
# ***STAR India's Response to TRAI's Consultation Paper on Tariff related issues for Broadcasting and Cable services***

***23rd September 2019***

## Index

## INTRODUCTION

The Telecom Regulatory Authority of India ("TRAI") issued its consultation paper on Tariff Related Issues for Broadcast and Cable Services on 16th August 2019 ("**CP"**) to review a number of issues related to the recently implemented Telecommunication (Broadcast and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 ("**NTO"**), Telecommunication (Broadcast & Cable) Services Interconnect (Addressable Systems) Regulations 2017 ("**NIR"**) and Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations 2017 ("**NQoS"**) (collectively the **New Regulatory Framework, 2017**, or "**NRF**")

While we appreciate the Authority for inviting all stakeholders to submit responses, we would like to present our fundamental concerns on the timing of the CP and issues with the approach taken in the same on matters related to pricing of TV channels, formation of bouquet and discounts. In light of these concerns, we request the Authority to re-assess and re-consider the basic premise for the questions proposed in the CP.

Without prejudice to any rights and obligations, including in event of any action prior to our filing of the response, we humbly submit and unequivocally state that no part of our response or any suggestions may be deemed to be a consent on the part of STAR on the issues raised by TRAI in CP dated 16.08.19 or consent towards the piecemeal implementation of the suggestions. For ease of reference, we have sub-divided our response into the segments as given below:

- Chapter I – Introduction: Background to broadcasting Industry.
- Chapter II – Preliminary Submissions - Principal Issues with the Regulatory Approach and Propositions in CP.
- Chapter III – Preliminary response to claims made in Chapters II and III of the CP.
- Chapter IV – Responses to specific queries posed in the CP.

## PREFACE

**Background**

On August 16, 2019, the Telecom Regulatory Authority of India ("TRAI") issued a consultation paper consultation paper on Tariff Related Issues for Broadcast and Cable Services (CP) to review certain issues arising from a recently inducted regulatory framework. The framework in question, comprises of regulations surrounding interconnection, tariffs, and quality of service conditions in the cable and satellite ("C&S") television sector. We maintain that the call to amend the current framework is premature as it was implemented only six months ago.

TRAI's purported goal in the current CP is to empower consumers to make effective choices by enabling them to choose channels either in the form of a-la-carte or bouquets and/or FTA or pay channels. TRAI, however, has stated that it received numerous complaints from consumers about their inability to choose the channels of their choice and disruption and inconvenience to their C&S services. TRAI's assertions in the CP do not accurately reflect the ground realities of the interplay between stakeholders and consumers in the Cable and Satellite Television Sector and the solutions suggested by it will only serve to hurt consumer interest and negatively impact the Indian economy:

- **Restrictions on discounts and marketing incentives are against consumer interest and deny consumers the benefits of competition in the C&S value chain:**
  - **Bundling of TV channels reduces monthly TV bills:** TV channel bundles or bouquets are made up of a diverse mix of channels, giving access to more variety, plurality and diversity of choice in different formats such as languages and genres to people across socio-economic strata in India.
  - **Bundled offerings are the default preference for consumers In India and globally:** The default choice of consumers for any product, whether in the FMCG, telecom, travel or tourism sectors, are bundled offerings or value-for-money deals. In India, TV channel choices of TV subscribers are no different. Evidentially, research and data from TRAI's CP (Annexure II) reveals that 81% of Indian subscribers prefer bouquets.
  - **TV channel bouquets cater to the myriad tastes and preferences, socio-cultural and socio-economic diversity of the Indian consumer**: Approximately 98 percent of TV households in India are single TV households and 82% of the total TV households watch TV together. Hence, bouquets serve the needs of an Indian family, consisting, on average, of 4.25 members, in the best possible manner. Moreover, bouquets provide consumers with a good mix of quality, variety of content and maximum value for money.
  - **Broadcasters do not service consumers directly as C&S platforms act as middlemen that are meant to serve consumer needs:** C&S platforms directly control what bouquet and a la carte offerings are available to consumers.
  - **TRAI's classification of TV channels disregards the linguistic and culturally heterogeneous landscape of the country:** Ambiguous terms such as "popular" "unwanted" and "not-so

popular" that are used by TRAI in the present CP are disconnected with the reality of the cultural diversity of the Indian populace. Illustratively, channels offered in regional languages would boast of decidedly less viewership than channels proffered in Hindi, a language spoken by most Indians. However, that does not make them "unpopular". Tamil channels, for instance, are popular in Tamil Nadu but may not be hugely popular in Haryana.

- **Prices are outcomes of market demand and supply conditions in the regulated market**: Consumer interests are protected through a price ceiling of INR 19 on the a la carte price of channels that form part of bouquets. Prices of the 300 odd pay channels range from the upper ceiling of INR 19 to INR 1, with an average price of INR 8.5. Approximately 20% of the 150 million pay TV households in India purchased channels on an a-la-carte basis at the aforementioned prices. Therefore, TRAI's assertion that the a-la-carte prices of TV channels are illusory is misconceived and not based on facts.

- **The real reason for the increase in consumer bills is the introduction of the TRAI mandated C&S platform rental (i.e. an increase in the Network Capacity Fee (NCF) from INR 100 plus taxes to INR 130 plus taxes):** The Authority provided an upper ceiling on the NCF per month per household of INR 130 (not including taxes) for 100 channels. However, the flexibility given to C&S platforms was not used to benefit the consumers. Instead, consumers were denied effective choice and were forced to pay INR 130 plus taxes to the C&S platforms irrespective of the number of channels provided.

➢ ***Any further intervention by TRAI will only serve to hurt the Indian economy:***

- **Revenue and Investment potential:** The broadcast, cable & satellite industry has been identified as a Champion Services Sector by the Ministry of Commerce, currently estimated to be INR 714 billion and slated to grow at 11% to reach INR 1,215 billion by 2024.

- **Employment generated by the broadcast, cable & satellite industry**: Broadcasters currently reinvest approximately 60-70% of their revenues back into content creation and for paying royalties/fees to authors, musicians, cine-workers, cine-artists for licenses to their creative work. The C&S ecosystem generates employment for approximately 2 million people in the country.

- **Potential impact of a further regulatory intervention on employment, revenue, and investment potential of the sector**: Evidence of the impact of the current regime can clearly be seen from the reduction of channel availability across households from 315 to 265, and a consequent loss of 12-15 million subscribers. The interventions proposed in the CP could threaten the livelihoods of millions of cine-workers and cine-artists who are dependent on the creative sector for subsistence.

- **Ad revenue is lifeblood of Indian tv channel**: Restricting broadcaster's ability to reach consumers translates into loss of advertising revenues and further limits subscriber revenues.

- **The cost of creating high-quality and varied types of content is very high**: Broadcasters, thus, endeavor to operate in a two-sided market so that the revenue generated by one set of customers, the advertisers, can subsidize the content needs of the other customers, the

subscribers. Advertisers, like most Indian subscribers, prefer bouquets as they allow them to get the most reach for advertising campaigns. The CP suggestions of reducing price ceiling, discount cap linkages on bouquet and a-la-carte will have the effect of reducing accessibility, sampling, and choice to consumers.

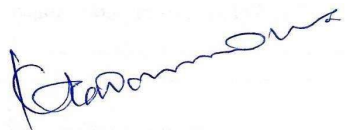
**A regulatory intervention at the current juncture would create existential threat for smaller/niche/premium/regional broadcasters such as:**

- Fact-based channels such as Discovery and National Geographic
- English Entertainment Channels such as AXN and Star World
- Children's entertainment and educational channels such as Nickelodeon and Discovery Kids
- Regional language channels

These types/genres channels will be faced with a struggle for survival in a hyper-competitive market due to:

- Reduced viewership (hence lower advertising revenues) and highly limited subscription revenues.
- The burden of costs of regulatory compliance and increased pay-outs on carriage fees to cable platforms.
- Gatekeeping by C&S platforms that is in a position to seek rent from these entities by threatening to block access to consumers if the latter does not meet the demands of the former.

**In view of the aforesaid, we humbly request the Authority to forebear on any further regulatory interventions, save and except, aspects related to Quality of Service regulations and matters related to consumer grievance redressal to ensure proper implementation of the current regulatory framework.**



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**For and on behalf of STAR India Pvt. Ltd.**
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**(Authorized Signatory)**

## **CHAPTER I -** INTRODUCTION: BACKGROUND TOTHE BROADCASTING INDUSTRY

### 1. Television broadcasting accounts for 44% of the Indian M&E industry

a) The Indian M&E industry is one of the most vibrant sectors of the Indian economy and has been identified as one of the twelve "Champion Services Sectors" by the Ministry of Commerce[1], due to its economic potential in terms of investments, employment and services exports, that can enhance India's competitiveness in the global services sector.

b) Television broadcasting, with revenues of INR 714 billion[2] in 2018-19, accounts for 44% of the M&E Industry and has been the key driver of growth for the M&E industry. Despite a rapidly growing digital/online sector, television broadcasting is projected to grow to INR 1,215 billion by 2024.[3]

c) The television industry is divided into two broad sub-segments, namely:

(i) the content creation and dissemination ecosystem and,
(ii) the distribution ecosystem.

d) The content creation and dissemination ecosystem relating to television broadcasting comprises of 358[4] private broadcasters and one Public Service Broadcaster i.e. Prasar Bharati. According to KPMG's M&E Report 2019, the combined revenues of the private broadcasters stood at INR 372 billion in 2018-19 with advertisements accounting for as high as 67% (INR 251 billion) of broadcaster's revenue and the remaining INR 120 billion (33% of total revenue) from subscriptions.

e) The distribution ecosystem comprises of four DTH players, two HITS player, 1469 MSOs, an estimated 60,000 LCOs and DD's terrestrial and FreeDish networks (Prasar Bharti's DTH service).[5] These distribution system stakeholders are collectively referred to as Distribution Platform Operators (DPOs). The private DPOs' revenue from subscriptions stood at INR 343 billion in 2018-19, and accounts for 74% of the total subscriptions in the TV Industry.[6]

f) Other than broadcasters and DPOs, two other major stakeholders of the M&E industry are:

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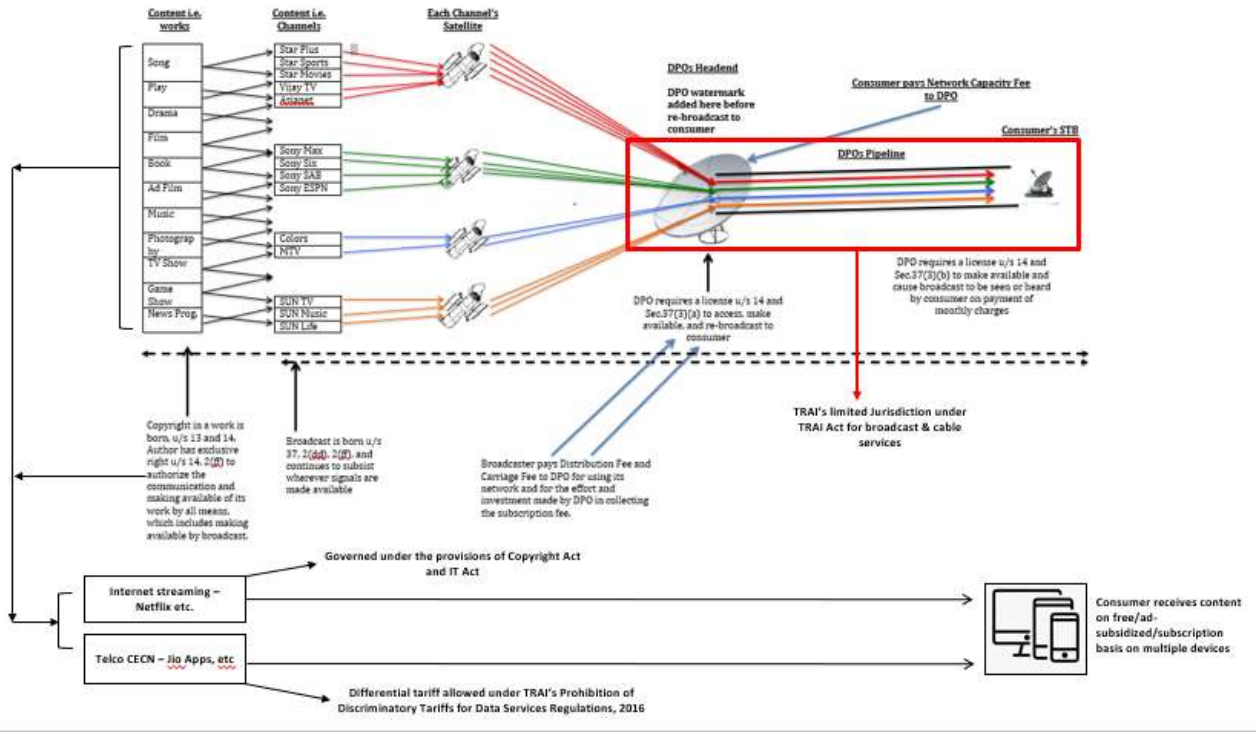
[1] https://pib.gov.in/newsite/PrintRelease.aspx?relid=176883
[2] KPMG India - Media and Entertainment Report 2019 titled 'India's Digital Future - Mass of niches' published in August 2019, https://assets.kpmg/content/dam/kpmg/in/pdf/2019/08/india-media-entertainment-report-2019.pdf
[3] KPMG India – Media & Entertainment Report 2019
[4] TRAI's Annual Report, 2017-18 available at: https://main.trai.gov.in/sites/default/files/Annual_Report_21022019.pdf
[5] TRAI's Annual Report, 2017-18
[6] KPMG India - Media and Entertainment Report 2019

- the creative artists, producers, writers, directors, composers etc. (who are the backbone of content creation); and
- consumers

A diagrammatic representation of the M&E sector's video production and dissemination ecosystem is provided as follows:

***Fig. 1. Content production and television broadcasting eco-system/value chain***




*References:*

a. *CECN* refers to "Closed Electronic Communication Networks" which are telco owned closed group networks for their subscribers;

b. → *App based dissemination* |– – – *Cable and satellite distribution*

As evident from the above, the Indian M&E sector in general, and the broadcast TV segment in particular, are massive contributors to the Indian economy in the form of investment, employment, contribution to GDP and global services exports. Thus, policy, regulatory and legislative certainty for this sector ought to be the paramount concern for the Government of India and the Regulator.

## 2. Plurality and diversity of viewpoints is the essence of the television broadcasting ecosystem

(a) There are currently 328 licensed pay channels and 573 licensed free-to-air (FTA) channels across 10 genres and over 15 languages in India.[7] In addition, there are more than 80 channels with diverse content and languages broadcasted for free over Prasar Bharti's DD FreeDish Network. These channels play an important role in informing, educating and entertaining the 183 million TV homes[8] in India. Hence, TV broadcasting industry plays an indispensable role in promoting plurality and diversity of view-points in relation to information creation and dissemination in India.

## 3. Investments

a) The Indian television market with 183 million TV household and 150 million active pay subscribers[9] is the world's second largest television market after China. Given the opportunity in the market, all major global media players/studio (including Sony Pictures, Time Warner, Viacom, The Walt Disney Company & Discovery Communications) have invested billions of dollars in creating "local content" to engage with the 700 million plus TV viewers in the country.[10]

***Table 1: Series Investment for some select TV programs***

| S.No. | Name of the TV Series | Broadcasters | Estimated cost |
|---|---|---|---|
| 1 | Porus | Sony Entertainment Television | INR 500 Crores |
| 2 | Bigg Boss Season 9 | Viacom 18 Media Private Limited | INR 100- 110 Crores |
| 5 | Jodha Akbar | Zee Entertainment Enterprises Limited | INR 10 crore |
| 6 | Mahabharat | Star India Pvt. Ltd | INR 100 Crores |

*Source: compilation from various media and news publications*

## 4. Employment

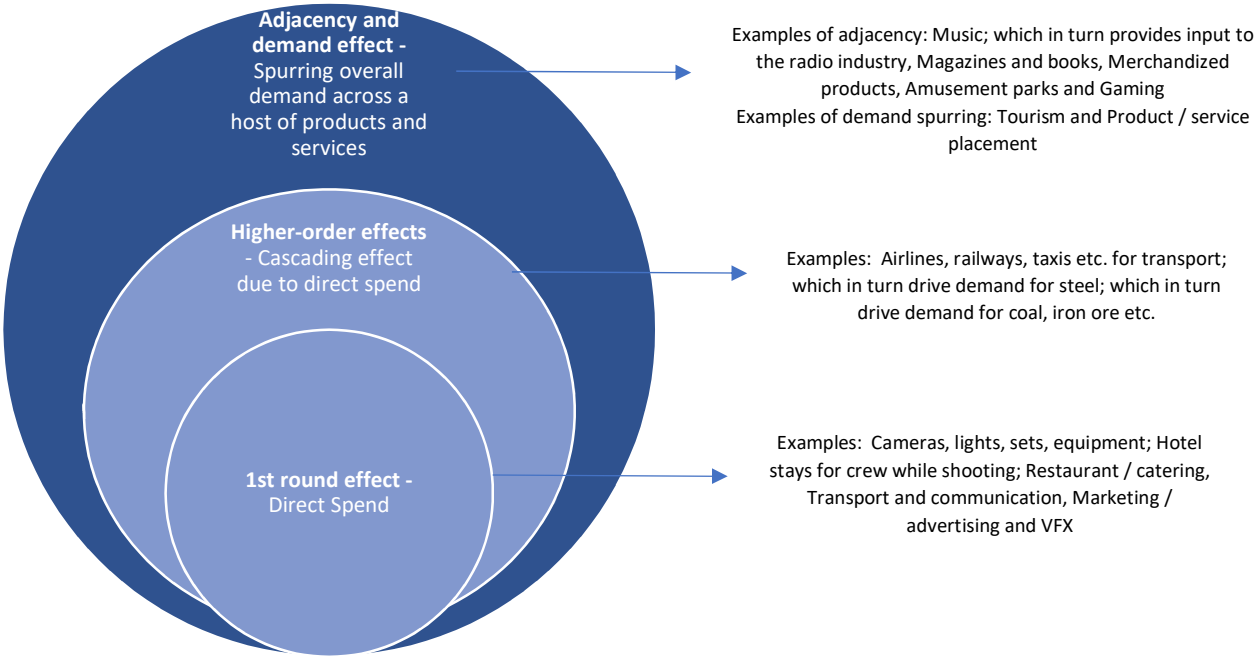
a) The 328 pay channels and 573 FTA channels licensed across multiple genres and languages showcase 78.9 lakh hours of content every year and generate direct, indirect and induced employment for 1.64 million people.[11] Employment in the TV industry includes artists, actors, photographers, screenwriters, engineers, dancers, production support staff, and management and administrative staff. At the same time, the industry produces various higher order effects, which contribute to employment in the other sectors of the economy.

[7] TRAI - www.trai.gov.in
[8] KPMG India - Media & Entertainment Report 2019 & TRAI's Annual Report 2017-18
[9] KPMG India - Media & Entertainment Report 2019
[10] 700 million viewers have been calculated as follows: 183 (million TV households) x 4.25 (average TV household size as per BARC)
[11] Deloitte-MPA Economic Contribution of the Films and TV Industry in India, 2017

b) The TV industry spends on several items that are produced by other sectors, such as cameras, lights and other equipment, hotel accommodation for crew, transportation services, etc., thereby encouraging production and delivery of these goods and services. For instance, the music industry depends on films for over 80%[12] of its revenue.

c) Lastly, the content produced by industry can induce demand for products and services across categories - by creating aspirational value, or alternatively by making things familiar.

***Fig. 2.* The employment multiplier effect of TV industry**




Source: Deloitte-MPA report Economic Contribution of the Films and TV Industry in India, 2017

## 5. Economics of the broadcaster's two-sided market and TRAI's NRF

a) Content/programming is the lifeline of the TV broadcasting industry. As a result, billions of rupees are invested every year into India's creative economy to create local content for the Indian viewers. The economics of the "two-sided" content creation and distribution markets have been highlighted in the following sub-heads:

(i) *Content and programming cost*

[12] Deloitte-MPA Economic Contribution of the Films and TV Industry in India, 2017

(i.i.) Broadcasters either license/purchase or create/commission content. The challenge for every broadcaster is to deliver 8,760 hours[13] of attractive and diverse content every year and make it available on the channel round the clock.

(i.ii.) Like all copyright works, these programs have very high production costs. For instance, the cost of producing *Satyamev Jayate*, an award-winning television talk show broadcasted on Star Plus cost more than INR 101 Crores. Similarly, the cost of producing the 2013 TV series 'Mahabharat' broadcast on Star Plus (*as highlighted from the table above*) was as high as INR 100 crores and another INR 20 crores were spent on marketing the show. The production of Sony Entertainment Television's magnum opus '*Porus*' was so massive that it contained 11 different sets, just for one show alone, with content and programming costing about INR 500 crores. With respect to films, production of a superstar/blockbuster movie costs around 60-70 crores.

(i.iii.) In sports, broadcasters mostly acquire media rights. For instance, the IPL media rights, sold for INR 163.5 billion across 300 matches amount to INR 545 million per match.

(i.iv.) In addition to these direct production costs, there are "royalties" and "license fee" paid to copyright holders and hence, content costs form a significant portion of the costs and investments in the Indian TV industry.

(ii) *Broadcasters' marketing and distribution costs*

(ii.i.) The other important element of costs are marketing and distribution costs. The value of content is realized through widespread dissemination and reach. Thus, marketing and distribution is key to ensuring the success of any channel and is also equally important to educate, inform and create awareness amongst the viewers to ensure diversity and plurality of views so that citizens are informed in a well-rounded manner. It is for this reason that an analysis of financial data of various broadcasters such as Star, Zee, TV18 and Sun TV reveals that marketing forms a significant portion of total expenses.

(ii.ii.) In addition to the traditional marketing costs, Indian broadcasters also incur *"statutory distribution costs"*. As per TRAI's NIR, these distribution cost are as high as 35%[14] of the MRP of a channel. Furthermore, a broadcaster may have to pay a carriage fee of INR 20 paise per month to the DPO if a channel's subscription is less or equal to 20% of the subscriber base of the said DPO. These costs too form a significant portion of broadcaster's cost.

(iii) *Broadcasters have two inter-dependent customers in the two-sided market*

[13] 24 x 365 days = 8,760 hours

[14] 20% distribution fee plus 15% discount on MRP of channels/bouquet

(iii.i.) On the revenue front, broadcasters have two interdependent sources of revenues. They sell content/programs formatted into a TV channel via distributors to subscribers. Broadcasters also sell time slots on their channels to advertisers for running commercials. Hence, broadcasters operate in a two-sided market with two revenue streams - one from advertisements and the other from subscriptions.

(iii.ii.) In a two-sided market (such as the market for television broadcasting) there are two distinct groups of customers being catered to, i.e. subscribers and advertisers. Because of the network effects in a two-sided market, the more the number of subscribers, the more attractive a TV channel/platform becomes to an advertiser, thereby increasing the value of the platform at both ends. Accordingly, a broadcaster generally has an incentive to lower its subscription fees to attract more subscribers. This attracts more participants from both the markets and hence revenues on the advertisement front rise. The value obtained by an advertiser thus increases with the number of subscribers present on the platform. Conversely, a broadcaster has little incentive to increase subscription fees, as this results in lower reach and, in turn, lesser advertisement revenue.

(iii.iii.) Similarly, a broadcaster has no incentive to increase the number of advertisement slots available on a channel, as this could lead to unhappy viewers thereby potentially affecting the viewership of a TV channel. Therefore, a broadcaster must balance the revenue exploitation capabilities on both sides of the market, while keeping in mind regulatory contours and requirements.

(iii.iv.) Accordingly, both sides of the market are crucial for such businesses as two-sided platforms cannot operate successfully without a critical mass of users on both sides. Therefore, a platform running a two-sided market must ensure that it determines the 'price level' and the 'price distribution' in a manner that helps achieve and retain the critical mass of users on both sides. The 'price level' is simply the total price charged to both sides of customers, respectively. However, distribution of price for advertisers and subscribers is driven by demand interdependence between the two sides and must be fine-tuned by the platform to satisfy a requirement that arises uniquely in two-sided markets — namely, the need to "get both sides on board."[15] Accordingly, even by keeping the 'price level' same, the platform can fine-tune the participation balance using the price distribution alone.[16]

(iv) *Bouquet is the effective choice of TV households with different and diverse content preferences*

(iv.i.) Bouquets of TV channels are preferred choice of the subscribers in India because[17]:

[15] Jean-Charles Rochet & Jean Tirole, *Platform Competition in TwoSided Markets*, 1 J. EUR. ECON. ASSOC. 990, 990-91 (2003)
[16] Erik Hovenkamp, *Antitrust Policy for Two-Sided Markets*, Page 10.
[17] BARC's Broadcast India Survey 2018.

- The average household size of 183 million TV homes in India is 4.25;
- 98% of these homes own only a single TV; &
- 82% of these TV household watch (i.e., co-views) TV together.

(iv.ii.) Hence the content preference of a TV subscriber is not an individual choice but a "collective choice of 4.25 individuals" who reside under one roof, watch one TV together, but have different content preferences. This is a unique feature of the Indian TV audience market. Given these socio-economic realities on the ground, discounted bouquets are the effective choice of TV households as it offers more channels for lesser price.

(v) *Bundling in a two-sided market is economically efficient*

(v.i.) When there are high costs of production and subscribers prefer varieties of a product; mixed bundling can result in economic efficiencies.[18]

(v.ii.) For instance, take the case of two TV channels, "sports" and "news" and assume each costs INR 10 to produce (cost for broadcast to two subscribers). Subscriber 1 is willing to pay INR 7 and INR 4 for the sports and news channels respectively, and Subscriber 2 is willing to pay INR 4 and INR 7 for the sports and news channel respectively:

- If each channel is offered at INR 10, no subscriber will buy the channels;
- If each is offered at INR 7, revenue would be INR 14 (from INR 7 for one channel each purchased by each subscriber) and loss accrued to be broadcaster would be INR 6;
- If each is offered at INR 4 and purchased by both subscribers, total revenue would be INR 16 (from 4 channels purchased by both subscribers) and total loss to broadcaster would be INR 4.

(v.iii.) The producers are unlikely to adopt any of the above prices. However, if bundling is allowed, both channels could be offered in a bundle for INR 10 and both subscribers (who were willing to pay INR 11 for the total) would purchase the bundle. In such a case, revenue for producers would be INR 20, covering costs for both channels and subscribers also save INR 1 as surplus. Also, this effectively leads to cross-subsidization of subscription revenue by ad-revenue.

(v.iv.) Therefore, for the same business and economic conditions, the price of a bouquet of TV channels will necessarily be lower than the sum of a-la-carte prices of the channels in that bouquet. However, unlike product bundling, these prices on bouquet of TV channels are not calculated by giving discount on the sum of a-la-carte prices. Each bouquet price is uniquely

[18] "United States v. Loew's Inc.: A Note on Block-Booking," The Supreme Court Review 1963 (1963): 152-157.https://doi.org/10.1086/scr.1963.3108731

determined and hence has a different price discovery process than that of the simply sum of a-la-carte channels. Bundling in TV markets, therefore, can be economically efficient.

(v.v.) A paper published by the OECD on *Broadband Bundling: Trends and Policy Implications* similarly concludes that the benefits of bundling include subsidization by consumer surplus of less valued services.[19]

(v.vi.) Similarly, in an investigation by the (erstwhile) Office of Fair Trading (OFT) into *BSkyB*'s[20] conduct of mixed bundling and anti-competitive discounts, the OFT concluded that a degree of mixed bundling is to be expected, and is desirable, in broadcasting markets. Particularly when fixed costs (e.g. of acquiring content rights) are high in relation to the incremental costs of supplying additional subscribers, it is natural and desirable for suppliers to offer bundled discounts to subscribers. Importantly, the OFT observed that taking additional products is beneficial to subscribers as the incremental cost of supplying those extra products to subscribers, is relatively low.[21]

(v.vii.) The broadcasting sector in India is highly competitive with an estimated Herfindahl-Hirschman Index (HHI) of around 1,262.[22] In addition to competition within its own sector, broadcasters face stiff competition for content from internet platforms, particularly Over-The-Top (OTT) media streaming services. According to a recent report[23] by KPMG and Eros Now, 40% of the surveyed online users could cut the TV cord soon. Hence, no one broadcaster has market power in the content ecosystem, given the competitive constraints imposed by the entry and significant expansion of OTT players in India.

(v.viii.) Given these competitive forces in the market, a tiered offering which comprises of bundles of TV channels along with mandatory a-la-carte offerings (or mixed bundling) is economically efficient. Further, any discount on the sum of a-la-carte channel is an outcome of the cross subsidization of content cost from advertisement revenues and competition for viewership / subscriptions. However, economic efficiencies and cross-subsidies for consumers only remain if there is no price ceiling.

(vi) *The INR 19 ceiling for a-la-carte channels to be part of a bouquet in the NRF is equivalent to INR 19 price ceiling on a-la-carte channels per se*

[19] https://www.oecd-ilibrary.org/science-and-technology/broadband-bundling_5kghtc8znnbx-en
[20] CA 98/20/2002, *BSkyB.*
[21] Valuing Consumers' TV Choices, NEEDHAM Insights. December 1, 2013; http://www.capknowledge.com/research_reports/media_theme_research_reports/old_reports/2013_12_01_Valuing_Consumers_TV_Choices_final.pdf
[22] Calculated from BARC's data by averaging the weekly network share of broadcasters in 2018
[23] KPMG India-Eros Now report titled 'Unravelling the digital video consumer, 2019'

(vi.i.) Analysis of data from Annexure II of the CP reveals that 81% of TV subscribers or TV households in India, when provided with both options (*that is TV channels on a-la-carte basis and the same channels as apart of bouquet*), preferred their channels to be part of a bouquet.

(vi.ii.) Given the economic efficiencies with bundling of TV channels, the revealed preference or choice of the consumers for bouquets (Annexure II of the CP) and the effective choice of 81% of subscribers being a bouquet, only three pay channels out of the 324 pay channels from Annexure II of the CP are offered solely on an a-la-carte basis and not included in any bouquet. In other words, only three pay channels out of the total are priced above INR 19.

(vi.iii.) Therefore, with 81% of subscriber's revealing preference for bouquets, the optimal choice for a broadcaster is to ensure that all its channels can be part of its own bouquet or the DPOs' bouquet.

