



Telecom Regulatory Authority of India



Consultation Paper

on

Issues related to New Regulatory Framework

for

Broadcasting and Cable services

New Delhi, India

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Written comments on the consultation paper are invited from the stakeholders by 30th May, 2022. Counter comments, if any, may be submitted by 6th June, 2022.

The comments and counter comments may be sent, preferably in electronic form to Shri Anil Kumar Bhardwaj, Advisor (B & CS), Telecom Regulatory Authority of India, on the e-mail: advbcs-2@trai.gov.in and jtadvbcs-1@trai.gov.in.

Comments and counter comments will be posted on TRAI's website www.trai.gov.in.

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Chapter 1

Introduction

- 1.1 Digital Addressable Systems (DAS) was introduced in January 2012 for digitalization of the Cable Television Services in four phases through an amendment in 'The Cable Television Networks (Regulation) Act 1995'. The countrywide deployment of DAS based systems got completed in March 2017. Initially, only DTH services were provided using DAS based systems. As Cable Television Networks provided services in analogue mode, the regulations for DTH and Cable Television services were dissimilar. It was natural that pursuant to implementation of DAS for Cable Television services the regulatory regime for DTH as-well-as Cable Television services are aligned.
- 1.2 In view of anticipated completion of DAS implementation, TRAI started consultations for a new regulatory framework in 2016. After due consultations that lasted more than one and a half years, the Telecom Regulatory Authority of India (TRAI) notified the New Regulatory Framework 2017 on 3rd March 2017. However, the framework could not be implemented due to legal challenges. After passing legal scrutiny (in Hon'ble High Court Madras and Hon'ble Supreme Court), the new framework came into effect from 29th December 2018. The framework brought about a paradigm shift to the television distribution value chain. Transparency, non-discrimination and revenue assurance to all stakeholders were the underlying principles of the new framework. The framework enabled consumers like never before, with full control over their subscribed channels. The subscriber could choose any channel that she/he wished to view. More details of the enabling features of the New Regulatory Framework 2017 are in Annexure I.
- 1.3 After implementation of the New Regulatory Framework 2017, TRAI carried out a consumer survey in July and August 2019. TRAI noticed some inadequacies impacting the consumers. There were quite a few

consumer representations also. As the New Regulatory Framework changed quite a few business rules, many positives emerged. Consumers could exercise their choices like never before. The stakeholders in value chain were assured of their revenue shares. The trust-based audit regime through third party empaneled auditors started functioning. These measures enabled orderly growth in the broadcasting sector. Yet, it was observed that few service providers were exploiting available flexibilities of the framework to their advantages. The Authority took up a consultative exercise to address these issues. After due consultation with stakeholders, TRAI notified the New Regulatory Framework 2020 by amending the New Regulatory Framework 2017, on 1st January 2020. Salient features of New Regulatory Framework 2020 are given in Annexure II.

1.4 Main provisions of New Regulatory Framework 2020, which differentiate it from New Regulatory Framework 2017, inter-alia, are given in Table 1 below:

Table 1: Comparison of New Regulatory Framework 2017 and New Regulatory Framework 2020

S. No.	New Regulatory Framework 2017	New Regulatory Framework 2020
1.	<p>NCF</p> <ul style="list-style-type: none"> • Maximum Rs. 130/- for 100 SD channels • Maximum Rs. 20/- for each additional block of 25 SD channels 	<ul style="list-style-type: none"> • Maximum Rs. 130/- for 200 SD channels and all mandatory channels • Maximum Rs. 160/- for more than 200 SD channels • Flexibility to DPOs to declare different NCFs for different geographical regions/areas within its service area
2.	<p>Multi TV home</p> <ul style="list-style-type: none"> • DPOs are required to declare NCF for each subscriber • Multi TV home not recognized • Some DPOs were charging NCF of Rs. 130/- for each TV in multi TV homes. 	<ul style="list-style-type: none"> • Multi TV home defined as a household having multiple connections in the name of a single person under single ID and a single bill is generated for such home

		<ul style="list-style-type: none"> • DPOs can declare full NCF for 1st TV in a multi-TV Home • NCF for 2nd & subsequent TV cannot be more than 40% of declared NCF for 1st TV connection • Subscribers can choose different set of channels for each TV connection in a multi-TV home
3.	Long Term Subscriptions <ul style="list-style-type: none"> • No provision 	<ul style="list-style-type: none"> • Defined as a subscription for a duration of 6 months or more, for which an advance payment has been made by the subscriber • DPOs may offer discounts on NCF and DRP on long term subscriptions
4.	MRP of a channel to be part of a bouquet <ul style="list-style-type: none"> • Rs. 19/- 	<ul style="list-style-type: none"> • Rs. 12/-
5.	Reasonable pricing of a-la-carte channels and bouquets by broadcasters A condition as below was prescribed, however not implemented as Hon'ble High Court of Madras held this clause as <i>arbitrary and un-implementable</i> : <ul style="list-style-type: none"> • Bouquet price cannot be more than 85% of sum of prices of a-la-carte channels in that bouquet 	<ul style="list-style-type: none"> • Twin conditions as below were prescribed: <ol style="list-style-type: none"> i) the sum of the a-la-carte rates of the pay channels (MRP) forming part of a bouquet shall in no case exceed one and half times the rate of the bouquet of which such pay channels are a part; and ii) the a-la-carte rates of each pay channel (MRP), forming part of a bouquet, shall in no case exceed three times the average rate of a pay channel of the bouquet of which such pay channel is a part. (Hon'ble High Court of Bombay struck down the second twin condition) • MRP of a channel in a bouquet cannot be more than the MRP of any bouquet containing that channel

6.	Number of bouquets offered by a broadcaster <ul style="list-style-type: none"> • No limit 	<ul style="list-style-type: none"> • Number of bouquets of pay channels cannot be more than number of pay channels offered by a broadcaster
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- 1.5 In order to address the concern of huge carriage fee, the Authority mandated that MSOs, HITS operators, IPTV service providers would not have target market bigger than State or Union Territory as the case may be. In addition, a cap of Rs.4 lakh per month has been prescribed on carriage fee payable by a broadcaster to a DPO in a month for carrying a channel in the country. This would protect interests of small broadcasters. DPOs have been given more flexibility to place the TV channels on Electronic Programme Guide (EPG) and mandated that channels of a language in a genre would be kept together while placing channels on EPG.
- 1.6 Provisions of New Regulatory Framework 2020 as listed at Sr. No. ‘1’ to ‘3’ in Table 1 have already been implemented by the respective stakeholders mainly covering DPOs. However, provisions at Sr. No. ‘4’ to ‘6’ were challenged by the Indian Broadcasting & Digital Foundations (IBDF) and others in the High Court of Bombay.
- 1.7 Provisions at Sr. No. ‘1’ to ‘3’ mentioned in Table 1 were also challenged by All India Digital Cable Federation (AIDCF) and others in the High Court of Kerala. However, these were duly implemented in April 2020 after the interim orders of the Hon’ble High Court of Kerala. In its final judgement dated 12th July, 2021, Hon’ble High Court upheld the amendments introduced by the Tariff Order, 2020.
- 1.8 With the implementation of certain provisions of New Regulatory Framework 2020 as mentioned above, many benefits of the 2020 amendments have already accrued to the consumers. Every consumer now can get 228 TV channels instead of 100 channels earlier, in a

maximum NCF of Rs. 130/-. This has enhanced the availability of more television channels to the consumers, thereby enabling consumers to reduce their NCF for availing similar number of channels as per 2017 framework, by an estimated amount varying from Rs. 40/- to 50/-.

- 1.9 Additionally, the amended NCF for multi-TV homes have enabled further savings to the tune of 60% on second (and more) television sets.
- 1.10 Some broadcasters and other stakeholders challenged various provisions of Tariff Amendment Order 2020, Interconnection Amendment Regulations 2020 and QoS Amendment Regulations 2020 in various High Courts including in the Hon'ble High Court of Bombay vide Writ Petition (L) No. 116 of 2020 and other connected matters therewith.
- 1.11 Hon'ble High Court of Judicature at Bombay, vide its Judgement dated 30th June 2021 upheld the validity of New Regulatory Framework 2020 except for the condition of the average test provided in the third proviso to sub-clause (3) of clause 3 of the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020 (herein after referred as Tariff Amendment Order 2020).
- 1.12 The petitioners in Bombay High Court filed Special Leave Petitions (SLPs) in the Hon'ble Supreme Court of India, challenging the judgement dated 30th June 2021 of the Hon'ble High Court of Judicature at Bombay. The matter was heard by the Hon'ble Supreme Court on 18.08.2021. However, after subsequent hearing, no interim relief was granted by the Hon'ble Supreme Court.
- 1.13 Subsequently, on 15th February 2022 the petitioners submitted an affidavit in Hon'ble Supreme Court for withdrawal of SLPs. On the same

day Hon'ble court was pleased to grant permission for the withdrawal of the SLP and passed the following order ¹:

“The Special Leave Petitions are dismissed as withdrawn. All questions of law open are kept open.”

