DIGITAL CABLE OPERATOR ASSOCIATION MUMBAI
Regd. No. : MUM / 1527 / 2012 / G.B.B.S.D.
13, Akbar House, 1st Floor, N. F. Road, Colaba, Mumbai - 400 001. Tel. : 2282 8594
E-mail : dcoamcable@gmail.com

22.9.2019

Reply to the Consultation Paper on "Tariff Related Issues For Broadcasting & Cable Services" dated 16th Aug 2019

We are happy that the Authority has deemed it fit to float a consultation on the issues faced by customers and stakeholders.

At the outset we would like to state that our Association was never against these Regulations, except the manner of deriving the total bill of a customer, the revenue sharing formulae and the method of implementation. This was enforced taking views of only a few MSOs and all other views were simply disregarded. Be it the double standards on Long Term Packs being switched off on cable, but being allowed as an after thought,only for DTH after customer ire(thankfully DTH did not oblige). The Authority has implemented the rollout ignoring the preparedness of MSOs systems and processes amid untrained LCOs, most of whom had to learn overnight how to operate portals for activations and block capital by paying first and collecting later from customers. No forms and a vast choice of Broadcaster bouquets made things difficult for customers to make choices and this coupled with backend issues in activation, has seen each LCO loosing10% plus of their customers.

The revenue sharing between MSO & LCO has been spoken about by almost all LCOs across the length and breadth of the country as being most unfair. When NTO was being rolled out we were told that NCF lets you earn more, but what we are witnessing is two fold – [i] a demand to reduce NCF to the customer so that cost to consumer comes down, but absolute no mention to any Broadcaster to reduce their prices [ii] Not even a question on revenue sharing in this consultation is there, whereas we were told during rollout that the same would be addressed akin to a revision in GST rates.

Now that the dust has settled, TRAI have correctly listed the issues faced by customers and partly for some stakeholders. We would first like to highlight upon the customer angle vis a vis pricing and choices to be made.

First, this is a business which has been entirely done without any governmental funding/support, it has flourished on its own anddoes not need over regulations. There is enough competition in the market already.

TRAI shouldsimply prepare the field and then leave it to the stakeholders to play the game. Take for example, a LCO is not in a position to decide how much he can charge for installation of services (which nowadays is a very very small number), what is the reconnection charge/suspension charges he can levy, how much he should charge for late payment, charges for anyother services, charges for attending to complaints (though for some reason DTH is permitted to do so) and of course the charges for NCF and content. So in a nutshell the LCO revenue is totally regulated. And mind you <u>subscription is the sole source of LCO revenue</u> whereas all other stakeholders have alternate sources of revenue.

We have now just moved to free market pricing and we would not like to recommend changes right away as this will lead to confusion once again with customers. We will give our recommendations on what alternatives can be implemented with a condition that any change/s in Regulations has to be given sufficient time (min of six months) for implementation.

We disagree with the manner in which Broadcasters have been allowed to declare prices of channels. At consultation stage the upper cap for a GEC channel was set as INR 12. Yet in final regulation the upper cap was raised to INR 19 for ALL channels on the basis of the MAXIMUM rate declared for a sports channel in ANALOG regime and then multiplying it by a factor of 1.25 which was meant to take care of the Distribution Fee payable. This when the Authority has itself admitted that the rates in analog were even heavily discounted to the extent of 90%. It is for this reason that you find most broadcasters have priced their driver channels at the maximum permitted prices, be it SD or HD. Eg. SAB TV (6.17 in analog to 19 in NTO), Sony & Colors (8.99 in analog and now 19 in NTO), Star Plus (7.87 in analog and now 19 in NTO), Star Jalsha (5.04 in analog and now 19 in NTO), Zee TV (5.83 in analog and now 19 in NTO), Zee Marathi (3.60 in analog and now 19 in NTO), Vijay TV (1.80 in analog and now 19 in NTO) and so on.

In our experience, we have not come across any country where the same content is run in SD version as well as HD. Normally whenever one upgrades to better quality, the SD version is replaced with other channels, as transmission is done only in HD and those who do not have HD retransmission capability, do so by downconverting the channel to SD. Today we mostly witness offshoots of sports channels in different languages being launched and hardly any new channel being launched in the past few years.

For reasons best known to you alone, the Chennai High Court order of the 15% discount whilst forming Bouquets was not challenged. This has led to broadcasters forming bouquets with higher discounting.

The Revenue Sharing formula that TRAI has worked out is not equitable across the value chain and hence needs to be corrected.

