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**BEFORE THE TELECOM REGULATORY AUTHORITY OF INDIA  
AT NEW DELHI**

Written Comments of the Mathrubhumi Printing & Publishing Company Ltd., on  
the Consultation Paper on Issues Related to Interconnection Regulations, 2017  
(C.P. No.16/2019).

**A. Issues related to Placement and other agreements between Broadcasters  
and Distributors**

For the sake of convenience, the issues for consultation mentioned in paras 3.25 to 3.29 of the Consultation Paper are answered together in the following paragraphs:

1. MSOs/DTH operators are continuing to demand hefty Placement Fees/ Marketing fees even after the coming into force of the new Interconnection Regulations. Transparency and non-discrimination are the core principles of the new Interconnection regulations. All Agreements whether for Placement Fees or Marketing Fees or by any other nomenclature should comply with the principles of Transparency and non-discrimination.
2. Extortionary and unconscionable amounts in the name of Placement Fees, Marketing Fees etc. are demanded by the MSOs/DTH operators to carry the channels. MSOs/DTH Operators are not inclined to sign the Interconnection Agreements (RIOs). With a view to wriggle out of the consequences of the new Interconnection Regulations, MSOs/DTH Operators are taking the stand that the Channel would be available only on *Al-a-carte* basis if the Interconnection Agreement/RIO alone is signed without acceding to their unlawful and extortionary demands for hefty Placement fees. MSOs/DTH Operators have made a mockery of the new Interconnection regulations by demanding Placement Fees/Marketing Fees for making available the channels in the Basic Service Tier (BST) or in the packages/bouquets offered by the MSOs/DTH Operators.
3. It is needless to mention that just by placing a channel on *Al-a-carte* basis will not be of any avail either for the Broadcaster or for the Customer.





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Availability of Channels on *Al-a-carte* basis without proper facilities being given to the customers for exercising their option by the MSOs/DTH Operators will be suicidal for the Broadcasters. The customer care facilities of MSOs/DTH Operators are either inadequate or not fully equipped and are not customer friendly. Further, certain MSOs/DTH Operators have made the Basic Service Tier (BST) redundant by including non-popular and other language channels. All this results in the Customers heavily relying on the packages/bouquets offered by the MSOs/DTH Operators for which they demand hefty Placement fees.

4. These are blatant violations of the new regime which aims at creating a level playing field, fair play and non-discriminatory approach. Today, the Distributor is at liberty to fix varied Marketing and Placement fees from different Broadcasters or the Distributors may even exempt few Broadcasters from Placement and Marketing Fees. Thus, Distributors are misusing the situation to arm-twist the Broadcasters.
5. Broadcasters are today at the mercy of the Distributors, as they have complete liberty to fix varied marketing / placement fees or fees of any other nomenclature as a condition precedent to carry the channel. On the one hand, certain distributors demand unconscionable and extortionary amounts from some broadcasters and on the other hand, the very same distributor exempts some other broadcasters from making any payment in the nature of marketing/placement fees. This is a blatant violation of the new regime which aims at creating a level playing field, fair play and non-discriminatory approach.
6. TRAI must insist on all broadcasters to file the details of payments made to the Distributors (MSOs/DTH Operators) in the nature of marketing / placement or by any other nomenclature. TRAI can call for copies of all such Agreements and payment details from all the broadcasters and distributors and independently assess the extent of discrimination meted out by the Distributors. The Marketing/Placement fees paid by the Broadcasters to the Distributors must be categorized according to the nature, category and





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genre wise ie., Pay channel or Free to Air channel, Regional or National channel and genre wise like Sports, GEC, Movies, Infotainment, Kids, News, Music, etc.

