



उपभोक्ता अधिकार संगठन Consumer Rights Organisation

शैलेश पंकज

प्रदेश अध्यक्ष, बिहार

12th November, 2016

To,

Advisor (B&CS) - II

Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg,
Old Minto Road,
New Delhi - 110 002

Dear Sir,

Re:

- Submissions to Telecom Regulatory Authority of India ("TRAI") in response to the Consultation on the draft Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2016.
- Submissions to Draft Telecommunication (Broadcasting and Cable Services) Interconnection (Addressable Systems) Regulations, 2016.
- Submissions to Telecom Regulatory Authority of India ("TRAI") in response to the Consultation on the draft Standards of Quality of Service and Consumer Protection (Digital Addressable Systems) Regulations, 2016.

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| डायरी सं. 732 |
| दिनांक 16/11 |

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| सारांशिक प्रत्यक्ष विचारणा प्रमाणित महानगर दूरसंचार भवन, नई दिल्ली-110002 |
| 15 NOV 2016 |
| डायरी सं. 23930 |

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At the outset, we would like to state that TRAI's decision to examine the tariff structure and the abundant regulations in respect of Interconnection is a welcome one. Such exercises ensure that the regulator is willing to take into consideration, the opinion of all concerned stakeholders and ultimately ensuring that the new rules are framed in a completely democratic framework wherein the appropriate positions of all stakeholders may be considered in the final regulations. Presently, TRAI suggests the abovementioned drafts ensure to bring a transparency, non-discrimination, non-exclusivity for all stakeholders in value chain. It further promises affordable TV services for customers and seeks to balance the commercial interests of broadcasters and distributors of television channels to recover their network cost and the broadcasters to recover their content cost. It also includes a proposal to put a price cap on different genres of channels for digital addressable system. The thought is good on paper and even we as an Association thinking from the purview of Consumers would want such a perfect system but there are various practical problems that plague such a system which we seek to point out by way of this response.

Regulations in India are hardly reminiscent of the new media platforms such as OTT platforms which have been able to innovate, disrupt and create new growth and revenue opportunities, while providing unbeatable consumer propositions. In ordinary trade and commerce, distributors are encouraged to ensure wider distribution of products and services through suitable and structured incentives but that has not been the case in the Broadcasting industry for the longest time. Addressability loses its significance if the distribution and visibility afforded to the consumer in respect to a Channel is poor. The monopolistic powers of placement of channels of the Distribution Platform Operators receives, visible vide a combined reading of the current draft as well as the new proposed interconnection rules are extraordinary and will not serve the interests of the consumer. Market-friendly regulation also benefits consumers, who, in the best regulated markets

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(efficient broadcasting markets like United Kingdom, United states, Australia and Singapore), have access to new forms of content, new technologies, and more choice in what they view on what device, and when. Huge investments are necessary to create these consumer benefits; and investments flow where regulations permits predictable, economically sensible returns.

SUBMISSIONS-

- TRAI has intended through this set of draft regulations to empower consumers but it is unlikely to transfer the power to Consumers as intended. The framework as is being suggested does not provide clarity as to how the interest of the consumer is being sought to be protected both in terms of the monthly charges as well as more choice of channels.
- The Draft Orders on a bare perusal seem to suggest that instead of the consumer being given a choice in terms of offering and uniqueness of content it is the DPO who has been given the supreme authority to choose what has to be offered as well as package it as per its desire ultimately creating a situation whereby the consumer ends up paying what the DPO bills the consumer at and the choice of Channels which the DPO desires to offer.
- Strict norms for bundling will ensure consumers would never know of the existence of certain channel offerings. The biggest losers in this scenario will be consumers who miss out on choices at bouquet and ala-carte which they would have ordinarily got through optimum and flexible bundling and packaging options.
- The core issue which seems not to be addressed is the implementation of the authenticity of the consumer choice being projected in the Consumer Application Forms (CAFs).

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- The present draft order and regulations seem to be prima facie tilted towards the interest of the MSOs in terms of both revenue generation as well as choice of offering/ packaging.
- We agreed with TRAI earlier when the minimum 500 channel capacity for the MSO was implemented as that was one measure whereby effective consumer choice coupled with availability of unique content was to be ensured. It is humbly requested if the Hon'ble TRAI could once again look into enforcing such a minimum channel carrying capacity.
- We believe that post perusal of the current suggested structure level playing field is not being created between the broadcaster and DPO from the perspective that though the Broadcaster is a producer of content, but ultimately, whether the content reaches the consumer is a question mark. In order to encourage the Broadcasters to produce more enriching content and to widen the choice for the consumer, the flexibility of packaging, offering should be given to the Broadcaster to be mutually negotiated between the Broadcaster and DPO, it is a matter of fact that wherever there is flexibility, competition and drive, the pricing to the ultimate consumer ends up more economical whilst ensuring the consumer getting multiple choice on a TV Set and at the same time not affecting the pocket of the consumer.
- There might be a possibility that fearing discretion and integration, certain smaller, newer and out of favour channels will suffer from Regulation inflicted barriers to entry which will effectively adversely affect consumer's choices in the market.
- A bare perusal of the proposed tariff make up believe that the order implemented in this form will eventually raise consumer's cable / DTH bills. This stems from the rationale that the consumer can either subscribe to a channel which is either ala-carte or on as-is-bouquet basis. Now suppose the consumer wishes to subscribe to a

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General Entertainment Bouquet, in case he wants more than the stipulated number of channels in his package, he would end up paying 3-4 times higher rate for each bouquet instead of the ordinary one time amount he paid for including preferred channels in one bouquet.

