

**TIMES NETWORK'S COMMENTS ON
CONSULTATION PAPER
ON
ISSUES RELATED TO NEW REGULATORY FRAMEWORK
FOR BROADCASTING AND CABLE SERVICES
ISSUED BY TELECOM REGULATORY AUTHORITY OF INDIA
ON
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WITHOUT PREJUDICE

INTRODUCTION :

The Telecom Regulatory Authority of India (TRAI), w.e.f. 1st February, 2019 implemented the New Regulatory Framework consisting of following regulations governing the broadcasting and cable industry :-

The Telecommunications (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 ;

The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 ; and

The Telecommunications (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017.

These regulations were made after comprehensive review of the erstwhile regulations and these regulations replaced the earlier regulations including various amendments to the regulations. These are collectively & commonly referred to as New Regulatory Framework/new regime/ NTO.

There was a very long drawn process of due consultation prior to making these regulations and the views / counter views of the various stakeholders were taken into account while framing these regulations. The Regulations were also subject to extensive legal challenge and scrutiny and there were also many concerns and apprehensions of the industry and the consumers on the new regulations and its proper implementation. The TRAI after holding numerous meetings, open house discussions in various parts of the country with all the stakeholders finally implemented the New Regulations with effect from 1st February, 2019.

There were lot of teething issues and the all the stakeholders including the broadcasters, distributors and the subscribers had a challenging time in implementing and adapting to the new regulatory framework. There was a good amount of transition cost incurred for implementing the new system. But after the concerted efforts of the regulator, industry and the consumers, the new regulations were finally implemented. There were many key provisions in the new regulations not only changed the revenue model of the broadcasters and distributors but they were aimed at enhancing the viewer choice and the regulatory regime was changed to MRP regime thereby the viewer would have complete visibility on the price of the channel/bouquet which is chosen and subscribed by him. Though the new regime brought in

price forbearance, there were lot of restrictions on how the bouquets could be offered like, the ceiling of MRP of Rs. 19/- on channel to be included in the bouquet, non-combination of FTA and PAY channels in the same bouquet, non-combination of HD and SD variant of the same channel in the same bouquet, non-breaking of the broadcaster bouquet by Distributor etc while forming the bouquet by broadcaster and/or DPO.

The regulations allowed the subscribers option to choose channels either on a-la-carte basis or in form of bouquets formed by the broadcasters and/or DPOs on the basis of his choice and requirement. There were extensive consumer awareness programs which were done by the Government and Industry to make consumer aware about the changes in the TV regulations and with concerted efforts, the subscribers were migrated to the new regime.

In the present regulations, the consumer interest is fully protected as there is a complete choice available to the consumer to select channels on a-la-carte basis or in the form of bouquets of the broadcasters/DPOs. Further the MRP based regime also protects consumer interest as the price payable by the subscribers for subscribing a particular TV channel is clearly known to the viewer and he can evaluate the cost vis a vis the value of a channel/bouquet being availed. The price comparison of a channel on a-la-carte / bouquet is also clearly known. Then it is purely a consumer choice to pick a-la-carte or a bouquet of channels. Further the consumer has full freedom to select or de-select any a-la-carte channel or any bouquet without any restrictions. Infact, the websites of the DPOs and the Channel Selector App launched by TRAI is a handy tool for instant change in the subscriptions by the subscriber.

The NTO was subsequently amended in 2020 vide **NTO 2**, which consisted of : (i) Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020; (ii) Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment) Regulations, 2020; and (iii) Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Third Amendment) Regulations, 2020.

In the said amendments, among other things, TRAI has reduced the ceiling on the prices of channels contained in bouquets from Rs.19/- under the NTO to Rs.12/- under NTO2. Further, TRAI also introduced twin conditions to be complied for inclusion of channels in a bouquet and disallowed 15% discount/incentives being offered by broadcasters to DPOs in case of bouquets. However, TRAI has agreed to revisit these changes through a consultation process and has accordingly come out with this consultation

paper on above issues to find a way for smooth implementation of amended NRF (NTO 2).

