

Counter Response to Consultation Paper No. 05/2010 dated 6th April 2010 on “Tariff Issues related to Cable TV Services in Non CAS Areas”

Q10. 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.

Q11. 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.

Q12. If the cost plus model is used to regulate the wholesale tariff, should it be genre wise or channel wise?

Q13. 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.

In respect of the stakeholders view that Wholesale tariff in the Non CAS area should not be fixed and left to the forbearance. We would like to submit as below:

Bharti response

- Content is the monopoly of the broadcaster and broadcasters have a tendency to charge the exorbitant amount for popular channels or channel showing the content of public interest e.g. sports events etc. . We are therefore of the opinion that wholesale tariff should be regulated and cannot be left to Forbearance or left to the mutual negotiation between broadcasters and access operators.
- If wholesale tariffs are left under forbearance, then there would be uncertainty to the access platform operators on the whole sale tariff and also it would lead to discriminatory practices by the broadcasters among the various access platforms and hence influence the retail tariffs/market competition.
- Further, in order to have a level playing field between various operators, the content cost of each type of operator should remain comparative so as to enable each operator to provide the competitive retail tariff in the market. Hence we request, TRAI to intervene and regulate the wholesale tariffs.
- **We also reiterate that wholesale tariff should be based on “Cost plus” approach as it not only allows effective recovery of seller’s cost along with a reasonable profit but also offers benefits to the customers in terms of lower tariff.**

- Sir, we propose that while deriving the cost for wholesale tariff in the non CAS area either the net cost (Total cost minus revenue (esp. through advertisement)) should be considered or there should be a model to share the advertisement revenue between the broadcaster and the other operators.
 - It is also recommended that while deriving cost based wholesale tariff, the authority should seek the exact cost details from the broadcasters and only take the relevant costs while calculating the wholesale tariff.
 - In addition to above, we propose the verifiability of the broadcaster cost and also request that the Authority to seek and verify the advertisement revenue of the broadcasters.
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Q14. 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.

Q22. Should the carriage and placement fee be regulated? If yes, how should it be regulated?

Q23. 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?

Q24. Can a cap be placed on the quantum of carriage and placement fee? If so, how should the cap be fixed?

In view of the stakeholder's comments that the above proposal of the TRAI should not be taken in to consideration, we would like to reiterate our submission:

Bharti response:

- As highlighted in our response to the Consultation paper and also recognized by the Authority/various stakeholders that Broadcasters are primarily dependent on advertising revenue and the subscription revenue is only incidental revenue for a broadcaster unless the cable operators gives a clean feed to the broadcasters.
 - At present, there is no mechanism in the market to share the advertisement revenue between the broadcaster and the cable service provider. So, the carriage & placement fee acts as nothing but sharing of advertising revenue for the other operators (who are not the broadcaster).
 - Further, the numbers of channels are increasing rapidly whereas the bandwidth to carry the channels is limited. Thus, payment of carriage fee helps a new channel or an existing channel with low viewership to be placed in the prime bands which in turns enhances the viewership and increases the advertisement revenue through TRP.
 - Also there is no verifiability of the cost to the broadcaster and revenue from the advertisement thereof. So there is a need to seek and verify the advertisement revenue of the broadcaster. Thus, we recommended advertisement revenue sharing model.
 - **We would like to reiterate our submission that, the Carriage and placement fee should not be regulated till the mechanism for sharing of advertisement revenue is in place.**
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Q15. 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.

Q19. 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?

Q20. How can it be ensured that the benefit of a-la-carte provisioning is passed on the subscribers?

Q21. 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?

With regards to stakeholders comments that, tariff of the channels should not be based on a-la-carte and should be left to forbearance. We would like to submit as follows:

Bharti response:

Please refer to our submission to question no 10-13. Also we would like to reiterate that:

- a. The numbers of broadcaster and cable service providers is very small in comparison to number of retail customers. Also, Cable service providers and access providers are well informed and can select each channel as per their requirement. So, we propose that the Wholesale tariff for broadcaster should be based on the principle of a-la-carte. This would avoid the unwanted pushing of channels by broadcaster in the bouquet format and would reduce the wastage of bandwidth utilization for the cable/DTH operators.
- b. Since the number of end retail customers is too large and the information level is very low, so to provide the simplified tariff to the end customers, DTH/Cable operators should be allowed to create bouquet.

Q25. Is there a need for a separate definition of commercial subscriber in the tariff order?

Q26. 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?

Q27. 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?

Q28. Should the cable television tariff for these identified commercial subscribers be regulated? If yes, then what is your suggestion for fixing the tariff?

Stakeholders are of the view that there should be separate definition of commercial subscribers. In this regard we would like to submit as follows:

Bharti response:

- There is no need for a separate definition for the commercial subscriber. Also the existing definition of the Commercial subscriber should be done away with.
 - We strongly feel that any superfluous criterion of the commercial and the residential subscribers and all the subscribers should be treated at par from broadcasters' point of view especially when the DTH operators are paying to the broadcasters on the basis of subscriber.
 - It is also unreasonable to have 2 different definitions for cable network & other platforms like DTH and in case, the same is not feasible due to any reasons, then at least, the definition of ordinary subscriber and commercial subscriber as provided for Cable platform should be extended to DTH. Broadcaster should be directed to allow DTH Service Provider to give signals to every person, Hotel, institution, Commercial establishment on the category of ordinary subscriber.
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Q29. Do you agree that complete digitization with addressability (a box in every household) is the way forward?

Q30. What according to you would be an appropriate date for analog switch off? Please also give the key milestones with time lines.

Q31. What is the order of investment required for achieving digitization with addressability, at various stakeholder levels (MSOs, LCOs and Customers)?

Q33. 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?

Bharti Response:

- a. At the outset we agree with the stakeholders' inputs that digitalization should be the only way to move ahead. The goals for digitization should include the following:
 - ✓ Accelerate digitalization in the country and Government should encourage it through voluntary and involuntary process Government should declare and cover more cities as CAS notified areas.
 - ✓ There should be a sunset date for Analog system say by 2013.
 - ✓ Existing cable operators should be mandated and incentivized to switch over to digitization.
 - ✓ All new cable TV operators should be mandated to implement digitization with addressability.
 - ✓ All new channels should be opened up for digital content only.
 - ✓ A new licensing regime for the MSO / LCO should be a part of digitization with addressability.

- ✓ Consumer awareness about the benefits of having digitalization i.e. better quality of service, more no. of channels and availability of value added services.

b. **We also recommend the following incentives to promote digitalization:**

- ✓ The rationalization of tax structure and licensing/regulatory cost for DTH/IPTV operator.
 - ✓ Additional financial incentive such as tax holiday for CAS, DTH and IPTV operators.
 - ✓ Lowering of custom /excise duty and other taxes on import and manufacturing of STBs.
 - ✓ Reduction in License fee.
 - ✓ Reduction in spectrum charges.
 - ✓ Reduction in the tariff for the Non CAS and CAS service providers i.e. DTH, IPTV.
 - ✓ Rationalization of taxes levied at central and state level
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