

## Comments on the Consultation paper No: 10/2019 issued on 16.08.2019 by the Telecom Regulatory Authority of India on Tariff related issues for Broadcasting and Cable services.

The issues being faced today and as are also enumerated in the aforesaid consultation paper are mostly related to an ongoing regulatory imbalance, consequence of sheer shortsightedness of the Authority and its deliberate dilution of the implementation of key provisions that have been duly notified under Part-II – TARIFF (3) of The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable System) Tariff Order, 2017 (No. 1 of 2017) as has been published in the Official Gazette. Makes It imperative to reproduce here, the relevant provision(s) of the aforesaid T.O.

### *Part II TARIFF*

*3. Manner of offering of channels by broadcasters.--- (1) Every broadcaster shall offer all its channels on a-la-carte basis to all distributors of television channels.*

*(2) Every broadcaster shall declare ---*

*(a) the nature of each of its channel either as 'free-to-air' or 'pay'; and*

*(b) the maximum retail price, per month, payable by a subscriber for each of its pay channel offered on a-la-carte basis:*

*Provided that the maximum retail price of a pay channel shall be more than 'zero':*

*Provided further that the maximum retail price of a channel shall be uniform for all distribution platforms.*

*(3) It shall be permissible for a broadcaster to offer its pay channels in the form of bouquet(s) and declare the maximum retail price(s), per month, of such bouquet(s) payable by a subscriber:*

*Provided that, while making a bouquet of pay channels, it shall be permissible for a broadcaster to combine pay channels of its subsidiary company or holding company or subsidiary company of the holding company, which has obtained, in its name, the downlinking permission for its television channels, from the Central Government, after written authorization by them, and declare maximum retail price, per month, for such bouquet of pay channels payable by a subscriber:*

*Provided that such bouquet shall not contain any pay channel for which maximum retail price per month is more than rupees nineteen:*

***Provided further that the maximum retail price per month of such bouquet of pay channels shall not be less than eighty five percent of the sum of maximum retail prices per month of the a-la-carte pay channels forming part of that bouquet:***

*Provided further that the maximum retail price per month of such bouquet of pay channels shall be uniform for all distribution platforms:*

*Provided further that such bouquet shall not contain any free-to-air channel:*

*Provided also that such bouquet shall not contain both HD and SD variants of the same channel.*

Moreover, the Honorable Supreme Court of India in its detailed judgement passed dated 30.10.2018 has also addressed this issue with the following observations made.

*“...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 \*5.00 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. Consequently, we agree with the conclusion of the learned Chief Justice and the third learned Judge of the Madras High Court that these writ petitions deserve to be dismissed ...”*

However, in order to really protect the interests of the stakeholders and the consumers at large a cost based tariff fixation exercise was much desirable, whereas this 8th Tariff Order is much against the Hon'ble Apex Court directions in appeal being CA No. 829-833 of 2009, titled TRAI vs. SET Discovery and others. Where the Hon'ble Apex Court directed the TRAI vide its order dated

13.05.2009 to carry out the de novo exercise of cost based tariff fixation and submit its report before the Court and another judgement dated 28.04.2015 rendered by Hon'ble TDSAT in Appeal No. 01/2014, wherein Telecom Regulatory Authority of India (TRAI) was directed to consider relevant factor including the cost of providing the service and to come out with the cost based tariff. The said judgement also got confirmed by the Hon'ble Supreme Court of India by order dated 04.08.2015 in Appeal No. 5159-5164/2015 This Eighth tariff order nowhere even refers to the cost based tariff and not even a single effort has been made in this direction.

The cost-based tariff is desirable, since it ensures fair pricing and preserves the return on investment. Broadcasting is a natural monopoly and administered price is the most desirable regulatory regime. Broadcasting is a platform-based economy having network impact, where the cost of providing the service decreases with every next addition of a consumer. Whereas Eighth T.O only confers legitimacy on such unrealistic prices, having been declared as MRP of popular pay TV channels causing steep increase in the price of the television service.

