

Responses to Telecom Regulatory Authority of India (TRAI) Consultation Paper

Title: Tariff Issues Related to Cable TV Services in Non-CAS areas

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Responses to Issues for Consultation under Section 3.2.17

- 1. Are the figures in Annexure B3 representative for the different genres of broadcasters? What according to you are the correct representative figures? When providing representative figures, please provide figures for the genre, and not of your company.**

With respect to the question above, it has been pointed out by the honourable TRAI that **there are 2 types of business models for broadcasters in section 2.2.6: pay and free to air**. In all genres, including news, there are broadcasters with both the business models. It is therefore, incorrect to generalize information submitted by individual broadcasters into a category, as there are factors such as business models, channel acceptability and popularity, life stage of operation (some new channels need more investment, while leaders may enjoy higher revenue share) that also determine the financials.

- 2. Are the figures in Annexure B5 representative for aggregators? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.**

With respect to this question, being purely broadcasters, we are not able to comment on the financial figures of an aggregator.

- 3. Are the figures in Annexure B7 representative for the national MSOs? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.**

While we are not qualified to comment on this, here again there can be no generalizations, particularly since the MSOs are all located in different markets with different revenue potentials. The contribution of carriage fee will also differ based on whether the MSO is present in a metered market or not, **as per clause 3.1.19 where larger the reach and more relevant the target audience, more is the carriage fee potential.**

- 4. Are the figures in Annexure B7 representative for the regional MSOs? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.**

The reply to this question is the same as the previous one. However, considering that there is inconsistency in the data of MSOs, and where their total declared subscriber base is 5-6 million (section 2.4.9), there needs to be an independent audit and verification of these numbers. Moreover, as many MSOs are looking at gaining lateral depth, mentioned in section 2.2.24, and taking up mandatory CAS, mentioned in section 2.2.26, it is also possible that some of the investments to make this happen may be getting captured under current costs, in order to reduce the profit and tax component.

- 5. Are the figures in Annexure B9 representative for the LCOs with > 500 subscribers? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.**

While as broadcasters we are not qualified to comment on the numbers, there is enough material present in the study to infer that the LCO data needs to be scrutinized more closely and independently. For example section 3.1.24 mentions that for LCOs, number of households is sometimes more than number of subscribers, while in other cases, the sum of individual cost heads is not equal to the total cost. These numbers need greater scrutiny and need a credible verification, since they may be used as a basis for changes in regulation.

6. Are the figures in Annexure B9 representative for the LCOs with =< 500 subscribers? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

While as broadcasters we are not qualified to comment on the numbers, there is enough material present in the study to infer that the LCO data needs to be scrutinized more closely and independently. For example section 3.1.24 mentions that for LCOs, number of households is sometimes more than number of subscribers, while in other cases, the sum of individual cost heads is not equal to the total cost. These numbers need greater scrutiny and need a credible verification, since they may be used as a basis for changes in regulation. There is also a concern for the government, since as per section 3.1.29, there is potential service tax evasion alone of Rs 1,400 crores at the LCO level.

7. What according to you is the average analog monthly cable bill in your state or at an all India level?

In our territory of Delhi, the average analog monthly cable bill will be in the range of Rs 175- Rs 225.

8. Is the market for cable services in non-CAS characterized by the following issues:

(i) Under-reporting of the analog cable subscriber base – Yes, it is a prevalent practice and is also mentioned in the study in various sections (2.4.9, 3.2.3)

(ii) Lack of transparency in business and transaction models – Yes, it is present, as is brought out by subscriber revenues being negotiated on lump sum basis.

(iii) Differential pricing at the retail level - Yes

(iv) Incidence of carriage and placement fee – Yes, and it has also been acknowledged in the study, where it states that the **MSO business is increasingly dependent on carriage fees**, bringing in close to 50% of total MSO revenues (section 3.1.20), and is creating a vicious cycle where it does not present the MSO a case for investing in digital networks, and makes broadcasters continue to pay carriage for better space on analog band widths(3.2.11)

(v) Incidence of state and region based monopolies – Yes. These monopolies are also characterized in various places by both intense political patronage and political ownership (direct/ indirect) across the country, which sometimes acts as a barrier for change.

