearance Model, (C) (i) Universal RIO Model and C(ii) Flexible RIO Model in **Annexure 1**, attached hereto.

Before we proceed with the reasons for supporting **C(iii) Regulated RIO Model**, we would like to invite attention of this Authority to the extract of the finding of Hon'ble Telecom Dispute Settlement and Adjudication Tribunal ('TDSAT'), which is confirmed by Hon'ble Supreme Court, in the matter of Star India vs Noida Software Technology Park Limited ('NSTPL') and others, vide Judgment and Order dated 7th December, 2015; read with the confirming order of Hon'ble Supreme Court dated 26th February, 2016 in Civil Appeal No. CA 3890 of 2016, CA 1446 of 2016 and CA 947 of 2016, wherein the very issue under consultation was discussed.

As mentioned above, the Hon'ble TDSAT by its Judgment and Order dated 7th December, 2015 had laid emphasis on the need of the Broadcasters to make the RIO prices market realistic by holding as under:

"... A proper RIO, true to its nature as envisaged in the regulation, is meant to go a long way in introducing/ bringing about fairness, reasonableness and non-discrimination in interconnect arrangements between a broadcaster and distributors. But what is passed off by the Broadcasters as RIO, instead of doing away with non-discrimination actually becomes a device to perpetuate discrimination."

Further, the Hon'ble TDSAT had observed that a proper RIO would form a starting point for any negotiations which would be within limits allowed by the ratio between the a-la-carte and bouquet rates as stipulated under the applicable regulations. TDSAT also observed the existing RIOs as Faux RIOs. Consequently, the Hon'ble TDSAT gave operative directions to Broadcasters to issue fresh RIO's within one month from the date of the Judgment. However, no broadcaster has till date rationalized their RIO's.

IBF, STAR and TAJ Television instead preferred independent Appeals before the Hon'ble Supreme Court bearing Nos. CA 3890 of 2016, CA 1446 of 2016 and CA 947 of 2016 respectively.

The Hon'ble Supreme Court by its Order dated 26th February, 2016 while upholding the Judgment and Order of Hon. TDSAT dated 7th December, 2015, dismissed all the three Appeals of IBF, STAR and TAJ Television, thereby fully and finally settling the Judgment and Order of Hon'ble TDSAT.

It will not be out of place to mention here that the Hon'ble TDSAT had in its Judgment observed that in order to make a serious effort in that direction, TRAI would be required to get hold of all the negotiated interconnect agreements between the broadcasters and the distributors of channels, which the broadcasters are in any event obliged to submit to TRAI. The analysis of the commercial terms of the negotiated agreements would give TRAI a clear picture of the market prices of the broadcasters' channels. A comparison of the prices in the negotiated agreements and those shown in the current RIOs will then show how far the RIOs are removed from market realities.

Resultantly the above observations made by the Hon'ble TDSAT pertaining to RIO gets crystallized and the Broadcasters are now under mandate to rationalize their RIO prices in accordance therewith.

A brief observation is extracted and attached herewith as Exhibit 1. As such it is important and expedient to replicate the underlying principles in the judgment and order of TDSAT whilst coming out with any of the suggested models under the consultation paper.

The reasons for support of C.(iii) Regulated RIO Model are:

We strongly recommend this Model and subject to regulatory regulating RIO prices as suggested below models for channel pricing mechanism as detailed under.

The basis of our recommendation for support of Regulated RIO Model are divided into two parts –

- A. **The proposed model for determination of Regulated RIO Rates.**
- And
- B. **Reasons to support/ recommend Regulated RIO Model.**

A. The proposed model for determination of Regulated RIO Rates

(i) Background

- Broadcasters offer RIO Rates (for channels on a-la-carte) to the DPO's, but prices are highly unreasonable and hurdle for subscribers to subscribe on a-la-carte.
- DPO's have to add applicable taxes and Satellite cost & other operational cost on the RIO Rates and then define A-la-carte Price.
- Existing RIO Rates of all the Broadcasters are unreasonable and illogical; offering reasonable A-la-carte price is completely unviable for the DPO's.
- In the historical TDSAT Judgment, it has been noted that the existing RIO Rates are FAUX.
 - Existing RIO Rates from Broadcaster to DPO for SD channels in Annexure 2.
 - Existing RIO Rates from Broadcaster to DPO for HD channels in Annexure 3.

(ii) Current Channels' RIO Rates vs. Reality

- The cumulative RIO Rate published for approx. 200 SD pay channels: Rs.1200.
- The cumulative RIO Rate published for approx. 50 HD pay channels: Rs.2000.
- In reality, SD channels are cumulatively discounted in excess of 93%.
- In reality, HD channels are cumulatively discounted in excess of 95%; offered in the range of Rs.60-70 to the DPO's.
- Infact, in negotiated discounted deals the channels are offered in bouquet only to DPOs and priced accordingly. Therefore, the Twin Conditions referred in Telecommunication (Broadcasting & Cable Services) Interconnection (Fourth Amendment) Regulation 2007, Clause No. 13.2A.12 becomes applicable in such deals. If the Twin Condition is applied in reverse manner to all historical negotiated bouquet deals, then it shall give us the real and actual price of Broadcasters for each channel as well as of bouquet.

- It is very apparent from the existing negotiated deals, that effective RIO Rate of each SD channel from Broadcasters to DPO's is in the range of Rs.0.70/- to Rs. 0.95/- and that of HD channel is in the range of Rs.2 to Rs.2.50/-.

(iii) Proposed Price Mechanism Models:

Based on our observation and facts, we request the Authority to consider the following while regulating/re-regulating channel RIO prices:

- a) The Wholesale prices from Broadcasters to DPO for both SD and HD channels need to be re-regularized in order to ensure reasonable A-la-carte rate can be offered to the subscribers by the DPO's.
- b) As such presently, as an immediate measure **C(iii) Regulated RIO Model** should be adopted by looking at the existing and historical commercial deals between Broadcasters and DPO's.
- c) The negotiated deals entered between most of the Broadcasters and DPO's are in the bouquet form. If such deals are examined and Twin Conditions are applied (on Broadcaster negotiated rates), the actual A-la-carte rate of each channel would be much lesser than the published RIO rates. Broadcaster should be regulated to publish the real RIO prices, rather than the faux RIO prices.

(iv) The proposed model for determination of Regulated RIO Rates



Calculation based on negotiated deals for SD/HD Channels

STANDARD DEFINITION CHANNELS					
Broadcaster	No. of SD Channels	Current published RIO Rate	Current Actual Negotiated Avg. Deal Value per Subscriber	Current Actual Avg. Cost per Channel in bouquet	Proposed A-la-carte channel RIO Rate
		(INR)	(INR)	(INR)	(INR)
Star Network	25	129	20 – 23	0.95	0.95
Star Sports	4	58	9 – 10	2.50	2.50
Zee Network	36	162	23 – 26	0.75	0.75
Ten Sports	3	36	3 – 4	1.30	1.30
Sony Network	12	97	10 – 15	1.00	1.00
IndiaCast Network	32	142	10 – 15	0.40	0.40
SunTV Network	28	218	40 – 44	1.50	1.50
Others	62	324	10 – 12	0.20	0.20
Total	202	1211	80 – 85		

For detailed channel wise pricing for SD Channels, kindly refer Annexure 4.

HIGH DEFINITION CHANNELS					
Broadcaster	No. of HD Channels	Current published RIO Rate	Current Actual Negotiated Avg. Deal Value per Subscriber	Current Actual Avg. Cost per Channel in bouquet	Proposed A-la-carte channel RIO Rate = Proposed Rate of Standard Definition Channel
		(INR)	(INR)	(INR)	(INR)
Star Network	11	316	22 – 24	2.20	0.95
Star Sports	4	200	10 – 11	2.50	2.50
Zee Network	6	180	13 – 18	2.00	0.75
Ten Sports	2	175	2 – 3	2.00	1.30
Sony Network	4	200	13 – 15	3.50	1.00
IndiaCast Network	4	175	10 – 12	2.75	0.40
SunTV Network	4	145	28 – 32	7.50	1.50
Others	14	648	12 – 14	0.82	0.20
Total	49	2039	60 – 70		

For detailed channel wise pricing for HD Channels, kindly refer **Annexure 5**.

- In order to meet the objective of offering channels at reasonable a-la-carte rates to the consumers, we propose the following:
- The Regulator may kindly examine the data and verify the fact as stated above based on the existing & historical deals of DTH/MSO Platforms for last three years.
- The calculation will show Broadcasters are offering approx. 92-93% discount on existing RIO rates which clearly shows that current RIO prices are only eye wash and not realistic.
- As such the RIO Rates need to be re-regulated based on the actual deals, the same would immensely benefit the end-consumers. Our acceptance of "Regulated RIO Model" are subject to regulatory (request with folded hands) re-regulating RIO prices for SD & HD and on transparent and non-discriminatory basis.

Note: The Twin conditions referred herein above are the Conditions laid down in the Telecommunication (Broadcasting & Cable Services) Interconnection (Fourth Amendment) Regulation 2007, Clause No. 13.2A.12 for Broadcasters/ aggregators.

(v) Regulating RIO Rates for HD Channels

- There is no difference in content in the SD & HD channels in 99.5% cases, the programs are being simulcast/ shuffle cast in the corresponding HD channel
- No different rates for corresponding SD or HD channels, so that the consumers do not need to pay double for watching the same content. Currently subscribers are forced to subscribe the SD channel first in order to view the corresponding HD channel.
- On the above recommendations both SD and HD wholesale price should be treated at par.
- We strongly feel that HD price should be kept as same as standard Definition, and the choice should be left to customer to decide whether to watch content on HD or SD.

(vi) Precautions for implementation of this model:

- In proposed tariff models, sufficient checks and balance mechanism / procedures should be established to avoid any artificial benefits being passed on by the Broadcasters to select DPOs and more particularly to vertically integrated DPOs, either directly or indirectly.
- The Authority should come out with a quarterly reporting framework for Broadcasters, like Compliance/ Monetary Report for all the broadcasters irrespective whether they have any vertically integrated distribution platform or not and additional reporting requirements should be made applicable to those distribution platforms which have Broadcaster's interest in them. This mechanism is further elaborated in our response to Question no. 3 and 4.

(vii) Further important suggestion to make Regulated RIO a great success

- In order to meet the objective of offering channels at reasonable a-la-carte rates to the consumers, we propose the following:
 - The Regulator may kindly examine the data and verify the fact as stated above based on the existing & historical deals of DTH/MSO Platforms for last three years.

- The calculation will show Broadcasters are offering approx. 92-93% discount on existing RIO rates which clearly shows that current RIO prices are only eye wash and not realistic. Realistic RIO price is what we have shown in the tables on page 8 and page 9.
- As such the RIO Rates need to be re-regulated based on the actual deals, the same would immensely benefit the end-consumers. Our acceptance of "Regulated RIO Model" are subject to regulatory (request with folded hands) re-regulating RIO prices for SD & HD as stated in our Price Mechanism reply and on transparent and non-discriminatory basis.

B. Reasons to support/ recommend Regulated RIO Model

(i) Need to come up with Regulatory framework for RIO price cap for Channels

- When the price fixation came into force first time in 2004 and industry started getting regularized, that time 100% analogue cable was prevalent. The declaration from cable about number of connections to the Broadcasters as well to the Governments' was to the tune of only 10% of the actual active subscribers. That is why very high RIO Rates were permitted in analogue regime and which was discounted heavily to transparent platforms. This scenario has changed during last 10 - 15 years, after Digital Addressable Platforms like DTH have come into existence. Now, there are almost 80% households in India which are addressable. Hence, the formula of 42% of the published RIO rates to digital platforms and 100% rate for analogue platforms is not justifiable. There have been a lot of technological innovations like introduction of High Definition, 4K channels, introduction of Mobile TV services etc. after the first price fixation and as such these innovations also need to be included while revisiting the RIO price regulation by the Authority.
- The Authority may specify RIO price cap for channels in line with current deals for each genre between 6 major DTH players and 6 major digital MSO's with major Broadcasters (these DPO's cover almost 70% of the distribution market). There should be, a logical and rational linkage between prices of a-la-carte and bouquet of channels. The Authority is requested to pay due consideration to unrealistic RIO price in context of current deals with these DPOs.
- The success of this model also largely depends on (a) RIO prices of all High Definition channels should be same as that of RIO prices of Standard Definition channels, as they have same programming and, (b)

fresh guidelines for New price ceiling formula from broadcasters to DPOs should be announced by the Authority, in line with price mechanism model mentioned above.

(ii) Current commercial understanding not Consumer/ DPO friendly

- 99% content deals happen on a Fixed commercials basis (Fixed Fee) or on Cost per Subscriber basis (CPS), to offer “Bouquet” of channels.
- If we go through the existing Interconnect Agreements between the Broadcasters and the DPO’s, we observe that Broadcasters have offered in excess of 93% discount on their existing RIO Rates while negotiating a CPS or Fixed Fee deal. This is the correct way of arriving at realistic RIO pricing and authorities kindly may announce the RIO price ceiling accordingly.

(iii) Price Band for Standard Definition Channels

- All the commercially negotiated deals cumulatively fall into the range of INR 70-85 per subscriber for approx. 200 Standard Definition channels for DTH and for Digital Cable operator it falls below INR 25 net of carriage as per their published annual report of the listed MSO’s.

(iv) Price Band for High Definition Channels

- In case of approx. 50 High Definition channels, the cumulative negotiated deal ranges between INR 60-70 per subscriber and for Digital Cable operator it falls below INR 25. As High Definition channels have forbearance, hence Broadcasters have priced them completely unreasonably.

(v) Mandate on Packaging Condition for Standard Definition and High Definition Channels together

- DPOs have to pay for both Standard Definition & High Definition channels to each Broadcaster separately. Even if a customer wants to watch only High Definition channels, he still has to pay for Standard Definition channels. DPO’s are forced to charge the same as Broadcasters are charging double cost for same content to the DPO’s. However, in the case of Standard Definition, only Standard

Definition bouquet prices are charged. The double charge happens from Broadcaster to Service Provider and from Service Provider to consumers only in case of High Definition bouquet option selected by consumers. Broadcasters do not wish to promote their channels on a-la-carte basis thus forcing consumer to subscribe to all channels.

(vi) Currently how the consumers' A-la-carte rates are decided by the DPO's

- Broadcasters offer their bouquets with primary condition that the entire bouquet should be offered to the consumers by all the platforms. Broadcasters force DPO's to carry the bouquet in 99% of cases. Hence the Broadcasters do not want to give any choice to the DPOs to make a-la-carte options to the end-consumers as they want to promote their respective bouquets.

(vii) Current Broadcaster Published A-la-carte Price an eye wash

- A-la-carte option is also available from Broadcasters to DPO's, but prices are so high that a-la-carte from Broadcaster to DPOs becomes an eye-wash. The existing RIO Rates of all the Broadcasters are so unreasonable and illogical that, offering reasonable a-la-carte price to end-consumers in view of existing published RIO Rates is completely unviable for the consumers.

(viii) Actual Offering

- Only option left with DPOs is to put Broadcaster's RIO Rates add taxes and DPO's margins on the RIO Rates and then define a-la-carte price for end-consumers.

➤ The published Standard Definition and High Definition channels' RIO rates vs. Reality

Table #1
(Formula for deriving actual cost for Standard Definition Channels)

E.g. if we look at negotiated commercial deal values for few of the leading broadcasters and calculate avg. cost per channel basis negotiated commercial deals

STANDARD DEFINITION CHANNELS				
Broadcaster	No. of SD Channels	Current published RIO Rate	Current Actual Negotiated Avg. Deal Value per Subscriber	Current Actual Avg. Cost per Channel in bouquet
Star Network	25	129	20.00 – 23.00	0.95
Star Sports	4	58	9.00 – 10.00	2.50
Zee Network	36	162	23.00 – 26.00	0.75
Ten Sports	3	36	3.00 – 4.00	1.30
Sony Network	12	97	10.00 – 15.00	1.00
IndiaCast Network	32	142	10.00 – 15.00	0.40
SunTV Network	28	218	40.00 – 44.00	1.50
Discovery Network	7	40	2.00 -3.00	0.35
Maa Network	4	21	0.40 – 0.50	0.13
Jaya Network	4	11	0.08 – 0.12	0.02
Disney UTV Network	8	45	2.00-2.50	0.28
Others	39	207	6.00 – 9.00	0.20
Total	202	1166	70 – 85	-

Table #2
(Formula for deriving actual cost for High Definition Channels)

HIGH DEFINITION CHANNELS				
Broadcaster	No. of HD Channels	Current published RIO Rate	Current Actual Negotiated Avg. Deal Value per Subscriber	Current Actual Avg. Cost per Channel in bouquet
Star Network	11	316	22.00 – 24.00	2.20
Star Sports	4	200	10.00 – 11.00	2.50
Zee Network	6	180	13.00 – 18.00	2.00
Ten Sports	2	175	2.00 – 3.00	2.00
Sony Network	6	300	13.00 – 15.00	3.50
IndiaCast Network	4	175	10.00 – 12.00	2.75
SunTV Network	4	145	28.00 – 32.00	7.50
Discovery Network	3	72	3.00 – 4.00	0.82
Others	11	576	9.00 – 11.00	2.20
Total	49	2139	60 – 70	-

(ix) How DPO's can fulfill TRAI's objective and dream to serve the end-consumer in best possible way and make the channels available at reasonable price thereby protecting the consumers' interests.

