

RESPONSE OF ZEE TURNER LIMITED
ON
CONSULTATION PAPER ON
TARIFF ISSUES RELATED TO CABLE TV
SERVICES IN NON-CAS AREAS
ISSUED ON 25th MARCH 2010



From: Viresh Dhaibar
E-mail I.d.:viresh.dhaibar@zeeturner.com

ZEE TURNER LIMITED

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We welcome TRAI's initiative in releasing the Consultation paper and seeking views of the stakeholders on tariff issues relating to Cable TV services in NON CAS areas.

At the outset we would like to draw the attention of TRAI that NON CAS price ceiling fixed vide Tariff Order dated October 1, 2004 was merely an interim measure and that it was to continue only until there was no effective Competition. We would like to reiterate that TRAI had also expressed an opinion that as soon as there is evidence that effective competition exists in a particular area price regulation will be withdrawn. It is important for the Regulator to take note of any path breaking changes that have affected the Cable TV services over the years to arrive at a considered opinion as to whether continued regulation of tariff in the current market landscape is warranted or not.

The following response is without prejudice to any of our rights. In particular we reserve our right to challenge any directions, tariff orders, regulations recommendations or any other order(s) that may be passed by the Authority on the subject matter.

Our comments on issues with regard to Tariff issues related to Cable TV services in Non CAS areas are as under:-

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.**

Comment: Needs no comment as the same refers to Broadcasters.

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.**

Comment: We note that the data for Aggregators has been collated in two steps, results of which are provided in **Annexure B4 and Annexure B5**. We are surprised to note that the Authority itself has admitted that in the first step of collating data using simple average of all data provided by Aggregators, may not include variations on account of operating model followed by various Aggregators (eg. Commission based or Right based) or the accounting policies adopted by various Companies

Further, the Authority has collated data using certain filtrations criteria to remove the impact of aberrations but unfortunately has not clarified the filtration criteria used for removing the aberrations in the figures represented in **Annexure B4 and Annexure B5** for the benefit of Aggregators. The Authority being an expert body entrusted with the task of tariff fixation and promoting robust growth of the Industry is expected to fix tariff on data elucidated to the last detail based on rational analysis which should be made available to the stakeholders in order to elicit meaningful response on data provided in the Consultation paper.

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.**

Comment: Needs no comment as the same refers to Multi System Operators.

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.**

Comment: Needs no comment as the same refers to Multi System Operators.

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.**

Comment: Needs no comment as the same refers to Local Cable Operators.

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.**

Comment: Needs no comment as the same refers to Local Cable Operators.

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

Comment: The average analogue monthly cable bill in metropolitan cities is between Rs. 170 to Rs. 250 per month depending upon the locality and financial ability of the customer(s) to pay coupled with the declaration level of the cable operators. In other cities/states, as calculated by TRAI based on data from Consumer Advocacy Groups, it could vary between Rs. 80 to Rs. 250 depending upon the ability of the consumer to pay along with the cost of operating in that particular

city/state. Also, the monthly cable bill may also be affected by the number of channels carried by the operator. In other words, at an all India level, the monthly cable bill varies between Rs. 70 and Rs. 250 per month which would average out to Rs. 160 per month.

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

- (i) Under-reporting of the analogue cable subscriber base**
- (ii) Lack of transparency in business and transaction models**
- (iii) Differential pricing at the retail level**
- (iv) Incidence of carriage and placement fee**
- (v) Incidence of state and region based monopolies**
- (vi) Frequent disputes and lack of collaboration among stakeholders**

Comment: It is true that the market for cable services in Non CAS areas is characterized by the following issues due to the reasons given as under

(i) Under-reporting of the analogue cable subscriber base –

It is true that the entire analogue cable industry works/thrives on the basis of a “negotiated subscriber base” which is almost 10%-12% of the actual subscriber base. The industry suffers from the vice of “rampant under-declaration”. However, it would be wrong to state that under-declaration is a result of a high wholesale tariff. It would be pertinent to note that the wholesale tariff is already regulated by TRAI. On the other hand, under-declaration is a direct consequence of non-transparency as there is no technological means for determining the actual subscriber base. It would also not be out of place to mention here that every stakeholder is aligned to a different subscriber base as in the present un-addressable scenario; the subscriber base is nothing but a derived number which thereby results in a limited pass through of subscriber revenue to the Broadcaster/MSO.

