

BBC GLOBAL NEWS INDIA PRIVATE LIMITED

*Response to the Consultation Paper titled
“Tariff Related Issues for Broadcasting and Cable Services”
No. 10/2019 Dated 16.08.2019*

Without Prejudice

BBC Global News India Private Limited downlinks a twenty four (24) hours news and current affairs TV channel namely “BBC World News” in India.

In order to become a USD 5 Trillion economy by 2025, as envisaged by our Honorable Prime Minister, we believe that stability and sustainable growth are two key drivers. As such, frequent changes in regulations and ways of doing business can lead to market disruption and in turn can hamper growth. The Government’s vision of ‘Ease of Doing Business’ calls for minimum regulatory intervention. The fundamental objective of the TRAI is to ensure orderly growth of the broadcasting sector and protection of consumer interest. With the new tariff regime still in its early days, any further policy change at this point of time needs to be well thought off as the consequences will be far reaching for all the stakeholders i.e. Broadcasters, DPOs and the Consumer.

The implementation of new tariff regulations has changed the entire spectrum of distribution of television channels in India. The transition to new regime has been possible with support of all Stakeholders. It is very pertinent to point out that the Broadcasters stood firmly with TRAI in this transition phase and did their best to ensure a smooth transition without causing any disruption of services, even taking a financial impact upon themselves. Having said that, we also agree that any policy change will cause short-term disruption in market before the larger impact of same is felt. But, it is also worthy to point out that frequent changes in regulations can dampen the confidence and in turn impact growth of industry. Consumers have done their part to migrate to the new regime and as per TRAI data more than 90% of them have already migrated to the new regime by exercising their options. Any further disruption can cause confusion in their minds and dent their confidence.

The extant Consultation Paper is based on assumption that the consumer is being denied the right to choose individual channels of his/ her choice as the bouquets are being offered at heavy discounts. This skews the preference of consumer in favor of

bouquets over standalone channels. It is relevant to mention here that the cap on discount on a bouquet as provided by TRAI in the regulations has been set aside by Hon'ble Madras High Court, which termed the same as 'arbitrary'. Thereafter, the Hon'ble Supreme Court of India has not passed any order with regard to capping of discount on bouquets.

Whereas we believe that there are certain aspects in implementation of the new tariff regime in country that need to be addressed and clarified, we also firmly believe that these will be ironed out in due course of time. Both consumers and broadcasters, are not yet in a position to take further upheaval or uncertainty, and hence market forbearance is the best way forward.

The terms 'TRAI' and 'Authority' have been used interchangeably in this reply and both refer to Telecom Regulatory Authority of India.

The terms 'Consumer' and 'Audience' have been used interchangeably in this reply and both convey the same meaning.

The term 'Regulations' refer to The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 and The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017

The term 'Consultation Paper' refers to paper no. 10/2019 titled Consultation Paper on Tariff Related Issues for Broadcasting and Cable Services dated 16th August, 2019.

Our question wise reply to the Consultation paper is as under-

Q1. Do you agree that flexibility available to broadcasters to give discount on sum of a-la-carte channels forming part of bouquets has been misused to push their channels to consumers? Please suggest remedial measures.

Our interpretation of the Consultation Paper suggests that the Authority is inclined in favor for subscription of individual channels rather than bouquet subscription. However, the Authority needs to consider the fact that the individual subscription of even those channels which are very popular in market, have high viewership, are reasonably priced under the new regime, continues to be very low by the consumer. This shows that the consumer demand is not merely based on price of the channel. This puts across a wider picture regarding the consumer appetite for standalone

channels in Indian market. To us, this demand is more commensurate with the quality of content.

As per figures released by Broadcast Audience Research Council (BARC), TV households in India have grown from 183 Million in 2016 to 197 Million in 2018. It further mentions that TV remains the most effective platform for both content creators and advertisers to reach their audiences.

Broadcasters invest heavily in content creation and cater to broader audiences of all genres, age and regions. This is primary reason for large number of TV channels in India. Offering TV channels in form of bouquets is a standard feature of the TV industry world-wide. Consumers across the world have preference for them rather than individual channels as the bouquets offer a wide range of programming depending upon preference and liking of the consumer and that too at a reasonable price. No doubt there are certain channels in a bouquet that are more popular than others but every channel in the bouquet does have a viewership, more so in a country like India, where people of different geographies and regions are scattered in all parts of country.

