

Comments of Reliance Big TV Limited on

Consultation paper on -“Tariff Issues related to Cable TV Services in Non-CAS Areas

1. **General Comments**

At the outset, we would like to compliment TRAI for bring out a comprehensive consultation paper on “Tariff issues related to Cable TV Services in Non-CAS Areas”. On 22nd April, 2010, TRAI has also released consultation paper on the similar issues for the CAS notified areas. With these initiatives, entire distribution of TV signals sector would be covered, which will address tariff related issues for the sector, and thereby stimulate growth in the broadcasting industry in a transparent and in orderly manner.

In spite of tremendous progress in the technologies used for distribution of TV signals, 75-80% market in the country is controlled by analog cable thereby, depriving the consumers of the services from enjoying the world class TV viewing experience.

Therefore, there is a need to have a holistic view on various issues related to cable TV services in Non-CAS areas, and resolving of tariff issues is the most important for bringing in transparency and moving from analog to digital TV distribution at a faster pace.

In our opinion, the guiding principle for resolving various issues and arriving at a balanced and sustainable solution should be -

- (i) The Government should set a road map for complete digitalization of TV signal distribution.
- (ii) In the Non-CAS areas, fixing of wholesale tariffs is meaningless due to large scale (85-90%) under declaration. Further, due to limited bandwidth on analog cable, carriage & placement fees have overshadowed the subscription fee collected by the broadcasters. In order to provide incentive for shifting from analog to digital platform, wholesale tariffs for the digital and addressable platform should be kept at the lowest possible level, till digitalization is achieved to a reasonable level of say 75-80% in the country.
- (iii) Retail tariffs should not be regulated as there is enough competition in the market.

2. Comments on the issues raised in the Consultation Paper

1. *Are the figures in Annexure B3 representative for the different genres of broadcasters? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the genre, and not of your company.*

We have no specific comments to offer. However, from the Consultation Paper, it is noted that information in Annexure B3 is based on collating the data using certain filtration criteria to remove the impact of aberrations. Perhaps, it appears that due to non availability of relevant information from the broadcasters and analysis have been made only on the basis of certain assumptions.

In para 2.2.8 of CP, analysis have been made on the average advertising to subscription revenue ratio of selected companies. Out of 4 companies under consideration, 2 belong to same business group, which have interest in entire value chain of broadcasting sector. For obvious reasons, subscription revenue of these companies is unreasonably high compared to other two listed companies. Therefore, the ratio of 65:35 for the average advertising to subscription revenue ratio is misleading.

Further, with the entry of DTH services, which is totally addressable and transparent system of delivery, addressable platform is contributing about 50% of the subscription revenue. Therefore, subscription revenue from analog cable, which is controlling about 80% of the market, contributes only 10-15%.

In our opinion, the figures related to subscription revenue in Annexure B are on higher side, at least by 30-40%.

2. *Are the figures in Annexure B5 representative for aggregators? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.*
 - (i) The business Model is de-risked and works on commission basis only with key costs being manpower and operations.
 - (ii) The key aggregators such as Star Den, Zee Turner and One alliance are part of large media houses and conglomerates who have equity stakes in them. Thus they enjoy the economies of scale and synergies.

We, therefore, believe that the content aggregator cannot survive on negative EBITA on a sustained basis. It is noteworthy that DEN has an EBITDA of 11% in first three qtrs of FY10.

3. *Are the figures in Annexure B7 representative for the national MSOs? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.*

We wish to draw your attention as mentioned in point no. 2.1.1 at page 10 of the consultation paper that there is a constant growth of subscriber approx @40% year on year. However the paid and declared analog subscriber's number for each broadcaster are not even 10%.

It is astonishing to note that despite having tremendous growth of subscribers; MSOs are showing negative and low EBITA as mentioned in Annexure B6 and B7. It is noteworthy that EBITDA of Hathway, Cable & Datacom in FY 09 is 15%. These issues can be addressed through digitalization and implementation of addressability in a time bound process pan India.

4. *Are the figures in Annexure B7 representative for the regional MSOs? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.*

No specific comments.