(vii.iv.) Second proviso of Section 3 (3) of the NTO reads *: "Provided that such bouquet shall not contain any pay channel for which maximum retail price per month is more than rupees nineteen"* Therefore, the second proviso of Section 3 (3) of the NTO is equivalent to a price ceiling for a-la-carte channels per se for all channels as it effectively restricts 99% of the pay channels' ability (as given in Annexure II of the CP) to increase prices beyond such limitation when offered on a-la-carte basis.

(vii) *Mandating a price ceiling on a la carte offerings compels broadcasters to rely on advertisement revenues to recoup content costs*

(vii.i.) Prices of TV channels are regulated by TRAI's regulations and the genre-wise price caps in the old regime and the INR 19 price ceiling has prevented broadcasters to recover their content costs from the subscribers in the form of higher subscription fees. In fact, a comparison of revenue collections from subscriptions *versus* advertisements in other jurisdictions would show the distortions caused by TRAI's price cap regulations. The share of advertisement revenue for Indian broadcasters is approx. 67% of broadcaster's total revenue, while in the US and UK the share of advertisement revenue borders around 40%.

**Table 2: *Share of ad and subscription revenue in other broadcast markets***

| Country | Ratio of Advertisement Revenue to Total Revenue | Ratio of Subscription Revenue to Total Revenue |
|---|---|---|
| **India** | **0.67** | **0.33** |
| USA | 0.41 | 0.59 |
| UK | 0.38 | 0.62 |

*Source: KPMG and Statista*

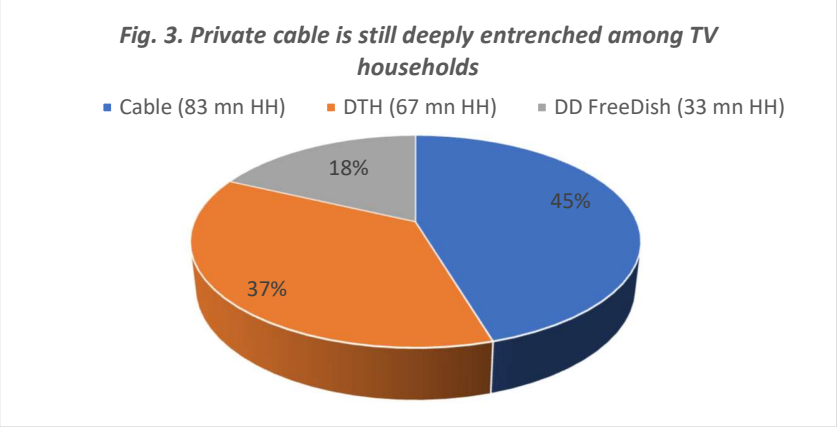
(vii.ii.) The above comparison of the split of broadcasters' total revenues between advertisement and subscription revenues across different countries substantiates the above statements – in countries with no price caps on TV channels, prices are determined through an open market, basis the supply and demand of content, leading to higher subscription revenues. This allows the broadcasters to run lesser TV channels (and hence obtain lesser ad revenue). This is in stark contrast to India, where broadcasters operate under price ceilings/regulation which led to broadcasters launching multiple channels to divide content to increase ad revenue for sustainability. Broadcasters must therefore rely on higher advertisement revenues under the NRF to recoup costs and further invest in attractive yet diverse content creation/acquisition. *De hors* the advertising fees, the broadcasters will not able to survive in the market as the deficiency in recovery of the cost of the channel can only be recovered through advertisement revenue. Any limitation on the broadcaster's ability to generate ad revenue will also affect the pricing and the quality of content.

Given these ground realities, any restriction on bundling in the form of discount caps will restrict broadcasters' ability to develop high quality content at affordable prices.

**Therefore, basis the above discussion, we humbly submit, that any decision by the Authority to reduce the price ceiling on a-la-carte prices of pay channels that form part of a bouquet, or any decision to impose a discount cap on broadcaster's bouquets or restrict the number of broadcaster's bouquets in the market will neither be in consumers' interest nor in the interest of the growth of the industry.**

## 6. Market structures and costs in the distribution sector

(a) According to TRAI's latest available annual report, the distribution sector comprises 4 DTH players, 2 HITS players, 1469 MSOs, an estimated 60,000 LCOs and DD Free Dish that is owned and operated by Public Service Broadcaster Prasar Bharati (Doordarshan).



*Source: KPMG Media and Entertainment Report, 2019*

(b) Setting up a distribution platform requires a huge one-time infrastructural investment. However, once the basic infrastructure is in place (i.e., Head-end, cable to every locality etc.), the marginal cost of adding one more subscriber in that area is close to zero. Hence, DPOs, particularly the cable operators are *"natural monopolies"* and have *"monopolistic power"* in the provisioning of cable services in their respective area.

(c) Given the need to fund these huge one-time investments, the Cost Accounting Branch of Ministry of Finance in 2004 carried out an exercise to calculate the economic cost of delivery of channels in the Cable Networks. Based on this costing exercise, the government specified the ceiling price of INR 72 per month (excluding taxes) for the Basic Service Tier comprising of 100 free-to-air (FTA) channels. This practice of charging each subscriber every month for infrastructural investments continued till 2018.

(d) Even if we assume there were around 80 million pay TV homes between 2004 and 2018, DPOs collections per month to fund their infrastructure development and upgradation amounted to INR 5.7[24] billion per month and INR 69 billion per annum. This implies a total collection of INR 967.6 billion[25] by DPOs between 2004 and 2018 for up upgrading their technologies. Since this economic cost of delivery of channels (*or subsidy to DPOs to fund their infrastructure investments and technology upgradation*) was provisioned in all of TRAI's regulations, DPO's share in subscription revenue (*or ground collections*) has always been unjustifiably high in all of TRAI's regulations, including the NRF as highlighted below:

(i) <u>DPO's share of subscriptions in the analogue regime</u>***:***

DPOs share in subscriptions (or collections) in the analog regime was as high as 78%.[26] According to TRAI Consultation Paper on *"Tariff issues related to cable TV services in non-CAS areas"* dated 25th March 2010, subscription revenue in the broadcasting industry was INR 13,500 crores and DPO's share was as high as INR 10,600 (or 78% total collections) and the remaining 22% (*INR 2, 900 crores*) was for broadcasters.

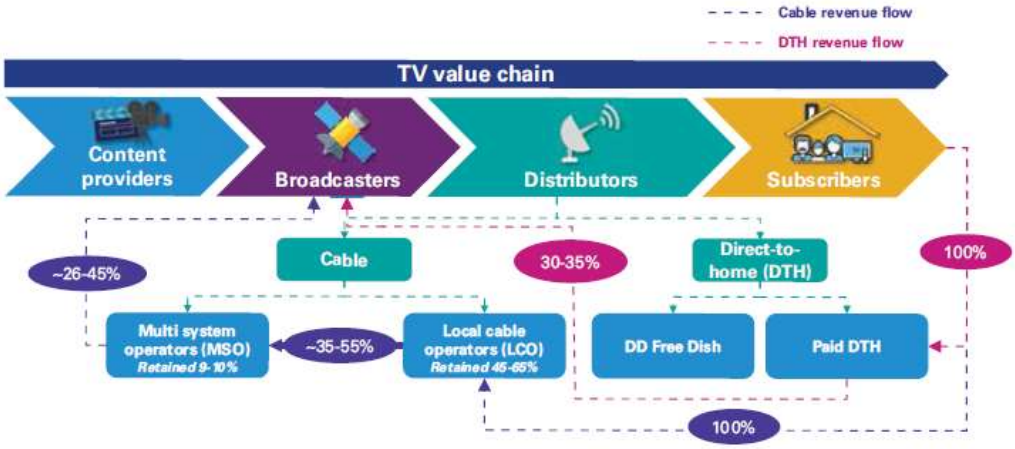
(ii) <u>DPO's share of subscriptions pre-NRF</u>***:***

According to data from KPMG[27] the DPO's share from the total subscription collections of INR 46,300 is as high as INR 34,300 (or 74%) while the share of broadcasters stood at INR

[24] INR 72 x 80 million TV homes
[25] INR 5.7 billion x 12 (1 year) x 14 years
[26] Consultation Paper on Tariff Issues related to Cable TV Services in Non-CAS Areas, March 25, 2010
[27] Data from "Performance of TV Industry" page no 56 and table on The Broadcaster Industry Size, page no 58 of KPMG Media and Entertainment Report, 2019

12,000 (or 25%). The table reproduced from the Report highlights the estimate of revenue sharing across the TV value chain for Cable TV and for DTH.

***Fig. 3. Estimated revenue sharing across the TV value chain before NRF***




*Source: KPMG India Report on Media and Entertainment, 2019*

(iii) <u>DPO's share of subscriptions in the New Regulatory Framework</u>***:***

(iii.i.) The DPO's subscription revenue share in the NRF continues to remain around 65-70%. According to data from ChromeDM, a data analytics firm, the average monthly bill (or Average Revenue Per User / ARPU) in the NRF is INR 271 and TV households, on average, receive 265 channels.

(iii.ii.) The DPOs share in this INR 271 includes:

- its fixed Network Capacity Fee (NCF) of up to INR 130 for 100 SD channels;
- distribution fee of 20% of the MRP of pay channels; and
- additional 15% discount offered by broadcasters as incentives.

(iii.iii.) Even if, for the sake of argument, the additional NCF of INR 20 for each set of additional 25 SD channels charged by a DPO is disregarded, the DPO's share in this subscription revenue (new ARPU) is 66.1%.

(iii.iv.) Given the economics of the industry (where DPOs have a fixed high infrastructure cost initially and subsequent recurring yet minimal fixed maintenance cost but broadcasters have very high content acquisition / licensing cost which can differ from genre to genre), a higher percentage of subscriptions must go towards funding "content costs".

**7. <u>Market context of the present CP</u>**

(a) To appreciate the context and the market reality in which the present CP has been issued, its useful to consider the consumer's monthly bills and choice. As has been stated above, according to data from ChromeDM, the Average Revenue Per User (ARPU) or monthly TV bills have increased by 22% from INR 222 to INR 271 under the New Regulatory Framework while the number of channels available per TV household has reduced from 315 to 265. The DPOs enjoy a minimum guaranteed share of the consumers broadcast TV Bill (ARPU) as the NCF of INR 130 accounting for a straight 48% of consumers' monthly TV bills. With distribution fee at 20% of the MRP of channel prices, the DPO share in consumer's monthly bill is a straight 66.1%.

(b) Moreover, according to KPMG's M&E Report 2019, the transition to NRF has reduced the number of active pay TV subscribers by 12-15 million. Given the new ARPU at INR 271, the potential annualized revenue loss for the industry from this reduction in Pay TV subscribers is a whooping INR 43.9 billion[28], and given the above revenue loss, the potential annualized loss to exchequer[29] from the reduction in Pay TV subscribers is INR 7.5 billion[30]. With respect to jobs in the sector, given the employment output ratio of 1.066 (per million)[31], a INR 43.9 billion loss of revenue to the industry could cost jobs for 46,801[32] people employed in the industry.

(c) In view of the above, it would be unreasonable and manifestly arbitrary for the Authority to undertake or continue with this CP without conducting appropriate studies / surveys and analytics to understand household level ground realities, without having adequate data or evidence of consumer choices and preferences, and without making available to the stakeholders the consumer complaints (referred to in the CP) and various other data points used to make conclusions and judgments specifically against broadcasters. It is unreasonable for the Authority to undertake a premature consultation exercise without any real justification.

(d) The CP is based on surmises and conjectures and displays pre-determined bias by proposing inconsistent hypothesis, not supported in fact, law, economics or commerce. The CP questions

[28] ARPU of INR 271 x 13.5 million subscribers (midpoint of 12-15 million pay subscribers wiped out according to 2019 KPMG Report) – loss of revenue for one month. Annual figure is 43.9 billion

[29] Deloitte-MPA report Economic Contribution of the Films and TV Industry in India, 2017 - indirect taxes accounts for 17.2% of the industry revenues. The loss of exchequer is calculated based on this data.

[30] Deloitte-MPA report Economic Contribution of the Films and TV Industry in India, 2017 - net indirect tax from distribution is 17.2% → 17.2% of 43.9 billion = INR 7.5 billion

[31] Deloitte-MPA report Economic Contribution of the Films and TV Industry in India, 2017

[32] Employment output ratio of 1.066 x INR 4.39 billion = 46801 (employment)

and the discussions preceding them appear to be engineered, closed and motivated and clearly reflect the Regulator's pre-set mindset and set up a trap for the broadcasters who choose to respond to the same. Further, there are factually incorrect observations and comments and therefore technically incorrect (and more so leading) questions, which if, responded to lead to incorrect conclusions.

**We therefore request the Authority to kindly withdraw the present CP and issue a fresh CP post conducting all the necessary hygiene and transparency measures that the Authority is mandated to follow under Section 11(4) of the TRAI Act, 1997. Alternatively, the Authority may issue clarifications and/or provide all the necessary data and inputs to stakeholders after carrying out detailed discussions and meetings with all concerned.**

## **CHAPTER II –** PRELIMINARY SUBMISSIONS - PRINCIPAL ISSUES WITH REGULATORY APPROACH AND PROPOSITIONS IN THE PRESENT CP.

The changes to the NRF proposed by the CP infringe upon the fundamental and legal rights of the broadcasters, content creators, and the public. Further, the issuance of CP at this stage is also contrary to the principles governing consumer interest, sectoral health and stability. Moreover, the move directly impacts the country's creative economy that is governed by the provisions of the Copyright Act, 1957, as also directly impacting the Government of India's objective of identifying the M&E sector as a "Champion Services Sector" for increasing jobs, investments and services exports through the sector.

In this context, we present our main issues with the regulatory approach adopted by TRAI in the CP as given below:

1. **<u>The Regulatory Approach Is Manifestly Arbitrary and Unreasonable</u>**

   (a) At the outset, TRAI's attempt to conduct an exercise with the object of possibly re-introducing the linkage between a la carte and bouquet prices of channels, by capping discounts applicable to the formation of bouquet amounts to nullifying the judgment delivered by a court of law through subordinate legislation. In the CP, several questions have been framed in respect of discount capping on bouquets on the premise that bouquets are offered at high discounts in comparison to a-la-carte rates of TV channels. It is our view that TRAI is precluded to base any discount caps on purported high discounts since Hon'ble Madras High Court in judgment dated 2nd March 2018 specifically disallowed the same as a ground. In this regard, it is submitted as follows:

      (i) Clause 3(3) of the NTO prevented broadcasters from pricing a bouquet at less than 85 % of the sum of the a-la-carte price of channels in that bouquet; &

      (ii) The provision was challenge by broadcasters before Hon'ble Madras High Court and vide its judgment of March 2, 2018, the Division Bench struck down the said clause. The Hon'ble Chief Justice pertinently found the provision arbitrary and unreasonable and held as follows:

      *"55. The <u>reason for putting cap of 15% to the discount on the MRP of a bouquet</u> disclosed in to the impugned Tariff Order <u>is that</u>, as per data available with TRAI, some bouquets are being offered by the distributors of television channels at a discount of up to 80% - 90% of the sum of a-la-carte rates of pay channels constituting those bouquets. <u>Such high discounts force the subscribers to take bouquets only and thus reduce subscriber choice. This, in my view, cannot be a reason to restrict the discount</u>."*
      *"58. … In my view the impugned provisions neither touch upon the content of programmes of broadcasters, nor liable to be struck down. <u>However, the clause putting cap of 15% to the discount on the MRP of a bouquet is arbitrary. The said provision is, in my view, not</u>*

*<u>enforceable</u>. In my considered view, the challenge to the impugned Regulation and the impugned Tariff Order fail."*

(b) Pertinently, TRAI filed an SLP against the above finding, before the Hon'ble Supreme Court. The Hon'ble Supreme Court dismissed the SLP as withdrawn through an order dated 3.1.2019.

(c) Further, Fastway (a DPO) had also filed an application before Hon'ble Supreme Court seeking clarification to the effect that the clause 3(3) of the 2017 Tariff Order (which had prescribed discount caps of 15%) has not been struck down. However, vide Order dated 04.01.2019, the Hon'ble Supreme Court, after hearing the parties, had dismissed the application holding that there was no merit in the application.

(d) As such, any prescription by the TRAI that places a cap on discounts would be illegal as it would run counter to the judgments and orders of the Hon'ble Madras High Court.

(e) TRAI's current consultation exercise is also unreasonable and arbitrary for the reasons listed below:

(i) <u>Lack of transparency and certainty</u>: The consultation exercise neglects to provide any fundamental reference framework with clearly identified parameters and criteria against which an analysis of comparable data may be carried out and thereby suffers from a transparency deficit. Specifically, the CP relies on assumptions and data applicable to prior regulatory regimes to reach conclusions on broadcaster prices and offerings under the NRF. Moreover, the move to intervene with the operation of the NRF is premature as it came into force only six months ago and prompted significant disruption for consumers and industry alike. Any further disruption such as an amendment to provisions in the NRF would only spur more chaos and confusion amidst consumers and service providers. Thus, Frequent regulatory changes will not only disrupt growth of the sector / market but also prove detrimental to the interest of consumers in the long run.

(ii) <u>Flawed understanding of Mechanics of a-la-carte vs. bouquet prices</u>:

(ii.i.) The CP is premised on a flawed understanding of the purported relationship between the a-la-carte and bouquet pricing of a TV channel and on a flawed assumption that bouquet pricing is detrimental to the interest of consumers. As mentioned before, broadcasters rely on two sources of income, namely advertising and subscription. Subscription fees are garnered from those consumers who highly value a channel but do not want to avail of a bouquet. Advertising revenue is generated on the backs of bouquets that combine several channels and offer them at a discounted price and is also predicated on the reach of channel(s). Lower prices entail greater reach in a price-sensitive market such as India. However, lower pricing can be sustained only if sufficient ad revenue can be generated through reach to subsidize the price.

Effectively, advertising revenue cross-subsidizes consumers who may not be able to afford a la carte offerings yet are desirous of plurality and diversity of views and may be keen to explore different content, thereby enabling them to enjoy a wide array of quality programming through bouquets. As such, bundles and a la carte offerings serve two completely different sets of purposes and customers.

(ii.ii.) Despite these overarching economic and market realities, the TRAI CP questions the legitimacy of the MRPs set by broadcasters for their a la carte and bouquet offerings. Several assertions and presumptions on pricing in the CP are not substantiated by data or credible rationale. Further, the scant / limited data used by TRAI to show the alleged arbitrariness in discounting of bouquets and pricing of a-la-carte channels is devoid of merit and ignores the specific market realities delineated above. As such, they disregard two key stakeholders, namely advertisers and consumers, both of whom serve as important contributors to the broadcast ecosystem. In fact, as explained subsequently in this Response neither the NRF nor the current exercise undertaken by the CP is in consumer interest.

(iii) Myth Propagation:

(iii.i.) At the outset, the concept of bouquet in a broadcasting industry not only helps the content creators / broadcasters but also the consumers. The myth which has been created by the Regulator through the narrative in the CP – that the entire exercise of bundling is done with a view to make more money by the broadcaster – is unfortunately a very myopic view and fails to take into consideration the entire landscape of the broadcasting industry, and particularly the factors which influence consumer choices.

(iii.ii.) The CP is rife with several myths about the interplay of stakeholders in the cable and satellite television ecosystem. For instance, the CP alleges that broadcasters deny consumers effective choice by inundating the latter with bundles. This is clearly impossible, as the broadcasters have no privity of contract with consumers. It is the DPOs who serve as conduits between broadcasters and consumers. As such, DPOs effectively serve as gatekeepers for both broadcasters and consumers.

(iii.iii.) The above situation is factually correct and mirrors present ground realities, which is evident from TRAI's own submissions on oath. The TRAI's Counter Affidavit filed in the matter of *Discovery Communications vs. TRAI*[33] (where a small broadcaster has challenged the *vires* of the NTO and NIR), and its directions on "best fit plans" serves as evidence that consumers are suffering primarily due to the actions of DPO and, to a limited extent, the actions of the TRAI as well.[34] Relevant extracts from the TRAI affidavit in the *Discovery* matter are as below:

[33] WP(C) No. 6915 of 2017 before Hon'ble High Court of Delhi.
[34] Refer to **Annexure II.**

*"43. That some incidents were brought to the notice of the Respondent that some MSOs in far flung areas and in smaller towns were not implementing the new regulatory framework in letter and spirit. Therefore, the Respondent issued a direction to all DPOs (MSO/DTH/HITS/IPTV Providers) and broadcasters on 24th January 2019 to comply with the provisions of the new regulatory framework in true letter and spirit. A copy of the direction dated 24th January 2019 is Annexure G.*
*****

*45. That some incidents were brought to the notice of the Respondent that customers were being forced to opt for bouquets or pre-defined packs without giving options to select pay or free to air channel on a-l-a carte basis. Therefore, the Respondent, on 31st January 2019 issued another press release clarifying that the customers are free to choose 'free to air' channel and/or pay channel either on a-la-carte or in the form of bouquet or any other combination thereof. It was also informed to the consumers at large that in case any DTH/cable operator is insisting on taking pre-defined packages or bouquets without providing real choice to the subscribers, they could report the same to TRAI at helpline No. 0120-6898689 or email das@trai.gov.in. A copy of the press release dated 31.01.2019 is Annexure I.*
*****

*49. That during the said meeting it was also discussed that non-exercise of the options by subscribers due to various reasons should not be a cause of inconvenience to the subscribers. Various options were discussed to bring on-board, the subscriber who could not exercise their option. After the discussion it emerged that to bring uniformity among DPOs and removing any ambiguity in the market, the Respondent should ask all DPOs to migrate remaining subscribes, who have not exercised their options even after repeated persuasion, to a 'Best Fit Plan' specific to a subscriber based upon his/her subscription pattern in the old framework, particularly taking into consideration important factors such as monthly pay out, language, genre etc. This best fit plan would work as a temporary and intermediate plan and subscribers would be allowed to change this plan at any point of time without any lock in period. The DPOs would ensure that payout per month of the 'Best Fit Plan' generally does not exceed the payout per month of existing tariff plan of the subscriber.*
*****

(iii.iv.) TRAI's assertions about dependence of DPOs on broadcasters for revenue run contrary to its statements in its Counter Affidavit filed in the matter of *Tata Sky vs. TRAI*[35] where Tata Sky has challenged the vires of the NTO, NIR and NQoS:

> *"76. That it is naive to say that DPOs will get nothing if broadcasters give 90% discount on their bouquets. The DPOs have two different sources of revenue namely, one from the distribution fee and another from network capacity fee. Furthermore, a minimum of 20% distribution fee has been mandated and discount which may vary upto 35% of the MRP of each pay channel and each bouquet of pay TV channel payable by broadcasters, and secondly, the network capacity fee payable by the subscribers to the DPOs. Thus adequate revenue protection has been provided to the DPOs while balancing the interests of all the stakeholders, including the consumers. The price of network capacity has been separated from the price of TV channels. To recover the distribution cost of channels, which includes subscriber management; DPOs are permitted to charge network capacity fee. Therefore, Petitioner No.1's contention that it would depend on the pricing strategy of broadcasters for its income, is not only farcical, but far from reality. In fact, under the erstwhile regulatory framework, the net income of the distributors was heavily dependent upon the pricing strategy of broadcasters. Hence, most of the distributors are supporting the new framework as it addresses the said concern.*
>
> *77. That the Distribution Fee is for the purpose of managing distribution of pay channel (s) or bouquet (s) of pay channels only. Main source of Revenue for DPOs is not discount on pay channel or Bouquet; it is over and above their complete distribution network cost recovery from Network capacity fee. Therefore this argument is without any substance. While power to fix MRP of a channel or Bouquet has been given to the Broadcasters, the power to fix DRP is protected by the providing that the DPOs are free to offer channels at a rate lower than MRP to attract more consumers. Under the new framework, the ceiling for Network Capacity Fee has been kept at Rs. 130/- for Basic services. Currently, DPOs are offering basic service at Rs. 99/- per month. In addition to above, for carrying of channel under 'must carry' provisions DPOs can charge Carriage Fee upto 20 paise per subscriber per month for SD channel and 40 paise per subscriber per month for HD Channel. Therefore, Petitioner's contention that it would depend on pricing strategy of broadcasters for its income is untenable."*

(iii.v.) TRAI also suggests that broadcasters force bouquets on DPOs by threatening to withhold "popular channels" from the latter if the DPO neglects to take the broadcaster's bouquets. However, broadcasters are mandated by law to provide all channels to DPOs.

[35] WP(C) No. 4315 of 2017 before Hon'ble High Court of Delhi.

Thus, if a DPO asks for a channel, the broadcaster is mandated to provide it. As such, TRAI's assertion that broadcasters force-feed bouquets to DPOs is false.

(iii.vi.) As TRAI's fundamental aim is to ensure effective choice for consumers in channel selection, the same can only be achieved if TRAI aims its efforts towards ensuring that DPOs, through their head-end, Conditional Access Systems (CAS), Subscriber Management System (SMS), call-centres, and web portals, make the ability to choose TV channels (both a la carte and bouquet options) at the published MRP or DRP, easy and convenient for consumers.

(iv) <u>False Dichotomy and Biased Approach:</u>

(iv.i.) Considering TRAI's admissions about DPOs malpractices in the relevant portions of its Counter Affidavits presented above, we maintain that the CP is inherently biased against broadcasters. Specifically, the CP blames broadcasters for curtailing consumer choice through alleged arbitrary pricing and discounting of their offerings, without taking into account the various factors that influence exercise of choices by a consumer. As such, the CP creates a false dichotomy between broadcasters and consumers.

(iv.ii.) Broadcasters are compliant with the regulatory obligations vis-à-vis the pricing and packaging of channels, as also the manner and mode through which the channels are to be offered and transmitted to the consumers (i.e. only through DPOs). Thus, the CP's hypotheses on pricing and formation of bouquets is invalid as rationale underpinning it is unsubstantiated by economic, legal, and commercial principles. The provisions enunciated in the NRF as well as the narrative of the present CP heavily favor the DPOs as both seek to further consolidate the monopoly and gatekeeping power held by DPOs. For instance, the NRF created an arbitrage opportunity for DPOs by allowing them to extract significant network capacity fees from consumers. Further, the DPO incentives introduced in the NRF such as distribution fee that ranges between 20-35% as well as a carriage fee of 20p and 40p per month per subscriber for those SD and HD channels respectively if the channel's subscription base is less than or equal to 20% of the DPOs total subscriber base – created avenues for widespread extortion of broadcasters. Simply put. In short, the current NRF serves as a minimum revenue guarantee scheme for the DPOs as it grants statutory sanction to multiple revenue streams for them at the cost of consumers and broadcasters.

(iv.iii.) An illustration of the minimum revenue guarantee schemes enunciated under the NRF are as below:

- Network capacity fee (NCF) of INR 130/- per subscriber/month for up-to 100 channels. For each additional selection 25 channels, the DPO may charge INR 20 on top of the INR 130;

- Carriage fee of INR 20 paise per subscriber per month to the DPO if a channel's subscription base is less or equal to 20% of the subscriber base. Meaning thereby that if DPO has 500 subscribers and 100 or less subscribers choose the channel, the channel owner has to pay additional INR 20 paisa per subscriber per month to the DPO;
- Distribution fee of 20% of the MRP per channel/subscriber/month; &
- Discount on bouquet of TV channels up to 15% vis-à-vis sum of the a-la-carte price of channels constituting such a bouquet.

(iv.iv.) Hence, inequality in regulatory action and bias are writ large in the existing NRF and the present CP in favor of the DPOs as they get fixed revenue streams as described in previous para which broadcasters do no, as well as they will get greater flexibility to push their bouquets to consumers if any discount cap on bundles is re-enacted which will squarely come at the cost of broadcasters losing any opportunity to sell their packs to consumers. Hence, let alone level-playing field, broadcasters are at a clear disadvantage vis-à-vis DPOs.

(iv.v.) As broadcasters are also service providers, it is incumbent on TRAI to act in an unbiased and fair manner while exercising its powers. As a licensed broadcaster, regulated by the Authority, our legitimate expectation is that regulations, rules and directions will be implemented to safeguard our interests and also to promote the orderly growth of the our sector.

(v) <u>CP has no nexus with the object sought to be achieved:</u>

(v.i.) The CP claims that its objective is to enable pay TV subscribers to exercise effective choice by picking up more a la carte channels. If indeed, TRAI is looking to achieve this aim, then it must ensure that DPOs (the entities responsible for providing broadcaster and DPO bouquets as well as a la carte offerings to consumers) enable, inform, educate and create awareness amongst consumers to make such selections.

(v.ii.) In the relevant portions of TRAI's Counter Affidavits reproduced above, the Authority expressly acknowledged the crux of the problem is the inability of DPOs to fulfil customer requests due to longstanding structural deficiencies. Additionally, on 28 August 2019, the Authority issued directions to DPOs for the violation of various QoS regulations specifically relating to consumer channel provisioning. Despite such clarity, most of Chapter III of the CP seeks the following amendments in the NRF:

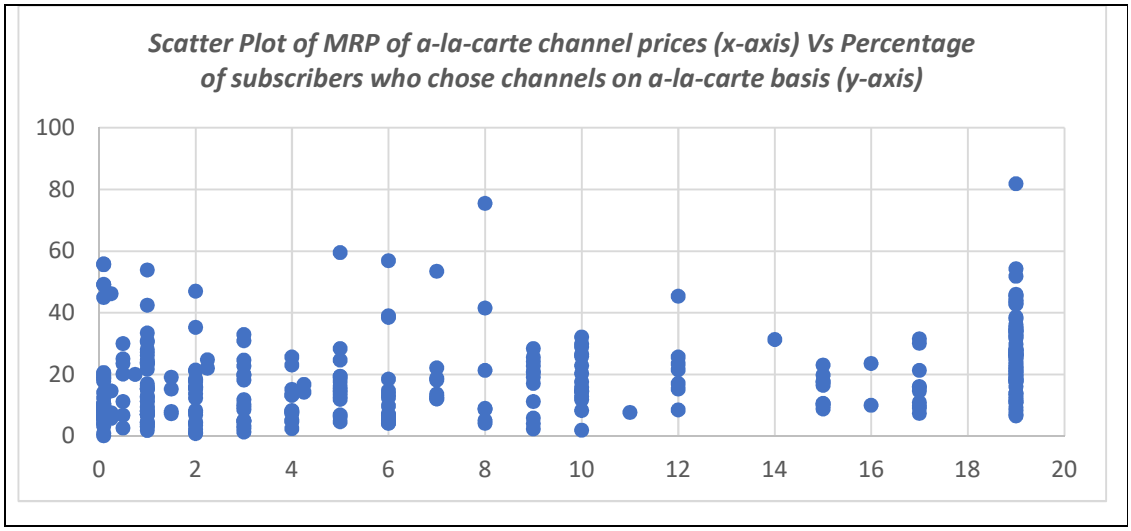
- Re-introducing restriction on discounting of broadcaster bouquets by linking it to the sum of a-la-carte MRP of channels offered in the bouquet;
- Reducing the a-la-carte ceiling price of TV channels to below INR 19 to be part of bouquet; &
- Introducing restrictions on number of bouquets that can be formed by broadcasters.