However, the regulators have recognized various methods of administered pricing across the globe including the method of 'Long Run Marginal or Average Cost'. Hence the MRP declared for the popular Pay TV channels are flawed and unrealistic when the declared Maximum retail price is a manufacturer calculated price that is the highest price that can be charged for a product sold, that's inclusive of reasonable profits.

Whereas It is a well known fact to everyone who is even little versed, with the administered prices that cost of the providing the services has decreased by 70 to 80% since December 2003 (refer to price freeze 26.12.2003) and cost of providing service to one subscriber is under deflation and cannot be even in single digit.

***Please refer to Annexure I of the Consultation Paper ( Comparison of Prices of channels declared by broadcasters in Old framework and New framework)***

Where the popular Pay TV Channels have seen more that 200 % change in pricing as compared to the not so popular Pay TV channels that are now priced at Re.1 or even less. Therefore it can be construed that more than 500%

premium is being charged on subscribing to popular Pay TV channels and the not so popular Pay TV channels are being bundled together along with them by the Pay TV Broadcasters and are being forced upon the consumers through the DPOs.

However, the Authority also being an expert body, remains under an illusion claiming that HD channel prices have been reduced under the new regulatory framework where it tends to conveniently forget that HD channel price was deliberately kept under forbearance (*In other words un-regulated, outside the regulatory framework*). Where HD format is inherent in MPEG -4 and all the programming since 2009-2010 being only produced on HD format.

***Q1. Do you agree that flexibility available to broadcasters to give discount on sum of a-la-carte channels forming part of bouquets has been misused to push their channels to consumers? Please suggest remedial measures.***

A1. This key provision in the Eighth T.O was deliberately diluted by the Authority itself, to provide flexibility to few Pay TV Broadcasters, which they, in turn, misused to thrust and push their unwanted pay channels upon the consumers.

Had this key provision of limiting the discount to 85% on sum of a-la-carte channels forming part of bouquets not been deliberately diluted by the Authority there was no need to revisit this Eighth T.O within just few months of its implementation. The remedy lies in strictly implementing this key provision in its true letter and spirit as been envisaged and notified under the Eight T.O of 2017. Bouquets that should serve the purpose of convenience to end Consumers appear to be a predatory mechanism against everyone's interest with the misuse of flexibility that the Broadcasters have been enjoying to the detriment of millions of end users.

***Q2. Do you feel that some broadcasters by indulging in heavy discounting of bouquets by taking advantage of non-implementation of 15% cap on discount, have created a non-level field vis-a-vis other broadcasters?***

A2. As an informed, expert body the Authority should be more aware on how this regulatory imbalance and non-implementation of 15% cap on discount have further created a havoc on the overall Broadcasting & Cable Industry vis-à-vis

other broadcasters, vis-à-vis other DPOs and more importantly the consumers at large been taken for a ride with perverse pricing of bouquets vis-à-vis pay channels offered on a-la-carte. In the process, the end consumer ended up paying for unwanted channels, thereby blocking newer and better TV channels and restricting the end consumers' choice.

***Q3. Is there a need to reintroduce a cap on discount on sum of a-la carte channels forming part of bouquets while forming bouquets by broadcasters? If so, what should be appropriate methodology to work out the permissible discount? What should be value of such discount?***

A3. This cap on discount as prescribed in the 2017 regulation(s) (Eight T.O) was never implemented for some unknown and mysterious reasons, even though the Honorable Supreme Court have made the following amply clear in its Judgement passed dated 30.10.2018 thereafter only passing all the legal scrutiny the new regulatory framework finally came into effect from 29.12.2018.