There are certain fundamental aspects which are necessary to discuss before proceeding on to provide our comments on the specific questions posed by TRAI in its consultation paper, as the wrong assumptions and presumptions will result in wrong hypothesis and will not serve in any manner any stakeholder, be it the broadcaster, distributor or consumer. We wish to mention below these fundamental aspects in following paras :-

1. There are no 'unwanted channels' as assumed by TRAI. Channels are being viewed by the subscriber & hence they exist. If the Channels are not being viewed there is no point for Broadcaster to introduce or continue with such channels by incurring continuous heavy operational cost, nor can any business continue with 'unwanted' product or services. In addition to "popular" channels, there are niche channels which aim to meet the requirements of targeted customers, there are smaller channels which cater to some local viewer requirements. Such channels cannot be termed as "unwanted" channels. There is a viewership for these channels as well. The viewership alone cannot determine whether the channel is wanted or unwanted.

2. The notion that only popular channels are liked by viewers is not correct. There is viewership of "non-popular" channels as well. The popularity of channel keeps on changing depending on various factors and there is no fixed criteria for popularity. A certain channel may be a favourite channel or not so favourite channel for a particular subscriber. It does not mean that a not so favourite channel is not watched by that subscriber or he does not like to have access to it. On the contrary, it can be the varied time spent by a viewer on such channels say for a favourite channel, the time spent will be higher and for a not so favourite channel, the time spent may be lower. But that does mean that the viewer doesn't like to have accessibility to that channel. The popularity of a channel cannot be decided only on the basis of TRP.

3. The surfing behaviour of Indian viewer is ignored. The viewer in India likes to have access to a large number of TV channels due to various reasons.

4. The notion that bouquets is not preferred by consumers and is forced upon them is not correct. An Indian consumer generally prefers a value offering while buying goods and services.

5. The concept of “perverse pricing” in case of bouquets is not correct and it is due to the business model of the broadcasting services. The analysis of TRAI that there is higher uptake of bouquet vis a vis the a-la carte channels is due to “perverse” pricing is incorrect. The higher uptake of bouquet is in fact due to the natural choice of the consumers who likes to avail additional channels at marginally higher cost than to subscribe to single a-la- carte channels. The discounted pricing offered by broadcasters on bundled offering is also due to the economies in such bundled offering.

6. It is ignored that generally the viewer has loyalty towards the program and not the channel. Assuming viewer as a passive stakeholder is not correct. There is a complete absence of consumer behaviour study while framing regulatory framework. An Indian viewer, due to various reasons generally likes to have access to a large no. of TV channels, even when he is actually spending viewing time on fewer channels. But these fewer channels keep on changing as the consumer loyalty is generally not towards the channel per se but towards the program or the content being available on a channel at the time when the particular viewer watches the TV.

7. The fact that TV services in India historically are cheapest in the world and are affordable by all sections of the society. Further, the consumer interest cannot always be linked with lower prices. The consumers may require a premium product in terms of content/packaging/quality and may be willing to pay higher price. It is not necessary that all consumers always wish to buy the lowest priced products and services. The consumers generally weigh their decisions on the basis of price they pay vis a vis the value they get.

8. The influence of Prasar Bharti in the TV broadcasting and distribution cannot be ignored on the entire broadcasting ecosystem.

9. Restrictions on bouquets have resulted in contraction of HD channel subscriptions inspite of the TVs equipment(television set & STB) increasingly becoming HD.

10. Consumer interest is fully protected and the broadcasting industry is not a monopolistic industry where any anti-competitive practices can be adopted by the players. Since there are about 900 TV channels belonging to about 350 broadcasting companies, the sector is highly fragmented & competitive and customer is king for all the players in the broadcasting be it the broadcaster or the DTH company, MSO or LCO. No service provider in the entire value chain of broadcasting can take consumer for granted as there are enough alternatives available with the consumer if required.