Since it is a free market economy we feel that customer pricing may be left as is with the changes recommeded by us and the Authority should focus on ensuring that there is an equitable revenue share split from the customer payout.

Our comments to Questions 1 to 13

We list 2 options that the Authority can consider as suggestions from our side on the customer pricing and creation of bouquets.

Option 1

- Let existing a la carte pricing prevail
- NO bouquets permitted by any Broadcaster and DPO
- Customers will choose their list of channels
- **Bundling is nothing but a volume discount given to the customer.** So we recommend that a pre defined volume discount be permitted based on quantity of channels that the customer buys from each Broadcaster
    - 5% discount on each a la carte channel bought from a pay broadcaster for upto 3 channels
    - 10 - 15 % discount on each a la carte channel bought from a pay broadcaster for upto 4 - 8 channels
    - 20 – 25% discount on each a la carte channel bought from a pay broadcaster for more than 9 channels
    - NCF upper cap of 180/- for SD channels *
    - NCF upper cap of 225/- for HD channels *
    - NCF sharing in case of MSO LCO should be a restricted to fixed service charge for the platform of Rs.30/- per STB. NCFshould not be a share of customer revenue. (Barely a few MSOs do Retail business and for those limited MSOs who do so, the % is merely around 2%)

* *detailed justification of this amount can be made available*

Advantages :

- This method will provide TRUE freedom of choice to the customer to buy only those channels that they want.
- Even a Rs. 0.10 channel will not get bought if the content is not good for the customer
- If Broadcaster keeps very low prices, smart customers will use those to avail of volume discounts and reduce prices of driver channels
- With predefined volume discounts it is easy for customers to make choices

- Customer billing becomes easy and uncomplicated
- Bundling will take place but is now entirely defined by each customer
- Cap of 19/- can be done away and let true free market pricing prevail after 1 or 2 years of this rollout. Also upper cap on NCF can then be done away with at the same time.
- No limitations of CAS servers to configure so many packages
- With Fixed NCF, customers get all FTA channels available on the network
- LCOs can give discounts in NCF as per the market demand and their ROW issues

Disadvantages :

- Sufficient time will have to be given for customers to make their choices since this will be more or less a one time activity
- From a Broadcaster point of view they can no longer dictate reach of channels by bundling weaker channels in a bouquet

Option 2 (if you wish to continue with present arrangements)

- Price of any SD channel should be capped at 12/- (except Sports)
- Price of any HD channel should be capped at 19/-
- There should be a lower cap of Rs.2/- for any pay channel
- Broadcaster cannot include more than 2 language channels in any bouquet
- Max no of channels in a bouquet should be capped at 9 channels
- Distribution Fee should be calculated on the sum of a la carte prices for each bouquet. (Broadcasters give discounts to consumers in Bouquets, hence they should pass on some benefit to the distribution chain also as more of their channels are sold)
- Full Distribution Fee should be shared by all stakeholders

Advantages :

- Limiting 9 channels will not permit the long tail of channels to be apart of the bouquet, which each cost the customer Rs.0.8 in NCF and in some cases negates the advantage of taking a bouquet
- Very small no of customers genuinely watch more than 2 language channels
- With prices like Rs.0.10 or Rs.0.25, the margins provided does not even meet the transaction costs of activating and running such channels

Disadvantages :

- Reconfiguration of bouquets means once again asking customers to make their choices
- Reconfiguration of new packages in CAS alongwith existing bouquets will not be possible and will need careful planning of migrating existing customers to alternative packs temporarily.

<u>Our comments to Questions 14 to 17</u>

Just in the manner which the Authority has fixed an upper cap on channel pricing, there should be a fixed upper cap for the NCF component also after a thorough study of the costs AND profits for each stakeholder. *Detailed justification of this amount can be made available.*

Since DTH launched it was in a digital mode from day one and hence had to charge for each STB. Since it competed with analog cable at that time, they reduced the price of the services on additional STBs to be competitive.Also the incremental cost of each additional stb did not entail additional content costs as deals were of fixed fee in nature.

This practice was adopted by cable also in some areas and only now such discounts have been withheld post NTO. Customers who have multiple SIMs, do not get any discounts from telecom players and just as this concept has seeped in, we see no reason to change this.

Since no distribution company provides data of STBs that are used as additional STBs, it becomes very difficult to compute the cost of NCF that should be charged per home. Additional STBs also need sufficient signal strength to operate and complaints need to be serviced like any other STB.