- 1.14 Meanwhile, considering that no interim relief was granted by Hon'ble Supreme Court on the judgement of Hon'ble Bombay Court, the Authority issued a letter dated 12th October 2021 (**Annexure III**) to all such broadcasters seeking compliance with all the provisions of New Regulatory Framework 2020 as upheld by Hon'ble Court of Bombay within 10 days. Consequently, most of the broadcasters submitted their Reference Interconnect Offer (RIOs) to TRAI in line with New Regulatory Framework 2020 and also published these on their websites in November 2021.
- 1.15 New tariffs announced by the major broadcasters reflected a common trend i.e., the prices of their most popular channels including sports channels were enhanced beyond Rs. 20/- per month. Complying to the extent provisions, as regards the inclusion of pay channels in a bouquet, all such channels priced beyond Rs. 12/- (per month) are kept out of bouquet and are offered only on a-la-carte basis. The revised RIOs as filed indicate a wide-scale changes in composition of almost all bouquets being offered.
- 1.16 Immediately after new tariffs were announced, TRAI received representations from Distribution Platform Operators (DPOs), Associations of Local Cable Operators (LCOs) and Consumer Organizations. DPOs also highlighted difficulties likely to be faced by them in implementing new rates in their IT systems and migrating the consumers in bulk to the new tariff regime through the informed exercise of options, impacting almost all bouquets, due to upward

¹ https://main.sci.gov.in/supremecourt/2021/15611/15611_2021_2_11_33436_Order_15-Feb-2022.pdf

revision in the rates of pay channels and bouquets declared by broadcasters.

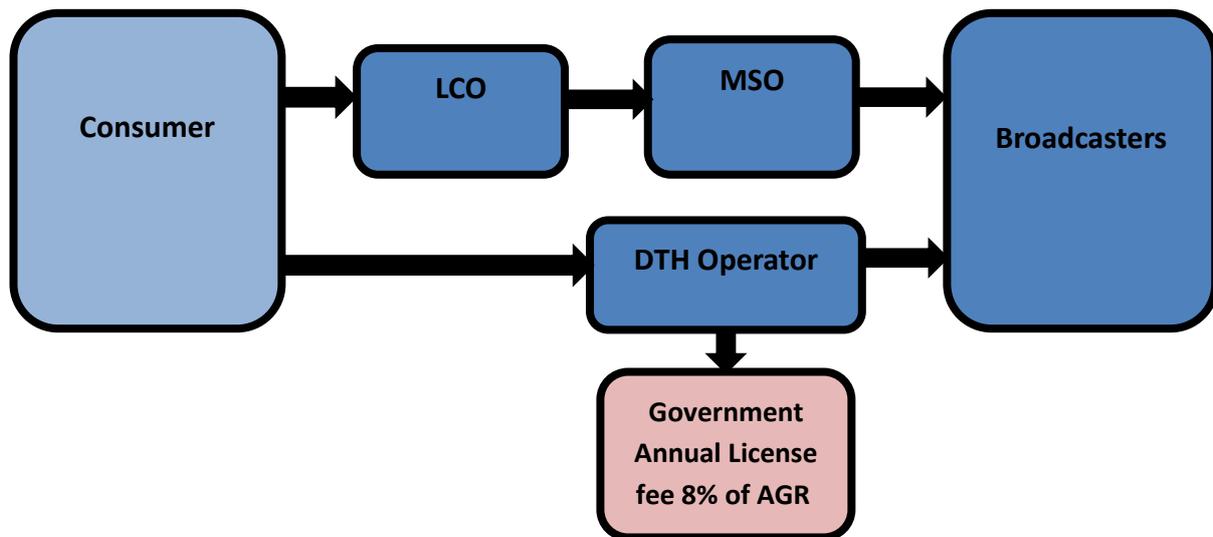
- 1.17 In consideration of impending changes in consumer offerings, the Authority accepted to provide sufficient time to stakeholders for the benefit of consumers. Accordingly, TRAI on 10.11.2021, issued a letter² to all the service providers on “Implementation plan- New Regulatory Framework 2020”. The plan provided that the broadcasters may report to the Authority, any change in name, nature, language, Maximum Retail Price (MRP) per month of channels, the composition of bouquets and MRP of bouquets of channels as per the New Regulatory Framework 2020, latest by 31st December 2021 and simultaneously publish such information on their website. The broadcasters who had earlier submitted their RIOs were also allowed to revise the same.
- 1.18 On the basis of the representations TRAI also started engaging with the stakeholders through formal/ informal interactions for facilitating the smooth implementation of the pending provisions of the New Regulatory Framework 2020 with almost no major disruptions in ongoing services of the consumers.
- 1.19 Additionally, the representations from LCOs also highlight the adverse impact on subscription of linear TV with reduction in number of subscribers and declining television viewership, due to the increasing popularity of Free Dish (no cost to the consumers except installations of dish antenna) and Subscribed Video on Demand (SVOD), popularly known as Over The Top (OTT) services. The consumer organizations have highlighted likely increase in their subscription due to the price rise of popular channels, consequent upon implementation of proposed RIOs filed by the broadcasters.

² https://traigov.in/sites/default/files/Implementation_11112021_1_0.pdf

1.20 In view of above, the stakeholders requested TRAI to take immediate measures to address certain issues, arising due to the implementation of pending provisions of New Regulatory Framework for safeguarding the growth of the sector including those of viewership.

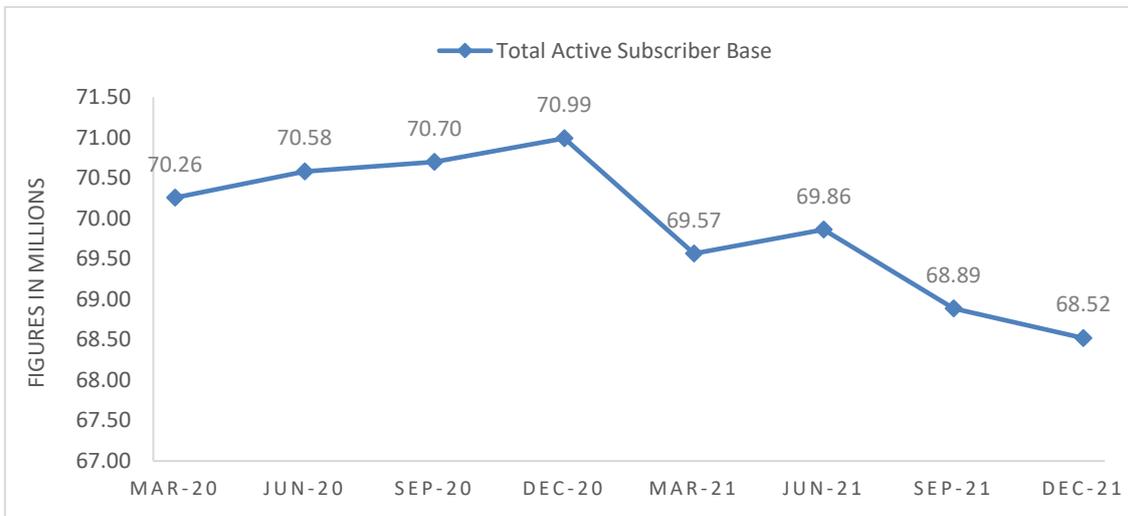
1.21 Figure 1 below illustrates the revenue flow in broadcasting value chain.

Figure 1: Revenue flow in broadcasting value chain-An Illustration



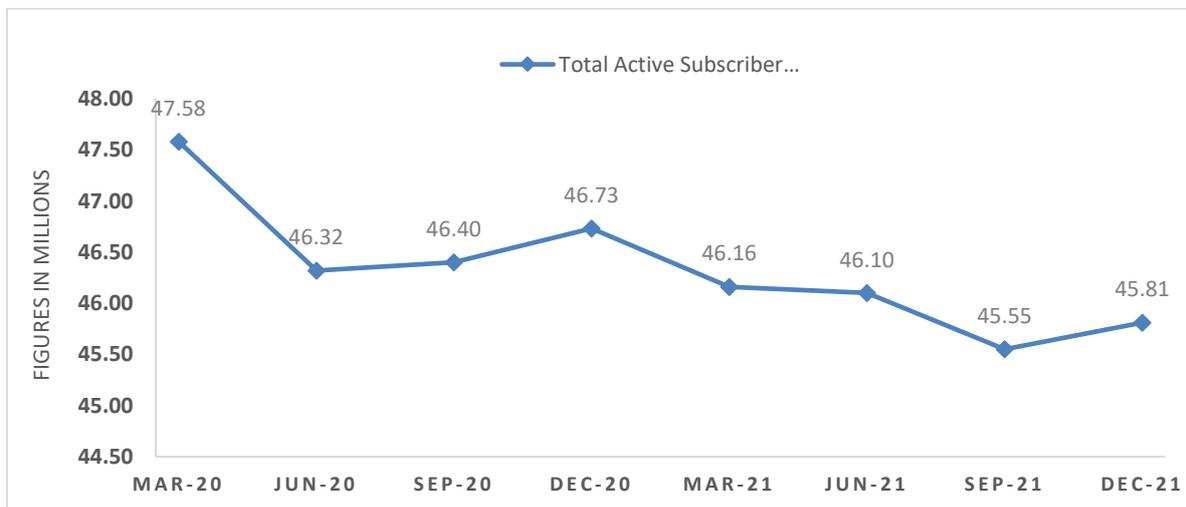
1.22 The figures below indicate the trend in television viewership and revenue generations. During last more than one-year (approx. 8 quarters) total active number of DTH subscribers has decreased from 70.99 million to 68.89 million (refer figure 2). Similarly, number of total active subscribers of major MSOs/HITS operators having more than 1 million subscribers, has decreased from 47.58 million to 45.55 million (refer figure 3). The revenue of broadcasters as well as DPOs is projected to decrease in FY 2020-21(refer figure 4). The advertisement revenue of broadcasters is also projected to decrease in FY 2020-21(refer figure 5).