(v.iii.) Data and evidence present with the industry stakeholders and potentially with the Authority indicate that none of the above are a cause of consumer dissatisfaction nor do they impinge on consumer choice.

(v.iv.) Thus, in our humble view, there is no reasonable nexus between the restrictions on discounting, reduction in price ceiling and number of bouquets suggested by the Authority with the object sought to be achieved, i.e., freedom of choice for the consumer. On the contrary, proposed restrictive amendments will negatively impact consumer choice as Indian consumers prefer bouquet offerings, and will lead to a destruction of the quality of content offered by the broadcasters because of the deficit in ad revenue. In any event, TRAI cannot prescribe any capping on discounting of bouquets as the same has been categorically dismissed by Hon'ble Madras High Court and when before Hon'ble Supreme Court TRAI preferred an SLP against the it was dismissed as withdrawn vide order dated 3.1.2019. Further, Fastway had also filed an application bearing before Hon'ble Supreme Court seeking clarification to this effect, however, vide Order dated 04.01.2019, the Hon'ble Supreme Court, dismissed the application holding that there was no merit in the same.

(v.v.) Globally, consumers of TV channels prefer bundle offerings as they receive significantly more value for money in a bundle commercially / economically, as also intellectually through plurality and diversity of information received. In fact, an analysis of TRAI's own data from CP's Annexure II as well as independent data (provided as below in Chapter 4 of this response paperf from broadcasters reveals that lower a-la-carte prices do not translate into higher uptake of a la carte selections. Consumer preferences for TV channels are driven by individual tastes for genres such as sports or movies, language such as Tamil or Telugu as well as demographic contexts such as age, gender, and income (please see figure below). In a majority of cases, consumers choose channels a la carte primarily on the basis of the availability of such an option on a DPO platform. Hence. The measures suggested by TRAI in the CP bear no nexus with the objective of enhancing consumer choice and actually run counter to the same.

**Fig 4. Price is not the sole determinant of a-la-carte uptake**



| Source: Analysis of Annexure II of the CP |
|---|
| There is no visible pattern between MRP of a-la-carte prices of TV channels and percentage of subscribers who have opted for a-la-carte choices for the channel[36]. If TRAI's hypothesis were true we would have pattern correlating the a-la-carte price of a channel with consumer uptake of a-la-carte in the form of a downward sloping scatter plot.<br><br>Hence, Annexure II or any of the data or analysis provided in the CP is insufficient for TRAI to conclude that a-la-carte prices are illusory and results in low-uptake of channels on a-la-carte basis. |

(vi) The Propagation of Regulatory Instability – Regulatory stability is the bedrock of a prosperous industry and a satisfied consumer base. The implementation of the NRF on 31st March 2019 prompted industry to legitimately expect a period of regulatory stability as assured by TRAI in its explanatory memoranda to the NTO as also before the Hon'ble Supreme Court recorded in judgment dated 30.10.2018. Based on such legitimate expectations, broadcasters and DPOs made significant investments, long-term business plans, and commercially strategic decisions. The consumers long accustomed to following industry practices were also inconvenienced and forced to adopt a new mode of TV consumption. In view of the significant disruption caused by the NRF that forced the migration of around 150 million subscribers[37], it is imperative for the Authority to provide a soft and prolonged landing for consumers and all stakeholders to fully benefit from the new regime. An ad-hoc intervention, as proposed in this CP, shall only lead to further discontent and dissatisfaction amongst consumers. Further, it will also lead to revenue loss and serve as an existential threat for smaller broadcasters and DPOs.

2. **Regulatory conduct and execution of the TRAI's Regulatory Framework for broadcast services interferes with the fundamental rights to create, communicate, circulate and receive speech under Article 19(1)(a) of the Indian Constitution**

(a) The arbitrary linkage of the price ceiling to bundling along with the ceiling of INR 19 and the suggested re-introduction of the discount cap of 15%, then, directly operate as limitations on the freedom of speech and expression guaranteed under the Constitution to those authors who are reliant on upstream investments in creative programming for their livelihoods.

(b) Moreover, the limitation of reach of a channel also acts as an unreasonable curtailment of their right to freedom of speech and expression as it works as an obstacle to widespread dissemination of content. It should be kept in mind that content is not a commodity but in fact an expression of free speech which is a protected right. However, the monetization of content, is based in the availability of such content as a service or a product, as is made available through the medium of

[36] Three channels priced above Rs 19 were excluded from the analysis and they cannot be included in a bouquet and hence have 100% uptake

[37] KPMG Media and Entertainment Report 2019

a TV Channel. Likewise, it is the freedom of a broadcaster, that is basically the producer and curator of audio and video content comprising speech and expression, to disseminate the said speech and expression. Restrictions related to number of TV channels, price, advertisements, and the offering and proliferation of TV channels is an infringement on the freedom of speech and expression. Authors, composers, artists, content creators have limited means of dissemination like radio, TV, books some for which are licensed or unlicensed – broadcasting and DPOs are licensed. Hence, all that a broadcaster does is to market, promote, advertise, sell either on behalf of author, composers etc. or when it's the content creator itself.

(c) The diversity and plurality of content is frustrated by the TRAI's attempt to push the content it deems as 'popular', irrespective of the TV Channel uptake. It should be noted that the varied taste and demand across India's vast domain responds to diverse tastes for consumption of content. The right to free speech includes the right to ensure the widest possible dissemination of the speech through all means and modes such as print, electronic, satellite etc.[38] Thus, each film maker, artist, creative person, producer, director, song writer, composer etc. has a right to have his work / film / song / TV Show etc. as widely disseminated as possible through all means of dissemination and communication. Any restriction on this, by either defining or purporting to regulate "unpopular" channels is unreasonable.[39] Incorrect definitions based on the TRAIs subjective judgment garnered through extrapolatory data is essentially a regulation of individual viewership choice from being diverse and multi-faceted to becoming subject to herd mentality through what TRAI deems popular. By reducing the number of channels through arbitrary price controls and discount caps, the TRAI is effectively choosing on behalf of the country's 197 million TV households.

(d) Just like a newspaper is the format, medium or mode through which an individual, journalist, editor etc. exercise their freedom of speech, a TV Channel is nothing but a format, medium or mode through which creative artists, producers, actors, musicians, dancers etc. exercise their free speech rights. Just like the value of a newspaper is derived from the value of its content and a blank newspaper has no value and is worth only the cost of paper, a TV Channel derives its value from the films, TV Shows, serials, advertisements etc. shown therein and a blank TV Channel has zero value.

(e) Thus, the restriction of choice by restrictions to the offering of TV channels curtails the right of creative artists to disseminate and right of consumers to receive information, which is a contravention of the right to freedom of speech expression, and mere *"public interest"* cannot be

[38] *Secretary, Ministry of Information and Broadcasting, Government of India and Others v. Cricket Association of Bengal and Others: 1995 (2) SCC 161; Sahara India Real Estate Corpn. Ltd. v. SEBI [(2012) 10 SCC 603]*

[39] "The phrase "reasonable restriction" connotes that the limitation imposed on a person in enjoyment of the right should not be arbitrary or of an excessive nature, beyond what is required in the interests of the public. The word "reasonable" implies intelligent care and deliberation, that is, the choice of a course which reason dictates. Legislation which arbitrarily or excessively invades the right cannot be said to contain the quality of reasonableness and unless it strikes a proper balance between the freedom guaranteed…and the social control permitted… it must be held to be wanting in that quality" *(Chintaman Rao v. State of MP AIR 1951 SC 118)*

the basis of restriction on freedom of speech and expression. In effect, the regulations to control price and manner of offering of TV Channels, contravene the consumers right to receive speech and expression manifest in the content comprised in the TV channels, as published and broadcast by the creator/ producer or the broadcaster.

(f) To illustrate, the freedom of a newspaper to publish any number of pages and to circulate to any number of persons is an integral part of the freedom of speech. Regulation of advertising space forced newspapers either to raise their prices and compromise on circulation or to run at losses, eventually forcing them to close. This is a direct, and not a remote or incidental, infringement on the right to freedom of speech and expression.

(g) The right to freedom of speech cannot be taken away with the object of restricting business activities like advertising, notwithstanding that it may be a commercial aspect of speech, subject to the exceptions of Article 19(6), and no restrictions in the public's interest may be placed even on such commercial speech. The regulations restricting printing by curtailing the print and circulation, including any Restrictions related to number of pages, price, advertisements, and circulation of newspapers, constitute a direct infringement on the freedom of speech and expression.

(h) Rights to express and disseminate the views includes not only the right to circulate but also includes the right to volume of circulation. The right to circulate a programme also includes the right to circulate and disseminate the programme in the manner deemed fit by the creator or the broadcaster of the programme.

(i) The impact of the New Regulatory Framework in providing:

- the ceiling price of a TV Channel in a bouquet;
- maximum number of TV Channel bouquets offered; and
- conditions for formation of the bouquet in restricting the offering or discount for an offering,

compels the broadcasters either to reduce the content offering, or the number of TV channels or to raise the prices. While the former restricts the dissemination of expression, the latter significantly cuts down the circulation. Both involve a direct infringement of not only the broadcasters' and content creators' right under Article 19(1)(a) but also infringes the rights of the consumers under Article 19(1)(a) to receive and view the content. This to say that the freedom to publish any number of pages is the freedom to circulate to any number of persons, which are akin to the freedom to broadcast to any number of persons, all of which are integral part of the freedom of speech.

(j) Thus, similar to the fact that any manner of regulation on the newspaper whether its pricing linked to its number of pages, curtailment of ad space or number of pages etc. is violative of free speech,

any restriction on TV Channels, whether its pricing linked to number of channels in a bouquet, number of bouquets, discount caps etc. is violation of Article 19(1)(a).

(k) Broadcast is a medium of communication of speech and expression of an artist / writer / content creator. The demand for a channel is essentially demand for the content. The channels survive or die on the backbone of the content. Thus, any proposal to either fix a price / price ceiling, or restrict the offering, or in any manner restrict the manner and number of offerings, will effectively curtail the fundamental rights guaranteed under the constitution. In case of a mandatory a-la-carte offering, coupled with a price ceiling, would completely bind the broadcaster to sell the TV channel at desired price, to realize a concomitant value, whereby the content owner / content provider/ artists/ writer/ singer/ filmmaker located upstream be unable sell their content / work to the broadcaster at desired value and will effectively be inhibited to express through their content/work.

(l) It seems that TRAI through the present CP seeks to compel content providers and broadcasters to unbundle the channels and offer to viewers channels on a-la-carte which is based on the pretext of being a consumer-friendly move. It is submitted that under a pure a-la-carte system coupled with the fixation of MRP or ceiling of a-la-carte channel by TRAI, the broadcaster will not be able to sell the channel at a desired price, which will lead to a situation where the content owner / content provider/ artists/ writer/ singer/ filmmaker will not be able to either sell their content / work to the broadcaster at a justifiable price for their work and will be largely hindered to express and speak through their content/work.

(m) The CP by categorizing channels as "popular" and "unpopular" and structuring the NRF and the CP with the target that "unpopular" channels are not "pushed" to the consumers have the effect of pushing only one-sided information. It has been held in the case of *Cricket Association of Bengal*[40] that the right to participate in the affairs of the country is meaningless unless the citizens are well informed on all sides of the issues. Uninformed citizenry makes democracy a farce. Thus, the changes proposed in the CP are effectively killing "unpopular channels", thereby restricting plurality of views which forms an integral part of the right to freedom of speech.

(n) Also, as explained above, popularity / unpopularity of a channel is actually a statement about the popularity or unpopularity of the films, TV Shows, serials etc. comprised in a TV Channel. TRAI has always maintained that it does not touch upon the content comprised in TV Channels. However, by basing its whole NRF and the CP solely on the basis that purported "unpopular" channels ought to be discouraged, TRAI is effectively passing a value judgment on the content of such channels and also regulating such purportedly "unpopular" TV Show, films etc.

(o) The right to freedom of speech and expression cannot be restricted on the ground that the restriction is in public interest or to give a consumer the option to choose. It is akin to curtailing

[40] (1995 (2) SCC 161)

the consumer's ability to avail of the expression that it wants and, in the manner, that it desires. The consumers' right to receive speech and expression is further diminished when faced with a diminished content offering, or rising prices. The regulatory provisions are structured to curtail the offering, which will ensure either the reduction of choice and quality, or the increase in prices. In either event, the freedom to receive the speech and expression by the consumer is illegitimately restricted. The said restriction which the Regulator wants to impose on the broadcaster and the consumer does not take into account the fact that there is no concrete final data or material or method to determine the realistic choice of each and every consumer in a country with ~1 billion population. The excuse of the Regulator which forms the premise of the CP i.e. true consumer choice can be exercised only if they are able to select what they watch, in fact limits the options for the said consumer. It also restricts the circulation of the ideas / content / programmes, which the consumer may not even be aware of. A movie, a piece of writing, a song or a play are ever evolving phenomena and no regulator or broadcaster can say with certainty as to what is the choice of a consumer at a particular moment. In case the consumer is restricted to watch what TRAI deems majority considers 'popular', then it will restrict the right of a consumer to be exposed to new ideas / content.

(p) The regulatory approach and rationale adopted by TRAI in the new CP is contrary to Article 19 (1)(a) of the Constitution of India. The new CP by its very objective is directed against the dissemination/ circulation of content and thus interfere with the freedom of speech and expression, as guaranteed under Article 19(1)(a) of the Constitution. Any curtailment of the medium of expression viz. newspaper / TV Channel would amount to curtailment of the expression itself (viz. news articles / films, TV Shows), which is violative of Article 19(1)(a).

(q) Moreover, it needs to be emphasized that while TRAI claims to have issued the CP in public interest, the changes being considered by TRAI would adversely impact public interest for the following reasons:

(i) Niche channels will shut down and consumers will thus be deprived of plurality and diversity of viewpoints. Hence, consumers' right to receive information that TRAI deems "unpopular" will be directly impacted.

(ii) While the sum of multiple a la carte channels basis individual choices in a family of ~4 may add up to a consuming household's bill; with a bouquet, the needs of an entire family are met.

(r) A December 2013 study by Needham & Company, an investment bank and asset management firm, found that the induction of an a la carte scheme in the US (which currently operates on bundles and free market economies) would reduce consumer value from the industry by USD 80 - 113 billion and do away with a minimum of 124 channels and 1.4 million media-related jobs.[41]

[41] Laura Martin; Dan Medina. "The Future of TV" (PDF). Needham Insights. Needham & Company.

(s) Broadcasters are able to create channel bouquets, and therefore offer them at a discounted rate than their individual market rate through subsidization from advertising revenue. Hence, formation of bouquets allows for widespread dissemination of channels. Concomitantly, advertisement revenue is dependent on the given reach of a channel. Therefore, in a country like India, where many consumers may not have the discretionary income to be able to afford a channel at its market price, bouquets offer an affordable alternative as the revenue from advertising cross-subsidizes these consumers. Thus, TRAI'S re-introduction of a-la-carte and bouquet linkage through discount ceiling precludes broadcasters from recovering the cost of production on both fronts at the same time. If they price the channel at market price, they may get higher subscription revenue, but their reach will be affected as the channel is barred from forming part of a bundle.

(t) Moreover, bouquets allow for the creation and dissemination of niche content that may be appealing to a subset of Indian consumers. Specifically, the advertising revenue garnered through bouquets underwrites the cost of producing and marketing these niche channels, thereby enabling the individuals who watch them to receive such content. A 2011 Stanford University study showed that if a 49-channel bouquet was switched to an a la carte scheme, subscribers would pay 103 percent more in fees passed on by distributors. The study also found that consumer welfare would go down, changing between -5.4 percent and .2 percent.[42]

(u) Resultantly, the combination of these restrictions operates as a disincentive for broadcasters to reinvest in the creative ecosystem, i.e., the authors, composers among others.

3. **Regulatory conduct and execution of the TRAI's Regulatory Framework for broadcast services fundamentally interferes with the right to livelihood of content producers and broadcasters under Article 19 (1) (g) of the Indian Constitution**

(a) TRAI states in its CP that the foremost issue the authority wants to settle through NRF has been *"sacrosanct right of consumers to choose and pay for only those channels they want to watch"*. The Regulator, while emphasizing the right of the consumer to opt for the channel seems to be oblivious to the rights of broadcasters' / the artists' / the content providers to carry on their business, professions, and trade.

(b) TRAI's suggestion that consumers are compelled to watch *"unwanted channels"* lacks empirical basis and impinges on the right of creators to carry on their profession, trade and business. In fact, the existing clause 4(8) of the NIR permits a DPO to discontinue a channel if its average monthly subscriber base falls below 5%. The very existence of this clause is directly contrary to TRAI's stated objective i.e. to confer upon the consumer to have the choice of watching whatever it wants and to pay for what it wants to watch. TRAI, through this clause, has presumed that a

[42] Gregory S. Crawford; Ali Yurukoglu (April 2011). "The Welfare Effects of Bundling in Multichannel Television Markets" (PDF). Stanford University. Available at: https://web.stanford.edu/~ayurukog/bundling_welfare.pdf

consumer is not desirous of watching a channel if its subscription is below 5%. This is devoid of any rational basis and effectively amounts to curtailing consumers right to receive information, as also the broadcaster's right to carry on its business.

(c) The right to carry on business also includes the right to carry on the same in a way, manner and form as deemed fit by the owner. Any restriction, which has the effect of destroying the business or making it practically unfeasible, is an unreasonable restriction on the right to pursue a profession or trade. TRAI's attempt to regulate the nature of bouquet offerings including the kinds of channels to include in a bouquet (i.e. *"popular"* or *"unpopular"*) and what not to include in the bouquet, prices of bouquets and a la carte offerings, and the number of bouquets offered by broadcasters cannot be termed as a regulation for the orderly growth of the broadcasting sector. Instead it is a direct restriction on the content creation economy and broadcaster's ability to carry on business.

(d) The frequent overhaul of the legal regime by TRAI is adversely affecting the right of broadcasters to carry on business. The Supreme Court confirmed TRAI's jurisdiction only ten months ago through its Judgment on 30.10.2018. However, the Regulator has taken upon the task of once again creating uncertainty for the broadcasting industry.

(e) In accordance with the NRF, RIOs were published by the broadcasters and various agreement were signed between Broadcaster, DPOs and DTHs. Without giving an opportunity to the broadcasting sector to adjust after implementation of the NRF – which was operationalized merely 6 months ago, TRAI by initiating the current consultation exercise leaves the broadcasting industry in the shadow of doubt and uncertainty.

4. **<u>Arbitrary and perverse implementation of principles governing competition</u>**

(a) In 2013[43], the Competition Commission of India (CCI) established that the broadcasting industry is highly competitive. The CCI noted that there was sufficient competition in this sector – with the presence of several significant players in the broadcast TV and distribution business offering many channels, including for each of the genres, competing for viewership and prime time slots, existence of regulatory oversight and overall growth in the number of channels and options available to the viewers.

(b) Effective competition occurs in economic markets when two major market conditions are present:

- buyers have access to alternative sellers at prices they are willing to pay;
- sellers have access to buyers without undue hindrance or restraint from other firms; the market price of a product is determined by the interaction of consumers and firms;

[43] CCI case 31/2011 in an Investigation against distribution aggregators, the CCI has investigated and analysed the competition in the Broadcast TV Market, in India.

differences in prices charged by different firms reflect only differences in cost or product quality.[44]

(c) An analysis of the Indian Broadcast Market reveals:

- Broadcasters (as a group of stakeholders) do not have a dominant position, as the providers of Broadcast and TV Channels, broadcasters are inherently tied into providing TV Channels only through the Distributors (DPOs and LCOs).
- DPOs (as a group of stakeholders) have direct access to the consumer, for delivery of service and collection of revenue. Therefore, the DPOs, being gatekeepers, can facilitate vertical foreclosure of the broadcaster in the relevant market, as opposed to the broadcaster causing foreclosures as the broadcaster is subject to a 'must-provide' obligation under the regulations.
- Consumers have complete freedom of choice, in selecting their preferred mode of subscription to TV Channels, from available offerings of a-la carte channels, DPOs platform services, bouquet of broadcaster channels, and the DPOs' bouquet.

(d) Smaller broadcasters mainly operate at a regional level, producing hyperlocal news, informational, and entertainment content in local languages. Larger broadcasters, on the other hand, provide programming to a national audience. Although larger broadcasters provide regional content as well, the nature of the content produced by them is different from smaller broadcasters. Larger broadcasters create cost-intensive content that involves significant capital expenditure on items such as sporting rights and artist fees. To facilitate greater accessibility for the country's diverse populace, larger broadcasters translate their high value programmes into local languages. Contradistinctively, smaller broadcasters produce content with lower input costs.

(e) The distinct content produced by smaller and larger broadcasters, in turn, prompts these entities to follow divergent business models. Smaller broadcasters generally target niche audiences. As such, they are almost entirely dependent on advertisement revenue. Larger broadcasters bring in a mix of subscription and ad-based revenue. Specifically, advertisement revenue is used to underwrite programmes targeted at smaller audiences.

(f) TRAI's suggestion that larger broadcasters crowd smaller ones out by providing deep discounts and "perverse pricing" is divorced from the ground realities in the sector. Evidentially, in the matter of *Shri Yogesh Ganeshlaji Somani vs. Zee Turner & Ors*[45], the DG of the CCI investigated the potential anti-competitive effects of a joint venture of two large broadcasters and a Multi-System Operator. The informant in the case alleged that the merger of these entities would grant them an inordinate amount of bargaining power against other entities and consumers. The investigation found, however, that the combined channel strength of these entities only

[44] Derived from ICT Regulation Toolkit, Chapter 2
[45] Case 31/2011 before CCI

accounted for 32 % of the pay TV channel market. Further, although the JV entity had 60 channels for distribution as an aggregator for distribution the DG noted that it only accounted for 10 % of the market.

(g) Further, on the specific matter of the potential anti-competitive effects of the JV on either DPOs or smaller broadcasters, the DG, CCI reported the following:

*"The Commission has observed that as per the DG report, the Hindi TV channels control 50% of the total market of the TV channels available in India whereas English TV channels, Bengali, Telugu, Tamil, Marathi, Malayalam, Kannada and others have 10%, 4%, 8%, 10%, 5%, 2%, 4% and 7%market share respectively. As per the latest information available on the website of the Ministry of Information and Broadcasting, the total numbers of permitted private satellite TV channels in India as on 20.12.2012 are 848. As per the information available in the website of TRAI, as on 06.03.2012, there are 184 pay TV channels in existence. As per the DG report, the JV distributes only 55 number of pay channels which constitute 32 % of the pay channels in India. DG has also reported that the JV formed by the Opposite Parties has 60 channels for distribution as an aggregator which is followed by other aggregators such as 33 channels of SUN 18 Media, 19 channels of MSM Discovery, 12 channels of Usha Ushodaya Enterprises Pvt. Ltd., 6 channels of Raj TV, 5 channels of Prime Connect, 5 channels of Abs Media, 4 channels of Mahuaa Media, 4 channels of Tej Television, 4 channels of Maa TV, 3 channels of Turner International India Pvt. Ltd., 3 channels of Udisha and 2 channels of 9XMedia Pvt. Ltd..On the basis of said data, it is noted that as an aggregator the JV formed by the Opposite Parties has largest number of channels in its kitty but when compared to the total number of channels available in the country its market share is approximately 10% only.*

*17. It has also been observed from the DG report that out of the total number of channels distributed by some major MSOs across the country, the share of JV on analog network is presently 20% to 35% depending on the preference of the consumers in their respective geographical areas. It is also pertinent to mention here that the analog cable network can carry only 80 to 90 channels therefore; the broadcasters have to compete with each other for distributing channels on the analog network, this led to demand of more carriage fee and placement fee by the MSOs which results into exercise of more bargaining power by the MSOs.* ***Across the country, the share of JV varies on the basis of factors like consumer's choice, network availability as well as discretion of MSOs****.*

*18. The Commission further observes from the DG report that JV is having popular Hindi GEC Channels led among the genres with a 27.4% share of viewership, regional channels have a viewership share of 33.4%, Hindi Movie comes next with a genres share of 11.9% while the kids genres remain stable at 6.3%.The Commission also notes that there are already about 24 distribution alliances and broadcasters manage distribution in house, which are operating at the level at which JV operates. While testing the market position of the JV on the factors mentioned under section 19 (4) of the Act, the Commission notes that there is no evidence in the DG report to*

*substantiate that the JV has affected the operations of other broadcasters or aggregators in any way or they were forced to close down their business. The DG has also not reported that due to formation of the JV, the entry of any new broadcasters, aggregators, MSOs, DTHOs and IPTVOs was restricted or hindered in any manner. Due to the present regulatory framework, it is mandatory upon a broadcaster/ content aggregator to provide its channels to all MSOs and other distribution platforms (including DTH) on a non-discriminatory basis and the broadcaster/ aggregator cannot enter into exclusive agreements with any distributor that prevents others from obtaining such television channels for distribution. There is no "Must Carry" obligation for MSOs and other distribution platforms rather MSOs are free to decide number of channels and contents which they wish to carry for onward transmission to end consumers.*

*19. In view of the aforesaid discussion, it cannot be concluded that the JV formed by the Opposite Parties is a dominant player in the relevant market of the services of aggregating and distribution of TV channels to, MSOs, DTHOs and IPTVOs in India.*

*20. Accordingly, the Commission notes that since, the JV formed by the Opposite Parties is not dominant in terms of section 19(4) of the Act in the relevant market; it cannot abuse its position."*

(h) Thus, it adequately clear from the above matter that the combined bundling of channels of multiple broadcasters was not found to be anti-competitive by the CCI. Therefore, this conclusion poses serious challenge to TRAI's conclusion that broadcasters bundling their channels is somehow anti-competitive and puts smaller broadcasters at risk.

*(i)* Contrary to TRAI's allegations, the dependence of smaller broadcasters on ad-based revenue actually puts them in a precarious position vis-a-vis the DPO. Advertiser investments are predicated on the reach of a particular channel. A channel with limited reach is not appealing to advertisers as it curtails the potential realization of return on investment of a particular ad campaign. DPOs hold a monopoly on last-mile delivery of TV Channels to the consumer. They are empowered to price and package channels and present them to the end-consumer. Thus, they serve as gatekeepers to creative television content in the country. The DG report in the *Shri Yogeshlal* case also found that "*in the analogue market MSOs/LCOs exercises greater bargaining power at the retail level. The attention may be drawn towards a report of Media Partners Asia (MPA), which analyses the data for the year 2010 and as per the report, the revenue share of the broadcasters in the cable and satellite is in the range of 11% to 12%. This represents the relative strength of the MSOs/LCOs as compared to the broadcasters/content aggregators. Moreover, MSOs/LCOs exert their bargaining powers by charging carriage fee from broadcasters/content aggregators*". Moreover, the report found that MSO's had leverage against an entity that accounted for 32 % of the broadcasting market stating that distributor "*placement and carriage fee has been found to have been increased about 20%".*

(j) The problem with above paradigm is that DPOs rely purely on subscriptions to generate revenue. As such, they are incentivized to showcase content that appeals to the largest number of

subscribers. As mentioned earlier, smaller broadcasters generally produce niche content for regional audiences or English speakers. Illustratively, in the aforementioned CCI matter, the DG report found that "*the MSOs subscribe maximum number of channels of the JV either through bouquets or a-la-carte rate but they broadcast/show only those channels which are popular and having high demand in their area of operation through the analogue system*". Smaller broadcasters, then, are beholden to DPOs and the terms dictated by them to ensure proper penetration of their channels.

(k) An important corollary here is that DPOs may push for unreasonable conditions to carry the channels of smaller broadcasters, making it unfeasible for the latter to operate in the long run. In fact, clause 4(8) of the NIR empowers a DPO to refuse to carry a channel if its average monthly subscriber base is less than 5% of that DPOs average monthly subscriber base. A further consequence would be a decrease in the diversity of programming in the country. Such outcomes run contrary to the tenets of the Indian Constitution as enunciated by the Hon'ble Supreme Court in *Sakal Papers Pvt. Ltd. & Ors. vs. Union of India*[46]. The Court held that "*requiring newspapers to reduce their sizes would be compelling them to restrict the dissemination of news and views and thus directly affecting their right under Art. 19(1)(a). But it is said that the object could be achieved by reducing the advertisements. That is to say, the newspapers would be able to devote the same space which they are devoting today to the publication of news and views by reducing to the necessary extent the space allotted to advertisements. It is pointed out that newspapers allot a disproportionately large space to advertisements, It is true that many newspapers do devote very large areas to advertisements. But then the Act is intended to apply also to newspapers which may carry no or very few advertisements. Again, after the commencement of the Act and the coming into force of the Order a newspaper which has a right to publish any 'number of pages for carrying its news and views will be restrained from doing so except upon the condition that it raises the selling price as provided in the schedule to the Order. This would be the direct and immediate effect of the Order and as such would be violative of the right of newspapers guaranteed by Art. 19(1)(a).*"

*(l)* In *Turner Broadcasting System, Inc. v. F.C.C.*[47]*,* cable television system operators and programmers brought actions to the US Supreme Court, challenging constitutionality of must-carry provisions of Cable Television Consumer Protection and Competition Act of 1992 that required carriage of local broadcast stations on cable systems. In the context of the monopoly power of cable operators, Justice Kennedy found as follows: *In addition, Congress concluded that due to "local franchising requirements and the extraordinary expense of constructing more than one cable television system to serve a particular geographic area," the overwhelming majority of cable operators exercise a monopoly over cable service. § 2(a)(2). "The result," Congress determined, "is undue market power for the cable operator as compared to that of consumers and video programmers."*

[46] 1962 AIR 305.
[47] 512 U.S. 622 (1994)

Further the US Supreme Court found that in the absence of must-carry provisions, cable operators were incentivized to hurt programmers such as broadcasters. Specifically, Justice Kennedy of the US Supreme Court stated, "*According to Congress, this market position gives cable operators the power and the incentive to harm broadcast competitors. The power derives from the cable operator's ability, as owner of the transmission facility, to "terminate the retransmission of the broadcast signal, refuse to carry new signals, or reposition a broadcast signal to a disadvantageous channel position." § 2(a)(15). The incentive derives from the economic reality that "[c]able television systems and broadcast television stations increasingly compete for television advertising revenues." § 2(a)(14). By refusing carriage of broadcasters' signals, cable operators, as a practical matter, can reduce the number of households that have access to the broadcasters' programming, and thereby capture advertising dollars that would otherwise go to broadcast stations. § 2(a)(15)."* This reflects a similar position on the ground in India where DPOs hold a monopoly position on service to consumers and are not beholden to any must-carry provisions.

