

Dated: - 30.01.2012

The Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhavan,
Jawaharlal Nehru Marg
(Old Minto Road),
New Delhi – 110002

Kind attention: Mr. Vasi Ahmed, Advisor (B & CS)

Ref: Consultation Paper No. 8/ 2011 dated 22 Dec 2011

Sub: Comments on consultation paper on 'Issues related to Implementation of Digital Addressable Cable TV Systems'

Dear Sir,

This is with reference to the captioned consultation paper in which the Hon'ble Authority has invited written comments from the stakeholders.

We have pursued the consultation paper on "**Issues related to Implementation of Digital Addressable Cable TV Systems**" and hereby submit our issue-wise comments attached hereto. We would also like to submit our counter-comments to the comments received from the other stakeholders in due course in case the same is required.

The appended attachment is for your kind perusal and reference. Should you require any clarification, you may kindly write to us.

Yours sincerely

For SCOD18 Networking Private Limited


Vinit Chandra Sharma
Head – Legal & Regulatory Affairs

Encls: a/a

Basic Service Tier for the Digital Addressable Cable TV Systems

- 1. What should be the minimum number of free-to-air (FTA) channels that a cable operator should offer in the basic-service-tier (BST)? Should this number be different for different states, cities, towns or areas of the country? If so, what should be the number and criteria for determination of the same?**

There cannot be any fixation of minimum number of free-to-air (FTA) channels that a cable operator should offer in the basic-service-tier (BST). India being a diverse country with respect to ethnicity, language, preferences, tastes and choices that it would not be prudent to determine the minimum number of free to air (FTA) that a cable operator should offer in the basic service tier. The minimum No. of free to air Channel that a cable operator should offer in the basic service tier may be determined by market forces and authority's indulgence is not required. Further, the number of these channels may be different for different states, cities, towns or areas considering the market forces of demand and supply. However, basic tier must include mandated Doordarshan channels.

Considering the international experience, in most of the countries of the world Cable Operators typically offer 70-80 FTA Channels and that too without any forced regulation. We should therefore leave the number of channel that a cable operator should offer in the basic-service-tier (BST) on the market forces of demand and supply.

- 2. In the composition of BST, what should be the genre-wise (entertainment, information, education etc.) mix of channels? Should the mix of channels and/or the composition of BST be different for different states, cities, towns? If so, how should it be?**

The composition of BST may include the channels of entertainment, information sports, education, religion, lifestyle etc. However, there may not be any fixed minimum number of channels that may be taken from each genre to make up the BST bouquet. The number, type and mix of such FTA channels may also be left open to market forces. It is pertinent to mention that availability/ non availability of content has never been an issue either before the authority of before the Appellate Tribunal hence there is no rationale to

determine the composition of BST or its determination in various states , cities or towns.

- 3. What should be the price of BST? Should this price be different for different states, cities, towns or areas of the country? If so, what should be the price and criteria for determination of the same?**

TRAI has recognized that DTH operators are collecting a minimum subscription charges of Rs. 125/- to Rs.160/- per month. In Digital addressable System of Cable TV BST should range any amount between Rs. 160/- to Rs. 180/- depending upon the number of channels in BST. The BST slab shall be higher in Cable TV distribution considering the fact the higher cost which includes cost towards distribution (procurement of content, procurement of STB, execution of agreement etc; employment of manpower) maintenance of network and infrastructure including headend, fibers, securing permissions from local authorities and private bodies and other overheads in the form of wages, rent, electricity etc.

- 4. What should be a-la-carte rate of channels that form part of BST? Should there be a linkage between a-la-carte rate of channels in the BST to the BST price or average price of a channel in the BST? If so, what should be the linkage and why?**

It is recognized by TRAI that at the ground level there is already a healthy competition in the market. This is due to the presence of multiple MSOs, DTH and Cable operators offering the same channels. Hence, a-la-carte rate of channel should be left to market forces where service provider may determine the a-la-carte price of channel to remain competitive in market. Any regulation would be a direct indulgence on the well set competitive behaviour of the cable TV Market and would curb the freedom of service provider to do his business with freedom and for the consumerism.