(ii) Lack of transparency in business and transaction models –

There is indeed a lack of transparency in the business transaction model as there is rampant under-declaration. As pointed out hereinabove, the subscriber base in the market for cable services is

a derived number. Due to non-availability of correct data, it is almost impossible to determine the key factors for price fixation. Transparency can only come through addressable mechanism if the number of subscribers availing pay channels are properly accounted for. The need of the hour is an addressable digitalized distribution system for pay Channels in non-CAS areas.

(iii) Differential pricing at the retail level –

Yes, the prices per month at the retail level differ vastly from one operator to another. In view of the comment to Issue 5, we would like to reiterate that on an all India level the retail prices vary from Rs. 80 to Rs. 250 depending upon the paying capacities of various segments of Society. Subscribers at different strata of the society have different requirement and capabilities to pay. For eg: A high end customer would prefer a choice comprising of all Movie channels/Sports channel and would be willing to pay the requisite price for the same which would not be the case for a subscriber living in a slum or belonging to a low income household. Hence, there are variations in content, packages and service levels in the Television Industry which also indicate level of competition growing day by day with DTH players making inroads in the domain of Cable Operators.

(iv) Incidence of carriage and placement fee –

There are capacity constraint of analogue cable, whereby it can carry about 70-80 channels in analogue mode (in a market where more than 450 channels are present) which has resulted in the incidence of carriage and placement fees. The Broadcasters are forced to shell out substantial amounts in order to make sure that their channels are placed in visible bands. This has resulted in phenomenal escalation of the distribution cost over the last 4 to 5 years. Although the Regulator has identified carriage and placement fee as a problem area, it needs to identify a solution which would rationally address the interest of all the stakeholders.

(v) Incidence of state and region based monopolies –

To detect and control monopolistic situations in certain states and region, the industry requires a well defined framework through which information can be gathered and analysed on continuous basis to arrive at meaningful conclusions. In the present scenario analogue system does not provide a mechanism for gathering and analysing data to identify incidences of state and region based monopolies. It is the shortcoming of the analogue system which cannot be sorted out through tariff regulation. However there are certain regions where there are visible monopolies which have destroyed the competition both in content and carriage segments.

(vi) Frequent disputes and lack of collaboration among stakeholders –

The major reason for frequent disputes between stakeholders is non availability of authentic reliable data. Every stakeholder is aligned to a different subscriber base which in turn results in variation in content cost, carriage fee and pricing. This eventually leads to inefficiency and not only impacts growth of the industry but also the interest of the consumer. It is high time the Authority realises that the root cause of all ills is the non addressability. In order to bring in sanctity to the numbers of subscribers declared by the MSO's it is inevitable that the Authority introduces addressability by way of mandating that digitalisation in all cases must be accompanied by addressability. It would be a fallacy to believe that fixation of tariffs in NON CAS areas would overcome the perennial problem of under declaration and non availability of reliable data on subscribers at large. Thus, without addressing the basic issue of subscriber numbers, which is one of the components of revenue, addressing tariff/rates in isolation will not serve the desired purpose.

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

Comment: The abovementioned issues have a huge impact on the efficiency of the market and if not dealt with, will eventually lead to market failure. Under-declaration which gives rise to lack of transparency, disputes between stakeholders and creates monopolistic market conditions which would finally result in the complete breakdown of the market mechanism. Also, the distribution cost will increase at a rapid pace as the Carriage and placement fee would keep increasing which would eventually result in the increase of the monthly cable bill and will directly affect the consumer interest. In addition differential pricing will lead to disharmony amongst the consumers. The only solution is to introduce digitisation with addressability.

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

Comment: In our view, we would like to recommend that the wholesale tariff pricing should be left to the market forces. A forbearance tariff regime should be followed to regulate the wholesale tariff in Non CAS areas as there is no dearth of competition and the prevailing competition in the market shall ensure that the channels are not arbitrarily priced.