Figure 2: Total active Subscriber Base of DTH Operators



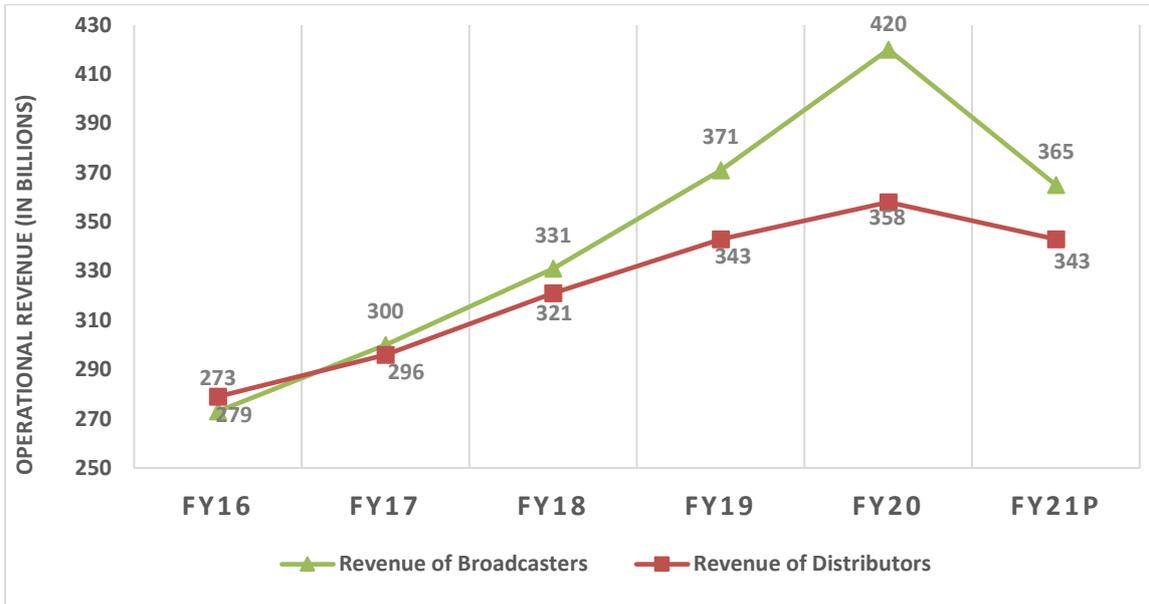
Source: Stakeholders' Report to TRAI

Figure 3: Total Active Subscriber Base of Major MSOs/HITS Operators (having more than 1 million subscribers)



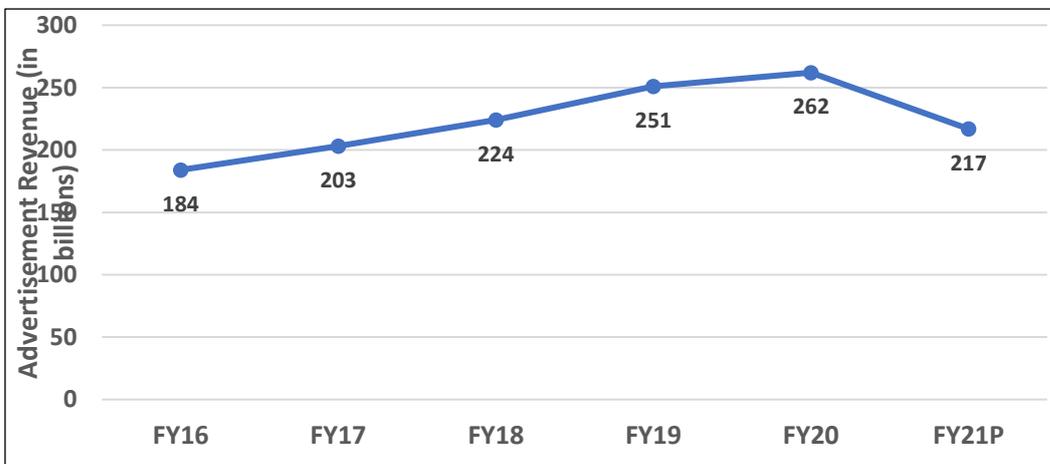
Source: Stakeholders' Report to TRAI

Figure 4: Growth of revenue of broadcasters and DPOs



Source: KPMG in India's Media & Entertainment Report 2020

Figure 5: Advertisement revenue of broadcasters



Source: KPMG in India's Media & Entertainment Report 2020

1.23 Easy availability of the TV content on the Over The Top (OTT) platforms/ Apps is also posing a serious challenge to the traditional cable/dish TV services. In 2013, there were only a couple of OTT platforms in India with very few viewers. However, during last two to three years the number and type of such platforms have increased manifolds. As per

industry report, in 2020 there were over 40 OTT video platforms in India with 400 million customers which are expected to grow to 555 million in the year 2022.

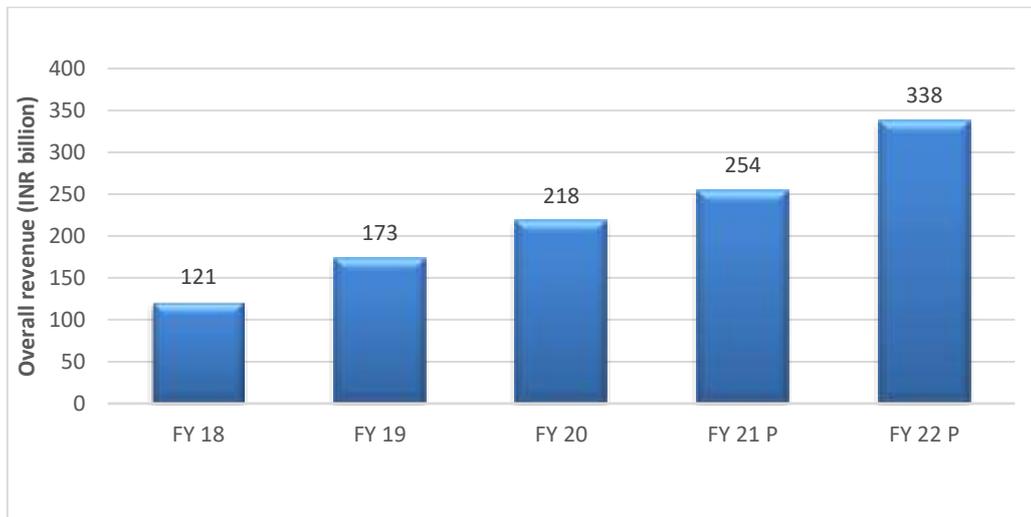
Table 2: Growth of OTT Video customers

	OTT Video customer base (in million)		
	FY 20	FY 21P	FY 22P
Total Online Video viewers in India	400	486	555
Total SVOD subscribers in India	22	40	57
Total SVOD subscriptions in India	22	41	62

Source: KPMG in India’s Media & Entertainment Report 2020³

1.24 Figure 5 depicts growth of revenues of OTT and digital video services. In the 2020 financial year (FY) despite an overall slump in the economy, digital and OTT sector registered a growth of 26 per cent, the highest growth amongst other segments of the M&E sector.