- As mentioned in the Explanatory Memorandum Appendix A para 3 of Consultation Paper on Twin Conditions, DPO's are forced to take the entire bouquet offered by the Broadcasters, otherwise they are denied the popular channels altogether. The costs of these unwanted channels are usually passed on by the DPO's to the end-consumers. Hence to address this issue, TRAI in the Tariff order dated 4th October, 2007 mandated the Broadcasters to provide their channels on A-la-carte basis to the DPO's as per their requests. But in reality it is not being followed by broadcasters.

(x) Simulcast/ Shufflecast of Content

- In various seminars and gathering broadcasters claim to the Regulators and MIB, that their RIO prices have not been revised from past 2009. But the fact is different; Broadcasters have launched various new channels with the same contents getting divided in new channels with additional pricing. They have ensured that new movies are first premiered on new channel and then brought to existing channels. Same is the case in Sports, earlier only ESPN used to show cricket on ESPN Star Cricket and now cricket is shown on various sports channels and also on clone channels (illustrated in our reply in variant of channels).

(xi) Offering of Content on discriminatory basis

- These broadcasters after charging hefty fees to DPOs have also started showing 1 month/2 months old contents on their FTA channels like Rishtey, Zee Anmol, Star Utsav, Sony Pal, which are then made available on Free Dish. In other countries generally there is a guideline for showing paid content on other platform, particularly free platforms till six month of airing of program. We would request authorities to come out with fresh guidelines on this.

(xii) Carriage of Content on Broadcasters Mobile TV applications on non-discriminatory basis

- Broadcasters have also started practice of showing the content on free of cost on their smart phone based App of Mobile TV, (mostly through wholly owned subsidiary) which has become big threat to existing DPOs business. However, DPOs will be fine, if the same content is made available on chargeable basis and *must provide* clause is extended to all broadcasters on Mobile tv services on non-discriminatory basis to all DPO's, if in case any of them wants to extend such mobile TV services to any subscribers. Also authorities have to see that media cross holding law violation does not happen in Mobile TV services platforms.

(xiii) Need to make Twin Condition in Reverse manner to negotiated deals

- In actual practice, none of the Broadcasters apply the twin conditions to the deals entered with the DPO's. The negotiated deals entered by most of the Broadcasters are in the bouquet form. If such deals are examined and Twin conditions are applied on negotiated deals, the actual a-la-carte rate of each channel would come to **INR 0.70 – 0.90 per Pay channel against their published RIO price of INR 8 – 15**. Therefore, the Twin conditions need to be applied first in reverse way to the negotiated bouquet deals and then similar twin conditions can be applied from DPO's to customers. However, the twin conditions cannot be made at both the sides unless High Definition Channels' prices are regulated.

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.

Out of the various models suggested by the Authority, we strongly recommend **B.Price Forbearance Model** for reasons mentioned herein after. We have also separately mentioned the reasons for not supporting the Exclusive A-la-carte Model in **Annexure 6**, attached hereto.

The reasons for support of Price Forbearance Model are:

- This model still exists in the market where there is forbearance in the retail level.
- That once Regulated RIO price are correctly determined as suggested above, the corollary of it would be that the retail A-la-carte rate of channels will automatically become consumer friendly.
- All DPO's are offering different prices for a-la-carte and bouquet of channels at the retail level.
- In spite of forbearance at the retail level, none of the DPO's are able to capitalize on the forbearance because the input wholesale/ RIO price to DPOs are highly inflated and not practical, especially in case of High Definition channels, the sum of the RIO prices for approx. 50 High Definition channels comes to approx. INR 2000.

A. Sufficient Competition amongst various DPOs

- Unlike monopoly of content by Broadcasters, all DPO's (7 DTH and approx. 30 MSO's) are competing with each other in the market place as they are providing the same content given by the Broadcasters.
- The content is exclusive to a particular Broadcaster and can be clearly defined as monopolistic product. However, the same channel/ content are available cross platforms (DTH and MSO's).For e.g.:
 - KBC only available on Sony channel but same channel/ content across all DTH and cable operators. So it defines that KBC program in monopolistic nature is available only on Sony Channel but all DTH and cable operators provide the same channel.
 - IPL matches only available on Set MAX/ Sony Six.
 - All BCCI cricket matches including World Cup are exclusively available onStar Sports.

- Hence the need for the price to be regulated at the wholesale level and not at the retail level because there are multiple DPO's are operating in a competitive environment determined by market forces.
- DPO's are a prime example of successful free market dynamics in play for the consumer.

B. Current Offering/ Packaging by DPOs to Customers

- In today's scenario, multiple bouquets are offered by the DPO's which caters to all socio-economic profiles of the customers (Pack price from Rs. 0/- (DD Free Dish), Rs. 99/-, Rs. 125/-, Rs. 150/-, Rs. 200 and so on). This clearly shows that market dynamics are deciding the price for the customers and DPO's are in no ways overcharging the customer, given that each customer has multiple options to choose from, hence price forbearance at retail level has worked and should be continued.

C. After sales services: An important element to retain customer

- DPO's besides keeping competitive pricing to lure customers, DPO's are also subject to extending regular after sales service with regard to CPE/ hardware, viewing experience, queries, clarifications etc. whereas Broadcasters are not directly servicing the customers & their business model is B2B, whereas, DPO's business model is B2C. DPO's are always at a threat that if it is overpriced then its customers have the option to switch to other DPO's.

D. Proposed Suggestions

- If the wholesale prices of SD/HD Channels are re-regulated/ corrected as proposed in our response to Question Nos. 1, 11, 15 and 16, then retail level a-la-carte prices will automatically come down and the DPO's will pass on the same benefit to the end consumer.
- If packaging rights are solely left at the discretion of DPO's and the existing RIO Rates get re-regulated, then this Price forbearance at retail level model will work very smoothly.
- The Twin Condition to the retail platform may not be required to be applied once the a-la-carte RIO rates from Broadcasters are crystallized as per its actual value. Even if it is decided to be applied at the retail level then it shall only be effective and sustainable once the Wholesale Tariff from the Broadcasters to DPO's is revised as per the proposed model.

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.

AND

Q4. How will the consumer's interests like choice of channels and budgeting their expenses would be protected in the suggested pair of models? Give your comments with detailed justifications.

- The key success of any of the models suggested in the entire consultation paper is purely dependent on the fact, as to how well and strictly the regime of discounting is regulated and governed. It needs to be ensured that any discounts, in any form if provided by the Broadcaster on the proposed RIO rates, it should not in any case circumvent the proposed regulations/ tariff orders by discriminately passing such discount in any form and any name to favored set of DPO.
- It needs to be ensured that no direct or indirect monetary advantage in any direct/indirect form or in any manner could be surreptitiously passed to select DPOs and particularly to vertically integrated Distribution Platform.
- In proposed tariff models, sufficient checks and balance mechanism / procedures should be established to avoid any artificial benefits being passed on by the Broadcasters to select DPOs and more particularly to vertically integrated DPOs, either directly or indirectly.

A. Wholesale Level: Regulated RIO model

- Regulated RIO Model (by revisiting current RIO of SD/HD) will ensure a non-discrimination and transparency amongst various stake holders in the value chain.
- We propose to have standard terms and conditions, defined by the regulator, at the wholesale level.
- In order to ensure non-discrimination and to maintain transparency standard terms and conditions should take care of the following:

a. Reporting Structure for Broadcasters:

- All Broadcasters on a regular basis (Eg: DPO's submitting quarterly PMR) should submit report to the regulator in prescribed format for compliance, confirmation of no discounts given in any other form like promotion, carriage or any such mechanism to achieve the end objective of higher discount to particular DPO.
- Such prescribed format should ask the Broadcaster to submit cost and revenue of each DPO for regulator to have a view of net cost across platforms and ability to highlight any anomalies.
- All Broadcasters must submit their Interconnect Agreement as and when signed with the Authority in order to maintain transparency
- The regulator must keep a check on Broadcasters affiliated with an arm's length relationship with the distribution platforms where they have investment interest like DTH, Mobile tv (owned through subsidiary) and cable business. Content Must Provide conditions must be extended in case of Mobile tv services to any DPO as currently it is monopoly of Broadcaster own Mobile tv App services only. Thus violating norms of Law of Cross Holding.
- **Compliance/ Monetary Report for all the broadcasters** irrespective whether they have any vertically integrated distribution platform or not should be made applicable. The Broadcaster should declare to TRAI the following on sworn affidavit by CFO:
 - (i) All financials declaration should be mandated on broadcasters.
 - (ii) No indirect discounts under any head should be permitted/ allowed.
 - (iii) No discounting mechanism should be permitted which are specially designed to provide benefit specific DPO's. It need to be ensured that, any discount model as may be proposed by the Broadcaster should atleast qualify to more than three distribution platforms.
 - (iv) It needs to be ensured that promotional schemes, if any introduced by the Broadcasters should be applicable to all DPOs on non-discriminatory basis. Further, it should be mandated by TRAI to Broadcasters, to declare their promotional schemes prominently on website. These promotional

schemes whether introduced or withdrawn by Broadcaster should be made part of reporting requirement.

- (v) Any and all related party transactions between Broadcaster and its linked DPOs should be declared by Broadcaster.
- (vi) Submit audited copy of balance sheet duly certified by Chartered Accountant.
- (vii) Copies of such declaration should be made available on TRAI's website.
- (viii) The Authority should also conduct audit once in every financial year, so as to ensure that no undue monetary benefits are passed on by Broadcaster to its linked DPOs, else the entire purpose of this consultation paper to ensure that offering of Channels in transparent and non-discriminatory manner from Broadcaster to DPOs shall get frustrated.

b. Broadcasters to declare all discount's, incentives or promotional offers upfront

- To reiterate the Standard terms and conditions should apply to all DPO's without any exception, discrimination and differentiation.
- All discounts structures, if any; on RIO rates to the DPO should be defined and approved by the Regulator.
- Any discounts offered by Broadcasters should be clearly defined in the Interconnect Agreement with all terms and conditions.
- No contract should have direct or indirect (eg: packaging driven discount structures) obligations which as per regulator is the DPO right but in current environment is forced by the Broadcaster.

c. Regulated RIO rates to be declared by Broadcasters

- All Broadcasters to clearly declare the regulated RIO price in form of A-la-carte and bouquet on their respective websites, and to the regulator on regular basis (Sony Pal running on Free Dish but charging subscription from other Pay Platforms). The prominent sports broadcaster running free Cricket (live or deferred) and other entertainment contents on Hotstar whereas they are charging hefty amount of subscription to DPOs and consumers. Broadcasters have to decide that if one channel is in pay nature, it should be available in pay nature on all kinds of transmissions whether through DTH/Cable/IPTV/Mobile tv or through internet. Free retransmission should be allowed only after six months of selling contents

on paid platforms. However, paid transmission on any kind of Pipe whether Cable/DTH/IPTV/Mobile tv is acceptable.

- Regulators intervention is requested re-regulate the RIO Rates for SD/HD by applying ceiling formula as suggested in our response to Question no. 1, 11, 15 and 16 and twin conditions to be applied on existing deals in reverse manner to ensure offering of Channels on A-la-carte and bouquet basis by Broadcasters on fair, non-discriminatory and in consumer friendly manner.
- There should be a correlation (Twin Condition) at the wholesale level between a-la-carte and bouquet prices. In fact in negotiated discounted deals the channels are offered in bouquet only to DPOs and priced accordingly. Therefore, the Twin Conditions referred in Telecommunication (Broadcasting & Cable Services) Interconnection (4th Amendment) Regulation 2007, Clause No. 13.2A.12 becomes applicable in such deals. If the Twin Condition is applied in reverse manner to all historical negotiated bouquet deals then it shall give us the real and actual price of Broadcasters for each channel as well as of bouquet.
- Broadcasters to declare bouquets as well as a-la carte on regional basis (Rest of India/Tamil/ Telugu/ Marathi/ Oriya/Bengali/Malayalam/Kannada etc).
- Consumers should be given an option to choose what he wants to view as per his language preference/ region. Choice should left to consumer whether to subscribe for Standard Definition or High Definition, he should be forced through DPO by broadcasters to charge for both SD&HD.
- The consumer should not be forced to take multiple language bouquets.
- Enough choice to be offered to the end consumer (Broadcaster to DPO and DPO to customer).
- The above will ensure complete transparency in the value chain.
- In this model, we should ensure that no Broadcaster will be forcing the value chain (DPO's and Consumers) to subscribe to all the channels by further discounting their channels.

d. 'Must Provide' to be implemented for Mobile TV Platforms

- Any content offered by the Broadcasters to any of the Mobile TV platforms must also fall in the "must provide" clause and if any discount is offered to one particular Mobile TV service provider, the same should be applicable to others as well
- Authorities are requested to ensure that the Broadcasters do not become distribution platforms in Mobile TV by floating 100% subsidiaries in Mobile TV and dominant market position

e. Availability of Pay Channels on DD Free Dish: Violation of Non-discriminatory offering of Channels

- If the channel is Pay in nature and if it is made available for free to the subscribers on any platform (Free Dish/ Mobile TV platforms), then in order to maintain non-discrimination and transparency, the same should be offered to others DPO's/ Mobile TV platforms as well free of cost

f. Transparency regarding availability of sports content on different Channels

- Broadcasters must declare in a transparent manner on what all channels are they going to offer sports events so that the same information can be passed on to the consumers which will help them choose wisely. Since Sports channels charge hefty subscription fee by selling bouquet on DPO's.
- In case of sports channels, we need to ensure that multiple channels are not forced on the value chain (DPO and consumers). Only specific channels as per the customers' demands should be made available.
- By offering same sports content on multiple sports channels and cloned channels, we are forcing the consumer to subscribe and pay for all the channels.
- We need to ensure that consumers should pick and choose the sports channel/ language he wishes to subscribe to based on his preferences.
- Offering of Sports Content on Mobile TV: After charging hefty fees from DPOs, the same sports channels offer their content for free on their own Mobile TV Platforms (Live/ Deferred Live) resulting in opportunity loss at the DPO's end and Government on the License fee revenue. It is clear cut unfair treatment with consumer as well as DPOs, who pay for same contents to see same on DTH/cable.

- On one side they are charging heavy subscription fee from DPO's and on the other they are offering the same services for free, which clearly shows a discrimination among various DPOs.

g. Implementation of Media Cross Holding Laws

- The regulator must keep a check on Broadcasters affiliated with an arm's length relationship with the DPO's.
- In order to maintain transparency, cross holding restriction for Broadcaster rule is for not holding more than 20% stake in any distribution platform. But today Broadcasters are clearly violating this rule by running Mobile Tv apps to their 100% owned subsidiary
- In order to maintain transparency and non-discrimination, Broadcaster has to decide whether to be a Broadcaster or a distribution platform. They cannot be both as it violates the cross holding norms

h. Packaging/ Bouquet formation at Wholesale Level

- As proposed in the Consultation Paper (Manner of Offering), firstly all the Pay channels and FTA channels cannot be clubbed together at wholesale level.
- Broadcaster to clearly define and declare their Pay Channels and FTA Channels.
- Nature (Pay/FTA) of Channel should not be differing from Platform to Platform.
- We propose a basic pack only of FTA channels

B. Retail Level: Price Forbearance model

- This model still exists in the market where there is forbearance in the retail level.
- All DPO's are offering different prices for a-la-carte and bouquet of channels at the retail level.
- In spite of forbearance at the retail level, none of the DPO's are able to capitalize on the forbearance because the input wholesale/ RIO price to DPOs are highly inflated and not practical, especially in case of High Definition channels, the sum of the RIO prices for approx. 50 High Definition channels comes to approx. INR 2000.

i. Sufficient Competition amongst various DPOs

- All DPO's (7 DTH and approx. 30 MSO's) are competing with each other in the market place as they are providing the same content given by the Broadcasters.
- The content is exclusively available to the Broadcasters and can be clearly defined as monopolistic products. However, the same channel/ content is available cross platforms (DTH and MSO's).

