

**IMCL's response to TRAI Consultation Paper No. 10/2019 dated 16<sup>th</sup> August, 2019**  
**Consultation Paper on Tariff related issues for Broadcasting and Cable Services**

IndusInd Media & Communications Ltd ("IMCL") is pleased to submit its comments to the Telecom Regulatory Authority of India's ("TRAI's") Consultation Paper on Tariff Related Issues for Broadcasting and Cable Services, dated 16<sup>th</sup> August 2019.

At the outset, we at IMCL would like to applaud the TRAI for issuing this Consultation Paper which touches upon many points of the New Tariff Order, and how it can be improved, both for the Broadcasters/DPOs, as well as for consumers.

A Multi-Service Operator ("MSO"), as well as a Headend-in-the-Sky ("HITS") provider, IMCL agrees with the Authority that there should be a review of the key problems that had to be tackled during the implementation of the New Tariff Order (NTO), as this will serve to ensure that any issues can be ironed out, thus ensuring maximum customer satisfaction.

Please find below the responses ("Responses") from IMCL on the questions raised in the Consultation Paper.

**1. 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.**

Yes. We agree that flexibility available to broadcasters to give discount on sum of a-la-carte channels forming part of bouquets has been misused by broadcasters to push their channels to consumers

It has been observed that due to the 'reversal' of the original NTO 15% proposal, the pricing of a-la-carte (ALC) channels, as well as bouquets have been impacted. This has led Broadcasters to misuse the said flexibility and push consumers to take their bouquets. This, in turn, has resulted in DPOs having to create cost-effective and attractive DPO bouquets that customers will be interested in. ALC pricing of channels is so high that it becomes challenging to create bouquets made only of ALCs.

It is also observed that Linear channels are priced differently on cable and OTT platforms. Hence, It is suggested that there should be price parity for such channels on both the platforms.

When designing its own bouquets, IMCL found that a typical language bouquet made up only of ALC would typically include only around 10-15 channels, whereas a similar-costing package created with bouquets (which included most of the same ALC) could provide consumers with 30-40 channels for roughly the same price. It is therefore understandable for a consumer to want to select the 30-40 channel bouquet, as they are getting more channels for the same price, which they could watch at their leisure, should they so choose to do.

As TRAI has itself noted in the Consultation Paper, channel pricing has been structured by Broadcasters such as to make ALC products unattractive, and push consumers and DPOs to using their bouquets as far as possible.

In many cases, broadcasters have bundled many of their less popular channels into their main bouquets in order to sell those channels to customers which, in turn, forces the DPOs to carry those channels which they may not have carried previously. In our own network, ahead of NTO we had to remove more than 60 channels from our lineup, which consisted mainly of FTA channels and that of smaller broadcasters, in order to make space for the channels required by the larger broadcasters to be included in their most popular bouquets. Due to technology capacity issues, it was not possible to simply invest in additional encoders to accommodate the channel requirements of broadcasters' bouquets without replacing existing channels in the network.

DPOs, like ourselves, had to look at their consumer requirements in their area of coverage and ensure that they could provide the main broadcaster bouquets that their customers would want or be at risk of losing subscribers to competitors who could offer such bouquets. This has resulted in a large change in channels being required in the lineup in order to meet the broadcasters' bouquet requirements ahead of NTO.

For example, the Hindi bouquets of 2 of the largest broadcasters contain news channels of specific regions like MP/CH, UP, UK, HP etc. which are aimed primarily at people in those states; however, to offer Hindi bouquet to customers, DPOs are forced to carry all these news channels in states like Maharashtra or Gujarat where these

channels were not running previously. This can only be done at the detriment of other channels that may need to be removed to make space for these news channels.

Some CAS systems, particularly those used by smaller MSOs, have limitations as to the number of packages in which a single channel can be added: Therefore it is not possible for these CAS systems to be able to implement the total number of bouquets offered by broadcasters. This also creates issues with these smaller DPOs not being able to offer as much choice as other DPOs in respect of the number of broadcaster bouquets.

IMCL believes that TRAI may look at implementing the following initiatives in order to reduce the skew between ALC and bouquet rates:

- a. Re-introduce the 85% price limit (15% discount) between bouquet price and total sum of ALC MRP of the channels contained in it. This will ensure that ALC channels are priced at affordable rates and that bouquets are not equal to or cheaper than the ALC pricing of just a handful of channels contained in said bouquet.
- b. Ensure that there are limits to the number of channels added into a bouquet. This will also make Broadcasters avoid putting in too many channels, many of which consumers do not want to watch. This will also ensure that DPOs can select bouquets that make the most sense for their territories and languages, without having to replace other FTA/independent channels in order to make space for larger broadcaster channels required by their main bouquets, as many have already had to do when migrating to NTO.
- c. Restrict the frequency of changes in the Bouquets made by the Broadcasters. In just last six (6) months post NTO, some broadcasters have made upto four (4) sets of changes to their bouquets, including reducing pricing, changing composition of bouquets etc. Hence, Broadcaster Bouquets should be limited for operational efficiencies and to reduce logistical and technical challenges at the DPO level.