5. *Are the figures in Annexure B9 representative for the LCOs with > 500 subscribers? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.*

No comments

6. *Are the figures in Annexure B9 representative for the LCOs with <= 500 subscribers? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.*

No comments

7. *What according to you is the average analog monthly cable bill in your state or at an all India level?*

No comments

8. *Is the market for cable services in non-CAS characterized by the following issues:*

(i) Under-reporting of the analog cable subscriber base

Yes, various market surveys indicate that there is 80%to 90% under reporting

(ii) Lack of transparency in business and transaction models

Yes, under reporting of subscriber numbers leads to lack of transparency in revenue reporting impacting the stakeholders in the chain

(iii) Differential pricing at the retail level

Yes, the differential pricing exists at retail level, However it is observed that it benefits the end consumer having increased competition

(iv) Incidence of carriage and placement fee

Yes, there is incidence of carriage and placement fees. Because of limited bandwidth especially in analogue cable, there is Carriage and placement fee. It is actually beneficial for the customer as it reduces financial load on customer and it provides opportunity to the customer to get access to diversified content especially in digitized platform where bandwidth capacity is not an issue.

(v) Incidence of state and region based monopolies

Yes, state and region based monopolies exists at all levels. Both cable operators and broadcasters exercise state and region base monopolistic approach which is detrimental to consumer interests and for growth of digitalization in the country.

(vi) Frequent disputes and lack of collaboration among stakeholders

No comments

9. *Are these issues adversely impacting efficiency in the market and leading to market failure?*

Yes, there is absolute requirement of digitalization and addressability so that each customer can be identified and transparent transactions akin to CAS/DTH take place from Customer to LCO, LCO to MSO, MSO to broadcaster and between various stakeholders in the chain and leading to better tax compliance for government. Due to lack of this transparency, there is rampant underreporting of subscribers and financial leakage which are happening at various levels in the chain which leads to reduced efficiencies and hence failures in digitalization drive.

10. *Which of the following methodology should be followed to regulate the wholesale tariff in the non-CAS areas and why?*

i) Revenue share

ii) Retail minus

iii) Cost Plus

iv) Any other method/approach you would like to suggest

We believe that none of the above methodologies will work on a standalone basis. Our proposal on the same would be to cap the content cost using a mix of revenue share and Cost Plus approach. Broadcasters should recover the content cost from the advertisement revenue and operational costs through subscription revenue

Basis the languages spoken, the country can be divided into 4 major zones: viz, North, East, West and South. We believe that the content cost for different genres and languages within those genres differ widely. Hence it is important to cap the content cost for each of these Regions separately basis the appropriate ARPU attributed to these Regions.

The cap could be 10% of the total estimated ARPU. Once this cap is established, the split between genres wise Channel widely watched in these regions should be determined basis the cost plus approach.

Additionally, to protect subscriber interests against arbitrary increase in price by the Operator/Broadcaster, an increase in rates by the Broadcaster or moving away of any Channel(s) from one Broadcaster to another,

(i) It should be ensured that once a deal is done between an Operator and the Broadcaster/Aggregator, which could be either a CPS or a Fixed Fee deal, the effective rate so determined should not be changed when the deal comes up for re-negotiation.

(ii) If the Operator has bought any bouquet of Channels from the Broadcaster/Aggregator and if any channel is removed and it becomes part of any other bouquet, the rate determined for such channel when agreeing

to the deal, will also have to be followed by the other Broadcaster /Aggregator receiving such Channel(s) from the other broadcaster/Aggregator.

(iii) In case of a channel turning from FTA to Pay, broadcasters should provide protection of charging customers on the existing base for minimum of 6 months to the Operator.

(iv) As Operators only distribute the channels, Licensee fee should be charged on the pass thru revenue only and license fee on the content should be charged to the broadcasters.

11.If the revenue share model is used to regulate the wholesale tariff, what should be the prescribed share of each stakeholder? Please provide supporting data.

Explained in reply to point 10

12. If the cost plus model is used to regulate the wholesale tariff, should it be genre wise or channel wise?

Explained in reply to point 10

13.Can forbearance be an option to regulate wholesale tariff? If yes, how to ensure that (i) broadcasters do not increase the price of popular channels arbitrarily and (ii) the consumers do not have to pay a higher price.

No, because the content for a channel is unique to the broadcaster so while the consumers have the option to watch channel in the same genre, they have to watch a channel if they have liking for specific content. In this scenario broadcaster may spike the charges astronomically if the forbearance is allowed on whole sale pricing

14.What is your view on the proposal that the broadcasters recover the content cost from the advertisement revenue and carriage cost from subscription revenue? If the broadcaster is to receive both, advertisement and subscription revenue, what according to you should be the ratio between the two? Please indicate this ratio at the genre levels.