(m) TRAI also suggests that broadcasters "*pushed (unpopular channels) to the subscribers misusing the flexibility in pricing (given to) the broadcasters, (thereby) reducing the competition in broadcasting space by reducing the available capacity with DPOs and creating entry barrier for new TV channels*." (para3.24) TRAI's allegation about limited capacity of DPOs is not in line with technical realities. Illustratively, each analog channel of 6MHz can accommodate 38.8Mbps of data.[48] Overall for a practical cable carrying capability of about 800MHz, there would be about 130 channels of 6MHz.[49] This means that using 256QAM, one can pump about 5 Gbps.

(n) This means DPOs would require 2.3 Gbps for the approx. 988 channels, which includes private pay as well as FTA and DD channels (HD & SD), 110 HD channels and 878 SD channels. There is, thus, already sufficient bandwidth available in the cable distribution system to cater to almost double the existing number of licensed channels implying that the claim of capacity constrains is a bogey. Unfortunately, due to poor quality of cable at the last mile some DPOs cannot make use of 256QAA. Hence, they settle for 64QAM resulting a max of 3.4 Gbps. However, even after accommodating 110HD and 878SD channels they still should have a spare bandwidth of 1Gbps.

(o) The premise of DPO capacity deficit, then, is an artificial construct used by the Regulator to create further leverage for the DPOs. For instance, as mentioned before, the NRF provides for a 20 % distribution fee on MRP that must be paid to the DPO by broadcasters. Additionally, broadcasters are expected to pay DPOs carriage fee of INR 20 paisa per subscriber for SD channels and INR 40 paise per subscriber for HD channels.

[48] Digital Transmission Standard for Cable Television, Society for Cable Telecommunications Engineers
[49] Ibid

5. **Interpretation of Tariff Issues in the New Regulatory Framework is the regulation of content**

(a) If the changes sought by the Authority in the NTO through the present CP process with respect to ex-ante limitations on pricing, discount and manner of offering were to materialize, they would impinge on the rights of authors, composers, creators, producers and broadcasters to make available their content and monetize the same as per the provisions of the Copyright Act, 1957.

(b) In this regard, it is submitted that the Hon'ble Supreme Court[50] has categorically recognized that broadcasters have three kinds of copyright under the Copyright Act viz *"broadcasters may, in fact, be the owners of the original copyright of a work – for example, if they themselves have produced a serial. They may also be the copyright owners of the broadcast of this serial which is a separate right under the Copyright Act which they are able to exploit, and if there is a re-broadcast of what has already been copyrighted, this again is protected by Chapter VIII of the Copyright Act…"* Hon'ble Supreme Court has further held that broadcasters have been given full flexibility "*to either individually or in the form of a society charge royalty or compensation for the three kinds of copyright.*" Thus, any exercise by TRAI that has the effect of impinging upon the ability of broadcasters to exploit the three kinds of its copyrights protected under the Copyright Act would be invalid and untenable.

6. **Proposed amendments are not in consumer interest and detrimental to all stakeholders**

(a) Price certainty and market stability are paramount to a consumer, as well as to stakeholders in the industry. Practical migration of consumers availing the TV Channels under the NRF was subject to a distributor pushing *'best fit plan'*, following an initial deferral of the implementation itself. Thus, effectively the consumers and other stakeholders have not had enough time in six months to understand and adapt to an evolved subscription adoption mechanism.

(b) Regulatory balance essentially requires an understanding of sample or majority consumers, which would include a study and a publicly available reference which:

i. examines the availability of FTA and pay TV channels in almost every genre and its impact on the choice of consumers. By way of example, some data is provided below regarding the wide variety and choice available to consumers. However, TRAI has not carried out any exercise or study to assess the impact of such variety on the exercise of choice by consumer;

[50] *STAR India Pvt. Ltd. & Ors. vs. DIPP & Ors.* Civil Appeal nos.7326-7327 of 2018

**Table 3: Consumers have Plenty of channel choices across genre and price**

| Genre | FTA | Pay | Total | Price range of pay channels | | Average Price of Pay Channels |
|---|---|---|---|---|---|---|
| | | | | Max | Min | |
| GEC | 107 | 100 | 207 | 19 | 0.1 | 11.47 |
| Movies | 48 | 72 | 120 | 19 | 0.1 | 8.76 |
| Sports | 7 | 28 | 35 | 19 | 1 | 14.29 |
| Lifestyle | 6 | 6 | 12 | 9 | 1 | 2.83 |
| Kids | 3 | 18 | 21 | 10 | 1 | 4.42 |
| Infotainment | 3 | 25(excluding NHK world Premium) | 28 | 10 | 0.1 | 3.45 |
| Music | 63 | 20 | 83 | 19 | 0.1 | 3.98 |
| Devotional | 88 | 1 | 89 | 2 | 2 | 2 |
| News | 257 | 56 | 313 | 50 | 0.1 | 1.57 |

*Source: ChromeDM data for FTA channels and TRAI for Pay channels*

ii. questions why consumers prefer pay channels over FTA, as is evident from the below data set. (TV channels/ broadcast services are not availed primary based on price but based on utility);

**Table 4. 90% of the top 30 most viewed channels in 2019 are pay channels**

| S.No | **Channel** | **Avg. Monthly TVM 2019** | **FTA/Pay** |
|---|---|---|---|
| 1 | Sun TV | 3809740 | Pay channel |
| 2 | Dangal | 3426341 | FTA |
| 3 | STAR Maa | 2892710 | Pay channel |
| 4 | STAR Plus | 2867472 | Pay channel |
| 5 | Zee TV | 2761129 | Pay channel |
| 6 | STAR Sports 1 Hindi | 2454651 | Pay channel |
| 7 | Colors | 2402415 | Pay channel |
| 8 | Sony Ent. Television | 2274509 | Pay channel |
| 9 | Big Magic | 2234978 | Pay channel |
| 10 | STAR Vijay | 2176657 | Pay channel |
| 11 | Sony MAX(v) | 2081614 | Pay channel |
| 12 | Zee Telugu | 2070792 | Pay channel |
| 13 | Zee Tamil | 2055883 | Pay channel |

| S.No | **Channel** | **Avg. Monthly TVM 2019** | **FTA/Pay** |
|---|---|---|---|
| 14 | ETV Telugu | 2025852 | Pay channel |
| 15 | SONY SAB | 1969306 | Pay channel |
| 16 | Zee Cinema | 1864299 | Pay channel |
| 17 | Gemini TV | 1780311 | Pay channel |
| 18 | STAR Gold | 1775540 | Pay channel |
| 19 | Zee Kannada | 1772257 | Pay channel |
| 20 | NICK(v) | 1770491 | Pay channel |
| 21 | STAR Bharat | 1695211 | Pay channel |
| 22 | Colors Kannada | 1602732 | Pay channel |
| 23 | Zee Bangla | 1578403 | Pay channel |
| 24 | Zee Marathi | 1494816 | Pay channel |
| 25 | KTV | 1256113 | Pay channel |
| 26 | STAR Utsav | 1218604 | Pay channel |
| 27 | Asianet | 1188550 | Pay channel |
| 28 | B4U Movies | 1176029 | FTA |
| 29 | Zee Anmol | 1166033 | Pay channel |
| 30 | Bhojpuri Cinema | 1152350 | FTA |

*Source: Analysis from BARC's data*

iii. recognizes plurality and diversity of consumers, in view of their fundamental distinctiveness, including in terms of age, regional affinition, preferences, interest, mother tongue, other language proficiency, peer pressure, program popularity, quality etc. and that they watch different channels at different times, whereby no single yardstick could apply to them in making a choice. This is sought to be illustrated with the below data which represents that diversity in choices made by consumers based on channel uptake genre wise;

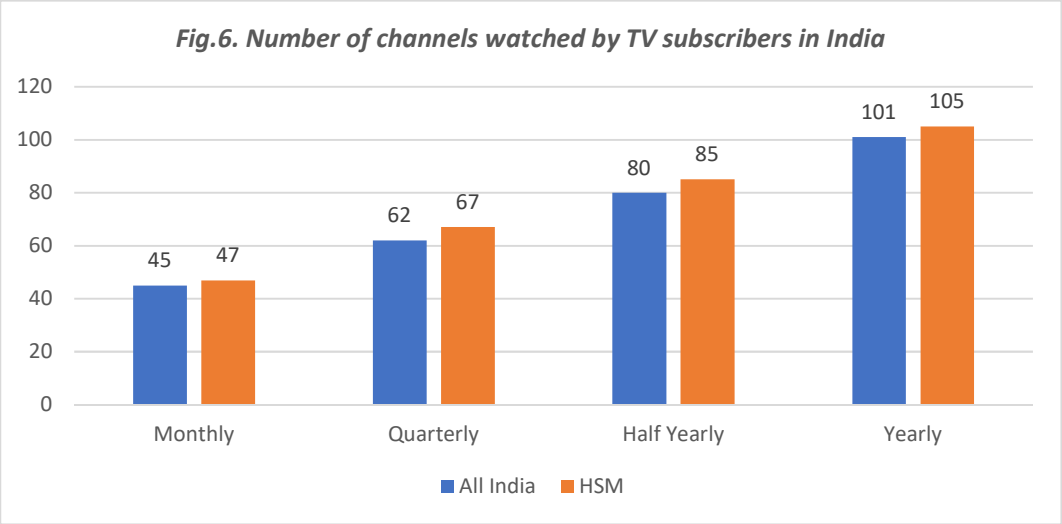
***Fig. 5. Diversity in consumer's taste and preferences for content***

| Genre | HSM(%) | Maha. (%) | WB(%) | AP(%) | Krnk. (%) | Ker(%) | TN(%) |
|---|---|---|---|---|---|---|---|
| TV HH | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| 1. Hindi GEC | 99 | 99 | 95 | 58 | 77 | 51 | 35 |
| 2. Hindi Movies | 99 | 99 | 97 | 49 | 65 | 51 | 27 |
| 3. Marathi GEC | 32 | 84 | 18 | 7 | 16 | 12 | 5 |
| 4. Tamil GEC | 21 | 20 | 18 | 37 | 52 | 71 | 100 |
| 5. Telegu GEC | 26 | 26 | 17 | 100 | 60 | 25 | 32 |
| 6. Kannada GEC | 21 | 23 | 15 | 22 | 98 | 26 | 15 |
| 7. Malyalam GEC | 15 | 14 | 11 | 15 | 25 | 100 | 21 |
| 8. Bengali GEC | 31 | 15 | 97 | 9 | 14 | 7 | 7 |
| 9. Tamil Movies | 2 | 3 | 2 | 7 | 21 | 41 | 96 |
| 10. Telegu Movies | 5 | 9 | 4 | 99 | 44 | 10 | 15 |
| 11. Malayalam Movies | 2 | 3 | 4 | 4 | 10 | 98 | 9 |
| 12. Kannada Movies | 3 | 5 | 3 | 7 | 97 | 15 | 5 |
| 13. Marathi Movies | 17 | 65 | 8 | 4 | 10 | 4 | 2 |
| 14. Kids Channels | 60 | 69 | 76 | 78 | 82 | 72 | 77 |
| 15. English Movies | 32 | 38 | 38 | 41 | 40 | 49 | 40 |
| 16. English GEC | 25 | 31 | 28 | 20 | 24 | 27 | 16 |
| 17. Sports | 82 | 83 | 77 | 65 | 68 | 73 | 67 |
| 18. News | 98 | 99 | 99 | 100 | 100 | 100 | 99 |
| 19. Info & LS | 60 | 68 | 71 | 96 | 89 | 65 | 91 |
| 20. Hindi Music | 94 | 95 | 90 | 46 | 59 | 51 | 21 |

*Source: Analysis from BARC's 2018 viewership data*

iv. examines how a consumer will select TV channels which are the consumers choice to avail of, and which are actually viewed;

Analysis of BARC's data reveals that consumers choose the 45 channels they watch in a month from 101 channels they sample in a year (a buffer of 2.24 times the channels they watch in a month)




*Source: Analysis from BARC's 2018 viewership data*

v. associates related data, or similar base data to create a hypothesis, for e.g. an understanding of consumer price tolerance and preference by a study of the DPOs retail rate as charged to consumers under the previous regime;

vi. appreciates the assessment of the wholesale pay TV channel price under the old regime and the retail pay TV channel prices under the new regime has clearly demonstrated that the a-la-carte prices of approximately 78[51]% Pay TV Channels have decreased;

vii. clearly defines and provides for consumer rights to ascertain the awareness of information, rights boundaries, breach obligations, and to inform decisions and subscriber responsibilities.

(c) The broadcast and service regulations have historically supported a price regime that effectively enables the Distribution Operator to enjoy 70%-75% of the share of the revenue from the services, while relegating the broadcaster to 25%-30% of the share of revenue. Under the currently applicable NRF, the share of DPO in consumer's monthly bill is as high as 66.1%, owing to the NCF at INR 130 account for 48% of the consumers' monthly TV bills, with a further distribution fee at 20% and dealer discount of 15% of the MRP of channels prices, against an ARPU of INR 271.

(d) The regulatory analysis does not study the impact on the consumers of the distribution operators' actions, in relying predominantly on their opinions and complaints while failing to study and present the data in a market-neutral fashion for the best interests of the consumers, the upstream content creation industry and the broadcasters alongside the distribution service providers.

[51] Calculations based on Annexure I to the TRAI CP, 16.08.2019

7. **Regulatory asymmetry in telecommunication and broadcasting services:**

a. Telecom service providers (TSPs) and internet service providers (ISPs) whose activities are also regulated by TRAI provide a large variety of on-demand and free video content which competes for a consumer's eyeballs and share of wallet.

b. Trends over the last five years show that consumers are not loyal to any channel or service provider. Consumers look for content/programs/genres of their choice and, they subscribe to services which provide them biggest bang for their buck.

c. It is in this hyper-competitive environment that the broadcast and cable sector is competing for the consumers' attention. To this end, broadcasters are constantly investing and creating new content and programs and marketing it in a TV channel format to DPOs for re-transmission to subscribers.

d. TSPs and ISPs predominantly provide bundled tariff plans and offers that include voice, data, video to consumers. In some instances, devices and consumer premises equipment CPEs are also bundled as part of the services. Additionally, TSPs and ISPs offer massive discounts on these bundled offerings, including scores of free services.

e. TRAI exercised full forbearance on pricing and on bundling for TSPs and ISPs, thereby incentivizing deep discounts and freebies. However, the same Authority exercises minute regulatory control and interventions in the broadcasting and cable services sector by pricing of bundles, mandatory a-la-carte including discount caps. This asymmetry by the same Regulator of services under its jurisdiction puts broadcast cable and satellite sector at a distinct disadvantage vis-à-vis content providers in the TSPs and ISPs space.

f. In fact, the asymmetry of regulation between broadcasting and cable services on the one hand and telecom and internet services on the other, is prompting high user attrition from the cable and satellite TV sector. Moreover, it is spurring foreclosure effects on smaller cable operators where they are either shutting down or are on the verge of doing so. It is well known that many telcos have started acquiring cable and satellite businesses.

g. The current Regulatory exercise is also further distorted by a fundamentally illegitimate proposition, based on an incorrect premise that the discount on bouquets force/compel a subscriber / consumer to opt for a bouquet instead of an a-la-carte channel, without considering that:

   I. a consumer chooses to opt for bouquets, and avail of lifting his burden of high subscription costs, because broadcasters can provide discounts on them;

II. Bouquets enable the consumer to subscribe for niche pay TV channels which often have either differentiated, sampling or often higher-quality content, to which a viewer may be unable to subscribe or access;

III. market rules dictate that a bouquet price is always lesser than a total of a-la-carte items; and

IV. Subscription revenue realization for niche channels, by subscription and advertising respectively, enable the broadcaster to buy premium content from the creator, artist, writer etc.

8. **TRAI CP fails to meet established global standards for regulatory analysis**

(a) In a report discussing proposed FCC a la carte regulation, economist Jeffrey Eisenach wrote as follows[52]**:**

*"For more than a quarter century, agencies performed detailed regulatory impact analyses before issuing major regulations. Under E.O. 12291 (issued in February 1981 by President Reagan) and E.O. 12866 (issued by President Clinton and still in effect), government agencies must analyze the expected benefits and costs of major regulatory proposals, as well as potential alternative policies.*

*E.O. 12866 describes the specific criteria such analyses must meet, including:*

*"(i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets . . .) together with, to the extent feasible, a quantification of those benefits;*

*(ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action . . . together with, to the extent feasible, a quantification of those costs; and*

*(iii) An assessment, including the underlying analysis, of the costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation. . . ." The specific analytical techniques to be used in such evaluations are further described in guidance from the Office of Management and Budget ("OMB"). Specifically, OMB Circular A-4, issued September 17, 2003, presents "guidance to Federal agencies on the development of regulatory analyses."7 Circular A-4 requires that regulatory analyses include:*

*"(1) a statement of the need for the proposed action, (2) an examination of alternative approaches and (3) an evaluation of the benefits and costs…." It also requires agencies to "Identify a*

[52] https://ecfsapi.fcc.gov/file/6518330656.pdf

*baseline….normally a 'no action' baseline: what the world will be like if the proposed rule is not adopted."8 Most importantly, OMB requires that "Before recommending Federal regulatory action, an agency must demonstrate that the proposed action is necessary," and "if the regulation is designed to correct a significant market failure, [the agency] should describe the failure both qualitatively and (where possible) quantitatively. You should show that a government intervention is likely to do more good than harm."*

Thus, TRAI needs to adopt such robust regulatory analysis methods and mechanisms which can be benchmarked against the global best practices as is the case in other major broadcast markets.

## **CHAPTER III –** PRELIMINARY RESPONSE TO CLAIMS MADE IN CHAPTERS II & III OF THE CP

In this part of our response, we wish to provide para-wise response to some of the assertions made in Chapters II and III of the CP. Our effort is to highlight the way in which many of the averments, presumptions and conclusions drawn by the Authority are not supported by data and are not grounded in either economics, law or commerce.

### A. <u>Response to Chapter II of CP titled 'Evolution of Tariff Orders for Broadcast and Cable Services'</u>

#### (a) **Para 2.2 – Historical proliferation of cable and satellite broadcast networks in India**

I. On a bare reading of this paragraph, it is evident that the historical evolution of the broadcast cable and satellite sector in India as captured by the Authority suffers from incompleteness and certain infirmities. This paragraph discusses the progress only from 2004 however any understanding of the broadcasting and cable services sector for regulation-making purposes would be out of context unless the history of the sector since entry of private players in India after 1991 is borne in mind.

II. Hence, below is a re-iteration of the history of development of cable and satellite TV sector in India for Authority's reference:

- Post the implementation of New Economic Policy (NEP) in 1991, the broadcasting and cable services were opened to private investments.
- Until then, only Prasar Bharati (the public broadcaster) was permitted to broadcast and even today, terrestrial broadcasting is the sole domain of the Government acting through Prasar Bharati.
- Entry of private players was permitted only for cable and broadcasting services where cable operators laid their own last mile copper co-axial networks and private DTH operators set up their dish antennas to receive satellite signals.
- From 1991 till 2012, the entire broadcast and cable services sector transmitted signals to consumers in analogue mode, i.e., the bandwidth was limited to a mere 50 frequencies of which not more than 25 were of good quality.
- This aspect of frequency shortage or bandwidth shortage was due to the infrastructural issues at the DPOs end and both the broadcasters and consumers had to suffer as a result – consumers were deprived of plurality and diversity of view due to limited channels and broadcasters were at the mercy of DPOs who, as gatekeepers, would make unreasonable demands for carriage of TV channels.
- There was little incentive on part of the distributors to alleviate this problem of limited bandwidth availability in the analogue networks as that created a huge arbitrage opportunity for them to seek rent from broadcasters for carrying their channels.
- The other evil that percolated through the entire 60 million odd cable homes was under-declaration of subscribers by cable operators to broadcasters, i.e., a cable operator having 1 lakh subscribers would only declare 20,000 subscribers to the broadcaster. There was no

independent objective method available to determine actual subscriber numbers and thus, broadcasters were forced to do business basis such under declaration.

- This effectively meant that the distributors were pocketing huge amount of unaccounted cash from consumers by under-declaration.
- This also meant huge loss of revenue to the Government exchequer. This is a stated fact which is acknowledged in all TRAI's consultation papers and explanatory memorandums leading up to the 2012 mandate by Government for digitalization, i.e. switch over from analogue to digital networks, for the following reasons:

  - Under-declaration of subscribers and tax evasion by distributors;
  - Limited bandwidth availability due to analogue network thus limiting choice and quality to consumers;
  - Exorbitant rent seeking by cable operators in the form of carriage fee from the broadcasters; &
  - Lack of transparency and hygiene in cable charges which resulted in exorbitant pay-out by the consumers.

- Therefore, the bald allegation in this para that broadcasters occupied major portions of limited bandwidth of analogue cable networks and killed competition for new entrants is clearly an inaccurate statement. Analogue era, prior to 2004 when TRAI came into the picture, worked on pure demand-supply market principles, with DPOs misusing last mile monopoly as gatekeepers.
- In addition to all the facts above, a bare perusal of the number of new entrant broadcasters ever since 2004 will indicate that the number of broadcast channels have increased manifold to 877. Thus, TRAI's assertion that broadcasters killed competition for new entrants is a patently incorrect presumption by TRAI without any basis.
- In fact, in paras 2.3, 2.11 & 2.12 of the CP, TRAI admits and acknowledges the abovementioned issues (and not broadcasters killing competition) were the real issues why the Government had to mandate transition from analogue to digital networks through amendments in the Cable Television Networks (Regulation) Act, 1995 and subsequent amendments in the Digital Addressable Systems (DAS) regulations.

(b) **Paras 2.5, 2.8, 2.9 and 2.15 to 2.19 – Refer to response to Chapter III given below**

**B. <u>Response to Chapter III of CP titled 'Issues Relating to Pricing, formation of Bouquets and discounts</u>**

1. Prior to raising our para-wise response to issues in Chapter III, we would like to state at the outset that the broadcasters and DPOs operate within the four corners TRAI's over-arching regulatory framework particularly qua price ceiling and thus there is little incentive for broadcasters to innovate and create quality content and programs for their TV channels, considering the revenue potential for their TV Channels due to price ceiling is limited.

2. The above phenomenon has negatively impacted the economics of the cable and satellite broadcast sector in India, which conceptually is a *"two-sided market"* – with advertisers on one side and the subscribers on the other. Hence, a broadcast network seeks to create programs for dissemination using the medium of TV channels that balance consumer needs / choices while giving opportunity to advertisers to sell ads. In such a scenario, both advertising and subscription revenues act as a cross subsidy to one another.

3. In the global context, the cost of cable and satellite channels is fairly-high and therefore, the subscription revenues far outweigh advertiser dependent programming thus leading to high level of innovation, variety, quality and choice. However, in India, it is the exact opposite where due to artificial intervention on pricing and manner of offering of TV Channels by TRAI, an advertising dependent model of business and programming has emerged leading to majority of TV channels commoditizing their programming to meet the requirements of the lowest common denominator, i.e., target market being the mass consumer. This has had the net effect of discouraging niche segments such as kids, factual, music, infotainment and moreover, it has also resulted in foreclosure of such channels.

(a) **Paragraphs 3.2. & 3.3. – <u>Lack of flexibility in cable and satellite broadcast sector</u>**

i. TRAI's statement in the said paras that "*broadcasters have been given complete freedom to price their TV channels"* so as to boost improvement of quality of TV Channels, and that the NRF has conferred upon the broadcasters "*full freedom and business flexibility to monetize their channels"* is self-serving and inaccurate.

ii. The said paras are a piece of regulatory fiction and factually inaccurate to the extent that neither the old frameworks nor the NRF provides any flexibility or freedom to broadcasters on pricing, packaging or marketing of their products. Since 2003 onwards after broadcasting and cable services were brought within the purview of TRAI Act, the broadcasting market has been heavily and minutely regulated by the TRAI in the following manner:

- **<u>Must Provide</u>** – TRAI regulations under the interconnect framework have always mandated all broadcasters to provide signals of TV channels on non-discriminatory and non-exclusive basis to all DPOs. This obligation has been in force since the Principal Regulations of 2004 and continues in the NIR and NRF as well;

- **<u>Mandatory a-la-carte</u>** – This statutory obligation of providing all broadcaster channels on a-la-carte basis to DPOs (i.e. at wholesale level) was implemented first in 2007 and continues in the NRF. Providing bouquets of channels was an option at wholesale level. Mandatory a la carte provisioning by DPOs to consumers (i.e. at retail level) was first introduced in 2010 and bouquets were always optional:

- The intent of mandatory a-la-carte even in 2007 was TRAI's false assumptions that consumers preferred a-la-carte choice over bouquet. However, data and evidence over 15 years on consumer behavior and choice clearly indicates and in TRAI's own admission, 99% of all consumer's default and active choice are bouquets across genres, language, price points; and
- The false assumption of consumer wanting to exercise a-la-carte as a preferred choice or not wanting to pay for channels they "don't watch" has been carried over to the NRF and as also this CP.

- **TV channel pricing** – Since TRAI came into the picture in 2004 when the analogue regime was functional and both broadcasters and DPOs preferred dealing in bouquets, when TRAI fixed price cap in 2004, bouquet prices of broadcasters were frozen at December 2003 rates, i.e., the STAR bouquet No. 1 *[Constituting 5 channels, i.e., Star Plus (Hindi), Star Gold (Hindi Movies), Star Vijay (Tamil GEC), Channel V (Music), National Geographic (Infotainment/Factual)]* was frozen at analogue tariff rate of INR 42 per subscriber/per month. Subsequently, due to various clauses in the TRAI regulations imposed from time to time, when DTH was introduced in 2009/2010 and TRAI came out with its regulations to regulate DTH, DAS tariff rate was frozen at half the analogue rate i.e. at INR 21 per subscriber/per month. These prices remained frozen till 03 March 2017 with minor inflationary adjustments – which effectively became the ceiling price for any new channels or new bouquets (as in terms of TRAI regulations, prices of new bouquets were linked to frozen prices of the earlier existing bouquets of a broadcaster).

  In 2007, a new tariff order was brought in to determine the a-la-carte price of channels. Pertinently, the formulae used by TRAI to determine a la carte pricing was by way of a back calculation of bouquet prices which was a unique first-ever kind of formula unheard of in any country globally - where the bouquet prices of multiple channels were used as a starting point to derive the price of an individual TV channel. Through this mechanism, the TRAI introduced a genre-based price ceiling on a la carte prices of channels.

  Further, the retail price offered by DPO to consumer was unregulated till the year 2015, both for a-la-carte and bouquet which meant that while broadcasters were forced to provide channels / bouquets at prices frozen at Dec.2003 rates, DPOs had no restrictions and could demand any amount from the consumers. It is by using this discretion that DPOs were actually demanding 300-400% higher than the wholesale price.

  Post 2015, when TRAI found evidence of indiscriminate pricing by DPOs at the retail end to consumer, it introduced two conditions at the retail end i.e.

> *"a) the a-la-carte rate of a pay channel forming part of a bouquet shall not exceed two times its RIO rate offered by the broadcaster for addressable systems; and*
> *b) sum of a-la-carte rates of all the channels in the bouquet shall not exceed three times the bouquet rate."*

In the NRF and this CP, similar irrational, arbitrary and unreasonable methods have been imposed on broadcasters and DPOs in the form of INR 19/- price ceiling for a-la-carte channel if it is to be included in a bouquet and through this CP the Regulator is attempting to bring in additional restrictions on consumer/distributor discount by introducing an 85% upper limit of bouquet price vis-à-vis sum of a-la-carte channels forming part of that bouquet.

- **Commercial arrangements** – In the old regime, there were essentially two modes of contracting between broadcasters and DPOs:

  - Negotiated fixed fee deal or "Cost per subscriber" (CPS) deal – which incentivized a DPO to take an entire bundle of bouquet of broadcaster offerings at a single unit cost or at a fixed amount that was based on an estimate of the number of subscribers catered to by the DPO;
  - Reference Interconnect Offer (RIO) deal – In the event negotiations failed due to disagreement on fixed fee amount or CPS rate, the RIO acted as statutory offer and contract with standard tariff rates provided by broadcasters for their bouquet and their a-la-carte offerings to the DPO;

  - In the NRF, fixed fee deals and CPS of any nature whatsoever have been prohibited by TRAI between broadcasters and DPOs. Only RIO contracts are permitted where under broadcasters have to declare their tariff card for a la carte and bouquet as also their incentive scheme / discounts online and DPOs can just choose what they want and buy.

- **Consumer choice** – Broadcasters have never had any privity of contract with consumers – either in the old regime or in the NRF. In the NRF, broadcasters can decide the MRP on their individual channels and create their bouquet of their own channels. The DPOs can further determine a Distributor Retail Price(DRP) within the MRP ceiling and within the discount restrictions imposed by the Authority.

  However, unlike the telecom sector where the carriage services providers (viz. TSPs and ISPs) as also the content service providers (viz. OTT players) where both have privity with the consumer, in the broadcasting and cable space, broadcasters have no privity with consumers as DPOs act as gatekeepers. It is the DPOs that provision the cable TV or DTH service directly to the consumers after receiving the signals from the

broadcasters. Hence, It is pertinent to mention that any impediment to consumer choice has been primarily due to the DPOs acting as gatekeepers and indulging in preventing or throttling access to signals of TV channels.

DPOs are a natural last mile monopoly yet TRAI has not undertaken any exercise to curb this monopoly and create a level playing field. If such structural problems continue to exist without being remedied by TRAI, consumers and broadcasters will continue to be held to ransom by the middle men who act as intermediaries in the value chain without adding any actual value to the product being consumed.