7. TRAI should immediately regulate all fees charged by the Distributors whether Marketing / Placement or any other nomenclature in the best interests of the broadcasting industry and put an end to the unhealthy practice prevalent for quite a long time.
8. The practice of charging such exorbitant Placement/ Marketing fee is not only wholly unwarranted but is a death knell to the Broadcasters especially the FTA Regional language News channels. Further such unhealthy practice is discriminatory, unfair, unreasonable and denying level playing field to the broadcasters.
9. As stated earlier, TRAI must regulate this unhealthy practice and create a win-win situation for Broadcasters and Distributors. Such a step will ensure co-existence of Broadcasters and Distributors and create a level playing field, ensure transparency and fairness.
10. The TRAI is entrusted by the Telecom Regulatory Authority of India Act, 1997 to, *inter alia*, fix the terms and conditions of 'interconnectivity', as well as, regulate 'arrangement' amongst service providers. The interconnection Regulation gives a broad definition to 'interconnection agreement' (see R. 2(y)) to cover the technical and commercial terms and conditions for distribution of signals of television channel. However, the effective regulation has been limited to establishment of 'interconnection', leaving out of it other commercial agreements- left open to commercial negotiations between the market players. This is referred to in the Consultation paper as the 'soft touch' approach or 'forbearance' (see paras 1.13).
11. Both the Broadcasters and Distributors may act as seeker or provider in the value chain. Under the present framework, both the Broadcasters and the





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Distributors are required to offer their services on 'non-discriminatory basis' (refer Regulation 3 and 4). As regards placement of channels, Regulation 3.3 specifically prohibits the Broadcaster from demanding the placement of channels at a particular LCN as a pre-condition for providing signals to the distributor. Thus, by taking out the issue of placement out of the Broadcaster's hands, the Distributors are sought to be protected from unscrupulous demands/ pressure tactics from the part of the Broadcasters. On the other hand, there is no protection to the Broadcasters against the demands of the Distributors.

12. This is despite the market reality, that largely, it is the Broadcasters especially the Free-to-Air Regional language channels who pay huge sums of money to the Distributors to secure viable/attractive placement of their channels in the latter's network with a view to survive competition from other Broadcasters offering channels in the same genre. In the absence of any regulation/ embargo on the Distributors, the Broadcasters are made to suffer exploitation.

13. It may be noted here, that the Consultation paper itself recognizes that in India, the channels are offered in many languages and majority of channels cater to regional audiences (para 1.6). This fact plays great significance in the backdrop of flexibility given to the distributors in the matter of placement of channels under the present regime- refer discussion in Consultation Paper 10/2019- taken note of in para 3.13 of the present paper. It is submitted that whichever mode is prescribed for placement of channels in EPG-

L1Gx, L2Gx ... (where 'x' varies) OR

G1Lx, G2Lx ... (where 'x' varies) OR

GxLy ... (where 'x' and 'y' vary),

the competition in the market being among regional TV channels, the Distributors will continue to have an elevated position in the market economics. However, although not strictly within the scope of the present paper, it is submitted that the viewership in India being primarily segregated by language, the arrangement of L1Gx, L2Gx ... may be most convenient for customers/users.





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14. Thus, it is submitted that although the Interconnection Regulation attempts to discourage the prevalent practice of negotiating 'placement of channels' (see paras 1.13 and 3.3 of this Consultation Paper) by the broadcasters and distributors, for the reasons stated above, the balance is tilted in favour of collection of heavy placement fees by the Distributors.
15. Another factor which gives leverage to the Distributors' authority is the flexibility given to Distributors in the offering of channels in Basic Service Tier (BST) and also bouquets of channels (also recognized in Consultation Paper 10/2019). At present there is also no cap on the number of bouquets which can be offered by the Distributors-which effectively nullifies the customer choice. In such circumstances, the Distributors encash on the market competition for the Broadcasters by taking the stand that the channel would be available only on *Al-a-carte* basis (and not in Basic Service Tier (BST) or in the packages/bouquets offered by them) if unlawful and extortionary demands for hefty Placement fees or marketing fees or such other fees, are not acceded to. It goes without saying that where the consumer is not able to effectively exercise his choice of channels on *al-a-carte* basis (paras 3.15, 3.16 etc.), especially when the customer care facilities of MSOs/DTH operators are either inadequate or not fully equipped and are not customer friendly (morefully mentioned in para 3 above), the availability of Broadcaster's Channels on *al-a-carte* basis alone, will be suicidal for the Broadcasters.
16. The Consultation paper recognizes that while the framework does not specifically restrict the marketing/promotion deals, creating packages and forcing broadcasters to sign for such packages is de-hors the new regulatory framework (para 3.17). This also goes against 'consumer choice' which is recognised as the fulcrum of the new regulatory framework.
17. It is submitted that to curb the menace of misuse by Distributors of the flexibility given to them under the present regime, one of the two alternative can be adopted-

