



February 05, 2010

Submissions of ESPN Software India Private Limited ("ESIPL") to Telecom Regulatory Authority of India ("TRAI") in response to the Supplementary Consultation Paper on Tariff Related Issues for DTH Services ("Supplementary Consultation Paper")

The Hon'ble Authority has by way of this Supplementary Consultation paper asked the Stakeholders to submit their responses on the various additional issues like add-on packs since it has added a new dimension to the DTH tariff consultation as the said issue was not a part of the earlier consultation paper released by the Hon'ble Authority on March 06, 2009.

Our response is without prejudice to any of our rights. In particular we reserve our rights to challenge:

- The release of this Supplementary consultation paper.
- Any directions, tariff orders, regulations, recommendations or any other order(s) that may be made/passed by the Authority on the subject matter.

This response on the part of ESIPL should be read in continuation to our earlier response filed on April 14, 2009.

Below are our responses to the specific questions raised in the Supplementary Consultation paper

4.1.1 Whether there is a need to differentiate various packages for the purpose of wholesale tariff determination?

In any event, we submit that there is no need to fix retail or wholesale



tariffs for the DTH sector. There is sufficient competition between broadcasters, amongst DTH operators and between DTH operators and operators of other platforms, to discourage perverse pricing.

But there is a requirement for rationalizing the pricing of different packages depending on the content as the content costs in the Sports broadcasting sector is huge as compared to other broadcasting sectors.

To give some examples of content costs in the sports broadcasting sector, it has been reported that:

- The BCCI recently sold the worldwide broadcasting rights for the Indian Premier League cricket tournament for nine years to Multi Screen Media and World Sport Group for Rs 8,200 crore (approximately US\$1.6 billion);
- ESPN STAR Sports paid a similarly large amount for worldwide broadcasting rights for the Twenty20 Champions League cricket tournament for ten years; and
- The Indian sub-continent rights for the football World Cup have substantially increased, from US\$2.5 million for the 2002 event, to US\$8 million for the 2006 event, to US\$42 million for the 2010 event.

4.1.2 If yes, how to define a basic package and add-on package for the purpose of wholesale tariff differentiation in relation to DTH services?

Basic package should be one that caters to the entire household. For example it should be a healthy mix of Sports, Music, News & Knowledge, Cartoons, Movies, Entertainment, Religious and regional channels. Add-on packages could be from a particular genre or a combination of few different genres and if the channel is a part of an add-on pack there should be no price fixation as these channels are subscribed voluntarily, based on choice of the viewer.



4.1.3 Whether there is a need for different wholesale price formulation for a TV Channel/bouquet depending upon its inclusion in different packages offered to the subscribers by the DTH operators. You may also suggest any other Option for differential wholesale price formulation.

We do not support any Wholesale price formulation. However, if the Hon'ble Authority were to introduce price regulation (a position we do not support and which hasn't been justified with any data or analysis), we submit that any such regime should continue on the same basis as the current regime – that is, that the wholesale rate is fixed by reference to the prices of channels for non-addressable platforms. However, the following qualification must be made: a broadcaster need only offer its channel(s) to DTH Operators at a 50% discount on non-CAS rates if each such channel is made a part of an entry level tier or is otherwise given wide distribution in a "base pack".

In a non-addressable cable system, all the channels distributed by a cable operator are delivered to all of its subscribers without distinction. The issue that arises in wholesale pricing of channels for non-addressable systems is that cable operators often under-declare subscriber numbers, commonly by up to 80%. Hence, if a DTH operator distributes the channels to all of its subscribers and declares 100% of its subscribers, it may be accorded a 50% discount on the non-CAS rate. The figure of 50% represents a median figure for the rate of under-declaration by cable operators.

The basis for this approach may be shown in the following two tables:

TABLE 1: NON ADDRESSABLE CABLE OPERATOR WITH 5,000 SUBSCRIBERS.



(A)	Subscribers paid for	2,500 nos.
(B)	Price per channel	Rs.100
(C)	Pay out based on negotiated subscriber base (2500 x	Rs. 250,000
(D)	Pay out based on entire subscriber base (5000 x	Rs. 500,000
(E)	Effective price as applied to entire subscriber base	Rs.50
(F)	Effective discount deemed to have been given to such cable operator as applied to its entire service base -	50%
(G)	Reach provided to broadcaster	5,000 subscribers

TABLE 2: DTH PLATFORM WITH 5,000 SUBSCRIBERS, CHANNELS IN BASE PACKAGE

(A)	Subscriber paid for where channel part of base	5000 nos.
(B)	Price per subscriber in non addressable cable	Rs. 100
(C)	Pay out as price per subscriber applied to entire service	Rs.500,000
(D)	Price per subscriber (50% of non addressable cable	Rs.50
(E)	Pay out as per price mandated by the Hon'ble TDSAT	Rs.250,000
(F)	Effective discount deemed to have been given on the per subscriber price given to non addressable system in compliance with the Hon'ble TDSAT order (Rs.250,000 ÷ Rs.500,000 x 100)	50%
(G)	Reach provided to broadcaster	5,000 subscribers (100% reach) or the vast majority of its subscriber base.

