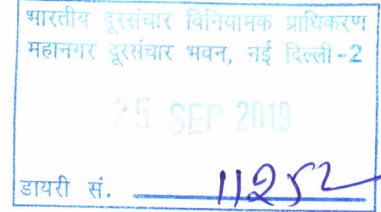


Disney India

23<sup>rd</sup> September 2019

Shri Arvind Kumar,  
Advisor (B&CS),  
Telecom & Regulatory Authority of India



Re: Comments on the Consultation Paper

This response is being filed on behalf of Disney Broadcasting India Ltd. to the Consultation Paper on Tariff Related Issues for Broadcast and Cable Services, dated 16<sup>th</sup> August 2019 (“CP”) which claims to review a number of issues related to the recently implemented Telecommunication (Broadcast and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (“NTO”), Telecommunication (Broadcast & Cable) Services Interconnect (Addressable Systems) Regulations 2017 (“NIR”) and Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations 2017 (“NQoS”) (collectively the **New Regulatory Framework, 2017**, or “NRF”), as under:

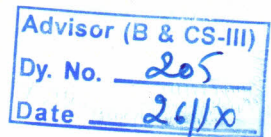
1. At the outset, Star India Pvt. Ltd., which is a group company of Disney Broadcasting India Ltd, has filed a detailed response to the CP vide its response dated 23<sup>rd</sup> September 2019. We support the said response and adopt all the submissions contained therein as part of our present response. The contents of the Star’s response may be read as part and parcel of our submissions, the same are not being repeated for the sake of brevity<sup>1</sup>.
2. In addition to the points raised by Star, we wish to comment as follows:
  - a. Disney Broadcasting India Ltd. is the owner of 10 (ten) channels that have highly specialized and niche content, as follows:
    - i. Marvel HQ – content focused on kids and teenagers (ages 8-16 years) in general
    - ii. Disney Channel - caters to the age group from 5-14 years
    - iii. Disney Junior – content focused on children under the age of 6 years

<sup>1</sup> We are filing this response without prejudice to any rights and obligations, including in event of any action prior to our filing of the response. We humbly submit and unequivocally state that no part of our response or any suggestions may be deemed to be a consent on the part of Disney Broadcasting India Ltd and/or Star on the issues raised by TRAI in Consultation Paper dated 16.08.19 or consent towards the piecemeal implementation of the suggestions.

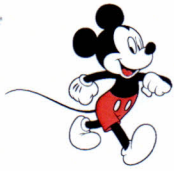
**Disney Broadcasting (India) Limited**

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*[Handwritten signatures]*



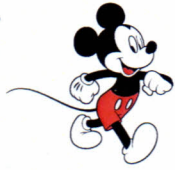
**Disney India**

- iv. Disney International HD – content focused on general entertainment for children and young adults between the age of 14-25 years
  - v. UTV HD – extensive selection of Bollywood, Hollywood and Asian movies in High Definition
  - vi. UTV Movies – extensive selection of Bollywood films from UTV’s own library as also other major Bollywood films
  - vii. UTV Movies International – 24-hour Hindi movie channel (mostly Bollywood) which is uplinked from India but not downlinked in India.
  - viii. Hungama TV – content focused towards animated programs for children and young adults (5-14 years).
  - ix. UTV Action – extensive selection of Hollywood, Bollywood, Kannada, Tamil and Telugu action movies dubbed in Hindi
  - x. Bindass - youth-oriented entertainment channel
- b. Disney is a global pioneer in content focused at children and young adults. By its very nature, such content has very limited audiences and thus, may not have mass viewership. Since subscription revenue is usually low, Disney channels depend significantly on advertisements revenue in order to sustain business. Since ad revenue depends on channel’s reach, Disney channels’ survival depends upon being made available to consumers in bouquets along with other channels so that they can increase their reach to be able to garner higher ad revenues.
- c. TRAI’s approach in the CP is manifestly arbitrary in as much as it has failed to indicate the criteria adopted by it for categorization of a channel as ‘popular’ or ‘unpopular’. This categorization forms the very fulcrum of the CP and also the very fulcrum of TRAI’s conclusion that broadcasters are providing deep discounts to push ‘unpopular’ channels. In the absence of a clear understanding of the basis of this distinction by TRAI, we are presuming here that by ‘unpopular’ channels, TRAI is relying upon the viewership data and insinuating that channels that do not have mass subscriptions are ‘unpopular’. If this is the case, then even Disney channels would be deemed ‘unpopular’ and restrictions upon bundling of purported ‘unpopular’ channels in a bouquet would effectively be the death-knell for Disney channels.
- d. When the current proposals opened for consideration by TRAI in the CP base their conclusions on purported ‘popularity’ or ‘unpopularity’ of a channel, and consequently seek to discourage inclusion of purported ‘unpopular’ channels in a

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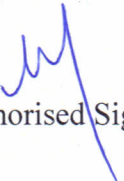
**Disney India**

- bouquet, they are squarely targeted at restricting the channels that may be included in a bouquet basis the content shown on such channels. Pertinently, such a categorization by TRAI has no nexus with object of the proposals in the CP – to empower the consumer to exercise his freedom of choice and to pay for what he/she wants to watch.
- e. Television is one of the most popular mediums of expression. Artists, singers, writers, directors, producers, dancers and performers from all walks of life express their art through the medium of television for the enjoyment of the public. Irrespective of whether the art sought to be broadcast is ‘popular’ or ‘unpopular’ as insinuated by TRAI, each artist is entitled to be treated at par and any restriction or curtailment on manner in which a TV channel can be priced, bundled, offered or made available to viewers, based on such unintelligible differentia would be manifestly arbitrary.
- f. Such action would effectively mean that the freedom of choice that TRAI is strenuously trying to provide to a consumer whereby a consumer ought to have the option to choose a diverse array of channels, would also effectively be impacted, as the diversity and variety of content choices would be limited. Disney is India’s leading channel focused at children’s content. If TRAI continues with its consultation exercise and implements its proposals, it is possible that Disney will not be able to sustain in the absence of bundling.

In view of the aforesaid, it is respectfully urged that the Authority may reconsider proceeding with the current consultation exercise and refrain from making any the changes to the existing regime, which was implemented as recently as 6 months ago. Any such actions on TRAI’s part could have significant adverse consequences for Disney and would result in long-term losses and irreparable consequences for stakeholders.

Yours sincerely,

For **Disney Broadcasting (India) Limited**

  
Authorised Signatory



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