We believe that any further attempt to interfere with pricing of bouquets, at this juncture, may jeopardize Broadcasters' capacity to offer channels catering to regional, niche and specific audiences and many channels will face an existential crisis. We feel that a bouquet should not be looked at from paradigm of popular and non-popular channels alone, there are multiple other factors to be considered such as age, genre, variety etc. Moreover, bouquets offer something for every member of a family in a household from older to younger generation. Broadcasters are required to consider business realities in mind while formation of bouquets. Hence, they cannot just blindly include any channel in a given bouquet- there is logic and parity behind it.

Further, we do not believe that the Consumer has been devoid of choosing a-la-carte TV channels under the current market scenario. Whereas, various studies and data suggests that the Consumers have shown great maturity and are now subscribing to individual channels as and when required. The mobile apps and websites offered by platforms have empowered consumers to manage their choices on a click of a button. For Example, if a consumer wishes to watch a cricket match, then he/she can activate the TV channel at the start of the match and can switch it off once it is over. This way the consumer is able to get access to his favorite content at a

miniscule cost. Such is the level of flexibility and empowerment available to the consumer under the current scenario.

The consumer today is an informed entity on the backdrop of wide dissemination of information. If the consumer has an appetite for standalone channels, they will go for them. Consumers are opting for a combination of standalone channels along with bouquets in order to derive the best value for themselves. Any change in consumer approach to the contrary will take time and will not happen overnight.

It is our view that the market is currently in a settling phase post the implementation of the new tariff regime and we believe any further changes at this stage will be detrimental to the interests of all stakeholders. These changes will become more problematic for small TV networks who are dependent upon DPOs/ platforms to include their channel(s) in bouquets to get reach and eyeballs. Single channel broadcasters will also be most impacted in case a capping is introduced on bouquet discounting. Getting positioning in a bouquet is very important for such broadcasters.

The Authority has stated that Broadcasters are offering discounts of up to 70% on bouquets. We believe that this plays out to the benefit of consumer as it gets the combination of channels at a very competitive price. Moreover, bouquets also provide an opportunity to broadcasters to introduce new channels with differentiated content at an affordable rate. Further, no uniformity in discounts being offered on bouquets by broadcasters clearly shows that the discounts are being driven by market forbearance, consumer appetite and demand of the channel instead of perverse pricing as mentioned by the Authority.

Further, basic tier of 100 FTA channels as mandated by the Authority is a bouquet offering in itself. Hence, the premise that the Broadcasters are using the regulations to their advantage by promoting bouquets instead of a-la-carte channels does not hold true. Further, option of 'Best Fit plan' envisaged by the Authority was also a bouquet offering of different channels.

The Hon'ble Madras High Court has already held 15% discount cap imposed on bouquet pricing by the Authority as arbitrary and has set it aside. The Hon'ble Supreme Court has also not passed any order pertaining to capping of discount on bouquets in an appeal filed by the Authority against order of Madras High Court. Thereafter, the Authority filed an SLP before the Hon'ble Supreme Court for clarification related to capping of discount on price of bouquet. Interestingly, this SLP was dismissed by Hon'ble Supreme Court as it was withdrawn by the Authority.

In our opinion going back to the issues which have already been adjudicated upon and decided by the highest courts will send a very wrong signal. Moreover, any attempt to bring in capping on bouquet discount will give rise to multi-dimensional litigations which is never good for any industry.

In light of the above, we are of opinion that there should be no capping on discount being offered by broadcasters on the pricing of bouquet and same should be left to market forbearance as is the case at present.

Q2. Do you feel that some broadcasters by indulging in heavy discounting of bouquets by taking advantage of non-implementation of 15% cap on discount, have created a non-level field vis-a-vis other broadcasters?

Detailed response has already been covered in our response to question at serial no.1 hereinabove. We firmly believe that the market is working on forbearance and should be allowed to function as such. If there any specific cases of abuse of dominance, the Authority can intervene, as it does presently.

Q3. Is there a need to reintroduce a cap on discount on sum of a-la-carte channels forming part of bouquets while forming bouquets by broadcasters? If so, what should be appropriate methodology to work out the permissible discount? What should be value of such discount?

As already reiterated above, in our view there is no need to bring in any cap on bouquet discounting.

Q4. Is there a need to review the cap on discount permissible to DPOs while forming the bouquet? If so, what should be appropriate methodology to work out the permissible discount? What should be value of such discount?