Retail Tariff for the Digital Addressable Cable TV Systems

- 5. Should the retail tariff be determined by TRAI or left to the market forces? If it is to be determined by TRAI, how should it be determined?**

TRAI should implement the same pricing as prevailed in CAS notified areas in terms of Tariff Order dated 31.08.2006, as the environment in both the case whether CAS or DAS is the same.

Also, TRAI should come out with pricing formula for HD (High definition), as slowly HD channels will replace SD (standard definition). Our recommendation for HD Channels pricing is 25% more than the SD channels ie Rs.6.25.

Retail pricing needs to be controlled by TRAI. In case such prices are not controlled, there shall be a spurt of new Sports and General Entertainment Channels where Broadcasters will shift the popular content to the new channel and the MSO/DTH will be compelled to carry the new channel at new prices determined by such broadcasters. For eg;- the new Cricket Sports channels carry cricket at the same time the old sports channels also carry the same Cricket and the MSO/DTH are forced to carry all the channels.

- a) Should the a-la-carte channel price at the retail be linked to its wholesale price? If yes, what should be the relation between the two prices and the rationale for the same?**

The Al'a Carte pricing should be linked with wholesale price. The wholesale price should have a discount cap, suggested to max 10%. This is to avoid any discrimination towards independent and small MSO's. As some broadcasters who have stakes/interest in MSO's may price the wholesale in such a manner to favor or to kill competition.

- b) Should there be a common ceiling across all genres for the pay channels or different ceilings for different genres? What should be the ceilings in each case and the reasons thereof?**

There should be a common ceiling across all genres for the pay channels. It is due to the fact that broadcaster recovers the cost of contents from the advertisement itself. Currently there is no regulation on Free Commercial Time (FCT) and incase there be any regulation on FCT, the genre wise ceilings may be considered

At the same time, keeping the interest of small MSO and the independent Cable operator, the volume based discount offered by Broadcaster may be declared as discriminatory practice and shall be restricted.

c) Should there be a common ceiling across all genres for the FTA channels or different ceilings for different genres? What should be the ceilings in each case and the reasons thereof?

It may be allowed to be determined by the market forces and TRAI may forbear from micromanagement of prices of FTA channels.

d) Any other method you may like to suggest?

We may work on any other method which the TRAI may consider appropriate. However, while working on any such method we should keep in mind the average Cable TV household rate and then work backwards.

Interconnection in th Digital Addressable Cable TV Systems

6. Does any of the existing clauses of the Interconnection Regulations require modifications? If so, please mention the same with appropriate reasoning?

The Interconnection Regulation needs modification on following counts:-

- a. Each operator (MSO) deploying a digital system must also roll out CAS and SMS to ensure addressability in true sense.
- b. LCO should be liable for submission of subscribers report falling under DAS.
- c. The definition of DTH should be amended to exclude Multi Dwelling Unit technology outside the scope of DTH services which has changed the nature and character of DTH services whose MDU functions in DTH are similar to Cable TV services of LCO/MSO.
- d. Clause 5 to 13 of the Act shall be should be suitably amended.

e. Clause 3.2 shall be suitably amended to make the "Must Provide" more stringent against the broadcasters to enable the MSO/ LCO to receive the signals of the broadcasters within the maximum time limit 15 days in any case. This is required to ensure the smooth functioning of MSO business in case of setting up of new business/ or joint venture / or for expanding the areas of operation.

7. Should the subscription revenue share between the MSO and LCO be determined by TRAI or should it be left to the negotiations between the two?

We propose forbearance from the authority. The authority should not prescribe any revenue share and it should be left to negotiations between MSO and LCO who are in bargaining positions against each other.

8. If it is to be prescribed by TRAI, what should be the revenue share? Should it be same for BST and rest of the offerings?