(vi) Frequent disputes and lack of collaboration among stakeholders – Yes

9. Are these issues adversely impacting efficiency in the market and leading to market failure?

Yes, these issues are impacting market efficiency and leading to market failure.

Responses to Issues for Consultation under Section 5.2.32

1. Which of the following methodology should be followed to regulate the wholesale tariff in the non-CAS areas and why?

- i) Revenue share**
- ii) Retail minus**
- iii) Cost Plus**
- iv) Any other method/approach you would like to suggest**

In the event of non-CAS areas, it has already been mentioned in sections 5.2.8, 5.2.14 and 5.2.24 that the above 3 mechanisms outlined do not really suit their purposes in systems that are not addressable. However, it is imperative that there are regulations implemented like in Taiwan (clause 4.1.12), where licenses of operators can be cancelled if they under report subscribers. More action should be taken on this front. On the other hand, if at all a methodology has to be followed, it should be either revenue share or forbearance.

2. If the revenue share model is used to regulate the wholesale tariff, what should be the prescribed share of each stakeholder? Please provide supporting data.

In CAS markets, the proposed revenue share is 45% for broadcasters, 30% for LCOs and 25% for MSOs. However, considering that in non-CAS markets, neither does the MSO invest in digitization nor does the LCO look at compliance, the revenue share should be 55% for broadcasters, 25% for LCOs and 20% for MSOs. This will have many benefits:

- The LCO will now have to report more subscribers to get the same revenue as before, since his overall revenue share is lower
- The MSOs even in non-CAS areas will see the benefits of digitization, as then they can focus on quality upgrades rather than put all energy into collections
- Broadcasters can also invest into content as they are getting more money for what they are creating
- Higher revenues for the government through increased service tax collection from the LCOs

3. If the cost plus model is used to regulate the wholesale tariff, should it be genre wise or channel wise?

The cost plus model does not seem to be an option in our opinion to regulate wholesale tariff.

4. Can forbearance be an option to regulate wholesale tariff? If yes, how to ensure that (i) broadcasters do not increase the price of popular channels arbitrarily and (ii) the consumers do not have to pay a higher price.

Forbearance can be an option. **However, seeing the competition in the market, it can be said that it would not be a prudent business decision for broadcasters to raise prices arbitrarily**, but they will instead opt for competitive pricing to hold a compelling value.

The concern over broadcasters charging high prices seems slightly unwarranted, considering that mobile phone operators have Average Revenue per user (ARPU) of Rs 185 and above (only for mainly plain vanilla voice services), multiplex cinema operators in main cities have average ticket prices of Rs 200 per head for 1 single movie, **while cable networks have an ARPU of Rs 165 per household, which is roughly Rs 40 per person per month, for a plethora of 60 or more channels, where the investment in content, software and operations is substantial.**

5. What is your view on the proposal that the broadcasters recover the content cost from the advertisement revenue and carriage cost from subscription revenue? If the broadcaster is to receive both, advertisement and subscription revenue, what according to you should be the ratio between the two? Please indicate this ratio at the genre levels.

We reject the view that broadcasters recover content cost from advertisement revenue and carriage cost from subscription revenue. **The 2 elements are not necessarily the same, and there can also not be a fixed ratio between the 2 revenue streams.** There are numerous market factors, such as the content costs, the advertiser ability to pay, and the value a consumer attaches to the channel that determine the advertisement and subscription rates. Globally, broadcasters earn revenue through both advertising and subscription revenue streams, and the ratio between the two is only determined by the market forces at play each year, rather than through fixed regulation.

6. What is your view on continuing with the existing system of tariff regulation based on freezing of a-la-carte and bouquet rates as on 1.12.2007; and the rate of new channels based on the similarity principle at wholesale level? You may also suggest modifications, if any, including the periodicity and basis of increase in tariff ceilings.