As already reiterated above, in our view there is no need to review capping on bouquet discounting.

Q5. What other measures may be taken to ensure that unwanted channels are not pushed to the consumers?

India is a diverse country with a colorful mix of various religions and cultures. Here people of different age groups, culture, religion and belief are scattered in various parts. Due to an even spread of Indian population, there is demand for regional and multi-dimensional cultural content in addition to the mainstream content in these areas. Hence, every channel has its own unique audiences. Market forbearance ensures that those bouquets are available in the market which are relevant to the target area and its population. One suggestion can be that apart from GEC, News, Music and Kids, other genres in the bouquet shall be determined based on the target

market taste and preferences. The new framework provides power and flexibility to the consumer to make an informed choice and hence, is in control of the channels that it wants to watch. In fact, the Authority has itself promoted for bouquet offering in form of basic tier of 100 FTA channels.

Q6. Do you think the number of bouquets being offered by broadcasters and DPOs to subscribers is too large? If so, should the limit on number of bouquets be prescribed on the basis of state, region, target market?

The fundamental idea should be to enable consumer to make a seamless choice regarding the combination of channels he/she wants. Having said that in a country like India with its mix of cultures, faiths and size of population which are spread across all parts, putting a limit on the number of bouquets may not be practically viable and would amount to putting a limit on the choice of consumer. Formation of Bouquets should be left to market forbearance with no regulatory intervention.

Q7. What should be the methodology to limit number of bouquets which can be offered by broadcasters and DPOs?

As stated above there shouldn't be any cap on number of bouquets. For convenience of consumers, bouquets could be made as per target market vis-à-vis geography, language, age mix etc.

Q8. Do you agree that price of individual channels in a bouquet get hedged while opting for a bouquet by subscribers? If so, what corrective measures do you suggest?

The whole concept of bouquet is based on premise of offering a wide choice of programing to the consumer. Bouquets are like a bulk deal wherein a consumer gets the advantage of a better price by buying a combination of TV channels as opposed to a standalone channel. So, the price of individual channels that are part of the bouquet is bound to get hedged in favor of the consumer. Otherwise, the concept of bouquet will not make any commercial sense and rationale for the consumer. The consumer will generally tend to overlook the price of individual channel while opting for a bouquet.

Q9. Does the ceiling of Rs. 19/- on MRP of a-la-carte channel to be part of a bouquet need to be reviewed? If so, what should be the ceiling for the same and why?

We believe that a bouquet should address the twin requirements- preference and price as far as the consumer is concerned. Formulating bouquets on these requirements will work well for both broadcasters and platforms. There should be reasonable parity in price of channels that are part of the bouquet as prevalent in

pre-NTO era. Since FTA channels cannot be part of bouquets, many small/ niche channel broadcasters have had to re-calibrate their business strategy by converting their channels from FTA to pay channels, MRP of the channel being kept at a bare minimum. The Authority needs to look at this from a wider perspective. These channels are dependent upon reach to get advertisements. Being part of a bouquet helps them to garner eyeballs which in turn converts into advertisement revenue. These channels cannot survive on subscription model alone as they have limited finance.

The Authority needs to recognize that now the consumer is more informed and aware in current scenario. Further, all the educational campaigns by the Broadcasters and Authority have empowered the consumer to understand the freedom of choice in new tariff regime. The uptake of bouquets with high price is very low irrespective of the individual channels that are part of these bouquets.

It is equally pertinent here to refer to the Hon'ble Supreme Court judgment dated 30.10.2018 wherein it commented upon the price of individual channels and bouquet price and further refrained from commenting or passing any order with regard to capping of discounts on bouquet price. This shows that the Hon'ble Supreme Court is more inclined towards that the principle of forbearance.

Having said that, we believe that there should be reasonable parity between a-la-carte and bouquet pricing and hence suggest that the current ceiling (for MRP of individual channels that can be part of the bouquet) may be reduced to around Rs. 12/-. We believe that this will harmonize the bouquet prices and will offer even more value to the consumer. Further, it will meet the Authority's objective of orderly growth in the sector and provide a level playing field to all the Broadcasters. The market dynamics will keep a check on high price of TV channels. Any broadcaster that needs to ensure high subscription of channel will need to offer realistic prices.

Q10. How well the consumer interests have been served by the provisions in the new regime which allows the Broadcasters/Distributors to offer bouquets to the subscribers?