(b) **Para 3.4. to 3.8. – Ignorance <u>of the changing competitive landscape of content/programming industry and the a-la-carte uptake</u>**

i. TRAI acknowledges the *"sacrosanct right of consumers to choose and pay for only those channels they want to watch as informed consumers"*. Currently, consumers have a plethora of choices in the private cable and satellite sphere and through public broadcaster (both bouquet and a la carte), which have been enumerated in **Annexure – A.**

ii. Needless to add, in the current competitive landscape, broadcast cable and satellite are competing with new direct-to-consumer (D2C) offerings such as Netflix, Prime Video, Reliance Jio, Eros Now and more than 50 other OTT applications which are providing internet-based programming directly to subscribers in a network neutral manner.

iii. Hence, consumers of cable and satellite channels are only spoilt for choice through TV channels of multiple genres, languages programs and formats at arguably one of the lowest price points in the world.

iv. Further, in Para 3.4 the Authority indicates that its analysis yielded: *"that the prime reason for such poor uptake of a-la-carte channels was that the a-la-carte rates of channels were disproportionately high as compared to the bouquet rates and further, there was no well-defined relationship between these".*

v. It is pertinent to mention that the "mysterious analysis" mentioned above has not been shared with the stakeholders nor has such important data and research has been made public to understand the relationship between the a-la-carte and bouquet channel price and the reasons for consumers' preference for the latter.

vi. Moreover, it is reiterated that TRAI's ground for attempting to re-introduce linkage between bouquet rate and a-la-carte rate is legally untenable as the Authority is well aware that it had introduced a 15% discount relationship between the bouquet and the sum of a-la-carte in that bouquet which was struck down by Hon'ble Madras High

Court for being arbitrary and unenforceable, and decision was upheld by Hon'ble Supreme Court.

vii. Para 3.5 –

- This para, falsely assumes without any data, evidence or household survey that "*consumers were confused, misled to find more illusionary value for money in the bouquet*". It is a well understood fact in markets across sectors that consumers prefer bundles of products or services instead of standalone offerings due to price-value equation as is evidenced from an example taken from software industry below:

**Table 5: Example of Price Value Equation**

| Industry | Product | Bundled Price | Sum of A-la-carte Price |
|---|---|---|---|
| Software | Adobe All Apps | INR 5,378/ month | INR 29,834/ month |

- It is therefore unintelligible to state that consumers do not understand the value of goods and services being sold in bundles.

- It is also visible that the Authority, as the telecom regulator, oversees and administers the most prolific bundling of voice, data, video, device(s), etc. on the telecom side and has chosen to forbear on any form of regulation restricting consumer choice.

- TRAI is under a misconceived notion that 80-90% discount on bouquets is against consumer choice which goes against all data and evidence currently available with the Authority, which shows that consumers' active choice is for bouquets and consumers always prefer products with greater discounts as they perceive it as significant value for money.

- It is also a false dichotomy that the Regulator has created by stating without any understanding of TV channel pricing or its components that the a-la-carte prices are exorbitantly high.

- Therefore, consumers if given a choice between a-la-carte and bouquet will always deviate towards bouquet options and a-la-carte becomes a choice only when consumer seeks some higher quality or differentiated products or a premium offering which may or may not be available as part of bouquet options.

- Finally, it is well known economic concept that bundles/bouquets increase consumer options and choice, whereas, a-la-carte-only options restrict consumer choice, variety and sampling of goods and services.

viii. Para 3.6 –

- Again, this para contains several myths and fictions created by TRAI over the years. To illustrate our point, TRAI states that: *"DPOs were often forced to take all channels of a broadcaster as otherwise they were denied the popular channels altogether. To make the matters worse, the DPOs had to pay as if all the channels were being watched by the entire subscriber base, when in fact only the popular channels might have high viewership"* – this set of statements is factually and actually incorrect as no broadcaster could impose any conditions in their contractual arrangements or in their RIO that would deny access by the DPO of signals of TV channels.

- In fact, a broadcaster had to provide all signals of TV channels offered in bouquet and in a-la-carte on a non-discriminatory and non-exclusive basis to DPOs. It was the latter that preferred a larger bouquet of channels from each broadcaster in order to be able to cater to greater choice and variety to their subscribers. E.g. a cable operator like DEN/Hathway/Siti would provide bouquet of 200+ channels for INR 220-250 which included a combination of FTA and pay channels and also SD and HD channels. The cable rental was around INR 50-70 for provisioning the service.

- Another incorrect notion propagated by the Authority is that of "popular"/"unpopular", "wanted"/"unwanted", "driver"/"non-driver" channels.

  These terminologies have oft been used in the CP without any basis in law, economics, commerce and trade.

  Given the subjective nature of what audience may determine as popular or unpopular, wanted or unwanted with respect to TV consumption, it is incredulous that a telecom regulator such as TRAI can conclude with such confidence what amounts to popular/unpopular channels.

- The Authority further goes on to state another false notion that the *"DPOs had to pay as if all channels were being watched by the entire subscriber base, when in fact only the popular channels might have high viewership"*.

It is inconceivable how the DPOs needed to pay for the channels that they didn't want, since a-la-carte as an option was always available since 2007. It is a stated fact, which aspect has been captured in TRAI Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (Amendment) Order, 2015, wherein TRAI has averred in the explanatory memorandum:

*"To address this issue, TRAI in its tariff order dated 4th October 2007, mandated the broadcasters to provide their channels on a-la-carte basis to the MSOs/LCOs as per their request. In addition, broadcasters were also permitted to provide channels on bouquet basis. However, in order to ensure that an effective a-la-carte choice was available to MSOs/LCOs without being handicapped by perverse pricing of bouquets, the Authority also mandated a relationship, in the form of 'Twin Conditions', between a-la-carte rates of TV channels forming part of bouquet and bouquet rates provided by the broadcasters."*

- It is also a matter of fact that at the retail end, the DPOs preferred to provide large multi-broadcaster bouquet options and actively dis-incentivized consumers from exercising a-la-carte choice. If one takes a quick glance at retail prices or MRP of TV channels by DPOs pre-NRF, it would reveal that DPOs would price their a-la-carte channels either 3X of the broadcaster wholesale rate. Post 2015 retail rate regulation, the DPOs changed it to 2X of the wholesale price.

- Therefore, if the Authority was really concerned about the a-la-carte offerings, they have failed to explain why no intervention at the consumers end was done to fix the real issue i.e. cable operators' inability to address consumer request due to inadequate infrastructure. As an evidence to this, finally TRAI has woken up after 15-year hiatus and issued show cause notices to operators who have failed to give effective consumer choice.[53] A mere glance at the websites of four MSOs will give the Authority an understanding that the real issue lies in effective enforcement of NQoS regulations at the consumer end. This is the perverse effect of natural last mile monopolies where STBs or consumer premises equipment (CPEs) are not inter-operable and the last mile cable exclusively belongs to an operator.

ix. <u>Para 3.6</u> –

- In this paragraph, Authority refers to ambiguous terminologies such as "perverse pricing" and puts blame for the same on broadcasters.

[53] https://www.indiantelevision.com/regulators/trai/trai-sends-directive-to-5-major-msos-for-non-compliance-of-nto-provisions-190830

- It is well known in economic literature that the concept of price is determined by supply and demand in a given market or the price at which the seller and buyer are willing to transact in a competitive market. The only perversity that exists in the cable and satellite market is the lack of regulatory enforcement of consumer facing NQoS regulations and the micro-management and asymmetric regulatory interventions against broadcasters in favor of DPOs by the Regulator, at the cost of consumer interest.

- It is clear from this para that the Authority truly believes that there's a serious lack of bandwidth capacity with the cable operators, whereas by an act of parliament of 2012, Ministry of Information and Broadcasting (MIB)[54] and TRAI were mandated to implement changeover from analogue infrastructure to a digital addressable network to ensure consumer choice and NQoS.

- However, it appears that the Authority has chosen to turn a blind eye since 31st March 2019 in ensuring DPOs have sufficient bandwidth to cater to enhanced demand of consumers and increased number of licensed broadcast channels.

x. <u>Para 3.7.</u> –

- This paragraph while referring to CP's Annexure I shows that the Authority is relying upon the prices declared in the old framework versus the current MRP pricing of the broadcasters to display increase in prices by broadcasters in the NRF.

- Firstly, there can be no such comparison since the two regimes are completely different, i.e., in the old regime the broadcasters were B2B wholesalers and the DPOs determined the retail price, whereas, in the current regime, the broadcasters are both B2C and B2B for the limited purpose of the setting of MRP, however, the provisioning of service and packaging continues to be the sole prerogative of the DPOs, the gatekeepers.

- Secondly, as stated in the paragraph, the prices were frozen for existing channels and a genre wise ceiling cap was implemented for all channels on an a-la-carte and bouquet basis. Therefore, the prices of TV channels were suppressed artificially, leading to a skewed dependence on advertising led revenues which in turn helps broadcasters to subsidize the cost of programming and channel marketing to consumers. Hence, CP's Annexure I must be disregarded in its

[54] Section 4A of the Cable Television Networks (Regulation) Act, 1995.

entirety for a price comparison between the old framework and NRF and to draw any conclusions therefrom.

xi. Para 3.8. –

- The Authority admits that broadcasters have complied with the a-la-carte mandate prescribed by TRAI. However, they incorrectly conclude that the a-la-carte rates are illusive, and consumers have no choice but to opt for bouquets.

- The fact remains that there is sufficient data to conclude that more than 19% subscribers have chosen pay channels on a-la-carte basis.[55]

- The above fact shows that the Authority has proceeded to draw conclusions on insufficient data and evidence. Moreover, TRAI has conceded that the discounts offered on bouquets that are commercially appealing to consumers. This concession negates TRAI's assumptions to the contrary, namely that the TV households do not find value in the bouquet offerings of the broadcasters/DPOs.

(c) **Paras 3.9 to 3.14 – The 15% discount ceiling has been struck down**

i. TRAI has misleadingly represented the position in respect of the capping on discount on sum of prices of a-la-carte channels forming part of the bouquets at 85%, as the same has been categorically struck down by Hon'ble Madras High Court, and Hon'ble Supreme Court.

ii. TRAI is precluded to introduce any discount caps on ground of purported high discounts leading to ineffective consumer choice since the Madras High Court in judgment dated 2nd March 2018 specifically disallowed the same as a ground. J. Indira Banerjee, in her judgment, had held that -

*"55. The reason for putting cap of 15% to the discount on the MRP of a bouquet disclosed in to the impugned Tariff Order is that, as per data available with TRAI, some bouquets are being offered by the distributors of television channels at a discount of up to 80% - 90% of the sum of a-la-carte rates of pay channels constituting those bouquets. Such high discounts force the subscribers to take bouquets only and thus reduce subscriber choice. This, in my view, cannot be a reason to restrict the discount."*

*"58. … In my view the impugned provisions neither touch upon the content of programmes of broadcasters, nor liable to be struck down. However, the clause*

[55] Data compiled by ChromeDM.

*putting cap of 15% to the discount on the MRP of a bouquet is arbitrary. The said provision is, in my view, not enforceable. In my considered view, the challenge to the impugned Regulation and the impugned Tariff Order fail."*

iii. Pertinently, TRAI preferred an SLP against the above finding before the Supreme Court. The SLP was dismissed as withdrawn vide order dated 3.1.2019.

iv. Further, Fastway had also filed an application bearing before Hon'ble Supreme Court seeking clarification to the effect that the clause 3(3) of the 2017 Tariff Order (which had prescribed discount caps of 15%) has not been struck down. However, vide Order dated 04.01.2019, the Hon'ble Supreme Court, after hearing the parties, had dismissed the application holding that there was no merit in the application.

v. Accordingly, TRAI cannot purport that it has "merely not enforced" the capping on discount as explained in previous points.

(d) **Paras 3.15, 3.16, 3.17., 3.19., 3.20.**

i. They are repetition of the misrepresentations and assumptions made in above paras. Further, in Para 3.15, TRAI has created a misleading notion that the discounts are being offered up to 70%.

ii. As per paragraph 3.17. and figure 3.1 of the CP, It is evident that the discounts are in an acceptable range of 35%-45% and the high of 70% discount is a mere aberration.

iii. Hence, the assertions and reliance on fig. 3.1. and Annexure II are in fact supportive of two important conclusions:

- That broadcasters had in the first instance taken note of the Authority's concerns on deep discounting and poor a-la-carte uptake.
- While the broadcasters in principle do not agree with the viewpoint of the Authority, as discounts are beneficial to consumers, they have in response maintained a reasonable level of discounting considering that the Authority had permitted 35% discounts originally in the NRF.
- Even in the earlier regime, the Authority's imposition of twin condition on bouquet and a-la-carte relationship at the wholesale was capped at 33% and retail level permitted up to 66% discount between sum-total of bouquet of channels and their a-la-carte prices. Hence, we request the Authority to allay allegations that discounts up to 50-55% are disproportionately high and are impacting a-la-carte uptake.

iv. TRAI CP's Annexure II clearly shows that even the current a-la-carte prices are not illusory and are in fact real. This is evident from the fact that consumers are robustly

exercising a la carte choices wherever they want to. The below table evidences this exercise of choice in the case of regional language channels:

***Table 6: Manner of channel selection for 30 regional channels***

| S.No. | Name of channel | Language | % of subscribers provided / chosen channel on a-la-carte basis | % of subscribers provided / chosen channel as apart of bouquet |
|---|---|---|---|---|
| 1 | ETV HD | Telugu | 81.79 | 18.21 |
| 2 | Colors Oriya | Oriya | 56.84 | 43.16 |
| 3 | News 18 Kerala | Malayalam | 55.86 | 44.14 |
| 4 | News 18 Odia | Odia | 55.55 | 44.45 |
| 5 | Star Suvarna HD | Kannada | 54.25 | 45.75 |
| 6 | Colors Bangla | Bangla | 53.39 | 46.61 |
| 7 | Colors Kannada HD | Kannada | 51.82 | 48.18 |
| 8 | News 18 Bangla | Bangla | 49.20 | 50.80 |
| 9 | Zee Odisha | Odia | 49.04 | 50.96 |
| 10 | Raj Musix Kannada | Kannada | 46.12 | 53.88 |
| 11 | ZEE Sarthak | Odia | 45.94 | 54.06 |
| 12 | Gemini TV HD | Telugu | 45.67 | 54.33 |
| 13 | MAA HD | Telugu | 45.07 | 54.93 |
| 14 | Udaya News | Kannada | 44.96 | 55.04 |
| 15 | Asianet HD | Malayalam | 44.05 | 55.95 |
| 16 | Vijay HD | Tamil | 43.84 | 56.16 |
| 17 | Udaya TV HD | Kannada | 42.96 | 57.04 |
| 18 | Star Jalsha | Bangla | 42.74 | 57.26 |
| 19 | Jaya TV HD | Tamil | 38.98 | 61.02 |
| 20 | Surya TV HD | Malayalam | 38.55 | 61.45 |
| 21 | Jalsha Movies | Bangla | 38.49 | 61.51 |
| 22 | Zee Marathi HD | Marathi | 37.92 | 62.08 |
| 23 | MAA Movies HD | Telugu | 35.32 | 64.68 |
| 24 | Zee Bangla Cinema | Bangla | 35.26 | 64.74 |
| 25 | Sun TV HD | Tamil | 34.44 | 65.56 |
| 26 | Gemini Movies HD | Telugu | 34.10 | 65.90 |
| 27 | Zee Kannada HD | Kannada | 33.93 | 66.07 |
| 28 | Star Jalsha HD | Bangla | 32.99 | 67.01 |
| 29 | Zee Telugu HD | Telugu | 32.03 | 67.97 |
| 30 | Zee Bangla HD | Bangla | 31.70 | 68.30 |

*Source: Date from Annexure II of the CP*

(e) **Para 3.21.** – **<u>Authority's interpretation of its own data is untenable</u>**

i. The data produced by the Authority supports the contention of the broadcasters that discounting and bundling is in consumer interest as apart from ensuring multiple choices at reasonably low value or reasonably low price, consumers also get plurality and diversity of view point.

ii. The marketing and business strategies of broadcasters are basis a logical and evidence-based understanding of the national market, the regional language markets, the different socio-economic population strata, age and gender considerations and unique tastes and preferences for different types of programs for individual channels or bouquet of channels.

iii. Finally, the suggestion that the marketing strategies are not in compliance with the spirit of judicial decisions is incorrect. The Hon'ble Supreme Court merely held that TRAI, while enacting NRF, had exercised its power validly and within the jurisdiction of TRAI Act. The broadcaster's marketing strategies are fully in compliance with the NRF and thus in compliance with the judicial decisions as well.

(f) **Para 3.22.** – **<u>Authority should focus on enforcing NQoS norms rather than blaming broadcasters</u>**

i. In the instant paragraph, the Authority is once again placing the blame squarely at the doorsteps of the broadcasters when it is the lack of enforcement of the NQoS regulations and non-compliance by the DPOs of the same that has resulted in the inability of the consumers to select and pay for the channels of their choice.

ii. It is the structural problems and lack of upgraded networks and absence of consumer grievance redressal mechanisms that allow the DPOs to deny consumers effective choice of a-la-carte or bouquets. It has nothing to do with the pricing of a-la-carte channels or discounting offered by broadcasters.

iii. Recently on 23 August 2019, TRAI issued directions to five MSOs on non-compliance with provisions of NRF that clearly indicates and conform broadcasters' opinion on the way distributors have rendered digitalization otiose and prevent the flow of benefits of transparency and choice to consumers.[56]

[56] https://www.indiantelevision.com/regulators/trai/trai-sends-directive-to-5-major-msos-for-non-compliance-of-nto-provisions-190830

(g) **Para 3.23** – **Broadcasters have merely modified business models in light of the NRF**

i. It is inconceivable that an Authority that makes such bald statements that broadcasters have converted pay channels to FTAs for the purposes of survival and that such an act amounts to creating a non-level playing field.

ii. The choice to be FTA or pay is nothing but choice of business models relative to their markets and revenue streams, and srelative to doing business for survival within the bounds of the minute regulatory restrictions imposed.

(h) **Para 3.24**. – **Distributors are solely responsible for bandwidth related problems**

i. This paragraph, as usual, is a continuation of TRAI's efforts to make broadcasters the scapegoat and pass the buck of regulatory inaction and DPOs' malfeasance on addressing the real problems of consumer choice.

ii. The Authority makes a feeble attempt at blaming broadcasters for reducing competition in the broadcast industry by reducing available bandwidth of DPOs and creating entry barrier for new TV channels.

iii. Rather than propagate such fallacies (as has been explained in detail with data at page 38 of this Response), the Authority needs to relook at its own regulatory framework i.e. restricting discounts and dis-incentivizing bundles and bouquets per se as being anti-consumer.

iv. Such restrictions have had and continue to have foreclosure effect on smaller broadcasters. Moreover, regulations restrict supply and create artificial scarcity of TV channels within genres and languages and socio-economic population strata thereby harming consumer interest.

(i) **Para 3.26** – **Bouquets are the natural choice of the Indian consumer**

i. The fundamental reason why subscribers in India prefer bouquet is that the average household size of 183 million TV homes in India is 4.25 and 98% of these homes own only a single TV.[57]

[57] BARC Broadcast India Survey 2018

ii. Hence, co-viewing is the norm and that the preference of a subscriber is not an individual choice but a collective choice of ~4 individuals who reside under one roof and watch through single TV set but have different content preferences and belong to different age groups.

iii. The most selling bouquets mentioned in Table 3.1 by TRAI clearly indicates that people wanted all the channels of these popular bouquets and comprehended that bouquet was the most valuable option due to discounts offered by broadcasters.

iv. Thus, TRAI's insinuation in this para that broadcasters' offered unreasonable number of bouquets is a mere conjecture without any basis.

(j) **Para 3.27** – **Authority should share the complaints against broadcasters**

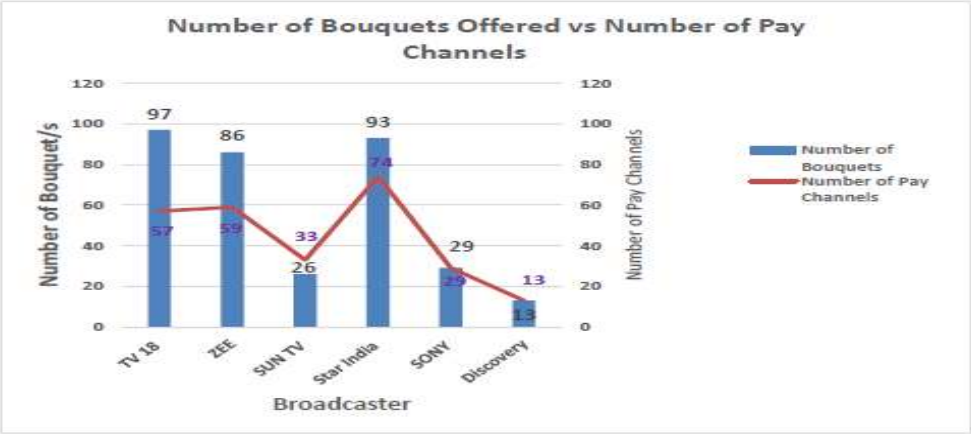
i. TRAI has indicated that it has received feedback from unknown stakeholders that too many broadcaster bouquets are being offered to the consumers and are choking the DPO systems. TRAI has insinuated that such offerings are confusing the consumers.

ii. To effectively respond to this assumption, we are requesting the Authority to kindly make transparent the feedback and complaints received from consumers in relation to too many broadcaster bouquet offerings leading to confusion amongst consumers.

(k) **Para 3.28** – **Inference drawn from Figure 3.2. does not hold much water**

i. The consultation paper's inference from Figure 3.2. reproduced below, is a wrong conclusion and completely ignores the diversity and subjectivity of demand for content in the market.

***Fig. 7.***



ii. The Eighth Schedule to the Constitution of India has 22 official languages and Inclusion in this list means that the Government of India is under an obligation to take measures to develop these languages so that *"they grow rapidly in richness and become effective means of communicating modern knowledge"*.

iii. In addition to these official languages, the 2011 census recognizes 1369 rationalized mother tongues and 1474 names which were treated as 'unclassified' and relegated to 'other' mother tongue category.

iv. This diversity is manifested in all consumer choices in the country including the content preferences of 183 million TV households that accounts for 61% of total households in India.

v. More importantly, each TV household's or a group of household's content preferences are unique and different. This implies that the 45 channels that an average TV household watches in a month or the 101 channels they watch in a year are different for each household or a group of households.

vi. Since TV households choose their channels in bouquet, an optimal condition exists for each broadcaster to create bouquets that matches these unique preferences of each household or a group of households.

vii. The figure below indicates an earnest attempt by a multi-channel broadcaster to offer as much diverse channels on a la carte basis and as bouquets at commercially feasible and affordable prices. For instance, Star India's bouquet construct is given as follows:

***Fig. 8.***

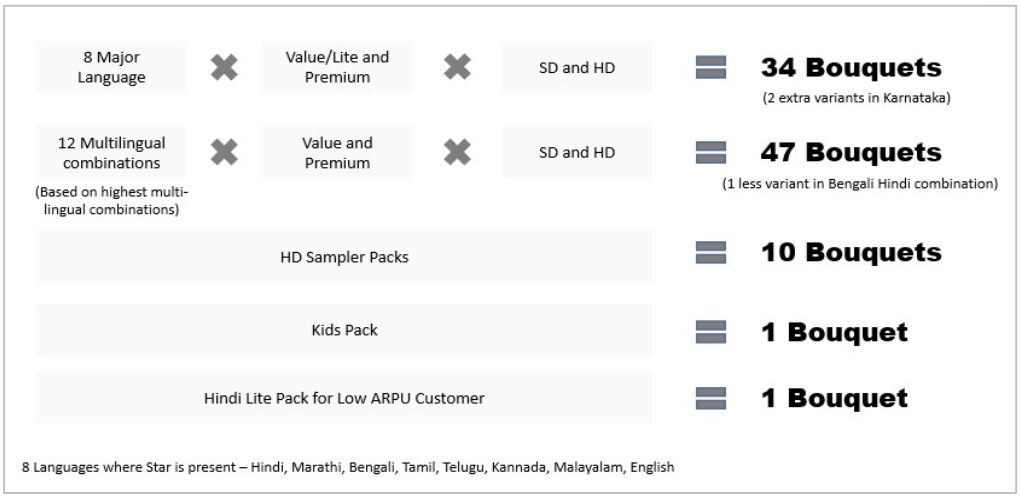


***Fig. 9.: Creating relevant bouquet for any customer***

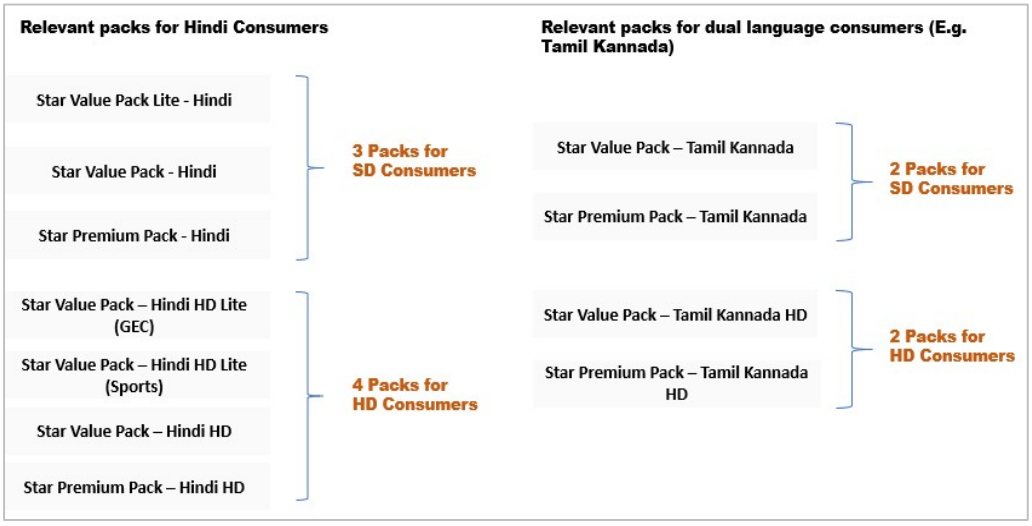



***Fig.10.: Star India's rationale for creating multi lingual bouquets***

| Combination | Core Household viewing both languages for | |
|---|---|---|
| | More than 4 Hrs | More than 8 Hrs |
| Bangla-Hindi | 9,646 | 7,763 |
| Hindi-Kannada | 2,632 | 1,970 |
| Telugu-Kannada | 2,373 | 1,819 |
| Hindi-Telugu | 2,266 | 1,540 |
| Telugu-Tamil | 1,196 | 869 |
| Malayalam-Tamil | 1,160 | 837 |
| Tamil-Kannada | 735 | 558 |
| Hindi-Tamil | 635 | 340 |
| Hindi-Malayalam | 510 | 242 |
| Marathi-Kannada | 230 | 172 |
| Malayalam-Kannada | 115 | 71 |
| Marathi-Telugu | 57 | 39 |
| Malayalam-Telugu | 39 | 26 |
| Marathi-Malayalam | 6 | 6 |
| Marathi-Tamil | 2 | 2 |

**Star Bouquets present**
High Consumption overlap – At least 1 Lakh Households watch both languages for more than 4 hours in a month

**No Star Bouquets present**
Low consumption overlap – hence we did not create these bouquets

Note – Apart from the above, other language combinations have very low viewership – and does not register on BARC panel
BARC HH Reach in 000 viewing some content in both languages for at least 4 hours for November 2018

viii. Any technological shortcomings to offer these diverse choices through the number of bouquet is against consumer's interest.

## **CHAPTER IV -** RESPONSE TO THE QUESTIONS

**Q1. Do you agree that flexibility available to broadcasters to give discount on sum of a-la-carte channels forming part of bouquets has been misused to push their channels to consumers? Please suggest remedial measures.**

**Q2. Do you feel that some broadcasters by indulging in heavy discounting of bouquets by taking advantage of non-implementation of 15% cap on discount, have created a non-level field vis-a-vis other broadcaster?**

**Q3. Is there a need to reintroduce a cap on discount on sum of a-la-carte channels forming part of bouquets while forming bouquets by broadcasters? If so, what should be appropriate methodology to work out the permissible discount? What should be value of such discount?**

**Q4. Is there a need to review the cap on discount permissible to DPOs while forming the bouquet? If so, what should be appropriate methodology to work out the permissible discount? What should be value of such discount?**

**Q5. What other measures may be taken to ensure that unwanted channels are not pushed to the consumers?**

**Responses to Q1, Q2, Q3, Q4 and Q5:**

(a) No, the flexibility available to broadcasters to give discount on sum of a-la-carte channels forming part of bouquets has not been misused to push their channels to consumers, and there is no need for any remedial measures.

(b) All broadcasters operate within the four corners of the regulatory boundaries created by TRAI. In the current context, these regulations include the recently implemented NTO, NIR and NQoS.

(c) TRAI's regulations, including the NRF, have minutely regulated the broadcasting market since 2004 which has already been highlighted in our response to Chapter III, Paragraphs 3.2. & 3.3. That apart, we would like to highlight the following points:

i. Broadcasters do not have privity of contract with consumer to push channels to them – Section 1(zg) of the NTO defines subscriber as *""subscriber" for the purpose of this Order, means a person who receives broadcasting services relating to television from a distributor of television channels, at a place indicated by such person without further transmitting it to any other person and who does not cause the signals of television channels to be heard or seen by any person for a specific sum of money to be paid by such person, and each set top box located at such place, for receiving the subscribed broadcasting services relating to television, shall constitute one*

*subscriber;*" And section 1(o) of the same NTO defines *""distributor of television channels" or "distributor" means any DTH operator, multisystem operator, HITS operator or IPTV operator*;"

Similar definitions for subscribers are found in the NIR and the NQoS. Hence, broadcasters do not have privity of contract with consumers. As acknowledge in para 44 of the Explanatory Memorandum of the NTO "*At the retail level, TV channels are distributed to subscribers by the distributors of television channels either directly or through LCOs. The distributors of television channels aggregate TV channels from different broadcasters and provide them on a-la-carte and bouquets basis to the subscribers*"

Given these regulatory framework, broadcasters cannot push their channels to consumers/subscribers. It is the distributors of television channels, either directly or through LCOs, that aggregate TV channels from different broadcasters and push them to subscribers on a-la-carte and bouquet basis.

ii. Non-implementation of the 15% discount cap cannot create non-level playing field vis-a-vis other broadcasters or vis-à-vis consumers

First, it is important to reiterate the threshold objection that TRAI's presumption that the provision of discount cap under the NTO exists but was merely not enforced by TRAI is incorrect, given that Hon'ble High Court of Madras in *Star India Private Limited and Ors v. DIPP*[58] struck the provision down as arbitrary. Hence, the question of TRAI not enforcing this clause does not arise, as it does not currently exist in the statute book.

