

Response to
Supplementary Consultation Paper
on
Tariff Related Issues for DTH Services
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Section I: We are thankful to the Authority, for allowing us to tender our views. Section II answers the queries raised in the Paper, Section III onwards attention has been invited to other issues that need to be addressed in the DTH sector.

Section II. (1) Whether there is a need to differentiate various packages for the purpose of wholesale tariff determination?

- Whole sale prices, discounts, etc. are always linked to volumes in every industry. In the DTH sector, packaging by Operators has a direct bearing on volumes for broadcasters. The DTH sector thus cannot be made an exception.

(2) If yes, how to define a basic package and add-on package for the purpose of wholesale tariff differentiation in relation to DTH services? Please elaborate your comments with appropriate reasoning.

- Paragraph 3.4 of the Supplementary Consultation Paper lays down the industry practice very succinctly with regard to Basic and Add On packs. We are in agreement with the same and accordingly recommend it.

(3) Whether there is a need for different wholesale price formulation for a TV channel/bouquet depending upon its inclusion in different packages offered to the subscribers by the DTH operators. You may also suggest any other option for differential wholesale price formulation. Please elaborate your comments with appropriate reasoning.

- There is an urgent need for different whole sale price formulation for a TV Channel/bouquet depending upon its inclusion in different packages. Globally as well as historically Regulators have at most regulated Basic offerings of service providers, Value added services have generally been kept under forbearance. Add on Packages are effectively "Value Added Services" and as such these should ideally be beyond the pale of regulations.

(4) If the wholesale price is to be linked with packaging of the TV channels then what should be the relationship between wholesale prices of a TV channel/bouquet offered by a broadcaster to a DTH operator, if the channel/bouquet is packaged as a part of a basic package, or as a part of add-on-package or both by a DTH operator? Please elaborate your comments with appropriate reasoning.

- If channels are taken on ala carte by a DTH Operator and also offered by it to its subscribers on ala carte then in so far as such ala carte offering is concerned, the broadcaster should be allowed 60 percent of the retail price which the Operator charges to its subscribers. This is because the Operator by offering the channel on ala carte believes that the value proposition of the channel alone shall carry it through and accordingly a greater share of customer spend on such channel has to be unlocked to the broadcaster.

- If channels are taken on ala carte by a DTH Operator and such Operator offers such Channel as a part of an Add On Pack, Broadcasters should be paid the Non CAS ala carte rate for such channel. By including the channel in an Add On

Pack, the visibility of the channel and its reach is severely impaired, not to speak of the inevitable hit on the volumes.

*- If channels are taken on ala carte by a DTH Operator and such Operator offers such channel as part of Basic pack, only then a discount of 50 percent of the Non CAS ala carte rate may be given, but only after factoring in the number of basic packs in which such channel has been packed. For example, say the whole sale Non CAS ala carte rate of Channel "ABC" is Rs. 50/- and the total number of Entry Level Packs in the Operator's platform is 10. In case the Operator packages the channel in only one such Entry level pack then the discount to be offered to such Operator should be limited to 5 % of the Non CAS Ala Carte rate (Maximum Discount (50%) * Number of Basic packs where the channel has been packed/ Total Number of Basic packs in the Operator's Platform), like wise if the channel is packed in two Basic Packs then the discount to be offered is 10 percent, If in three Basic packs then 15 percent, if in four , then 20 percent, if in five, then 25 percent, so on and so forth. In this case the Operator shall avail a maximum discount of 50 percent on the Non CAS Ala Carte rate only when it packages the channel in all basic/entry level packs.*

- If channels are taken on ala carte and are offered in one or more combination, i.e. the same channel is placed in add on pack, in basic/entry level pack and also offered ala carte, then the subscriber base of the channel by way of each such offering has to be ascertained and the respective rate shall have to be applied.

For example say Channel X has been taken by the Operator on ala carte and packed in an Add On pack having a subscriber base of 10, offered as alacarte having subscriber base of 5, and also included in say 5 out of 10 entry level packs having a total subscriber base of 60. Further assuming X's Non CAS ala carte rate is Rs. 70/-. Ala Carte retail rate being 150/-

In this case the pay out to the broadcaster for Channel X shall be as follows:

Illustration 1

<i>Package</i>	<i>Subscriber base</i>	<i>Rate at which payable to broadcasters</i>	<i>Amount paid to Broadcasters</i>
<i>Add On</i>	<i>10</i>	<i>70/-</i>	<i>700/-</i>
<i>Ala Carte</i>	<i>5</i>	<i>90/- (60% of 150/-)</i>	<i>450/-</i>
<i>Entry Level Pack</i>	<i>60</i>	<i>70/- – (50% of 70/- * 5/10) = 70/- – 17.5/- = 52.5/-</i>	<i>3150/-</i>
<i>Total</i>			<i>4300/-</i>

- If however a bouquet is opted, then there can be three situations:

- (a) If Channels comprised in the opted bouquet are packed as ala carte or made a part of add on offerings, then the Non CAS Bouquet rate*

applicable to the Opted Bouquet should prevail; Subscriber base of the opted bouquet in such cases shall as per the Regulations mean the Subscriber base of that channel comprised in the opted bouquet which has the maximum subscriber base in the Operator's platform. For example a Bouquet comprising of Channel 1, Channel 2 and Channel 3 is opted for by a DTH Operator and Channel 1 is packed as an ala carte offering, Channel 2 is offered as part of an add on pack and Channel 3 is packed again as ala carte, and they have the following subscriber Base:

Illustration 2

<i>Opted Bouquet</i>	<i>Packaging by Operator</i>	<i>Sub Base</i>
<i>Channel 1</i>	<i>Ala Carte</i>	<i>15</i>
<i>Channel 2</i>	<i>Add On pack</i>	<i>20</i>
<i>Channel 3</i>	<i>Ala Carte</i>	<i>30</i>

*Assuming that Non CAS bouquet rate of the Opted Bouquet is 30/-, the total pay out to the Broadcaster shall be Rs. 900/- (30/- * 30)*

(b) In a situation where there are more than one basic packs running simultaneously in the DTH Operator's platform and one or more channels out of the opted bouquet are packed in one or more of the Basic Pack(s) offered by the Operator, the discounts on the Non CAS Bouquet Rate of the Opted Bouquet may be suitably structured by considering the number of basic packs where one

*or more channels of the opted bouquet have been packed by the DTH Operator. In this model we have to calculate the discount on the opted bouquet's Non CAS rate by the following formula (Maximum Discount (50%) * number of basic packs in the Operator's platform where one or more channels of the opted bouquet have been packed/Total number of basic packs in the Operator's platform). Thus if there are 8 channels in the opted bouquet and 4 channels have been packed in say 3 out of 10 basic packs being run simultaneously by the DTH Operator whatever may be the permutation and combination, the discount shall be $50\% * 3/10 = 15\%$ of the opted bouquet's Non CAS bouquet rate. The maximum discount that could be availed by the Operator is 50 percent of the Non CAS Bouquet Rate of the Opted Bouquet if such Opted Bouquet has a presence in all the basic packs of the DTH operator through one or more channels (of such opted bouquet). Subscriber base of the opted bouquet in such case shall be the subscriber base of that channel belonging to the opted bouquet, which has the highest subscriber base in the Operator's platform in so far as such basic packs are concerned.*

Thus assuming:

Illustration 3

Entry Level Pack	Sub Base
I	10
II	20
III	25

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IV	35
V	60
VI	50
VII	40
VIII	30

And

<i>Opted Bouquet</i>	<i>Entry Level Pack where the channel has been packed</i>	<i>Subscriber Base</i>
<i>Channel 1</i>	<i>VIII</i>	<i>30</i>
<i>Channel 2</i>	<i>V</i>	<i>60</i>
<i>Channel 3</i>	<i>VI</i>	<i>50</i>
<i>Channel</i>	<i>III</i>	<i>25</i>

4		
Channel 5	VII	40
Channel 6	IV and VI	85
Channel 7	II, III and IV	80
Channel 8	I	10

Thus Subscriber Base of the Opted Bouquet shall be taken as 85 and the Opted bouquet shall be deemed to have presence in all the Entry Level Packs as one or more channels of such opted bouquet are present in all the Entry Level offerings of the Operator. So the discount on the Non CAS bouquet rate of the opted bouquet shall be 50 percent.

(c) If an opted bouquet has presence in multiple packs/offering i.e. one or more channels of the opted bouquet are packed in basic, add on packs and even offered ala carte, then the subscriber base shall have to be determined channel-wise individually for each such pack/offering, and then based on the existing Regulatory principles the subscriber base for the opted bouquet shall be determined. After having determined the subscriber base for such opted bouquet

in respect of each such offering, the respective rates as stated above shall be applied to determine total subscription fee.

Thus in the above example if in addition to the Entry Level packages the channels are also packed in the following manner:

Illustration 4

<i>Opted Bouquet</i>	<i>Manner of offering other than entry level, (Fig in brackets indicate Subscriber Base)</i>	<i>Total Subscriber Base for Add On/Ala Carte</i>
<i>Channel 1</i>	<i>Ala Carte (20) and Add On (30)</i>	<i>50</i>
<i>Channel 2</i>	<i>Ala Carte (25)</i>	<i>25</i>

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<i>Channel</i> 3	<i>Add On</i> (40)	<i>40</i>
<i>Channel</i> 4	<i>Ala Carte</i> (15) <i>and</i> <i>Add On</i> (20)	<i>35</i>
<i>Channel</i> 5	<i>Ala Carte</i> (10)	<i>10</i>
<i>Channel</i> 6	<i>Add On</i> (5)	<i>5</i>
<i>Channel</i> 7	<i>Ala Carte</i> (15) <i>Add</i> <i>On</i> (30)	<i>45</i>
<i>Channel</i> 8	<i>Ala Carte</i> (40)	<i>40</i>

Pay Outs to the Broadcaster for Opted Bouquet shall be as follows

<i>Packaging</i>	<i>Subscriber</i> <i>Base of Opted</i> <i>Bouquet</i>	<i>Rate to be</i> <i>charged by</i> <i>broadcasters</i> <i>to DTH</i> <i>Operators</i>
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<i>Ala Carte/Add On</i>	<i>50</i>	<i>Non CAS Bouquet rate of opted bouquet</i>
<i>Entry Level Pack (As per previous example)</i>	<i>85</i>	<i>50 % of Non CAS Bouquet Rate</i>

(d) If the Opted Bouquet is offered “in specie” by the Operator, then 60 percent of the retail rate charged by Operator to the subscriber should go to the broadcaster.