Whilst we appreciate that broadcasters are also trying to understand their changed scenarios under the NTO regime and modify their packaging accordingly, we would

request TRAI to help in regulating the frequency of such changes as it becomes very difficult to implement, particularly for larger MSOs which have multiple systems to make changes in. We propose that a minimum of at least 28 days' notice should be provided to the DPO by the broadcaster before these changes take effect after signing the new RIO agreements.

**2. 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-à-vis other broadcasters?**

Yes. Some Broadcasters do give heavy discounts on their bouquets to ensure maximum penetration of all their channels. This has already created a scenario where:

- a. Many FTA or independent channels have had to be removed from an existing DPO lineup to make space for channels required by broadcaster bouquets of larger broadcasters, due to technology capacity issues.
- b. It is difficult even for DPOs to use ALC products in their own DPO bouquets, which are designed to provide consumers with curated and region specific bundles that customers can subscribe to.

**3. Is there a need to reintroduce a cap on discounts 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?**

Yes, there is a need to reintroduce a cap on discounts on the sum of a-la-carte channels which may form a part of a bouquet while forming bouquets by broadcasters.

We believe that TRAI's original model of 15% discount on the sum of a-la-carte channels is the correct model to be applied and would result in greater customer choice.

- 4. 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?**

Please see our response to (3) above.

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

It is suggested that TRAI engages broadcasters and appeals / persuades them to create smaller bouquets that are not made up of more than, say, 10 channels (today some bouquets include 24+ channels). This will enable the customers to take channels which they are interested in.

In order to avoid the above-mentioned issue, it is also suggested that the flexibility to create packages be allowed only to DPOs, and not to Broadcasters. Section 3.53 of this Consultation Paper has clearly captured the fact that DPOs are better equipped than broadcasters to create packs as per the customers' taste and choice, as the DPOs are who actually face the Subscribers.

- 6. 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?**

Yes, we do believe that the number of bouquets being offered by broadcasters and DPOs to subscribers is too large, and is causing confusion to customers in determining as to which packages they should be subscribing to.

It is suggested that the DPOs be given the flexibility to make the bouquets. IMCL with HITS would require region-specific bouquets for eg. North East, Kargil, Andamans, etc. so flexibility of making bouquets should be given based on state, region, target market as smaller channels can be region-specific and have more customer viewership.

Further as discussed above, broadcasters should also provide sufficient notice to DPOs on changes they are planning for their bouquets/pricing in order to allow the DPOs sufficient time to make the necessary changes, both at the headend, as well as SMS and CAS. The frequency of changes may be limited to once a month and with at

least 28 days given to implement such changes in all systems, after the signing of any new interconnect agreement.

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

Whilst we understand that broadcasters have tried to create different products for different languages/genres and different price points, these packages have been created by also adding multiple channels that are not-so-popular. Based on number of languages and genres, formula or calculation of number of channels to be included in a bouquet can be arrived at.

**8. 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?**

Yes. Based on the data provided by TRAI in the Consultation Paper, it is very clear that the price of individual channels is, effectively, getting hedged when contained in a bouquet. This is resulting in consumers having to opt for bouquets as this is the most cost-effective way of purchasing their channels.

**9. Does the ceiling of Rs. 19/- on MRP of an 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?**

We do not believe there should be a ceiling on the price of channels. This should be determined by broadcasters and customer demand. So long as the bouquet price correctly reflects the ALC pricing of channels (i.e. sum of a-la-carte channels in bouquet should not be greater than 15% of the bouquet rate), then channels can be priced at whatever rate the broadcasters feel that their content is valued at. This will help channels develop ever-better quality of content and ensure that the investments so made in their content are not limited by any artificial ceilings with respect to the price at which they can sell that content.

**10. 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?**

Our own analysis of our customers' behavior shows that customers are exercising their choice and are also enjoying being able to select broadcaster and our own DPO bouquets to make their selections easier. The level of choice has allowed customers to be able to opt to purchase only those products that contain the channels that they are interested in. The Customer choice is seen in DAS 3 / DAS 4 primary markets and choice of content shows price preparedness. However, to ensure maximum consumer choice, it is suggested, that TRAI may enforce the 15% discount formula between ALC and bouquets from broadcasters to ensure that the ultimate goals of the NTO are achieved.