If however the Authority feels its necessary to have discounted rates for additional STBs, it should first get the Broadcasters to agree for the same.

Any customer is free to choose different content on EACH STB in his/her home.

<u>Our comments to Questions 18 to 20</u>

A long duration pack should have a minimum six months period. If Broadcasters do not offer discounts, then distribution platforms alone can offer the same provided but the overall impact will be insignificant unless Distribution Platforms have sufficient margins.

However, Authority should make the rules explicit that if customer chooses to opt out, the refund available to customer would be calculated strictly on the monthly rates of NCF and content costs. Also a clarification on GST refunds in such a scenario is necessary so that customer disputes are avoided ?

Our comments to Questions 21 to 22

Placement of channels is the total prerogative of the distribution platform similar to the manner in which any retailer decides how to place goods in his store. Hence it should not be regulated at all.

Our comments to Questions 23 to 25

Promotional schemes for customers can be introduced at any given time, provided they do not exceed 60 days at any given time in a calendar year.The cost of the promotional scheme should be entirely is borne by the Broadcasters and/or Distribution platforms **without reducing the LCO margins**.

Our comments to Questions 26

We do not favour introduction of differential/variable NCF at all. As per TRAIs own calculation, the NCF is calculated to recover the COST of distribution. As per our studies (which we are willing to share), it just does that. Unlike the higher limits that Broadcasters have been allowed to price their channels post consultation stage, it leaves no distributor a chance to offer reductions to customers.

In pre NTO regime, there was an element of subsidy. High paying HD customers provided sufficient margins to enable platforms to offer attractive prices by packaging only the must required channels for different regions at lower than their cost to the platform. The revenue earned from these customers helped to lower fixed costs of running the business. The number of such customers was significantly large.

Our comments to Questions 27 to 29

A large number of DD channels are regional in nature and hence making them mandatory for all states should not be there. For smaller MSOs, they are blocking resources where other channels in demand can be a replacement. Hence it may be better to allow such MSOs the choice to replace un required regional DD channels with local content as they wish.

Since we are of the opinion to have only one higher upper cap on NCF for SD and HD channels, including DD channels within the first 100 channels or not is not a question left to be answered.

Our comments to Questions 30

The other issues revolve around :

[a] **Advertisements on PAY channels**

Pricing of PAY channels is now based on market pricing and is set by Broadcasters themselves. Since they get full subscription from customers, should customers not get protection from the number of advertisements on PAY channels ?We are of the opinion that FTA channels should be exempt from this, as advertisements remain their sole source of revenue and if they play too many advertisements, customers will switch to another channel. TRAI should take steps to strictly enforce this with fresh Regulations limiting the advertisement to 6 minutes per hour plus 2 minutes for own promotional advertisements.

[b] **The revenue sharing amongst stakeholders.**

We would welcome a fresh consultation on the Interconnect and Revenue Sharing aspects also.

[c] **OTT apps which provide TV channels**

The Regulator has sought to equate all platforms and bring everyone to a level playing field through the NTO.

If the purpose is that of regulating TV services, why is it that such Apps are permitted to run TV channels without following the same set of Regulations that other distribution platforms are forced to follow? We have faced competition from DTH and OTT and will continue to do so, but if such Apps are **running live TV channels**, should they not be under the same pricing regulations ?

We are enclosing video clips of such apps being used by customers on their TV sets? Is this permissible ?

Secondly JIO has now launched its FTTH services. As per existing regulations arethe TV channels on their devices, following the same pricing and a la carte rules that DTH and Cable have to abide with ? The Regulations include IPTV as a distribution platform. Whilst there is not much clarity on what all is included in their plans, we only want that the Regulator enforces that all platforms **providing live TV channels** be subjected to the same Regulations. Live OTT TV should be regulated.

For your information, a Broadcaster like STAR which runs its Hotstar OTT platform, does not provide LIVE TVfeed as any DTH/MSO does with a common EPG interface for access to all TV channels in a single screen.

[d] Broadcasters should be mandated to allow all Distribution Platforms to provide their TV channels on Apps for their customers. Even big DTH companies have been denied content rights for DTH/MSO TV apps. Since this is unregulated they quote ridiculous amounts to dissuade them. If a Broadcaster demands that the customer behavior for their channels be shared, same should be done by the distribution platform.

We thank you for this opportunity to voice our views and hope that the Authority addresses our concernseither by corrections in Regulations or through a new consultation paper on Interconnect issues.

Thanking you.

Team DCOAM