

06 June 2022

By Email

**The Advisor (B&CS)**  
**Telecom Regulatory Authority of India**  
Mahanagar Doorsanchar Bhawan (next to Zakir Hussain College)  
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**Kind Attn: Shri Anil Kumar Bhardwaj, Advisor (B&CS)**

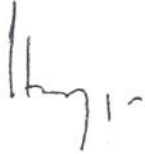
**Subject: Tata Play's comments on TRAI's Consultation Paper dated 07 May 2022 on 'Issue related to New Regulatory Framework for Broadcasting and Cable services'**

Dear Sir,

We thank you for the opportunity to express our views on the above captioned Consultation Paper. Tata Play's response to the same is enclosed for your ready reference.

Thanking you.

Yours sincerely,



**Harit Nagpal**  
Managing Director and CEO

Enclosed: As above

## TATA PLAY'S COMMENTS DATED 06 JUNE 2022 TO TRAI'S CONSULTATION PAPER DATED 07 MAY 2022 ON 'ISSUE RELATED TO NEW REGULATORY FRAMEWORK FOR BROADCASTING AND CABLE SERVICES'

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- Q1. Should TRAI continue to prescribe a ceiling price of a channel for inclusion in a bouquet?
- If yes, please provide the MRP of a television channel as a ceiling for inclusion in a bouquet. Please provide details of calculations and methodology followed to derive such ceiling price.
  - If no, what strategy should be adopted to ensure the transparency of prices for a consumer and safeguard the interest of consumer from perverse pricing?  
Please provide detailed reasoning/ justifications for your comment(s).
- Q2. What steps should be taken to ensure that popular television channels remain accessible to the large segment of viewers. Should there be a ceiling on the MRP of pay channels? Please provide your answer with full justifications/reasons.
- Q3. Should there be ceiling on the discount on sum of a-la-carte prices of channels forming part of bouquets while fixing MRP of bouquets by broadcasters? If so, what should be appropriate methodology to work out the permissible ceiling on discount? What should be value of such ceiling? Please provide your comments with justifications.
- Q4. Please provide your comments on following points with justifications and details:
- Should channel prices in bouquet be homogeneous? If yes, what should be an appropriate criteria for ensuring homogeneity in pricing the channels to be part of same bouquet?
  - If no, what measures should be taken to ensure an effective a-la-carte choice which can be made available to consumers without being susceptible to perverse pricing of bouquets?
  - Should the maximum retail price of an a-la-carte pay channel forming bouquet be capped with reference to average prices of all pay channels forming the same bouquet? If so, what should be the relationship between capped maximum price of an a-la-carte channel forming the bouquet and average price of all the pay channels in that bouquet? Or else, suggest any other methodology by which relationship between the two can be established and consumer choice is not distorted.
- Q5. Should any other condition be prescribed for ensuring that a bouquet contains channels with homogeneous prices? Please provide your comments with justifications.

### Tata Play Comments:

#### No Ceiling Required:

- Ceilings imposed on MRP of Pay Channels forming part of bouquet result in Broadcasters pulling out their driver channels from the bouquets and offering them on a-la-carte basis.
- This causes inconvenience of subscription as well as cost increase when they have to subscribe to each channel on ALC basis.

#### Price Forbearance is the need of the hour:

- Multiple platforms offering content to subscribers and multiple distribution platforms too.
- With DD Free Dish and OTT not being regulated by TRAI, traditional distribution platforms have become uncompetitive in their price offering to subscribers vs OTT and DD Free Dish.
- The subscriber base of DTH has fallen from 70.99 million to 68.89 million in last one year while that of MSOs/HITS operators having more than 1 million subscribers, has decreased from 47.58 million to 45.55 million.
- In this hyper competitive industry, we request for price forbearance as that would be best for the subscribers and the industry.
- Forbearance would also allow DPOs to price packages keeping in mind the paying capacity of the subscribers which they know best due to their proximity versus the broadcasters

**No prescription required:**

- The Regulator does not need to be prescriptive.
- Market forces would rationalise the escalated prices which is making mass market subscribers suffer and forcing them to migrate to other unregulated platforms.
- Regulatory action is directly leading to making the PayTV industry uncompetitive.

**Regulation of all or none:**

- Broadcasters offer their pay channels free of cost to DD Free Dish and at much nominal rates to OTT platforms, while the same channels are given at much higher rates to DTH platforms.
- This results in discrimination for subscribers and makes DTH Operators uncompetitive as against DD Free Dish and OTT platforms.
- To maintain parity of pricing, either all should be regulated or none.

Q6. Should there be any discount, in addition to distribution fee, on MRP of a-la-carte channels and bouquets of channels to be provided by broadcasters to DPOs? If yes, what should be the amount and terms & conditions for providing such discount? Please provide your comments with justifications.

**Tata Play Comments:****Proportion of Discount needs revision:**

- Today's proportion of 20% and 15% is too lopsided and discretionary and is the root cause of negotiations and litigation in a very straightforward owner/distributor relationship.
- The construct and desired objective of NTO was to allow the subscriber to decide what channels he would wish to watch at a price he can afford.
- A study of conditions listed by the broadcasters for a DPO to achieve their incentive shows that bulk of the incentive can be earned by the DPO by providing the reach desired by a broadcaster for its channels. This contradicts the desired objective of the NTO.
- Hence the incentive needs to be of a fixed nature @ 35%, a fair share for the partner who invests in bandwidth and last mile infrastructure. This would also remove a discretionary bias which results in either the DPO pushing of the reach of channels or missing the incentive.
- In the event any low discretionary quantum of incentive is proposed, the broadcasters should not be allowed to use reach as a criterion for awarding the incentive.
- Alternate proposed heads for allowing small quantum of incentive could be:
  - a. Timely submission of subscriber report to the Broadcasters
  - b. Timely payments
  - c. Compliance with the mandatory auditory submissions

Q7. Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in present consultation.

**Tata Play Comments:****Revision of Network Capacity Fee:**

- NCF cost structure was determined in 2016, and even then, the Distributors had stated that the NCF is inadequate.
- No provision for increase has been made in the Tariff Order.
- On the contrary, there has not only been a reduction in NCF, but also, we were asked to carry double the number of channels for the same NCF as well as asked to substantially reduce the NCF for multiple Set Top Boxes for the same affluent Multi TV home, despite having incurred subsidy for every incremental Set Top Box.
- While we request the Authority to bring in forbearance, but until forbearance is reached an automatic, annual inflation linked increment mechanism for NCF may be incorporated in the regulations, and any caps on affluent Multi TV pricing should be removed.

## License Fee regime:

- DTH platforms, which distribute both Pay and FTA channels, just as MSOs of Cable and HITS platforms, pay License Fee @ 8% of AGR, while the MSOs do not, despite being security cleared by MHA and licensed by the MIB.
- OTT platforms also carry most Pay and FTA channels, in addition to original content, go direct to home, yet they are neither required to be licensed, nor pay any license fee. Moreover, TRAI Regulations are also not applicable to them.
- There is thus a significant disparity between the treatment meted out to the DTH operators as against other operators, despite offering the same service.
- We therefore request to remove the discriminatory license fee treatment being meted out to the DTH Industry and provide a level playing field.
- A 4% License Fee may be imposed on all Content Distributors, Cable or DTH or OTT, to bring about a level playing field while not being too harsh a levy on Cable. It would also be revenue neutral for the exchequer.
- Also, non-licensed activities may be excluded from the calculation of License Fee, as has been done by DoT for the Telecom Operators.
- This would give a respite to the DTH Operators.