For eg:

- KBC only available on Sony channel but same channel/ content across all DTH and cable operators. So it defines that KBC programme in monopolistic nature is available only on Sony Channel but all DTH and cable operators provide the same channel.
- IPL matches only available on Set MAX/ Sony Six.
- All BCCI cricket matches including World Cup are exclusively available on Star Sports.
- Hence the need for the price to be regulated at the wholesale level and not at the retail level because there are multiple DPO's are operating in a competitive environment determined by market forces.
- DPO's are a prime example of successful free market dynamics in play for the consumer.

ii. Current Offering/ Packaging by DPOs to Customers

- In today's scenario, multiple bouquets are offered by the DPO's which caters to all socio-economic profiles of the customers (Pack price from Rs. 99/ Rs. 125/ Rs. 150/ Rs. 200 and so on). This clearly shows that market dynamics are deciding the price for the customers and DPO's are in no ways

overcharging the customer, given that each customer has multiple options to choose from, hence price forbearance at retail level has worked and should be continued.

iii. **After sales services: An important element to retain customer**

- DPO's besides keeping competitive pricing to lure customers, DPO's are also subject to extending regular after sales service with regard to CPE/ hardware, viewing experience, queries, clarifications etc. whereas Broadcasters are not directly servicing the customers. Their business model is B2B, whereas, DPO's business model is B2C. DPO's are always at a threat that if it is overpriced then its customers have the option to switch to other DPO's.

iv. **Unrealistic Wholesale Price leading to higher Retail A-la-carte Price**

- The A-la-carte prices are however on the higher side and the primary reason for the same is that the wholesale price from Broadcaster to DPO of individual channels is unrealistically high.

v. **Broadcaster's dictate packaging conditions**

- In this suggested model, the packaging rights lies with the DPO's. However, in order to get discounts on the RIO Rates from the Broadcasters, the DPO's currently let go their packaging rights as Broadcasters/ Channels dominate the whole value chain, and the purpose of this Consultation Paper is to correct that.
- The multiple bouquet offerings also show that Broadcasters do not want to sell their channels on A-la-carte and only want to sell their channels in bouquets.

vi. **PMR Submission by DTH Companies**

- It is very important to note that DTH companies are submitting exhaustive details about customer base, package prices and all details of retail pricing in form of quarterly PMR report. This in itself acts as a strong checks and balances for the regulator to have an overview of the retail level practices. We recommend the same be applied to DPO's (DTH, MSO, Mobile TV operators, IPTV etc) across all formats, if not already in practice.

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.

Out of the various models suggested by the Authority, we strongly recommend c) **Distribution Network Model** for reasons mentioned herein after. We have also separately mentioned the reasons for not supporting a) Conventional MRP Model b) Flexible MRP Model in **Annexure 7**, attached hereto.

We recommend this model subject to the following conditions:

- There should not be any basic pack as defined in the manner of offering.
- There would be only one pack – FTA Pack

a) FTA Pack to be mandatory subscribed by Consumer

- FTA Pack should be made available with maximum 100 FTA channels @ Rs. 150 + applicable taxes (Central, State, License Fee and any such other taxes) for the consumers, in order to cover the basic cost of DPO like DTH operation cost, Subscriber management cost, service, Transponder cost of carrying 100 FTA channels, IT, Spectrum cost, NOCC cost, Toll Free call centre cost.
- The price of Rs. 150 should be revisited every 2 years.
- Consumers will get 100 FTA channels, in which the DPO will get paid a minimum of Rs. 150 + applicable taxes (as defined above).

b) Bouquet of Pay Channels

- In order to protect interests of the consumers for choice of channels and budgeting their expenses Pay Channel Broadcasters should not force any kind of packaging on the DPO's. The packaging should be consumer friendly and the consumer should be able to decide what to pay and watch as per his language, genre preference.
- The channels that are a part of the ceiling rate will have to be offered by the Broadcasters to the DPO's on both A-la-carte as well as bouquet rates. **Our recommendation of this Model this subject to the Authority re visiting Current Rio Pricing based on historical negotiated deals and bring in realistic**

revised RIO price based on same. For recommended realistic Rio price kindly refer to Page no. 8 and Page no. 9 both of SD & HD on transparent and non-discriminatory basis.

- DPO's to make small multiple packages of 10 - 25 Standard Definition channels (of different genres wise and different broadcasters wise) each depending on the market/ region/ language.

c. Rental charges towards subscription of each Pay Standard Definition Channel from Consumer

- Over and above the minimum billing of Rs. 150 + applicable taxes, consumer will have to pay to DPO Rs.1.50. plus taxes (as defined above) per Standard Definition channel subscribed by consumers as per his choice. MRP of these channels to be declared by the broadcaster subject to new prescribed regulatory framework (realistic Rio Price) , as per the price mechanism fixation by the Authority based on current historical deals.

d. Rental charges towards subscription of each Pay High Definition Channel from Consumer

- In case of High Definition, consumer will have to pay Rs. 2.50 plus applicable taxes (as defined above) per channel to the DPO plus the cost of the pay High Definition channel declared by broadcasters, the MRP of high definition is to be brought under regulatory framework and stated in HD Price mechanism in this reply. The DPOs are requesting for higher rental charges by marginal Re.1 for High Definition channels as HD channel occupy higher bandwidth in transponder in which equivalent 5 Standard Definition channels can be run. The price acceptable for high definition for DPOs may be same as per standard definition if regulator is fixing the price for SD/HD same. Let the regulator decide linkage between SD and HD price, the same linkage percentage may be applicable to DPOs for carrying HD channels. The intervention from Authority is requested here to fix the realistic Rio prices for Standard and High Definition channels as per our suggestions to Regulated RIO Model as mentioned in response to Question no. 1. (page 8 & 9)

e. Capping of RIO Rates of Pay Broadcasters to DPOs

- In case of Pay Broadcasters, there would be a ceiling price (realistic Rio) on the existing RIO rates published by the Broadcasters as mentioned in the Regulated RIO Model. As it has been established in various forums and court orders that current RIO rates are unrealistically high, which needs to be revisited by the Authority in line with current discounted negotiated deals with 6 DTH players and major MSOs.

- The channels that are a part of the ceiling rate will have to be offered by the Broadcasters to the DPO's on both A-la-carte as well as bouquet rates.
- Existing Genre-wise channels and High Definition channels should become part of the ceiling price proposed by TRAI.

f. Handling Charges to be paid by Pay Broadcasters to DPOs

- Broadcasters will have to pay handling charges to DPO's for collecting money for pay channels on their behalf.
- The Handling Charges should be 50% as DPO's have to use their infrastructure and Dealer network to collect money on behalf of the Broadcasters. After paying 5% margin to recharge dealers, 10% License fee to MIB, DTH players left with the balance collection and invest in IT infrastructure to regulate cash flow from Recharge Outlets to Company.

g. Niche Channels

- Any channel which has 1% or less than 1% penetration worldwide called niche channels. Generally, these channels are subscription based channel and without advertisements. High Definition channels cannot be defined as niche.
- We recommend that the we should not distinguish between any channel as the industry has witnessed misuse of forbearance regime for the wholesale tariff. Examples are HD channels, rates of same is unrealistically high compared to SD channel. The similar nature of misuse may be seen in forbearance in case we leave certain channel outside the purview of regulation like niche channel. Hence Niche channels should not be differentiated and be treated at par with any other Channel.

h. Key Points

- The success of this model depends on High Definition prices also coming under regulatory RIO mechanism as recommended in the Price Mechanism mentioned herein.
- In case Twin Condition is applicable, it will be applicable to both broadcasters and DPOs.

- The key success of the models suggested in the entire consultation paper is purely dependent on the fact, as to how well and strictly the regime of discounting is regulated and governed. It needs to be ensured that any discounts, in any form if provided by the Broadcaster on the proposed RIO rates, it should not in any case circumvent the proposed regulations/ tariff orders by discriminately passing such discount in any form and any name to favored set of DPO.
- It needs to be ensured that no direct or indirect monetary advantage in any direct/indirect form or in any manner could be surreptitiously passed to select DPOs and particularly to vertically integrated Distribution Platform.
- In proposed tariff models, sufficient checks and balance mechanism / procedures should be established to avoid any artificial benefits being passed on by the Broadcasters to select DPOs and more particularly to vertically integrated DPOs, either directly or indirectly.
- The Authority should come out with a quarterly reporting framework for Broadcasters, like Compliance/ Monetary Report for all the broadcasters irrespective whether they have any vertically integrated distribution platform or not and additional reporting requirements should be made applicable to those distribution platforms which have Broadcaster's interest in them.

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

AND

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.

- In order to bring transparency and non-discrimination in distribution terms to all the DPOs we suggest the following mechanism. Also in order to safeguard the interests and the budgets of the consumers, the below solution is suggested
- The key success of any of the models suggested in the entire consultation paper is purely dependent on the fact, as to how well and strictly the regime of discounting is regulated and governed. It needs to be ensured that any discounts, in any form if provided by the Broadcaster on the proposed RIO rates, it should not in any case circumvent the proposed regulations/ tariff orders by discriminately passing such discount in any form and any name to favored set of DPO.
- It needs to be ensured that no direct or indirect monetary advantage in any direct/indirect form or in any manner could be surreptitiously passed to select DPOs and particularly to vertically integrated Distribution Platform.
- In proposed tariff models, sufficient checks and balance mechanism / procedures should be established to avoid any artificial benefits being passed on by the Broadcasters to select DPOs and more particularly to vertically integrated DPOs, either directly or indirectly. We propose to have standard terms and conditions, defined by the regulator, at the wholesale level. In order to ensure non-discrimination and to maintain transparency standard terms and conditions should take care of the following:
 - i. **Reporting Structure for Broadcasters:**
 - All Broadcasters on a regular basis (Eg: DPO's submitting quarterly PMR) should submit report to the regulator in prescribed format for compliance, confirmation of no discounts given in any other form

like promotion, carriage or any such mechanism to achieve the end objective of higher discount to particular DPO.

- Such prescribed format should ask the Broadcaster to submit cost and revenue of each DPO for regulator to have a view of net cost across platforms and ability to highlight any anomalies.
- All Broadcasters must submit their Interconnect Agreement as and when signed with the Authority in order to maintain transparency.
- The regulator must keep a check on Broadcasters affiliated with an arm's length relationship with the DPO's.
- Must Provide must be extended in case of Mobile tv services to any DPO as currently it is monopoly of Broadcaster own Mobile tv App services only. Thus violating norms of Law of Cross Holding.
- **Compliance/ Monetary Report for all the broadcasters** irrespective whether they have any vertically integrated distribution platform or not should be made applicable. The Broadcaster should declare to TRAI the following on sworn affidavit by CFO:
 - (a) All financials declaration should be mandated on broadcasters.
 - (b) No indirect discounts under any head should be permitted/ allowed.
 - (c) No discounting mechanism should be permitted which are specially designed to provide benefit specific DPO's. It need to be ensured that, any discount model as may be proposed by the Broadcaster should atleast qualify to more than three distribution platforms.
 - (d) It needs to be ensured that promotional schemes, if any introduced by the Broadcasters should be applicable to all DPOs on non-discriminatory basis. Further, it should be mandated by TRAI to Broadcasters, to declare their promotional schemes prominently on website. These promotional schemes whether introduced or withdrawn by Broadcaster should be made part of reporting requirement.
 - (e) Any and all related party transactions between Broadcaster and its linked DPOs should be declared by Broadcaster.
 - (f) Submit audited copy of balance sheet duly certified by CA.

(g) Copies of such declaration should be made available on TRAI's website.

The Authority should also conduct audit once in every financial year, so as to ensure that no undue monetary benefits are passed on by Broadcaster to its linked DPOs, else the entire purpose of this consultation paper to ensure that offering of Channels in transparent and non-discriminatory manner from Broadcaster to DPOs shall get frustrated.

New Regulatory framework for Broadcasters for price their channels should be defined. We are proposing few pricing mechanisms for this model, as under:

- FTA channels and Pay channels should not be clubbed together to maintain complete transparency in the offering at the DPO end.
- Broadcasters should not push any DPO to propose a package which could be anti consumer. This model should provide freedom to the customers to choose the channels and bouquets.
- Ensures a level playing field amongst various stakeholders in the value chain as their revenues are independent yet linked to the success of the other.
- It protects the interests of consumers and also encourages the broadcasters to offer niche channels
- Broadcasters to ensure that a pay channel content remain pay on all other platforms whether it Mobile TV app, IPTV or contents taken out from Pay TV and aired as FTA on DD free dish. Minimum six months' times must be allowed to make similar content free on other platforms. Broadcasters to make mobile TV contents available to any DPO on non discriminatory basis. Regulatory attention needed here to see that broadcasters do not violate any cross media holding on Mobile TV and government does not lose any licence fee opportunity.

CONSUMER INTERESTS

- In order to protect interests of the consumers for choice of channels and budgeting their expenses Pay Channel Broadcasters should not force any kind of packaging on the DPO's/consumers. The packaging should be consumer friendly and the consumer should be able to decide what to pay and watch as per his language, genre preference. Like currently subscribers has to pay for both SD/HD channels, if he subscribes to High Definition for same content and programmes!
- The channels that are a part of the ceiling rate will have to be offered by the Broadcasters to the DPO's on both A-la-carte as well as bouquet rates. Our acceptance of "Regulated RIO Model" are subject to regulatory re-regulating RIO prices of SD/HD as stated in our Price Mechanism as referred in our response to question no. 1, 11, 15 and 16 and on transparent and non-discriminatory basis. The success of this model depends on High Definition prices also coming under regulatory RIO mechanism as recommended in the Price Mechanism A and B.
- DPO's to make small multiple packages of 10 - 25 Standard Definition channels (of different genres wise and different broadcasters wise) each depending on the market/ region/ language.

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

AND

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

AND

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?

- It will not be out of place to mention here that the Authority whilst coming out with its detailed recommendations on new licensing regime through its recommendations dated 23rd July 2014 had categorically commented that there should be uniformity in the policy on cross-holding/“control” between broadcasters and Distribution Platform operators (DPOs), and amongst DPOs, in the broadcasting and distribution sectors.
- Whiles elucidating its proposition the Authority has inserted the definition of “Control” which we would like to reproduce verbatim as follows:-

1. Definition of “control”

- An entity (E1) is said to “Control” another entity (E2) and the business decisions thereby taken, if E1, directly or indirectly through associate companies, subsidiaries and/or relatives:
 - Owns at least twenty per cent of total share capital of E2. In case of indirect shareholding by E1 in E2, the extent of ownership would be calculated using the multiplicative rule. For example, an entity who owns, say, 30% equity in Company A, which in turn owns 20% equity in Company B, then the entity’s indirect holding in Company B is calculated as 30% * 20%, which is 6%.; Or (b) exercises de jure control by means of:
 - (i) having not less than fifty per cent of voting rights in E2; Or (ii) appointing more than fifty per cent of the members of the board of directors in E2; Or (iii) controlling the management or affairs through decision-making in strategic affairs of E2 and appointment of key managerial personnel; Or (c) exercises de facto control by means of being a party to agreements, contracts and/or understandings, overtly or covertly drafted, whether legally binding or not, that enable the entity to control the business decisions taken in E2, in ways as mentioned in (b) (i) (ii) and (iii) above.

2) Broadcasters and DPOs to be separate legal entities.

(i) Vertical integration:

- Rationalized and regulated vertical integration may be permitted between broadcasters and DPOs.
- The vertically integrated broadcaster or DPO, as the case may be, shall be subjected to an additional set of regulations vis-à-vis the non-vertically integrated broadcasters and DPOs.

