COMMENTS
ON
TRAI's CONSULATION PAPER
ON
REVIEW OF REGULATORY FRAMEWORK FOR BROADCASTING AND CABLE SERVICES

Dated 08.08.2023

BY

SITI NETWORKS LIMITED

10th October 2023

To,

Shri Anil Kumar Bharadwaj,
Advisor (B&CS),
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Sadan,
New Delhi

Subject: Comments on behalf of All India Digital Cable Federation on the Consultation Paper on "***Review of Regulatory Framework for Broadcasting and Cable Services***" dated 08.08.2023 **("CP").**

This has reference to the captioned Consultation Paper, for which the response has been sought from various stakeholders.

We, Siti Networks Limited, submit our response in relation to the captioned subject.

At the advent, we state that while we acknowledge the efforts that the Telecom Regulatory Authority of India (TRAI/ Authority) has put forth in initiating and in facilitating deliberation on certain issues as relevant for promoting the orderly growth of the broadcasting and cable television sector.

Our Response to the various issues raised in the Consultation Paper ae as follows:

Q1. Should the present ceiling of Rs.130/- on NCF be reviewed and revised?

a. If yes, please provide justification for the review and revision.
b. If yes, please also suggest the methodology and provide details of calculation to arrive at such revised ceiling price.
c. c. If not, provide reasons with justification as to why NCF should not be revised.
d. Should TRAI consider and remove the NCF capping?

Q2. Should TRAI follow any indices (like CPI/WPI/GDP Deflator) for revision of NCF on a periodic basis to arrive at the revised ceiling? If yes, what should

be the periodicity and index? Please provide your comments with detailed justification.

Q3. Whether DPOs should be allowed to have variable NCF for different bouquets/plans for and within a state/ City/ Town/ Village? If yes, should there be some defined parameters for such variable NCF?

Please provide detailed reasons/ justification. Will there be any adverse impact on any stakeholder, if variable NCF is considered?

REPLY

Answer (1) :

We at Siti Networks, support the proposal of Q1 (d) that TRAI should remove the NCF Capping. With respect to NCF, we would like to state that NCF is not a one-time capital expense, as wrongly assumed by the Authority. The NCF includes not only Capital Expenditure but also other operational expenses such as rent of the premises, salary of the employees of network, repair and maintenance of the network and other operating expenses such as electricity, water, depreciation and others.

Had it been the one-time capital expenditure only and thereafter no expense to incur, we could have suggested that the fee may remain at same level till certain period, however the operating expense keeps on increasing year by year which necessitates to enhance the NCF. Moreover, depreciation of equipment and/or cable cutting requires immediate change in certain equipment/network. These kinds of expenses are not predictable. Even the capital expenditure has its own shelf life.

It is further to be noted that since 2017 MSOs have been charging only Rs. 130/- (for 100 channels, however number of channels were increased to 200 in 2020 amendment). Based upon which MSOs has to distribute 200 channels only for Rs. 130/- which comes out to only 65 paisa per channel, if only 200 channels are carried. However, any DPO generally carries more than 500 channels, and carrying 500 channels only for Rs. 130/- (which is 26 paisa) is commercially unviable for the DPOs.

We would like to state that in economic theory, perfect competition occurs when all companies sell identical products, market share does not influence price, and companies are able to enter or exit without barriers. It is further submitted that there is a perfect competition among the MSOs, while broadcasters have monopoly on their content. MSOs are selling same services to the subscribers

and there is a perfect competition, hence in such a case market is the best determinator of the prices.

In view of above, that there should not be any cap on NCF and MSO should be given the rights to fix up the NCF as the broadcasters are given free hands to decide the MRP of the channels.

Answer 2

As stated above, TRAI should remove the capping of NCF and the DPOs be authorized to determine the NCF, hence TRAI is not required to follow any Indices, and let the market force decide the NCF. If it is determined on lower side, it would increase and if it is on higher side it is bound to come down. Hence it is submitted that let market forces determine the NCF.

Answer 3

We would like to state that the costing of NCF is determined based upon Capital and operational expenditure and not dependent on bouquets/plans for any particular State/city/ town/village. Therefore, there shall be no variable NCF structure, as it may create complexity and disparity among the subscribers. Yes, any scheme or discount for a particular period be allowed to be offered by DPOs as per market to market and keeping in mind various occasions such as festival etc.

B. Network Capacity Fee (NCF) for multi-TV homes

Q4. Should TRAI revise the current provision that NCF for 2nd TV connection and onwards in multi-TV homes should not be more than 40% of declared NCF per additional TV?

a. If yes, provide suggestions on quantitative rationale to be followed to arrive at an optimal discount rate.
b. If no, why? Please provide justification for not reconsidering the discount.

c. Should TRAI consider removing the NCF capping for multi-TV homes? Please provide justification.

Q5. In the case of multi-TV homes, should the pay television channels for each additional TV connection be also made available at a discounted price?

a) If yes, please suggest the quantum of discount on MRP of television channel/ Bouquet for 2nd and subsequent television connection in a multi-TV home. Does multi-TV home or single TV home make a difference to the broadcaster? What mechanism should be available to

pay-channel broadcasters to verify the number of subscribers reported for multi-TV homes?

b) If not, the reasons thereof?