Furthermore, there does not exist a non-level playing field between broadcasters. The content creation and dissemination sector of the TV industry is highly competitive with a *"regulated-playing-field"* for all broadcasters. This is reflected in the number of choices of TV channels available across genres encompassing FTA and pay channels. Hence, the number of broadcasters' bouquets along with their discounts reflect the broadcasters' attempt to offer a more competitive rate to the DPOs who then re-packages these channels to the subscribers.

As already stated in this response, any bandwidth shortcomings from the DPO is anti-consumer as it restricts the choice available to the consumer. It is also anti-competitive as it gives DPOs the opportunity to cause arbitrage and charge carriage fees from the broadcasters. In any event, there is no bandwidth constraint as such.

The lack of bandwidth is DPOs' prolonged structural issue even though the economic cost of delivery of channels (or subsidy to DPOs to fund their infrastructure investments and technology upgradation) was provisioned for in all TRAI's regulations since 2004, including in the NRF in the form of NCF. It also implies the non-adherence/compliance to the act of Parliament of 2012 that

[58] Star India Pvt. Ltd. V. DIPP, 2018 (2) CTC 113

mandated to all DPOs to changeover from bandwidth constrained broken analogue infrastructure to a digital addressable network to ensure consumer choice and enhancement of QoS. However, it appears that the Authority has chosen to turn a blind eye since 31st March 2019 (the date of implementation of the NRF) in ensuring DPOs have sufficient bandwidth to cater to enhanced demand of consumers and increased number of licensed broadcast channels.

Moreover, TRAI's suggestion that larger broadcasters crowd smaller ones out by providing deep discounts and "perverse pricing" is divorced from the ground realities in the sector. This is clear from CCI's order in the matter of *Shri Yogesh Ganeshlaji Somani vs. Zee Turner & Ors*[59], which has been discussed in length already.

In fact, a further death-knell for smaller broadcasters in the NIR is clause 4(8) that empowers a DPO to refuse to carry a channel if the channel's subscription falls below 5% of the DPOs monthly average subscriber base. DPOs can also charge. Further clause 6(2) read with Schedule I permits a DPO to charge higher carriage fee from smaller broadcasters with lower subscriptions, as compared to broadcasters with higher subscription. A further consequence of all these restrictions would be a decrease in the diversity of programming in the country. Such outcomes run contrary to the tenets of the Indian Constitution as enunciated by the Hon'ble Supreme Court in *Sakal Papers Pvt. Ltd. & Ors. vs. Union of India*[60] which has been discussed in detail earlier.

TRAI also suggests that broadcasters "*pushed to the subscribers misusing the flexibility in pricing by the broadcasters, are reducing the competition in broadcasting space by reducing the available capacity with DPOs and creating entry barrier for new TV channels.*"

The premise of DPOs' bandwidth capacity deficit, then, is an artificial construct to create further leverage for them.

iii. <u>Bundling of TV channels creates economic value and TRAI should remove all bundling restriction, including the 15% discount cap for DPOs</u>**:**

Bundling of TV channels in India has reduced monthly bills and given more choice to consumers. Analysis of historical data bears out this fact:

- According to a survey commissioned by MIB[61] in 2004, the average monthly TV bill in 2004 was INR 190 and the average household had access to around 80 channels. Adjusting for inflation between 2004 and 2018, this monthly bill would equal INR 402[62] in 2018 prices.

[59] Case no. 31/2011 before CCI
[60] 1962 AIR SC 305
[61] A survey by CUTs titled "Consumer Friendly Cable TV System, 2004"
[62]The GDP deflator for 2004 and 2018 of 2.115

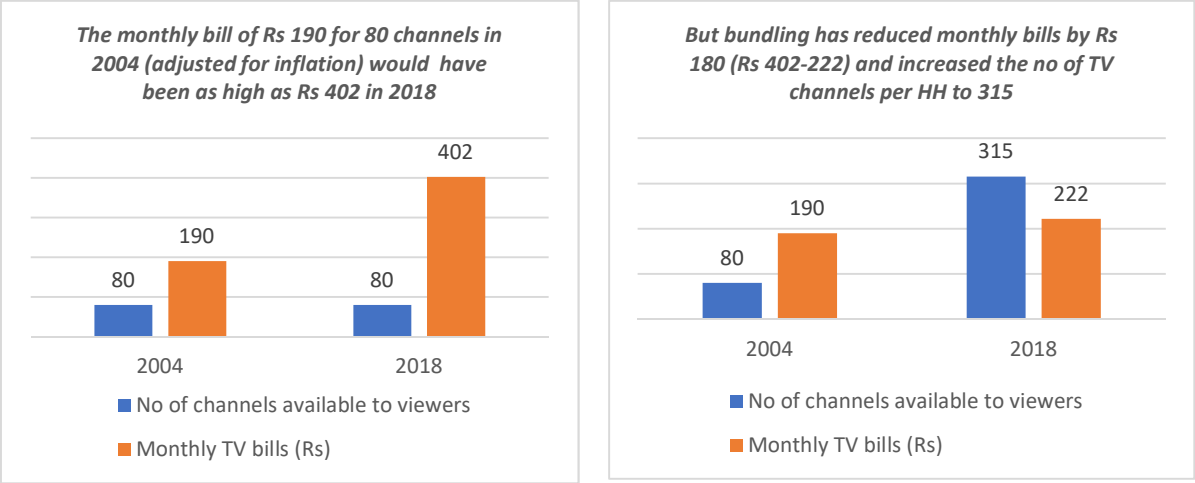
- However, according to data from ChromeDM, a data analytics firm, the ARPU/ monthly TV bills for 315 channels in 2018 (*before the new regulatory framework*) was INR 222.

- Given that despite mandatory a la carte provisioning since 2007, bouquets were the effective choice of consumers between 2004 and 2018, it implies that bundling has expanded consumer choice by increasing the number of TV channels per household to 315 channels and made these channels available at a much lower price than they would be without bundling.

- Given the estimated APRU for 2004 and 2018 the savings per household is INR 180 *(INR 402- INR 222 = INR 180)*

- With 161 million pay TV households in 2018, the savings from bundling at the economy level equals INR 28.98 billion.

***Fig.11.***




*Source: Analysis of data from CUTs survey, 2004 and ARPU data from ChromeDM*

Given these economic, commercial as also intellectual / diversity benefits to the consumers, TRAI must remove all discount restrictions in the formation of bouquets, either by a broadcaster or by a DPO.

All channels are popular to their target audience and all channels that are subscribed to by a consumer is based on his/her choice.

Ill-conceived and invalid categorization of "popular", "not so popular", "driver" channels in the CP are not based on data or principle. The demographic and cultural context is significant in channel uptake and interest. All channels are popular to their target group (TG) and hence to call niche channels as non-popular channels is a disregard to the taste and preferences of the TGs of these channels. Moreover, popularity is a relative concept and hence these terminologies must be used with the right context and conclusion made using these terminologies must be made with a caveat. Similarly, to say

that the channels that are subscribed to by the consumer but not frequently watch or not watch at all, are unwanted channels is a wrong analysis of consumer choice.

The TRAI seems to be biased against one stakeholder, namely the broadcaster and is basing its regulatory interventions on a misplaced understanding of the realities of the sector at large. Broadcasters operate in a highly competitive environment. They do not engage directly with subscribers. DPOs serve as intermediaries between broadcasters and subscribers and are therefore in the position of gatekeepers for both these entities. The DPOs position as gatekeepers allows them to operate in a shroud of opacity on matters of pricing, offerings, and subscriber base.

The categorization of channels as "popular" / "unpopular" is clearly arbitrary and excessive, beyond what is required in the interest of the public. The interest of the public lies in having the right to access the most diverse views, irrespective of such views being acceptable, popular or wanted. In fact, it has been held by Hon'ble Supreme Court in the *Cricket Association of Bengal*[63] case that a consumer has a fundamental right under Article 19(1)(a) to access all types of information, misinformation, and dis-information to be able to make an informed decision and have all sides of an issue. Lack of such variety of information, irrespective of whether it is unpopular, would lead to democracy being a farce.

The only aspect of the regulation which forces the consumers to choose unwanted channels is the mandate of 100 SD channels for INR 130 as NCF. Even if the subscriber wants to choose only 1 channel he cannot as these 100 channels are pushed to him to suit the DPOs preferences and not based on the choice of the consumers.

**Q6. Do you think the number of bouquets being offered by broadcasters and DPOs to subscribers is too large? If so, should the limit on number of bouquets be prescribed on the basis of state, region, target market?**

**Q7. What should be the methodology to limit number of bouquets which can be offered by broadcasters and DPOs?**

**Response to Q.6 and Q.7:**

(a) No, the number of bouquets offered by broadcasters and DPOs to subscribers is not large. There should not be any limit on the number of bouquets including but not limited to basis factors such as state, region and target market. Any such restriction would be akin to restrictions imposed on newsprint which were held to be unconstitutional and violation of fundamental rights protected under Article 19(1)(a) and 19(1)(g).

[63] 1995 AIR 1236

(b) First, the number of bouquets reflects the diversity of content preferences and tastes in India. Analysis of BARC's 2018 viewership data in seven markets reveals subscribers in all the markets watched channels from 20 different genres.

***Fig. 12.: Content preferences in seven markets***

| Genre | HSM(%) | Maha. (%) | WB(%) | AP(%) | Krnk. (%) | Ker(%) | TN(%) |
|---|---|---|---|---|---|---|---|
| TV HH | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| 21. Hindi GEC | 99 | 99 | 95 | 58 | 77 | 51 | 35 |
| 22. Hindi Movies | 99 | 99 | 97 | 49 | 65 | 51 | 27 |
| 23. Marathi GEC | 32 | 84 | 18 | 7 | 16 | 12 | 5 |
| 24. Tamil GEC | 21 | 20 | 18 | 37 | 52 | 71 | 100 |
| 25. Telegu GEC | 26 | 26 | 17 | 100 | 60 | 25 | 32 |
| 26. Kannada GEC | 21 | 23 | 15 | 22 | 98 | 26 | 15 |
| 27. Malyalam GEC | 15 | 14 | 11 | 15 | 25 | 100 | 21 |
| 28. Bengali GEC | 31 | 15 | 97 | 9 | 14 | 7 | 7 |
| 29. Tamil Movies | 2 | 3 | 2 | 7 | 21 | 41 | 96 |
| 30. Telegu Movies | 5 | 9 | 4 | 99 | 44 | 10 | 15 |
| 31. Malayalam Movies | 2 | 3 | 4 | 4 | 10 | 98 | 9 |
| 32. Kannada Movies | 3 | 5 | 3 | 7 | 97 | 15 | 5 |
| 33. Marathi Movies | 17 | 65 | 8 | 4 | 10 | 4 | 2 |
| 34. Kids Channels | 60 | 69 | 76 | 78 | 82 | 72 | 77 |
| 35. English Movies | 32 | 38 | 38 | 41 | 40 | 49 | 40 |
| 36. English GEC | 25 | 31 | 28 | 20 | 24 | 27 | 16 |
| 37. Sports | 82 | 83 | 77 | 65 | 68 | 73 | 67 |
| 38. News | 98 | 99 | 99 | 100 | 100 | 100 | 99 |
| 39. Info & LS | 60 | 68 | 71 | 96 | 89 | 65 | 91 |
| 40. Hindi Music | 94 | 95 | 90 | 46 | 59 | 51 | 21 |

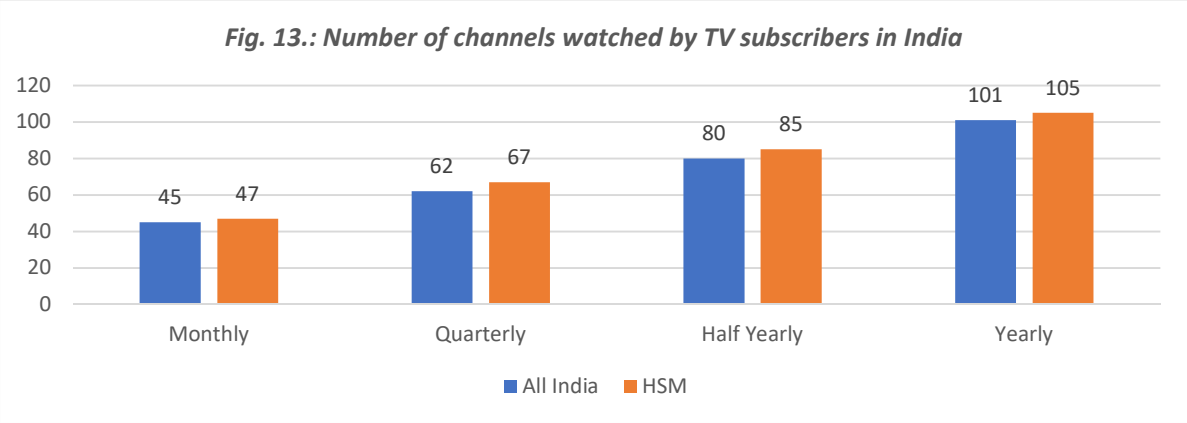
*Source: Analysis from BARC's 2018 viewership data*

(c) Hence, the number of bouquet reflects the vibrancy of the Indian populace, the diversity of Indian cultures and languages leading to diversity of content preference and tastes of TV households in India.

(d) The Eighth Schedule to the Constitution of India has 22 official languages. Inclusion in this official list means that the Government of India is under an obligation to take measures to develop these languages so that "they grow rapidly in richness and become effective means of communicating modern knowledge". In addition to these official languages, the 2011 census recognizes 1369 rationalized mother tongues and 1474 names which were treated as 'unclassified' and relegated to 'other' mother tongue category. Such is the diversity of India. This diversity is manifested in all consumer choices in the country including the content preferences of 183 million TV households

that accounts for 61% of total households in India. More importantly, each TV household's or a group of household's content preferences are unique and different.

(e) This implies that the 45 channels that an average TV household watches in a month or the 101 channels they watch in a year (refer chart below) are different for each household or a group of households. Since TV households choose their channels in bouquet, an optimal condition for is for each broadcaster to create bouquets that matches these unique preferences of each household or a group of households.




*Source: Analysis from BARC's 2018 viewership data*

(f) Therefore, the consultation paper's inference from Figure 3.2. reproduced below, is wrong conclusion about the diversity of demand for content in the market and competition in the market. On the contrary this figure indicates an earnest attempt by a multi-channel broadcaster to offer as much diverse channels on a la carte basis, as well as through bouquets at commercially feasible and competitive prices.

***Fig. 14.***

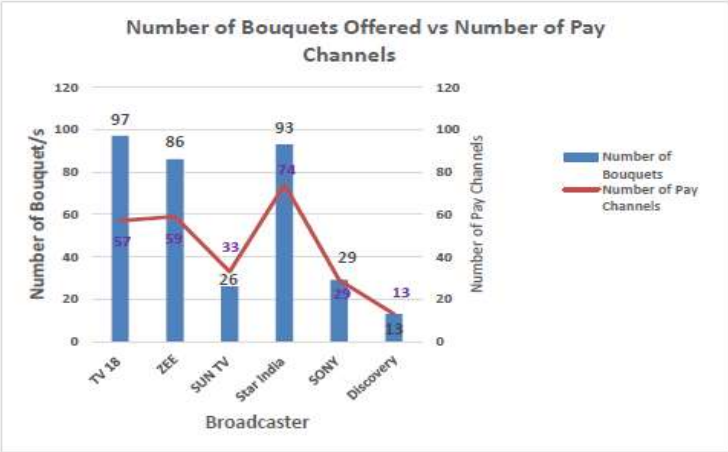



**Figure 3.2: Number of Bouquets offered vs. number of Pay channels**

*Source: Consultation Paper on Tariff related issues for Broadcasting and Cable services 16th August 2019*

**Q.8 Do you agree that price of individual channels in a bouquet get hedged while opting for a bouquet by subscribers? If so, what corrective measures do you suggest?**

**Q.9 Does the ceiling of Rs. 19/- on MRP of a a-la-carte channel to be part of a bouquet need to be reviewed? If so, what should be the ceiling for the same and why?**

**Response to Q8 and Q9:**

(a) No, the price of individual channels in a bouquet do not get hedged while opting for a bouquet by subscribers. No corrective measures are required. Without prejudice to our response to this question, we request TRAI to define the term "hedge" to clear out the ambiguity surrounding its meaning to enable the stakeholders to respond to the question suitably.

(b) The ceiling of INR 19 on MRP of a-la-carte channel forming part of a bouquet does not need to be reviewed because of the following reasons.

i. TRAI should give time of at least two years, as mentioned in the explanatory memorandum (*reproduced below*) to the NTO, so that the market conditions can be ascertained.

> *"The amount of Rs. 19/- has been prescribed keeping in view the prevailing highest genre wise ceilings of Rs. 15.12 for all addressable systems between broadcaster & DPOs at wholesale level and further enhancing it 1.25 times to account for DPOs distribution fee. Broadcasters also have complete freedom to price their pay channels which do not form part of any bouquet and offered only on a-la-carte basis. Similar conditions will also be applicable to DPOs for formation of the bouquets. However, the Authority will keep a watch on the developments in the market and may review the manner in which a channel can be provided as part of a bouquet, in a time period of about two years."*

ii. The prices (MRP[64]) of all a-la-carte channels declared by broadcasters under the NRF are prices resulting from the complex interplay of consumer preferences and demand (*expressed by consumer's subscriptions*) and factors that determine cost[65] <u>within the regulatory boundaries set by the NRF</u>. Hence, the declared a-la-carte prices of TV channels by broadcasters are outcomes of the forces of supply and demand conditions in a market that is regulated by TRAI through its new NTO, NIR and NQoS.

[64] Annexure I of the current consultation paper
[65] Production costs, marketing costs and distribution costs

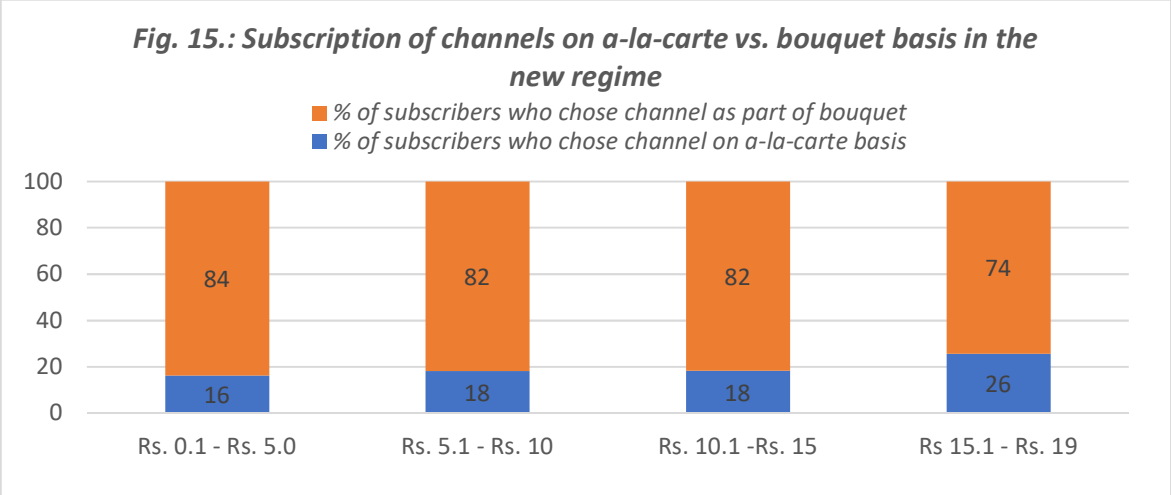
iii. DPOs are exercising a-la-carte options. According to Star India's in-house data, a total of 146 million units[66] of Star channels have been sold on a-la-carte basis. Even if we assume an average of 3 channels per subscriber, 146 million units implies that 49 million TV households have subscribed to Star channels on a-la-carte basis. Moreover, 45 million units of channels price at INR 19 were sold on a-la-carte basis.

**Table 7: STAR India Sale of Bouquet and A la carte (ALC) channels post NTO**

| (In Millions) | SD Uptake | HD Uptake | Total Uptake |
|---|---|---|---|
| ***Total Bouquet Units Sold*** | 68 | 5 | 73 |
| ***Estimated Subs availing Star bouquets*** | 68 | 5 | 73 |
| ***Total ALC Units Sold*** | 121 | 25 | 146 |
| ***Estimated Subs availing Star channels on a-la-carte basis*** | 40 | 8 | 49 |
| ***Units of INR 19 channels sold on a-la-carte basis*** | 31 | 14 | 45 |

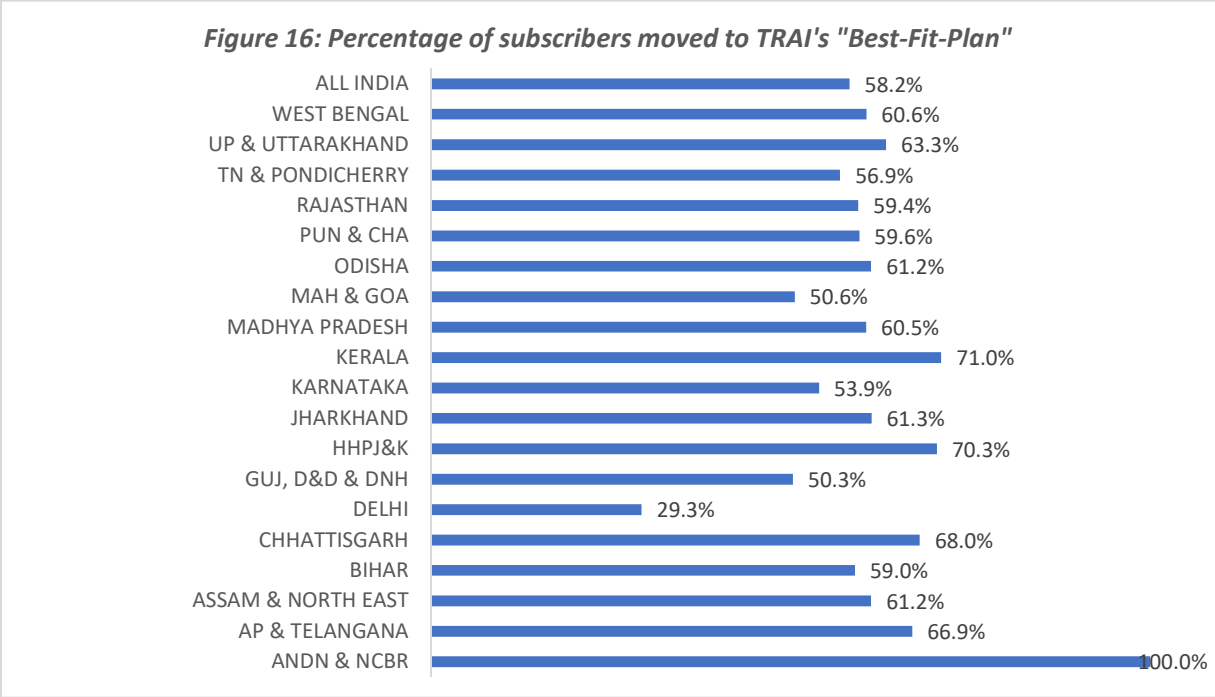
*Source: Star India Pvt Ltd.*

iv. There is a high uptake of channels on a-la-carte basis by the subscribers. According to the Annexure II of the consultation paper, 19% of consumers/subscribers have chosen their channels on a-la-carte basis. The chart below (combined data from CP's Annexure I and Annexure II) highlights that consumers have exercised a-la-carte options for all channels priced between INR 0.1 and INR 19.




*Source: Annexure II and Annexure I of the consultation Paper on Tariff related issues for Broadcasting and Cable services 16th August 2019*

[66] Number of times channels have been picked up a la carte




*Source: Chrome Track 2.0 WK 35, 2019 (U+R) 201 MN HHs*

<u>Such high uptake of channels on a-la-carte despite TRAI's introduction of "Best Fit Plan" that transitioned 58.2% of all subscribers, reinforces the fact that these prices are real and not illusory.</u>

v. Figure 3.4 reproduced below is misrepresentation of the Range of prices of Pay channels as prices of SD channels and prices of HD channels have been clubbed in the chart.

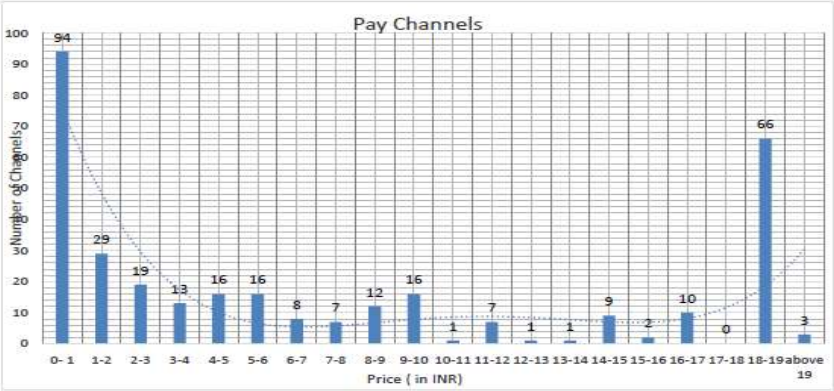
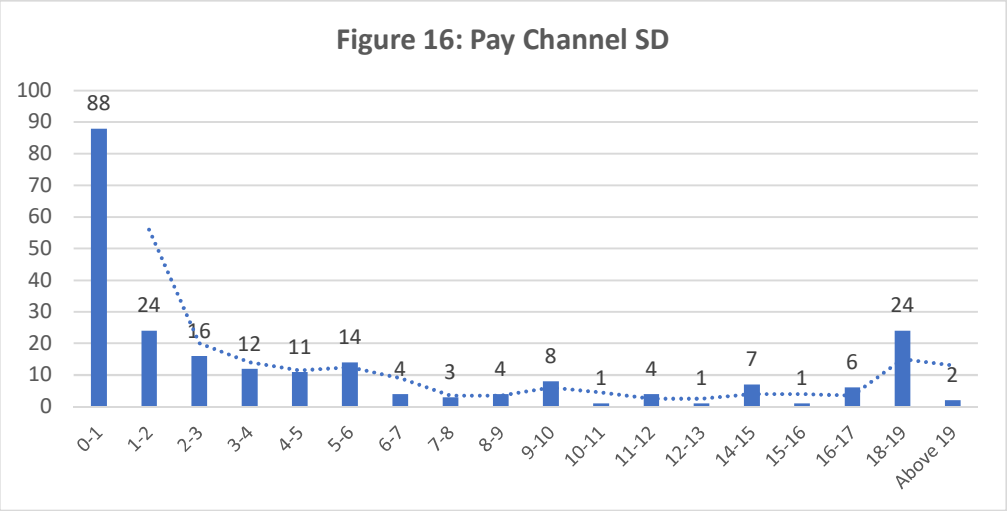
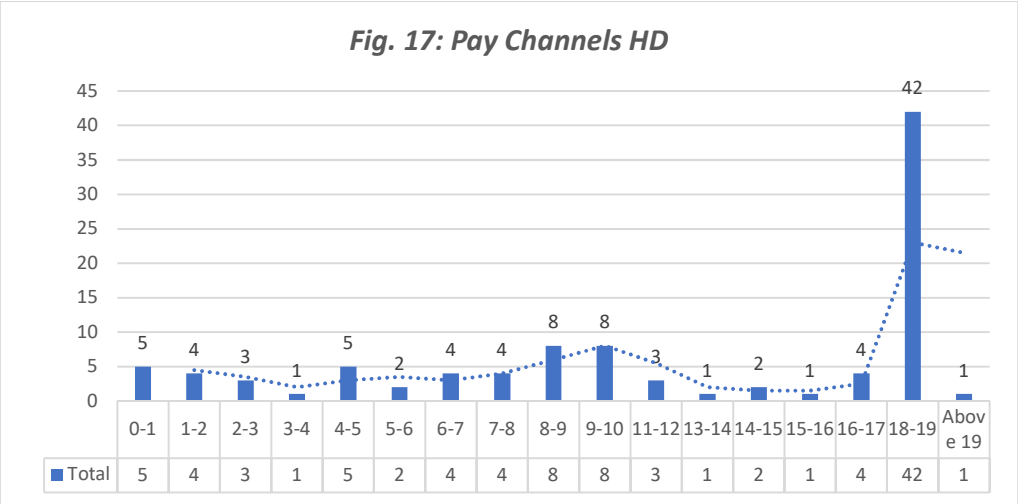



**Figure 3.4: Range of prices of Pay channels**

vi. Analysing the range of prices of SD and HD, we arrive at a different chart and hence different conclusion than what is inferred from figure 3.4 of the CP.




vii. Basis these evidences, the ceiling of Rs. 19 on MRP of a-la-carte channel forming part of a bouquet does not need to be reviewed, particularly in the manner suggested by TRAI in the CP where it is indicating a bent towards reduction of their ceiling, overall or genre wise, unless the review is to remove the ceiling altogether.

**Q.10 How well the consumer interests have been served by the provisions in the new regime which allows the Broadcasters / Distributors to offer bouquets to the subscribers?**

**Q.11 How this provision has affected the ability and freedom of the subscribers to choose TV channels of their choice?**

**Q.12 Do you feel the provision permitting the broadcasters/Distributors to offer bouquets to subscribers be reviewed and how will that impact subscriber choice?**

**Q.13 How whole process of selection of channels by consumers can be simplified to facilitate easy, informed choice?**

**Response to Q10, Q11, Q12 and Q13:**

(a) Broadcaster's bouquet and distributors bouquet have served consumer's interest. As mentioned in our response to questions no. 1 to 5, the number of bouquets reflect the diversity of taste and preferences for content in different markets and all bouquets formed in the market is earnest attempt by a multi-channel broadcaster to offer as much diverse channels on a la carte basis and as bouquets at commercially feasible and affordable prices.

(b) The provision of offering bouquets to consumers has enabled consumers to choose the channels of their choice. Consumer choice in simple terms means making available to consumers the option to choose what they want. It could be channels on a-la-carte basis or bouquets or both. It could be popular or unpopular channels, wanted or unwanted channels, channels which are niche or channels which have content which appeals to the masses. TRAI has rightly attributed equal importance to both a-la-carte choice and bouquet choice. TRAI has made it clear that the advantages of bundled packages of channels should also be available to the subscriber and that the subscribers should be able to choose between a-la-carte channels or bouquets or a combination of the two.