Figure 5: Growth of revenues of OTT and digital video



Source: KPMG in India’s Media & Entertainment Report 2020

³ <https://assets.kpmg/content/dam/kpmg/in/pdf/2020/09/year-off-script-kpmg-india-media-and-entertainment-2020.pdf>

- 1.25 Above trends indicate that the television broadcasting sector is facing challenges not only due to pandemic but also due to other geo-political conditions. It is important for a regulator to be aware and address the issues for enabling the industry. During the interactions, Stakeholders have made it clear, that implementation of Tariff Amendment Order 2020 in its current form will cause large scale disruptions. This may aggravate the current issues faced by the sector.
- 1.26 Almost all the stakeholders opined that the tariffs announced by the broadcasters will cause large-scale changes in consumer offerings. The DPOs/ LCOs will have to obtain revised choices possibly from every consumer. The stakeholders suggested and requested TRAI that to enable smooth implementation of new regulatory framework 2020 and also to avoid likely disruption for consumers, some provisions of the New Regulatory Framework 2020 may be put up for revision through appropriate consultation.
- 1.27 To deliberate on the issues related to pending implementation of New Regulatory Framework 2020 and suggest a way forward, a committee consisting of members from Indian Broadcasting & Digital Foundation (IBDF), All India Digital Cable Federation (AIDCF) & DTH Association was constituted under the aegis of TRAI (**Annexure IV**). The broad terms of reference of the Committee were as below:
- a) To look into process of smooth implementations of New Regulatory Framework 2020 keeping in view consumers convenience in exercising informed choices and suggest measures thereof (if any).
 - b) To identify issues of concern and suggest measures for overall growth of the broadcasting sector.
- 1.28 The purpose of the committee was to provide a platform and facilitate discussions among various stakeholders to come out on a common agreed path for smooth implementation of Tariff Amendment Order

2020. Stakeholders were advised to come out with an implementation plan with minimum disruptions and hassles to the consumers while implementing the New Regulatory Framework 2020. It was noted that the consumers exercise their choices differently based on their preferences. In general, the consumers of DTH platforms make use of online portals and apps. Whereas consumers served by Local Cable Operators (LCO), still prefer to convey their choices to their LCO either by filling choices on a predefined form or over the telephone. Therefore, any changes in consumer offering will entail greater efforts on part of LCOs and in turn MSOs.

1.29 The committee held discussions on 23rd December 2022 (Attached at **Annexure V**). Stakeholders listed following issues which in their opinion required review:

- a. The proposed tariffs by broadcasters through their RIOs submitted in compliance to NTO 2.0 Tariff Orders would cause significant increase in the tariffs to consumers. The consumer price rise, if any is required to be limited to a reasonable limit.
- b. The proposed RIOs by Broadcasters may cause significant changes in the packages, especially due to keeping popular channels at higher a-la-carte prices, not being part of bouquets. This enjoins DPO to make very large number of plans and package offerings. Therefore, the DPOs require support from broadcasters so that they do not have to make large number of plans/ bouquets.
- c. Considering facts mentioned above, there is a need to simplify the process of exercising choices by consumers so that no channel should be provided to consumers without explicit consent. Consumers should have facility to remove any channel.
- d. Same product (television Channel) should be offered on same price whether on Linear Television, Free Dish or Subscription based Video on Demand.
- e. Stakeholders suggested that more than two more years have passed since NTO 2.0 amendments and more than three years have passed with NTO 1.0 implementations, since then, there is no change in prices of bouquet or a-la- carte channels. This has kept industry under stress in terms of providing quality product to the end consumers. As such

restoring the MRP ceiling for bouquet inclusion to unamended tariff order level of Rs. Nineteen (19/-) would be appropriate.

- f. The above provision shall also help in maintaining bouquet structure by ensuring all popular channels within ceiling limits of bouquet. Additionally, this will also create bare minimum hassles to consumers in exercising their choices under new tariffs, as most of the tariffs may continue in its current form.
 - g. Allowing additional fifteen (15 %) percent incentive to DPOs for bouquets as well, as has been provided for a-la-carte channel (It was pointed by the chair that the said provision pertains to Interconnection regulations and is not part of Tariff Order).
 - h. The second twin condition may be reviewed to enhance the discount on sum of MRP of a-la-carte of pay channels forming part of the bouquet to fifty percent. This will enable the broadcasters to cross-subsidize the packages.
 - i. Revision in the ceiling of Network Capacity Fee (NCF) of Rs 130/-.
 - j. In case of multi-TV home, broadcaster should also offer MRP of their channels for each additional TV connection, beyond the first TV connection, @ 40% of the MRP declared for the first TV connection. This will help consumers in saving cost of subscribing pay channels on multiple televisions.
 - k. Review of ceiling of fifteen percent (15%) on discount on sum of a-la-carte channels of MRP of that bouquet available for DPOs.
 - l. Stakeholder suggested that TRAI should take immediate corrective measures and implement revised tariff by 1st April 2022. All DPOs present insisted that to properly implement new tariffs they will require sufficient time as prescribed.
- 1.30 From various representations received and discussions of different associations (including LCO groups and Consumers) held with TRAI, stakeholders raised various challenges, inter-alia as below:
- a. Every Distributor of the television channel would be required to make necessary changes aligned to new RIOs in their service offerings.

- b. Due to change in composition of packaging in bouquets, almost every consumer would be required to submit his/her new choices to the distributor concerned.
- c. New tariffs would require wide scale changes in service configuration in IT Systems by distributors.
- d. The transition would entail huge effort on part of Local Cable Operators and consumers as well as on IT systems.

1.31 It is worth noting that some of these challenges though arise every-time, whenever there is a change in tariff offerings. Such changes may occur either due to regular business practice of price revision or due to changes in TRAI regulations/ tariff orders. However, such changes impact only particular type/ class of consumers who have subscribed the effected tariffs. In the instant case, proposed RIOs by the broadcasters are likely to impact almost every composition of tariff offerings and thereby would pose challenges mentioned above.

1.32 The Stakeholders' Committee, however, requested TRAI to immediately address critical issues which could remove the impediments for smooth implementation of Tariff Amendment Order 2020. Stakeholders also listed other issues for subsequent consideration by TRAI. All members of the stakeholders' committee observed that urgent action is required to manage smooth transition and to avoid inconvenience to consumers.

1.33 In the meanwhile, keeping in view the pandemic situation in the country and requests received from stakeholders for extension of time for implementation of New Regulatory Framework 2020, TRAI vide its letter dated 03.02.2022⁴ has further extended the time limit for implementation of New Regulatory Framework 2020. Accordingly, broadcasters & DPOs have been asked to submit compliance report on "Implementation plan- New Regulatory Framework 2020" by 28th February 2022 & 31st March 2022 respectively. Further all the DPOs

⁴ https://traigov.in/sites/default/files/Implementaion_03022022_4.pdf

are required to ensure that with effect from 1st June 2022 services to the subscribers are provided as per the bouquets or channels opted by the subscribers.

- 1.34 In order to address the issues as identified by the stakeholders' committee; the Authority is issuing this consultation paper for seeking stakeholders' comments on points / issues which are pending for full implementation of New Regulatory Framework. The details of such issues are deliberated in chapter 2 of this consultation paper. The chapter 3 provides summary of issues for consultation.

Chapter 2

Issues related to New Regulatory Framework

- 2.1 The New Regulatory Framework 2020 was made effective w.e.f. 1st January 2020 and is law as on date. As illustrated in para 1.3 and 1.5 of chapter 1 and summarized in Annexure II all provisions related to NCF, multi-TV homes and long-term subscriptions have already been implemented and due benefits have accrued to consumers at large.
- 2.2 The provisions of New Regulatory Framework 2020, pending for implementations are mainly related to tariff framework covering bouquets of channels and discount structures on formation of bouquets. These issues were further deliberated by stakeholders' committee as mentioned in para 1.28. The stakeholders' committee, while identifying impediments related to smooth and full implementation of regulatory framework 2020, had also mentioned some other issues, which were either implemented or required a separate consultative process. Many of these issues require wider review and were not covered under the scope of previous consultations held for New Regulatory Framework 2020.
- 2.3 Accordingly, the deliberations below, highlight only those issues which are currently essential to be addressed for full and smooth implementation of New Regulatory Framework 2020.

A. Ceiling on MRP of channels provided as a part of Bouquet:

- 2.4 While framing the new regulatory framework 2017, the Authority noted that it is impractical to determine the price of a television channel. In this regard the Authority observed that generally a channel consists of number of the programs. The cost of the production of different programs varies based on the actors, setup cost, script, copy rights, and other miscellaneous factors. Various programs on a given channel also

get changed frequently based on their Television Rating Points (TRP) and advertisement potential. Hence, determining the cost of production of a program on a television channel at all times is an extremely difficult process, perhaps almost impossible to derive through a fixed mathematical/statistical model. Moreover, such determination of price would be dynamic in nature and may vary with change in programs in a channel and programs on television channels change dynamically. Accordingly, the Authority in the Tariff Order 2017 did not prescribe any ceiling on the prices of channels and left it to the broadcasters to decide the prices of their channels.