Since 1.12.2007, there have been changes in market dynamics, there are more channels, the number of cable and satellite homes has increased, GDP has grown appreciably, with India the 2nd fastest growing large economy behind China, inflation stands at above 10% on wholesale level and 20% on retail level. While prices of all commodities have gone up, the a-la carte and bouquet rates also need to be reviewed. **Keeping in mind the points put forward broadcasters have also had a significant increase in all their cost heads, and it may not be feasible to keep prices at the same level.**

Going forward, all tariff ceilings should be revised and reviewed every 2 years, though ideally there should not be any tariff ceilings in place and it is best left to various business stakeholders to decide.

Responses to Issues for Consultation under Section 5.3.26

1. Which of the following methodologies should be followed to regulate the retail tariff in non-CAS areas and why?

i) Cost Plus

ii) Consultative approach

iii) Affordability linked

iv) Any other method/approach you would like to suggest

The success of DTH operators shows that there is no real need to regulate the retail tariff even in non-CAS areas. When competition comes in, the consumer is the final king, and he will choose whatever service he thinks carries the maximum value for him

2. In case the affordability linked approach is to be used for retail tariff then should the tariff ceilings be prescribed (i) single at national level or (ii) different ceilings at State level or (iii) A tiered ceiling (3 tiers) as discussed in paragraph 5.3.23 or (iv) Any other

There is no need to use the affordability linked approach. As pointed out in this paper, regulation should be platform agnostic, particularly when all platforms are able to compete with one another. Affordability linked pricing might benefit analog cable in certain markets where because of perceived inability to pay, the service may be cheaper than digital cable, DTH or IPTV. The analog cable segment can compete if it focuses on long term investment and improving service quality.

3. In case of retail tariff ceiling, should a ratio between pay and FTA channels or a minimum number of FTA/pay channels be prescribed? If so, what should be the ratio/number?

In this case, there should not be a fixed ratio or number, but in every genre, it must be mandatory to carry the top 5 broadcasters, or the top 3, in case the total number of broadcasters is less than 5 in a particular genre. For determining the top broadcasters, the ratings can be followed over a period of the last 52 weeks, and reviewed every 6 months.

Responses to Issues for Consultation under Section 5.4.7

1. Should the broadcasters be mandated to offer their channels on a-la-carte basis to MSOs/LCOs? If yes, should the existing system continue or should there be any modification to the existing condition associated with it?

The broadcasters should not be mandated to offer on an a-la carte basis, particularly since the addressability of the systems is limited. This places additional burden on broadcasters when subscription revenues are to be collected from MSOs, as they will not be paid for the actual number of subscribers, but on the reported number. Moreover, it has been proven across the world that having a bouquet/ bundling system creates a higher value for subscribers at the end of the day, due to the lower price being paid for a wider variety of content.

2. How can it be ensured that the benefit of a-la-carte provisioning is passed on the subscribers?

If the a-la carte system is followed, there has to be a lot of communication from the regulator/ the government on the existence of such a system. There should be a long period of communication even before the system is in place, rather than doing it post facto, and not seeing an encouraging response. The lack of communication will play into the hands of MSOs and LCOs, because while they can broadcast to their entire network through only a single signal, broadcasters will suffer because they will be paid on how many consumers are claimed to be asking for their signals.

3. Are the MSOs opting for a-la-carte after it was mandated for the broadcasters to offer their channels on a-la-carte basis by the 8th tariff amendment order dated 4.10.2007. If not, why?

MSOs are not opting for channels offered by broadcasters on an a-la-carte basis as per the 8th tariff amendment order dated 4.10.2007, primarily because it does not work for them due to the lack of addressability in the system. The MSOs are unable to determine the exact number of subscribers opting for a particular channel, which is of equal satisfaction to all stakeholders, and may consequently lead to disputes between stakeholders.

