



06 June 2022

By Email

The Advisor (B&CS)

Telecom Regulatory Authority of India

Mahanagar Doorsanchar Bhawan (next to Zakir Hussain College)

Jawaharlal Nehru Marg, New Delhi- 110002

Kind Attn: Shri Anil Kumar Bhardwaj, Advisor (B&CS)

Subject: DTH Association's comments on TRAI's Consultation Paper dated 07 May 2022 on 'Issue related to New Regulatory Framework for Broadcasting and Cable services'

Dear Sir,

We thank you for the opportunity to express our views on the above captioned Consultation Paper. DTH Association's response to the same is enclosed for your ready reference.

Thanking you.

A handwritten signature in black ink, appearing to read 'Harit Nagpal', written over a light blue horizontal line.

Yours sincerely,
For DTH Association

Harit Nagpal

Enclosed: As above

DTH Association

Unit 301 to 305, 3rd Floor, Wndsor, Off C.S.T. Road, Kalina, Santacruz (East) Mumbai-400098, India.

Tel.: +91-22-66133000, Fax: +91-22-66133030



DTH ASSOCIATION COMMENTS DATED 06 JUNE 2022 TO TRAI'S CONSULTATION PAPER DATED 07 MAY 2022 ON 'ISSUE RELATED TO NEW REGULATORY FRAMEWORK FOR BROADCASTING AND CABLE SERVICES'

- 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.

DTH Association Comments:

No Ceiling Required:

- The current NTO framework laid down by TRAI is complex and poses limitations which restrict the operators, while causing inconvenience to the consumers in addition to the burden of higher prices.
- The Authority should allow the DPOs to price and package their own plans/bouquets without any restrictions in order to meet the demands of the subscribers, as was the case prior to introduction of NTO regime.

Price Forbearance for DPO's is the need of the hour:

- There are Multiple distribution platforms offering content to subscribers.
- With DD Free Dish and OTT not being regulated by TRAI, traditional distribution platforms have become uncompetitive in their price offering to subscribers. DoT is also proposing to waive off License Fee from IPTV.
- The subscriber base of DTH has fallen from 70.99 million to 68.89 million in last one year while that of MSOs/HITS operators having more than 1 million subscribers, has decreased from 47.58 million to 45.55 million.

DTH Association

Unit 301 to 305, 3rd Floor, Wndsor, Off C.S.T. Road, Kalina, Santacruz (East) Mumbai-400098, India.
Tel.: +91-22-66133000, Fax: +91-22-66133030

- Prior to NTO, the DPOs priced content based on the paying capacity of the subscriber and not based on cost of the content. As a result, the subscribers were happy with what they got, and the industry was growing. All this stopped with the introduction of NTO which put the pricing decision in the hands of the Broadcasters and the same price became uniformly applicable for all segments of customers, regardless of their paying capacity.
- In this hyper competitive industry, we request for price forbearance for DPO's as that would be best for the subscribers and the industry.
- Forbearance would also allow DPOs to price packages keeping in mind the paying capacity of the subscribers which they know best due to their proximity to the customer versus the broadcasters

No prescription required:

- The Regulator does not need to be prescriptive.
- Market forces in a competitive environment would rationalise the prices which is making mass market subscribers suffer and forcing them to migrate to other unregulated platforms.
- Regulatory micromanagement has single headedly led to making the PayTV industry stagnant and uncompetitive.

Regulation of all or none:

- Broadcasters offer their pay channels free of cost to DD Free Dish and either free or at much lower rates to OTT platforms, while the same channels are given at much higher, TRAI notified rates to PayTV platforms.
- This results in discrimination for subscribers and makes PayTV platforms uncompetitive as against DD Free Dish and OTT platforms.
- To maintain parity of pricing, either all should be regulated or none.

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.

DTH Association Comments:

Proportion of Discount needs revision:

- Today's proportion of 20% fixed and 15% variable margin is too lopsided and discretionary and is the root cause of negotiations, disputes and litigation in a very straightforward content owner/content distributor relationship.
- Moreover, the margin needs to be applicable on both a la carte and broadcaster packs as the same amount of effort goes into enabling the two, on the part of the DPO.
- The construct and desired objective of NTO was to allow the subscriber to decide what channels he would wish to watch at a price he can afford. The DPO's job was limited to enabling the channels and packs desired by the subscriber.
- A study of conditions listed by the broadcasters for a DPO to achieve their incentive shows that bulk of the incentive can be earned by the DPO by providing the reach desired by a broadcaster for its channels. This contradicts the desired objective of the NTO.
- Hence the incentive needs to be of a fixed nature @ 35%, a fair share for the partner who invests in bandwidth and last mile infrastructure. This would also remove a discretionary bias which results in either the DPO pushing unwanted channels or missing the incentive.
- In the event any low single digit percentage variable quantum of incentive is proposed over and above 35%, the broadcasters should not be allowed to use 'reach' as a criterion for awarding the incentive.
- Alternate proposed heads for allowing small quantum of incentive could be:
 - a. Timely submission of subscriber report to the Broadcasters
 - b. Timely payments
 - c. Compliance with the mandatory auditory submissions
 - d. Etc.

DTH Association

Unit 301 to 305, 3rd Floor, Wndsor, Off C.S.T. Road, Kalina, Santacruz (East) Mumbai-400098, India.
Tel.: +91-22-66133000, Fax: +91-22-66133030

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

DTH Association Comments:

Revision of Network Capacity Fee

- NCF cost structure was determined in 2016, and even then, the Distributors had stated that the NCF is inadequate.
- No provision for increase has been made in the Tariff Order.
- On the contrary, there has not only been a reduction in NCF, but also, we were asked to carry double the number of channels for the same NCF as well as asked to substantially reduce the NCF for multiple Set Top Boxes for the same affluent Multi TV home, despite having incurred subsidy for every incremental Set Top Box.
- While we request the Authority to bring in forbearance, but until forbearance is reached an automatic, annual inflation linked increment mechanism for NCF may be incorporated in the regulations, and any ceilings on Multi TV pricing should be removed considering Multiple TVs are owned by the affluent.

License Fee regime:

- DTH platforms, which distribute both Pay and FTA channels, just as MSOs of Cable and HITS platforms, pay License Fee @ 8% of AGR, while the MSOs and HITS platform do not, despite being security cleared by MHA, licensed by the MIB, and regulated by TRAI.
- OTT platforms also carry most Pay and FTA channels, in addition to original content, go direct to home, yet they are neither required to be licensed or regulated nor pay any license fee.
- There is thus a significant disparity between the treatment meted out to the DTH operators as against other platforms, despite offering the same service.
- Non-licensed activities may be excluded from the calculation of License Fee, as has been done by DoT for the Telecom Operators.
- Recent media report highlight that DoT is considering waiver of the license fee on wireline broadband services (including IPTV) offered by licensed Telecom Service Providers (TSPs). DTH and IPTV are substitutable services and extension of benefit to one service to the exclusion of other is arbitrary, unreasonable and would further widen the already non-level playing field.
- We therefore request to remove the discriminatory license fee treatment being meted out to the DTH Industry and provide a level playing field by either waiving off the License Fee from DTH or making the same License Fee applicable to Cable, HITS, IPTV and OTT.

DTH Association

Unit 301 to 305, 3rd Floor, Wndsor, Off C.S.T. Road, Kalina, Santacruz (East) Mumbai-400098, India.
Tel.: +91-22-66133000, Fax: +91-22-66133030