- We would also like the Hon'ble TRAI to consider doing away with this draconian price of Rs. 130 /- plus the hefty Rs 20 for every 25 channels and so on due to the fact there is no scientific basis for deciding the abovementioned amounts in the order. What we laymen are unable to comprehend at this stage is that as to why TRAI is assuming that the DPOs costs for its infrastructure are increasing month on month and year on year which is not factual, and at the same time assuming that the consumer paying capacity is increasing.
- Since the manner of offering channel methods used by Broadcaster ensure that their channels reach maximum possible consumers at minimum possible cost, the basic tier channel package should be widened from 100 channels to bring access to more Free To Air Channels to the consumers. This can be done by ensuring that the basic tier is catering to a wider genre base which in turn will address the choice of people from different sections of the society. In order to address the wider genre base rather than just 7 to include regional and language channels, the genre categorizations also need to be addressed which is detailed in the below paras.
- While considering the revenue generation by maximum viewers, it is also important to keep in mind the variation of individual preferences of the subscribers from each corner of rural villages and urban cities, their income capacity to pay and at the same time the excessive Competition in the market between the various stakeholders which has not been addressed in the draft Orders.
- Most of the times, it so happens that despite the Consumer opting for certain channels they are suddenly taken off-air by the DPOs under the pretext that the Channels are not so popular and/ or it is financially unviable for the DPO to carry

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the Channel on its network. This is a core issue which needs to be addressed by the Hon'ble regulator maybe in a two fold manner - a. Making it mandatory for the MSO to list all channels in its EPG; b. Making it mandatory for the MSO to make the channel available to the Consumer. The Hon'ble regulator needs to also consider the fact that in certain cities, there is only one DPO and the consumer is forced to watch only what the DPO wishes to offer.

- We applaud the Hon'ble regulator in its initiative to bring out strong framework ensuring Quality of Service to the Consumer but it is humbly requested that the same maybe implemented with all strength so that the interruption in signals as well as redressal of issues is done in a fair, proper and complete manner. It should also be ensured by the DPO that the customer care executive is properly trained to take cognizance of the request of the consumers.
- IT also needs to be mentioned that in most cases if the Hon'ble regulator was to visit the websites of most of the DPOs whether MSOs or DTH, then the same are not user friendly as the Consumer is unable to comprehend what channels are being subscribed at what price. Also, it needs to be made mandatory for all DPOs irrespective of their subscriber base to be accountable in terms of their function and operation.
- We request the Hon'ble regulator to avoid a scenario wherein economies of scale are promoted as it will go on to unjustly enrich the MSOs at the expense of the content creators and the ultimate consumers which would mean that the distributor would be the unfair beneficiary in the scheme of events.
- The choice of packaging of channels will lay completely in the hands of the DPOs due to the abovementioned rules and the same must be addressed. A Distributor having no bar on choice of packaging will only package the channels in a way that would bring maximum profits to the DPO effectively turning them from a medium of provision to a controller of provision. Furthermore, a Distributor belonging to a

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vertical integrated channel gets the leverage to package and push its channels for maximum profits, victimizing the consumer by not offering them a reasonable choice.

- In addition to the above there is no guarantee that the channels are packaged in a manner where there is maximum reach in terms of geographic distribution. For Example: viewers in Odhisa would watch mostly Oriya channels, but instead the distributor may package to promote a Tamil channel in Odhisa and a Punjabi channel in Tamil Nadu, which would certainly bring down the viewership to minimal which won't be based on consumer choice.
- Offerings of various packaging must be clearly published on the websites of the Distributors and distributed through brochures in addition to customer care executive information system through telephone or on personal visit at the consumer premises. The offers made to consumers and ultimately accepted by them must be documented through forms with the signature of consumers to ensure their assent.
- Norms must be made to ensure such that all grievances made but addressed or not addressed are recorded so as to ensure statistics on how often the consumer grievances have been genuinely addressed. Such reports must be audited by the Regulator and the concerned stakeholder must be pulled up in case of sub-standard grievance redressal mechanism.
- Acknowledgement of grievance by nodal office should be cut down to 12 hrs from 2 days as provided further the complaints should be redressed with 72 hrs from the date of receipt of the complaint instead of 10 days.
- DPOs should address the complaint within 10 working days instead of 30 days from the date of complaint.
- There should be specific reckoner to determine the reason for lag in QOS. This would mean ready resolution and determination of liability of the specific

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- stakeholder which will ensure remedial measures are in place in the absence of blame games.

Although the Regulators have tried making the draft regulations mentioned above consumer centric, the same have on the other hand increased the burden on their wallets, which would in turn make watching TV more of a luxury entertainment. The higher is the paying capacity of a subscriber, the more channels he gets in his basket, while the remaining lower paying capacity of subscribers would be forced to subscribe to only those Channels which the Operator offers. The viewer can chose from various TV channels available under any genre depending upon their choice of content. It is an admitted fact that no two TV channels have identical content available at the same time. In our humble opinion of voicing the consumer perspective, the draft regulations must be relooked into keeping the following points in mind. Firstly, the Customers would prefer choosing a large bouquet due to economies of scale in cost implications. However, the present draft regulations emphasize on smaller bouquets and individually priced a-la-carte channels. Secondly, there must be mechanism for ensuring realistic network infrastructure cost for growth of DPOs while protecting the interest of the consumers. Thirdly, there must be a proper, more elaborate framework for selecting the channels of choice by consumers and ensuring quality of service compliance by Distributors and Broadcasters.

Thanking you

Your Sincerely:

Shailesh Pankaj

(State President)

From:

Shailesh Pankaj

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