

Comments - Consultation Paper on Interconnect Regulations - 2017

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INTRODUCTION

At the Outset we would like to thank the authority for publishing the Consultation Paper on Interconnect Regulations – 2017 and giving us an opportunity to furnish our comments.

GENERAL COMMENTS

Before offering comments on the specific issues raised by the Authority, we would like to offer the following general comments.

1. The Authority has always been moving from prescriptive regulations to light touch regulations or leaving it to market forces. We hope the Authority would continue the same spirit in this case also.
2. The emergence of disruptive technologies like OTT is posing a huge challenge for traditional cable based distributors. Ironically, the OTT services are un-regulated as on date and the proposal under discussion is for increasing the regulatory overreach on the cable based distributors.
3. In case of Broadcasters, significant portion of their revenue comes from Advertisement. This is not regulated. On the contrary, almost all the activities or revenue streams of Distributors are regulated.
4. Many of the major broadcasters are vertically integrated with the distributors. Even though Authority has given its recommendations for regulating it, the same is yet to be accepted by the Government. This increases the challenge for independent distributors like us.
5. The cable infrastructure being created by the Distributors is contributing significantly to realise the Digital India vision of Government of India.
6. In view of the above we feel that the Authority should not increase the regulatory outreach on the distributors and leave it to market forces. The Authority has always the power to intervene in specific cases, if the need arises.

ISSUES RELATED TO TARGET MARKET.

- 1. Do you think that the flexibility of defining the target market is being misused by the distribution platform operators for determining carriage fee? Provide requisite details and facts supported by documents/ data. If yes, please provide your comments on possible solution to address this issue?**

Ans: We think that the flexibility of defining the target market is in no way being misused by the DPOs for determining carriage fee. With digitization of cable TV services, many distributors are having centralized head-ends. The network architecture varies with operators.

- 2. Should there be a cap on the amount of carriage fee that a broadcaster may be required to pay to a DPO? If yes, what should be the amount of this cap and the basis of arriving at the same?**

Ans: The Carriage fee provided in the interconnect regulations 2017 is very minimal amount and considering the present money inflation rate paisa 20 per channel that to upto 20% of the total universe subscription, does not make any business sense or value for DPOs to put in such efforts, system and network to carry on channels. So there should be no cap on the subscription by the customers or it should be increased to half of the subscriber base of the said DPO.

- 3. How should cost of carrying a channel may be determined both for DTH platform and MSO platform? Please provide detailed justification and facts supported by documents/ data ?**

Ans: The rate of carriage fee varies with the changes in the input cost incurred for erection, operation and maintenance of the distribution networks, license fee paid by DPOs to CAS and SMS vendors and etc. As mentioned earlier, the network topology varies with distributors and so determination of uniform cost of carriage is difficult.

- 4. Do you think that the right granted to the DPO to decline to carry a channel having a subscriber base less than 5% in the immediately preceding six months is likely to be misused? If yes, what can be done to prevent such misuse?**

Ans: We feel that the right granted to the DPOs to decline carriage of any channel having a subscriber base less than 5% in the immediately preceding six months is not being misused by the DPOs. In fact this clause ensures that the customers are benefitted as the channels with less popularity are weeded out and the DPOs have an option to give other popular channels in their network. Further it is submitted that as per present regulations If the monthly subscription of channel reaches 20% of monthly average subscriber base in a given month, then the DPO shall not charge any carriage fee for that month. Whereas the disconnection right is given only after

immediate preceding six months subscription is lesser than 5% and hence the claim of misuse is being unwarranted.

ISSUES RELATED TO PLACEMENT AND OTHER AGREEMENTS BETWEEN BROADCASTERS AND DISTRIBUTORS

- 5. Should there be a well defined framework for Interconnection Agreements for placement? Should placement fee be regulated? If yes, what should be the parameters for regulating such fee? Support your answer with industry data/reasons ?**

Ans: We are of the opinion that the forbearance provided to the service providers by the Authority should be continued. The placements of channels have been adequately regulated under the present interconnection regulations with regard to genre and language based placement, non-discriminatory must carry regulations, change in LCN is prohibited for one year etc. Hence the channels cannot be placed at any disadvantageous position in the network of DPOs. The rule of must carry is being strictly enforced under the regulations while being so, the placement request should be left to market forces like the advertisement revenues for the broadcasters.

- 6. Do you think that the forbearance provided to the service providers for agreements related to placement, marketing or any other agreement is favouring DPOs ? Does such forbearance allow the service providers to distort the level playing field? Please provide facts and supporting data/ documents for your answer(s) ?**

Ans: We are of the firm view that forbearance provided to the service providers for agreements related to placement, marketing or any other agreement is not favouring the DPOs in any way. As the request for placement comes from Broadcasters we don't feel that this forbearance distorts the level playing field by service providers, in fact it encourages healthy competition in the market. Further any such attempt on bringing placement under tariff regulatory regime is an

overreaching attempt by the Authority which will further destabilise the industry and distribution networks.

- 7. Do you think that the Authority should intervene and regulate the interconnection agreements such as placement, marketing or other agreement in any name? Support your answer with justification?**

Ans: We do not think the Authority should intervene and regulate the interconnection agreements such as placement, marketing or other agreement. It should be left to the market forces.

- 8. How can possibility of misuse of flexibility presently given to DPOs to enter into agreements such as marketing, placement or in any other name be curbed? Give your suggestions with justification?**

Ans: In any business, some of the activities should be left to be regulated by market forces, especially the ones which are not part of the core activity. The Authority always has the power to intervene in specific cases if any gross misuse is happening.

- 9. Any other issue related to this consultation paper? Give your suggestion with justification?**

Ans: We are of the strong view that the Authority should bring regulations in respect of transparency and customer interest related. The placement transaction is of Business to Business (B2B) nature therefore regulating it is not in the interest of neither the industry nor the subscribers.
