

**Response by Dish TV India Ltd to the
Consultation Paper on Issues related to amendments to the Interconnection
Regulations applicable for the Digital Addressable Cable TV Systems and
Tariff Order applicable for Addressable Systems.**

Consultation Paper No 18/2012

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RESPONSE BY DISH TV INDIA LTD TO THE CONSULTATION PAPER ON ISSUES RELATED TO AMENDMENTS TO THE INTERCONNECT REGULATIONS APPLICABLE FOR DIGITAL ADDRESSABLE CABLE TV SYSTEMS AND TARRIFF ORDER APPLICABLE FOR ADDRESSABLE SYSTEMS:

A. Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems.

Carriage fee

(1) Whether the following proviso should be introduced in the clause 3(2) of the interconnection regulations for DAS and the clause 3(5) of interconnection Regulation for DAS should be deleted.

“provided that the provisions of this sub-regulation shall not apply in the case of a multi-system operator, who seeks signals of a particular TV channel from a broadcaster, while at the same time demanding carriage fee for carrying that channel on its distribution platform.”.

(2) If no, the reasons thereof.

Dish TV Response

- (i) The existing provisions of Interconnect Regulations already mandate that in case the distribution platform invokes the “must provide” provisions contained in clause 3.2 of the Regulations, it is prohibited from demanding the carriage fee to carry the said channel.

It is a natural corollary that for channel which is being demanded by the platform why will the channel be paying the carriage fee? It is contradictory to assume that the platform will seek the channel also and will demand the carriage also simultaneously.

We are of the opinion that the carriage fee is a matter of commercial negotiations between the distribution platforms and the Broadcaster which does not have an impact on the

subscribers and accordingly the same should be left between the Broadcasters and the platform to finalise.

It may be mentioned as an argument, that due to the demand of the carriage fee the MSO may try to deprive the subscribers of viewing their favourite channels because of stipulation of carriage fee, is completely unsustainable.

Accordingly, there is no justification for imposing any kind of restriction on carriage fee in digital addressable platforms. In view of the high cost involved in distribution of the channels, it is suggested that the Carriage/placement fee should not be regulated and it should be left for the market forces to determine and decide.

- (ii) If the content provider and the DTH operator agree through mutual negotiations for payment of carriage fee/placement charges or technical cost for carriage of the channels, there cannot and should not be any objection. It is purely a matter in the private contractual domain and no regulatory intervention is called for.
- (iii) However, in order to create a transparent mechanism even in the carriage fee domain in digital addressable systems, we are of the view that certain stipulations are required to be incorporated in the Regulations. The contracts/agreements for carriage/placement fee between the broadcasters and distribution platforms including with MSOs and DTH operators be brought under the regime of Register of Interconnection Regulations thereby creating the obligations on broadcasters and distribution platforms for filing these contracts/agreements with TRAI.

Minimum Channel Carrying Capacity of 500 Channels for MSOs

- (3) *Whether there is a need to specify certain minimum channel carrying capacity for the MSOs in the interconnection regulations for DAS.*
- (4) *If yes, what should be the different categories (example cities/town/rural area) of areas for which minimum channel carrying capacity should be prescribed and what would the capacity for each category.*

Dish TV Response

Each MSO - National or Regional operates in its own specific markets and thus understands the market requirements regarding the type, genre and how much channels are required to carry to serve the market it caters to. It may be mentioned that specifying a minimum number of channels first of all will need a proper basis and criteria on which that number is being suggested or specified, which is difficult to establish.

It is a matter of fact that today each subscriber has a choice of 6 paid DTH platforms, DD Direct, at least two MSO and the platforms like OTT and IPTV are gaining foothold very strongly. Soon there is likelihood of 4G or LTE platforms available to the subscribers. There is no case of restriction on the choice to the subscribers today. Thus we are of the opinion that there is no need to specify the minimum number of channels to be carried by a MSO.