*“...67. We are, therefore, clearly of the view that if in exercise of its regulatory power under the TRAI Act, TRAI were to impinge upon compensation payable for copyright, the best way in which both statutes can be harmonized is to state that, the TRAI Act, being a statute conceived in public interest, which is to serve the interest of both broadcasters and consumers, must prevail, to the extent of any inconsistency, over the Copyright Act which is an Act which protects the property rights of broadcasters. We are, therefore, of the view that, to the extent royalties/compensation payable to the broadcasters under the Copyright Act are regulated in public interest by TRAI under the TRAI Act, the former shall give way to the latter....”*

Need of the hour is to first implement what have been prescribed and notified in the Official Gazette. i.e. 15% maximum permissible cap on discount. That too have been arrived only after undergoing almost a year and half long consultation process initiated by the Authority sometime in January 2016. Hence without even implementing what have been prescribed in the Eighth T.O and again seeking a new formulae for arriving at a methodology is futile and sheer waste of time and waste of valuable national resources.

**Q4. Is there a need to review the cap on discount permissible to DPOs while forming the bouquet? If so, what should be appropriate methodology to work out the permissible discount? What should be value of such discount?**

A4. The prescribed and duly notified 15% maximum permissible cap on discount should also be made applicable to DPOs while forming the bouquets and offering such bouquets to the end consumers.

**Q5. What other measures may be taken to ensure that unwanted channels are not pushed to the consumers?**

A5. The cornerstone of this new regulatory framework was to enable consumers to select channels of their choice. However, the intended choice for consumers to select what they want, has got scuttled due to various issues during its implementation. The declared MRP of the Pay Channel(s) needs to be re- evaluated by the Authority where the Rs. 19 ceiling fixed is without any application of mind in absence of cost based tariff fixation exercise been conducted and for some mysterious reasons a subscriber is being construed basis the D2A (Digital-to-Analogue) convertor device(s) being deployed. The declared MRP ought to be a family subscription vis-à-vis a device subscription as the services offered by the DPOs are wireline services and the same cannot be extended or transported outside of the subscribers premise.

**Q6. Do you think the number of bouquets being offered by broadcasters and DPOs to subscribers is too large? If so, should the limit on number of bouquets be prescribed on the basis of state, region, target market?**

A6. During the discussions in the Parliament on the motion for consideration of the Cable Television Networks (Regulation) Amendment Bill, 2011, the then Minister of Information and Broadcasting , Smt. Ambika Soni, inter-alia stated:

*“Digitalization will carry with it a large number of benefits for every stakeholder.*

*The most important benefit flows to the common man, who is the most important stakeholder of course. Digitalization will enable the consumer to exercise a la carte selection of channels, get better picture quality, access to Value Added Services like Triple Play, Video on Demand, etc. For the Broadcasters and Cable Operators, who are both Service Providers, the system will ensure transparency, fairness and allow complete addressability, resulting in increase in subscription revenue and reducing their dependence on TRPs as also advertising revenue.”*

The whole essence behind DAS implementation and thereafter, the Authority after following a due consultation process notifying the Eighth T.O was to empower the end consumers to exercise a-la carte selection of channels. Hence, bundling of pay TV channels and any illusory distinction amongst Bouquets is undesirable and against the essence and spirit behind the Digitization and TRAI prescribed new regulatory framework and its implementation.

***Q7. What should be the methodology to limit number of bouquets which can be offered by broadcasters and DPOs?***

A7. In view of the aforesaid (A6 ) It's very important to limit the number of bouquets offered to the minimum. A broadcaster can be allowed to offer very few basic bouquets that only comprises of some of its wholesome popular but distinct pay TV channels under different genres but of the same language i.e. Hindi GEC, Hindi Cinema, Hindi Music, Hindi News, Hindi Kids, Hindi Religious, Hindi Sports and Hindi Infotainment etc. However, ***Provided further that the maximum retail price per month of such bouquet of pay channels shall not be less than eighty five percent of the sum of maximum retail prices per month of the a-la-carte pay channels forming part of that bouquet:***

(Clone Channels of the same Genre i.e. Hindi Cinema 1 and Hindi Cinema 2 or Hindi Sports-1 and Hindi Sports -2 shall not be forming part of the same Bouquet. As the consumer have an informed choice of subscribing them separately as A-la-carte selection in case they “really” want to subscribe)

***Q8. Do you agree that price of individual channels in a bouquet get hedged while opting for a bouquet by subscribers? If so, what corrective measures do you suggest?***

