

BIF Response to TRAI Consultation Paper on Issues related to New Regulatory Framework for Broadcasting and Cable services

At the outset, BIF wishes to take this opportunity to laud the Authority for coming out with a consultation on the very important & pertinent subject of Broadcasting Tariffs arising out of the tariff order issued by the Telecom Regulatory Authority of India (TRAI) on the 1st of January 2020, w.r.t. Broadcasting & Cable Services [Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020], which is referred to as the New Tariff Order (NTO 2.0).

Q1: Should TRAI continue to prescribe a ceiling price of a channel for inclusion in a bouquet? a. If yes, please provide the MRP of a television channel as a ceiling for inclusion in a bouquet. Please provide details of calculations and methodology followed to derive such ceiling price. b. If no, what strategy should be adopted to ensure the transparency of prices for a consumer and safeguard the interest of consumer from perverse pricing? Please provide detailed reasoning/ justifications for your comment(s).

BIF RESPONSE

1. In view of the prevailing high level of competition in the sector, we humbly submit that there need not be **any pricing/tariff mandates** for either individual channels or for bouquet of channels. It is our firm belief that Tariffs & Pricing forbearance should prevail and the same light touch regulatory approach should be followed in the Broadcasting sector as is being done in the case of Telecom sector with excellent outcomes.
2. As per TRAI's Annual Report 2020-2021(Page 6 & 7) , the TV broadcasting sector encompasses 350 broadcasters , 1724 Multi System Operators (MSOs) registered with Ministry of Information and Broadcasting (MIB), an estimated 1,40,000 cable operators , 1 HITS operator , 4 pay DTH operators and few IPTV operators , at the end of March, 2021. **So, there is already sufficient competition already in the sector**
3. As per data quoted from TRAI's Annual Report 2020-2021, India's television industry stands at ` 68,500 crores in the year 2020 as compared to ` 78,800 crore in the year 2019, **thereby registering a decline of around 13%**. Data from the CP also points out that Subscription revenues have fallen from INR 46,800 Crores in the year 2019 to INR 43,400 crores in the year 2020.
4. The fall in subscription is all the more significant since during the pandemic, people were mostly confined to their homes and one would have expected the subscriptions and revenues to increase instead of falling.
5. During last more than one-year (approx. 8 quarters) total active number of DTH subscribers has decreased from 70.99 million to 68.89 million. Similarly, number of total active subscribers of major MSOs/HITS operators having more than 1 million

subscribers, has decreased from 47.58 million to 45.55 million. The revenue of broadcasters as well as DPOs is projected to decrease in FY 2020-21. **Above trends indicate that the television broadcasting sector is facing serious challenges.**

6. Stringent pricing regulations are needed only when a few players dominate the market and may collude to maintain higher prices. Pricing mandates are also beneficial in capital-intensive industries where resource limitations can potentially stifle new entrants and healthy competition. Given the fact that the broadcasting industry is extremely competitive as is borne out by TRAI's own data in Para No. 2 & 3 above, and with the revenues of the sector already on the decline (Para 4 above) , lack of evidence of market failure, , it may be perhaps prudent to **avoid any ex-ante regulations, pricing mandates and follow tariff forbearance, permit market forces to prevail and follow same light touch regulatory approach for the broadcasting sector as was applied in the Telecom sector**, thereby leading to tremendous success and growth of that sector.
7. **Global best practices** suggest that the situation is quite unique to India as being the only country that places restrictions on bundling, discount caps on bouquets, and price ceilings for the inclusion of channels in a bouquet
8. Also, as borne out by several market studies, ALC (A-la-Carte) Channels and bouquets are different product offerings and they cater to different target audiences having different value propositions. Hence they need to be treated differently.
9. As borne out by several market studies tabled by the Regulator itself it is clearly evident that bouquets of channels as offered by the market entities, are the preferred choice of a majority of viewers. Also typically in a 4-5 member sized family within a household, each member usually has different and diverse preferences as far as choice of channels is concerned.
10. Different TV channels have different value proposition and one size fits all pricing is impractical.
11. Bundling of content is a popular method followed by service providers all across the world The simple rationale for bundling is that bouquets of several channels allow for a larger subscriber base and therefore are more attractive for advertising. More advertising revenue translates to ability of broadcasters to offer higher discounts to consumers which is in the overall consumer interest. Every bouquet offers a unique value proposition. The discounts on bouquets depend on multiple factors such as, advertising revenues, reach, demand of each channel in the bouquet, production costs etc.
12. Bouquet discounts have kept TV channel prices under check for the past 15 years. According to a MIB survey¹ in 2004, the average monthly TV bill in 2004 was around INR 190. In 2017, the average monthly TV bill was INR 222 which is INR

¹ A survey by CUTs titled "Consumer Friendly Cable TV System, 2004"

259 less than what it would have been if accounted for inflation. Today consumers have access to almost 900 channels, which was only 90 in 2004. All of the above are consumer benefits on account of bundling of content

Q2. What steps should be taken to ensure that popular television channels remain accessible to the large segment of viewers. Should there be a ceiling on the MRP of pay channels? Please provide your answer with full justifications/reasons.