(ii) Restrictions on Vertically Integrated entities:-

- The entity that controls a broadcaster or the broadcaster itself, shall be permitted to “control” only one DPO (of any category i.e. either an MSO/HITS operator or DTH operator) in a relevant market and vice-versa.
- The entity that controls a vertically integrated DPO or the vertically integrated DPO itself, shall not be allowed to “control” any other DPO of other category.
- If a vertically integrated DPO, while growing organically or inorganically, acquires a market share of more than 33% in a relevant market, then the vertically integrated entities will have to restructure in such a manner that the DPO and the broadcaster no longer remain vertically integrated.
- A vertically integrated broadcaster can have only charge-per-subscriber (CPS) agreements with various DPOs which should be non-discriminatory.
- A vertically integrated broadcaster shall file its RIO for its approval by the Authority. The RIO should cover all scenarios for interconnection and interconnection agreements should be only on the terms specified in the RIO.
- A vertically integrated DPO will have to declare the channel carrying capacity of its distribution network. And, at any given point in time, it shall not reserve more than 15% of this capacity for its vertically integrated broadcaster(s). The rest of the capacity is to be offered to the other broadcasters on a non-discriminatory basis.

➤ A vertically integrated DPO shall publish the access fees for the carriage of channels over its network. The access fee so specified shall be nondiscriminatory for all the broadcasters. DPO shall file the specified access charge, with justification, with the Authority.

➤ Considering the above we would like to state that the Authority needs to come out with restrictions on the existing vertically integrated broadcasters or DPOs in such a manner that they do not remain a significant market power.

Accordingly, there is an imperative need to identify and regulate the significant market power more closely and in a stringent manner, since these significant market powers have the ability to tilt the wholesale business in favour of specific set of DPOs.

We recommend that following factors should be considered as significant market powers

- i. Driver Channels of large broadcasters for general entertainment for general entertainment genre and such other driver channels in other genres.
- ii. Channels running popular programs
- iii. Channels having exclusive telecast rights for popular sports event like live cricket, WWE etc.
- iv. Channels having popular reach in particular region such as SUN Channels in South India.
- v. Entities having vertical integration in broadcasting and DPOs.

➤ The above said significant market powers are enjoying unfettered bargaining and many times leads to discrimination on commercial terms.

➤ These significant market powers are widely exploited to their advantage by the broadcasters to get their other weak channels to piggy ride and/or to discriminate between DPOs, which invariably favours the vertically integrated DPOs.

➤ These Forces would also be used by the broadcasters to put unreasonable restrictions on DPOs. Broadcasting ecosystem would have an adverse impact unless the driver channels are brought under an additional, strict and continuous regulatory supervision.

➤ The must provide rule must continue and must provide signal for Mobile TV also must be introduced for driver channels or for significant market powers.

- Beside this the Broadcaster and their vertically integrated DPOs should also be additionally categorised as significant power. As such it would be essential to keep a close watch on their deals and must be stringently regulated.

iii. **Regulatory Framework for significant market forces**

- To eliminate the aforesaid disadvantages, undue influence, monopoly and to achieve the purpose and objective of present consultation, the additional and intelligent regulatory framework is must for the significant market forces. We suggest:
 - a) Strict and continuous regulatory monitoring.
 - b) Imposition of compliance and regulatory regime.
 - c) Measures for ensuring non-discrimination and transparency as mentioned in response to Question no. 3 and 5 need to be followed in its letter and spirit.
 - d) Close monitoring the deals, discounts/ carriage/packaging/ commercial benefits offered to DPO, particularly in case of vertically integrated DPOs.
 - e) The artificial price increase of popular channels need to be regulated.
 - f) Review of all interconnect and other commercial agreements entered into by such dominating entities.
 - g) Periodical audits of the books of accounts, balance sheet and all other related documents including related party transactions.

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?

AND

Q15. What percentage of discount should be considered on the average genre RIO prices in the given genre to determine the price cap?

AND

Q16. What should be the basis to derive the price cap for each genre?

We are proposing the following Price Mechanisms.

The whole exercise is divided into two parts –

A. Currently how deals and A-la-carte rates are decided

and

B. The proposed model for price mechanisms.

A. Currently how the consumers' A-la-carte rates are decided

- Broadcasters offer RIO Rates (for channels on a-la-carte) to the DPO's, but prices are highly unreasonable and hurdle for subscribers to subscribe on a-la-carte
- DPO's have to add applicable taxes and Satellite cost & other operational cost on the RIO Rates and then define A-la-carte Price.
- Existing RIO Rates of all the Broadcasters are unreasonable and illogical; offering reasonable A-la-carte price is completely unviable for the DPO's
- In the historical TDSAT Judgment, it has been noted that the existing RIO Rates are FAUX.
 - Existing RIO Rates from Broadcaster to DPO for SD channels in Annexure 2.
 - Existing RIO Rates from Broadcaster to DPO for HD channels in Annexure 3.

➤ **Current Channels' RIO Rates vs. Reality**

- The cumulative RIO Rate published for approx. 200 SD pay channels: Rs.1200.
- The cumulative RIO Rate published for approx. 50 HD pay channels: Rs.2000.
- In reality, SD channels are cumulatively discounted in excess of 93%;
- In reality, HD channels are cumulatively discounted in excess of 95%; offered in the range of Rs.60-70 to the DPO's.
- It is very apparent from the existing negotiated deals, that effective RIO Rate of each SD channel from Broadcasters to DPO's is in the range of 0.70 paisa to Rs. 0.95 paisa and that of HD channel is in the range of Rs.2 to Rs.2.50/-.

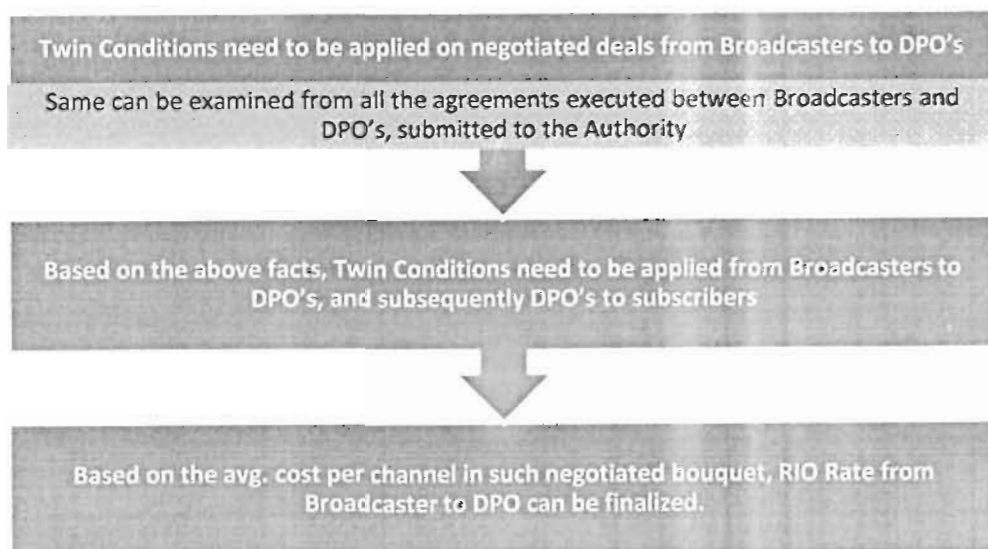
B. PRICE MECHANISM PROPOSAL

- Based on our observation and facts, we request the Authority to consider the following while regulating/re-regulating RIO prices:
- The Wholesale prices from Broadcasters to DPO SD/HD (DTH/MSO) need to be re-regularized in order to ensure reasonable A-la-carte rate can be offered by the DPO's (DTH/MSO) to the subscribers.
- Existing RIO Rates should be re-regulated by looking at the existing and historical commercial deals between Broadcasters and DPO's (DTH/MSO).
- The negotiated deals entered between most of the Broadcasters and DPO's are in the bouquet form. If such deals are examined and Twin Conditions are applied (on Broadcaster negotiated rates), the actual A-la-carte rate of each channel would be much lesser than the published RIO rates. Broadcaster should be regulated to publish the real RIO prices, rather than the faux RIO prices.
- In fact in negotiated discounted deals the channels are offered in bouquet only to DPOs and priced accordingly. Therefore, the Twin Conditions referred in Telecommunication (Broadcasting & Cable Services) Interconnection (4th Amendment) Regulation 2007, Clause No. 13.2A.12 becomes

applicable in such deals. If the Twin Condition is applied in reverse manner to all historical negotiated bouquet deals, then it shall give us the real and actual price of Broadcasters for each channel as well as of bouquet.

Note: The Twin conditions referred herein above are the Conditions laid down in the Telecommunication (Broadcasting & Cable Services) Interconnection (Fourth Amendment) Regulation 2007, Clause No. 13.2A.12 for Broadcasters/ aggregators.

Based on negotiated commercial deals, determination of Wholesale Price for SD/HD Channels



Calculation based on negotiated deals for SD/HD Channels

STANDARD DEFINITION CHANNELS					
Broadcaster	No. of SD Channels	Current published RIO Rate	Actual Negotiated Avg. Deal Value per Subscriber	Current Avg. Cost per Channel in bouquet	Proposed A-la-carte RIO Rate
		(INR)	(INR)	(INR)	(INR)
Star Network	25	129	20 – 23	0.95	0.95
Star Sports	4	58	9 – 10	2.50	2.50
Zee Network	36	162	23 – 26	0.75	0.75
Ten Sports	3	36	3 – 4	1.30	1.30
Sony Network	12	97	10 – 15	1.00	1.00
IndiaCast Network	32	142	10 – 15	0.40	0.40
SunTV Network	28	218	40 – 44	1.50	1.50
Others	62	324	10 – 12	0.20	0.20
Total	202	1166	80 – 85		

For detailed channel wise pricing for SD Channels, kindly refer Annexure 4.

HIGH DEFINITION CHANNELS					
Broadcaster	No. of HD Channels	Current published RIO Rate	Actual Negotiated Avg. Deal Value per Subscriber	Current Avg. Cost per Channel in bouquet	Proposed A-la-carte RIO Rate = Proposed Rate of Standard Definition Channel
		(INR)	(INR)	(INR)	(INR)
Star Network	11	316	22 – 24	2.20	0.95
Star Sports	4	200	10 – 11	2.50	2.50
Zee Network	6	180	13 – 18	2.00	0.75
Ten Sports	2	175	2 – 3	2.00	1.30
Sony Network	4	200	13 – 15	3.50	1.00
IndiaCast Network	4	175	10 – 12	2.75	0.40
SunTV Network	4	145	28 – 32	7.50	1.50
Others	14	648	12 – 14	0.82	0.20
Total	49	2039	60 – 70		

For detailed channel wise pricing for HD Channels, kindly refer Annexure 5.

- In order to meet the objective of offering channels at reasonable a-la-carte rates to the consumers, we propose the following:

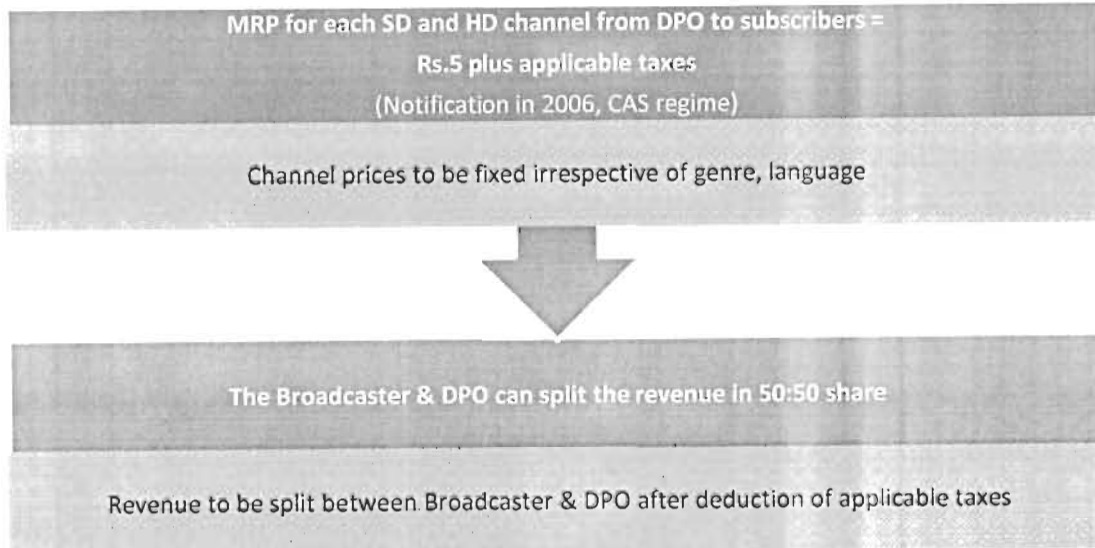
- The Regulator may kindly examine the data and verify the fact as stated above based on the existing & historical deals of DTH/MSO Platforms for last three years.
- The calculation will show Broadcasters are offering approx. 92-93% discount on existing RIO rates which clearly shows that current RIO prices are only eye wash and not realistic.
- As such the RIO Rates need to be re-regulated based on the actual deals, the same would immensely benefit the end-consumers. Our acceptance of “Regulated RIO Model” are subject to regulatory (request with folded hands) re-regulating RIO prices for SD & HD and on transparent and non-discriminatory basis.

Precautions for implementation of these models:

- The key success of these models and in fact any of the models suggested in the entire consultation paper is purely dependent on the fact, as to how well and strictly the regime of discounting is regulated and governed. It needs to be ensured that any discounts, in any form if provided by the Broadcaster on the proposed RIO rates, it should not in any case circumvent the proposed regulations/ tariff orders by discriminately passing such discount in any form and any name to favoured set of DPO.
- It needs to be ensured that no direct or indirect monetary advantage in any direct/indirect form or in any manner could be surreptitiously passed to select DPOs and particularly to vertically integrated Distribution Platform.
- In proposed tariff models, sufficient checks and balance mechanism / procedures should be established to avoid any artificial benefits being passed on by the Broadcasters to select DPOs and more particularly to vertically integrated DPOs, either directly or indirectly.
- The Authority should come out with a quarterly reporting framework for Broadcasters, like Compliance/ Monetary Report for all the broadcasters irrespective whether they have any vertically integrated distribution platform or not and additional reporting requirements should be made applicable to those distribution platforms which have Broadcaster’s interest in them. This mechanism is further elaborated in our response to Question 3 and 4.

Model 2

MRP of SD/HD channels (Rs.5 per channel on revenue share) as per CAS Interconnect Regulation, 2006



C. Illustration: For Standard Definition

Subscriber Choice	
Price (plus applicable Taxes)	
FTA Pack	150.00
Add-on	50.00
Total Cost	200.00
Add-on 50.00	
Star Plus	5.00
Zee TV	5.00
Colors	5.00
Life Ok	5.00
Sony	5.00
Sony SAB	5.00
Zee Zindagi	5.00
&TV	5.00
Star Gold	5.00
Zee Cinema	5.00

Revenue to be split between Broadcaster & DPO in 50:50,
post deduction of applicable taxes

Channels	Net Revenue Collected	Broadcaster Share	DPO Share
Star Plus	5.00	2.50	2.50
Zee TV	5.00	2.50	2.50
Colors	5.00	2.50	2.50
Life Ok	5.00	2.50	2.50
Sony	5.00	2.50	2.50
Sony SAB	5.00	2.50	2.50
Zee Zindagi	5.00	2.50	2.50
&TV	5.00	2.50	2.50
Star Gold	5.00	2.50	2.50
Zee Cinema	5.00	2.50	2.50

D. Illustration: For High Definition:

Subscriber Choice	
Price (plus applicable Taxes)	
FTA Pack	150.00
Addon	50.00
Total Cost	200.00
Addon 50.00	
Star Plus HD	5.00
Zee TV HD	5.00
Colors HD	5.00
Life Ok HD	5.00
Sony HD	5.00
Max HD	5.00
MTV Indies HD	5.00
& Pictures HD	5.00
Star Gold HD	5.00
Zee Cinema HD	5.00

Revenue to be split between Broadcaster & DPO in 50:50,
post deduction of applicable taxes

Channels	Net Revenue Collected	Broadcaster Share	DPO Share
Star Plus HD	5.00	2.50	2.50
Zee TV HD	5.00	2.50	2.50
Colors HD	5.00	2.50	2.50
Life Ok HD	5.00	2.50	2.50
Sony HD	5.00	2.50	2.50
Max HD	5.00	2.50	2.50
MTV Indies HD	5.00	2.50	2.50
& Pictures HD	5.00	2.50	2.50
Star Gold HD	5.00	2.50	2.50
Zee Cinema HD	5.00	2.50	2.50

Regulating RIO Rates for HD Channels

- There is no difference in content in the SD & HD channels in 99.5% cases, the programs are being simulcast/ shufflecast in the corresponding HD channel
- No different rates for corresponding SD or HD channels, so that the consumers do not need to pay double for watching the same content. Currently subscribers are forced to subscribe the SD channel first in order to view the corresponding HD channel. On the above recommendations both sd and hd wholesale as well as retail price gets regulated.
- We strongly feel that HD price should be kept as same as standard Definition, and the choice should be left to customer to decide whether to watch content on HD or SD.