With regards to the options of methodologies proposed herein above, we would like to submit that it is not possible to recommend any one particular methodology in absence of complete and accurate data coupled with addressability. Any assumptions with regards to the figures would be misleading and distorted.

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.**

Comment:

Since the total revenue from the subscribers in a non-CAS area is not known, there can not be any revenue share model for sharing such revenue. As repeatedly pointed out, non-CAS cable distribution is totally analogue and is plagued by high levels of under-declaration. The concept of revenue share is more relevant in an addressable scenario where the total revenue realised from the subscribers for availing the cable services is transparently known. Since one of the variables of the revenue calculation (subscriber base) is not known, the revenue share model would be unworkable and as such can not be adopted for regulating wholesale tariff.

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

Comment: Cost Plus model to regulate the wholesale tariff, requires detailed information regarding one time cost incurred for creating infrastructure and recurring cost for procuring the content and transmitting content. This method shall not be valid for broadcasting industry as the media products are not standard in nature and there cannot be standard assumptions vis-à-vis costs. Different channels of different genres vary in its characteristics and in absence of specific data on the actual number of subscribers in absence of addressability it would be impossible to undertake any cost based analysis in terms of cost plus model. Moreover, the cost of content is a dynamic factor and depends upon the nature of programming in a channel. The reality shows, latest movies acquisition and event based rights are normally acquired on varying rates and no straight jacket formulate

can be laid out so far as the costing of a channel is concerned which keep on changing at periodic intervals.

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.**

Comment: Yes, forbearance should be the option adopted for regulating the wholesale tariff in NON CAS areas and the pricing of channels should be left to the market forces for the reasons mentioned in our Comment to Issue 10. In our opinion, there is no need for tariff regulation for wholesale level at this present juncture. It is further submitted that the wholesale tariffs of pay channel payable by MSO's/ LCO's to Broadcasters/Distributors for such channels should not be regulated in view of the competitive environment prevalent in the market, the evolving industry structure, the present level of penetration of the service, future potential for penetration in rural and remote areas.

It is to be noted that the fierce competition present in the market shall ensure that the broadcasters do not increase the price of popular channels arbitrarily. In case any broadcaster does increase the price of a channel arbitrarily then the demand/viewership of that particular channel will go down and with that also the Advertisement revenue which also forms a significant chunk of the broadcaster's revenue. Also, as rightly observed by TRAI, the popularity of channels is changing very rapidly. The present ratings may show that a channel is popular for a certain period due to a particular format designed for a TV show but with launch of a new TV show on another channel, the popularity of the earlier channel goes down. The rating of various channels change with the ever dynamic preferences of the subscribers. This shows that there is enough variety and competition prevalent in the market and people are able to make the intelligent choice of shifting the viewership from one channel to another channel

depending upon its popularity. Therefore forbearance should be the option for regulating wholesale tariff

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.**

Comment: We would like to state that as such recovery of content cost from Advertisement revenue and carriage cost from subscription revenue cannot be segregated and weighed against one another. The Broadcasting model works on an integrated revenue model i.e Advertisement revenue + Subscription Revenue. It is almost impossible to segregate the same and say that the abovementioned cost can be recovered by different sources of revenue. For example: Carriage charges and placement fee paid by the Broadcaster are much higher as compared to the revenue earned from subscription charges. Also, a fixed ratio cannot be arrived at as both are not comparable. Both the revenue streams are integrated and act supplementary to each other. Moreover, with the increasing number of channels, the revenue pie from advertisement is shrinking as same amount of advertisements spent is being shared by increased number of channels leading to effective reduction in the revenue per channel. In addition it may also happen that a particular programme produced at a very high cost may not click with the advertisers and may have to depend upon subscription revenue stream to recover a part of the cost incurred.