BIF RESPONSE

1. It is felt that Customers should be permitted to exercise their choice as regards what channels they should watch and what price they should pay for the same. In this manner, popular television channels can be accessible to all in the most optimum manner.
2. It is believed that **there should not be any price ceiling on MRP of pay-tv channels.** As observed by the Regulator itself, it is very difficult to fix the price of content. It is a highly complex method. In a free market economy, the price of any commodity is decided by the rationalised selling price by the seller and the price which the customer can pay and the same should thus be left to the market forces.

Q3. Should there be ceiling on the discount on sum of a-la-carte prices of channels forming part of bouquets while fixing MRP of bouquets by broadcasters? If so, what should be appropriate methodology to work out the permissible ceiling on discount? What should be value of such ceiling? Please provide your comments with justifications.

BIF RESPONSE

We are of the opinion that there **should not be any "ceiling on the discount on sum of a-la-carte prices of channels forming part of bouquets while fixing MRP of bouquets** by broadcasters" as (a) bouquets and ALC (A-la-carte) channels are different product offerings, catering to different classes/categories of consumers and (b) imposing cap on discount is against the interest of 80²% of TV households or 98³% of cable TV households who prefer bouquets, as market studies suggest. Hence this would go against majority consumer interest.

Q4. Please provide your comments on following points with justifications and details: a. Should channel prices in bouquet be homogeneous? If yes, what should be an appropriate criteria for ensuring homogeneity in pricing the channels to be part of same bouquet? b. If no, what measures should be taken to ensure an effective a-lacarte choice which can be

² Analysis of TRAI Data

³ Chrome Data

made available to consumers without being susceptible to perverse pricing of bouquets? c. Should the maximum retail price of an a-la-carte pay channel forming bouquet be capped with reference to average prices of all pay channels forming the same bouquet? If so, what should be the relationship between capped maximum price of an a-la-carte channel forming the bouquet and average price of all the pay channels in that bouquet? Or else, suggest any other methodology by which relationship between the two can be established and consumer choice is not distorted.

BIF RESPONSE

1. We are of the opinion that **channel prices in bouquets should not be homogeneous**. Homogeneity defeats the purpose of bundling. Every channel is unique and has different kinds and categories of viewers.
2. We feel that there is **no need for capping MRP of an a-la-carte (ALC) pay channel forming part of a bouquet**. This is with reference to average prices of all pay channels forming the same bouquet". There is no rationale for directly or indirectly imposing such any ceiling in this regard as has been borne out by market studies

Q5. Should any other condition be prescribed for ensuring that a bouquet contains channels with homogeneous prices? Please provide your comments with justifications.

BIF RESPONSE

Please refer to our response to Q4 above.

Q6. Should there be any discount, in addition to distribution fee, on MRP of a-la-carte channels and bouquets of channels to be provided by broadcasters to DPOs? If yes, what should be the amount and terms & conditions for providing such discount? Please provide your comments with justifications.

BIF RESPONSE

Yes-Broadcasters should be permitted to offer discounts without any cap to incentivise DPOs who perform better than others. Otherwise, underperforming DPOs are unfairly liable to get the same incentives /benefits that would be deserving for the performing ones.

Q7. Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in present consultation.