(5) Why should not a DTH operator extend *a-la-carte* mode of service provisioning of a TV channel at the level of subscriber?

- Leading economists have demonstrated how Ala Carte mode of service provisioning (either at whole sale or retail) is not at all economically beneficial for consumers. For details please refer to Annexure I. In the US, research has shown that a subscriber would have to limit buys to 6-9 popular (and therefore more expensive) channels if he wanted to beat the bundle price. In markets where it has been pushed through, Canada and France for instance, a la carte pricing has failed.

(6) Can the DTH operator offer a-la-carte option as one of the entry level options for subscribers?

- Please refer to our response in (5) supra

(7) If the DTH operators are required to make available the channels on *a-la-carte* basis to the subscriber, then what could be the minimum number of channels and/or minimum subscription price and/or minimum subscription period for subscribing to the channels? Please elaborate your comments with appropriate reasoning.

- Globally, Ala Carte option has never come with a price cap. Consumer choice will be severely restricted. Diversity of content will be stifled. However a Minimum Subscription period of six months is recommended as any contractual dispensation should have a minimum term.

(8) In case of *a-la-carte* provision to the subscribers, should there be a maximum permitted time frame for servicing request of a DTH subscriber? If so what should be such time frame? Please elaborate your comments with appropriate reasoning.

- No service request should be entertained till the expiry of minimum subscription period, and maximum permitted time frame for servicing request of a DTH subscriber should be one month.

(9) In case of *a-la-carte* offering of any TV channel by a DTH operator, whether there is a need to identify relationship between wholesale and retail price of that channel? Please elaborate your comments with appropriate reasoning.

- 60 percent of the Ala Carte Retail price should go to the broadcasters, remaining 40 percent may be retained by the Operator. DTH retail rates should be kept under forbearance as there is substantial competition in the DTH space.

Section III. We also request the authority to take into account the concerns of the Broadcasters with regard to genuine addressability on the ground and those with regard to vendors who are suppliers of CAS and SMS. These vendors should also be brought under the Regulatory scanner so that best practices can be uniformly ensured. These vendors should regularly report “Failure Data” to the Authority and the measures taken by them to rectify the same. This vital information should be uploaded in the website for Broadcasters to identify the cases where CAS/SMS had failed, the exact causes for the same, the remedial measures undertaken and the nature and extent of revenue loss. In the event any audit reveals shortcomings in any CAS/SMS, which the vendor had failed to report, suitable penal provisions should follow.

Section IV. Also the authority is requested to ensure declaration of tier wise subscriber base by the DTH operators as has been the practice in the Telecom sector.

Section V. We strongly recommend that the tariff model for DTH be replicated and applied non-discriminatorily in CAS areas as well. Many MSOs have opted out of CAS as they have not found the same to be economically viable.

Section VI. The Authority is also requested to make it mandatory for operators not to treat channels with discrimination, i.e, operators having vertical integration with broadcasters should not discriminate against channels of other broadcasters. This is requested in view of Clause 7.6 of

the License Conditions of DTH Operators and the Authority's stated view with regard to media ownership and vertical integration. Non Discrimination should be analysed on the basis of language, genre, and ownership of the channels and relation of the Operator with the owner/distributor of the Channels, in terms of equity holdings or management control:

For example: A DTH Operator vertically integrated with a broadcaster, packs all the channels of such broadcaster in all the tiers and complains about lack of transponder space when it comes to availing the platform to channels of other broadcasters.

Section VII. We also request the authority to conduct a thorough analysis of DTH penetration in CAS and Non CAS areas.

Section VIII. There should be no distinction made between carriage fees and placement fees as placement fees also invariably include carriage within its fold. Accordingly, those Operators demanding placement fees should also be barred from enforcing Clause 3.2 of the relevant Interconnect Regulations.

Section IX. MSMD notes with concern that while on the one hand DTH operators have been complaining about limited transponder space while availing carriage/placement to channels yet in the same breath they are pushing their own content services in the guise of other Value added services.

Section X. Also in case the channel is broadcasting a special event, a flexi pricing approach is needed. The channel may be priced at a much higher rate for the duration of such special event and in other times it should be allowed to charge the usual rate.

DISCLAIMER:

The usage of Non CAS ala carte rate in the above analysis is only by way of a theoretical construct and should not in any way or manner be construed as the Company's endorsement of an ala carte dispensation in Non CAS markets. The Non CAS ala carte rates should be theoretically derived basis the existing Regulatory principles but that is not to say that channels should actually be offered in ala carte in Non CAS markets and that it has to be so offered at all at such rates. The same should be used only for the limited theoretical purpose of arriving at the tariff formulations for the DTH sector.