Responses to Issues for Consultation under Section 5.5.7

1. Should the carriage and placement fee be regulated? If yes, how should it be regulated?

If retail price, wholesale price, which are the revenue components of broadcasters are to be regulated, then it is only fair that carriage and placement fee should also be regulated. **This is relevant, because all components have an impact on the profitability and sustainability not just of broadcasters, but also of the industry as a whole.** If retail prices are linked to inflation @7%, then carriage placement fees should also be linked to the same rate.

2. Should the quantum of carriage and placement fee be linked to some parameters? If so, what are these parameters and how can they be linked?

Carriage and placement fee should be linked to parameters, including but not limited to:

- Number of subscribers in network, and per subscriber rate
- Ratio of actual subscriber base to declared subscriber base
- Number of channels in a genre
- Broadcaster performance in terms of viewership over the last 1 year
- Investment in digitization

3. Can a cap be placed on the quantum of carriage and placement fee? If so, how should the cap be fixed?

A cap can be placed on the quantum of carriage and placement fee. To determine this, the best way forward is to follow the model of the telecom spectrum allocation, wherever there is open and transparent bidding for spectrum. Similarly, in various bands (Prime, Color, S, UHF etc) all available frequencies should be for bidding for a fixed period, say 2 years.

Responses to Issues for Consultation under Section 5.6.24

1. Is there a need for a separate definition of commercial subscriber in the tariff order?

Yes there should be a definition of commercial subscribers in the tariff order

2. If the commercial subscriber is to be defined in the tariff order, then does the existing definition of 'commercial subscriber' need to be revised? If yes, then what should be the new definition for the commercial subscriber?

Yes there should be a revision in the definition of commercial subscribers. The new definition should identify the commercial subscriber as 1 class, not divided into 4 star and 5 star, or hotels with above/ below 50 rooms etc.

3. In case the commercial subscriber is defined separately, then does the present categorization of identified commercial subscribers, who are not treated at par with the ordinary subscriber for tariff dispensation, need to be revised? If yes, how should it be revised?

This question is unclear, and seems to be repetitive to the previous question

4. Should the cable television tariff for these identified commercial subscribers be regulated? If yes, then what is your suggestion for fixing the tariff?

This should not be regulated, because commercial subscribers have higher purchasing and negotiating power, and they also use the channels they provide as a marketing tool to their customers

Responses to Issues for Consultation under Section 6.4.7

1. Do you agree that complete digitization with addressability (a box in every household) is the way forward?

Complete digitization is the ideal scenario. However, even in developed markets it is shown that digital and analog homes can co-exist, and the quality of service determines finally which system the consumer goes for. Digitization, along with stronger analog regulation and licensing is the way forward.

2. What according to you would be an appropriate date for analog switch off? Please also give the key milestones with time lines.

The date of analog switch off should be determined on market by market basis in CAS areas. The date for 'interim switch off' should be 4 months from the date of commencement for networks with less than 1 million homes, and 6 months for networks with 1 million homes and above. The complete 'analog switch-off' dates should be 6 months for networks with less than 1 million homes and 8 months for networks with more than 1 million homes.

3. What is the order of investment required for achieving digitization with addressability, at various stakeholder levels (MSOs, LCOs and Customers)?

This question is best answered by an independent valuation agency, like a merchant banker. This will ensure that there will be no conflict of interest in the order of investment, as some parties may want to defer digitization, and some may want to advance digitization, which will lead to differing estimates.

4. Is there a need to prescribe the technology/standards for digitization, if so, what should be the standard and why?

For digitization, there should be definitely certain basic technical norms, including but not limited to

- A presence of a Subscriber Management System with all MSOs, with transparency on subscriber numbers.
- A proper content management system and customer management systems that make information access easy
- Interoperability of the boxes at consumer end, so that they do not have to re-invest in case they are unhappy with services of a particular operator

5. What could be the possible incentives that can be offered to various stakeholders to implement digitalization with addressability in the shortest possible time or make a sustainable transition?

