

COMMENTS ON DRAFT TELECOM (B&CS) TARRF ORDER 2016

Lt Col VC Khare(Retd) Cable TV Industry Observer

Observations on Draft Order

1. Part I.

Para 1(3) – Does it cover IPTV, though a non-starter by and large, by TELCOs.

Para 2 (b) – Consider a simpler, and more meaningful definition, ‘Facility for enabling or disabling television content viewing by subscribers selectively and remotely’

Para 2(f) – Broadcasters do NOT provide any services. They obtain permission to offer their programs to be carried over RF carriers by aggregators with various types of modulation, with one program occupying a 7 or 8 MHz wide RF channel in 47-862 MHz band in CATV for analog content, thereby connoting a channel which is absurd. With mandating of digitization, depending upon type of encoding, 10 to 24 programs are packed in each RF channel. Therefore, it is time the connotation is understood and definitions amended accordingly.

Para 2(g) – Broadcasting services need to explain the ‘point to multi-point’ nature, as distinct from telecom which is ‘point to point’, generally uni-directional, where so recognized by the MIB. Broadcast over Cables is NOT recognized as BROADCAST by MIB.

Para 2(y) – This term MSO needs to be revised. In its origin in US, it connoted service providers operating in more than one location, providing ON DEMAND services on bi-directional networks and later delivering Voice and Broadband to subscribers over cables including optical fibre. Further they provide service to subscribers directly without an intermediary (like LCO in Indian Context) and bill subscribers. A more meaningful term, in Indian context, is HEADEND SERVICE PROVIDER (HSP), i.e. one who is registered with MIB to install a digital headend at a notified location to turnaround satellite casted or terrestrially broadcasted TV content including server based insertions, by encoding, encrypting, multiplexing, modulating, combining and driving a distribution system wireline (HFC) or wireless (DTH or HITS). The delivery, as mandated, needs to be subscriber managed, in that enabling viewing by subscriber and billing is implied. It is felt that all connotations should be technically correct.

Para 2 (za) PAY TV is that content for which Headend Service Providers pay the broadcaster.

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Para 2(z) and z(b) – Term channel should be replaced by ‘program’.

2 Part II

Para 3- Subscriber does not know Broadcaster or the HSP. DAS legislation implies payments for pay content by HSP to broadcaster NOT by subscriber. It is stated that a-la-carte rates will be communicated to the subscriber. Then provisions to make bouquets by HSP and broadcaster are contradictory.

Para 3(2)- In DAS topology I , subscriber is NOT in contact with Broadcaster. Hence should be amended to read 'shall offer all channels only on a-la-carte basis to the Headend Service Provider (a better term than MSO) who shall prepare a rate card, also on a-la- carte basis to be presented to the subscriber' and rates in this card need not be the same as agreed between the Broadcaster(or put up on web site) and HSP since OPEX (inclusive of HSP's remuneration and Cable Operator's share)has to be added. The draft connotation, unless clarified, gives an impression that Broadcaster's rate is the MRP for subscriber as was the case in CAS. If that be so then percentages for revenue sharing on these rates too should be worked out by TRAI like was done for CAS.

Para 3(3) Suggest in line 1 add ‘also’ between be and open. This would confer the right to make bouquets only upon the HSP.

Para3(4) Allowing bouquet formation at Broadcasters end is contrary to Cable Act and Rules. Bouquets should be made by the HSP for their subscribers because they construct the rate card and communicate rates to subscribers. Accordingly in line 2, words ‘ by the broadcasters’ should be deleted.

Para 3(5) – This term rental is not contained in any vocabulary of the Act and Rules. In DAS context it has relevance only for provision of set top boxes (outright purchase, hire purchase or renting). For providing 100 FTA programs(not channels) to the subscriber, Basic Service Tier attracts a monthly payment of Rs 100/- per month. Rentals are applicable for set top boxes NOT obtained on outright sale.

Para 3(6) – Needs to clarify that on seeking DAS Service, minimum charges will be Rs 100/- per month, as for Basic Service Tier. Otherwise naughty subscribers can order ONLY one PAY TV program at say Rs 10/- per month. It for this reason that itemized billing is recommended to cover (a) BST, (b) FTA over and above BST, (c) PAY TV ‘a-la-carte’,(d) PAY TV bouquets(e) STB provisioning if any, (f) Other charges if any , (g) Entertainment tax(f) Service Tax and Total payable.