A8. Even the Honorable Apex Court have made this observation in its detailed judgement passed dated 30.10.2018 the relevant portion is being again reproduced here “ *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”*

The most appropriate corrective measure would be to now strictly implement the provision that's already been notified but yet to be implemented in its letter and spirit of law; ***Provided further that the maximum retail price per month of such bouquet of pay channels shall not be less than eighty five percent of the sum of maximum retail prices per month of the a-la-carte pay channels forming part of that bouquet:***

***Q9. Does the ceiling of Rs. 19/- on MRP of a a-la-carte channel to be part of a bouquet need to be reviewed? If so, what should be the ceiling for the same and why?***

A9. As now with the MRP been declared to the Authority of the respective pay TV channel(s) by the respective Pay TV broadcasters or Channel aggregators it becomes pertinent to also seek the following information before validating the MRP declared by the respective Pay TV Broadcaster for its distributed Pay TV channel(s)

- a) Declared (Maximum Retail Price) MRP: Rs. \_\_\_\_\_ as on Date: \_\_\_\_\_
- b) Duration of Commercials Shown in a Clock Hour (60 mins) : \_\_\_\_\_mins
- c) Duration of Self Promotions Shown in a Clock Hour (60 mins) : \_\_\_\_\_mins
- d) Duration of Fresh Programming / Content shown in 24 Hours (1440 mins) : \_\_\_\_mins
- e) Duration of Repeat Telecast of Programme / Content shown in 24 Hours : \_\_\_\_\_Hrs.
- f) Target Market(s) \_\_\_\_\_

As briefly enumerated under A5. The declared MRP of the Pay Channel(s) needs to be re- evaluated by the Authority where the Rs. 19 ceiling fixed is without any application of mind in absence of cost based tariff fixation exercise been conducted and for some mysterious reasons a subscriber is being construed basis the D2A (Digital-to-Analogue) convertor device(s) being deployed. The declared MRP ought to be a family subscription vis-à-vis a device subscription as the services offered by the DPOs are wireline services and the same cannot be extended or transported outside of the subscribers' premise.



***Q10. How well the consumer interests have been served by the provisions in the new regime which allows the Broadcasters/Distributors to offer bouquets to the subscribers?***

A10. The Authority by diluting and not-implementing the key provisions of the new regime have not been able to serve the purpose of protecting consumer interest as have been envisaged of Digitization as well the Eighth Tariff Order (T.O) and other 2017 Regulations including Quality of Service Regulation. The entire exercise been conducted have only been able to enlighten the consumers for the first time, on which are the Pay TV Channels and how much these pay TV channel actually costs if subscribed. The overall monthly expense of the consumers have increased as they been forced to subscribe to only the bouquets as the MRP been declared for the popular Pay TV channels have been astronomically priced with a ceiling prescribed of Rs.19 excluding the GST by the Authority and whereas no efforts been made to derive to a much more realistic and affordable cost based tariff fixation by the Authority.

***Q11. How this provision has affected the ability and freedom of the subscribers to choose TV channels of their choice?***

A11. The end consumers and subscribers are now much more aware and informed. However under the new regime there has also been an exponential increase seen in subscriber bills but under this new regulatory framework some respite have also come to the consumers w.r.t to their subscribing to the HD channels those were before outside the ambit of any regulations framed by the Authority.

***Q12. Do you feel the provision permitting the broadcasters/Distributors to offer bouquets to subscribers be reviewed and how will that impact subscriber choice?***

A12. The provision permitting the broadcasters/ Distributors to offer bouquets was prescribed along with ***“ Provided further that the maximum retail price per month of such bouquet of pay channels shall not be less than eighty five percent of the sum of maximum retail prices per month of the a-la-carte pay channels forming part of that bouquet:*** but for some unknown and mysterious reasons the said proviso was not implemented by the Authority. Where now the same needs to be implemented in its letter and spirit of law.