11. The viewer cannot be taken as a passive stakeholder. In today's age of technology and information, the consumer is well aware about the choices available to him and takes a conscious decision after examining the pros and cons. With many alternate mediums available to him, the broadcasting industry or for that matter any industry cannot take consumer for granted or cannot assume that consumers are unaware. Hence when free choice is available to consumer with full information on the price on both a-la-carte basis or bouquet basis, it is not correct to assume that if 75% of the viewers have opted for bouquet, it is due to perverse pricing. This is definitely due to the consumer choice and preference to opt bouquets which apart from offering more value also takes away the burden of selecting 200-300 channels individually.

12. There is no capacity constraint as with digitization, the DPOs and any network can easily carry 300-400 channels. Post digitization, the channel carrying capacity of the distributors have increased multi-fold. In this situation, if the channel offerings are envisaged to be restricted to 25-30 channels, there will be a gross under-utilization of the capacity already created and will harm the stakeholders such as MSO, LCO, DTH operators etc. The gains of the large efforts of making the TV distribution services in digital technology will be reversed.

Growth of satellite television broadcasting in India and the way bundled offerings became norm of the industry and why restrictions on bouquets of TV channels are not desired :

a. Lets go back to 1980s decade, wherein only one TV channel i.e., Doordarshan was available to certain limited fortunate people in the country. With the economic liberalization process started in early 1990s, the private TV services in the form of satellite TV also started in the country. Over the next two decades, there was a great boom in this industry and the TV services grew by leaps and bounds. The Indian viewers got the taste of live coverage of events during the Gulf War. When an industry and particularly the service industry grows at such astronomical rate, it is actually due to the fulfilment of a gap which exists. With the economic prosperity and the rising income level of the people, the aspirations of people also rose and they wanted to have entertainment in their homes. There was a great penetration of TV services in homes of the people in all strata of society. After the Government of India allowed uplinking of TV channels from India, there was exponential growth in the number of TV channels in India. There was a huge growth in the news and current affairs channels

which offered plurality of views. The growth of channels in different genres were started, for example a GEC channel which used to offer movies as part of GEC started a separate movie channel. The regional language picked up and many mainstream broadcasters introduced their TV channels in many regional languages and there was growth of number of regional broadcasters which offered regional language channels. All along this growth path, basically the aspirations of the viewers to watch TV services propelled the growth of the industry.

b. Similarly the distribution ecosystem also witnessed major growth. From analog, the system moved to Digital Addressable System and the TV services to subscribers are managed through CAS and SMS systems enabling servicing of the exact requirement of the subscriber. There was huge growth in the channel carrying capacity of distribution platforms and the quality of retransmission improved greatly with digitization.

c. Initially, the channels were FTA and fully dependent on advertisement revenues. With the growth of the industry, there was a supplementary business model which was subscription based and the broadcaster could spend higher amount on content production and acquisition and recover a part of the cost by means of subscription. However, the subscription charges has never reached a point wherein it was not affordable by the masses.

d. Today, with the abundance of choice, the viewer has developed the habit of watching or surfing different TV channels before settling to watch a particular program. For eg. If a viewer in Sunday afternoon, with a wish to watch a Hindi Movie will surf many Hindi movies channels and will then finally settle on to watch a particular movie being played on a particular channel at that point of time. It may not be out of context here to mention that there is a great demand from viewers for newly released movies and the viewership for such movies is very high. However a viewer cannot with certainty subscribe to one particular movie channel to fulfil this particular viewing preference as the movie rights for broadcast of such movies on TV are bagged by different broadcaster. Hence if a viewer has subscribed to only one or two movie channels, then the viewer is losing out on watching many new releases if he is so interested. Then the TV viewing experience of the consumer is being compromised primarily due to the regulatory restrictions and not by market forces which enables such access.

e. If a bundled service offers value, a consumer generally chooses that. The fact of “Combos” is prevalent in other industries to offer value to consumer while at the same time increasing sales and operational efficiencies for the businesses. The consumer choice is only restricted if the offering is made only in form of “Combo” and not individually. However when both options are available and with a clear indication on the pricing and the components forming the combo/bouquet, comparative price analysis etc. there cannot be any illusion regarding misleading the consumer. It is not correct to assume that the higher uptake of bouquets vis a vis a-la-carte channels is due to “Perverse” pricing of bouquets by the broadcasters, whereas this could be a genuine consumer preference. When a consumer whether on its own, or being facilitated by the DPOs is choosing options for TV channels, may like to pick bouquets of leading broadcasters which generally offers a mix of content like GEC, Movies, News, Kids etc. rather than just selecting one GEC or movie channel of that broadcaster. Some viewer may just choose of one of the channel if he so desires. Hence the higher uptake of bouquet cannot be assumed to be the forced choice, it is due to the natural choice of the consumer as he is likely to pick bouquet as it offers context mix and a better value proposition.