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

The composition of the bouquets, particularly by some large broadcasters, has resulted in a large number of channels having to be added to the lineup in order to meet the requirements of their most popular bouquets (e.g. Hindi Standard packages), which has consequently forced DPOs to remove other channels from the lineup in order to make necessary space. This has resulted in various FTA or independent channels having, at times, to be sacrificed, to the detriment of the end-consumer.

Whilst choice is great, too much choice also causes confusion for consumers.

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

We believe that the larger Broadcasters should review their bouquets and try to reduce these to a more manageable level, also because it becomes very difficult for DPOs or operators to be able to sell the correct packages to customers.

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

Broadcasters need to make more efforts to promote their bouquets on their channels and through our media. Many people, especially older generations, do not easily use the internet to obtain information about the bouquets and products.

Further, the reduction in the number of broadcaster bouquets would also simplify and reduce the number of products a customer has to select from in order to select the channels that they actually want to watch.

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

Regulatory provisions should be available to enable discount in NCF and DRP for DPOs under all circumstances, including multiple TV homes, should DPOs wish to use these provisions for their business. DPOs should not be limited to not being able to offer these in order to meet their business objectives and ensure maximum competition on the ground that creates price competitiveness for customers.

DPOs are concerned about multiple TV home scenarios as this can regularly be exploited to gain better discounting across multiple customers living in close proximity who may also not be in a single home. As mentioned in the Consultation Paper itself, it is clearly stated that even broadcasters are concerned with the capability of actually verifying cases of multiple TV homes on the ground. Whilst these can be defined in the SMS system relatively easily, verifying the veracity of the situation on the ground is far more difficult, and could leave even broadcasters open to exploitation by DPOs exploiting this potential discounting. We believe alternative models should be found by broadcasters for trying to offer multi-TV home customers better choice and discounting.

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

We do not believe that the cap on NCF for 2<sup>nd</sup> and subsequent TV connections should be implemented beyond what is already defined for 1<sup>st</sup> TV homes. If broadcasters are

not willing to offer DRP discounts as they cannot verify the veracity of the situation on the ground, then similarly DPOs will not be able to verify the same either.

Further, if the discounting is only on the NCF, then it is the DPO that is being affected with the broadcasters not being impacted by the discounting. This puts the burden of offering discounts solely on the revenues of the DPO , which, clearly. is unfair.

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

No, as it is not feasible to identify multiple TV connections and the same may lead to disputes between broadcasters, DPOs and LCOs.

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

DPOs should be mandated to provide choice of channel for each TV separately in a multi-TV connection home. If the NCF and DRP rates are going to be as per those of any other subscriber, then the choice must reside with the customer on what channels they want to pay for on their 2<sup>nd</sup> or 3<sup>rd</sup> STB.

**18. How should a long-term subscription be defined?**

We believe that a long-term subscription should be defined as any package taken by a customer for 3, 6, 9 or 12 months, during which time the customer cannot change the package selection. However, addition of new bouquets/channels can always be done, but any promotional scheme may not be changed.

**19. 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?**

DPOs would like to offer their customers discounts on long term subscriptions as this rewards customer for their loyalty to the DPO. This, however, should not be limited just

to NCF but also to DRP, with both DPO and broadcasters combining to offer long-term discounts to consumers. A cap should be prescribed by TRAI to ensure a level playing field to all DPOs, including smaller MSOs that would not have the bargaining power of larger DPOs.

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

Broadcasters should be allowed to offer discount on MRP for long-term subscriptions as this will only benefit the consumers through reduced content consumption fees.

**21. Is the freedom of placement of channel 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?**

Yes, the freedom of placement of channel on EPG available has been seen to be misused occasionally especially by the larger broadcasters.

Broadcasters, especially the larger ones, are requesting DPOs for placement of a very large number of channels in order to secure the additional 15% discount for placement. This is creating a very un-level playing field as, typically smaller independent broadcasters cannot therefore feature in the top 1-15 channels in any genre typically.

For any DPO, the share of revenue generated by the larger broadcasters will nearly always be far higher than any independent channel or smaller broadcaster. As such, the placement revenue, which can be up to 15% of the total subscription revenue, will always be much higher if larger broadcasters' channels placement requirements are met, rather than any smaller independent channel. It is therefore obvious that any DPO, looking to maximize their revenues, will always place any other channel not owned by the larger broadcasters much lower in the EPG, thereby impacting their placement and advertising potential.

