

BEFORE THE TELECOM REGULATORY AUTHORITY OF INDIA AT NEW DELHI

Written Comments of the Mathrubhumi Printing & Publishing Company Ltd., on the Consultation Paper on Tariff related issues for Broadcasting and Cable Services dated 16th August, 2019.

1. MSOs/ DTH operators are continuing to dominate and influence market realities in a 'mightier than thou' attitude against the Broadcasters and consumers. The Consultation paper has grossly failed to recognize this fact.
2. The consultation paper has rightly identified (a) the need to revisit the offering of bouquets of channels, and (b) the need to curb the menace of collection of placement fee by MSOs/DTH operators. However, the analysis of contributory market factors has not been a comprehensive one.
3. The Consultation paper recognizes (para 3.4) that the Tariff Order's main objective- viz., to enable consumers to choose and pay for only the channels they want to watch- has been diluted by the plethora of bouquets which continue to dominate the viewership.
4. Much emphasis has been laid on the high pricing by *Broadcasters* of the a-la-carte rates of pay channels (para 3.8) and the heavy discounts offered by *Broadcasters* in form of bouquets (paras 3.22 to 3.24). The limitation in this analysis is that, (as identified in para 3.23) this is only in the case of Broadcasters offering a large number of channels. Much of the market continues to be dominated and influenced by the MSOs/DTH operators. In this regard, only if Question 4 (at page 41) is considered/ studied in greater detail, the consumer choice can be truly protected.
5. So also, with respect to the need to impose a cap on the number of bouquets offered to consumers, the market study in the Consultation paper (paras 3.26 to 3.31) is heavily based on reports from DPOs. The greater number of the bouquets offered to the consumers being the bouquets offered by MSOs/ DTH operators, the wider impact/ repercussion of the same is only given a passing recognition in para 3.32. A deeper and holistic study on the market factors, including the far reaching control exercised by MSOs/DTH operators is the need of the hour. This aspect in Questions 6 and 7 (at page 44) need to be given greater focus by the Authority. The Consultation paper, while correctly flagging the larger issues, has gone on a tangent by placing much focus on the small number of Broadcasters offering more number of channels (e.g., questions 1 and 2), without addressing the omnipresent role of MSOs/DTH operators.



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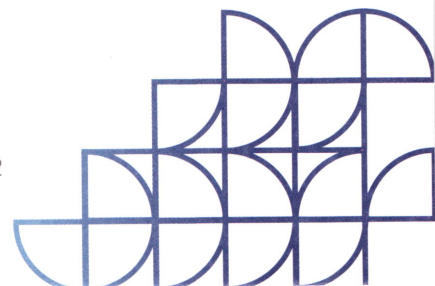
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6. The ultimate contact point for consumers are the MSOs/ DTH operators. The consumer choice can be realized only through proper streamlining of the functions of MSOs/ DTH operators and the new framework will not have the desired effect, until this point of contact is strengthened in terms of the new regulatory framework. The customer care facilities of MSOs/DTH Operators are either inadequate or not fully equipped and are not customer friendly. Further, certain MSOs/DTH Operators have made the Basic Service Tier (BST) redundant by including non-popular and other language channels. All this results in the Customers heavily relying on the packages/bouquets offered by the MSOs/DTH Operators, and not so much on the bouquets offered by few Broadcasters.
7. The Broadcasters too are arm-twisted to complete the vicious circle. The flexibility given to MSOs/DTH operators in the offering of bouquets of channels is misused by MSOs/DTH operators to demand hefty Placement Fees/ Marketing fees even after the coming into force of the new Interconnection Regulations. It may be noted that the Authority has in fact recognized the need to protect Broadcasters from the 'menace' of having to pay hefty placement fees- but the same is seen as a distinct issue only, without appreciating its overlapping influence - questions 21 and 22 (at pages 64 and 65).
8. MSOs/DTH Operators are not inclined to sign the Reference Interconnection Agreements (RIOs). With a view to wriggle out of the consequences of the new Interconnection Regulations, MSOs/DTH Operators are taking the stand that the Channel would be available only on *Al-a-carte* basis (and not in Basic Service Tier (BST) or in the packages/bouquets offered by the MSOs/DTH Operators) if Interconnection Agreement/RIO alone is signed without acceding to their unlawful and extortionary demands for hefty Placement fees.
9. It is needless to mention that just by placing a channel on *Al-a-carte* basis, it will not be of any avail either for the Broadcaster or for the Customer (this has been rightly recognized in the Consultation paper at paras 3.8, 3.15, 3.22 etc.). Where the consumer is not able to effectively exercise his choice of channels on *al-a-carte* basis, availability of Broadcaster's Channels on *al-a-carte* basis alone, will be suicidal for the Broadcasters. Thus, the vicious circle continues. Thus, the misuse by MSOs/ DTH operators has far reaching consequences on not only the Tariff Order, but also the Interconnection Regulation.
10. In light of the above, the proposal in the Consultation paper to limit the flexibility to form bouquets of channels to MSOs/DTH operators alone (para 3.53) would be fatal to the true objective of the Tariff Order, which it seeks to protect. Although the Consultation paper recognizes the link between entering into of commercial agreements (between Broadcasters and DPOs) and the ultimate offering of channels to the consumers on *al-a-carte* or bouquet basis, the real impact of the inequality of bargaining power which most of the Broadcasters suffer and the consequent repercussions on the consumer choice has not been recognized.

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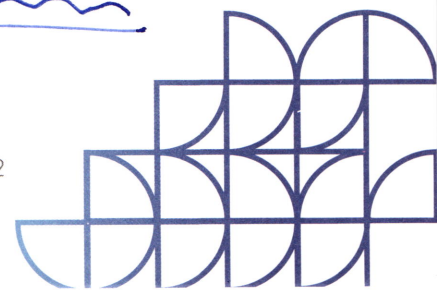
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This has been brought to the notice of the Authority as evident from para 3.56, but the true scope of the same has gone without appreciation. This failure has the potential to defeat the objective of the entire exercise taken by the Authority in the issuance of this paper.

11. It is rather surprising to note that despite several representations by various Broadcasters and Broadcasters' Associations to the Authority, the Consultation Paper is totally silent on the issue of Placement Fees/Marketing Fees, which is crippling the Broadcasting industry.
12. The fall-out of this upper hand, which is continued to be retained MSOs/ DTH operators, being the ultimate compromise of consumer choice, as elucidated above has not been realized by the Authority. The gravity of the matter is missed by Authority which has chosen to address the placement of channels as 'other related issues raised by Stakeholders' (Chapter IV at page 56).
13. Further, the authority at inter alia, paras 4.15 to 4.20 proceeded as though the new regime has effectively put an end to the unscrupulous demands for placement fee/ market fee. The authority cannot be oblivious to the market realities in the field and must quickly bring out a Policy for regulating the 'continuing' menace of Placement and Marketing Fees and to ensure transparency, non-discrimination, fair play, and level playing field.

It is therefore, important that the Telecom Regulatory Authority of India as the sector regulator recognize the need of the hour and intervene by in the matter raised above and put to end to the unhealthy practices.

Dated this the 14th day of September, 2019

For and on behalf of the Mathrubhumi Ptg. & Pbg. Co. Ltd.,



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HEAD- DISTRIBUTION



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