We do not wish to propose any particular revenue share. There is no need of revenue share to be the same for BST and rest of the offerings, which may be determined by mutual negotiations.

9. Should the 'must carry' provision be mandated for the MSOs, operating in the DAS areas?

'Must Carry ' is closely linked to the channel carrying capacity of the Cable TV networks. There is no doubt that digitalization will improve the channel carrying capacity of the MSO, however, in no stretch of imagination such capacity may be increased to level of accommodating more than 800 channels which have broadcasting rights. Hence, the provision of "must carry" will be only be "misnomer". We are of the view that except with limited number of Doordarshan Channels for which "Must Carry" provision is already in force, there is no need to extend it further for all and/or any other channel(s).

It is not out of context to mention that the whole set of digitalization is being brought in the industry by the sole effort and investment of MSO. It is the MSO which is making investment on set top boxes, digital headend, network and

infrastructure. The "must carry" provision shall add huge commercial burden on MSO which the MSO may not accomplish.

It is abundantly clear from our comparative international experience that ARPU in India is very low as compared to many other countries of the world and at the same time cost required to be incurred by the MSO in India shall not be less than the cost incurred by the MSO in such other countries. Hence, the dynamic of cost and return in the form of subscription charges are uneven and low with respect to MSO. Hence, it is only Carriage money and/or placement charges with which the MSO may try to make a balance between its cost and return.

Further, there is no correlation between the provision of "Must Provide" and the provision of "Must Carry" which stands on different footings. In the light of digitalization with addressability, the individual demands of any channel shall be compulsorily met by the service provider even in the absence of "Must Carry" provision. There are more than 200 regional channels which are generally not seen in other regions. Keeping such channels in the bouquet and for the regions where such channels are not demanded would be pure waste of resource. Hence, we advocate that even in the case where the MSO takes a Bouquet, it may be allowed to drop any such channel which are not demand specific. This will lead to the optimum utilization of the resources for the mutual benefit of the subscribers, MSO and content provider.

"Must carry" provision shall be applicable only on Channels of public interest which may be determined by the authority from time to time and for the time being restricted to only Doordarshan Channels.

"Must carry" provision shall encourage unnecessary litigations not only between the Broadcasters and MSO but also between MSO/ LCO and Consumers. As explained above, the provision of must carry if not technically viable under present circumstances, cannot be enforceable under law .

10. In case the 'must carry' is mandated, what qualifying conditions should be attached when a broadcaster seeks access to the MSO network under the provision of 'must carry'?

The provision of "Must Carry" cannot be mandated considering the number of Channels available in India and also the channels which are in pipeline. It is indeed astonishing that such mandates are proposed in digital cable TV system which is improved ONLY due to the effort/cost of the MSO. Such provision would lead to additional cost on MSO with reduction of revenue sources which consequently make the MSO business completely unviable in the view of low ARPU.

11. In case the 'must carry' is mandated, what should be the manner in which an MSO should offer access of its network, for the carriage of TV channel, on non-discriminatory terms to the broadcasters?

"Must carry" provision of the channels without conjoint improvement in the network to carry such channels cannot be achieved and if the cost of improvement of network rests only on MSO then such provision needs to be seen in the light of existing network of the MSO, future investment in the network of the MSO, margin of revenue or profit of the MSO and not from the prospective of the broadcasters which may give wrong impression. It is evident that existing digital technology may not allow more than 180- 200 channels for transmission whereas the numbers of channels are more than 800 which cannot be accommodated at the capacity of 200 channels. Hence, any such mandate of "Must Carry" provision shall lead to techno-legal conflict.

12. Should the carriage fee be regulated for the digital addressable cable TV systems in India? If yes, how should it be regulated?

TRAI has determined that Carriage Fee is a market driven phenomenon and the levels of carriage Fee are determined by play of market forces. It is a direct result of demand-supply mismatch due to capacity constraints of distribution platforms. TRAI is of the opinion that regulation of Carriage Fee cannot be done in isolation without regulating the advertising revenue. Even with the digitalization demand-supply mismatch due to capacity constraints of distribution platforms shall exist and hence it may not be regulated.