f. The business model of the broadcasters is such that a broadcaster has created multiple offerings to meet the varied requirement of a viewer and his family. Hence when the broadcaster offers its channel to a target viewer, it would like the viewer to not just take its one or two channels, but to take few channels so that the viewer can get the content/language/genre mix of programs. It also helps the broadcasters in achieving higher operational efficiencies and thereby the broadcaster is able to offer additional discounts in case of bouquets vis a vis the a-la-carte channels. The bouquets also helps the broadcaster to make his lesser known channels being sampled by the viewers. The viewer in turn gets benefitted by lesser price and the variety of programing. No viewer is content with subscribing to just few channels and would like to have access to a fairly large no. of TV channels without necessarily increasing the budget. This need is fulfilled in the form of bouquets which is beneficial for all the stakeholders including the viewers.

g. The main beneficiary of the bouquets is the consumers who are able to get variety of content at a highly competitive and discounted bundled cost. Such offering does not make a hole in the pocket of the consumer while he aspires to have access to a large number of TV channels to watch different programs on different channels. The bouquet formation also helps

the broadcasters in operational efficiencies and the DPOs in terms of managing their subscribers through SMS and CAS systems. There would be infinite combinations in the CAS and SMS systems if selection is done by consumers only on a-la-carte basis. The consumer interests are protected and in fact furthered by the bouquets or bundling of services. Bouquets offer Variety of channels, Convenience of selection, Higher discount, Ease of operation by DPO, Sampling of products, besides catering to different kind of viewers in a particular home, who are interested in watching different channels etc.

h. Presently, the subscriber can choose from the following options or a mix of any :-

1. Bouquets offered by the DPO.
2. Bouquets offered by the Broadcasters.
3. A-la-carte channels.

The DPO who has signed agreement with broadcaster is mandated to carry the broadcasters' channels on a-la-carte basis and he is also not allowed to break the broadcaster bouquet. This ensures that the real choice of selection remains with the subscribers. In addition, a DPO can form his bouquets keeping in view the preferences of his target viewers. There is a clear information on the MRP and DRP of the channel and bouquets being made available to the consumer. The subscriber has complete freedom to select and choose his package except the mandatory DD channels which are being carried in national interest. A subscriber choice is not affected rather his choice is widened as bouquets are also available to him along with a-la-carte and he can make his informed choice and selection on the basis of his requirement and costs.

i. Present mechanism of Broadcaster/DPO bouquet is for facilitating the consumer to avail choices at his favourable price points. The consumers who do not want to pay more are already going with the lower price bouquet or ala-carte selection to keep their pay-out in control.

j. A bouquet besides offering varied mix of content, also larger discounts. It offers convenience of selection and ease of operations in terms of activation and deactivation by the DPOs. It also helps in sampling of the product at nil or incremental pricing.

k. In a typical Indian home, there exists people in different age groups who have different viewing preferences. A bouquet caters to this need. In case, the channels are only subscribed on a-la-carte basis, the price of

subscription will go up. The bundling of products helps in lowering down the prices.

L. When the country has already built the capacity both in terms of number of home-grown TV channels and the large channel carrying capacity of the distributors and correspondingly meeting the aspirations of its people and when the habit of people have developed to have large number of TV channels, there is no point in going back and restricting the choice of consumers and also give jolt to the industry.

With the above preface and without prejudice to our rights, we submit our responses to the Issues for Consultation :

Q1. Should TRAI continue to prescribe a ceiling price of a channel for inclusion in a bouquet?

a. 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.

b. 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).

TN COMMENTS :

There should be NO ceiling on MRP of a TV channel for inclusion in a bouquet.