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.

- News & Current Affairs, Infotainment, Sports, Kids, Movies, Devotional, GECs
- We would like to add some genres like GEC, Movies and News to be further split into “National” and “Regional”.
- We must ensure that the Broadcasters adhere to the above genres for defining their prices as well as content. No content to be available on channel catering to multiple genres. Like sports should be available only on sports, movies should be available only on movies and vice versa.
- In order to maintain transparency, Broadcaster must not shuffle their content from one channel to another, especially in the case of sports and movies.

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.

- We would like to some genres like GEC/Movies and news to be split further “National” and “Regional”.
- There are some large states like Tamil Nadu, Maharashtra, Telangana, Karnataka, Kerela, and Bengalwhere there is a huge following of language based GEC, Movies and News.Hence it is justified to have regional GEC/ movies/ news as it caters to demands of only one particular market based on the language preference.

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

- There is an imperative need to identify and regulate the significant market power more closely and in stringent manner, since these significant market powers have the ability to tilt the wholesale business in favour of specific set of DPOs.
- We recommend that following factors should be considered as significant market powers
 - i. Driver Channels of prominent broadcasters for general entertainment for general entertainment genre and such other driver channels in other genres..
 - ii. Channels running popular programs
 - iii. Channels having exclusive telecast rights for popular sports event like live cricket, WWE etc.
 - iv. Channels having popular reach in particular region such as SUN Channels in South India.
 - v. Entities having vertical integration in broadcasting and DPOs.
- The above said significant market powers are enjoying unfettered bargaining and many times leads to discrimination on commercial terms.
- These significant market powers are widely exploited to their advantage by the broadcasters to get their other weak channels to piggy ride and/or to discriminate between DPOs, which invariably favours the vertically integrated DPOs.
- These Forces would also be used by the broadcasters to put unreasonable restrictions on DPOs. Broadcasting ecosystem would have an adverse impact unless the driver channels are brought under an additional, strict and continuous regulatory supervision.
- The must provide rule must continue and must provide signal for Mobile TV also must be introduced for driver channels or for significant market powers.
- Beside this the Broadcaster and their vertically integrated DPOs should also be additionally categorised as significant power. As such it would be essential to keep a close watch on their deals and must be stringently regulated.

Regulatory Measures for non-distortion by Significant Market Power

To eliminate the aforesaid disadvantages, undue influence, monopoly and to achieve the purpose and objective of present consultation, the additional and intelligent regulatory framework is must for the significant market forces. We suggest:

- i. Strict and continuous regulatory monitoring.
- ii. Imposition of compliance and regulatory regime.
- iii. Measures for ensuring non-discrimination and transparency as mentioned in response to Question no. 3 and 5 need to be followed in its letter and spirit.
- iv. Close monitoring the deals, discounts/ carriage/packaging/ commercial benefits offered to DPO, particularly in case of vertically integrated DPOs.
- v. The artificial price increase of popular channels needs to be regulated.
- vi. Review of all interconnects and other commercial agreements entered into by such dominating entities.
- vii. Periodical audits of the books of accounts, balance sheet and all other related documents including related party transactions.

Q17.What should be the frequency to revisit genre ceilings prescribed by the Authority and why?

We feel that authorities can revisit the genre ceiling after every 3-5 years. We are suggesting 5 years initially because the whole nation needs to be digitised. Phase 4 needs to be achieved and we are hopeful that after 5 years, hence sufficient time should be allowed to settle the genre wise ceiling price.

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

AND

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?

Today there are 2 kinds of prices published by the Broadcasters:

A) Channel wise price for analogue cable

B) Channel wise price for transparent platforms like DTH/ digital cable/ IPTV/ Hits.

When the price fixation came into force first time in 2004 and industry started getting regularized, that time there was 100% analogue cable was prevalent. The declaration from cable about number of connections to the Broadcaster as well to the Governments was to the tune of only 10%. That is why very high RIO Rates were kept initially and which was discounted heavily to transparent platforms. The scenario in the last 15 years has changed after DTH has come into existence. There has been almost 80% household in India which are addressable. Hence, the formula of 42% of the published RIO rate to digital platform and 100% rate for analogue platforms is not justifiable. There have been a lot of technological innovations after the first price fixation like introduction of High Definition, 4K channels, introduction of mobile TV services etc. these innovations also need to be included in authorities revisiting the RIO Price regulation.

Hence, we request the authorities to kindly refer to our suggestions on Regulated RIO price describing maximum discount from Broadcaster to DPO's as addressed in response to Question 1,. which describes discount of 92% from current declared Rio as realistic Rio price. Hence we recommend discount of 92% from current Rio price published. (Described in table in next page)

STANDARD DEFINITION CHANNELS

Broadcaster	No. of SD Channels	Current Total RIO Rate	Current actual Negotiated Avg. Deal Value per Subscriber	Current Avg. Cost per Channel in bouquet	Proposed A-la-carte RIO Rate
		(INR)	(INR)	(INR)	(INR)
Star Network	25	129	20 – 23	0.95	0.95
Star Sports	4	58	9 – 10	2.50	2.50
Zee Network	36	162	23 – 26	0.75	0.75
Ten Sports	3	36	3 – 4	1.30	1.30
Sony Network	12	97	10 – 15	1.00	1.00
IndiaCast Network	32	142	10 – 15	0.40	0.40
SunTV Network	28	218	40 – 44	1.50	1.50
Others	62	324	10 – 12	0.20	0.20
Total	202	1166	80 – 85		

HIGH DEFINITION CHANNELS

Broadcaster	No. of HD Channels	Current Total RIO Rate	Current actual Negotiated Avg. Deal Value per Subscriber	Current Avg. Cost per Channel in bouquet	Proposed RIO Rate = Proposed Rate of Standard Definition Channel
		(INR)	(INR)	(INR)	(INR)
Star Network	11	316	22 – 24	2.20	0.95
Star Sports	4	200	10 – 11	2.50	2.50
Zee Network	6	180	13 – 18	2.00	0.75
Ten Sports	2	175	2 – 3	2.00	1.30
Sony Network	4	200	13 – 15	3.50	1.00
IndiaCast Network	4	175	10 – 12	2.75	0.40
SunTV Network	4	145	28 – 32	7.50	1.50
Others	14	648	12 – 14	0.82	0.20
Total	49	2039	60 – 70		

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

AND

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.

AND

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

AND

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

AND

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”?

We recommend that the Authority should not distinguish between any channels, since in past the industry has witnessed misuse of forbearance regime for the wholesale tariff. Broadcasters have certain High Definition Channels which they have launched by declaring unrealistically high RIO Rates as compared to their Standard Definition channel variant, thereby, causing significant adverse impact on both the distribution platforms and consumers. The similar misuse is also possible, in case, we leave pricing of certain channel in forbearance and outside the purview of regulation. Hence, Niche channels should not be differentiated and be treated at par with any other Channel.

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

- We strongly that time has come for authorities to look into decision of pricing high definition channels as 99% of High Definition (HD) channels carry same feed of Standard Definition (SD) channels, it is simulcast or shuffle cast. The consumer is made to pay twice for HD & SD feed for same channel if he is subscribing for HD. Since the HD channel rates have not been defined or regularized, broadcasters fare taking full advantage of the forbearance and are charging exorbitant rate for HD channels.

HOW TO REGULATE HD PRICE

- In our opinion the price for SD & HD channel if carrying same content should be standardized as same price, it should be left to customer to opt for HD or SD. In order to regularize HD price kindly refer to the below table suggestions:

HIGH DEFINITION CHANNELS					
Broadcaster	No. of HD Channels	Current Total RIO Rate	Current actual Negotiated Avg. Deal Value per Subscriber	Current Avg. Cost per Channel in bouquet	Proposed RIO Rate = Proposed Rate of Standard Definition Channel
		(INR)	(INR)	(INR)	(INR)
Star Network	11	316	22 – 24	2.20	0.95
Star Sports	4	200	10 – 11	2.50	2.50
Zee Network	6	180	13 – 18	2.00	0.75
Ten Sports	2	175	2 – 3	2.00	1.30
Sony Network	4	200	13 – 15	3.50	1.00
IndiaCast Network	4	175	10 – 12	2.75	0.40
SunTV Network	4	145	28 – 32	7.50	1.50
Others	14	648	12 – 14	0.82	0.20
Total	49	2039	60 – 70		

- To re-iterate the customer and DPO currently is forced to pay for both Standard Definition and High Definition version of the same channel for each customer. When in fact the charge should be for only a single version.

- TRAI has given forbearance to HD channels RIO Rates. Broadcasters' published RIO rates for HD channels are completely unreasonable. E.g.

Star Plus SD = INR 7.87	Star Plus HD = INR 30
Star Sports SD 1 = INR 14.89	Star Sports HD1 = INR 50
Ten Sports SD = INR 6.74	Ten HD = INR 125

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?

- There is no difference in content in the SD & HD channels in 99.5% cases, the programs are being simulcast/ shufflecast in the corresponding HD channel
- No different rates for corresponding SD or HD channels, so that the consumers do not need to pay double for watching the same content. Currently subscribers are forced to subscribe the SD channel first in order to view the corresponding HD channel.
- We strongly feel that HD price should be kept as same as standard Definition, and the choice should be left to customer to decide whether to watch content on HD or SD

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?

- No we do not support similar content in different formats (HD and SD) in a given bouquet be pushed to the subscribers:
 - Today Broadcasters are offering similar/ simulcast/ shufflecast content on their HD channels
 - Today all the HD channels are nothing but clones of their respective SD channels
 - There is no differentiation in the content from the consumer perspective
 - HD channel runs equal amount of advertisements as their cloned SD channel

- In order to increase revenues from DTH operators, Broadcasters are creating more & more HD channels by distributing existing content into various new channels
 - Broadcasters push DPO's to carry their HD channel as a part of the HD packs and charge separately for the same channel
 - Customers are forced to subscribe to the SD version of a channel in order to gain access to the HD version of the same channel
 - Broadcasters should ensure that they do not force HD packaging along with their SD channel
 - Broadcaster should also ensure that consumer has an option to choose HD and only pay for HD
 - If Broadcasters do not push the DPO's to package SD and HD together, then DPO's can ensure that the customers get the option to pay for either one of SD or HD
 - If a customer subscribes to HD version of a particular channel, then the SD version should be made available free of cost as he is already paying a premium for HD channel

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.

Yes, we strongly support the manner of offering as elaborated in Distribution Network Model

- This would be completely consumer friendly
- This will also ensure that consumers can easily choose between FTA and Pay channels at any given point of time
- Broadcasters can easily define their multiple bouquets and the same can be transparently communicated to the end consumer
- DPO's can also define Pay channel bouquets depending on region/ language/ preferences of the end consumer
- This will also ensure transparency and non-discrimination as Broadcasters will have to clearly define their channels, either as Pay or FTA, unlike today where channels are defined Pay and running free of cost on some platforms creating discrimination

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.

We have already made every possible mode of choosing channels and bouquets available to our subscribers. The subscriber can easily choose channels and bouquets through the various modes mentioned below:

- Website
- In case rural customers who do not have access to internet can visit their near dealer shop and fill up form for required channel
- During Engineer Visits for complaint calls
- Toll free numbers for Call Centre
- Mobile App
- Missed Call
- SMS
- CAF form at time of purchase

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

The activation is instant through all the above mentioned resources. Once customer chooses his/her desired channel list and presses button "submit" the changes are immediately registered in the system and he can check the same on his TV screen instantly.

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

AND

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

There are broadly two kinds of carriage fees which are in practice in the broadcasting industry. For the sake of convenience we may categorize them into two as follows:-

➤ **Category “A” Carriage**

- Firstly, the carriage is being paid by those broadcasters whose free to air channels need promotion, eyeballs in order to make them known in the market. These channels want to come on any given distribution platform to create an identity of their own and prosper. Such channels normally have the content of religious nature, cultural, social messages, shopping, advertising nature.

➤ **Category “B” Carriage**

- Secondly, there are certain pay channels for which broadcasters prefer to pay carriage fee to various distribution platforms in order to secure their preferred Linear Channel Number and also to get favorable packaging.
- We recommend that the carriage fee for the start- up free to air channels falling under the Category “A” as mentioned above should be kept under forbearance. We further recommend that the carriage fee for the channels falling under the Category “B” should be regulated in order to ensure that the same is paid in a non-discriminatory manner to various distribution platforms.
- Presently carriage is paid for two reasons viz. (a) for passing indirect discount to select DPOs, which in turn discriminate with equally placed DPO and (b) For getting favourable position in LCN to increase the penetration and reach of the channels for increase in advertisement revenue of such channels.
- We propose that any carriage fees should not be used as an indirect method of passing discount to select DPOs, particularly to vertically integrated DPOs.

- Any agreement of carriage should be part of the main interconnect agreement and the separate carriage agreement shall be strictly prohibited. If there is a discrimination and in direct passing of discount to select DPOs the very purpose of the entire consultation process would get defeated. There should be complete transparency and non-discrimination for any carriage paid to any DTH, Digital MSOs, HITS operator, IPTV and Mobile TV.
- The carriage in above category should be non-discriminately paid per subscriber basis to the said DPOs so as to ensure that the carriage fee gets paid in accordance with the subscriber base of a particular DPO.
- We need to ensure that the Broadcasters should function in a transparent and non-discriminatory format while deciding the carriage payouts.
- If Broadcaster chooses to offer carriage in any form (Marketing fee/ promotion/ placement fee) to any DPO, the same should be applicable to all.
- The carriage paid to Government owned DD Free dish can be taken as precedence/ benchmark for above mentioned DPOs.
- Broadcasters pay carriage fee to ensure reach of their channels (FTA and Pay) which in turn boosts their advertising revenue. The balance sheet of broadcaster would show that advertisement revenue would be much larger than the subscription revenue. As such there will not be any loss to the Broadcasters by paying the carriage fees. Carriage Fee is a well planned investment from the Broadcasters to multiply their advertising revenues
- The key success of any of the models suggested in the entire consultation paper is purely dependent on the fact, as to how well and strictly the regime of carriage fee is made transparent and non discriminatory and made to pay on per subscriber basis to the above mentioned DPOs.
- Any agreement for the carriage should form an integral part of interconnect agreement and multiple agreement regime should be abolished.

- It needs to be ensured that no direct or indirect monetary advantage through carriage fees in any direct/indirect form or in any manner could be surreptitiously passed to select DPOs and particularly to vertically integrated Distribution Platform.
- In proposed tariff models, sufficient checks and balance mechanism / procedures should be established to avoid any artificial benefits through carriage fees in any name being passed on by the Broadcasters to select DPOs and more particularly to vertically integrated DPOs, either directly or indirectly.
- All Broadcasters on a regular basis (Eg: DPO's submitting quarterly PMR) should submit report to the regulator in prescribed format for compliance, confirmation of declaration of carriage fee paid by Broadcasters to DPOs.

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?

AND

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?

AND

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?

There is no need to prescribe maximum carriage fee charged by distribution platform operators per channel per subscriber:

- The government owned Free Dish gets into an e-auction to get carriage and multiple Broadcasters bid for the limited availability on Free Dish.
- The reach of Free Dish is approx. 15 mn active homes.
- The average slot sold by Free Dish is for Rs. 5 crore/ channel/ annum.
- So per month, the average carriage fee charged by Free Dish is Rs. 41.66 lacs per channel.
- Calculating on per subscriber per month basis, the carriage fee comes out to be Rs. 0.27 (27 paise/subscriber/month).
- The above formula should be implemented for any kind of carriage on all digital platforms on transparent and non-discriminatory basis.
- There should be clear and transparent parameters laid by the Broadcasters on Carriage Fee based on the above formula.