We suggest that TRAI consider the following:

1. De-linking the placement fees and penetration targets from subscription revenues, thereby allowing smaller, independent broadcasters to also get a chance to move up in the EPG
2. Capping the number of channels that any broadcaster can request placement for in order to collect placement fees.

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

A pan-India DPO, that caters to customers of all languages, needs to be able to enable that its customers find their channels with ease. The proposed option of using the Gx.Ly model, means that customers of languages including the South-based languages would typically need to scroll through all Hindi, English channels before they could access their own language content within the genre. This penalizes customers of these languages. Which is why IMCL has implemented the Lx.Gy model, allowing customers to find their language first, and then view all the language channels ordered by genre below it. This model has been found widely accepted amongst consumers. The same also applies in the larger metros with their cosmopolitan consumer profile across multiple languages.

For smaller DPOs within 1-2 states, and outside the large metros, a Gx.Ly model can be effective as they will typically offer channels primarily in 1-2 languages, with the rest of the languages being viewed by a far smaller audience.

We do not believe that the structure of the EPG needs to be regulated by the TRAI, except to ensure that any channel cannot be placed twice or more in the same EPG. The structure of the EPG and genres should be decided solely by the broadcasters and the DPO based on providing the best customer experience to their specific base.

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

We believe that DPOs should be permitted to offer promotional schemes of any nature to their customers in order to retain and incentivize customers to move to their network. There should be no regulations on the level of discounting or the types of promotional schemes that are offered by DPOs as this simply impacts the customers adversely.

**24. 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?**

There should be no time limit set to any such scheme, however, if time limit were at all to be defined, it should not be less than 3 months. Equally, frequency of such discounts should not be regulated, and DPOs should be allowed to do whatever it takes to provide as much benefit to their customers as possible.

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

Any scheme will have terms and conditions that are defined by the broadcaster and DPO. Like any product, consumers must accept the terms and conditions which may however, vary from time to time.

Addition of new bouquets/channels can always be done, but any promotional scheme may not be changed.

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

The ability of DPOs to modify their NCF for different regions should be available to DPOs so that they can price their products according to the general market conditions of that region. However, this should not be regulated to the extent of having certain NCF caps for specific regions or areas of the country. Now that content pricing is defined nation-wide and there is no difference in pricing across the country, NCF should also, therefore, be allowed to be applied nationwide also. However, DPOs

should be allowed to offer specific regions (e.g. rural areas) discounted NCF to ensure cost of products that are appropriate to the consumers' capacity to spend.

**27. 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/-?**

DPOs should be free to include as many FTA channels as they wish under the NCF cap of Rs. 130/- for the first 100 SD channels. There is nothing preventing DPOs offering these channels and not charging the additional NCF to customers. We believe no further regulations are required in this area.

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

We believe the 25 DD mandatory channels should be included in the NCF of Rs. 130/-. The NCF is essentially the "infrastructure costs" borne by the DPO in providing its content to customers. Each DPO is effectively bearing infrastructure costs also for the 25 DD channels, whether that is in encoders, transmission etc. As there are costs to each DPO of transmitting the 25 DD mandatory channels, these should therefore be included in the NCF of Rs. 130/-.

**29. In case of Recommendations 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 consumers?**

Please see answer to (28) above.

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

IMCL would like to congratulate TRAI on a successful implementation of the NTO. However, as with any large-scale change on the scale of NTO, there are always possible improvements to assert the rollout and the implementation of such a

comprehensive and important regulation. We have provided few instances where further consultation would ideally be required:

1. We understand (based on the reports that we have collated from the ground) that some DPOs are being offered fixed fee deals by certain broadcasters. Whilst the MRP is set for consumers, the rate at which the broadcaster charges the DPO is set on a fixed-fee basis, which returns us back to pre-NTO status.
2. Another unfortunate aspect of NTO is the number of analogue networks (and illegal/uncertified digital head ends) that have returned, particularly in more rural areas, to exploit the NTO regime and pay lower costs to broadcasters and provide more content illegally to subscribers. This is impacting legitimate DPO businesses who are trying to implement the NTO framework in a legal fashion as per the regulations. We therefore request that TRAI police each network and supports DPOs in monitoring and curbing these illegal activities. .
3. It is also requested that TRAI set out stringent regulations to ensure price parity and non-discrimination for all in the value-chain (Broadcasters, DPOs/LCOs), irrespective of platform or size, by the broadcasters. This will ensure a level-playing field for all in the value-chain, including consumers.
4. We would also like to suggest that TRAI forms a Compliance Cell which would include representatives of all the stakeholders and conduct monthly meetings and address issues like piracy and any other unscrupulous activities prevalent in the industry.