Some of the incentives that can be offered to improve digitization are:

- Removal of duties on all imported equipment necessary for digitization
- Either a 2 year tax holiday to operators undertaking digitization, or a tax holiday on all revenues accrued through digitization for a period of 2 years
- For a limited period, the broadcaster share in CAS regimes can be reduced to enable operators undertake digitization e.g. broadcasters can opt for a 35% share in the 1st 6 months, 40% in the next 6 months, and after 12

months, earn 45% revenue share. This is important as the harder part may come in the 1st 6 months to 1 year, after which they will all reap the benefits

6. What is your view on the structure of license where MSOs are licensed and LCOs are franchises or agents of MSOs?

This structure is not advisable, as it places too much power in the hands of the MSOs. While the MSOs can be authorized to appoint franchisees, LCOs should also be allowed to operate independently. They can choose between MSOs in case they are not satisfied with their services. However, in case when the LCO switches MSOs, broadcasters should be paid for the 1st 3 months on the older subscriber base, in case the new base is lower, or till such time the LCO subscriber base under the new MSO is equal to or crosses the older base. While the MSOs may be unwilling to bear the losses if all subscribers of an LCO do not switch over, it can be argued that having another LCO in the network increases the revenue potential from both carriage fees from broadcasters and subscription fees from subscribers for the MSO.

7. What would be the best disclosure scheme that can ensure transparency at all levels?

To ensure transparency at all levels, some of the steps that can be followed are:

- Every MSO should be mandated to have a proper Subscriber Management System in place, irrespective of whether they are undertaking digitization or not. This can be audited by broadcasters when they want to with a sufficient notice, a copy of which should also be sent to the Hon. TRAI.
- All LCOs should also be mandated to file monthly subscriber reports to the MSOs, a copy of which should also be filed with the Hon. TRAI, and which broadcasters also have a right to see with a proper notice and supervision if necessary.
- Broadcasters should also be given a right to audit LCOs directly if required with proper notice
- All LCOs should be licensed. A strong licensing regime has to be put in place for this. A timeline, say 6 months can be placed for all LCOs to become registered licensed entities, failing which there can be punitive action, including suspension of services

The above will ensure proper practices are adhered to in the market.

8. Should there be a 'basic service' (group of channels) available to all subscribers? What should constitute the 'basic service' that is available to all subscribers?

There should be a basic service group of channels available to all subscribers. This should include the national network channels, the news channels in English, Hindi and regional languages. Any new pay channel in other genres that launches should be given a free period of 2 months in a prime position so that consumers can decide if they want to pay for this channel.

9. Do you think there is a need for a communication programme to educate LCOs and customers to ensure effective participation? If so, what do you suggest?

There should be a communication programme to educate LCOs and consumers to ensure effective participation. However, before that LCOs should also be made aware of regulatory changes, a licensing regime of all operators should be introduced, and potential damages including suspension of operations should be pointed out to the LCOs. For consumers, there should be active regulatory communication on the benefits of digital platforms over analog. Once this is done, operators can focus on marketing the service as communication from a

regulatory body will be seen by consumers as neutral, fair and in consumer interests, rather than if it comes from a interested party.

Responses to Issues for Consultation under Chapter 7

The responses for the Issues for Consultation under Chapter 7 have already been covered as below:

Issues For Consultation: Points 1-9:

These issues for consultation are the same as the issues for consultation under section 3.2.17

Issues For Consultation: Points 10-15:

These issues for consultation are the same as the issues for consultation under section 5.2.32

Issues For Consultation: Points 16-18:

These issues for consultation are the same as the issues for consultation under section 5.3.26

Issues For Consultation: Points 19-21:

These issues for consultation are the same as the issues for consultation under section 5.4.7

Issues For Consultation: Points 22-24:

These issues for consultation are the same as the issues for consultation under section 5.5.7

Issues For Consultation: Points 25-28:

These issues for consultation are the same as the issues for consultation under section 5.6.24

Issues For Consultation: Points 29-37:

These issues for consultation are the same as the issues for consultation under section 6.4.7

Issue for Consultation: Point 38:

Stakeholders are free to raise any other issue that they feel is relevant to the consultation and give their comments thereon

We have covered all the points relevant in this paper under the preceding points.