Specifying a number of channels to be carried will put the DTH services at a disadvantage vis a vis cable services as DTH is constrained by the satellite capacity it has and one platform has to cater on national level. Unlike MSOs, DTH has to cater to the requirements of all their customers from different regions. Given the capacity constraints faced by DTH due to non-availability of satellite

transponders, the DTH service providers will be on a non level playing field

We are of the view that it should be left to the respective platforms to decide the number of the channels to be carried and the composition of those channels

Placement Fee

- (5) Whether there is a need for regulating the placement fee in all the Digital Addressable Systems. If so, how it should be regulated. The stakeholders are requested to submit their comments with justifications.

Response:

In view of the high cost involved in distribution of the channels, it is suggested that the placement fee should not be regulated and it should be left for the market forces to determine and decide.

If the content provider and the DTH operator agree through mutual negotiations for payment of carriage fee/placement charges or technical cost for carriage of the channels, there cannot and should not be any objection. It is purely a matter in the private contractual domain and no regulatory intervention is called for.

However, in order to create a transparent mechanism even in the carriage/placement fee domain in digital addressable systems, we are of the view that certain stipulations are required to be incorporated in the Regulations. The contracts/agreements for carriage/placement fee between the broadcasters and distribution platforms including with MSOs and DTH

operators be brought under the regime of Register of Interconnection Regulations thereby creating the obligations on broadcasters and distribution platforms for filing these contracts/agreements with TRAI.

Further, the distribution platforms viz. MSO (digital addressable cable), DTH etc. be also brought under the purview of RIO Regulations on the lines of RIO published by Broadcasters for subscription of their channels. In other words, these distribution platforms should publish the Reference Interconnect Offers (RIOs) specifying the terms & conditions including commercial terms for the carriage/placement of the channels (Basic Tier, LCN Nos. etc) on non-discriminatory basis.

B. Issues related to amendments to the Tariff Order applicable for Addressable Systems.

Twin conditions at retail level

(6) The stakeholders are requested offer their comments on the following twin conditions, to prevent perverse a-la-carte pricing of the pay channels being offered as part of the bouquet(s).

- “ a. The ceiling on the a-la-carte rates of pay channels forming part of bouquet(s) which shall not exceed three times the ascribed value# of the pay channel in the bouquet;*
- b. The a-la-carte rates of pay channels forming part of bouquet(s) shall not exceed two times the a-la carte rate of the channel offered by the broadcaster at wholesale rates for addressable systems.*

#ascribed value of a pay channels in a bouquet is calculated in the following manner:

1. *Proportionate Bouquet Rate for pay channels [A]=
Bouquet Rate x (Sum of a la carte rate of Pay channels)/(Sum of a la carte
rate of Pay channels+ Total no of FTA channels x factor*)*

2. *Ascribed value of a pay channel in a bouquet = [A] x a-la-carte rate of a
pay channel/ (sum of a-la-carte rate of all the pay channels)*

**factor=1 if uniform rate of free-to-air channel is less than or equal to
Rupees three. The factor = uniform rate of free-to-air channel/ 3, if the
uniform rate of free-to- air channel is greater than Rupees three."*

Dish Response

The proposed amendments suggested by the TRAI to the twin conditions have not taken into account that the bouquets offered may consist of both free to air and pay channels. It has not addressed the issue of a situation on what happens in the event service providers offer bouquets of only free to air channels.

In arriving at this formula was that they were assuming that the a-la-carte rates of all channels offered by a broadcaster is uniform.? In reality this is not true. The rates of channels differ and there is no uniformity in the rates being offered. The service provider has to take into consideration the rates at which he gets the channel from a broadcaster before arriving at an a-la carte rate of that channel for a subscriber.

Under the proposed formula, for a same channel there can be multiple rates as there are multiple bouquets being offered by service providers and thus for each channel there can be multiple ascribed value of the channel. The

suggestion given will also confuse the subscriber as for the same channels there will be multiple rates amongst the service providers. Thus, in our view the concept of ascribed value is neither practicable nor viable and should not be taken into consideration while arriving at retail rate on ala-carte basis.