TRAI has itself recognized that carriage constitute only 5 % of Television Industry revenue and 50% of the total revenue of the MSO. Hence, considering the fact that it constitutes only 5 % of Television Industry revenue (which is very low) and 50% of the total revenue of the MSO (which is substantially high), forbearance is recommended.

The Television Industry is a chain of various platforms. May it be the platform of broadcasters, MSO or the local Cable Operator, each such identity is getting revenue for their platform other than subscription charges, which comes to the broadcasters in the form of charges towards contents/ advertisement revenue, MSO in the form of carriage/ placement charges and LCO in form of share of carriage/ placement charges or revenue from such frequencies which are set free to them by the MSO.

Hence, it would not be prudent to regulate the carriage fees without regulating the advertisement revenue of the broadcaster and the local channel revenue of the Local Cable Operator.

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

There cannot be any parameter for the quantum of carriage fees which may only be determined by the forces of demand and supply.

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

There cannot be any cap placed on the quantum of carriage fees as it may result in distortion of market and freedom of demand and supply.

15. Should TRAI prescribe a standard interconnection agreement between service providers on similar lines as that for notified CAS areas with conditions as applicable for DAS areas? If yes, why?

The authority should prescribe standard Interconnection Agreement which may be guiding principles for the service providers for their mutual negotiations.

This is required considering the fact that various service providers stands on different footings and may be in a position of coercion or undue influence over the other.

Quality of Service Standards for the Digital Addressable Cable TV Systems

16. Do you agree with the norms proposed for the Quality of Service and redressal of consumer grievances for the digital addressable cable TV systems? In case of disagreement, please give your proposed norms alongwith detailed justifications.

We agree with the norms for the quality of service and redressal of consumer grievance for the digital addressable cable TV system. However, considering the fact that the digitalization is at its nascent stage, strict compliance of quality of services in terms of its time lines shall be a major challenge between MSO and LCO. We request for leverage of time limits for redressal of grievances in the proposed quality of services for the initial period of 2-3 years which may be strengthened with the passage of time and expansion of digitalization.

17. Please specify any other norms / parameters you may like to add with the requisite justifications and proposed benchmarks.

NA

18. Who should (MSO/LCO) be responsible for ensuring the standards of quality of service provided to the consumers with respect to connection, disconnection, transfer, shifting, handling of complaints relating to no signal, set top box, billing etc. and redressal of consumer grievances?

The responsibility of ensuring the standard quality of services shall be determined between MSO and LCO in terms of the agreement executed by and between them. MSO shall assist and guide the LCO for maintaining different sets of services. The provisioning of services and disconnection shall be the responsibility of the MSO with the assistance of the LCO. Any transfer and shifting of STB's shall be informed to the MSO and the LCO shall be responsible for due implementation, similarly complaint handling relating to no signals or set top boxes may be determined between MSO and LCO. The Billing to the subscriber should be done by the MSO which has details of

subscribers of set top boxes and SMS which ensure the smooth preparation of Billing and delivery system. The role of LCO shall be limited to the Channel partner or the agent of the MSO who shall ensure the smooth implementation of QoS on the ground level.

The billing system in the hand of MSO is a suitable option considering its success in CAS notified area. Due to control and management of STB's ; SMS and CAS , MSO would be in a better position to generate invoice to the subscribers. The digital invoices may be allowed to be provided to the subscriber through the set top boxes which may have such features. The subscriber may use various payment gateways i.e post paid, prepaid, drop box, collection through LCO; . The payment should be made in the name of the MSO only to avert any payment related issues with LCO and MSO.

19. Whether Billing to the subscribers should be done by LCO or should it be done by MSO? In either case, please elaborate how system would work.