Bouquet is a popular means of TV channel subscription world-wide and same is the case in India. There is no change in formulation of bouquets both in pre-NTO and post-NTO regimes. The bouquets are a mix of different genres and catering to a wider range of audiences. We believe that the consumers are getting due options and are in full control whether to opt for individual channels or bouquets under the new regime.

Q11. How this provision has affected the ability and freedom of the subscribers to choose TV channels of their choice?

As mentioned earlier, the consumer today is more educated and empowered to exercise its choice. Consumers have a wider choice by opting for a TV channel based on the programming and further for a specific duration. For example, in case a consumer wants to watch a cricket series, it can subscribe for the particular channel for the duration of the cricket series and will be charged pro-rata accordingly. Hence, we believe that the new regulations have put the consumer in full control of programming that he wants to watch. Pertinent to mention that it is not compulsory for a consumer to opt for any bouquet. He can select the standalone channels alone and can control how much he/she needs to spend on TV programming services.

Q12. Do you feel the provision permitting the broadcasters/Distributors to offer bouquets to subscribers be reviewed and how will that impact subscriber choice?

We don't see any need to review this provision as it ensures that a consumer gets sufficient choice and mix of channels.

Q13. How whole process of selection of channels by consumers can be simplified to facilitate easy, informed choice?

With Mobile Apps and websites of the DPOs, the process of selection of TV channels has become very simple. Consumers can now make their choice online by click of a button. This happens on real-time basis i.e. once a consumer opts for a channel through a mobile app of the platform, the channel gets activated immediately and similar is the case with de-activation of channel. While major national level platforms have introduced consumer friendly mobile apps and other means, regional MSOs should to be encouraged to upgrade their infrastructure for convenience and better accessibility of consumer.

Q14. Should regulatory provisions enable discount in NCF and DRP for multiple TV in a home?

The Authority vide Press Release No. 10/2019 dated 08.02.2019 clarified that the regulations does not prohibit the service provider from offering discount or lower network capacity fee for second/ additional TV connection in same home. So, the regulatory provisions are already clear in this regard and allow DPO's to offer the discount for additional TV connections. In fact, many DPO's are already offering the same to consumers. In other cases, they should be encouraged to offer discounts. Moreover, market dynamics will ensure that a level playing field is created by all DPO's.

Q15. Is there a need to fix the cap on NCF for 2nd and subsequent TV connections in a home in multi-TV scenario? If yes, what should be the cap? Please provide your suggestions with justification.

We believe that this should be guided by the number of TV connections in a home. More the number of TV connections, higher the discount on NCF on subsequent connections. Market forbearance is best option in this regard as we believe that it will be a healthy practice and would provide best economical deal to the consumer.

Q16. Whether broadcasters may also be allowed to offer different MRP for a multi-home TV connection? If yes, is it technically feasible for broadcaster to identify multi TV connection home?

We believe any such step would create undue complexities and hence, should be avoided.

Q17. Whether Distributors should be mandated to provide choice of channels for each TV separately in Multi TV connection home?

Absolutely, since consumer is at the heart of these regulations. Offering choice to consumers is the main objective of all the stakeholders. When consumer pays separately for every availing services on every TV set, he should be given choice for every such TV set.

Q18. How should a long term subscription be defined?

We believe that any subscription with a tenure of six (6) months and more can be qualified as a long term subscription. This will ensure both rationality of monthly charges and offer good value proposition to both the consumer and DPOs.

Q19. Is there a need to allow DPO to offer discounts on Long term subscriptions? If yes, should it be limited to NCF only or it could be on DRP also? Should any cap be prescribed while giving discount on long term subscriptions?

In our opinion, the earlier practice of offering discounts (pay for 5 months & get 1 month subscription free) by DPO's in terms of subscription period to consumers can be followed. There shouldn't be any specific capping of discounts on NCF and same should be left to market forbearance. This works out to the benefit of both DPO and consumer- DPO gets a consumer for long time and consumer gets the best value in terms of money spent. Moreover, discounts on long term subscriptions of 6 months & 12 months was a common norm in pre-NTO regime. It is also a common business practice to offer a discount when the entire payment for a certain service is made upfront in full.

Q20. Whether Broadcasters also be allowed to offer discount on MRP for long term subscriptions?

Since, Broadcasters don't deal directly with the consumers, consumer specific discounts shall be under the purview of the DPO's.