Under the New Regulatory Framework (NRF), TRAI with the learnings and experience of over one and half decades of broadcasting sector had adopted the model of price forbearance for TV channels as it rightly felt that the pricing of a TV channel / program has many variables and it is impossible to arrive at a fix the price of a TV channel. There is no change in the scenario in last 3 years of implementation of NRF or NTO1 which necessitates relooking at this position.

Hence, there should not be any ceiling prescribed by TRAI for a channel as this will result into a situation wherein an industry with unregulated inputs costs is mandated to offer its services at regulated cost.

The broadcaster after having invested a huge amount of money would never want that the channel is available to only select few and hence the broadcaster inspite of price forbearance will price its product i.e., channel in

a manner which will be acceptable in the market. The very fact that there is no dearth of number of TV channels in all genres itself is an efficient check on the pricing. The history of the growth of TV services also give credence to the same as the channels have been always accessible to the viewers at most affordable cost irrespective whether the regulations were present or not.

Hence, TRAI should take steps to deregulate the pricing and move to a regime of forbearance in a true manner. There should not be any ceiling on the price of the channel to be included in the bouquet.

As it can be observed from consumer behaviour after implementation of NTO that bouquets have the high attraction vis-a-vis a-la-carte channels, Inclusion in bouquet is beneficial to the consumer only as otherwise the high-priced fewer channel will either take away the subscriber budget & others will face the survival challenge. On the other hand, if consumer opts for low priced channels comprised in bouquets it will impact the quality and consumer will be deprived form high quality channels. Bouquet formation with various price point channels helps consumer to have large & balanced choice instead of few selective channel choices. The primary goal should be to offer value for money to the consumer which are derived by market forces and not by putting restrictions around it which either makes the product expensive or the restricts the choices of viewers.

Even without the price ceiling on the channel for inclusion in bouquet, there is no threat to the consumer interest rather the consumer interest will be more served as has been seen in the past decades. There is also no issue of perverse pricing as assumed by TRAI. This has been discussed above in detail.

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.

TN COMMENTS :

Ceiling on MRP of pay channels is detrimental at various levels including the quality of content offered to viewers. Any ceiling will act as a hindrance to broadcasters' initiatives, innovations and investments which in turn will adversely impact consumer interest as well. Hence, no ceiling on MRP to be prescribed in any manner. Market forces shall take care of the channel

prices. Ensuring the reach of popular channel to maximum viewers is right intent but measuring the popularity of channel is subjective. Every consumer is having its set of viewing choices. Any channel becomes popular because of its content delivery & audience liking. Every channel has its own content investment strategy designed to deliver & reach to the right audience mix and hence putting a cap on pricing will not only restrict the investment & creativity but also impact the quality. Hence, it should be left to market and broadcasters should have the right to price their offering instead of restricting it.

All channels whether “popular channels” or “non-popular channels” have been always accessible to the large segment of viewers in the since the advent of private satellite television broadcasting in India from the early 1990s. The satellite television broadcasting has developed in a manner that it has always remained accessible to the large segment of viewers. This has always been without any kind of regulatory intervention. The price of the services have been very affordable with even the household of the lowest strata of the society enjoying the same channels/programs being available to the other/ higher sections of the society. The development of TV services have been in the most democratic manner without making any differentiation in the classes or on basis of socio-economic differences. Even today, the television services in the country are at a fraction of cost to what is available elsewhere in the world. The FTA channels far outnumber the pay channels and the viewer has option not only to avail free TV channels by just paying the NCF to private DPOs but also has another option of free access as well in the form of Freeish DTH and can avail hundreds of channels without paying any amount.

The best way to make the channels available to viewers is by removing artificial restrictions imposed in the regulations on private players. Such regulations have adversely affected the industry and reduced the availability of number of channels to the subscribers. The HD services have taken a deeper hit due to restrictions in bouquet formation of HD/SD channels.

Hence, there is no need to take any step to make available the popular television channels to the large segment of viewers.

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.

TN COMMENTS :

There should be no ceiling on the discount on sum of a-la-carte prices of channels forming part of bouquets while fixing MRP of bouquets by broadcasters.