(c) Therefore, the provision permitting the broadcasters and DPOs to offer bouquets to subscribers should not be reviewed as it will not enhance consumer choice. As aptly stated by TRAI, the NTO and NIR should be given around two years to settle in and then a review of market may be done basis factual data and evidence available about on ground market realities.

(d) In the meantime, TRAI must address all technological bottlenecks, such as bandwidth constraints and collaborate with stakeholders to find technological solutions to make all choices available to consumers.

**Q.14 Should regulatory provisions enable discount in NCF and DRP for multiple TV in a home?**

**Response**:

No. The regulatory provisions do not need to enable discount in NCF and DRP for multiple TV in a home.

**Q.15 Is there a need to fix the cap on NCF for 2nd and subsequent TV connections in a home in multi-TV scenario? If yes, what should be the cap? Please provide your suggestions with justification.**

**Response**:

(a) No, there is no need to fix a separate cap on NCF for 2nd and subsequent TV connections in a home in multi-TV scenario, as:

i. The NCF is already capped, as subject to the Fee published by the DPO, and,
ii. The NCF is a Carriage related fee as per the regulations and Tariff Order, and continue to be determined by the distributor

(b) Instead of artificial regulatory interventions by further capping or mandating discounting etc. the Authority should ensure that DPOs are not abusing the flexibility given through the 130/- NCF ceiling. The platforms should ensure that they don't force consumers to uptake 100 channels. Rather, consumer should be free to choose their own choice of 100 channels.

**Q.16 Whether broadcasters may also be allowed to offer different MRP for a multi-home TV connection? If yes, is it technically feasible for broadcaster to identify multi TV connection home?**

**Response**:

(a) No. It is also not an economically sound practice to have multiple MRP for the same product. We are bit surprised that Authority has put up this question as in majority of the paper it has made out a case that number of bouquets is causing confusion to the consumers. Different MRPs for multi-home TVs is likely to lead to further implementation issues and cause confusion qua accounting practices.

(b) Moreover, it is not technically feasible for broadcaster to identify a multi-TV connection home and broadcasters do not have privity of contract for direct access to the subscriber. Thus, any such provision will take the NRF back to the analogue era where DPOs would never reveal the true numbers.

(c) Without prejudice to our response and right to further comment in counter, for this question No. 16 it is presumed that the CP is referring to multiple TV connections (STBs) in a single home. (*In any alternative interpretation, a multi-home TV connection would amount to piracy of signal, with a single TV connection servicing multiple homes, or a commercial use of TV connection and signal*).

**Q.17 Whether Distributors should be mandated to provide choice of channels for each TV separately in Multi TV connection home?**

**Response:**

Yes. Distributors should be mandated to provide choice of channels for each TV separately in Multi TV connection home. We assume that multi-TV home in accordance with regulations would mean one HH with multiple STBs. In light of addressability, each STB would be considered a separate connection

and is technically capable of having a different set of channels meaning thereby that each STB can be configured as per individual consumers choices.

**Q.18 How should a long-term subscription be defined?**

**Response:**

Since the interconnect agreement between DPO and broadcasters is of one year in duration – the long-term subscriptions should also be up to one-year duration. However, there should be minimum subscription ceiling of 3-6 months.

**Q.19 Is there a need to allow DPO to offer discounts on Long term subscriptions? If yes, should it be limited to NCF only or it could be on DRP also? Should any cap be prescribed while giving discount on long term subscriptions?**

**Response:**

DPOs may be allowed to offer discount on long term subscriptions through discounting of NCF or DRP. In our understanding of TRAI regulations, INR 130 is a ceiling on NCF and DPOs are free to provide flexible NCF to consumers to suit their pockets. Similarly, the DPO should be given the flexibility to give discount on DRP as per the existing regulations. However, capping discounts on DRP should not be allowed for the same reasons we believe that capping discounts on bouquet of channels should not be allowed.

**Q.20 Whether Broadcasters also be allowed to offer discount on MRP for long term subscriptions?**

**Response:**

(a) Broadcasters should also be allowed to offer discount on MRP for long term subscriptions. However, the following points should be kept in mind:

- It is in DPO's interest to give long term discounts since they receive money upfront, thereby reducing the capital requirement. However, no such benefit is accrued to the broadcasters
- Currently there is no mechanism or technology for broadcasters to identify long term subscribers.

(b) Therefore, broadcasters may give discount on MRP for long term subscribers only if the DPO duly reports such subscribers and makes the payment for these subscribers in advance. The discounts on long term pack should be limited. We suggest, one month free for annual pack and pro-rated for packs of lesser duration.

**Q.21 Is the freedom of placement of channels on EPG available to DPOs being misused to ask for placement fees? If so, how this problem can be addressed particularly by regulating placement of channels on EPG?**

**Response:**

We have not encountered any such instances of DPOs asking for placement fees.

**Q.22 How the channels should be listed in the Electronic Program Guide (EPG)?**

**Response:**

(a) DPO should either put channels language-genre wise or genre-language wise. However, all the channels of a particular language and genre should be placed together.

(b) However, DPOs should not include platforms services, VAS, non-relevant services such as local channels, shopping channels, religious channels within any genre and language combination.

(c) DPOs often put their own services such as movies or cooking services within a genre language combination. However, these services are not governed by the regulation and the pricing and incentive mechanism is opaque. Hence, all DPO services, local channels and shopping channels should not be allowed to be part of the language/genre combinations and they must be placed in a separate category.

**Q.23 Whether distributors should also be permitted to offer promotional schemes on NCF, DRP of the channels and bouquet of the channels?**
**Q.24. In case distributors are to be permitted, what should be the maximum time period of such schemes? How much frequency should be allowed in a calendar year?**

**Response:**

(a) No. Any such promotional schemes will create further confusion among the consumers. As stated earlier in our response, the manner of marketing, promotion, advertising and in general micro-managing the way DPOs run their businesses must be kept outside regulations.

(b) Instead, the Authority should focus on ensuring that consumers are able to exercise effective choice and that their grievances and complaints on pricing and packaging are addressed by DPO as per NQoS within stipulated time, failing which TRAI may take action. Since, TRAI has never addressed this issue in entirety, consumers are dissatisfied with the redressal services provided by the DPOs.

**Q.25 What safeguards should be provided so that consumers are not trapped under such schemes and their interests are protected?**

**Response:**

We are confused by this question. However, the Authority seems to have identified the root cause of consumer dissatisfaction, i.e. NCF charged on single and multiple STBs has been the root cause of the increase in monthly TV bills and unwanted channels. Hence, the Authority should make efforts to ensure enforcement of NQoS regulations at the ground level.

**Q.26 Whether DPOs should be allowed to have variable NCF for different regions? How the regions should be categorized for the purpose of NCF?**

**Response:**

To our understanding, the NCF as applied currently is a ceiling and DPOs are free to structure their business within this ceiling at their convenience. However, any micro-management of flexibility in offering NCF defeats the intent of the regime of uniform pricing. It will result in different prices in different markets and will only cause more extortion from consumers as has been happening over the last 6 months. The Authority as stated earlier should not interfere in marketing or promotion of a DPOs business but instead focus on enforcement of NQoS.

**Q.27 In view of the fact that DPOs are offering more FTA channels without any additional NCF, should the limit of one hundred channels in the prescribed NCF of Rs. 130/- to be increased? If so, how many channels should be permitted in the NCF cap of Rs 130/-?**

**Response:**

(a) The crux of the problem is that the Authority has introduced Network Carriage Fee with a ceiling of INR. 130 for 100 channels. This has been misused by the DPOs to push channels of their choice and not of the consumers.

(b) Once again, we request the Authority to not create any further confusion. Rather it must ensure that DPOs do not push 100 channels of their choice to the consumers as NCF. We therefore request that the create consumer awareness so that all TV households know they can create combination of FTA and Pay channels within the INR 130 charged by DPOs as NCF. We also request that the Authority enforce the NQoS in letter and spirit to avoid misuse of NCF.

(c) Our other cause of concern, is the additional INR 20 being charged for additional 25 channels. This is an overestimation of the economic cost of delivery of a channel and we request the Authority to rectify this anomaly.

**Q.28 Whether 25 DD mandatory channels be over and above the One hundred channels permitted in the NCF of Rs. 130/-?**

**Response:**

(a) Under the current law, it is illegal for DPO to charge any money, whether NCF or rental for Prasar Bharti's channels. Therefore, this provision itself may be untenable in law and hence needs to be amended to ensure that DD channels are out of the 100 channels of the NCF of INR 130.

(b) Additionally, the Authority should ensure through enforcement of NQoS that DPOs don't use extra bandwidth to force channels that are not subscribed by the consumers.

**Q.29 In case of Recommendation to be made to the MIB in this regard, what recommendations should be made for mandatory 25 channels so that purpose of the Government to ensure reachability of these channels to masses is also served without any additional burden on the consumers?**

**Response:**

(a) In our humble view, TRAI has no jurisdiction or power to recommend in relation to these channels since the legislature has already mandated that these channels must be carried by all DPOs. A bare reading of Section 8 will provide the answer:

> *"8. Compulsory transmission of certain channels. — (1) The Central Government may, by notification in the Official Gazette, specify the names of Doordarshan channels or the channels operated by or on behalf of Parliament, to be mandatorily carried by the cable operators in their cable service and the manner of reception and re-transmission of such channels:*
>
> *Provided that in areas where digital addressable system has not been introduced in accordance with the provisions of sub-section (1) of section 4A, the notification as regards the prime band is concerned shall be limited to the carriage of two Doordarshan terrestrial channels and one regional language channel of the State in which the network of the cable operator is located."*

**Q. 30. Stakeholders may also provide their comments on any other issue relevant to the present consultation.**

**Response:**

We would like to highlight on three additional issues:

(a) <u>Enforcement of QoS at the ground level:</u>

The Authority should ensure that NQoS is enforced and strictly complied by the DPOs in full spirit at the ground level to meet the real objective of the NRF i.e. consumers have the freedom to choose the channels as per their choice. Although, TRAI has itself issued directions to various DPOs citing non-compliance of the provisions of the NQoS Regulations but the situation has not improved on the ground level. It is submitted that Regulation 3(2) of NQoS Regulations stipulate that every DPO shall adopt consumer friendly methods, including but not limited to website and telephonic call to customer care center, for requesting subscription of broadcasting services related to television. Majority of DPOs do not have operational website with a consumer corner, call centers, consumer care center etc. It is important to note that these are the basic prerequisites prescribed under NQoS Regulations, which DPOs must mandatorily comply before providing broadcasters' channels to consumers. Numerous complaints have been registered by the consumers over the course of implementation of NRF on not being able to make real choice of TV channels and non-cooperation by the DPOs while exercising their choice. TRAI needs to strengthen the power granted to consumers through NRF by forcing the DPOs to follow the timelines stipulated by the NQoS regulation on consumer grievance redressal so that the complaints received are addressed in a timely manner. Thus, TRAI needs to enforce the QoS regulations at the ground level and ensure that DPOs strictly comply to provisions of the regulation.

(b) Third Party App for Consumers:

The purpose of the Authority to facilitate easy channel selection by the consumers can be institutionalized through a channel selection mechanism enabled through third-party application. A single application with friendly user interface where consumers has access to all the information such as MRP of broadcasters, DRP declared by the DPO, NCF charged by the DPO can simplify the channels selection process and help consumers make effective and informed choices regarding the television channels they want to watch. The app must also represent all the DPOs which are registered with the MIB. Additionally, consumers through the app must be able to exercise their choice of channels. The choices made by the consumers through the app should be updated by the platform operators instantly or within a stipulated time-period. Single channel selection app would also help reduce the number of consumer complaints and improve the time involved in grievance redressal. It is submitted that implementation of a proper system will help in standardizing channel selection process across different platforms.

(c) Audit:

According to the NIR, every distributor of the television channels is required to conduct audit once every year of its subscriber management system, conditional access system and other related systems by the empaneled auditor to verify monthly subscription reports made available by the distributor to the broadcasters with whom it has entered into an interconnection agreement. The audit is required to provide confirmation of self-reported numbers of the systems owned and

under physical control of the DPOs. It is relevant to bring to the notice of the Authority that six months have passed since the implementation of the NRF but the delay in conducting of audit has been adversely impacting the commercial interest of the broadcasters due to the inaccuracy of the system data. TRAI needs to accelerate the audit process which would help broadcasters realize their true business potential and make informed business decisions. This would also help usher the stated goals of the NRF, i.e., hygiene and transparency in the broadcast value chain.

Needless to state, none of the answers to the questions or any suggestions may be deemed to be a consent on the part of STAR on the issue raised by TRAI in CP dated 16.08.19 or consent towards the piecemeal implementation of the suggestions.

## ANNEXURE – A – *TV Channels Available to Indian Consumers through Prasar Bharati and Private Broadcasters on FTA and Pay Basis*

| Public Broadcaster | | Licensed FTA Channels | | Licensed Pay Channels | |
|---|---|---|---|---|---|
| **S.NO** | **Name of Channels** | **S.NO** | **Name of Channels** | **S.NO** | **Name of Channels** |
| 1 | *DD-National* | 1 | 9X | 1 | The History Channel |
| 2 | *DD News* | 2 | 9X JALWA (PHIR SE 9X) | 2 | FY1 TV18 |
| 3 | *DD Sports* | 3 | 9X JHAKAAS (9X MARATHI) | 3 | FY1 TV18 (HD) |
| 4 | DD Kisan | 4 | 9XM | 4 | Histroy TV 18 HD |
| 5 | *Test* | 5 | 9XO (9XM VELVET) | 5 | Vijay TV |
| 6 | *DD Bangla* | 6 | Housefull Action (earlier 9X BAJAO (Earlier 9X BAJAAO & 9X BANGLA) | 6 | Vijay Super |
| 7 | *DD Chandana* | 7 | TV 24 | 7 | Vijay HD |
| 8 | *DD Girnar* | 8 | BHASKAR NEWS (AP 9) | 8 | Asianet |
| 9 | *DD Kashir* | 9 | SATYA | 9 | Asianet Plus |
| 10 | *Sky Star Movies* | 10 | Mahua Plus (earlier AGRO ROYAL TV (Earlier AADRI WELLNESS) | 10 | Asianet Movies |
| 11 | *DD ARUN PRABHA)* | 11 | Shiva Shakthi Sai TV (earlier BENZE TV (Earlier AADRI ENRICH) | 11 | Suvarna Plus |
| 12 | *B-4U Movies* | 12 | ABN ANDHRA JYOTHI | 12 | Star Suvarna HD |
| 13 | *Aaj tak tez* | 13 | ANJAN TV | 13 | Asianet HD |
| 14 | India News | 14 | ARIHANT | 14 | Star Suvarna |
| 15 | News 18 Rajasthan | 15 | ABP ASMITA (Earlie ABP SAMACHAR GUJARATI, ABP Sanjha) | 15 | AATH |
| 16 | Big Ganga | 16 | ABP NEWS (earlier STAR NEWS) | 16 | SONY Marathi |
| 17 | *Test* | 17 | ABP Ananda | 17 | BBC World News |
| 18 | DD Oriya | 18 | ABP Majha | 18 | Zoom |
| 19 | DD Podhigai | 19 | ABP Andhra | 19 | Romedy Now |
| 20 | DD Punjabi | 20 | ABP News HD | 20 | MN + |
| 21 | DD Sahyadri | 21 | ABP Sanjha | 21 | Mirror Now |
| 22 | DD Yadagiri | 22 | ABP Tamil | 22 | ET NOW |
| 23 | DD Malayalam | 23 | History TV 18 Tamil | 23 | Times Now |
| 24 | Lok Sabha | 24 | ATE TV | 24 | Romedy Now HD |
| 25 | Rajya Sabha | 25 | AL JAZEERA ENGLISH | 25 | Movies Now HD |
| 26 | *Surya Samachar* | 26 | NEWS 7 TAMIL (Earlier REAL ESTATE ) | 26 | MNX HD |
| 27 | Dangal | 27 | K NEWS INDIA (earlier MAGIK / Bhojpuria Magic) | 27 | MNX |
| 28 | Bhojpuri Cinema | 28 | PRAG (earlier NEWS BANGLA) | 28 | Times Now World |
| 29 | *Test* | 29 | RENGONI | 29 | Travel XP HD |
| 30 | *Test* | 30 | AMRITA | 30 | Travel XP Tamil |
| 31 | *Test* | 31 | INDIA AHEAD (EARLIER BHAARAT TODAY, BHARAT TODAY (Earlier YOUR NEWS)) | 31 | JAN TV PLUS |
| 32 | *Test* | 32 | XCLUSIVE TV (Anugraha Malyalam) | 32 | Animal Planet |

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|---|---|---|---|---|---|
| 33 | NT 8 | 33 | ANGEL TV | 33 | Discovery Channel |
| 34 | *Test* | 34 | GOD TV | 34 | Discovery Channel – Tamil |
| 35 | India Fashion TV | 35 | ARADANA | 35 | Discovery Kids Channel |
| 36 | DD Saptagiri | 36 | Republic TV | 36 | Discovery Science |
| 37 | India TV | 37 | REPUBLIC TV BHARAT | 37 | Discovery Turbo |
| 38 | Ashirwad | 38 | IND 24 (earlier Live India Kannada, NEWS SUPER FAST) | 38 | Discovery Jeet |
| 39 | Manoranjan TV | 39 | B4U Bhojpuri | 39 | Discovery HD World |
| 40 | News Nation | 40 | MOVIES HOUSE (Earleir ASHIRWAD CLASSIC) | 40 | Animal Planet HD World |
| 41 | DD UP | 41 | Studio One + (earlier ASHIRWAD Gold) | 41 | TLC HD world |
| 42 | Dabangg | 42 | News 1 India (earlier High News (earlier News1 India, CEE NEWS) | 42 | Discovery Jeet HD |
| 43 | DD MP | 43 | SUPER TV (earlier CEE VANDANA/Adhyatm) | 43 | TLC |
| 44 | Sony Mix | 44 | ASIANET NEWS | 44 | Dsport |
| 45 | NDTV India | 45 | SUVARNA NEWS | 45 | Disney Junior |
| 46 | *Test* | 46 | Anaadi TV | 46 | UTV Movies |
| 47 | Enterr- 10 | 47 | TOLLY WOOD | 47 | Marvel HQ |
| 48 | DD North East | 48 | NEWS 9 | 48 | Disney International HD |
| 49 | Big Magic | 49 | TV 1 | 49 | Hungama TV |
| 50 | *News 18 India* | 50 | TV 9 | 50 | The Disney Channel |
| 51 | 9XM | 51 | TV9 Bharatvarsh | 51 | UTV HD |
| 52 | *Maha Movie* | 52 | TV9 GUJARAT | 52 | UTV Bindass |
| 53 | Zee Hindustan | 53 | TV9 KANNADA | 53 | UTV Action |
| 54 | DD Bharati | 54 | TV9 MUMBAI | 54 | ETV |
| 55 | DD Urdu | 55 | TV 100 (Earlier known as AVANTI SAMACHAR) | 55 | ETV Andhra Pradesh |
| 56 | Masti | 56 | Athmeeyayathra (earlier AY TV) | 56 | ETV - Telangana |
| 57 | B-4U Music | 57 | B4U MOVIES | 57 | ETV Cinema |
| 58 | NEWS 18 UP/Uttrakhand | 58 | B4U MUSIC | 58 | ETV Life |
| 59 | News State UP/UK | 59 | Sony Tec | 59 | ETV Plus |
| 60 | News 24 | 60 | JAI HIND | 60 | ETV Abhiruchi |
| 61 | Republic TV Bharat | 61 | NETWORK 10 | 61 | ETV HD |
| 62 | Aaj Tak | 62 | AHSAS (Earlier Daati Ahsas) | 62 | ETV Plus HD |
| 63 | ABP News | 63 | INH 24x7 (earlier INDIAN CRIME (Earlier NAV JAGRITI & NSN News) | 63 | ETV Cinema HD |
| 64 | *Zee News* | 64 | BIZZ NEWS | 64 | ETV Abhiruchi HD |
| 65 | *Manoranjan Movies* | 65 | BLOOMBERG TELEVISION ASIA-PACIFIC FEED | 65 | ETV Life HD |
| 66 | *Movie House* | 66 | BNB | 66 | EPIC TV |
| 67 | *Test* | 67 | Box Cinema | 67 | 4tv News |
| 68 | DD Rajasthan | 68 | BTVi | 68 | Topper TV |
| 69 | *Test* | 69 | JEHOVAH | 69 | News 18 Lokmat |

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|---|---|---|---|---|---|
| 70 | DD Bihar | 70 | LIVING INDIA NEWS (Earlier FW News (REPORTER 24*7) | 70 | Living Foodz HD |
| 71 | *Test* | 71 | DY 365 | 71 | Living Travelz |
| 72 | *Test* | 72 | Jonack (earlier DHOOM /DY 365 ENTERTAINMENT) | 72 | J Movies |
| 73 | T TV | 73 | NEWS 11 (Earlier DY-365 UP) | 73 | Jaya Max |
| 74 | *Test* | 74 | DHOOM MUSIC BANGLA | 74 | Jaya Plus |
| 75 | ZING | 75 | NEWS TIME ASSAM | 75 | Jaya TV HD |
| 76 | DD India | 76 | NEWS TIME BANGLA | 76 | SONY BBC EARTH |
| 77 | Star Sport First | 77 | RUPASI BANGLA | 77 | SONY BBC EARTH HD |
| 78 | MTV Beats | 78 | LIVE INDIA | 78 | Travel XP |
| 79 | Fakt Marathi | 79 | AUSTRALIA NETWORK | 79 | Good Times |
| 80 | *Test* | 80 | DW TV | 80 | NDTV 24*7 |
| | **AUDIO CHANNELS (As per MPEG 4 set top box decoding)** | 81 | CALCUTTA NEWS (Earlier UTTAR BANGLA AKD & C BANGLA) | 81 | NDTV India |
| 1 | ***DWDS _Service*** | 82 | CTVN-AKD-PLUS | 82 | NDTV Profit |
| 2 | *AIR VBS* | 83 | CAPTAIN NEWS | 83 | Fox Life |
| 3 | *AIR Telugu* | 84 | CAPTAIN TV | 84 | National Geographic Channel (NGC) |
| 4 | *AIR Marathi* | 85 | Euro News | 85 | Fox Life HD |
| 5 | *AIR Tamil* | 86 | FRANCE 24 | 86 | Nat Geo Wild |
| 6 | *AIR National* | 87 | TV 5 MONDE | 87 | National Geographic HD |
| 7 | *Rainbow Kolkata* | 88 | Cauvery News | 88 | National Geographic Tamil |
| 8 | *AIR Vijayawada* | 89 | IMAYAM TV | 89 | Nat Geo Wild HD |
| 9 | *AIR Imphal* | 90 | CHANNEL 2 | 90 | National Geographic Telugu |
| 10 | ***DWDS _Service*** | 91 | CHARDIKALA TIME TV | 91 | Baby TV HD |
| 11 | *AIR Gujrati* | 92 | Malai Murasu Seithikal | 92 | NHK World Premium (HD Distribution) |
| 12 | *Rainbow Delhi* | 93 | CALVARY TV | 93 | Prarthana |
| 13 | *AIR Punjabi* | 94 | Naaptol | 94 | Tarang |
| 14 | *FM Gold Delhi* | 95 | Tamil Naaptol | 95 | Tarang Music |
| 15 | *Radio Kashmir* | 96 | Malayalam Naaptol | 96 | Alankar |
| 16 | *AIR Lucknow* | 97 | Kannada Naaptol | 97 | News 18 Bihar Jharkhand |
| 17 | *AIR Patna* | 98 | Bangla Naaptol | 98 | News 18 Madhya Pradesh / Chattisgarh |
| 18 | *AIR Bhopal* | 99 | NT6 | 99 | News 18 Rajasthan |
| 19 | ***DWDS _Service*** | 100 | NT7 | 100 | News 18 Uttar Pradesh/ Uttaranchal |
| 20 | *AIR Kannada* | 101 | NT8 | 101 | News 18 Urdu |
| 21 | *AIR Bangla* | 102 | NT9 | 102 | News 18 Kannada |
| 22 | *AIR Hindi* | 103 | WOW CINEMA (Earlier TV PUNJABI) | 103 | News 18 Bangla |

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|---|---|---|---|---|---|
| 23 | *AIR N.E* | 104 | Paras-CITY Pulse | 104 | News 18 Punjab / Haryana / Himanchal Pradesh |
| 24 | *Rainbow Chennai* | 105 | Mango | 105 | News 18 Gujarati |
| 25 | *FM Gold Mumbai* | 106 | TV 7/ TV3 HEALTH PLANET | 106 | News 18 Odia |
| 26 | *AIR Jaipur* | 107 | KAVASAM TV (Earlier Archana, SPACETOON KIDS TV) | 107 | Raj Digital Plus |
| 27 | *Rainbow Mumbai* | 108 | Music Zone (earlier 7 S MUSIC, NILCHAKARA) | 108 | Raj Musix |
| 28 | ***DWDS _Service*** | 109 | RAKSHANA TV | 109 | Raj News |
| 29 | *AIR Ragam* | 110 | SHOPPING ZONE | 110 | Raj TV |
| 30 | *Rainbow Bangalore* | 111 | SWARA SAGAR (Earlier LAKSHYYA ENTERTAINMENT, SUPER STAR-JOSH) | 111 | ZEE Sarthak |
| 31 | *AIR Urdu* | 112 | MANORANJAN MOVIES (Earlier Manoranjan Music) | 112 | Mega 24 |
| 32 | *AIR Oriya* | 113 | MANORANJAN TV | 113 | Mega Musiq |
| 33 | *AIR Malayalam* | 114 | MANORANJAN GRAND | 114 | Mega TV |
| 34 | *AIR Assamese* | 115 | JAN TV | 115 | Sony YAY! |
| 35 | *FM Gold Chennai* | 116 | TEN CRICKET (Earlier known as PLAY TV) | 116 | AXN |
| 36 | *AIR Shillong* | 117 | MUNSIF TV | 117 | SET MAX |
| 37 | *AIR Kohima* | 118 | KHABAR FAST | 118 | MIX |
| 38 | ***AIR Aizwal*** | 119 | AKHON SAMAY | 119 | SAB |
| 39 | ***AIR Itanagar*** | 120 | Naaptol Malayalam (earlier DHARM SANGEET) | 120 | SONY ENTERTAINMENT CHANNEL (SET) |
| 40 | ***AIR Agartala*** | 121 | AASEERVATHAM | 121 | PIX |
| 41 | ***AIR Rohtak*** | 122 | CUSINE TV | 122 | SIX |
| 42 | ***AIR Shimla*** | 123 | WIN TV | 123 | MAX 2 |
| 43 | ***AIR Varanasi*** | 124 | WIN TV - U.P. | 124 | PAL |
| 44 | *Gyanwani* | 125 | DNN | 125 | SET HD |
| | | 126 | IMN NEWS (NEWS X) | 126 | SIX HD |
| | | 127 | DSPORT HD | 127 | PIX HD |
| | | 128 | DISHA NEWS CHANNEL (Earlier known as DHALIWAL TV) | 128 | MAX HD |
| | | 129 | UTV MOVIES INTERNATIONAL | 129 | SONY ESPN HD |
| | | 130 | DIVYA | 130 | Ten 2 HD |
| | | 131 | DARSHAN 24 (Earlier LIFE 24) | 131 | Ten 3 HD |
| | | 132 | E 24 | 132 | SONY ESPN |
| | | 133 | ARRA (Earlier known as MANJARI) | 133 | AXN HD |
| | | 134 | KANAK NEWS (Earlier KANAK TV & KANAK SAMBAD) | 134 | Ten 2 |
| | | 135 | Tehzeeb TV | 135 | Ten 1 |
| | | 136 | BHOJPURI CINEMA | 136 | Ten 3 |
| | | 137 | Dangal (earlier ENTER 10 MOVIES ) | 137 | Ten 1 HD |
| | | 138 | ENTERR 10 | 138 | SONY Wah |
| | | 139 | Enter 10 Bangla | 139 | SAB HD |
| | | 140 | FAKT MARATHI (Earlier AAPLA TALKIES, It's CINEMA, (LUCK TV) | 140 | Star Sports 3 |

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|---|---|---|---|---|---|
| | | 141 | Shaandaar Cinema | 141 | Star Sports 1 Tamil |
| | | 142 | GRACE TV (Earlier PHENO TV & NEWS MAKERS) | 142 | Star Sports Select 2 |
| | | 143 | Lord Buddha TV (earlier LORD BUDDHA SHARNAM TV (Earlier SHARNAM) | 143 | Star Bharat |
| | | 144 | Zingaat (earlier E AWAZ INDIA (EARLIER:AINDI (EARLIER: TULSI TV (Earlier VEDAS OM TV))) | 144 | Movies OK |
| | | 145 | Sanskriti TV (earlier Zonet Zawlbuk , earlier EN TV) | 145 | Star Sports 1 Hindi |
| | | 146 | NEWS WORLD INDIA (earlier NAMOSTUTE INDIA, RR News ) | 146 | Star Gold |
| | | 147 | India Watch (earlier INDIA NOW , Earlier INE LIVE) | 147 | Star Jalsha |
| | | 148 | FUN TV | 148 | Star Movies |
| | | 149 | MANGALAM (Earlier REPORTER 24X7, GN News, GNN NEWS) | 149 | Star Gold Select |
| | | 150 | WHISTLE TV (Earlier known as GN Bhakti GNN BHAKTI /GNN ENTERTAINMENT) | 150 | Star Plus |
| | | 151 | PTC CHAK DE | 151 | Star Pravah |
| | | 152 | PTC NEWS | 152 | Star Sports 1 |
| | | 153 | PTC PUNJABI | 153 | Star Sports 2 |
| | | 154 | PTC Music | 154 | Star World |
| | | 155 | PTC Punjabi Gold | 155 | Jalsha Movies |
| | | 156 | PTC Simran | 156 | Star Sports HD 2 |
| | | 157 | Peace of Mind | 157 | Star Sports HD 1 |
| | | 158 | 7S Music ( Earlier MAAS TV) | 158 | Star Bharat HD |
| | | 159 | Goodnews TV | 159 | Star Gold HD |
| | | 160 | Nambikkai Television | 160 | Star Movies HD |
| | | 161 | SUBHA VAARTHA | 161 | Star Plus HD |
| | | 162 | SUBHSANDESH | 162 | Star World Prmiere HD |
| | | 163 | GOODNESS TV | 163 | Star Sports 1 HD Hindi |
| | | 164 | Awakening | 164 | Star Sports Select 1 |
| | | 165 | P Plus | 165 | Star Movies Select HD |
| | | 166 | PTunes | 166 | Star World HD |
| | | 167 | V TV | 167 | Star Sports First |
| | | 168 | GULISTAN NEWS | 168 | MAA Gold |
| | | 169 | Hare Krsna | 169 | MAA Movies |
| | | 170 | JANTA TV | 170 | MAA Music |
| | | 171 | SADA CHANNEL | 171 | MAA TV |
| | | 172 | HBN | 172 | Star Pravah HD |
| | | 173 | DABANGG | 173 | Star Jalsha HD |
| | | 174 | HBC NEWS | 174 | Jalsha Movies HD |
| | | 175 | Malai Murasu (Earlier Jai Tamil TV Earlier known as HORIZON NEWS) | 175 | Star Sports Select HD 1 |