However, DTH operators now offer subscribers a base package of channels and "add on" packs, whereby a subscriber has to pay an additional amount for channels that don't form part of the base package. Hence the majority of the subscriber base of DTH operator is not available for such channels. The additional amount payable for "add on" packs discourages subscriber uptake of



a particular channel with a corresponding impact on that channel's exposure and potential for advertising revenue. See the table below.

TABLE 3: DTH PLATFORM WITH 5,000 SUBSCRIBERS, CHANNELS IN ADD-ON PACK

(A)	Subscribers paid for when channel is a part of Add On	1000 nos.
(B)	Price per subscriber in non addressable cable	Rs. 100
(C)	Price per subscriber (50% of non addressable cable	Rs.50.
(D)	Total pay out as per price per subscriber (50% of non addressable cable system price) mandated by the	Rs. 50,000
(E)	Pay out as per price per subscriber applied to entire service base (5000 x Rs.100)	Rs.500,000
(F)	Total pay out as applied to entire subscriber base	10%
(G)	Effective discount when applied to the entire subscriber base	90%
(H)	Reach provided to broadcaster	1,000 subscribers only (20%)

If a DTH operator charges (and receives) an additional amount for a particular channel as an "add on" pack, the operator should not also obtain the benefit of the discount that it would receive if that channel were part of the base pack and therefore available to all subscribers.

Although the figures in the above table are given as "round" figures for the purpose of illustration, they are consistent with what has happened in practice since DTH operators introduced "add on" packs.

We therefore propose the following pricing slab for DTH wholesale prices, calculated with reference to non-CAS prices of the channels and taking into account the reach provided by a DTH operator:



<u>Subscriber Base/Reach provided</u>	<u>Discount on Non-CAS Price</u>	<u>Effective Price</u>
If given 100% of platform reach or placed in base pack	50%	50% of non-CAS Price
If given 80% of platform reach	40%	60% of non-CAS Price
If given 70% of platform reach	30%	70% of non-CAS Price
If given 60% of platform reach	20%	80% of non-CAS Price
If given 50% of platform reach	10%	90% of non-CAS Price
If less than 50% or Add on Pack	Nil	Same as non-CAS price

The Broadcaster should have the freedom to offer either the fixed fee deal or volume discounting depending on the placement of the Channels of the broadcasters in different types of packages i.e. Basic package or Add-on Package.

The above response is without prejudice to any of our rights to challenge the directions, tariff orders, regulations or any other order(s) that may be passed with respect to DTH Price regulation.

4.1.4 If the wholesale price is to be linked with packaging of the TV channels then what should be the relationship between wholesale prices of a TV channel/bouquet offered by a broadcaster to a DTH operator, if the channel/bouquet is packaged as a part of a basic package, or as a part of add-on-package or both by a DTH operator?

Please see our comments at point 4.1.3 above.

4.1.5 Why should not a DTH operator extend *a-la-carte* mode of service provisioning of a TV channel at the level of subscriber?



We do not support any requirement that broadcasters or operators make available pay channels on an a-la-carte basis and no data or analysis has been provided by TRAI to justify such a proposal.

Economists around the world are virtually unanimous in agreeing that bundling in competitive markets is efficient and pro-consumer because of the efficiency benefits and increase in competition it provides.³³

In addition, consumer choice is actually *reduced* by such a requirement because it discourages investment in new or niche channels. If broadcasters can't secure wide distribution (and hence, exposure) through a bouquet arrangement, they're less likely to take the commercial risk involved in launching such channels. DTH operators are also less likely to take the risk of carrying new or niche channels as part of a limited line-up if consumers can elect not to take them.

We note that the Hon'ble TDSAT has held that any imposition of an a la carte requirement has to be bolstered by safeguards for both the consumer and broadcaster, particularly when there are capacity restraints in the number of channels an operator can provide to consumers.

4.1.6 Can the DTH operator offer a-la-carte option as one of the entry level options for the subscribers?

Please see our comments at point 4.1.5 above.

4.1.7 If the DTH operators are required to make available the channels on *a-la-carte* basis to the subscriber, then what could be the minimum number of channels and/or minimum subscription price and/or minimum subscription period for subscribing to the channels? Please elaborate your comments with appropriate reasoning.



Keeping in mind our response to 4.1.5 we do not deem it necessary to respond to this as we do not subscribe channels to be offered on a-la-carte basis to viewers

4.1.8 In case of *a-la-carte* provision to the subscribers, should there be a maximum permitted time frame for servicing request of a DTH subscriber? If so what should be such time frame? Please elaborate your comments with appropriate reasoning.

In view of our position taken in point 4.1.5 above we oppose to offering of channels in a-la-carte mode.

4.1.9 In case of *a-la-carte* offering of any TV channel by a DTH operator, whether there is a need to identify relationship between wholesale and retail price of that channel? Please elaborate your comments with appropriate reasoning.

In the event a-la-carte offering is given by a DTH Operator then in that event a retail price ought to be fixed so that the consumer can benefit from the discounted price being offered by the Broadcaster to the DTH operator.

For ESPN Software India Pvt Ltd

A handwritten signature in black ink, appearing to read "Vijay Rajput", is written over a horizontal line.

**Vijay Rajput
(Chief Operating Officer)**