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?

We strongly feel that there is a need to regulate variant/ cloned channels in order to protect consumer interests:

➤ In today's scenario, please note the following facts

- Sports broadcasters have multiple feeds/channels (SD and HD both),
- Sports Broadcasters divide their sporting events across multiple channels including channels from other genres
- Sports Broadcasters are running multiple channels in which they spread out their limited sporting properties
- They also have channels offering the same content but in different languages.
- In order to garner more advertising revenue, they offer content on channels on channels that have greater reach (Regional GEC's, Movies) eg. IPL last year was also shown on Bengali Sony Aath channel, etc.
- In case of some events, the same event is being telecasted on 7-8 channels of the same Broadcaster
- On top of it, it is also available on HD and the consumers are billed separately for the same
- Likewise, they have multiple channels for HD as well running the same feed.
- There is no transparent and clear communication in the value chain as to what sporting content will be telecasted on what channel which forces the consumers to subscribe to multiple genres or else miss out on some event
- The reason to bundle all the channels together is to ensure hefty revenue from the DPO's

- Broadcasters also looking at launching multiple regional sports channels which will further complicate the existing scenario.
- After charging hefty fee for sports and other contents, Sports is also shown on Mobile tv through wholly owned subsidiary, DPOs feel helpless in this and request authorities to come out for regulation for mobile tv App (through wholly owned subsidiary) based platform. Also must provide rule for Mobile tv should also be extended in case in DPOs want to offer same services to any customers. Currently Mobile tv business is in Monopolistic nature to broadcasters as they do not share the content to other DPOs except distribution platform owned by themselves.

We strongly feel that we need to protect the interest of consumers and the following should be applicable:

- The Broadcasters must transparently declare the content of each sports channel
- We must ensure that the consumer should have complete freedom to pick and choose the sports channels of their choice and language
- We should make it mandatory for sports channels to be sold as A-la-carte or separate sports bouquets. Not to be clubbed with other genre channels
- This will ensure adequate consumer choice and non-discrimination towards DPO's
- Broadcasters should not be allowed to put their content on any other channel of different genre
- Within the genre, they should clearly define the content that will be telecasted so that the consumer can choose freely
- There are many other channels which run content on simulcast/ shufflecast manner (Movies and GEC)
- The same content is available on OTT application free of cost
- We strongly recommend and support that the consumer should have multiple options and should be able to make a choice based on his preferences (Region/ language/ SD and HD) rather than being forced to subscribe to bouquets specially for cloned/ simulcast/ shufflecast channels.

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?

Yes, we agree with authorities that EPG must include details of program of the channels not subscribed by the customer. Thus there is always a possibility of the subscriber evincing interest to sample the available fare that might further lead to a subscription to one or more of these channels. However, our EPG already displays those channels which, though offered by the platform operator, have however not been subscribed by the consumer.

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.

Currently the middleware does not support the PIP functionality. However depending on middleware vendor, this feature can be incorporated. How much this will take cannot be quantified now.

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.

- Not available from Broadcasters end. The agreements on the content permit such functionality. However we are ready (technology wise feasible) to fully support the functionality provided the content deals are offered in the prescribed format
- Feasible to implement through SMS
- The tariff of PPV should be left in forbearance as PPV contents are niche in nature and pricing and subscribing by consumer solely depends on nature of content and quality. Eg. Toppers, New movie on demand, English learning etc.

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

- There is no additional cost for the subscriber but needless to say the subscriber will have to pay the content cost of PPP
- However there is a cost to the DPO for doing the same towards setting up infrastructure etc.

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.

- Currently Broadcaster Auditor are provided SMS & CASlogs along with Active Paying figures (both Month and Active Figures as well as for any given day pertaining to Audit Period requested by Auditor). This works well for DTH Service Provider as well as Broadcaster. This information is enough for a Broadcaster to safeguard their Revenue/ Business interests.
- We have strong apprehension that the Broadcasters being vertically integrated to the select DPOs, use the audit mechanism for extracting the confidential business information of the DPOs. Presently most of the details proposed in a consultation paper are unnecessary, unwarranted for verifying the subscriber details and numbers.
- Package Wise, Circle, State, District, Pin-code wise Active – Suspended - Churn Subscribers – Used and Unused Smart Card information is used for extracting the confidential business data, which should not be permissible.
- Many times it is noticed that the Broadcaster use the audit mechanism for arm twisting vis a vis to favor vertically integrated DPOs, through the favored / related permanent auditor appointed by them. Therefore, there is a need to establish a panel of independent and impartial auditors which will be common for entire industry.
- The independent, impartial and reputed Panel of Auditors should be established for entire industry. The DPOs should have an option to get self audited and certified from any of the auditor from such selected panel and such certificate should suffice.
- Proposed model is not acceptable to DTH Platform, Broadcasters under pretext of proposed audit norms are trying to get access to Sensitive, Core operational information, Processes and Trade Secretes of DTH operators.

- Proposed Audit Mechanism is a BIG Risk on Data confidentiality part. Data uploaded to Common Server, where in person can take out data dumps and hence open to misuse/ Pilferage.
- Information posted on proposed Common server: For a given DTH platform Broadcaster can have visibility to number of active subscribers for other broadcasters as well. This is not acceptable.



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

1. Mobile TV (through smart phone app) platforms by broadcasters need to be regulated:

- When the license fee rules were decided, these innovative technologies such as Mobile TV were non-existent, hence no rules are there for Mobile TV. However, time has come to regularize the same. Today India has 170 Million television homes and has 120 Million smart phone penetration. By 2020 India will have 210 Million television homes and 500 Million smart phone penetration through which customer can now see television like content or Live television content. It should have considered as television size has shrunk to fit into your palms. We therefore strongly insist/request there should be a license fee for Mobile TV platforms and a level playing fee must be created for all digital platforms whether it is IPTV, Mobile TV, DTH or Digital Cable Operators/MSOs).
- We request the authority that the agreements signed between Broadcasters and DPO's should have a mandatory clause mandated by TRAI that any content that is being provided to the DPO cannot be offered on OTT and mobile TV/free dish platforms for at least 6 months of airing it, in order to create a level playing field. Cross holding restriction for Broadcaster rule is there for not holding more than 20% on any distribution platform but it has been observed that Broadcasters are clearly violating this rule but running Mobile TV App business through their 100% owned subsidiaries.
- Broadcasters are not governed by any specific act, except Cable Television Act, in relation to programming and advertising code, which was enacted primarily for cable operators.
- Most of such content is available on Mobile platforms for free which is a clear case of discrimination.
- Broadcasters must decide whether they wish to be a Broadcaster or a distribution platform and should not be both.



2. IPTV/ Fibre to Home (FTH)

As we know that there are large industrial houses in country who after getting unified license are playing to distribute television signals through Fibre to Home('FTH') and also through Mobile TV. In order to save interest of smaller LCOs and other distribution platforms like MSOs and DTH Platforms who have entertained millions of houses from last 40 years. We would request the Authority to kindly consider sufficient laws in order to bring level playing field. Legal, taxation and regulatory framework applicable to all distribution platforms including Mobile TV may be introduced so as to achieve parity amongst similarly placed platforms.

3. Success of every model depends on the RIO Price set by the TRAI and not by Broadcaster

- We have high regards for TRAI for introducing Consultation Paper on Tariff Order.
- We do appreciate few models suggested by TRAI, but the success of all these models is dependent on the RIO price set by the Authorities as to whether they would be arrived at taking the existing deals of 6 DTH and 6 large MSO's.
- TRAI is requested to issue a ceiling on Broadcaster announcing their RIO Rate based on the commercially negotiated deal values of 12 DPO's or more.
- This is important because otherwise the Broadcasters can jack up the price of their driver channels and set them really high in order to extract more value from DPO/ customer, that the whole purpose of revisiting the Price is defeated. Authorities guidelines are must to announce new RIO prices for both SD/HD channels.



Exhibit 1

ABSTRACTS FROM HISTORICAL TDSAT JUDGEMENT DELIVERED ON 7TH DECEMBER 2015 REGARDING NON-DISCRIMINATORY RIO RATES AND OFFERS FROM BROADCASTERS TO DPO'S

Advertisement - A Major Source Of Revenue For Broadcasters

The broadcaster's content on being given for viewing generate two separate streams of revenue. One is the licence fee that is passed onto the viewers and is collected from each TV household, either directly by the distributor (like the DTH operator) or through the last mile carrier, the local cable operators (in case of multi-system operators and HITS operators) and is then shared by the players along the distribution line with a substantial percentage going to the distributor. The other is the revenue for the broadcaster from advertisements. In this stream, the distributors are unlikely to have any direct share but for the broadcaster this second stream of revenue is no less important than the first one.

[Para 3 of Page 23 of the Judgment]

TRAI Annual Report for 2013-14 (referring to FICCI-KPMG Report 2014) states, "[in India's television industry] the subscription revenue grew from Rs. 24500 crores in the year 2012 to Rs. 28100 crores in the year 2013. The advertisement revenue in the TV sector in India grew up from Rs. 12500 crores in the year 2012 to Rs. 13600 crores in the year 2013. The broadcaster thus has a two-fold market and, as succinctly put by the amicus, "it sells content to viewers and also sell eyeballs to advertisers".

[Page 23 & 24 of the Judgment]

→ Broadcasters Incur Fixed Cost Towards Production Of TV Programmes Without Having To Bear Any Additional Cost

The ability of television broadcasting to generate a second, equally lucrative stream of revenue by attracting advertisements, coupled with the economics of broadcasting not only determines the way the broadcaster finds it profitable to give

its channels for distribution but also has a bearing on the way it might find gainful to negotiate with the distributor on the commercial terms. The *amicus* invited our attention to studies that have found that the broadcaster has *huge fixed cost* but practically *nil marginal cost*. This means that production of content (TV programme) entails heavy cost but it does not require any additional cost to make the same content available for viewing to more than one viewer.

[Page 24 of the Judgment]

It is equally evident that it is impossible for the broadcaster to ascertain individual preferences. Thus, the marginal cost being zero and the individual preferences being unknown, the broadcaster finds that its channels have greater reach to the viewers when packaged together in a bouquet than on a la carte basis. Hence, unless compelled by law, the broadcaster would always prefer to give its channels for distribution in bouquets. The Regulations though require the broadcaster to offer its channels on a la carte basis, apparently in recognition of this basic fact, do not prohibit it from giving its channels for distribution in bouquets. The first choice for the broadcaster, therefore, as dictated by the market dynamics, is to give its channels for distribution in the form of bouquets. **[Pages 24 and 25 of the Judgment]**

Here it also needs to be noted that though the terms of inter-connect are sought to be regulated through the Interconnection Regulations, the terms of distribution concerning packaging and placement etc. are left unregulated. Having taken the signals from the broadcaster, the distributor too is mandated by the Regulations to offer the channels down the distribution line on a la carte basis but at the same time it is free to package the channels in any way it likes. Thus a large area is left out for negotiations between the broadcaster and the distributor for entering into an interconnect arrangement.

[Page 26 Para 2 of the Judgment]

→ **Broadcasters Keep RIO As Reserved Rate To Deliberately Deny Signals To DPO's**

Furthermore, the *amicus* summed up by stating that the a-la-carte basis for the interconnect agreement is normally kept reserved by the broadcaster for the distributor



with whom, for some reason it does not wish to enter into any commercial relationship but cannot outright deny the request for signals in view of the must provide mandate of the Regulations.

[Page 28 Para 3 of the Judgment]

Findings Of The Judgment

→ Star's Contentions (Rejected With Reasons)

Contentions Of Star

Regulations contemplate two independent and parallel regimes – namely, mutually negotiated contracts and RIO based agreements, according to Dr. Singhvi, the sphere of RIO based agreements was regulated, but if parties selected to opt for the mutual negotiation route, they were entirely outside the ambit of the Regulations, and were operating in an unregulated space. Thus, for example, the regulatory mandatory provisions fixing the ratio between *à la carte* and bouquet rates would not apply to such mutually negotiated agreements. Using the rather colourful metaphor of two roads, Dr. Singhvi submitted that RIO is like one of the two roads that is fraught with not only speed limits but all kinds of restrictive traffic regulations; the other, that is, mutual negotiations is, on the other hand, comparable to a highway, free from all kinds of restrictions. Travelling on the free highway, it is perfectly open to the broadcaster to not only drive at a speed of 100 mph but also, if it so desired, in a zigzag manner.

[Page 51 Para 3 of the Judgment]

TDSAT's Reasons For Rejection Of Star's Submissions:

→ Same Submissions Which Were Made In Hathway Matter:

Not only is the submission unfounded but we find it somewhat surprising that the *very same submission that was earlier rejected in the case of Hathway, in which Star was the main contesting party*, is once again advanced, couched slightly differently and garnished with some Constitutional pleas.

[Page 53 Para 2 of the Judgment]

→ **Discriminatory RIO Rates provided To Hathway:** In the earlier case, Hathway made the grievance that the commercial terms given to it by Star were highly discriminatory in comparison with those offered to Den, another MSO, which, according to Hathway, was vertically integrated with Star and was its rival and competitor as a distributor of TV channels. It was submitted on its behalf that the rate of Rs.31.00 cost per customer (CPS) offered to it (Hathway) was an arbitrary figure and without basis.
[Page 53 Para 2 of the Judgment]

→ Hathway was somehow able to lay its handson the interconnect agreement between Star and Den and it submitted that *Star's stance intelling Hathway totake itsTV channelseither atRs.31.00CPS or onRIO rates while giving its channels to Den at Rs.14.80p CPS was unacceptably discriminating and it was clearly aimed at promoting Hathway's rival MSO.*
[Page 53 Para 2 of the Judgment]

→ Once the submissions based on grounds of freedom of contract and the right to mutual negotiations is shown to have no substance, the contention that the eRIO based and negotiated agreements are two separate and parallel regimes becomes completely untenable. The reference to "mutually agreed terms" in clause 3.5 and "...modifying the Reference Interconnect Offer on such terms and conditions as may be agreed upon by them" in the proviso to clause 13.2A.6(1) is too tenuous and fragile to bear the weight of the submission completely negating the mandates of non-exclusion, non-discrimination and reasonableness in clauses 3.1 and 3.2 of the Regulations
[Page 52 Para 2 of the Judgment]

→ **Broadcasters Enjoy A Virtual Monopolistic Position:**
It, therefore, follows that at the level where there is little or no competition, the degree of Regulation would be much higher and the level at which competition is sufficient or near sufficient there might be less or even no Regulation. *Keeping in mind this premise, if one looks at the broadcasting sector, it would be evident that the broadcasters enjoy a virtually monopolistic position.* A popular TV programme may be available only with one particular broadcaster and no one else; a movie picture or a popular sporting event likewise may be

available with only one or two broadcasters. But when the broadcast comes to the distribution platforms, its availability gets widely spread out. The same programme, movie picture or the sporting event may be available to more than half a dozen pan-India MSOs, apart from several DTH operators and HITS operators.

[Page 59 Para 1 of the Judgment]

→ **TDSAT's Rejection Of Star's Contention On Multiplicity Of RIO:**

We are not convinced by Mr. Sibal's submissions based on the large size, regional, cultural and linguistic diversity of the broadcasting market and in our view the apprehension that the great diversity of viewer preferences would lead to multiplicity of RIOs, rendering the RIO regime unworkable appears to be misconceived. It is our experience at the Tribunal that interconnect agreements are mostly entered into on a pan-India basis and the difference in the two types of agreements relate only to DAS and non-DAS areas without much differentiations on regional basis.

[Page 61 Para 2 of the Judgment]

→ **TDSAT's Rejection Of Star's Contention On Concealment Of Commercial Terms:**

In view of the "must provide & non-discrimination" obligation there can be no secrecy in the commercial terms, because they cannot be permitted to be the source of any comparative or competitive advantage. In our considered opinion, therefore, the broadcasters cannot hide behind the Access Regulations on the plea that the distributor must first obtain an order of disclosure from TRAI.