Para 3 (9)- Any suggestion, direct or indirect, involving bouquet formation by Broadcasters needs to be removed being contrary to Act and Rules.

Para3(11)- Suggest desist from using term **rental** as being connected in reference to charges for TV content

3 Part III.

Para 8(1) is NOT well conceived. If compliance officer below a subscriber of 250000 subscriber is NOT required, then in present situation, no SMS at headend will reflect 250000 subscribers, meaning thereby that compliance officer is

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NOT required. Further, Broadcaster can only submit aggregated figure compiled from Broadcaster's monthly report from HSPs. Broadcasters do NOT employ compliance Officers for monitoring Headends. They are allowed to conduct bi-annual audit checks of Headends to satisfy that CAS and SMS are functioning as mandated.

Para 8(6 b) –In the Indian 'Conformist' employment environment, which compliance officer, on pay roll of a service provider, report against the employer on violations? For this purpose, independent and clued up persons of integrity need to be employed by TRAI to audit and report.

Voids in Tariff Order

3. From 2004 onwards, TRAI and MIB, both, have NOT been able to obtain, from PAY Broadcasters, the basis for pricing of content. In absence of this basis 'principle of economy of volume' for price to end user cannot be established. In this paper there is no mention as to how the prices have been arrived at. It appears that prevailing prices have been averaged.
(It may be recalled that since 1998, the practice of declaring 30% connectivity had been introduced by PAY Broadcasters. They then accepted that rates being charged were kept higher to cater for under-declaration, meaning that rates were 200% higher than fair price.DAS, if correctly implemented, shall have no room for under-declaration. Hence MRPs should have been fixed at about 35% of current rates).

One Way of Pricing

4. The Regulators need to appreciate that no one ever runs business to incur losses. The price to distributor of PAY TV content could be determined taking into account :
 - (a) Cost of Content (from Invoice)
 - (b) Add on 100% on (a) above.
 - (c) Opex per program (NOT channel which will envelope many programs) at Earth Station.
 - (d) Transponder fee per program since a number of programs per transponder will be satellite casted.
 - (e) Figure of 60% of reported number of Satellite & Cable Homes in the country.
 - (f) Dividing total per program cost by this figure of 60% of viewer population
 - (g) Appropriation could be done on per subscriber per month basis..
 - (h) That would give a fair content provision price by the Broadcaster to the HSP.
5. Similarly at the distributor end the costs to be considered are :-
 - (a) Per subscriber, per month OPEX cost.
 - (b) Total payable to Broadcasters distributed over number of subscribers.
 - (c) Incidence of sum (a) and (b) above as cost plus factor to amounts payable to Broadcasters.
 - (d) Adding per subscriber percentage to be paid to Cable Operator.
 - (e) \sum (a) to (e) plus say 40% as consideration to Headend Service Provider.
 - (f) Thus would the retail price be computed to make the rate card.

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Conclusion

6. This order, as drafted, ignores Cable Operator who constitutes the HSP interface with the subscriber(Neither known to Broadcaster nor to HSP in DAS as implemented). Though unorganized they have proved that without them HSPs could NOT bill the subscriber making DAS implementation a failure. About 70000 of the cable operator eclipsed DAS implementation as legislated for benefit to subscriber and belittled HSP and MIB task force in implementation of DAS. They got the STBs procured by the HSP(without its pairing with Subscriber ID, which was NOT created, and feasible the functionality of SMS. For the subscriber, except for STB interposing before their TV receiver, nothing has changed. They are paying for services as before.
7. It is NOT clarified that rates are MRP for whom ? If these are for subscriber, then percentage of Cable Operator and HSP's share too need to be notified by TRAI. But if these are for HSP then elements of para 6 above have to be added.
8. If this factor is NOT rectified, Cable Operators will keep providing services to subscriber at a fixed monthly subscription rate as before. HSPs will keep billing Cable Operators on per STB per month basis(reportedly a new consensus known to the task force) and DAS implementation will end up as a cruel joke.
9. One should avoid drafting orders which cannot be implemented. It is also a known fact that TRAI is a regulator without resources for policing. But then the regulator should get the MIB to get enforcement audit mechanism crated.
10. Orders concerning subscribers in such large magnitudes should be tested before promulgation for smooth implementation and adjudication if subjected to. That requires avoidance of ambiguity.
11. This write-up has NOT commented on rates proposed, should they have to be re-worked.