**Q13. How whole process of selection of channels by consumers can be simplified to facilitate easy, informed choice?**

A13. Yes “ it can all be easily simplified making effective use of the web portal MIS integrated with the SMS, mobile applications with an authentication of channel entitlement through OTP over registered mobile or email. The whole selection process can be simplified using and integrating API of the common channel selection portal that the Authority can also deploy for facilitating easy and informed choice. This exercise was also conducted by the Authority while the implementation of this new tariff regime.

**Q14. Should regulatory provisions enable discount in NCF and DRP for multiple TV in a home?**

A14. The basic definition of “Subscriber” as being used so far by the Authority, is flawed

*(zg) “subscriber” for the purpose of this Order, means a person who receives broadcasting services relating to television from a distributor of television channels, at a place indicated by such person without further transmitting it to any other person and who does not cause the signals of television channels to be heard or seen by any person for a specific sum of money to be paid by such person, **and each set top box located at such place, for receiving the subscribed broadcasting services relating to television, shall constitute one subscriber;***

Its pertinent to note (Set-top-box ) is a CAS / DRM enabled D2A convertor device(s) located at subscriber premise and the same cannot be construed as a “Subscriber” over wireline network services, that also includes DTH.

A Family / Household - “a group consisting of two parents and their children living together as a unit”

*(p) “distributor retail price” or “DRP” for the purpose of this Order, means the price, excluding taxes, declared by a distributor of television channels and payable by a subscriber for a-la-carte pay channel or bouquet of pay channels, as the case may be;*

*(y) “network capacity fee” means the amount, excluding taxes, payable by a subscriber to the distributor of television channels for distribution network capacity subscribed by that subscriber to receive the signals of subscribed television channels and it does not include subscription fee for pay channel or bouquet of pay channels, as the case may be;*

*(b) “addressable system” means an electronic device (which includes hardware and its associated software) or more than one electronic device put in an integrated system through which transmission of programmes including re-transmission of signals of television channels*

*can be done in encrypted form, which can be decoded by the device or devices at the premises of the subscriber within the limits of the authorization made, on the choice and request of such subscriber, by the distributor of television channels;*

Requisite ammendment needs to be made by the Authority, as whatsoever is being subscribed by a household is a “Family Subscription”. This includes both NCF and DRP. Any wireline service signal receiving device is just another household good(s) used within a household and is not by itself, an end consumer / subscriber/ household.

Therefore the Authority ought not regard the Network Capacity fee as “agnostic”. The authority has already noted that the cost of subscriber management, billing, complaint redressal, call centre etc. comes to be approximately Rs. 50/- per month. Also, the wiring and other instrumentality involved in carrying the electro-magnetic waves to a subscriber in a single home remains the same/common. Moreover, the DPOs including DTH operators have themselves allotted various STB’s in a household, a single “Subscriber ID”. Therefore, the cap of NCF of Rs. 130/- for 100 SD channels shall be made jointly chargeable for various STB’s allotted a single subscriber ID and not be charged severally for each STB in a shared household.

Also, the Authority ought to consider that when a particular channels once disseminated in a shared household through a common wire, then the price of such channel shall not be severally charged for each STB under the same subscriber ID because the electro-magnetic wave involved in distributing the said channel is passed through a single common wire/instrumentality connected with the rest of STB’s under the same subscriber ID.

If such an approach is implemented, then equity can be established between the interest of Broadcasters, Distributors and the Consumers. In this way, the Broadcaster will anyway be in profit since the forbearance on deciding the MRP of a particular channel under the cap of Rs.19/- had already been provided by the Authority. The Distributor has also been eased by the authority to charge the NCF and enter into RIO with a broadcaster on non-discriminatory basis without getting stuck with the CPS deal. And the interest of a Consumer will also be restored, if NCF of Rs. 130/- for 100 SD channels is chargeable jointly for various STB’s under a single subscriber ID and the MRP of a particular

channel is also charged jointly for various STB's under a single subscriber ID for the reasons explained above.