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.**

Comment: In case forbearance is not an option to be considered by the Authority, our suggestion w.r.t continuing with the existing

system of tariff fixation would be that the same may be continued but with certain modifications given as under –

- (1) The rates ought not to be frozen as on a particular date but should be left to the market forces subject to applicability of similarity principle.
- (2) TRAI may continue with the rate of new channels based on the similarity principle at wholesale level as the same will ensure that no channel is arbitrarily priced and the consumer's interest is not affected in any manner.
- (3) Also, there should be an option of changing the composition of existing bouquets so as to enable the Broadcaster to offer the best combination of channels (especially on the launch of a new channel) to the MSO/LCO who in turn can offer more channels at a reduced rate by subscribing in the form of bouquets instead of paying on a la carte basis.
- (4) In addition to the above, TRAI should not make it mandatory for Broadcasters to offer all the channels on a la carte basis as at present no purpose is being serviced by extending ala-carte option. The ala-carte option/choice is not getting extended to the consumers because of absence of addressability. Accordingly, the option of offering channels on a la carte basis should be left to the Broadcaster and should not be mandated.

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

Comment: We do not support price regulation of retail tariff in NON CAS areas. We are in support of forbearance as a form of retail tariff. As pointed out earlier according to us there is adequate competition in the pay TV sector and the market forces are capable of controlling the price a content provider can demand for its content from the MSO's.

We shall examine each of the above methodologies. To begin with cost plus method, the assumption is that the channel/offering by different Broadcasters are standard products, which is not the case and far from reality. The cost of content is a dynamic factor and depends upon the nature of programming in a channel. The reality shows, latest movies acquisition and event based rights are normally acquired on varying rates and no straight jacket formulae can be laid out so far as the costing of a channel is concerned which keep on changing at periodic intervals. TRAI itself has assumed that per subscriber cost is limited due to standard channel mix across entire subscriber base which itself is an erroneous assumption due to non availability of reliable data on the true and correct subscriber base at the last mile connectivity. Therefore, the cost plus methodology is flawed in absence of addressability and can not be applied.

Consultative approach has not yielded meaningful results due to varied interest of the stakeholders which are not complimentary to each other but are divergent.

An "Affordability linked" method is said to be practiced as per the paying capacity of the consumers in NON CAS areas where there is no addressability. In the digital scenario this will have to be re-looked, whereby the consumers cannot decide or dictate the price of the product. It may determine or influence the demand of the product and in case the channel wishes to increase its demand then it has to price the product in a manner which will ensure that it gets more consumer base. A GEC channel may like to price at the lower

part of the tariff and a niche channel such as Sports may still be priced at a higher charge and will be driving the numbers on event base. In addressable environment the affordability will be addressed by the choice of the consumer. A consumer may not like to select channels like English Movies which are normally priced at the higher end of the spectrum so that his payout are within his paying capacity.

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**

Comment: In case the affordability linked approach is used for retail tariff then the tariff ceilings, be prescribed in the form of (3 Categories). This kind of allocation would ensure that states with similar expenditure behaviour pattern are grouped together and their tier-wise price tariff would reflect the affordability level among a particular band of subscribers having similar preferences, income pattern and subscriber profiling across different regions of the country. Question here will be who decides which state or city goes in which category. A state like Madhya Pradesh will have cities like Bhopal, Indore, and Jabalpur with high paying capacities but will be having a majority of cities with low income groups. Thus the state figure may be of low paying capacity which will deprive the broadcasters to earn from the people who can pay and thus want all services. Therefore, an appropriate rationale needs to be evolved with the consensus of all stakeholders.

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?**

Comment: We would not recommend a minimum number of FTA/pay channels to be prescribed as it is a known fact that the analogue system has a limited channel carrying capacity. It would be unfair to Broadcasters if the ratio of FTA channels to Pay

channels is mandated/regulated by TRAI. In an analogue environment, all the channels whether FTA or pay are delivered in free to air form through a single pipe to a consumer. Thus the distinction between FTA and pay channel remain only upto MSO level. For the subscribers, since a lump sum amount is paid for the various channels irrespective of the number of FTA channels and pay channels comprised in the bundle delivered to him, there is no rational for prescribing the ratio between pay and FTA channels or minimum number of FTA/pay channels. The Broadcasters are already shelling out huge amounts as carriage charges and placement fees. Any move to introduce a ratio between Pay and FTA channels would put the broadcaster to a disadvantage from the revenue point of view. By prescribing a mandatory minimum number of FTA channels would result in additional cost for the Broadcasters who would be forced to pay higher carriage/placement fees in order to make sure that their channels are placed in platform on a visible band.