Q21. Is the freedom of placement of channels on EPG available to DPOs being misused to ask for placement fees? If so, how this problem can be addressed particularly by regulating placement of channels on EPG?

We believe that this should be best left to market forbearance, as under current regulations, DPOs are required to display all channels available on their network in electronic programming guide (EPG) and further every channel is required to be listed under the respective genre of that channel as declared by the Broadcaster. DPO can classify all channels under one genre into sub-genres based on language, region etc. For Example, all channels under news genre should be placed together and further classified into sub-genres based on language of the news channel i.e. all Hindi news channels placed together and so on.

Q22. How the channels should be listed in the Electronic Program Guide (EPG)?

The channels should be listed genre wise like News, Entertainment, Movies, Infotainment, Kids etc. followed by classification in sub-genres like Hindi GEC, Regional GEC and Hindi news, English News etc.

Q23. Whether distributors should also be permitted to offer promotional schemes on NCF, DRP of the channels and bouquet of the channels?

Like NCF, DPOs shall be permitted to offer promotional schemes on distributor retail price (DRP) to the consumer as it the DPOs who deal with consumers. At present, the regulatory framework does not permit DPOs to offer any scheme on DRP. The Authority may consider allowing DPOs to provide schemes to consumer. The Authority may review the results after some time to evaluate its success.

Q24. In case distributors are to be permitted, what should be the maximum time period of such schemes? How much frequency should be allowed in a calendar year?

Distributor should be free to determine the maximum time period of such schemes based on the market dynamics they operate in.

Q25. What safeguards should be provided so that consumers are not trapped under such schemes and their interests are protected?

We believe that consumer is already well empowered to take a balanced decision. However, as a matter of extra precaution consumer may be given an option to exit after a short lock-in so that DPO does not suffer any logistical cost and consumer can also walk out in case it feels that there is no commercial value or benefit.

Q26. Whether DPOs should be allowed to have variable NCF for different regions? How the regions should be categorized for the purpose of NCF?

We believe that DPOs are already allowed to offer NCF below the ceiling of Rs. 130/- by the Authority. The current practice should be continued and DPO's should be free to determine NCF beyond the prescribed limit. The categorization of regions for purpose of NCF should be left to DPOs who in turn should decide it based on market realities.

Q27. In view of the fact that DPOs are offering more FTA channels without any additional NCF, should the limit of one hundred channels in the prescribed NCF of Rs. 130/- to be increased? If so, how many channels should be permitted in the NCF cap of Rs 130/-?

We believe that as long as DPOs offer more than one hundred (100) channels at NCF of Rs. 130/- and there is no cartelization and abuse of dominance, it should be allowed as consumer is getting an additional benefit at no extra cost. The Authority can intervene wherever required.

Q28. Whether 25 DD mandatory channels be over and above the One hundred channels permitted in the NCF of Rs. 130/-?

As various DPOs are already providing more than prescribed limit of one hundred (100) channels to the consumers, we feel that 25 DD channels can be excluded from the list of one hundred (100) channels. These channels can be carried separately by the DPO without any cost to the consumer.

Q29. In case of Recommendations to be made to the MIB in this regard, what recommendations should be made for mandatory 25 channels so that purpose of the Government to ensure reachability of these channels to masses is also served without any additional burden on the consumers?

These being the public broadcaster's channels should be available on every platform.

Q30. Stakeholders may also provide their comments on any other issue relevant to the present consultation?

The Authority should revisit the discount cap on the a-la-carte price of individual channels. We believe that as there is no cap on discounts applicable in case of a bouquet of channels, the same needs to be extended to the a-la-carte channels in order to ensure fair and orderly growth of the sector along with providing level playing field to all the stakeholders. This becomes quintessential for broadcasters with one channel in their kitty. We further believe that this will put to rest the Authority's concern regarding disparity in prices of standalone channels vis-à-vis price of bouquet these channels are part of. This will also streamline the industry further and provide a level playing field to small broadcasters also.

We also believe that promotion of a-la-carte over the bouquets will deny the choice to consumers which they need in country like India with varied and diversified population which speaks and practices different languages and cultures. Small and niche channels will face a business crisis and many may lose viability, leave aside profitability. Broadcasters will be unwilling to launch new channels and experiment with new content as the avenues to spread that content will be limited. This will in turn result in migration of consumers from television to OTT platforms.