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|---|---|---|---|---|---|
| | | 176 | Y TV (Earlier known as Voice 24 Tripura/Horizon News 24x7) | 176 | Star Sports Select HD 2 |
| | | 177 | HM TV | 177 | MAA HD |
| | | 178 | IBC Tamil | 178 | Star Gold Select HD |
| | | 179 | CVR Health | 179 | MAA Movies HD |
| | | 180 | CVR News | 180 | Star Sport 1 Telugu |
| | | 181 | CVR News English | 181 | Star Sport 1 Kannada |
| | | 182 | CVR Spiritual Om | 182 | Star Sports 1 Bangla |
| | | 183 | RM-RUJUMARGAM FROM DARKNESS TO LIGHT (earlier MU ODIA, KATHA TV) | 183 | Star Utsav |
| | | 184 | INDIA TV | 184 | Star Sports 1 Marathi |
| | | 185 | INDIA TV WIZ | 185 | Star Utsav Movies |
| | | 186 | Sakshi | 186 | Adithya TV |
| | | 187 | REPORTER | 187 | Chintu TV |
| | | 188 | Free TV | 188 | Chutti TV |
| | | 189 | India News | 189 | Gemini Comedy |
| | | 190 | India News Haryana | 190 | Gemini Life |
| | | 191 | India News Madhya Pradesh Chattisgarh | 191 | Gemini Movies |
| | | 192 | India News Punjab | 192 | Gemini Music |
| | | 193 | India News Rajasthan | 193 | Gemini News |
| | | 194 | India News Uttar Pradesh-Uttarakhand | 194 | Gemini TV |
| | | 195 | NewsX Kannada | 195 | KTV |
| | | 196 | EXPRESS TV | 196 | Surya Movies |
| | | 197 | JAIN TV | 197 | Kushi TV |
| | | 198 | PBN (earlier SAMACHAR 24X7) | 198 | SUN Life |
| | | 199 | Janam | 199 | Sun Music |
| | | 200 | TWENTY FOUR (Earlier JANAPRIYA) | 200 | Sun News |
| | | 201 | P7 GUJARATI | 201 | Surya Music |
| | | 202 | SNEHA TV (EARLIER P7 NEWS BEFORE THAT PBC TV) | 202 | SUN TV |
| | | 203 | JEEVAN TV | 203 | Surya Comedy |
| | | 204 | MBC TV (VON JANTA KI AWAAZ) | 204 | Surya TV |
| | | 205 | DAY N NIGHT NEWS | 205 | Udaya Comedy |
| | | 206 | TOP(EARLIER: OM BANGLA ) | 206 | Udaya Movies |
| | | 207 | KALAIGNAR CHITHIRAM | 207 | Udaya Music |
| | | 208 | KALAIGNAR ISAI ARUVI | 208 | Udaya News |
| | | 209 | KALAIGNAR MURASU | 209 | Udaya TV |
| | | 210 | KALAIGNAR SEITHIGAL | 210 | Kochu TV |
| | | 211 | KALAIGNAR SIRIPPOLI | 211 | Sun TV HD |
| | | 212 | KALAIGNAR TV | 212 | KTV HD |
| | | 213 | Kalinga TV | 213 | Sun Music HD |
| | | 214 | Ayush TV (earlier AYURVEDA TV, SREE TV) | 214 | Gemini TV HD |
| | | 215 | SRI SANKARA | 215 | Gemini Music HD |
| | | 216 | ODISHA TIME (earlier KAMYAB TV) | 216 | Gemini Movies HD |

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| | | 217 | KASHISH NEWS | 217 | Surya TV HD |
| | | 218 | Kasthuri | 218 | Udaya TV HD |
| | | 219 | Kasthuri News 24 | 219 | Cartoon Network |
| | | 220 | Sarthi | 220 | CNN International |
| | | 221 | I PLUS TV (Earlier SHAKTI TV) | 221 | HBO |
| | | 222 | Kerala Vision | 222 | POGO |
| | | 223 | KAUMUDY | 223 | Cartoon Network HD+ |
| | | 224 | KHUSBOO BANGLA | 224 | WB |
| | | 225 | DILLAGIII | 225 | HBO HD |
| | | 226 | MAUJA MOSTII | 226 | CNN News 18 |
| | | 227 | TAK DHINA DIN | 227 | CNBC Bajaar |
| | | 228 | TV1 News 24*7 | 228 | CNBC TV 18 Prime HD |
| | | 229 | RUSSIA TODAY | 229 | CNBC Awaaz |
| | | 230 | Hindi Khabar (Earlier I-Witness) | 230 | News 18 Tamil Nadu |
| | | 231 | Ok India (earlier known as L-TV) | 231 | News 18 Kerala |
| | | 232 | 1SPORTS (EARLIER ATR) | 232 | News 18 Assam / North East |
| | | 233 | Lotus News (Earlier known as NATION NEWS) | 233 | News 18 India |
| | | 234 | AM News-Spandan Maharashtrache | 234 | CNBC TV 18 |
| | | 235 | MH 1 | 235 | Aaj Tak |
| | | 236 | MH ONE NEWS | 236 | India Today |
| | | 237 | MH ONE SHRADDHA | 237 | AAJ Tak HD |
| | | 238 | Madha TV (earlier KRISHANA TV) | 238 | Aaj Tak Tez |
| | | 239 | MEDIA ONE LIFE | 239 | Colors |
| | | 240 | MEDIA ONE TV | 240 | Comedy Central (HD ) |
| | | 241 | MK Six | 241 | MTV |
| | | 242 | MK TELEVISION | 242 | NICK |
| | | 243 | MK Tunes | 243 | NICK JR |
| | | 244 | FIRST INDIA (EARLIER KNOWN AS MAHUAA KHOBOR) | 244 | SONIC |
| | | 245 | MAHUAA | 245 | VH 1 (HD Distribution) |
| | | 246 | MAHUAA MOVIES | 246 | Colors Infinity HD |
| | | 247 | MAHUAA MUSIC (MAHUAA NEWS LINE UTTAR PRADESH/UTTRAKHAND) (EARLIER MAHUAA BANGLA) | 247 | Colors Infinity |
| | | 248 | MAHUAA NEWS | 248 | Colors HD |
| | | 249 | MAKKAL TV | 249 | NICKS HD+ |
| | | 250 | KAIRALI | 250 | Colors Cineplex |
| | | 251 | Kairali News | 251 | MTV Beats |
| | | 252 | WE | 252 | Colors Kannada HD |
| | | 253 | MUBU TV (EARLIER MT) | 253 | Colors Marathi HD |
| | | 254 | VAANAVIL TV (Earlier SPLASH TV) | 254 | Colors Bangla HD |
| | | 255 | CHANNEL NEWS ASIA INTERNATIONAL | 255 | Colors Super |

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|---|---|---|---|---|---|
| | | 256 | ANANDAM (EARLIER :MY TV(MDP TV) ) | 256 | Colors Bangla |
| | | 257 | EDU TV | 257 | Colors Gujarati |
| | | 258 | News 11 Bharart | 258 | Colors Kannada |
| | | 259 | HOLIDAYZ | 259 | Colors Marathi |
| | | 260 | MTUNES+ | 260 | Colors Oriya |
| | | 261 | WOW | 261 | MTV Beats HD |
| | | 262 | SANGEET BHOJPURI | 262 | Colors Tamil |
| | | 263 | SANGEET MARATHI | 263 | Colors Cineplex HD |
| | | 264 | BANGLA TALKIES | 264 | VH 1 |
| | | 265 | MUSIC INDIA | 265 | Colors Tamil HD |
| | | 266 | SANGEET BANGLA | 266 | MTV HD+ |
| | | 267 | Hi-Dost! | 267 | Colors Rishtey |
| | | 268 | Meenakshi TV | 268 | Colors Kannada Cinema |
| | | 269 | THANTHI TV (earlier NDTV HINDU CHENNAI) | 269 | Colors Gujarati Cinema |
| | | 270 | AAHO MUSIC (earlier known as Vaa Movies Hindi, NAAPTOL HD before that ALL TIME) | 270 | Comedy Central |
| | | 271 | MGK NAAPTOL TAMIL (Earlier MGK) | 271 | Colors Bangla Cinema |
| | | 272 | NAAPTOL BANGLA (Earlier MGK STAR) | 272 | Zee 24 Ghanta |
| | | 273 | NAAPTOL BLUE (Earlier Blue) | 273 | Zee Bollywood |
| | | 274 | THE MGM | 274 | Zee Action |
| | | 275 | MI MARATHI | 275 | Zee Bangla Cinema |
| | | 276 | Power TV | 276 | Zee Café HD |
| | | 277 | KHUSHI | 277 | Zee Café |
| | | 278 | MANORAMA NEWS CENTRAL | 278 | Zee Cinema |
| | | 279 | MANORAMA NEWS NORTH | 279 | Zee Talkies |
| | | 280 | MAZHAVIL MANORAMA (MANORAMA VISION) | 280 | Zee TV |
| | | 281 | MAZHAVIL MANORAMA HD (Earlier MANORAMA NEWS SOUTH) | 281 | Zing |
| | | 282 | MAZHAVIL MANORAMA INTERNATIONAL (earlier MANORAMA NEWS INTERNATIONAL) | 282 | & Picture |
| | | 283 | MAHAA NEWS (MAHAA TV) | 283 | Zee Bangla |
| | | 284 | MANTAVYA NEWS (Earlier XTRA ) | 284 | Zee Marathi |
| | | 285 | MOON TV | 285 | Living Foodz |
| | | 286 | TUNES 6 MUSIC | 286 | Zee TV HD |
| | | 287 | Maiboli (earlier DHAMAKAA /APNA TV) | 287 | Zee Cinema HD |
| | | 288 | THENDREL TV | 288 | & TV |
| | | 289 | Mahavira TV Channel-Jinvani Darshan | 289 | & TV HD |
| | | 290 | True Sports(earlier MANGAL KALASH, Oye Music) | 290 | Zee Kannada |
| | | 291 | NAXATRA NEWS JHARKHAND BIHAR (NAXTRA BARNALII) | 291 | Zee Telugu |
| | | 292 | NAXATRA TV | 292 | & Pictures HD |

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| | | 293 | PEPPERS | 293 | Zee Cinemalu |
| | | 294 | Sadhna News | 294 | Zee Yuva |
| | | 295 | Sadhna Bangla (earlier ISHWAR) | 295 | Zee Marathi HD |
| | | 296 | VIP News (Earlier known as Prabhatam HSB) | 296 | & Prive HD |
| | | 297 | STUDIO N NEWS (Earlier STUDIO N) | 297 | Zee Bangla HD |
| | | 298 | JANO DUNIYA | 298 | Zee Tamil HD |
| | | 299 | NEO PRIME (earlier NEO CRICKET ) | 299 | Zee Cinemalu HD |
| | | 300 | NEO SPORTS | 300 | Zee Telugu HD |
| | | 301 | SAAM TV | 301 | Zee Tamil |
| | | 302 | FTV.COM INDIA | 302 | Zee Kannada HD |
| | | 303 | Puthu Yugam (earlier KALAI SARAL) | 303 | Zee Anmol Cinema |
| | | 304 | PUTHIYA THAILAIMURAI | 304 | & Flix HD |
| | | 305 | JK 24*7 (Earlier JK CHANNEL , AAPNO 24 (BIZ 24) | 305 | & Flix |
| | | 306 | NEWS24 THINK FIRST | 306 | Zee Keralam HD |
| | | 307 | NEWS NATION (Earlier NATION TODAY, TULIP NEWS) | 307 | Zee Keralam |
| | | 308 | NEWS STATE UTTARAKHAND/UTTAR PRADESH (Earlier UPASANA) | 308 | Zee ETC |
| | | 309 | News State Madhya Pradesh/Chhatttisgarh | 309 | Zee Anmol |
| | | 310 | News Plus | 310 | Big Magic |
| | | 311 | Fateh TV | 311 | Big Ganga |
| | | 312 | HOPE TV | 312 | Zee Classic |
| | | 313 | NHK WORLD TV | 313 | &Xplore HD |
| | | 314 | Green TV | 314 | Zee Talkies HD |
| | | 315 | O TV | 315 | Zee 24 Taas |
| | | 316 | ANB News | 316 | Zee Odisha |
| | | 317 | Sarv Dharm Sangam (Earlier known as 4 Real Entertainment) | 317 | Zee Business |
| | | 318 | News India 24x7 (earlier UK NEWS) | 318 | Zee Punjab Haryana Himachal |
| | | 319 | ONKAR ONLY TRUTH | 319 | Zee Madhya Pradesh Chattisgarh |
| | | 320 | A TV | 320 | Zee Salaam |
| | | 321 | Oscar Movies Bhojpuri (earlier MARATHI MUSIC) | 321 | Zee 24 Kalak |
| | | 322 | Power of God TV (Earlier known as Page 3) | 322 | WION |
| | | 323 | CHANNEL NO.1 | 323 | Zee Uttar Pradesh Uttrakhand |
| | | 324 | PRARTHANA BHAWAN TV (GATHA TV) | 324 | Zee Hindustan |
| | | 325 | JAI PARAS TV | 325 | Zee Bihar Jharkhand |
| | | 326 | PITAARA | 326 | Zee News |
| | | 327 | 9X TASHAN | 327 | Zee Rajasthan News |
| | | 328 | IN- SYNC | 328 | Movies Now |

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| | | 329 | MOJO TV (earlier K News 24*7 (earlier NEWS & VIEWS ) | | |
| | | 330 | INDOLOGY | | |
| | | 331 | ARIRANG TV | | |
| | | 332 | CGTN (Earlier CCTV NEWS) | | |
| | | 333 | News J (earlier Polimer Kannada) | | |
| | | 334 | POLIMER | | |
| | | 335 | POLIMER NEWS | | |
| | | 336 | Sahana | | |
| | | 337 | B News (earlier PRABHATAM NEWS MAHARASHTRA) | | |
| | | 338 | JIA News (earlier PRABHATAM NEWS GUJARAT) | | |
| | | 339 | PRAJAA KANNADA TV (Earlier PRABHATAM NEWS RAJASTHAN) | | |
| | | 340 | The Nation Plus | | |
| | | 341 | Sadhna Bhakti | | |
| | | 342 | INDRADHANU | | |
| | | 343 | NEWS LIVE | | |
| | | 344 | NEWS LIVE ODISHA (NOURTH EAST LIVE) | | |
| | | 345 | RAMDHENU | | |
| | | 346 | RANG | | |
| | | 347 | FRONTIER TV | | |
| | | 348 | BHAKTHI | | |
| | | 349 | N TV | | |
| | | 350 | VANITHA TV | | |
| | | 351 | RAFTAAR MEDIA | | |
| | | 352 | R PLUS | | |
| | | 353 | R PLUS GOLD (earlier R PLUS NEWS) | | |
| | | 354 | RAJ MUSIX MALAYALAM | | |
| | | 355 | RAJ MUSIX TELUGU | | |
| | | 356 | RAJ NEWS KANNADA | | |
| | | 357 | RAJ NEWS MALAYALAM | | |
| | | 358 | RAJ NEWS TELUGU | | |
| | | 359 | RAJ PARIWAR | | |
| | | 360 | Raj Musix Kannada | | |
| | | 361 | Vissa TV | | |
| | | 362 | Patrika TV Rajasthan | | |
| | | 363 | R TV | | |
| | | 364 | TUNES 6 (earlier RKM GOLD NEC PULSE) | | |
| | | 365 | ASSAM TALKS (Earlier PRIME NEWS (ARYAN TV) | | |
| | | 366 | MUSIC F (earlier M3M music..movie..masti / VARDAAN) | | |
| | | 367 | KOLKATTA 24*7 | | |
| | | 368 | R VISION | | |
| | | 369 | RVS CHANNEL | | |

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| | | 370 | IBC 24 (earlier ZEE 24 GHANTE-CHATTISGARH) | | |
| | | 371 | BANSAL NEWS | | |
| | | 372 | DHEERAN TV (ARADHANA) | | |
| | | 373 | DHAMMAL GUJJUU | | |
| | | 374 | Seven (earlier SEVEN SISTERS RAINBOW) | | |
| | | 375 | SADHNA PRIME NEWS (EARLIER: POSITIVE HEALTH) | | |
| | | 376 | Aryan TV National (earlier SADHNA ORISSA) | | |
| | | 377 | Bhojpuri Dhamaka Dishum (earlier MAX VISION [CHITRA (EARLIER SADHNA)] | | |
| | | 378 | SAFARI | | |
| | | 379 | JAI MAHARASHTRA | | |
| | | 380 | SAHANA NEWS | | |
| | | 381 | AALAMI SAHARA | | |
| | | 382 | SAHARA FILMY | | |
| | | 383 | SAHARA FIRANGI | | |
| | | 384 | SAHARA ONE | | |
| | | 385 | SAHARA SAMAY BIHAR | | |
| | | 386 | SAHARA SAMAY MP | | |
| | | 387 | SAHARA SAMAY MUMBAI | | |
| | | 388 | SAHARA SAMAY NCR | | |
| | | 389 | SAHARA SAMAY UP | | |
| | | 390 | SAHARA TV | | |
| | | 391 | SAMAY | | |
| | | 392 | Sai TV | | |
| | | 393 | SAIRAM TV | | |
| | | 394 | SANATAN TV | | |
| | | 395 | S. NEWS | | |
| | | 396 | SINEMA | | |
| | | 397 | Jan-Tantra TV (earlier A1 TEHELKA HIMACHAL-HARYANA (Earlier known as HINDUSTAN LIVE /NEWS 17) | | |
| | | 398 | Bhaktisagar2 (Initially granted as Hastey Raho then changed to iConcerts) | | |
| | | 399 | Sanskar (Initially known as Sanskar then changed to Sanskar HD) | | |
| | | 400 | Satsang (earlier SANSKAR SATSANG (EARLIER: SATSANG) | | |
| | | 401 | BALLE BALLE Non Stop Music (earlier Andy Haryana) | | |
| | | 402 | SATHIYAM | | |
| | | 403 | DARSHANA | | |
| | | 404 | SAMAYA | | |
| | | 405 | I NEWS | | |

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|---|---|---|---|---|---|
| | | 406 | National Voice Uttarpradesh/Uttrakhand (earlier SHALINI TV /GURU DIKSHA NEWS/ VEDA TV) | | |
| | | 407 | JINVANI | | |
| | | 408 | Non-Stop Samachar India (Initially Sea News then changed to Sea News Uttar Pradesh & Uttrakhand | | |
| | | 409 | Swaraj Express SMBC (earlier SMBC Insight (earlier VOICE OF CENTRAL INDIA VOICE) | | |
| | | 410 | India Voice (Earlier SENTINEL NEWS) | | |
| | | 411 | CARE WORLD | | |
| | | 412 | SHALOM TELEVISION | | |
| | | 413 | MAHARASHTRA 1 (Earlier SADHANA NEWS-UTTARAKHAND/HIMACHAL PRADESH) | | |
| | | 414 | SADHNA PLUS NEWS (Earlier SADHANA MADHYA PRADESH) | | |
| | | 415 | Sadhna National (R.K. NEWS/KATYAYANI) | | |
| | | 416 | Sadhna News Madhya Pradesh/ Chhatisgarh/ Rajasthan ( earlier SADHNA NEWS BIHAR ) | | |
| | | 417 | SHOP CJ (Earlier Shop CJ alive, STAR/CJ ALIVE ) | | |
| | | 418 | Shop CJ Tamil | | |
| | | 419 | Shop CJ Telugu | | |
| | | 420 | Nireekshana TV | | |
| | | 421 | Shop 5 | | |
| | | 422 | Hindu Dharmam | | |
| | | 423 | TV 5 Kannada | | |
| | | 424 | TV 5 NEWS | | |
| | | 425 | GSTV (Earier AASPAS TV) | | |
| | | 426 | SHUBH TV | | |
| | | 427 | Shubh Cinema | | |
| | | 428 | AP 24x7 (earlier AP Times the News HQ, KHOJ INDIA ) | | |
| | | 429 | AKASH B | | |
| | | 430 | 99 Percent (earlier CHANNEL NO.3) | | |
| | | 431 | Skystar Movies (earlier Sky Star) | | |
| | | 432 | Skystar Bangla | | |
| | | 433 | Skystar Telugu | | |
| | | 434 | Adhyatm (earlier ADHYATM BHAKTI) | | |
| | | 435 | APN (Axis Press Network ) [Earlier known as SOBHAGYA MITHILA/ SOBHAGYA TV] | | |
| | | 436 | MKN | | |
| | | 437 | Bangla Time (earlier known as Khabar Tej) | | |
| | | 438 | MR TV | | |
| | | 439 | TEN 4 (earlier name Le Plex HD) | | |
| | | 440 | SAB MARATHI | | |

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| | | 441 | SAB PUNJABI | | |
| | | 442 | SAB TAMIL | | |
| | | 443 | SIX 2 | | |
| | | 444 | Sony Pix 2 HD | | |
| | | 445 | Sony Pix-2 | | |
| | | 446 | TEN 4 HD (earlier name Sony Rox HD) | | |
| | | 447 | TEN GOLF HD (earlier TEN GOLF) | | |
| | | 448 | VELICHAM PLUS (Earlier FAST 24*7) | | |
| | | 449 | 10 TV | | |
| | | 450 | G7 SPV (Earlier known as B TV) | | |
| | | 451 | Dream TV (Earlier Fata Fati) | | |
| | | 452 | SWADESH NEWS | | |
| | | 453 | SRI VENKATESWARA | | |
| | | 454 | SVBC-2 | | |
| | | 455 | KALKI KANNADA (EARLIER: KALVI ) | | |
| | | 456 | KOLKATTA TV | | |
| | | 457 | A1TV (EARLIER: STANDARD WORLD ) | | |
| | | 458 | STAR GOLD 2 HD | | |
| | | 459 | PUNJAB TODAY | | |
| | | 460 | STV HARYANA NEWS | | |
| | | 461 | STV JAMMU-KASHMIR NEWS (EARLIER STV-MARATHI NEWS) | | |
| | | 462 | STV UP NEWS (STV-RAJASTHAN) (EARLIAR STV BIHAR-JHARKHAND NEWS | | |
| | | 463 | ROSE TV | | |
| | | 464 | SUBHARTI | | |
| | | 465 | NEWS 7 (PRAMEYA NEWS) | | |
| | | 466 | Naaptol Kannada (earlier Gnext Discovery) | | |
| | | 467 | Shri Navgrah Channel (earlier Harvest TV 24x7 cristian Channel (earlier Gnext) | | |
| | | 468 | Surya Bhakti | | |
| | | 469 | Surya Sagar Entertainment | | |
| | | 470 | Surya Samachar | | |
| | | 471 | FLOWERS (Suryansh Melody) | | |
| | | 472 | ORANGE TV | | |
| | | 473 | TAAZA TV | | |
| | | 474 | TAMILAN TELEVISION | | |
| | | 475 | T NEWS | | |
| | | 476 | DHANSU (EARLIER MAHA CARTOON TV, EARLIER TELESHOP) | | |
| | | 477 | MAHA MOVIE | | |
| | | 478 | T TV | | |
| | | 479 | Kappa TV (earlier MATHRUBHUMI NEWS CENTRAL) | | |
| | | 480 | MATHRUBHUMI NEWS | | |
| | | 481 | MATHRUBHUMI NEWS NORTH | | |

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| | | 482 | MATHRUBHUMI NEWS SOUTH | | |
| | | 483 | SANDESH NEWS | | |
| | | 484 | BHARAT SAMACHAR | | |
| | | 485 | News 1st | | |
| | | 486 | TOTAL TV | | |
| | | 487 | Total Haryana | | |
| | | 488 | Paras Gold (earlier TRAVEL TRENDZ TV ) | | |
| | | 489 | VENDHAR TV (NEWS 4U) | | |
| | | 490 | 1st India Rajasthan (earlier TRANSMEDIA NEWS) | | |
| | | 491 | AAMAR CINEMA (EARLIER TRANSMEDIA GUJARAT) | | |
| | | 492 | TRANSMEDIA SOHAM | | |
| | | 493 | Food Food TV | | |
| | | 494 | TULASI NEWS (earlier TULASI) | | |
| | | 495 | NEWS18 GOA | | |
| | | 496 | NEWS18 J&K | | |
| | | 497 | News18 Bharat (earlier NEWS18 PUNJAB) | | |
| | | 498 | News18 India (earlier KHABAR 18, Earlier IBN 7 & JTV Channel-7) | | |
| | | 499 | HomeShop | | |
| | | 500 | NEPAL 1 (EARLIER KNOWN AS TV LIVE) | | |
| | | 501 | AAJTAK DESH | | |
| | | 502 | MASTIII | | |
| | | 503 | Sakhi TV (earlier CHANNEL 5) | | |
| | | 504 | DHAMAAL | | |
| | | 505 | Tirupathi | | |
| | | 506 | OK MUSIC (EARLIER V S ENTERTAINMENT) | | |
| | | 507 | TORAN TV (EARLIER VS TV) | | |
| | | 508 | NO.1 NEWS (EARLIER VAARTHA) | | |
| | | 509 | POWER VISION | | |
| | | 510 | BFLIX MOVIES (EARLIER ROYAL TV , GOOD LIFE ) | | |
| | | 511 | ISHWAR BHAKTI (EARLIER SUKH SAGAR) | | |
| | | 512 | VASANTH | | |
| | | 513 | AASTHA | | |
| | | 514 | AASTHA BHAJAN | | |
| | | 515 | Aastha Kannada | | |
| | | 516 | Aastha Tamil | | |
| | | 517 | Aastha Telugu | | |
| | | 518 | VEDIC | | |
| | | 519 | HTN News | | |
| | | 520 | KATYAYANI | | |
| | | 521 | SHAGUN (EARLIER PRABHAT NEWS UTTRAKHAND) | | |

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| | | 522 | MTV INDIES (EARLIER COLORS INTERNATIONAL/ V.18 MOVIES) | | |
| | | 523 | BDM | | |
| | | 524 | Connected | | |
| | | 525 | ECO-LUTION | | |
| | | 526 | HAWA MAHAL | | |
| | | 527 | IMIX | | |
| | | 528 | MY TUBE | | |
| | | 529 | PICK-A-TRICK | | |
| | | 530 | STORY CITY | | |
| | | 531 | TREBLE | | |
| | | 532 | NIRMANA | | |
| | | 533 | VIKAAS TV | | |
| | | 534 | V6 | | |
| | | 535 | V6 ENT | | |
| | | 536 | KHABRAIN ABHI TAK(ABHI TAK) | | |
| | | 537 | FM NEWS (EARLIER LIVING INDIA AYUR LIVING INDIA) | | |
| | | 538 | HOUSEFULL MOVIES (EARLIER VISION TV, VISION TV MUSIC) | | |
| | | 539 | Movie Plus | | |
| | | 540 | MULTIPLEX (EARLIER VISION TV SHIKSHA) | | |
| | | 541 | DIGHVIJAY TV 24X 7 NEWS (EARLIER DIGHVIJAY TV) | | |
| | | 542 | Channel win | | |
| | | 543 | Public Movies (earlier Public Comedy) | | |
| | | 544 | Public Music | | |
| | | 545 | Public TV(TOP TV /KARNATAKA NEWS 24X7) | | |
| | | 546 | JANASRI | | |
| | | 547 | Saral Jeevan (earlier GREEN / SAMACHAR 365) | | |
| | | 548 | Swaraj Express (Earlier NEWS TIME 24X7, JANSANDESH PLUS, FAST NEWS) | | |
| | | 549 | TTC (earlier JANADESH) | | |
| | | 550 | YO TV (Earlier YO MUSIC) | | |
| | | 551 | Suddhi TV(Earlier: MAHA BODHI CHANNEL (earlier REPORTER MAHARASHTRA) ) | | |
| | | 552 | Chitrapat Marathi (Earlier PEARLS NEWS-MADHYA PRADESH-CHATITISGARH , earlier PEARLS KANNADA) | | |
| | | 553 | PROTIDIN TIME (earlier KHABAR 365 DIN, REPORTER HARYANA) | | |
| | | 554 | Pearls Haryana Express (earlier Pearls NCR-Haryana-Rajasthan /PEARLS PUNJABI) | | |
| | | 555 | YONE TV | | |
| | | 556 | GYANA YOGI (Earlier BRINDAVAN TV) | | |

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| | | 557 | BULAND NEWS SAMACHAR PLUS (earlier LPS TV/ERA NEWS) | | |
| | | 558 | HNN 24x7 (earlier Hindustan News Earlier GET PUNJABI, NEWS CHAKRA) | | |
| | | 559 | Kalki TV (earlier Satyaveeda TV, BHOJPURIA TV ,ERA CHANNEL) | | |
| | | 560 | Salvation (earlier KALASH TV /ERA MOVIES) | | |
| | | 561 | Samachar Plus Rajasthan (earlier Buland News) | | |
| | | 562 | Vaa Movies (earlier GSI / ERA SPORTS then Fight Sports) | | |
| | | 563 | BIG GANGA TALKIES (Earlier BIG GAURAV) | | |
| | | 564 | Big Magic HD (Earlier known as Big Magic UP /BIG BONDHON) | | |
| | | 565 | Big Magic Punjab (Earlier known Big Magic MP /BIG FAMILY) | | |
| | | 566 | Big Thrill (earlier- Big RTL Thrill, Imagine Showbiz ) | | |
| | | 567 | PLANET NEWS (earlier ZEUS NEWS) | | |
| | | 568 | ZONET | | |
| | | 569 | Ezmall.com | | |
| | | 570 | 1 CHENNAI | | |
| | | 571 | 1 DELHI | | |
| | | 572 | 1 KOLKATA | | |
| | | 573 | 1 MUMBAI | | |