



18 January 2013

Submissions of ESPN Software India Pvt. Ltd. ("ESI") to Telecom Regulatory Authority of India ("Authority") in response to the Consultation Paper on "Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems & Tariff Order applicable for Addressable Systems" dated 20 December, 2012 ("Consultation Paper")

RESPONSE TO ISSUES

ISSUE 1:

(a) 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."

(b) If no, the reasons thereof.

Response – This would be an option to bring in alignment of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 with the existing The Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004, as amended.

In the alternative, the Authority may also consider moving to a regulatory framework where there is a single set of interconnection regulations that could be in the form of the existing Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004, as amended. It has been pointed out earlier that the regulations and tariff orders relating to CAS areas and the associated amendments may be repealed as they would not have relevance in the current scenario.

The relevant provisions relating to distribution on digital addressable cable television platform ("DAS") may also be introduced by amendment to the existing regulations and other parallel regulations may be repealed. This would ensure that there is no overlapping or contradictory definitions or postulations on the same concepts that is currently the case in few instances such as in the case of definition of 'addressable system'.



ISSUE 2:

(a) Whether there is a need to specify certain minimum channel carrying capacity for the MSOs in the interconnection regulations for DAS.

(b) 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.

Response – The Authority may consider leaving this to the discretion of operators who would ordinarily be guided by commercial considerations and relevant market forces in this regard.

ISSUE 3:

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 – The current stipulation against placement fee ought to continue since it is in any case not relevant in a digital addressable platform.

ISSUE 4:

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.

Apropos the above, the stakeholders are requested offer their comments on the above conditions to prevent perverse a-la-carte pricing of the pay channels being offered as part of the bouquet(s). The stakeholders are also welcome to submit any other formulation that can achieve the same objective, along with its justification.

Response – At the outset, it is submitted that regulation of retail tariffs at this stage is not necessary or desirable and forbearance may continue so that market forces govern.

Further, it is submitted that the proposed formula is complex to be applied across the board, especially in the absence of a universal prescription for the 'factor'.

In this context, it is submitted that there is also an urgent need to deregulate wholesale prices which need to be freed for the reasons that such regulation is not required in a pricing regime where market forces may effectively control prices and there is no need for regulation when retail pricing is not regulated. Practically speaking, there is a historical anomaly that needs correction as well in terms of huge differences in pricing of channels in the same genre based on those launched earlier and later since the channels launched earlier are unable to increase their prices despite level of popularity or demand due to existing caps. It must also be noted that *niche* channels such as sports channels with unique and periodic content availability, limited shelf life, mandatory sharing requirements, limited advertisement opportunities and huge content costs cannot be subject to the same pricing norms and guidelines.

ISSUE 5:

Apropos the above 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.

Response - No comments.

ISSUE 6:

"It shall be open to the subscriber of the addressable systems to subscribe to any bouquet(s) or any bouquet(s) and any channel(s)(pay or free to air) or only free to air channels or only pay channels or pay channels and free to air channels"

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

Response - No comments.



ISSUE 7:

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 specialized STB.

Response - No comments.