The Billing to the subscriber should be done by MSO due to various reasons:-

- a. MSO is responsible for control and management of STB's; SMS and CAS. This entail him position to generate true and correct invoice to the subscribers.
- b. Such invoices may be sent to the subscriber through digital set top boxes which has features of sending digital invoice.
- c. MSO is capable of making an investment on infrastructure of generating and sending invoice and due collection of the same.
- d. The MSO is the biggest investor in the whole process of digitalization, therefore, it would be prudent, if it would control the generation of subscription revenue of the subscriber

- e. Cable TV sector is more organized at MSO level than at the level of LCO. Due to its vast previous experience, MSO should ensure the smooth implementation and control of billing system.

20. Should pre-paid billing option be introduced in DAS. Please justify your answer.

We strongly support the option of prepaid billing system as such billing system has proved to be very successful in telecom sector as well as DTH services. This will ensure availability of sufficient fund with the MSO to meet various expenses and smooth delivery of signals.

Miscellaneous Issues

Broadcasting of Advertisement free (ad-free) channels

21. Whether an ad-free channel is viable in the context of Indian television market?

Ad free channel are definitely viable in the context of Indian Television market considering the addressability and transparency. Further, there may be channel with HD contents or 3D contents which may catch the attention of certain mass of population. Such channels may also be made available on non discriminatory terms to avert any competitive disadvantage to small MSO's.

22. Should there be a separate prescription in respect of tariff for ad-free channels at both the wholesale and retail level?

Yes, there should be a separate tariff prescription in respect of tariff for ad free channels both at retail and wholesale level.

23. What should be the provisions in the interconnection regulations in respect of ad-free channels?

Ad free Channels should also comply with the existing provisions of the interconnection regulations.

24. What should be the revenue sharing arrangement between the broadcasters and distributors in respect of ad-free channels?

The revenue sharing arrangement between the broadcasters and distributors in respect of ad-free channels should be **40:60** (i.e 40 % to broadcasters and

60 % to the MSO) considering the share which MSO has to disburse to the LCO. Further, any ad free, Hi tech channels like HD or 3 D can be implemented only with high tech platform/ delivery system and set top boxes which are the responsibility of MSO. Hence considering the cost to be incurred by the MSO the revenue share should be 40:60.

Non addressable digital Set top boxes

25. In case you have any view or comment on the non-addressable STBs, you may please provide the same with details.

The non addressable STB's do not comply with BIS Standard and therefore should not be deployed. Further, such STB's may neither be allowed to manufacture in India nor be allowed to import from abroad. The authority may prepare guidelines for declaration and replacement of such STB's by the MSO and also certain stringent measures to curb it. Such STB's are hindrance to the implementation of transparent business model introduced through DAS. The authorized agency/ BECIL may be directed to conduct inspection/ surprise visits to the consumers/ LCO/MSO and report the non compliance to the authority against which the authority may take stringent actions. The TRAI may also formulate the procedure for suspension of MSO's DAS Licenses in case of non compliance of addressable STB's reported for more than 3 instances.

Reference point for wholesale price post DAS implementation

26. Would there be an impact on the wholesale channel rates after the sunset date i.e. 31st Dec 2014, when the non-addressable systems would cease to exist? If so, what would be the impact?

It would have no effect in view of the fact that by 31st Dec 2014, the prevailing wholesale Channel rates in DAS would be treated as independent tariff in DAS area. Further, due to volume based delivery, the wholesale price shall be reduced.

27. Any other relevant issue that you may like to raise or comment upon.

The piracy/ copyright violation relating to cable TV services may only be allowed to be addressed under TRAI Act and Regulations and Civil/ Criminal courts Jurisdiction may be ousted. This is required considering the fact that the broadcaster is often choosing such means as an arm twisting technique upon the MSO/ cable operators to compel MSOs/ LCO to submit to their unreasonable demand.

In addition to it the subscription agreement executed between the broadcasters and the MSO should not limit the area of operation of the MSO within a stipulated territory. The MSO may be allowed to expand the area of operation by merely sending a letter of intimation of such area expansion.