Under NTO as well, there was no capping on the bouquet discounting. Different bouquets are formed with different criterion like number of channels, genre of channels, format of channels and all of this influence the discounting percentage and the same should be market/competition driven. Goals for every channel are different, some channels want to reach to maximum viewer while other wants to reach the targeted viewers in niche category. In the long run discount will be automatically get adjusted due to the market forces including the competition offering, uptake of channels, quality of channels, channels' own strategy of developing the advertisement and /or subscription revenue model. Hence there should be no capping on discount and the market forces will determine such discounting. Consumer has the ultimate choice, and they will not pick up any bouquet because of the discount only. Consumer wants the value and hence broadcaster will be align the prices or increase the discount due to consumer behaviour, which will be helpful for the entire ecosystem instead of artificially controlling the same.

There is no question of distortion of consumer choice by bundling. The notion that higher uptake of bouquets vis a vis a-la-carte channels is due to perverse pricing and is a result of forced choice is not correct. The attention is drawn to the following :

- Discounting and clubbing of product and services is a practice followed across all industries;
- Practice of giving higher discount and making more number of channels available to viewers to suit their budget cannot be termed as “practices not in consumer interest”. The broadcasters try to create different products for the sake of consumer interest and choice and thereby makes the channel available to viewers for sampling at a negligible or nil incremental cost in Bouquet. Eventually, the choice of watching the channel or not is in consumer's hand only.
- The purpose of bouquet is to provide varied content to the consumers and is not only a commercial concept. A large broadcaster, to meet the varied requirements of its viewers, would offer a wide variety of channels having a wide program mix of different genre/language so that when the channels are distributed, it is able to offer the complete package to the viewer at a competitive cost. Such bundling of services

also helps in optimizing the operational costs through combined marketing, promotion activities and revenue generation through ad sales etc.

- We must appreciate the fact that the viewers are not happy with just subscribing to 25-30 channels. The growth in number of channels in India have made the consumers more demanding and they wish to have access to a large number of channels even if they generally watch lesser no. of channels e.g. a viewer may surf many movies channels and finally watches a particular movie being played on a channel from among the various channels subscribed by him.
- Discounting of channels and clubbing popular channels with niche channels is a practice followed across all industries for sampling of new products or products lesser in demand at a much lower price point;
- Putting unreasonable restriction on the broadcasters may result in situation wherein many channels will be forced to shut operations and there will be unemployment of the skilled and specialized workforce who are generally not employable in other industries;
- Accordingly, the broadcasting sector should also be allowed to freely bundle the TV channels, keeping the overall consumer interest in mind. The first condition of the twin condition introduced in 2020 amendment restricting the discount of 33.33% on sum of a-la-carte prices of channels forming part of the bouquets while fixing MRP of bouquets by the broadcasters should be removed.

Hence, we feel that there should be no ceiling on the discount to be offered on sum of a-la-carte prices of channels forming part of the bouquets while fixing MRP of bouquets by the broadcasters.

Q4. Please provide your comments on following points with justifications and details:

Q 4(a) 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?

TN COMMENTS :

The channel prices in a bouquet cannot and should not be homogenous.

A bouquet is formed to make available different channels under one umbrella. Heterogeneity is the basic nature of a bouquet, hence price homogeneity is neither possible nor desirable. Heterogeneity is the genesis of bundle offering in any industry. Formation of homogenous bouquet will not do any good to the consumer. It will adversely impact consumer preference and choices.

The very purpose of bouquets is to offer variety to viewers. It is fallacious to assume that a broadcaster will have different channels which will be homogenous in price. A Broadcaster would generally have a variety of channels based on different genres, languages, transmission formats (SD/HD) etc which will be priced differently and generally the pricing will not be homogenous. Even if the prices are homogenous (for example a Kannada GEC and a Telugu GEC of a particular broadcaster may be priced homogeneously in view of certain similarities etc.,) but it may not serve any purpose in bundling as the a homogeneous product may not be a good fit for a particular bouquet. In this case, if these two channels are clubbed, it may not appeal to most of the targeted consumers be it viewers of Kannada language or Telugu language.