[Page 63 Para 2 of the Judgment]

→ Secondly, the issue of disclosure is, in reality, quite deceptive. In the present scenario, disclosure has become basic for the enforcement of non-discrimination because no broadcaster is making its RIO as required by the Regulations. The importance of disclosure is on account of the vast divergence in the rates on which

negotiated agreements are executed and the rates are shown in the RIO.

[Page 64 Para 1 of the Judgment]

→ **None Of Broadcaster's RIO's are in Accordance With Applicable Regulations:**

This, in turn, is due to the fact that today, there is not a single RIO of any broadcaster that can be said to be in accordance with the Regulations. If the RIO is framed as required by the Regulations, as discussed in the following part of the judgment, the gap between an RIO based agreement and a negotiated agreement would inevitably get narrowed down and the issue of disclosure would become irrelevant or, in any event, marginal.

[Page 64 Para 1 of the Judgment]

→ **TDSAT Observed That Broadcaster's RIO Is A Device To Perpetuate Discrimination:**

A proper RIO, true to its nature as envisaged in the Regulations, is meant to go along way in introducing/bringing about fairness, reasonableness and non-discrimination in interconnect arrangements between broadcaster and distributors. But what is passed off by the broadcaster as RIO, instead of doing away with non-discrimination actually becomes a device to perpetuate discrimination.

[Page 67 Para 2 of the Judgment]

Further Findings Of TDSAT:

→ **RIO To Be Consistent with Regulation 13.2A.12:**

The RIO, must enumerate all the formats, along with their respective prices, in which the broadcaster may enter into a negotiated agreement with any distributor. To put it conversely, the broadcaster cannot enter into any negotiated deal with any distributor unless the template of the arrangement, along with its price, consistent with the ratio prescribed under clause 13.2A.12 is mentioned in the RIO. In addition, any volume-related price scheme must also be clearly stated in the RIO so as to satisfy the requirement of clause 3.6 of the Interconnect Regulations.

[Page 74 Para 1 of the Judgment]

→ RIO As A Starting Point Of Negotiation:

A proper RIO would, thus, form the starting point for any negotiations which would be within the limits allowed by the ratio between the *à la carte* and the bouquet rates as stipulated under clause 13.2A.12 and the margins between different negotiated agreements would be such as they would hardly be any requirement for disclosures.

[Page 74 Para 2 of the Judgment]

→ Need To Achieve Meaningful RIO:

There is the obligation to frame a meaningful RIO in which all bouquet and *à la carte* rates are specified, and there is also some room for mutual negotiation (even on rates) within certain specified parameters. This will achieve the objective of introducing a transparent non-discriminatory regime where by distributors can obtain access to content, while still retaining some latitude to mutually negotiate the terms and conditions of access.

[Page 78 Para 1 of the Judgment]

→ It will also make the nexus between *à la carte* and bouquet rates, which the regulator thought fit to introduce, applicable to all mutually negotiated agreements.

[Page 78 Para 1 of the Judgment]

→ Mutual Negotiations Not To Be Used As Means To Completely Step Out Of Regulations:

Negotiations must be within the parameters to those mandatory conditions specified in the Regulation that cannot be avoided or waived, and the mutual negotiation course cannot be used as the means to completely step out of the Regulations. It would be plainly opposed to any commonsense principle to first set out an elaborate cumbersome regulatory architecture, only to allow parties to opt out of it at will.

[Page 79 Para 1 of the Judgment]

Suggestion of TDSAT for framing a comprehensive Broadcasting Code:

→ To Frame A “Broadcasting Code”

Having regard to the fact that the greater part of the country would come under the DAS regime with effect from 1.1.2016, it would be advisable that TRAI should try to frame a consolidated Broadcasting Code instead of the large number of Regulations dealing with different aspects of the service and each having undergone numerous amendments.

[Page 81 Para 2 of the Judgment]

→ To Examine All Negotiated Interconnect Agreements

In order to make a serious effort in that direction, TRAI would be required to get hold of all the negotiated interconnect agreements between the broadcasters and the distributors of channels, which the broadcasters are in any event obliged to submit to TRAI.

[Page 81 Para 2 of the Judgment]

→ To Analyze Commercial Terms in Negotiated Agreements To Arrive At Correct Picture Of Market Price Of Channels:

The analysis of the commercial terms of the negotiated agreements would give TRAI a clear picture of the market prices of the broadcasters' channels. A comparison of the prices in the negotiated agreements and those shown in the current RIOs will then show how far the RIOs are removed from market realities.

[Page 81 Para 2 of the Judgment]

→ To Re-look At All Tariff Orders Framed By It Till Date:

Having examined thenegotiated agreementsbetweenthebroadcastersandthedistributorsofchannels,TRAI may evenfeeltneedtotakeare-lookatthetariffordersframedbyit. Butforany meaningfulexerciseforreviewingandconsolidatingthebroadcastingRegulations itwouldbeimperativeforTRAItogetholdofthenegotiatedagreementbetween thebroadcastersanddistributorswhichalonewouldgivethecorrectpictureofthemarketreality.

[Para 2 of Page 81 and 82 of the Judgment]

Annexure 1

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. Price Forbearance model

We do not agree with this model due to the following reasons:

- This model gives complete freedom to Broadcasters to price their product at the wholesale level
- Retail price to end subscriber to be declared by DPO's
- As we know that all content providers are monopolistic in nature. Eg:
 - Content like Big Boss only on colors
 - Dance India Dance only on Zee
 - All daily soaps are exclusive in nature
 - Sports are exclusive in nature (BCCI/ ICC exclusive with Star)
- Broadcasters buy movies on exclusive basis (Ex: Bajrangi Bhaijan only on Star Gold)
- Hence few monopolistic channels dominate the entire value chain
- Monopolistic products lead to unrealistic demand from the Broadcasters
- These unrealistic demands hamper the choice to the consumers and the freedom to choose channels from the consumers' perspective gets very limited/ negligible

- Three major Broadcasting House have vertical integrated DTH/MSO, entities which lead to discrimination across all DPO's. These broadcasting house together control anywhere 60% to 70% of broadcasting market share.
- Forbearance also leads to unrealistic from the monopolistic channels as we have seen in case of other categories where there is forbearance (Ex: High Definition channels)
- In a scenario where there is forbearance, Broadcasters will price their product on the higher side and then start offering huge discounts to ensure maximum reach through DPO's packaging and indiscriminate pricing to their own DPOs.
- In the existing scenario Broadcasters have kept their RIO pricing unrealistic and then offer up to 90% discount to ensure from DPOs to put their channels on part of base pack and forced viewership to consumer even if he does not want to subscribe for same.

B. RIO based models

(i) Universal RIO model

We do not agree with this model due to the following reasons:

- This model includes forbearance for channels.
- As we know that all content providers are monopolistic in nature. Eg:
 - (i) Content like Big Boss only on colors
 - (ii) Dance India Dance only on Zee
 - (iii) All daily soaps are exclusive in nature
 - (iv) Sports are exclusive in nature (BCCI/ ICC exclusive with Star)
- Hence few monopolistic channels dominate the entire value chain
- Monopolistic products lead to unrealistic demand from the DPO's
- These unrealistic demands hamper the choice to the consumers and the freedom to choose channels from the consumers perspective gets very limited/ negligible
- Mostly Broadcasters have vertical integrated entities which lead to discrimination across all DPO's
- Forbearance also leads to unrealistic from the monopolistic channels as we have seen in case of other categories where there is forbearance (Ex: High Definition channels)
- Broadcaster to decide the price of each channel on A-la-carte basis

- Broadcasters to decide other terms and conditions for interconnection, which may not be acceptable to the DPO's and the end consumers
- Complete freedom to Broadcasters can be anti-consumer and will also lead to a price hike for the end consumer. Favors may be indirectly granted to own distribution network which will lead to non-level playing field.
- DPO's will have no other option but to buy content from these Broadcasters at their defined prices which might be detrimental to the DPO's business model and unrealistic to consumers.
- As stated above, Broadcasters have arm's length relationship with few DPO's, which leads to discrimination on commercial deals.
- This model also lacks transparency and monopolies will dominate the DPO's, which will have a direct impact on the consumers' freedom.
- This can also lead to discrimination as all DPO's have different business models/ ARPU's/ Consumer Profile/ Bandwidth.

(ii) Flexible RIO model

We do not agree with this model due to the following reasons:

- This model is similar to the existing arrangement but further complicates the matter by price forbearance.
- Price forbearance at the wholesale level cannot lead to any mutual agreements.
- Broadcasters will dominate the whole value chain as their prices are completely unreasonable in the present scenario.
- On top of it the forbearance will further strengthen the power of their monopolistic channel which dominates the entire value chain.
- DPO's who will offer the maximum reach to the pay channels will get the maximum discount resulting into differential treatment to consumers served through different DPO's.
- In this model there would be no choice for the end consumer as all channels would be forced to be a part of the basic pack.
- Broadcasters will arm's length relationship with the DPO's will be the beneficiary.

- In this model the SD and HD prices can hit the roof, which would be anti-consumer.

Annexure 2

Existing RIO Rates from ZEE NETWORK to DPO for Standard Definition channels

ZEE	SD RIO
ZEE TV	5.83
ZEE CINEMA	5.83
ZEE STUDIO	3.15
& PICTURES	7.56
& TV	9.2
ZEE CAFÉ	3.60
ZEE CLASSIC	4.49
Zee Smile	2.77
Zee Marudhara	4.62
Zee Action	4.50
Zee Premier	5.04
Zee Jagran	0.90
ETC	1.35
ZEE BUSINESS	2.16
ZEE MARATHI	3.60
ZEE 24 TAAS	3.82
ZEE TALKIES	6.96
ZEE TELUGU	4.67
ZEE KANNADA	3.35
ZEE BANGLA	3.64
Zee Bangla Cinema	6.80
Zee Kalinga	4.67
Zee Salaam	6.30
ZEE Q	6.72
Zee Khana Khazana	6.72
24 GHANTE	2.70
ZEE PUNJABI HARYANA HIMACHAL	0.67
Zee MPCG	3.82
ZEE NEWS	3.37
ZING	2.25
Zindagi	9.2
CNN	0.67
Cartoon Network	5.62
HBO	7.01
WB	2.77
POGO	5.62
TEN SPORTS	6.74
Ten Cricket	14.89
TEN ACTION	14.70
Total (39)	198.28

Contd...

Annexure 2

Existing RIO Rates from STAR NETWORK to DPO for Standard Definition channels

STAR	SD RIO
NGC	2.58
STAR WORLD	2.05
STAR PLUS	7.87
LIFE OK	9.21
STAR GOLD	7.42
STAR MOVIES	7.42
CHANNEL V	0.45
FOX Life	1.98
STAR PRAVAH	5.04
STAR UTSAV	0.00
VIJAYA TV	1.80
ASIANET	5.23
ASIANET PLUS	2.94
Nat Geo Music	3.11
NGC WILD	6.72
SUVARNA	5.04
MOVIES OK	7.14
Jalsha Movies	6.96
STAR JALSHA	5.04
Star Movies Action	6.30
FX	6.51
BABY TV	5.57
NGC ADVENTURE	6.72
Suvarna Plus	8.25
Asianet Movies	7.46
Star Sports 1	14.89
Star Sports 2	15.12
Star Sports 3	12.58
Star Sports 4	14.89
Total (29)	186.27

MAA	SD RIO
Maa TV	2.9
Maa Music	3.62
Maa Movies	8.94
Maa Gold	5.31
Total (4)	20.77

Contd...

Annexure 2

Existing RIO Rates from VIACOM NETWORK to DPO for Standard Definition channels

VIACOM	SD RIO
HISTORY	6.72
COLORS	8.99
Colors Infinity	8.32
MTV Indies	4.02
CNBC AAWAZ	2.02
CNBC TV 18	3.82
CNN IBN	2.25
COMEDY CENTRAL	6.51
IBN 7	3.15
IBN LOKMAT	3.30
MTV	3.15
NICK JR.	5.62
NICKLODEON	2.70
SONIC	5.46
VH1	1.35
CNBC Bazaar	4.88
Colors BANGLA	4.67
ETV BIHAR	4.67
Colors GUJARATI	4.67
Colors KANNADA	4.67
Colors MARATHI	4.67
ETV MP	4.67
Colors ORIYA	4.67
ETV RAJASTHAN	4.67
ETV TELUGU	4.49
ETV UP	4.67
ETV URDU	4.67
ETV2 TELUGU	2.52
ETV HP/ Harayana	4.88
ETV News Kannada	4.88
ETV News Gujarati	4.88
ETV News Haryana/HP	4.88
ETV News Bengali	4.88
Total (33)	150.36

Contd...

Annexure 2

Existing RIO Rates from MSM, DISCOVERY, TV TODAY AND JAYA NETWORK to DPO for Standard Definition channels

MSM	SD RIO
SONY PIX	5.39
AXN	6.52
SONY TV	8.99
SAB TV	6.17
SET MAX	7.64
SONY AATH	4.20
SONY MIX	3.15
Animax	0.26
Sony Max 2	9.75
Sony PAL	11.65
SIX	14.70
Sony ESPN	18.90
Total (12)	97.32

DISCOVERY	SD RIO
Animal Planet	2.59
Discovery Channel	7.75
TLC	4.65
Discovery Channel Tamil	7.75
Discovery Science	5.8
Discovery Turbo	4.83
Discovery Kids	6.39
Total (7)	39.76

TV Today	SD RIO
AAJ TAK	3.15
HEADLINES TODAY	1.35
TEZ	1.04
Total (3)	5.53

Jaya	SD RIO
Jaya TV	3.78
Jaya Plus	1.68
J Movies	2.52
Jaya Max	2.52
Total (4)	10.50

Contd...

Annexure 2

Existing RIO Rates from SUN NETWORK to DPO for Standard Definition channels

SUN	SD RIO
Sun Music	4.02
KTV	8.61
Gemini TV	5.91
Sun TV	7.11
Sun News	0.81
Gemini Comedy	3.04
Udaya TV	6.6
Udaya Comedy	8.61
Chintu TV	7.17
Adithya TV	9.75
Kushi TV	7.17
Udaya Movies	8.26
Udaya News	4.21
Gemini News	4.3
Gemini Music	4.02
Gemini Movies	9.76
Udaya music	4.01
Chutti TV	7.17
Surya TV	6.6
Kiran TV	9.75
Sun Life	6.7
Gemini Life	5.97
Surya Music	4.02
Kochu TV	7.17
Sun Action	16.8
Gemini Action	16.8
Suriyan TV	16.8
Suriya Action	16.8
Total (28)	217.94

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Annexure 2

Existing RIO Rates from Other Broadcasters to DPO for Standard Definition channels

OTHERS	SD RIO	OTHERS	SD RIO
Sahara One	20.5	Raj TV	4.62
Filmy	16.5	Raj Digital Plus	3.24
Mega Tv	5	Raj News Telugu	1.68
Mega musiq	5	Raj Musix	2.1
Mega 24	5	Vissa TV	1.96
Sarthak TV	9.5	Raj Musix Kannada	2.31
9XM	2.94	Raj News Kannada	1.68
9X Jhakaas	2.1	Raj News Tamil	1.68
Food Food	8.39	Raj Musix Tamil	2.31
Big Magic	4.62	ABP Majha	3.86
Big Ganga	4.62	ABP Ananda	2.52
Tarang	5.49	Toonami	7.17
Tarang Music	2.1	Neo Sports	12.84
Prarthana TV	2.1	Neo Prime	17.12
Times Now	3.82	Total (48)	261.27
ET Now	3.57		
Zoom	3.51		
Movies Now	7.41		
Romedy Now	7.42		
B4U Movies	3		
EPIC	10.5		
NDTV 24x7	3.82		
NDTV India	3.37		
NDTV Profit	2.7		
NDTV Good Times	4.04		
Disney Junior	6.46		
Disney Channel	4.6		
Hungama TV	4.03		
Disney XD	4.6		
UTV Movies	7.25		
Bindaas	4.83		
Bindass Play	7.73		
UTV Action	4.83		
UTV World Movies	4.83		

Annexure 3

Existing RIO Rates from Broadcasters to DPOs for High Definition channels

Star	HD RIO
Star Gold HD	30.00
Star Movies HD	30.00
Star Movies Select HD	30.00
Star Plus HD	30.00
Star World HD	20.00
Star World Premier HD	40.00
Life Ok HD	30.00
NGC HD	16.00
FX HD	30.00
Asianet HD	30.00
Star Sports HD1	50.00
Star Sports HD2	50.00
Star Sports HD3	50.00
Star Sports HD4	50.00
Total	486.00

Sun	HD RIO
Gemini TV HD	40.00
KTV HD	40.00
Sun Music HD	25.00
Sun TV HD	40.00
Total	145.00

Zee	HD RIO
& TV HD	30.00
&Pictures HD	30.00
ZEE Café HD	30.00
Zee Cinema HD	30.00
Zee Studio HD	30.00
Zee TV HD	30.00
Ten Golf HD	50.00
Ten HD	125.00
Total	355.00

Viacom	HD RIO
Colors HD	50.00
Colors Infinity HD	40.00
Comedy Central HD	30.00
History HD	35.00
MTV Indies HD	50.00
VH1 HD	N.A
Nick HD	N.A
CNBC TV18 Prime HD	40.00
Total	245.00

Contd...