2.5 Revenue generated from a program on a channel is not only through subscription but also through advertisement. The rates of advertisement also vary based on popularity, reach, timing and viewership of a program. Sometimes, broadcasters create a mix of programs on a given channel. It is possible that one popular program may help in generating more revenues as compared to other programs. Similarly, broadcasters create multiple television channels to serve interests of different groups of consumers. Sometimes, advertisement revenue generated from popular channels may offset the cost of production of other channels. The pricing of a channel or packaging of various programs in a channel and packaging of channels in a bouquet are guided by the business strategy of individual broadcaster.

2.6 A broadcaster is free to offer its pay channels in the form of bouquet(s) to customers. While subscribing to the bouquet, a customer may not be aware of the price of each channel forming the bouquet. Abnormal high price of a pay channel may result in higher price of a bouquet leading to an adverse impact on subscribers' interests. Some stakeholders opined that bundling of channels complicates and obscures their pricing. Prices are obscured because subscribers do not always understand the relationship between the bundled price and a price for each component of the bundle. However, the bundling of channels offers

convenience to the subscribers as well as services providers in subscription management.

- 2.7 Considering the perverse pricing effect of the bouquets and to protect the interests of subscribers, the Authority has followed a principle of prescribing a ceiling of MRP of television channel for keeping it as part of any bouquet.
- 2.8 In the Tariff Amendment Order 2020, the Authority prescribed the ceiling of Rs 12/- on the MRP of any channel to be part of a bouquet. However, in the RIOs published by the broadcasters in compliance to the New Regulatory Framework 2020, MRP of most of the popular channels has been fixed above Rs 12/-. As a result, most of the popular channels cannot be made part of the bouquets and are to be provided to subscribers only on a-la-carte basis. Stakeholders have raised concerns that in case the New Regulatory Framework 2020 is implemented as per RIOs submitted by broadcasters, it will entail huge efforts in obtaining revised choices. Further in some cases, this implementation may lead to market disruption as almost every consumer would be required to submit fresh choices. As explained earlier, many consumers still provide choices manually and therefore such consumers may face inconvenience and service blackout owing to non-submission of fresh choices.
- 2.9 During the discussions with stakeholders, it emerged that consumers' benefits are of prime importance. Further, there are capacity limitations of IT Systems, which limit the capacity of distributors in handling surge in requests for changes in service offerings. The members of stakeholders' committee⁵ observed that most of the consumers submit their choices only during the last days. In the past, during the implementation of New Regulatory Framework 2017, the Authority had to consider and accept provision of best-fit packages for bulk of the

⁵ Refer para 1.21 for details of the Stakeholders' Committee

consumers, as in spite of multiple extensions of implementation timelines the customers were not able to exercise their options and complete the processes.

- 2.10 It has been noticed that some consumers are not comfortable in selecting the channels of their choices, due to their inability to use IT systems and understanding the packages offered by distributors/broadcasters. Stakeholders also suggested that in order to have smooth implementation, popular channels of the broadcasters may need to be made available in the bouquets offered to consumers by broadcasters as well as DPOs.

Issues for consultation:

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).

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.

B. Ceiling on Discount structure on Bouquet pricing:

- 2.11 The members of the Stakeholders' Committee have unanimously suggested that the ceiling on discount that a broadcaster could offer while forming a bouquet of pay channels (over the sum of MRPs of all the pay channels in that bouquet) requires a review by TRAI.
- 2.12 In the Tariff Order 2017, the Authority had prescribed a maximum discount of 15% that a broadcaster could offer while forming its bouquet of pay channels over the sum of MRPs of all the pay channels in that bouquet. Hon'ble High Court Madras in its judgment held that the capping of price of bouquets at 85% of the sum of a-la-carte prices of the pay channels, as provided for in the third proviso to clause 3(3) of the Tariff Order 2017, *is arbitrary and un-enforceable*.
- 2.13 However, Supreme Court in its judgment dated 30th October 2018 while considering the limited question of TRAI's powers to regulate, inter-alia observed that subscribers are forced to take bouquets if the a-la-carte rates of the pay channels are much higher. Relevant para of the Judgement is reproduced below:
- “37. It can thus be seen that both the Regulation as well as the Tariff Order have been the subject matter of extensive discussions between TRAI, all stake holders and consumers, pursuant to which most of the suggestions given by the broadcasters themselves have been accepted and incorporated into the Regulation and the Tariff Order. The Explanatory Memorandum shows that the focus of the Authority has always been the provision of a level playing field to both broadcaster and subscriber. For example, when high discounts are offered for bouquets that are offered by the broadcasters, the effect is that subscribers are forced to take bouquets only, as the a-la-carte rates of the pay channels that are found in these bouquets are much higher. **This results in perverse pricing of bouquets vis-à-vis individual pay channels. In the process, the public***

ends up paying for unwanted channels, thereby blocking newer and better TV channels and restricting subscribers' choice. It is for this reason that discounts are capped. While doing so, however, full flexibility has been given to broadcasters to declare the prices of their pay channels on an a-la-carte basis. The Authority has shown that it does not encroach upon the freedom of broadcasters to arrange their business as they choose. Also, when such discounts are limited, a subscriber can then be free to choose a-la-carte channels of his choice. Thus, the flexibility of formation of a bouquet, i.e., the choice of channels to be included in the bouquet together with the content of such channels, is not touched by the Authority. It is only efforts aimed at thwarting competition and reducing a-la-carte choice that are, therefore, being interfered with. Equally, when a ceiling of INR 19 on the maximum retail price of pay channels which can be provided as a part of a bouquet is fixed by the Authority, the Authority's focus is to be fair to both the subscribers as well as the broadcasters. INR 19 is an improvement over the erstwhile ceiling of INR 15.12 fixed by the earlier regulation which nobody has challenged. To maintain the balance between the subscribers' interests and broadcasters' interests, again the Authority makes it clear that broadcasters have complete freedom to price channels which do not form part of any bouquet and are offered only on an a-la-carte basis. As market regulator, the Authority states that the impugned Regulation and Tariff Order are not written in stone but will be reviewed keeping a watch on the developments in the market. We are, therefore, clearly of the view that the Regulation and the Tariff Order have been made keeping the interests of the stakeholders and the consumers in mind and are intra vires the regulation power contained in Section 36 of the TRAI Act.....
(emphasis supplied)"

2.14 In the Tariff Order 2020, the Authority prescribed a relationship between sum of a-la-carte price of channels and bouquet prices in form of the twin conditions:

“...

(a) the sum of maximum retail prices per month of the a-la-carte pay channels forming part of a bouquet shall in no case exceed one and half times of the maximum retail price per month of such bouquet; and

(b) the maximum retail price per month of any a-la-carte pay channel, forming part of such a bouquet, shall in no case exceed three times the average maximum retail price per month of a pay channel of that bouquet:

It has been clarified that if the maximum retail price of a bouquet is Rs. ‘X’ per month per subscriber and there are ‘Y’ number of pay channels in that bouquet, then the average maximum retail price per month of a pay channel of the bouquet shall be Rs. ‘X’ divided by ‘Y’.”

2.15 While prescribing the above twin conditions, the Authority in the explanatory memorandum annexed to the Tariff Amendment Order 2020 mentioned the following:

“29. The Authority has carefully assessed the situation and the submissions/suggestions by the stakeholders. For addressing the consumer concern, the possible options could be (i) to regulate or cap a-la-carte prices of channels; or (ii) to place reasonable restrictions on the formation of bouquets, without affecting the flexibility of the market players, either on pricing of channels or packaging channels in bouquets.

30. Prescribing a cap on discount while forming bouquets is in line with the observation of the Hon’ble Supreme court in para 37 of its judgement dated 30.10.2018, which is already reproduced in para 6. Here it is worth noting that prescribing cap on discount while forming a bouquet is not anti-consumer. A cap can be prescribed to ensure that a-la-carte prices declared by the broadcasters are reasonable on one hand and protect the consumers’ right to choose channels of their choice on a-la-carte basis on the other hand. However, the Authority has decided not to reintroduce the cap of

fifteen percent at this juncture for two reasons. Firstly, the Authority also agree with the views expressed by stakeholders including broadcasters about the need for having regulatory stability, allowing flexibility in pricing, wider choice of channels for consumers etc. Secondly, so are the complexity of factors involved, it is extremely difficult, if not impossible, to arrive at an ideal number as cap on discounts on bouquets offered by the broadcasters. None of the stakeholders, including those who supported a cap, could suggest a scientific method to arrive at that single figure, so as to ward off or to stand the test of a legal challenge, on the ground of arbitrariness.