Moreover, who will decide which channel will go as a FTA in which area. Within a city there are multiple choice groups, for instance in Delhi a locality in South Delhi may need Bengali channels as FTA channels, whereas a locality in West Delhi may need North Indian channels. Therefore, an empirical formula may not work and thus will drive the costs to the broadcasters and consumers to the higher level and middle man enjoying the same.

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?**

Comment: No, it should not be made mandatory for the Broadcasters to provide all channels on a la carte basis to MSO's/LCO's. It should be left at the option of the Broadcaster to decide which channels should form part of a bouquet and what channels should be offered on a la carte basis. This can be achieved by proper checks and

balances, keeping the interest of the subscriber in mind. It may be mentioned that in the absence of addressability, it is not technologically possible to extend ala-carte choice at the consumer's level.

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

Comment: The benefit of a la carte provisioning can be passed on to the subscriber by allowing the end subscriber to opt for ala carte channels of his choice. This can be possible only if addressability is in place and the Interconnect Regulation to that effect is enforceable in letter and spirit. In absence of addressability, choice of ala carte cannot be passed on to the end subscriber.

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?

Comment: We would like to state that as on date the MSO/LCOs continue to opt/subscribe for bouquets. This is a viable option as in analogue cable distribution, subscribing for channel on bouquet basis comes out to be economical than subscribing for channels only on a la carte basis.

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

Comment: We would suggest that the carriage fees charged by the MSO's/ LCO's from the Broadcasters should be regulated. Due to the limited channel carrying capacity in the analogue system, the MSO's/ LCO's seek signals of such channels, which provide the best content from the Broadcasters to achieve maximum viewership. It is a fact that a channel gets viewership because of its content. The better the content, more the viewership, meaning thereby the MSO/ LCO gets more subscription fee because of the quality content of the broadcaster. The MSO/ LCO are taking undue advantage as even after taking subscription fee from the subscribers, the MSO/ LCO are also out to extort money from the broadcaster for carriage/placement fee

on the ground of providing their channel to maximum number of subscribers. Further, at the time of payment of subscription fee, the MSO/ LCO pathetically under declares the number of subscribers while at the time of demanding carriage fee, they claim the carriage fees based on the reach which is many times higher than the subscriber numbers declared by them for payment of subscription. The carriage fees have skyrocketed over the past four years, with the number of new entrants in the television space going up dramatically. Many MSOs are making money by auctioning frequency to broadcasters for huge amounts of money. MSO's/LCO's are charging 500% more money to carry channels on their networks for positioning of their channels on the preferred frequency/band. Industry estimates suggest that the total carriage fees paid by broadcasters is anywhere between Rs. 1200-1500 crore per year. Thus, carriage fee has become a menace within the Broadcasting industry. The MSO's/LCO's are holding the Broadcaster at ransom in the name of carriage fees. It is therefore recommended that carriage/placement fees must be done away with.

It is pertinent to mention that the subscription fee that is charged by a broadcaster from the distributors is regulated by TRAI. On the one hand, a broadcaster is entitled to charge subscription fee from the distributors based on the rates regulated by TRAI irrespective of the cost incurred by him on sourcing of the expensive content. At the same time on the other hand, an MSO/LCO also charges carriage fee from the broadcaster for carrying the broadcaster's channels on his network. Thus, the actual subscription fee (based on price regulated by TRAI) received by a broadcaster is further reduced by the carriage fee charged by the MSO's/LCO's. In the present scenario of huge under-declaration, the net subscription income (after adjusting the carriage/placement fee paid) is reduced significantly, thus making it difficult for the Broadcasters to recover their content cost. In view of the above, carriage/placement fees be regulated by the TRAI by fixing

a cap on the quantum of such fee charges by the MSO/LCO's based on certain TAM ratings applicable to cities/towns.

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?

Comment: We would like to suggest that the quantum of carriage and placement fee should be linked to the subscriber base of a particular MSO/LCO vis-à-vis the popularity of a particular channel. This would ensure that at the time of payment of subscription fee, the MSO/ LCO does not under declare the number of subscribers and would be forced to declare the subscriber base on the basis of TAM rating applicable to the channels subscribed by the MSO's. This would ensure parity in the levels of Subscription fee paid by the MSO's and the Carriage/Placement fee demanded by the MSO's from the Broadcasters.