The very purpose of bundling for the broadcaster is to offer the viewer the different channels available with him. It will not make any sense to make homogeneity as the basis for bundling.

Similarly homogeneity will also not work for the viewer as the viewer also seeks variety from a bouquet so that he gets variety of channels.

For example – In a typical broadcaster bouquet, it may have a GEC channel, a movie channel, music channel, devotional channel, news channel, kids channel, sports channel etc. The bundling is done with a view to cater to household requirement for targeted viewers in a region on basis of various factors. Hence, firstly the bundling cannot be homogenous in terms of genres of the channels. Secondly, it cannot be homogenous in terms of pricing of the channels as one channel may be at high end say Rs. 19/- and the other channel may be priced at Re. 1/- and some channels may be priced around Rs. 5/-. Now if homogeneity is attempted to be mandated based on pricing then many channels which the broadcaster is wishing to offer and the consumer is interested to subscribe will not be possible. The broadcaster will have to create multiple bouquets and the subscriber will be forced to take multiple bouquets. The broadcaster may not be able to offer similar discount and the pricing may be higher.

The averaging is against the principles of bundling and negates the benefits of bundling. It will be very fallacious to say that a buffet in a restaurant cannot offer low priced item and a high priced item as part of the buffet and the buffet can contain only the items which are alike or homogenous.

Q 4(b) 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?

TN COMMENTS :

There is an effective a-la-carte choice available with the viewer. If a particular viewer is interested in watching few channels, he will surely select those channels on a-la-carte basis only. There have been a-la-carte selections by viewers which are quite high in number individually. But the viewer preference as always is to pick up bouquets. The higher uptake of bouquets by viewers cannot be termed as due to perverse pricing of bouquets. There are various factors which results in higher uptake of bouquets as has been discussed above.

Q 4(c) 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.

TN COMMENTS :

There is no question of capping of MRP of an a-la-carte pay channel forming part of bouquet with reference to average prices of all pay channels forming the same bouquet. Any such wrong hypothesis will result in wrong stipulations. There is no need to have any relationship between the two as the purpose of bouquet is to offer varied things and not things which are alike. This will be a regressive step and will severely impact the television industry in India.

Hence, the channel prices in a bouquet cannot be homogenous and there is no appropriate criteria either price or genre which can ensure such homogeneity.

Q5. Should any other condition be prescribed for ensuring that a bouquet contains channels with homogeneous prices? Please provide your comments with justifications.

TN COMMENTS :

No, there should not be any condition in the bouquet formation with regard to containing channels with homogenous prices. The average clause (second condition of the twin condition) has already been set aside by Hon'ble Bombay High Court. Any such stipulation will negate the very purpose for which bouquets are created as a bouquet is meant to offer variety. If

similarly priced channels are only be made part of the bouquet, then the entire concept of bundling will be defeated and the consumer interest will be affected badly wherein he will not be able to get the desired mix of channels.

Further, if any such homogeneity requirement is made in terms of the Genre of the channels, then also it will be fallacious.

Hence, the very purpose of creation of bouquet in television services is to offer mix of content say a GEC channel, a Movie channel, a Sports channel, a Music Channel, a News channel, a Kids Channel, a lifestyle channel etc. and it will not be prudent to put restrictions on their bundling on the basis of genre. Similarly there cannot be homogeneity on basis of languages.

There is another issue to be addressed here. Making any such homogeneity requirement at the level of broadcaster bouquet will make broadcasters bouquets ineffective as there will be no such homogeneity compulsion on the DPO in formation of DPO bouquet and the DPOs will package various bouquets of the broadcasters in its DPO bouquet putting the broadcasters in a disadvantageous position vis a vis DPO.

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.

TN COMMENTS :

15% Discount is being offered on a-la-carte channels as well as bouquets as per the conditions laid down in interconnection agreement between Broadcaster & DPO.