The packaging has worked till now successfully and there seems to be no need to get into the ala carte pricing by the Authority. However still in case Authority wishes to stipulate some basic parameters, then the offering of the ala carte by the platform should be linked to the offering of the ala carte by the broadcasters. We will suggest that the channel in ala carte offering by the platform should not be priced more than the three times the rates by the broadcasters subject to the minimum pricing of FTA channel so as to also cover the cost of encryption, SMS & other distribution costs.

This will ensure that across the platforms the ala carte offering rates ceiling will remain same, this will not cause any ambiguity/confusion in the mind of the subscribers and will make the administration easy for the platforms in case of change of packages etc.

Dish TV will also like to mention here that each request made for addition or deletion of the channel or product has a cost to the service platforms. While making some basic guidelines on the provision of the ala carte channels those costs needs to be taken care of. Costs like the call in to the call centre, the processing costs, the bandwidth costs , conditional access costs are the factors which are required to be taken into consideration while arriving at the a-la-carte rate of the channel at the retail level.

We would also like to mention that this provision of ala carte will also be confusing the consumer who is just taking on the digital regime as he will have to go through the list of the channels, pick the channels he wishes to subscribe and then convey the same to the recharge point or the call centre where the same will have to be processed.

In our view the current regime of offering the services in the packs has been working well and any aberration has been taken care by the market forces. The consumers today having

a choice of multiple DTH service providers, digital cable, IPTV and very soon OTT will be protected from any adverse offering by any service provider.

Minimum Subscription Period

(7) The stakeholders are requested to offer the comments, if any, on the proposed deletion of the word „pay“ in clause 6 and 6(2) of the principal tariff order dated 21.07.2010.

Dish Response:

We recommend that the word “Pay” be deleted from clause 6.2 of the tariff Order of 21.7.2010. As there are bouquet which are a mix of pay and free to air channels.

In case the consumer chooses to select only FTA channels in his ala carte offering then too it will be required that he continues to subscribe to the services for a minimum period.

Freedom to choose the channel(s) on a-la-carte and/or bouquet(s)

(8) The stakeholders are requested to offer their comments, if any, on the proposed inclusion of the following provision after sub-clause 6(4) in the tariff order dated 21.07.2010, as amended.

“It shall be open to the subscriber of the addressable systems to subscribe to one or more pay channel or only free to air channels or only pay channels or pay channels and free to air channels.”

Dish Response:

The service providers offer consumer a wholesome mix of channels which have the channels as their linguistic and regional requirements and are available at various price points to meet the requirement of all.

In case a consumer chooses to subscribe to a particular package he is assumed to be doing so after going through the composition of the package and then should not be insisting

that he wants only specific channel from those packages. In case he wishes to watch only specific channels then he has the option to go to the ala carte choice and be there for the minimum period as prescribed by the service providers.

Offerings of Bouquet(s) of channels which require special Set Top Boxes (STBs) such as High Definition Television (HDTV) or Three Dimensional Television (3D TV) channels etc.

(9) Whether the channels that require special type of STB be offered only on a-la-carte basis or as part of separate bouquets that consists of only those channels that require a particular type of specialised STB.

Dish Response:

The channels which require specialised Set Top Boxes such as HD Channels or 3D channels can be offered by the service provider based on its business model. However it is important that now since the number of such channels are increasing, it will be in the consumer interest that the prices of such channels are also looked into as certain broadcasters/content distributors are pricing the channel or the event in an arbitrary manner to force the service providers to do a fix fee deal with the Broadcasters.

The services providers should have the freedom to form the bouquet for these channels as per their business requirements and as mandated for the SD channels, these channels also be offered in the ala carte manner with the same condition of the pricing that it should not be more than the three times of the price of the channel by the broadcasters. This will ensure that the channel is priced by the broadcaster in a realistic manner.