

TRAI CONSULTATION

ON

**“DRAFT TARIFF ORDER APPLICABLE FOR
NON-ADDRESSABLE CABLE TV SYSTEMS”**

Dated 01st December, 2014

RESPONSE OF

**NEO SPORTS BROADCAST PRIVATE
LIMITED**

Reply to Consultation Issues:

a) Wholesale Tariff:

Vide our submission we would like to put forward our suggestion of complete forbearance with regard to wholesale tariff as far as analogue cable is concerned. We believe that freedom of pricing its content should be given to the broadcasters as the scenario in comparison to the year 2010 wherein TRAI submitted its report to Supreme Court is much more competitive and favorable for market forces to operate.

In light of the above statement, there should not be any obligation on broadcasters to offer old bouquets as they have unconditionally lost their relevance particularly after the initiation of Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Tenth Amendment) Order, 2014 (1 of 2014) dated February 10, 2014.

In furtherance to the above, the accurate declaration of subscriber base is an issue which has remained unresolved therefore, it would be best to let the parties negotiate the prices rather than putting the broadcasters on the backfoot by asking them to renounce the right of knowing the accurate subscriber base. If the prices are regularized then in that event, the cable operators will continue to gain unlawfully and illegally via under declaration of subscriber base.

Moreover, if the price fixation of TRAI is effectuated then it along with the cap on the duration of advertisements would turn the situation for broadcasters from bad to worse as the revenue earning is already going through a rough patch.

Thus, the act of market forces will ensure that the equilibrium will be maintained as far as the chargeability is concerned.

b) Retail Tariff:

The fixation of tariff at retail level has a direct effect on the consumers but also effects the stakeholders i.e. Broadcasters, MSOs etc. The MSOs under the pretence of retail pricing would start negotiating with broadcasters or would incorporate lesser priced channels in their limited bandwidth. As a result, the issue of carriage and placement fee will take a shape.

c) Carriage and Placement Fee:

Though the issue of carriage and placement fee was considered in the Report dated July 21, 2010 however, it has been kept out of the picture in the draft tariff order. On the contrary, it is a well known fact that non-addressable systems can carry limited number of channels and with increase in number of channels and limited bandwidth the fee of carriage and placement has mushroomed considerably.

No authority or stakeholder is unaware of the arm twisting tactic of MSOs who advertently charge carriage and placement fee to carry and place the channels of the broadcasters. Such an act not only contributes to inflation in price of distribution of channels but also harms the financial health of the broadcasters further resulting in fall in quality of content. By keeping the subscription fee regulated and leaving the carriage and placement fee unregulated would amount to hand over of a weapon in the hands of an adolescent.

d) Reporting Requirements:

The reporting requirements mentioned in the draft tariff order appear to be biased against broadcasters as no such regulatory mandate has been prescribed for any other stakeholder.

It is submitted that the furnishing of advertisement revenue for last three financial years, annually, serves no purpose and is devoid of any rationale. Moreover, it violates the principles of confidentiality and privacy. In any event TRAI's competence to determine advertising time is itself under challenge in the High Court of Delhi and if TRAI cannot go into advertising time, neither can it delve into advertising rates. This provision needs to be removed. Further, advertisement revenues have no relevance in so far as subscription rates are concerned. Advertisement revenues have no cost implication for consumers or operators.

It is submitted herein that vide the earlier tariff order, the Broadcasters could file the necessary declaration with the Authority within seven days of the launch of any new channel. The change of the said requirement from seven days to thirty days for intimation is bound to cause practical hardship in today's day and age. The Broadcasters have been following the earlier rule at ground level and the same has been functional without any trouble or inconvenience to the whole of the distribution chain or the Authority. We submit that the earlier requirement may be retained so as to avoid undue hardships to the Broadcasters.

Following are certain suggestions which need to be paid attention to:

- Broadcasters should be allowed to conduct surprise audits and surveys with their respective technical teams to clinch the issue of subscriber base. In addition to the aforementioned, other methods of calculating a conservative figure of subscriber base should be explored and such parameters of reliance should be enumerated.
- TRAI should strictly monitor and enforce the Standards of Quality of Service (Broadcasting and Cable Services) (Cable Television - Non-CAS Areas) Regulations, 2009. Any operator who is found to violate the said QOS regulations should be denied protection of the TRAI Interconnect and Tariff Regulations and appropriate financial disincentives should also be imposed on such non-compliant operators.
- TRAI should amend the definitions of “addressable systems”, “Television channels”, “Commercial Subscriber” and “Commercial Establishment” in consonance with the conditions currently prevailing in the non-addressable industry.

In light of the above suggestions, we state that the Proposed Tariff Order suffers from various infirmities and the issues as stated herein need urgent redressal. We suggest TRAI to consider our views and come up with a transformed draft of the tariff order keeping mind the interests of all the stakeholders and prevailing scenario of the broadcasting industry.