31. *In the absence of a scientific method to arrive at a single figure to operate as a cap on discounts and it's possible impact on the regulatory framework already rolled out as expressed by the stakeholders, the other option before the Authority is to identify a method that can establish a link between bouquet prices and a-la-carte prices, that can strike a balance between the right of broadcasters to price the channels and right of consumers to choose channels as a bouquet or on a-la-carte basis. As pointed out by certain stakeholders, the Authority noted that there has been an industry accepted method, linking prices of individual channels and bouquets which was in vogue for a considerable time.*
32. *In the analogue era, broadcasters were making channels available at wholesale level to DPOs, and not directly to customers as at present. During that period, the tariff order dated 4thOctober 2007 had prescribed a relationship, between a-la-carte rates of TV channels forming part of bouquet and bouquet rates provided by the broadcasters to the distributors at the wholesale level, in the form of following 'Twin Conditions':*
 - a) *the sum of the a-la-carte rates of the pay channels forming part of such a bouquet shall in no case exceed one and half times of the rate of that bouquet of which such pay channels are a part; and*
 - b) *the a-la-carte rates of each pay channel, forming part of such a bouquet, shall in no case exceed three times the average rate of a pay channel of that bouquet of which such pay channel is a part.*
33. *The above conditions were prescribed to ensure that an effective a-la-carte choice was available to distributors without being handicapped by perverse pricing of bouquets by broadcasters at*

the wholesale level. The present situation is similar, with individual subscribers taking the place of DPOs. This methodology was well accepted to the industry, they adhered to the twin conditions and this was in vogue till the Tariff Order 2017 came into effect. This being a tested and accepted method by the stakeholders and the problem at hand is of similar nature, the Authority has decided to adopt these twin conditions to link the prices of broadcaster bouquets and its constituent channels.”

2.16 The first condition of the ‘Twin conditions’ was prescribed to prevent perverse pricing of bouquets vis-à-vis individual pay channels, whereas the second condition was prescribed to ensure that a bouquet contains channels with homogeneous prices.

2.17 Hon’ble High Court of Judicature at Bombay, vide its Judgement dated 30th June 2021 upheld the validity of New Regulatory Framework 2020 except for the condition of average test provided in the second condition of the Twin Conditions citing the following reasons:

97. Thus, while eliciting comments on the cap on discount on the sum of à-la-carte channels forming part of bouquet i.e. the 1st twin condition (Aggregate Test) which was proposed for consultation, the Authority has categorically used the expression “whether there is a need to reintroduce...”. However, we find that there is no question posed in the Consultation Paper for the 2020 Tariff Order Amendment seeking comments on the 2nd twin condition (Average Test). The twin conditions were not something new. As a matter of fact the “twin conditions” find a mention in Chapter-2 of the Consultation Paper itself under the title “Evolution of Tariff Orders for Broadcasting and Cable services” which gives the brief history of how the Tariff Orders for Broadcasting and Cable services had evolved. If the Authority wanted to introduce the 2nd twin condition (Average Test), in our view, it ought to have been candid and ought to have posed the question whether there was a need to “introduce” or “reintroduce” the 2nd twin condition (Average Test) at the retail level i.e. whether there was a need to “introduce” or “reintroduce” a cap on the average price per month of an à-la-carte pay channel which forms part of a bouquet and how many times should that average be fixed. It needs to borne in mind that the impugned 2020 Tariff Order was only an amendment to the principal 2017 Tariff Order and the questions posed for consultation in the Consultation Paper therefore ought to have more intelligible to elicit proper responses and in that sense the consultation must be an effective and meaningful consultation.

.....

.....

100. We therefore hold that 2nd twin condition (Average Test) contained in the proviso to clause (3)(b) of the 2020 Tariff Order Amendment viz- the maximum retail price per month of any à-la-carte pay channel, forming part of such a bouquet, shall in no case exceed three times the average maximum price per month of a pay channel of that bouquet - is manifestly arbitrary and infringes the Petitioners' fundamental rights under Article 14 of the Constitution. The 2nd twin condition (Average Test) is contrary to clause 11(4) of the TRAI Act which mandates the Authority to ensure transparency, and is liable to be set aside and accordingly set aside. The fact that the said 2nd twin condition (Average Test) was not proposed by the Authority even in the principal 2017 Tariff Order shows that the 2nd twin condition (Average Test) is severable from the rest of the provisions of the impugned 2020 Tariff Order Amendment.

- 2.18 As the second of the twin condition has been set aside, the purpose of prescribing the two conditions has got impaired. One has to ascertain, whether the first of the twin condition is independently implementable or not. Furthermore, is it sufficient for fulfilling the desired objective?
- 2.19 The prime reason for prescribing the maximum permissible discount on the MRP of a bouquet was to enable consumer choice through a-la-carte offering and prevent skewed a-la-carte and bouquet pricing.
- 2.20 The possibility to forcing bouquets over a-la-carte choice by using higher discounts can be further understood by an example given in table 3 below. Assuming, a broadcaster has a total of 25 pay channels out of which only 5 are driver channels. The table reflects the effect of changing the permissible discount on the sum of a-la-carte channels for bouquet price:

Table – 3: Effect of varying the Discount on Sum of a-la-carte prices of constituent TV Channels on final price of bouquet for consumers						
Channels	MRP of Bouquet after % discount on Sum of MRPs of all Ala Carte Channels forming the Bouquet					
	MRP of a-la-carte channels	With 25% discount	With 33% discount	With 40% discount	With 50% discount	With 60% discount
Channel 1	12					
Channel 2	12					
Channel 3	10					
Channel 4	10					
Channel 5	6					
Sum of a-la-carte prices of 5 driver pay channels	50	60	54	48	40	32
Sum of a-la-carte prices of 20 non-driver pay channels	30					
Total price of 35 a-la-carte pay channels	80					

2.21 In case the amount of discount offered by the broadcaster, over the sum of a-la-carte prices of pay channels, while forming the bouquet of those pay channels is very high (60%), the price of bouquet becomes much lower than the sum of a-la-carte prices. Such price is even lower than the combined MRP of driver/ popular television channels. This reflects a possible example of perverse pricing, where a consumer is getting more channels in the bouquet while paying even less than the most popular/ driver channels included in the bouquet. Such amount of discount is anti-consumer as it discourages a-la-carte selection of channels. As the amount of discount on formation of bouquet decreases, the difference between the prices of bouquet and the sum of a-la-carte prices also decreases. In case the amount of discount is lower, the price of bouquet becomes higher than the sum of a-la-carte prices of driver channels; thereby encouraging a subscriber to choose a-la-carte channels of his choice.

2.22 However, some stakeholders argue that it is part of packaging strategy of the service providers. Some economic analysts have examined the effects of bundling on consumer welfare. Crawford and Yurukoglu in their 2011 paper titled⁶⁶, ‘The Welfare Effects of Bundling in Multichannel Television Market’ conclude that, ‘*Any implementation or marketing costs of à la carte could make it worse for all*’. Therefore, one may claim that bouquets provide a consumer with wider choice while helping the broadcasters gain additional consumers. There is another argument that with the introduction of transparent tariff display in Electronic Program Guide (EPG), the consumer is easily aware of the factual price of any television channel. Therefore, following a hypothesis that the consumer knows what is best for her/ him, there is no need for regulatory intervention. However, this may not be true/ correct in all situations.

2.23 As explained in Table-3, para 2.21 above, it is further observed that channel prices in a bouquet may vary widely, ranging from few paise to as high as ceiling limit of an a-la-carte channel forming the bouquet. This causes clubbing of low value non popular channels with high priced popular channels and therefore creates non-homogeneity in bouquet composition. This strategy of broadcasters’ makes subscribers to opt for bouquets, those are not their choices. This practice may not be curbed only by capping on discount on sum of a-la-carte prices in a bouquet. Therefore, there is a reason to ensure that an effective a-la-carte choice is available to consumers without being susceptible to perverse pricing of bouquets and to maintain homogeneity in type of television channels within a bouquet. This type of non-homogeneous bundling may be discouraged by building an inter-se relationship between the maximum retail price per month of a pay channel in a bouquet and average price of all the pay channels forming that bouquet.

⁶⁶ ‘The Welfare Effects of Bundling in Multichannel Television Markets’ by Gregory S. Crawford and Ali Yurukoglu, April 2011, Working paper accessed on January 14, 2022
https://web.stanford.edu/~ayurukog/bundling_welfare.pdf

2.24 TRAI on its own has advocated light touch regulations. However, given that the television channels constitute a specific product, one channel is not substitutable by other television channel. Individual consumer preference decides which television channel is subscribed by her/ him. Therefore, in a multi-channel scenario, each channel constitutes a non-substitutable product fulfilling the choice and need of a certain set of consumers. In such a scenario, and to control perverse pricing, a ceiling on discount offered in a bouquet enables some semblance in price of a-la-carte channel vis-à-vis its effective price in a bouquet.

2.25 Apropos the above discussions, stakeholders are requested to give their comments on the following with justifications:

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.

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-la-carte choice which can be 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.