Explained in reply to point 10

15.What is your view on continuing with the existing system of tariff regulation based on freezing of a-la-carte and bouquet rates as on 1.12.2007; and the rate of new channels based on the similarity principle at wholesale level? You

may also suggest modifications, if any, including the periodicity and basis of increase in tariff ceilings.

Explained in reply to point 10

16. Which of the following methodologies should be followed to regulate the retail tariff in non-CAS areas and why?

i) Cost Plus

ii) Consultative approach

iii) Affordability linked

iv) Any other method/ approach you would like to suggest

We believe that approach of forbearance is in the consumer interest. If the issue of underreporting is resolved, then there would be perfect competition in the market where customer is free to choose from any of the TV services providers i.e. between cable and DTH hence market forces will push down the retail prices as has been observed in case of telecom where policy of forbearance was implemented. Broadcaster should not decide the retail prices.

17. In case the affordability linked approach is to be used for retail tariff then should the tariff ceilings be prescribed (i) single at national level or (ii) different ceilings at State level or (iii) A tiered ceiling (3 tiers) as discussed in paragraph 5.3.23 or (iv) Any other

No comments

18. In case of retail tariff ceiling, should a ratio between pay and FTA channels or a minimum number of FTA/pay channels be prescribed? If so, what should be the ratio/ number?

The issue is not relevant as in an analog cable, subscriber has no choice to select the channels of his choice. We recommend that fair market competition will take care of such issues of consumer interest.

19. Should the broadcasters be mandated to offer their channels on a-la-carte basis to MSOs/LCOs? If yes, should the existing system continue or should there be any modification to the existing condition associated with it?

Yes,

As mentioned earlier, since most LCO has analog systems, there is a capacity constraint with the cable operators and they can carry a maximum of only 60 -80 Channels. Broadcaster bouquets will have a mix of good and not so good channels, relevant and non-relevant channels from the perspective of the geography in question. Hence, directing an Operator to carry only bouquets not only hits the Operator revenues adversely, but it also diminishes the customer experience as they are forced to watch content that they may not want to watch.

Further with the digitization of systems, the Operators will be able to offer channels in different packs – hence giving the subscriber an option to purchase/watch a certain channel (s) and he can decide where he would like to park his investment. This will be possible only if Operators are allowed to pick up the channels on a –la-carte basis.

20.How can it be ensured that the benefit of a-la-carte provisioning is passed on the subscribers?

In Non CAS areas, where today the channels are offered as one large bouquet, the Operators will be able to choose the channels popular in that particular geography. So for the same price, they will be able to offer subscribers the channels of their choice.

With digitization, such channels which are not picked up by the Operators as they are less popular, can be offered by the Operator as an optional or an add-on pack, thus allowing the customer the flexibility of picking up a channel(s) of his choice.

From a Broadcaster perspective, he gets paid for the Channels basis their popularity.

In a nutshell, we believe that offering of channel(s) on a a-la-carte basis at wholesale level creates a win-win for all stakeholders i.e. Subscribers, Broadcaster and Operator.

21.Are the MSOs opting for a-la-carte after it was mandated for the broadcasters to offer their channels on a-la-carte basis by the 8th tariff amendment order dated 4.10.2007. If not, why?

No comments

22.Should the carriage and placement fee be regulated? If yes, how should it be regulated?

If the issue of underreporting is resolved, then the number of subscriber of an operator and popularity of channel will determine the carriage and placement fee charged. Hence we believe the carriage should not be regulated.

Carriage fee is a function of capacity with the LCO, Popularity of the channel and audience measurement ability at the area. As most LCO's have capacity of 60-80 channels, carriage fees would be determined by the demand and supply in the market. Carriage fee collected by the Operators creates a corpus which helps them in funding the digitalization (in headend or STB's)

With the substantial digitization it is possible to regulate carriage fee as capacity is no longer the constraint and the carriage fee is determined only by the popularity of the channel and the number of subscriber number s and popularity measurement system.

23.Should the quantum of carriage and placement fee be linked to some parameters? If so, what are these parameters and how can they be linked?

