

**Reliance Digital TV's Response to the Draft Telecommunications
(Broadcasting and cable Services) (Eighth) (Addressable Systems) Tariff
Order, 2016 , Draft Telecommunications (Broadcasting and cable Services)
(Addressable Systems) Regulations 2016 and Draft Standards of Quality of
Service and Consumer Protection (Digital Addressable Systems) Regulations
2016**

Preamble

- I. Indian consumers today have the benefit of an array of choices in the highly competitive Television Distribution market. Besides the free DTH service of Doordarshan, there are six private DTH licensees, offering their services to the DTH subscribers. With the ongoing digitization of Indian Cable TV Industry, competition is becoming fierce as consumers have choice to avail their services and packages from DTH, IPTV and Cable TV operators.
- II. Thus, even in such a competitive market, for attracting and retaining customers, the DTH operators are offering services at affordable and customer-friendly tariffs that ensure their satisfaction.
- III. In fact, TRAI, while notifying the Telecommunication (Broadcasting and Cable) Services Order for Addressable System in 2010, had stated that ***the retail tariffs prevailing in the market are quite competitive. As the market forces appear to be operating effectively, the Authority is of the view that there is no need for regulatory intervention in the matter of retail tariff fixation at present.***
- IV. The DTH operators have deployed huge capital in setting up the DTH infrastructure and have contributed significantly in the Government's vision of rapid digitalization across the nation. All these investments have been made keeping in mind the forbearance in the retail tariff giving the DTH Operators a free hand in deciding the price and the content composition / constitution of their services. This freedom also helps in attracting the much needed investments in this sector to further fuel the Broadcasting / DTH growth story. As acknowledged by TRAI also on several occasions, no DTH operator has misused the tariff forbearance regime and there have hardly issues on the retail pricing of the content.
- V. In an environment where the regulatory framework and retail tariffs are working well for all the stakeholders, there is no justifiable reason for TRAI to micromanage the business of DTH operators, disturb their business models or risk the significant investments they have made in the sector. Such a regime, if implemented, will cast a shadow of complete

uncertainty over the business of DTH operators without achieving any direct or indirect benefits.

- VI. Given the monopolistic nature of content, the aim of the DTH industry during the Consultation process was to rationalise the wholesale tariffs charged by the Broadcasters, weave a non-discriminatory framework around the discounts provided to the Operators on the wholesale tariff as well as regulate the HD tariffs in line with the contracts that have been signed by the Broadcasters with the Operators, which are filed with TRAI. These contracts also specify the costs attributed by the Broadcasters to the different genre of channels making it easy for TRAI to lay down the wholesale tariff of content by genre. Since the HD channels also have a corresponding SD channel, it would thus be easy to determine the price of the HD channels basis the incremental cost i.e. the bandwidth cost incurred by the Broadcasters for transmitting HD content.
- VII. The existing packaging model adopted by the Operators has produced a vast array of diverse, high-quality TV channels for consumers at an affordable price. The multi genre packaging of the TV channels has expanded TV viewing market and now services ubiquitously available throughout the country on different platforms. The proposed new model will force the consumers to pick up channels by Broadcaster or pick them up a-la-carte, a solution which will burn the pockets of the consumer.
- VIII. **In view of the above, it is submitted that the proposed tariff order** disrupting the business models of the DTH Operators is not justified as it will put to risk the huge investments made by the DTH Operators in this sector and will in fact also raise the cost to the consumer. Considering the intense competition, we strongly believe that the retail tariff should remain in forbearance and therefore, we humbly request TRAI to let the market forces prevail in the DTH industry and not to mandate any monthly rental, distributor margins or discounts. Further, we believe DTH operators should have complete freedom to decide the price of their services, including installation and activation charges, minimum warranty period for set top boxes, etc.
- IX. Our specific comments on the draft Tariff Order and draft Interconnection and QOS Regulation are as below:

Comments / Suggestions on the draft Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2016, Draft Telecommunications (Broadcasting and cable Services) (Addressable Systems) Regulations 2016 and Draft Standards of Quality of Service and Consumer Protection (Digital Addressable Systems) Regulations 2016

1. The draft Tariff Order erroneously assumes that all platforms are at par in terms of investments / infrastructure, government levies, business models etc. DTH Operators for example have a huge cost on the Satellite bandwidth which the MSO do not have to incur; the DTH Operators have to pay license fee of 10% which the MSOs are not required to pay. The tariff order does not differentiate between the different platforms in terms of fees / commissions to be provided to them on the revenues earned.
2. The huge investments made by the DTH sector were done keeping in mind the freedom to charge retail tariffs to the consumers; this tariff order reduces the DTH Operators to being a mere commission agent of the Broadcasters with little or no say in the content composition/ constitution.
3. The DTH Operators have not been consulted to arrive at the methodology of arriving at the monthly rentals of Rs. 130 to be charged from the consumers. No data was sought from the Operators at the time of the Consultation Paper making it difficult for Operators to understand or comment on the same.
4. The pricing for HD Channels at 3 times the price of SD Channels is also not justified given that the content on the SD and HD channels is same and the only delta being the Satellite bandwidth cost for the transmission of the HD Channel which at best can be 5% of the cost of the SD Channel. Hence in our opinion the cost for the HD channel should be 1.05 times the cost of the SD Channel.
5. We would also like to submit that the carriage fee should be left unregulated just like the advertising rates charged by the Broadcaster are left to the market forces. There is huge cost incurred by the Operators for Satellite Bandwidth and the Operators should be free to mutually negotiate the carriage fee with the Broadcasters to recover the costs.
6. DTH Operators are required to pay License Fee of 10% on the Gross revenue to the Government and also have to pay 5% as recharge commission to the distributors / retailers. In view of this, a distribution fee of only 20% is not at all justified as there is no room for any margin for the Operators. There is also an element of Entertainment tax (if GST is not implemented by 1st April 2017) which could be another 8% -10%, rendering the Operators negative by about 5%. In our opinion, if at all there is any distribution fee, then it should be at least 45% -50% of the Gross revenues.

7. At different forums the DTH platforms have appealed to the Authority to rationalise the Wholesale tariffs and regulate HD pricing while retaining the freedom of the Operators on the retail tariff. It will be evident from the DTH Interconnect Agreements filed with TRAI, that there is a need to rationalise the wholesale tariffs and the high RIO rates are only being used by the Broadcasters to arm twist the Operators into accepting their commercial propositions as the content is monopolistic in nature. Since the nature of the offering and the content being offered is similar with all the DTH Operators, there already exists a healthy competition which keeps the retail tariffs in check and hence there is no need to regulate the retail tariffs.
8. Installation and activation charges have dynamic cost structures and in a competitive environment, these should be left at market forces to decide. The minimum warranty period of the Set Top Boxes (STB) is again operational matter, which should be left to the market forces. For example, the DTH operators cannot commit to a 5-year warranty period for set top boxes when they are not being provided an equivalent warranty period by the manufacturers of such set top boxes themselves. Similarly, the installation and activation charges, which vary from one platform to another and from one state to another. In a highly competitive market, where each and every DTH operator is trying to increase its market share, a fixed regulated regime on operational aspects should be avoided.