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

C. Additional discount offered by broadcasters to DPOs:

2.26 As per sub-regulation 4 of Regulation 7 of Interconnection Regulation 2017, a broadcaster is permitted to offer discount of maximum of 15% on the MRP of pay channel or bouquet of pay channels to DPOs in addition to distribution fee. The sub-regulation 4 of Regulation 7 is reproduced below:

“(4) It shall be permissible to a broadcaster to offer discounts, on the maximum retail price of pay channel or bouquet of pay channels, to distributors of television channels, not exceeding fifteen percent of the maximum retail price:

Provided that the sum of distribution fee declared by a broadcaster under sub-regulation (3) and discounts offered under this sub-regulation in no case shall exceed thirty five percent of the maximum retail price of pay channel or bouquet of pay channels, as the case may be:

Provided further that offer of discounts, if any, to distributors of television channels, shall be on the basis of fair, transparent and non-discriminatory terms:

Provided also that the parameters of discounts shall be measurable and computable.”

2.27 In this regard, sub-regulation 12 of Regulation 10 of Interconnection Regulation 2017, which prohibits a broadcaster to incorporate any provision requiring DPOs give a guarantee for a minimum subscriber

base or a minimum subscription percentage for its channels, is also reproduced below:

“(12) A broadcaster shall not incorporate any provision, directly or indirectly in its interconnection agreement with a distributor of television channels which requires such distributor of television channels to give a guarantee for a minimum subscriber base or a minimum subscription percentage for the channels offered by the broadcaster and any agreement to contrary shall be void.

Explanation: For removal of doubt, it is clarified that any discount, offered as an incentive by a broadcaster on the maximum retail price of the pay channel or the bouquet of pay channels, based on actual number of subscribers or actual subscription percentage, recorded in a month shall not amount to guarantee for a minimum subscriber base or a minimum subscription percentage for its channel.”

2.28 During implementation of New Regulatory Framework 2017, the Authority observed that some broadcasters were offering discount of 15% as an incentive only on subscription of certain minimum subscription of bouquets of pay channels to DPOs. The Authority also noted that offer of penetration-based incentives on the bouquets, by the broadcasters to the DPOs, may lead to pushing of bouquets by DPOs to consumers, in order to avail penetration-based incentives. This approach was defeating one of the main objectives of the new regulatory framework of promoting the consumer choice either to accept bouquet or a-la-carte channels as per his/her choice.

2.29 Accordingly, the sub-regulation 4 of Regulation 7 was amended for offering discount of 15% by broadcasters to DPOs only on MRP of a-la-carte pay channels.

2.30 As mentioned in chapter one, during discussions representatives of DPOs suggested that broadcasters should be allowed to offer additional fifteen (15 %) percent discount to DPOs on bouquets of pay channels as well, as has been permitted for a-la-carte channels.

2.31 In order to remove discriminatory approach for promoting subscription of either a-la-carte channels or bouquet and provide due opportunities to the end consumers to subscribe channels of their choices whether in bouquet or on a-la-carte basis, apropos the above discussions, stakeholders are requested to give their comments on the following with justifications:

Q5. 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.

D. Any other matter related to the issues raised in present consultation

Q6. Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in present consultation.

Chapter 3

Summary of Issues for Consultation

- 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).

- 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.**
- 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.**
- 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-la-carte choice which can be 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.**
- Q5. Should any other condition be prescribed for ensuring that a bouquet contains channels with homogeneous prices? Please provide your comments with justifications.**
- 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.**
- Q7. Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in present consultation.**

Salient features of New Regulatory Framework 2017

For Consumers

- A consumer becomes real decision maker of what she/he views and has complete freedom to choose what he/she wishes to watch and pay only for that. It is mandated that all channels have to be offered on a-la-carte basis and the MRP has to be declared. Same way, the MRP of the Bouquet has to be published.
- Flexibility has been given to the DPOs to drop such channel which do not command reasonable subscription thereby increasing the capacity to carry more channels of consumer choice.
- Consumer is not required to pay any subscription fee for a FTA channel if he subscribes to one.
- The service providers have been mandated to give full information regarding channel prices on Electronic Program Guide.
- Consumer gets clarity of the product offered and is not fleeced by smart packaging. It has been mandated that FTA channels can't be clubbed with Pay channels in a Bouquet. Further, HD channels can't be clubbed with the SD version of the same channel, so that the consumer has complete clarity with respect to what is on offer.

For Broadcasters

- For the first time since 2004, Broadcaster has become master of their channels, with full price forbearance. Broadcaster can now fix maximum retail price (MRP) of a pay channel for consumers. The concept of broadcaster giving channels to DPO on wholesale price and DPO retailing it to consumer is given a go by.
- All price caps which operated since 2004 in the analogue mode and fixing of rates of channels by broadcasters keeping frozen analogue rates as the basis in the addressable system has been removed. Broadcaster can price its channels and fix MRP for the consumer under complete forbearance.
- Flexibility has also been provided to broadcaster to offer bouquet of channels for the consumers and prescribe MRP of the same.

- The bouquet(s) offered by the broadcasters to consumers shall be provided by the DPOs to the consumers without any alteration in composition of the bouquet(s).
- For Channels a “Must carry” provision has been prescribed for all types of distribution platforms, thereby removing entry barrier for any broadcaster. All DPOs are required to publish an RIO giving details of carriage fee. Transparent and slab-wise pricing of channel carriage fee is mandated, thereby benefitting any broadcaster who gets more eyeballs.
- Mandatory provision of Electronic Program Guide (EPG) to ensure that all channels are available to the consumers transparently.
- To ensure the smooth revenue flow in the value chain and thereby reducing the disputes, a provision of mandatory and transparent third party audits of DPOs to ensure true reporting of subscriber base has been provided.
- Automated system generated subscriber reports to be made available by DPOs to all broadcasters, thereby improving transparency has been provided for.

For DPOs

- Broadcasters have been mandated to publish an RIO giving transparent and non-discriminatory terms including discounts (if any) based on measurable parameters. This would enable DPOs in getting non-discriminatory deals on a transparent basis and scope of disputes would be reduced.
- Broadcasters have to enter into agreements with DPOs on the basis of RIO only. No mutual negotiations de hors the RIO is permitted.
- DPOs are empowered as they can now sign and send the RIO published by any broadcaster and it is treated as binding agreement.
- Standard format for subscription reports by DPOs and Audit mechanism has been provided.
- Independent source of revenue for DPOs in form of Network Capacity fee so that they can upgrade their network and services.

- Cost of channel and cost of network has been made independent of each other.

Salient features of New Regulatory Framework 2020

Benefit for Consumers

- Increase in number of SD channels from 100 to 200 in the NCF of maximum Rs. 130/- per month.)
- More than 200 SD channels in the NCF of maximum Rs. 160/- per month.
- NCF for 2nd TV connection and onwards in multi TV homes not more than 40% of declared NCF per additional TV.
- Subscribers can choose different set of channels for each TV connection in a multi TV home
- Reduction of ceiling price on MRP of pay channels for inclusion in bouquet from Rs. 19/- to Rs. 12/-.
- Reasonable restrictions on number of bouquets offered by broadcasters - Number of bouquets of pay channels not to be more than number of pay channels offered by a broadcaster.
- MRP of a channel should not be more than the MRP of any bouquet containing that channel in order to bring further reasonableness in the bouquet formation and pricing.

Benefit for Broadcasters

- Reduced amount of carriage fee - 20 paise per subscriber per month for SD channels with a cap of Rs. 4 lakh per month payable by a broadcaster to a DPO in a month for carrying a channel in the country.
- More channels will be pushed in same NCF hence additional revenue to them (200 Channels in Rs 130 and unlimited in Rs 160)
- Broadcasters' freedom to fix price of their channels continued
- Certainty in placement of channel ((EPG regulated)
- More consumption of TV services as NCF for multi TV regulated

Benefit for DPOs

- Flexibility to DPOs to declare different NCFs for different geographical regions/areas within their service areas
- DPOs may offer discounts on NCF and DRP on long term subscriptions of duration of 6 months and above.
- Flexibility in Display of TV channels on Electronic Program Guide (EPG) – however channels of a particular language in a genre are to be displayed together consecutively and one television channel shall appear at one place only

TRAI's letter dated 12.10.2021 to all broadcasters for implementation of New Regulatory Framework 2020



भारतीय दूरसंचार विनियामक प्राधिकरण
TELECOM REGULATORY AUTHORITY OF INDIA
भारत सरकार /Government of India



F. No. RG-8/1/(9)/2021-B &CS

Dated : 12.10.2021

Subject : Compliance Report of various provisions of the New Regulatory framework 2020

TRAI has notified the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017; the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017; and the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017, on 03.03.2017.

2. The said regulatory framework was amended on 01.01.2020 vide the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment) Regulations, 2020; the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Third Amendment) Regulations, 2020; and the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020 (hereinafter collectively referred as “**New Regulatory Framework 2020**”).

3. Some broadcasters and other stakeholders challenged the New Regulatory Framework 2020 in various High Courts, including the Hon’ble High Court of Bombay vide Writ Petition (L) No. 116 of 2020 and other connected matters therewith.