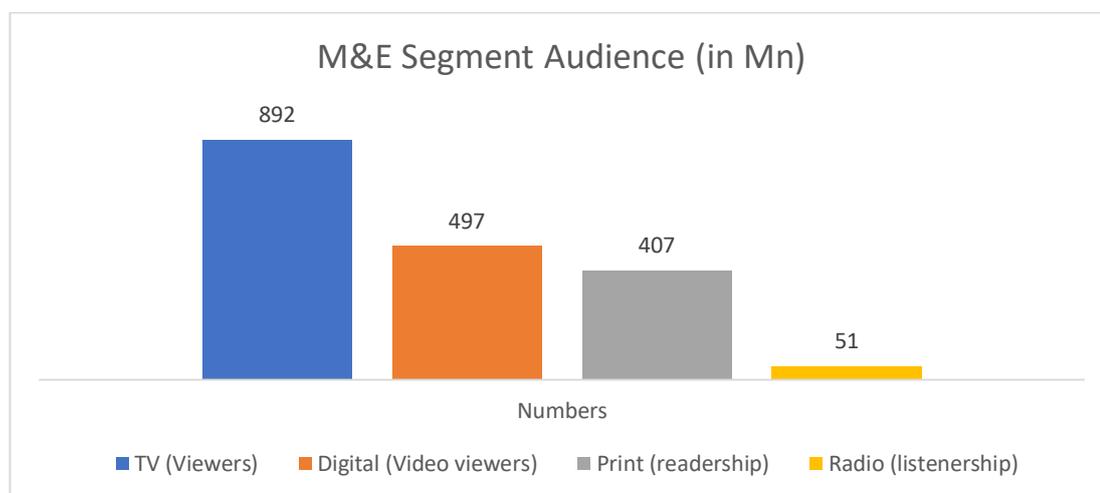
BIF RESPONSE

1. While we appreciate that the intent behind this measure by the Regulator is to provide freedom of choice in terms of the channels being offered to customers as well as affordability for the end consumers, we would like to respectfully submit that this may not effectively serve the desired purpose, and may prove counter-productive in its outcome rather.
2. It may be pertinent to mention that Broadcasters create content and deliver it to televisions across the country by partnering with Distribution Platform Operators (DPOs). The distribution technology simply does not allow for innumerable channel combinations at the consumer end. Therefore, users still have to select between groups of channels determined by the DPOs. The regulator also wants to allow consumers to create customised channel bouquets/packages. However, technology limitations on the DPO do not allow for this level of flexibility.
3. For decades, the media and entertainment (M&E) industry in India has had a level playing field with multiple players and numerous options for consumers. The market grew to a staggering INR 1,631 billion in 2019 at a growth rate of 13 per cent (as per KPMG report) when the global average was only 4 per cent, until the decline started as pointed out in response to Q1. This was a remarkable feat especially when the economy was projected to grow at only 4.6 per cent (as per State Bank of India) or 5 per cent (as per World Bank) in 2020.
4. Despite higher consumption as compared to US & China, India is far poorer in terms of overall penetration and profitability as against international and APAC norms. However, the potential and opportunities for the sector is tremendous and is indicated positively by the consumption trends across the country.
5. **Potential for Market Growth in the sector**
 - 5.1 TV penetration in India is 70% and a mere 10% increase in TV penetration will result in INR 31 billion additional revenues/incomes at the current ARPU of INR 223.
 - 5.2 Growth from multiple TV ownership: According to BARC, there are about 2%⁴ (approx. 4 million) multi-TV households out of the total 210 million TV households in the country. Thus, there is a huge potential for growth in multi-TV homes with growth in household incomes.
 - 5.3 Opportunity for smart TV penetration: Currently there are about 5 million smart TVs in India. While television households are expected to grow at over 5% till 2025, we expect growth to be driven by connected TVs which could cross 40 million by 2025⁵, thereby making core television a more massified product.
 - 5.4 **The sector has the highest share in M&E, in terms of revenues, (including both subscription and advertisements) and will continue to do so in future.**

⁴ [BARC India Report on "Impact of Co-viewing on TV Viewership"](#)

⁵ FICCI-EY M&E Report on "Playing by New Rules"2021

5.5 The Cable & Broadcasting sector also has the largest audience among all segments



Source: BARC India, FICCI-EY M&E Report 2022, [News Articles on Radio](#), [News Articles on Print](#)

Current Regulatory Impact

6. The “must provide” clause (for FTA channels) prevents broadcasters’ from freely negotiating for supply of its TV channels. In a market driven economy, market-based negotiations and transactions between broadcasters and DPOs should be upheld as the principle of deciding the customer pricing and the share of revenues amongst each element in the supply chain.
7. The current regulations somewhat restrict inclusion of FTA channels with pay TV channels in bouquets, imposes cap on discounts that can be offered on bouquets, prohibits wholesale incentives on bouquets and imposes a price ceiling on channels that can be part of the bouquet. DPOs channel carrying capacity is impacted due to the mandate to carry FTA channels. This results in DPOs charging higher carriage fee from smaller broadcasters.
8. The extant regulations also prescribe the number of channels that can be included in NCF along with price ceilings. They prescribe the way DPOs need to bundle, cap discounts that can be offered to their subscribers, their share of revenues on MRP of channels and revenue share between MSOs and local cable operators (LCOs). This should be, in our humble opinion, be left to the market forces, as in the case of the Telecom sector

POINTS FOR ADDITIONAL CONSIDERATION

9. **Forbearance is a powerful tool for effective regulation. As per CCI 2021 study (para 61), forbearance on Tariff has enabled telecom players to move beyond the price-based competition – allowing them to focus on non-price factors/parameters of**

competition like QoS, data speeds and bundled offerings. Extracts from the study are reproduced below:

“non-price factors such as QoS, data speeds and bundled offerings are likely to be the new drivers of competitive rivalry between service providers in addition to just price.”

10. Evidence from research, including the GoI Economic Survey indicates that price ceiling impacts the quality, and the same applies to content on TV channels as well.

11. Therefore, it is our humble request that focus be shifted to non-price parameters of competition such as – the quality of content and QoS as opposed to the current regime of pricing regulations to unlock the sector’s true potential.

12. **Given the fact that sufficient competition exists in the market,** it may be perhaps prudent to **avoid any ex-ante regulations, pricing mandates and follow tariff forbearance, permit market forces to prevail and follow same light touch regulatory approach for the broadcasting sector as was applied in the Telecom sector,** thereby leading to tremendous success and growth of that sector. Regulations maybe imposed only after all other avenues have been exhausted.