

Submissions of Discovery Communications India 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. (“Draft QoS”)

The following are our preliminary submissions on the Draft QoS. Due to paucity of time, we have not been able to analyze the full effects of the Draft QoS, which may be far reaching. These views may not be considered our final position in the matter, and we reserve the right to add to these preliminary views at the appropriate stage.

1. Subscription to TV Broadcasting Services

The provisions related to subscriber management system provided in the draft Interconnection Regulations and Tariff Order are not adequate to ensure efficiency and error-free services, providing ample space for loopholes. Presently, the Distributors have been found tampering with the Subscriber Management system and with the provisions allowing audit limiting audits to once in a year, it further reduces accountability and strict regulatory checks, giving them enough space to manipulate at their own will. It is suggested that the audits should be allowed to be conducted quarterly in a year to keep the Distributors from tampering and manipulating the subscriber management system. The regulators should provide for strict penalties where a distributor is found guilty.

It is further submitted that in order to acquire maximum subscribers, the Distributors often misrepresent the offerings consumers and don't fully disclose the conditions, inducing costumers to select packages not befitting their choice and pocket.

It is also the case wherein a customer executive of a distributor calls describing an offer and even without a yes or a no from the consumer, activates a package not as per choice of / suitable to the said consumer. Such manipulative activities of the distributors should be strictly regulated by the authority.

At times, offerings of various packages is not clearly mentioned on the websites of the Distributors but only explained only orally vide a customer care executive over a telephonic conversation or on personal visit at the consumer premises, thus there is no clear documentation of what has been explained and offered to the consumer.

It is suggested that the Regulatory must device a system of accountability of the offerings made to the consumer vide its executives. There must be strict regulation drafted to regulate such activities of the Distributors.

2. Maintenance of Service After Initial Subscription

It is suggested that the composition of packages offered to the consumers should be allowed to change only after one year of such offering, and any addition of new channels within the period of one year of offering should be considered as a new packages, provided that the option of including such new channel to the Consumers must be communicated by the distributor vide scrolls. Further disconnection of channels with change of rates should also be communicated vide scrolls to the consumer.

The provision of not charging the consumer for disrupted services for a period exceeding 72 hrs should be regulated strictly, as the consumers are not made aware of this provision, there for there needs to be a system to keep a tab of such disrupted services occurred and accountability of compliance of reduction of charges to the consumer, and further in failure to such compliance, the Distributor should be penalized.

3. Customer Care and Complaint Redressal

It is suggested that the option to speak to a customer care executive in the IVRS should be in the second level along with other options and not as a sub menu in the third level. Also there should be accountability for redressal of complaints made as it is often faced by the consumer that the grievances are not correctly addressed to and they are often misguided.

It is suggested that the issue acknowledged by the nodal office should be cut down to 24 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.

It is also suggested that under clause 18 sub clause (2) the distributor should address the complaint within 10 working days instead of 30 days from the date of complaint. A consumer often pays a monthly subscription amount therefore a time of 30 days to redress and thereafter resolve the issue would not be appropriate and prone to misuse.

4. Technical Audits

It is suggested that a broadcaster should be allowed to conduct technical audits quarterly where the broadcaster suspects mal-practice from the Distributors end and accordingly red flag the issue to the Authority.

5. Display of Channels In EPG

It is submitted that the placement/position of channels provided by the Distributor should not be changed for a minimum period of one year, as it would have repercussion on the Broadcasters as well as to the consumers. From the Broadcasters point of view change of positioning of channels would directly affect viewership thus resulting to loss of revenue. With reference to the consumer, it would create difficulty for a consumer to relocate the channels of its choice that it pays for thus creating inconvenience and frustration.

It is further submitted that display of channels in its EPG should be more detailed providing the channels positioning Number and with monthly update schedule of each channel.

6. Appointment of compliance Officer

The provision of exempting distributors having a subscriber base below two lakhs to appoint compliance officer is without any basis : the regulation is based on the principle of non discrimination, therefore such a provision as such defeats the entire principle of non – discrimination. Regulations framed must be equal for all stakeholders belonging to a vertical and non vertical integrated platform.

7. Liability of the Distributor

It is submitted that the quality of service to the consumer of adversely affected mostly at distributor's end, with the distributor blaming to weather conditions, or the channels being blacked out or disrupted for the reasons best known to the Distributor. The Regulations should distinctly ascertain that in such circumstances the Broadcaster shall not be held responsible and only the Distributor would be held directly responsible for any such defects in case of any claim from consumers.

8. Packaging Protection

The Regulators have failed to provide a lock-in period in terms of channel packaging, with the absolute discretion provided in the draft Interconnection Regulation to package channels in the

hands of the distributor with no check on lock-in period has placed the broadcasters business in the hands of the Distributor, subject to its whims and fancies.

A Distributor having no bar on choice of packaging with no lock-in period in terms of placement would target his own unjust enrichment. A Distributor having a vertical integrated channel gets the leverage to package and push its channels for maximum profits, victimizing the visibility and revenue stream of other Broadcasters.

It is important to note in order to make content available by a Broadcaster, a Broadcaster entails heavy cost to purchase or produce content, and therefore with the absolute discretion provided to a distributor would make it very difficult for certain broadcasters, especially smaller broadcasters to survive. It is suggested that there must be a lock-in period for the distributor wherein channels once packaged cannot be displaced and changed for a minimum period of one year.

9. Customer Equipment

The present Draft Quality of Service Regulation has not addressed issues like transfer of equipment, surrender of equipment which also needs to be tackled keeping in mind all other related concerns that might arise in such situations and should not be prescribed otherwise unless there is complete study in this regard.

CONCLUSION

The Regulators have made a good effort to cover and provide maximum protection for the consumer but however the draft regulation has not made it strict enough to bind the Distributors and provide penal consequences in case of breach of such provisions. We have seen that during implementation of DAS Phase I & II, the CAF requirements as required to be adhered to have still not been implemented and the norms have been flouted. Therefore the regulations need to be more strict to create accountability and ensuring the implementation of the quality and service regulations.