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

Comment: We would suggest that a ceiling on carriage/ placement fee be prescribed. The ceiling should be linked with the subscriber base of the MSO/LCO. It is suggested that MSO/LCO should be under an obligation to make public the broad terms and conditions along with the carriage/ placement fees charged by them from the various broadcasters for different frequencies/ band by hoisting the said data on their respective website(s). This would ensure transparency in the carriage/ placement rates charged from various Broadcasters. Also it should be made mandatory for the MSO/LCO to file the said data along with copy of their carriage/ placement agreement with TRAI on quarterly basis. This will ensure a mechanism for monitoring and keeping in check the carriage/ placement fees demanded by the MSO's/LCO's. The mandatory Interconnect filing would enable the TRAI to analyses the

quantum of carriage fee paid by the Broadcasters vis-à-vis the quantum of subscription revenue earned by them.

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

Comment: The Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Fourth Amendment) Order 2006, (2 of 2006) dated 7th March 2006 defines the term “Commercial subscriber” as under -

“(ddd) ‘Commercial cable subscriber’ means any person, other than a multi system operator or a cable operator, who receives broadcasting service at a place indicated by him to a broadcaster, multi system operator or cable operator, as the case may be, and uses such signals for the benefit of his clients, customers, members or any other class or group of persons having access to such place.

Explanatory note

The distinction between an ordinary cable subscriber and a commercial cable subscriber is in terms of the difference in the use to which such signals are put. The former would use it for his/her own use or the use of his/her family, guests etc. while the latter would over commercial and other establishments like hotels, restaurants, clubs, guest houses etc. which use the signals for the benefit of their customers, clients, members or other permitted visitors to the establishment.”

The aforesaid definition is comprehensive and needs no amendment. However, in terms of the present differentiation/categorization provided by the Tariff Order dated 21st November, 2006 issued for commercial Subscriber, the same needs to be amended whereby no commercial subscriber irrespective of the category should be allowed the benefit of any tariff order for residential/ordinary subscriber. Further, the need of the hour is for a provision (Tariff Order) whereby Commercial establishment below 3 Star Hotels and below 50 people

in PVA (i.e. restaurants, clubs, pubs, hospitals, eating joints, cinemas, discos, Pubs etc) should be made liable to pay commercial rates which are not regulated. This will ensure that no revenue is lost for a content provider providing the services to the said Commercial subscriber as mentioned herein above.

TRAI also needs to include Hospitals and Educational Institutions as commercial subscribers who provide Television facilities in their establishments to their customers/staff. Such establishments should be made liable to pay for the content at the commercial rates negotiated with the service provider under the category of “Commercial cable subscriber”.

- 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?**

Comment: Needs no comment in view of Comment to Issue No. 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?**

Comment: We would like to suggest that identified Commercial Subscribers who are not treated at par with the ordinary subscribers such as, hospitals, educational institutions etc who provide Television viewing facilities to its customers/staff and charge for such services should also come under the purview of the definition of a “Commercial Cable subscriber”. The said category is commercial in nature which is evident from the fact that these additional facilities are extended by establishment for which cost is recovered in one form or another.

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

Comment: The tariff applicable for such identified commercial subscribers who are not treated at par with the ordinary subscriber should not be regulated but should be left to be mutually decided between the parties as in the case of Hotels with ratings 3 star and above, heritage hotels, motels, inns or commercial establishment providing boarding and lodging and having 50 or more rooms (i.e. forbearance regime).

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

Comment: We do agree that complete digitization with addressability (a box in every household) is the way forward. Digitization has several advantages over Analogue such as better quality of service, elimination of high carriage fees as the channel carrying capacity is much more, transparency in subscriber base and viewership, lesser instances of piracy, new features i.e. programme guides, multi view, interactive services and triple play (voice, video and data).

But while introducing digitisation all across the following two conditions should be fulfilled in order to make it a success and not let consumer's interest be affected in any manner –

- (1) Introduction of digital distribution system, with corresponding requirements to put in place addressable systems.
- (2) Structured growth of the industry through implementation of effective regulation.