REPLY

Answer 4

In our Opinion TRAI should consider removing the NCF capping for multi-TV homes, as mentioned part c of the question. It is wrongly observed by the Authority (in para 98 of Explanatory statement of Tariff Amendment Order 2020) that the channels are watched by family, and they have installed multiple TV & STBs only for the purpose of convenience. It is to be noted that since members of the family want to view different programs of their choice at the same time, hence there arised the need of multiple TVs. Had the same program is being watched by all the members then it is a matter of convenience, but in reality, it is a different product.

The purpose of opting for multiple TV/STB is that one member wants to watch the cricket match and other member wants to see serial at the same time, hence it is not convenient but a subscribing a separate product. So, the observation made by the Authority is totally incorrect.

The reason for providing a compulsory discount on a second TV is not understood and really seems beyond logical rationality. We would like to refer to other similar product which are essential, and no discount is being given on second connection, which are Electricity connection, Gas Pipeline etc. Suppose two Gas connections are taken in a family, the Gas company does not provide on second connection, though the pipeline is the same. Similarly, Electricity company also does not provide the discount on installation of second meter in the same house despite both of them are essential services. Then why we the MSOs are being forced to offer 40% discount on second connection, while the product is different.

As the cost of running a network has been increasing heavily, it would be difficult to take any further burden by DPOs. However, we agree with the earlier proposal that had there been a discount by the Broadcaster on second connection in MRP, that would help consumers to a greater extent.

We therefore suggest that TRAI must consider removing the NCF Capping from multiple TVs.

Answer 5

It is evident that there is no parity on discount being offered by DPOs and Broadcasters to the subscribers, as there is a capping on NCF even discounting on 2nd TV connection onwards by DPO while there is no such capping applicable for the Broadcaster. It is proposed either the capping should be removed or be applicable on all the stakeholders. If the broadcaster offers discount on 2nd TV, only then DPO be asked to offer the same to the subscribers and not be forced to bear the same from its own pocket.

Q7. Whether the total channel carrying capacity of a DPO be defined in terms of bandwidth (in MBPS) assigned to specific channel(s).

If yes, what should be the quantum of bandwidth assigned to SD and HD channels. Please provide your comments with proper justification and examples.

Q8. Whether the extant prescribed HD/SD ratio which treats 1HD channel equivalent to 2SD channels for the purpose of counting number of channels in NCF should also be reviewed?

a. If yes, should there be a ratio/quantum? Or alternatively should each channel be considered as one channel irrespective of its type (HD or SD or any other type like 4K channel)? Justify with reasons.

b. If no, please justify your response.

Q9. What measures should be taken to ensure similar reception quality to subscribers for similar genre of channels? Please suggest the parameter(s) that should be monitored/ checked to ensure that no television channel is discriminated against by a DPO. Please provide detailed response with technical details and justification.

REPLY

Since the consumption of bandwidth of a channel are varied across the channels, as the frames of the channels changes as per the movement of the scene of the channels and accordingly propensity increases of decreases, the bandwidth consumed by the same channel also changes, hence the channel carrying capacity should be continued as prescribed in 2017 regulation. Therefore, it should be counted on the basis of number of channels.

HD:SD ratio was designed based on consumption of bandwidth by the Standard definition content and High-definition content. That ratio is well established and the same is not required to be changed. Regarding 4k Channel, presently the

same is considered equivalent to 4 SD channels and same has been arrived basis the technical usage of bandwidth the 4K channels. We, therefore, would request the Authority not to change the HD/SD ratio and 4k/SD ratios.

E. Mandatory FTA Channels in all packs formed by DPOs

Q10. Should there be a provision to mandatorily provide the Free to Air News / Non-News / Newly Launched channels available on the platform of a DPO to all the subscribers?

a. If yes, please provide your justification for the same with detailed terms and conditions.
b. If not, please substantiate your response with detailed reasoning.

REPLY

The presumption made in the Consultation paper with respect to this question is totally wrong from its roots. As the NCF is charged from the consumers for various services being provided by DPOs to the subscribers which inter-alia includes providing SMS Billing services, timely resolving the complaints, maintain CAS so that the consumers could subscribe for the channels of their choice, maintain web-site for providing the requisite information to the subscribers and paying the subscription fee, beside laying down the cable network for making the channels available to the consumers, and providing all the services as per Quality of Services Regulations etc. It is to be noted that providing all these services require cost, which no broadcaster is sharing and DPOs is struggling to recover these costs from the NCF.

It is further submitted that as there is already a Must Carry provision under the regulation, hence all the Broadcasters including Broadcaster of FTA channels can approach DPOs and enter into carriage agreement (on non-discriminatory basis). Since the must carry clause already exists, hence mandatory provision of channels may not add any advantage to the broadcasters but would put extra burden on the DPOs and complicate the situation. By this proposal the DPOs are being forced to carry the channels without adequate consideration which is not only void but also illegal.