Note: For charging the NCF of Rs. 130/- for 100 SD channels jointly for various STB's under a single subscriber ID, the authority also need to amend the definition of a "subscriber" under the 2017 T.O. to an extent of defining a "subscriber" as a "Single Subscriber ID allotted to various STB's in a shared household" rather than defining it as a "single STB".

***Q15. Is there a need to fix the cap on NCF for 2nd and subsequent TV connections in a home in multi-TV scenario? If yes, what should be the cap? Please provide your suggestions with justification.***

A15. There is greater need to amend the definition of the "subscriber" been put in use by the Authority, please refer to A14, multi-TV scenario is a consequence of convenience, akin to how a household / family selects to have a multi-AC scenario or multi-STB scenario to cater to its multi-TV scenario. The DPOs directly or through their last mile service operators are provisioning the respective signals till the customer premises. There after it's an installation made solely at the consumers' own expense and cost. Whereas the CPE "Customer Premise Equipment" such as splitters, line extender and even the STBs are charged separately by the service provider.

***Q16. Whether broadcasters may also be allowed to offer different MRP for a multi-home TV connection? If yes, is it technically feasible for broadcaster to identify multi TV connection home?***

A16. The MRP declared by the broadcasters should be construed as a family subscription and when the DPOs are also feeding the customer data in their SMS as one residential customer having additional TV outlets. YES it is technically feasible for the broadcasters to easily identify multi TV connection home, as the unique Customer ID is being generated by the SMS and additional TV outlets are being fed the same common signals through additional STBs deployed in a multi TV connection home.

***Q17. Whether Distributors should be mandated to provide choice of channels for each TV separately in Multi TV connection home?***

A17. Now with the advent of all HD receiving CPE / STBs / D2AC that are in HEVC ( H.265 format ) every STB is inherently having a dual output source that is in HDMI as well composite 3 RCA AV. This characteristic allows convenient splitting of an output to connect 2 different sources of receiving apparatus, which we can conveniently term as 1+1 TV where the consumer without deploying an additional STB can avail the choice of channels subscribed for the consumption of its family that are also tuned on to be received on an additional TV set in the household without using another STB / CPE in the same household.

***Q18. How should a long term subscription be defined?***

A18. Long term subscription can only be defined as the yearly subscription

***Q19. Is there a need to allow DPO to offer discounts on Long term subscriptions? If yes, should it be limited to NCF only or it could be on DRP also? Should any cap be prescribed while giving discount on long term subscriptions?***

A19. Discounts can be offered on a yearlong subscription that's being paid upfront in advance.

***Q20. Whether Broadcasters also be allowed to offer discount on MRP for long term subscriptions?***

A20. Only the last mile service provider / DPOs should be entitled to offer discount on long term subscriptions. Broadcasters are in a habit of misusing any flexibility been offered to them, hence this can give rise to disparity and discrimination in this distribution value chain.

***Q21. Is the freedom of placement of channels on EPG available to DPOs being misused to ask for placement fees? If so, how this problem can be addressed particularly by regulating placement of channels on EPG?***

A21. There is no reason to restrict or disallow Placement and Carriage Fees, as long as they are levied in a transparent and uniform manner for all channels on

the network. TRAI has accepted that both, Placement Fee and Carriage Fees are legitimate sources of revenue for the duly registered / licensed DPOs.

***Q22. How the channels should be listed in the Electronic Program Guide (EPG)?***

A22. In the normal course of conducting the DPO business provisioning of EPG was a value add. However, under the new regulatory framework the EPG is also being used for publishing the declared MRP of the Pay TV channels. Where usually the channels are listed using LCNs that starts from 001 – 999 with distinctions made genre -wise.

***Q23. Whether distributors should also be permitted to offer promotional schemes on NCF, DRP of the channels and bouquet of the channels?***

A23. Any flexibility given to the Broadcaster or the DPOs tend to be misused. Hence, its not advisable to extend and permit any further flexibility that may be misused by the Pay TV Broadcasters through their directly and indirectly aligned DPOs

***Q24. In case distributors are to be permitted, what should be the maximum time period of such schemes? How much frequency should be allowed in a calendar year?***

A24. Please refer to A23 above.