We would also like to add that if TRAI intends to introduce digitisation all across then the pricing of channels should be left to the market forces i.e. a forbearance regime ought to be followed.

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

Comment: A sunset date which would give sufficient time to MSO/LCOs to put in place the entire system for conversion from analogue to digitization. A time period of at least two (2) years for major metros, three (3) years for state capitals and four (4) years for all urban population may be granted for the conversion to take place

after which no analogue signals can be transmitted or received. Also, the following steps would be required to be followed to make conversion to digitization possible –

- (1) A detailed digitization roadmap including established machinery to oversee the process.
- (2) Pre-defined analogue switch off/ cut-off date – which acts as a deadline for all non-digital operations to cease
- (3) Strong communication program to explain the benefits of digitization to all stakeholders (industry and consumers)
- (4) Clearly articulated action points for each stakeholder group to comply with the switch-off.
- (5) Benefits/ incentives to support digitization (these could be fiscal incentives or policy changes)
- (6) Penalties for lack of compliance with digitization timelines

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

Comment: Estimates of investment required for achieving digitization with addressability at various stakeholder levels is as under :

- (a) MSO's : Rs. 4 to 5 Lacs per channel depending on the grade of Hardware.
- (b) LCO's : Rs.750/- to Rs. 1000/- per subscriber
- (c) Customer: Rs. 1200/- to Rs. 5000/- depending upon features of the Set Top Box.

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

Comment: Yes, in order to make sure that the consumer's interest is not affected in any manner it is imperative to make sure that Digitisation standards for Headend parameters are as per DVB – C norms. For Distribution BIS standards have to be met. Also issues

like commercial operability, have to be ensured to ensure that there are no problems during migration from MPEG 2 to MPEG 4.

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?

Comment: Incentives in the form of tax rebates and also zero custom duty payable on digital Headend equipment including STB can be offered to various stakeholders to implement digitization with addressability in the shortest possible time. Also, the Government can extend initial help to such interested stakeholders in the form of loans for incurring expenditure on conversion from an Analogue headend to a digital headend. The set-top-box subsidy scheme can also be envisaged as it happened in U.S.

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

Comment: It would be advisable to have separate licenses for MSOs and LCOs so as to distinctly segregate the two entities. TRAI should devise a Licensing structure with sanctioning authority which would prescribe license fee based on the population of a particular town/city/District on the latest census record. The license could be granted to an MSO for a particular town/city/ District on the basis of incremental license fees. A licensing structure on the same lines should be formulated for the LCO's who would be franchises or agents of the MSO's. The said LCO's should also register themselves with the Licensing authority by paying the prescribed license fee. TRAI should also appoint a monitoring agency to oversee the entire process and grant them powers to take penal action for any non compliance of the laid down regulation. Necessary amendment to this effect would also be required in the Cable Act. The process of granting license to the MSO's should be done with caution, proper checks and balances in order to avoid creating monopolistic situation and to ensure industry growth in a structured maner.

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

Comment: Periodic filing of data with TRAI w.r.t. subscriber base, revenue earned, cost incurred etc by various stakeholders will ensure transparency. This will be possible only if digitalization is mandated based on addressability subject to statutory periodic audits supervised by officials appointed by TRAI.

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?

Comment: Yes. When digitalisation with addressability is implemented, there should be a 'basic service' group in order to ensure that customers are not denied access to some form of basic television service. The Basic Service should constitute a certain number of FTA channels which could include Doordarshan channels w.r.t. News, entertainment, regional and sports content along with certain number of FTA channels of various genres provided by private Broadcasters as well. The rate at which the basic service shall be made available should be minimal keeping in mind the paying capacity of the customer and also the fact that the said channels are marketed as FTA channels.

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?

Comment: Yes, there is a need for a communication programme to educate LCOs and customers on digitization and addressability in order to make the advantages/benefits of digitization known to them. We need to educate them on issues such as the exact amount of investment that will be required, the improved signal quality, increased channel carrying capacity, new services. The customers and

the LCO's should also be made aware of the applicable regulations and the importance of complying the same.