4. The Hon’ble High Court of Judicature at Bombay, vide its Judgement dated 30th June 2021 passed in the Writ Petition No 680 of 2020 [(WP (L) No 116 of 2020)], titled as the “Film and Television Producers Guild of India Ltd & Another vs The Union of India & Another” and other connected matters therewith, has upheld the validity of New Regulatory Framework 2020 except for the condition of average test provided in the third proviso to sub-clause (3) of clause 3 of the Tariff Amendment Order 2020.

5. Accordingly, all such broadcasters who have not complied so far, are required to comply with all provisions of New Regulatory Framework 2020 as upheld by Hon’ble Court of Bombay and report compliance to the Authority within 10 days of issue of this letter.

ARVIND Digitally signed by
KUMAR ARVIND KUMAR
Date: 2021.10.12
17:00:02 +05'30'

Advisor (B&CS)

To,

Bennett, Coleman & Company Limited
The Times of India Building,
Dr D N Road, Mumbai – 400001

TRAI's letter dated 22.12.2021 regarding formation of Committee of Stakeholders



भारतीय दूरसंचार विनियामक प्राधिकरण
TELECOM REGULATORY AUTHORITY OF INDIA
भारत सरकार / Government of India



F. No.: RG-8/1/(9)/2021-B&CS

Dated: 22nd December, 2021

To,

The Secretary General,
Indian Broadcasting and Digital foundation
B-304, Khelgaon Marg,
New Delhi.

TRAI has notified the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017; the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017; and the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017, on 03.03.2017.

2. The said regulatory framework was amended on 01.01.2020 vide the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment) Regulations, 2020; the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Third Amendment) Regulations, 2020; and the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020 (hereinafter collectively referred as "New Regulatory Framework 2020").

3. The Authority has received number of representations from various stakeholders including Broadcasters, MSO/DPOs/DTHs and other groups, stating their concerns in smooth implementation of NTO-2.0 and also possible impacts on sector growth.

4. Having considered the concerns expressed by various stakeholders, Authority has decided to form a committee under the aegis of TRAI consisting of members from IBDF, AIDCF and DTH association. The broad terms of reference of the Committee are as below:

- a. To look into process of smooth implementations of New Regulatory Framework 2020 keeping in view consumers benefit and suggest measures thereof (if any). And
- b. To identify impediments with counter measures for overall growth of the broadcasting sector

5. You are requested to nominate maximum two (2) representatives from your organization for the above mentioned committee. The nominations along with their contact details & e-mail addresses etc, should reach to the undersigned by today evening.

VINEET KUMAR AGARWAL
Digitally signed by VINEET KUMAR AGARWAL
Date: 2021.12.22 10:38:01 +05'30'

(V. K. Agrawal)

Joint Advisor (B&CS)

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Record of Discussions of Committee of Stakeholders dated 23.12.2021

1. The committee comprising of representatives of Indian Broadcasters' Digital Association, AIDCF, DTH Association and TRAI officials with Secretary TRAI as Chairman was formed vide letter No RG-8/1/(9)/2021-B & CS dated 22.12.2021.
2. A meeting with all the three stakeholders that is Broadcasters (IBDF), MSOs (AIDCF) and DTH Association was held on 23 December 2021. Following were present in this meeting:

A. TRAI

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| i. Mr V. Raghunandan, | Secretary, TRAI |
| ii. Mr Mahendra Srivastava, | Pr. Advisor (B&CS), |
| iii. Mr Anil Kumar Bhardwaj, | Advisor (B&CS), |
| iv. Mr V. K. Agarwal, | Jt. Advisor(B&CS), |
| v. Mr Devendra Dwivedi, | Jt. Advisor(B&CS), |

B. IBDF Representatives

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| i. Mr Rajesh Kaul, | SONY |
| ii. Mr Gurjeev Singh, | Disney Star |
| iii. Mr Amit Arora, | TV 18 |
| iv. Mr Atul Das, | ZEEL |
| v. Mr Siddarth Jain, | Secretary General, IBDF |

C. AIDCF Representatives

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| i. Mr Anirudh Sinh Jadeja, | President AIDCF |
| i. Mr Anil Malhotra, | SITI |
| ii. Mr Ajay Singh, | Hathway Digital |
| iii. Mr Peeyush Mahajan, | Fastway |
| iv. Mr Yatin Gupta, | GTPL Hathway |
| v. Mr Manoj Chhangani, | Secretary General, AIDCF |

D. DTH Association Representatives

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| i. Mr Harit Nagpal, | President, DTH Association |
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3. Secretary TRAI, in the beginning, explained the purpose of constituting the purpose of this committee, by the Authority. The idea is to:
 - a) Look into process of smooth implementations of New Regulatory Framework 2020 keeping in view consumers convenience in exercising informed choices and suggest measures thereof (if any).
 - b) Identify issues of concern and suggest measures for overall growth of the broadcasting sector.
4. Secretary, TRAI further informed that the stakeholders can present their issues and challenges which require resolution by the Authority. It was suggested that they should also bring out ways and means which may be considered by the authority. The stakeholders should present common set of solutions in this meeting after due deliberation among themselves.
5. Based on the deliberations and discussions among the three stakeholders, the following points were put forward by the representatives of service providers:
 - a. The proposed tariffs by broadcasters through their RIOs submitted in compliance to NTO 2.0 Tariff Orders would cause significant increase in the tariffs to consumers. The consumer price rise, if any is required to be limited to a reasonable limits.
 - b. The proposed RIOs by Broadcasters may cause significant changes in the packages, especially due to keeping popular channels at higher a-la-carte prices, not being part of bouquets. This enjoins DPO to make very large number of plans and package offerings. Therefore, the DPOs require support from broadcasters so that they do not have to make large number of plans/ bouquets.
 - c. Considering facts mentioned above, there is a need to simplify the process of exercising choices by consumers so that no channel should be provided to consumers without explicit consent. Consumers should have facility to remove any channel.
 - d. Same product (television Channel) should be offered on same price whether on Linear Television, Free Dish or Subscription based Video on Demand.
 - e. Stakeholders suggested that more than two more years have passed since NTO 2.0 amendments and more than three years have passed with NTO 1.0 implementations, since then, there is no change in prices of bouquet or a-la- carte channels. This has kept industry under stress in terms of providing quality product to the end consumers. As such

restoring the MRP ceiling for bouquet inclusion to unamended tariff order level of Rs. Nineteen (19/-) would be appropriate.

- f. The above provision shall also help in maintaining bouquet structure by ensuring all popular channels within ceiling limits of bouquet. Additionally, this will also create bare minimum hassles to consumers in exercising their choices under new tariffs, as most of the tariffs may continue in its current form.
 - g. Allowing additional fifteen (15 %) percent incentive to DPOs for bouquets as well, as has been provided for a-la-carte channel (It was pointed by the chair that the said provision pertains to Interconnection regulations and is not part of Tariff Order).
 - h. The second twin condition may be reviewed to enhance the discount on sum of MRP of a-la-carte of pay channels forming part of the bouquet to fifty percent. This will enable the broadcasters to cross-subsidize the packages.
 - i. Revision in the ceiling of Network Capacity Fee (NCF) of Rs 130/-.
 - j. In case of multi-TV home, broadcaster should also offer MRP of their channels for each additional TV connection, beyond the first TV connection, @ 40% of the MRP declared for the first TV connection. This will help consumers in saving cost of subscribing pay channels on multiple televisions.
 - k. Review of ceiling of fifteen percent (15%) on discount on sum of a-la-carte channels of MRP of that bouquet available for DPOs.
 - l. Stakeholder suggested that the Authority should take immediate corrective measures and implement revised tariff by 1st April 2022. All DPOs present insisted that to properly implement new tariffs they will require sufficient time as prescribed.
6. The stakeholders opined that review of all the issues is required. The stakeholders, however, requested TRAI to address critical issues mainly related to implementation of NTO-2.0 Tariff Orders immediately by appropriate action. Other issues may be considered by TRAI later-on. Urgent action is necessary to manage smooth transition and also to avoid inconvenience for consumers arising out of impending new tariffs.
7. Stakeholders agreed with TRAI that consumers benefits are of prime importance. Stakeholders suggested that, for this, popular channel of the broadcasters need to be included in the bouquets offered to consumers by broadcasters as well as DPOs.

8. All the stakeholder requested that to include all the channels in bouquets, there is a need to review the two most critical issues that require immediate attention and resolution. These two issues are:- i) the a-la-carte price ceiling of pay channels for inclusion of that channel in bouquet; and, ii) the ceiling on discount as prescribed by the second twin condition.
9. Representatives of IBDF assured that in case the ceiling of Rs. 12/- on MRP of a pay channel for including that channel in a bouquet is revised upwardly, broadcasters will include all the popular channels below the new ceiling so that these channels can be provided in bouquets.
10. Representatives of IBDF, AIDCF and DTH association were asked to give in writing the issues discussed identifying critical issues for immediate attention and other issues.
11. The meeting ended with thanks to the chair.