***Q25. What safeguards should be provided so that consumers are not trapped under such schemes and their interests are protected?***

A25. No consumer safeguards measures, or restrictions shall be ever required if the requisite ammendment are brought in at the earliest in the new regulatory framework. As no schemes / discounts shall be permitted, hence no possibility of the consumers getting trapped under any scheme.

***Q26. Whether DPOs should be allowed to have variable NCF for different regions? How the regions should be categorized for the purpose of NCF?***

A26. In order to maintain a simplified yet effective regulatory framework, uniformity is an essential ingredient. Therefore a common and fixed NCF must be implemented countrywide applicable for all DPO Platforms:

**Q27. In view of the fact that DPOs are offering more FTA channels without any additional NCF, should the limit of one hundred channels in the prescribed NCF of Rs. 130/- to be increased? If so, how many channels should be permitted in the NCF cap of Rs 130/-?**

A27. There are more than 800 permitted TV channels in the country and many more have applied for the downlinking of TV channels.

*(q) "free-to-air channel" or "free-to-air television channel" means a channel which is declared as such by the broadcaster and for which no fee is to be paid by a distributor of television channels to the broadcaster for signals of such channel;*

*(y) "network capacity fee" means the amount, excluding taxes, payable by a subscriber to the distributor of television channels for distribution network capacity subscribed by that subscriber to receive the signals of subscribed television channels and it does not include subscription fee for pay channel or bouquet of pay channels, as the case may be;*

*(zh) "television channel" means a channel, which has been granted downlinking permission by the Central Government under the policy guidelines issued or amended by it from time to time and reference to the term "channel" shall be construed as a reference to "television channel".*

There exists some infirmities in the aforesaid definitions been prescribed by the Authority, Therefore the NCF cannot be linked to offering a prescribed number of FTA channels / television channel under the NCF cap of Rs. 130/- Hence the term BST ( Basic Service Tier ) should be reintroduced in the new regulatory framework with the term of minimum carriage capacity of 150 television channels to start with, excluding the mandatory DD channels and UGC / HRDM run Distant Education channels. This BST Channel Carriage Capacity can be reviewed and increased every two years, as that is also imperative for bringing some benefits with an incentive and doing justice to the hundreds of Free – to - Air or Free-to- View broadcasters also making an application to the Central Government for grant of downlinking permissions whilst paying the same license fee as are being paid by the Pay TV Broadcasters.

*(za) "pay channel" means a channel which is declared as such by the broadcaster and for which broadcaster's share of maximum retail price is to be paid to the broadcaster by the distributor of television channels and for which due authorization needs to be obtained from the broadcaster for distribution of such channel to subscribers;*

**Q28. Whether 25 DD mandatory channels be over and above the One hundred channels permitted in the NCF of Rs. 130/-?**

A28. Please refer to A.27 above. Any number of DD channels or public utility channels such as distant education channels being run by UGC and the Ministry of HRD that are being funded from the public exchequer do not fall under the definition of “television channel” and they are to be mandatorily carried on all distribution platform(s) so these services cannot be construed inclusive of the Carriage Capacity or the Basic Service Tier / NCF

**Q29. In case of Recommendation to be made to the MIB in this regard, what recommendations should be made for mandatory 25 channels so that purpose of the Government to ensure reachability of these channels to masses is also served without any additional burden on the consumers?**

A29. Authority can make a recommendation to the Ministry of Information & Broadcasting that the present mandatory 25 channels are to be carried mandatorily by all the DPOs over and above the NCF / BST or the Channel capacity prescribed by the Authority.

**Q30. Stakeholders may also provide their comments on any other issue relevant to the present consultation.**

A30. The issues being faced post implementation of the new regulatory framework are only due to non -implementation of key provisions in the Eighth T.O has been enumerated in this response being made to the present consultation, the Authority being a well informed expert body should take lessons from its mistakes made and timely remedy the same in the larger interest of the consumers.

If the Authority may require any further clarification / information , the same can be requested via : -

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