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Subject: written comments on- draft telecommunication (broadcasting and cable service) (Eight) (Addressable systems) tariff order,2016.

To: pradybcs@traigov.in, vk.agarwal@traigov.in

To

TRAI

NEW DELHI

Date:-20/10/2016

Subject:-Comments on the draft telecommunication (broadcasting and cable services) (eighth) (Addressable Systems) Tariff order, 2016.

Dear Sir,

At the outset TRAI needs to be complimented for its efforts to bring the transparency, efficiency and effectiveness in the broadcasting and cable services. Cable service will play a pivotal role in guaranteeing each individual's right to freely speak, receive or impart information, In the presence situation the electronic media has significant role to play and it should be endeavor of the TRAI as principal regulator that the subscriber has right to choose the channel of his choice particularly FTA channels.

2. The draft tariff order is a welcome step towards that. However, careful going through the order divulges many inconsistencies, deficiencies which have to be addressed so that the order achieves the perceived benefits as explained supra. Para-wise/clause-wise comments are given below :-

(i) Reference Para 6 (5). It has been specified that "Nodistributoroftelevisionchannelsshallchargeanyamount,otherthantherental amount, fromits subscribersforsubscribingto free toair channels or bouquet(s)offreetoair channels(s) which is a great initiator on part of TRAI. Following may be considered :-

a. The clause however should also mentioned that the distributor should also not charge from the broadcasters for carrying the FTA channel.

Explanation. In the absence of the aforesaid provision, the Distributor/MSO etc may start charging from the FTA some charges and will defeat the basic purpose. This may also be required for ensuring level playing field and to ensure complete transparency.

b. Ideally 'must carry' clause should be included till the capacity exists.

Explanation. This will be enabling clause for growth of the industry. This will also enable subscribers to get more choice and improve their satisfaction.

c. If selection is inevitable due to capacity constraints, the selection of FTA channels should also be based on some transparent criterion to avoid non-discrimination and non-transparency.

d. The final approval of FTA channels due to capacity constraints should be given by TRAI.

Explanation. This is essential as some broadcasters will face the issue of artificial restrictions/ entry barriers as MSO may demand significant amount in form of carriage fee (or in some other name) for carrying new channels over the network.

(ii) Reference Para 6(6). The sub clause states that “in addition to channels notified by the Central Government to be mandatorily provided to subscribers, a subscriber shall be free to choose any free to air channel(s), pay channel(s), premium channel(s) or bouquet(s) of channels offered by the broadcaster or bouquet(s) of channels offered by the distributor of television channels”. Following are commented:-

a. The sub clause should be suitably modified to state that the a subscriber shall be free to choose any free to air channel(s) in addition to the 100 channels to the extent of another 50 channels.

Rationale. This will give the subscriber more considered with no extra cost to the distributor in the addressable systems. This will also in consonance with PM’s objective of digital India and will be boon for the sector in particular and the nation in general. In the absence of the above suggestion as per proposed clause the subscriber will normally first choose the pay channels(s) to get the maximum ‘value for money’. Therefore, the FTA channel may get low priority and may also get differential treatment by the consumers.

b. These 50 channels will be in addition to the compulsory channels notified by the central government.

Justification. Considering the vision 2035, many channels may get prescribed by the central government. Therefore to ensure the growth of the industry and consumer's right to choose, these 50 channels should be additional.

(iii) Reference Para 6 (7). It has been stated that "Every distributor of television channels shall offer at least one bouquet, referred to as basic service tier, of one hundred free to air channels including all the channels notified by the Central Government to be mandatorily provided to the subscribers and such bouquet shall contain at least five channels of each genre as referred to in the sub-clause (1) of clause 4". Scrutiny of the clause is given as under:-

a. Number of channels should be increased from 100 to 200.

Rationale. The clause is protective for FTAs; therefore, this is essential considering the projected future growth of the industry. This will help in achieving social and economic goals of the country besides being beneficial for the industry.

b. These 200 channels should be excluding all the channels may get prescribed by the Central Government.

Justification. Considering the vision 2035, many channels may get prescribed by the Central Government. Therefore to ensure the growth of the industry and consumer's right to choose, these 50 channels should be additional.

c. It is also important that the bouquet of 200 free channels offered by the distributor should be approved by the independent agency like TRAI to avoid discrimination and ensure transparency.

d. The aspects of necessary including the regional channel of the respective region as 30 % of the total channels and not including the channels of the other regions beyond a 20 % must also be included.

Explanation. These are required to ensure the growth of the regional channels. Sometimes the broadcasters just carries the channel of other regions and creates artificial demand.

(iv) Reference Para 7 (1). The reporting requirement should also include clause of reporting to the Authority about reasons of exclusion of any FTA out of bouquet of offered by the distributor and the reasons should be verifiable as well as justifiable.

(v) Reference Para 7 (2) and (3).

a. It should be made mandatory on part of the broadcaster and distributor to display the information about each and every registered pay and FTA channels as per the category on their web sites, mobile based applications and program guides so that the subscriber gets the adequate information for making the informed choice for choosing the FTA.

b. In addition, it should be also available on TRAI website.

(vi) Other Suggestions.

(a) No Carriage Charge for FTA. The tariff order should explicitly include the clause of not allowing the distributors/broadcasting services/MSOs for charging the carriage fee from FTA channels. This will give relief to the FTA channels and they will be able to produce quality contents from the much lesser investments. The social objectives of the PM like financial inclusion and digital india will be positively impacted by this provision.

(b) Compliance Assurance Mechanism. To ensure that the provisions of the tariff order are implemented in the letter and spirit, it is proposed that TRAI should open a cell where in the affected parties can be heard in a time bound manner and directions can be issued as deemed fit for smooth functioning of the perceived system.

(c) We suggest that TRAI should have a toll free number so that consumer and related stake holders have easy and convenient communication medium to resolve issues in cost effective manner. The complaint / call should bear a unique reference number.

It is requested that the above issue may be addressed so that the tariff order should conclusively address all issues of the industry and ensure growth in consonance of the socio economic objectives of the nation.

For AINBA

S.K Gupta

President