Annexure 3

Existing RIO Rates from Broadcasters to DPO for High Definition channels

Discovery	HD RIO
Animal Planet HD	24.15
Discovery HD	24.15
TLC HD	24.15
Total	72.45

Times	HD RIO
MN+ HD	30.00
Movies Now HD	30.00
Total	60.00

HBO	HD RIO
HBO Defined HD	120.00
HBO Hits HD	120.00
Total	240.00

NGC	HD RIO
Baby TV HD	30.00
Fox Life HD	30.00
NGC PEOPLE HD	30.00
NGC MUSIC HD	30.00
NGC WILD HD	30.00
Total	150.00

MSM	HD RIO
AXN HD	30.00
PIX HD	30.00
Max HD	N.A
Sony HD	40.00
Sony ESPN HD	N.A
SIX HD	100.00
Total	200.00

Others	HD RIO
M Tunes HD	FTA
Naaptol HD	FTA
Travel XP HD	31.00
Mazhavil Manorama HD	FTA
Epic HD	55.00
Total	86.00

Annexure 4: Proposed Channel wise pricing (based on historical negotiated deals) for Standard Definition

<u>Channels</u>		
ZEE	SD RIO	Proposed RIO Rate
ZEE TV	5.83	0.75
ZEE CINEMA	5.83	0.75
ZEE STUDIO	3.15	0.75
&PICTURES	7.56	0.75
& TV	9.20	0.75
ZEE CAFÉ	3.60	0.75
ZEE CLASSIC	4.49	0.75
Zee Smile	2.77	0.75
Zee Marudhara	4.62	0.75
Zee Action	4.50	0.75
Zee Premier	5.04	0.75
Zee Jagran	0.90	0.75
ETC	1.35	0.75
ZEE BUSINESS	2.16	0.75
ZEE MARATHI	3.60	0.75
ZEE 24 TAAS	3.82	0.75
ZEE TALKIES	6.96	0.75
ZEE TELUGU	4.67	0.75
ZEE KANNADA	3.35	0.75
ZEE BANGLA	3.64	0.75
Zee Bangla Cinema	6.80	0.75
Zee Kalinga	4.67	0.75
Zee Salaam	6.30	0.75
ZEE Q	6.72	0.75
Zee Khana Khazana	6.72	0.75
24 GHANTE	2.70	0.75
ZEE PUNJABI HARYANA HIMACHAL	0.67	0.67
Zee MPCG	3.82	0.75
ZEE NEWS	3.37	0.75
ZING	2.25	0.75
Zindagi	9.20	0.75
CNN	0.67	0.67
Cartoon Network	5.62	0.75
HBO	7.01	0.75
WB	2.77	0.75
POGO	5.62	0.75
TEN SPORTS	6.74	1.30
Ten Cricket	14.89	1.30
TEN ACTION	14.70	1.30
Total (39)	198.28	30.74

Annexure 4: Proposed Channel wise pricing (based on historical negotiated deals) for Standard Definition Channels

STAR	SD RIO	Proposed RIO Rate
NGC	2.58	0.95
STAR WORLD	2.05	0.95
STAR PLUS	7.87	0.95
LIFE OK	9.21	0.95
STAR GOLD	7.42	0.95
STAR MOVIES	7.42	0.95
CHANNEL V	0.45	0.45
FOX Life	1.98	0.95
STAR PRAVAH	5.04	0.95
VIJAYA TV	1.80	0.95
ASIANET	5.23	0.95
ASIANET PLUS	2.94	0.95
Nat Geo Music	3.11	0.95
NGC WILD	6.72	0.95
SUVARNA	5.04	0.95
MOVIES OK	7.14	0.95
Jalsha Movies	6.96	0.95
STAR JALSHA	5.04	0.95
Star Movies Action	6.30	0.95
FX	6.51	0.95
BABY TV	5.57	0.95
NGC ADVENTURE	6.72	0.95
Suvarna Plus	8.25	0.95
Asianet Movies	7.46	0.95
Star Sports 1	14.89	2.50
Star Sports 2	15.12	2.50
Star Sports 3	12.58	2.50
Star Sports 4	14.89	2.50
Total (29)	186.29	32.30

MAA	SD RIO	Proposed RIO Rate
Maa TV	2.90	0.20
Maa Music	3.62	0.20
Maa Movies	8.94	0.20
Maa Gold	5.31	0.20
Total (4)	20.77	0.80

Contd...

Annexure 4: Proposed Channel wise pricing (based on historical negotiated deals) for Standard Definition Channels

VIACOM	SD RIO	Proposed RIO Rate
HISTORY	6.72	0.40
COLORS	8.99	0.40
Colors Infinity	8.32	0.40
MTV Indies	4.02	0.40
CNBC AAWAZ	2.02	0.40
CNBC TV 18	3.82	0.40
CNN IBN	2.25	0.40
COMEDY CENTRAL	6.51	0.40
IBN 7	3.15	0.40
IBN LOKMAT	3.30	0.40
MTV	3.15	0.40
NICK JR.	5.62	0.40
NICKLODEON	2.70	0.40
SONIC	5.46	0.40
VH1	1.35	0.40
CNBC Bazaar	4.88	0.40
Colors BANGLA	4.67	0.40
ETV BIHAR	4.67	0.40
Colors GUJARATI	4.67	0.40
Colors KANNADA	4.67	0.40
Colors MARATHI	4.67	0.40
ETV MP	4.67	0.40
Colors ORIYA	4.67	0.40
ETV RAJASTHAN	4.67	0.40
ETV TELUGU	4.49	0.40
ETV UP	4.67	0.40
ETV URDU	4.67	0.40
ETV2 TELUGU	2.52	0.40
ETV HP/ Harayana	4.88	0.40
ETV News Kannada	4.88	0.40
ETV News Gujarati	4.88	0.40
ETV News Haryana/HP	4.88	0.40
ETV News Bengali	4.88	0.40
Total (33)	150.37	13.20

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Annexure 4: Proposed Channel wise pricing (based on historical negotiated deals) for Standard Definition Channels

MSM	SD RIO	Proposed RIO Rate
SONY PIX	5.39	1.00
AXN	6.52	1.00
SONY TV	8.99	1.00
SAB TV	6.17	1.00
SET MAX	7.64	1.00
SONY AATH	4.20	1.00
SONY MIX	3.15	1.00
Animax	0.26	1.00
Sony Max 2	9.75	1.00
Sony PAL	11.65	1.00
SIX	14.70	1.00
Sony ESPN	18.90	1.00
Total (12)	97.32	12.00

DISCOVERY	SD RIO	Proposed RIO Rate
Animal Planet	2.59	0.20
Discovery Channel	7.75	0.20
TLC	4.65	0.20
Discovery Channel Tamil	7.75	0.20
Discovery Science	5.80	0.20
Discovery Turbo	4.83	0.20
Discovery Kids	6.39	0.20
Total (7)	39.76	1.40

TV Today	SD RIO	Proposed RIO Rate
AAJ TAK	3.15	0.20
HEADLINES TODAY	1.35	0.20
TEZ	1.04	0.20
Total (3)	5.54	0.60

Jaya	SD RIO	Proposed RIO Rate
Jaya TV	3.78	0.20
Jaya Plus	1.68	0.20
J Movies	2.52	0.20
Jaya Max	2.52	0.20
Total (4)	10.5	0.80

Contd...

Annexure 4: Proposed Channel wise pricing (based on historical negotiated deals) for Standard Definition Channels

SUN	SD RIO	Proposed RIO Rate
Sun Music	4.02	1.50
KTV	8.61	1.50
Gemini TV	5.91	1.50
Sun TV	7.11	1.50
Sun News	0.81	0.81
Gemini Comedy	3.04	1.50
Udaya TV	6.60	1.50
Udaya Comedy	8.61	1.50
Chintu TV	7.17	1.50
Adithya TV	9.75	1.50
Kushi TV	7.17	1.50
Udaya Movies	8.26	1.50
Udaya News	4.21	1.50
Gemini News	4.30	1.50
Gemini Music	4.02	1.50
Gemini Movies	9.76	1.50
Udaya music	4.01	1.50
Chutti TV	7.17	1.50
Surya TV	6.60	1.50
Kiran TV	9.75	1.50
Sun Life	6.70	1.50
Gemini Life	5.97	1.50
Surya Music	4.02	1.50
Kochu TV	7.17	1.50
Sun Action	16.80	1.50
Gemini Action	16.80	1.50
Suriyan TV	16.80	1.50
Suriya Action	16.80	1.50
Total (28)	217.94	41.31

Contd...



Annexure 4: Proposed Channel wise pricing (based on historical negotiated deals) for Standard Definition Channels

OTHERS	SD RIO	Proposed RIO Rate
Sahara One	20.50	0.20
Filmy	16.50	0.20
Mega Tv	5.00	0.20
Mega music	5.00	0.20
Mega 24	5.00	0.20
Sarthak TV	9.50	0.20
9XM	2.94	0.20
9X Jhakaas	2.10	0.20
Food Food	8.39	0.20
Big Magic	4.62	0.20
Big Ganga	4.62	0.20
Tarang	5.49	0.20
Tarang Music	2.10	0.20
Prarthana TV	2.10	0.20
Times Now	3.82	0.20
ET Now	3.57	0.20
Zoom	3.51	0.20
Movies Now	7.41	0.20
Romedy Now	7.42	0.20
B4U Movies	3.00	0.20
EPIC	10.50	0.20
NDTV 24x7	3.82	0.20
NDTV India	3.37	0.20
NDTV Profit	2.70	0.20
NDTV Good Times	4.04	0.20
Disney Junior	6.46	0.20
Disney Channel	4.60	0.20
Hungama TV	4.03	0.20
Disney XD	4.60	0.20
UTV Movies	7.25	0.20
Bindaas	4.83	0.20
Bindass Play	7.73	0.20
UTV Action	4.83	0.20
UTV World Movies	4.83	0.20

OTHERS	SD RIO	Proposed RIO Rate
Raj TV	4.62	0.20
Raj Digital Plus	3.24	0.20
Raj News Telugu	1.68	0.20
Raj Musix	2.10	0.20
Vissa TV	1.96	0.20
Raj Musix Kannada	2.31	0.20
Raj News Kannada	1.68	0.20
Raj News Tamil	1.68	0.20
Raj Musix Tamil	2.31	0.20
ABP Majha	3.86	0.20
ABP Ananda	2.52	0.20
Toonami	7.17	0.20
Neo Sports	12.84	0.20
Neo Prime	17.12	0.20
Total (48)	261.27	9.60

Annexure 5: Proposed Channel wise pricing (based on historical negotiated deals for SD) for High Definition Channels

Star	HD RIO	Proposed RIO Rate
Star Gold HD	30.00	0.95
Star Movies HD	30.00	0.95
Star Movies Select HD	30.00	0.95
Star Plus HD	30.00	0.95
Star World HD	20.00	0.95
Star World Premier HD	40.00	40.00*
Life Ok HD	30.00	0.95
NGC HD	16.00	0.95
FX HD	30.00	0.95
Asianet HD	30.00	0.95
Star Sports HD1	50.00	2.50
Star Sports HD2	50.00	2.50
Star Sports HD3	50.00	2.50
Star Sports HD4	50.00	2.50
Total	486.00	58.55

*No SD Channel Variant

Sun	HD RIO	Proposed RIO Rate
Gemini TV HD	40.00	1.50
KTV HD	40.00	1.50
Sun Music HD	25.00	1.50
Sun TV HD	40.00	1.50
Total	145.00	6.00

Zee	HD RIO	Proposed RIO Rate
& TV HD	30.00	0.75
&Pictures HD	30.00	0.75
ZEE Café HD	30.00	0.75
Zee Cinema HD	30.00	0.75
Zee Studio HD	30.00	0.75
Zee TV HD	30.00	0.75
Ten Golf HD	50.00	1.30
Ten HD	125.00	1.30
Total	355.00	7.10

Contd...



Annexure 5: Proposed Channel wise pricing (based on historical negotiated deals for SD) for High Definition Channels

Discovery	HD RIO	Proposed RIO Rate
Animal Planet HD	24.15	0.20
Discovery HD	24.15	0.20
TLC HD	24.15	0.20
Total	72.45	0.60

Times	HD RIO	Proposed RIO Rate
MN+ HD	30	0.20
Movies Now HD	30	0.20
Total	60	1.20

HBO	HD RIO	Proposed RIO Rate
HBO Defined HD**	120	120.00
HBO Hits HD**	120	120.00
Total	240	240.00

** Channels closing w.e.f.
31/03/2016

NGC	HD RIO	Proposed RIO Rate
Baby TV HD	30	0.20
Fox Life HD	30	0.20
NGC PEOPLE HD	30	0.20
NGC MUSIC HD	30	0.20
NGC WILD HD	30	0.20
Total	150	3.00

Others	HD RIO	Proposed RIO Rate
Travel XP HD	31.00	0.20
Epic HD	55.00	0.20
Total	86.00	0.40

Contd...

Annexure 5: Proposed Channel wise pricing (based on historical negotiated deals for SD) for High Definition Channels

Viacom	HD RIO	Proposed RIO Rate
Colors HD	50.00	0.40
Colors Infinity HD	40.00	0.40
Comedy Central HD	30.00	0.40
History HD	35.00	0.40
MTV Indies HD	50.00	0.40
VH1 HD	N.A	0.40
Nick HD	N.A	0.40
CNBC TV18 Prime HD	40.00	0.40
Total	245.00	3.20

MSM	HD RIO	Proposed RIO Rate
AXN HD	30	1.00
PIX HD	30	1.00
Max HD	N.A	1.00
Sony HD	40	1.00
Sony ESPN HD	N.A	1.00
SIX HD	100	1.00
Total	200	6.00

Annexure 6

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.

A. Exclusive a-la-carte model

We are not in favor of this model due to the following reasons:

- i. No bouquet offering under this model can lead to restricted consumer choice.
- ii. We strongly believe that today's consumer should have an option to choose A-la-carte and bouquets
- iii. Capping at the MRP level can affect the customer service and hamper the customer experience.
- iv. Today's consumer is in the habit to subscribing to bouquets and due to intense competition at the DPO level, the prices are driven by market forces. Hence, providing only A-la-carte to 150 million homes might not be a sustainable model.
- v. This model will have a direct impact on DPO's infrastructure cost.



Annexure 7

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.

Conventional MRP Model

AND

Flexible MRP Model

We do not recommend this model due to the following reasons:

- i. Forbearance can lead to prices of existing channels being abnormally high.
- ii. We do not recommend any sort of forbearance on Broadcaster provided channels as there is a good chance they might be monopolistic in nature.
- iii. Broadcasters may still try to push packaging of their non-driver channels in bouquets along with driver channels, which would be anti-consumer and restrict consumer the option to pick and choose.
- iv. As packages will be declared directly by the Broadcasters, hence customer will find it difficult to choose various pay channels/ bouquets of channels from each broadcaster.
- v. The DPO's business model will completely be depended on the prices of the respective Broadcasters and the revenue share mechanism between Broadcasters and DPO's distributor's dependence on pay channels revenue share, which can further lead to a lot of differences and disputes.
- vi. DPO's cannot be treated as franchisee's of the Broadcasters as they have been given license to operate and have paid taxes/ levies.
- vii. The flexibility of DPOs for packaging gets limited.
- viii. Price of driver channels may be jacked-up by broadcasters adversely impacting consumer interest.
- ix. Enhancing customer awareness to enable selection of channels/bouquets will be a challenge.