The 15% discount/incentive over and above the mandatory distribution fees of 20% should continue to be allowed on bouquets in addition to a-la-carte channels as at present. The discount ultimately reaches the consumer in some form or the other, hence restriction on any such discount / incentive on bouquets will not only takes away business flexibility of the service providers but also negatively impacts the viewers. Any such restriction will also mean forcing consumers to go for a-la-carte channels even when they wish to go for bouquets or will result in price increase for such consumers who chooses bouquets offered by Broadcasters.

Ideally there should be no restriction on the quantum of discount/incentive to be offered on bouquets/ a-la-carte channels which is offered on objective parameters and is available to all DPOs without discrimination.

There may be a requirement to offer different discount in different target markets or for new product launches. Hence, when such discounts are offered on measurable parameters, on parity basis without discrimination, such discounts/incentives should be freely allowed as per the business requirements.

Hence, we feel that there should be no restriction on the quantum of discount/incentives to be offered. Further, in all cases there has to be a parity in a-la-carte offering as well as bouquets.

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

TN COMMENTS :

We strongly advocate that PAY channels and FTA channels should be allowed to be clubbed in a bouquet. If certain FTA channels of the same broadcaster are provided without any cost in the broadcaster bouquets, then restriction on clubbing of FTA channel with pay channels may not be warranted. When the Regulations clearly mandate the publication of MRP of pay channels and declaration of channel as pay or FTA, then there is no harm if FTA channel is allowed to be clubbed in the bouquet of pay channels. This will ensure better carriage of the channels in bouquets and will also not force broadcasters change the business model like turning FTA channel into pay channel for purpose of inclusion in bouquet.

Secondly, HD and SD channels should be allowed to be made part of the same bouquet. Such HD and SD channels were allowed to be made part of the bouquet before NTO. However, NTO disallowed making SD and HD variant of a channel as part of the bouquet. This has resulted in market distortion and the subscriber who could get the HD variant of a channel at nominal cost, has to subscribe separately to HD variant either on a-la-carte basis or through subscribing to a separate bouquet. Due to this regulatory restriction, the HD subscribers have drastically reduced in spite of the equipment increasingly becoming supportive of HD technology. The CPE like TV, STB have become HD and the viewer is constrained to subscribe to the HD channels mainly in view of the restrictions placed in clubbing of SD and HD variant of the channel under the Regulations. There is also a de-growth in HD channels after NTO was implemented, least to talk about newer technologies like 4K with dolby sound being introduced in India. Hence,

TRAI should allow clubbing of SD and HD variants of the channel in the same bouquet so that the HD viewer gets HD variant (along with SD variant) of channel and he does not have to choose between HD and SD just because of regulatory restrictions. The premise of “perverse pricing” in case of bouquets on which these restrictions are built by TRAI are not correct and hence this should be revisited and such restrictive provisions should be relaxed.

Further, we feel that TRAI should move towards light touch regulations in line with the policy of the Government and should not micro-manage the broadcasting sector.

The micro-management will result in pushing the sector backwards and the investment in state of the art technology such as HD, 3D, 4K and other technologies which greatly enhance TV viewing experience of the viewers will not come forward. The broadcasting industry, which is a shining example of the liberalized economic era and built on the principles of “Atmanirbharta” will be pushed backwards and there will be no major capital investments by the companies. This may also deter foreign companies from investing in the broadcasting space, in spite of the fact that the Government wishes to attract more foreign capital in this sector and has recently permitted higher FDI in the broadcasting sector.

It may please be noted that frequent and numerous changes in the key regulatory provisions have far reaching consequences and not only disturbs the working of the industry but also results in consumer angst and ire towards the players in the industry and the consumer frustration also results in migration of consumers to alternative medium or technology. Hence, TRAI should move towards light touch regulations wherein it promotes healthy growth of the industry and the consumers are benefitted by the state of the art technological offerings, innovations at affordable costs.

The Indian television industry not only caters to the viewers in India, but also reaches to the Indian diaspora in almost all the countries of the world. This is a shining example of globalization of the Indian business. Hence, the need is not to stem the growth but to give it an enabling environment where it can flourish and contribute in India’s emerging position as a soft power in the changing world order.

Thanking you,

Sanjay Agarwal
Times Network