Explained in reply to point 22

24.Can a cap be placed on the quantum of carriage and placement fee? If so, how should the cap be fixed?

No, there should not be any cap, it should be determined by market forces. Digitalization will lead to fair competition and this will in turn determine the fair carriage fees.

25.Is there a need for a separate definition of commercial subscriber in the tariff order?

Yes. We believe that the Commercial Subscriber from the perspective of differential pricing is one who uses Cable services a medium to attract customers to his establishment. Hence, the establishments which attract entertainment tax and use cable services for getting footfalls into their premises and thus monetizing it should be covered under the definition of Commercial Subscribers,

For Hotels which provide boarding and lodging, their primary business is to earn revenues from room rentals and not from provision of cable services. It may be too farfetched to believe that customers walk into a hotel after checking on the cable facilities provided by them.

For customers who stay in the hotels, cable is a basic service which they should not be deprived of. From a channel perspective, it's popularity only

increases with reach as compared to say provision of electricity service in Hotels where more the consumption, more cost as it is a scarce resource. Hence, provision of cable in Hotels should only enhance the revenues for Broadcasters and there is no need to charge extra for provision of such services.

Hence, Hotels should be excluded from the definition of Commercial Subs and should be charged as per the rates prevailing for the ordinary subscribers.

26.If the commercial subscriber is to be defined in the tariff order, then does the existing definition of 'commercial subscriber' need to be revised? If yes, then what should be the new definition for the commercial subscriber?

Explained in reply to point 25

27.In case the commercial subscriber is defined separately, then does the present categorization of identified commercial subscribers, who are not treated at par with the ordinary subscriber for tariff dispensation need to be revised? If yes, how should it be revised?

Explained in reply to point 25

28.Should the cable television tariff for these identified commercial subscribers be regulated? If yes, then what is your suggestion for fixing the tariff?

It should be regulated – Since, we are now restricting the definition of Commercial Subs to only those establishments which use cable/television as a medium to promote footfalls, one model could be to enter into revenue share deal with them.

29.Do you agree that complete digitization with addressability (a box in every household) is the way forward?

Yes

30.What according to you would be an appropriate date for analog switch off? Please also give the key milestones with time lines.

Digitization should be in staggered manner across places, city by city in next 6-12 months in top 55 cities already identified by TRAI. Given the current rate of momentum of digitalization, 31st December 2015 should be complete Analogue switch off date

31. *What is the order of investment required for achieving digitization with addressability, at various stakeholder levels (MSOs, LCOs and Customers)?*

No comments

32. *Is there a need to prescribe the technology/standards for digitization, if so, what should be the standard and why?*

No need to prescribe technology standards. Market forces will ensure interoperability through commercial interoperability route. All regulations should be focused to support commercial interoperability.

33. *What could be the possible incentives that can be offered to various stakeholders to implement digitization with addressability in the shortest possible time or make a sustainable transition?*

- (i) Duties and Taxes on STB's and Smart cards should be withdrawn to provide stimulus.
- (ii) License fee on DTH should be withdrawn or reduced.
- (iii) DTH should be brought out from the purview of entertainment tax charged by States
- (iv) To accept AGR as the basis for calculation of license fee. License fee should be charged only on pass thru revenue
- (v) Permit Adult content for digitalized platforms.
- (vi) There should be Sops for funding by banks and financial institutions for STB and related equipment.
- (vii) In Non CAS Areas there should be special concessions on taxes for addressable connections

34. *What is your view on the structure of license where MSOs are licensed and LCOs are franchises or agents of MSOs?*

No comment

35. *What would be the best disclosure scheme that can ensure transparency at all levels?*

Same disclosure norms for DTH and CAS should be applicable for analogue cable

36. *Should there be a 'basic service' (group of channels) available to all subscribers? What should constitute the 'basic service' that is available to all subscribers?*

No basic services should be regulated, market forces should decide

37. Do you think there is a need for a communication programme to educate LCOs and customers on digitization and addressability to ensure effective participation? If so, what do you suggest?

Government should take up mass communication programmes for customer education in the same way as is done for consumer rights and for Polio drive etc. Customer should be made aware of the poor quality signal and lack of diverse content he is facing because of non conversion to digitalized platform

38. Stakeholders are free to raise any other issue that they feel is relevant to the consultation and give their comments thereon.

No comment