There are at present approximately more than 350 FTA Channels and the numbers are increasing. As there is cap on NCF, due to which the burden of these cost is to be apportioned to other revenue stream, while on the other hand flooding of FTA channels on the network of DPOs would not only affect the carrying capacity of the network which would put extras burden of capital

expenditure (which can neither be recovered from broadcasters nor from subscribers).

As the DPOs are constrained to apportion the carrying cost to other streams as they are not able to recover it from NCF or carriage fee. It is to be noted that the same FTA channels are giving Carrying cost to DD Free dish and demanding the free carriage on the platform of DPOs, this is nothing but asking for undue advantage from DPOs, who are otherwise running their business with tight conditions.

In addition, it is rightly observed that even the consumers would not be able to have a choice to choose the channels of their choice and the main purpose of digitization would be defeated. The Authority is aware the DPOs are bleeding and subscriber base is also shrinking; inserting this clause would lead to risk and threat of survival of DPOs.

F. Level playing field between DD Free Dish and other DPOs

Q11. Should Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 be made applicable to non-addressable distribution platforms such as DD Free Dish also?
Q12. Should the channels available on DD Free Dish platform be mandatorily made available as Free to Air Channels for all the platforms including all the DPOs?

Q13. Whether there is a need to consider upgradation of DD Free Dish as an addressable platform? If yes, what technology/ mechanism is suggested for making all the STBs addressable? What would be the cost implications for existing and new consumers? Elaborate
the suggested migration methodology with suggested time-period for proposed plan. Please provide your response, with justification.

REPLY

Answer 11 :

Keeping in mind the demerits and deficiencies of the analogue distribution system, the Regulator decided to shift the industry to digital mode and all the DPOs put their hard work and efforts and invested a huge amount to implement the digitization. Consequent upon which our cable and distribution industry has become fully digital. The impact of the hard work of DPOs and Authority is that the Cable & Broadcast industry has now become fully digital and no player in the industry distributes the channels in analogue mode except DD Free Dish.

Allowing some players to distribute the channel in analogue mode will not only make a hole in the system but will again create demerits which will spoil the market. It is observed in some of the areas the leakage has been started as some of the local/small operators take feed from DD Free Dish and distribute the same in analog mode to their customers, while DD has no mechanism to prevent and curb the same.

It is proposed that the signals be distributed by DD Free dish in addressable mode only, so that the industry becomes completely digital without any exceptions. Hence all the Regulations issued by TRAI (whether Interconnection Regulations, Tarriff order etc.) should be applied to DD Free Dish. Even if it takes time to convert them to come to digital platform, despite that all the Regulations would be applicable to DD Free Dish (as it is the only exceptional player who is distributing the channels in analogue mode) whereby taking advantage of this loophole, avoiding the regulations.

Answer 12 :

We would like to mention that the Broadcasters are obligated to provide the channels on non-discriminatory basis to all the stakeholders, as per the existing provisions of the Regulations. Further the Broadcasters are required to declare their channels as FTA or PAY and once the same is declared either FTA or PAY , the same should be made available in the same format on all platforms. The broadcasters are and should not be allowed to declare their channels PAY on one platform and FTA on other platforms, which would not only bring disparity but also make one platform stronger than other.

The Authority itself has acknowledged that as per the interconnection regulations and tariff orders, a channel at any given point of time can be either FTA channel or Pay channel only. Same channel cannot be a pay channel for some platform or distributors and FTA channel for other platform/distributors, this otherwise would create discrimination.

DD Free Dish, being one of the Service Providers, should strictly follow the regulations issued by TRASI. As it is proposed that all the Regulations be applied to DD Free Dish, hence the channels be provided to it as per the provisions of Regulations.

The channels of course should be made available as Free to Air Channels for all the platforms including all the DPOs. It is therefore submitted that if the channel has been declared as FTA it should be available as FTA only at all the Platforms without any exceptions, hence if the channels are being provided as FTA to DD Free Dish it should be made available on FTA basis on other platform and service providers also.

Answer 13

Yest there is a need to consider upgradation of DD Free Dish as an addressable platform to make the industry completely addressable. There are various mechanisms already been deployed by MSOs and other DPOs, supported by CAS and SMS vendors, the same may be adopted by DD Free Dish to make it addressable. The migration methodology can be region wise, zone wise or state wise, which can be completed in a reasonable given time.

Q14. In case of amendment to the RIO by the broadcaster, the extant provision provides an option to DPO to continue with the unamended RIO agreement. Should this option continue to be available for the DPO?

a. If yes, how the issue of differential pricing of television channel by different DPOs be addressed?
b. If no, then how should the business continuity interest of DPO be protected?

Q15. Sometimes, the amendment in RIO becomes expedient due to amendment in extant Regulation/ Tariff order. Should such amendment of RIO be treated in a different manner? Please elaborate and provide full justification for your comment.

OUR REPLY:

Answer 14 : It is to be noted that as per the provisions of the Contract Act, once any agreement is executed the same can be modified only with the mutual consent of both the parties and not at the discretion of one party. The existing regulation is in accordance with the provisions of the Contract Act and be continued. Once the Reference Interconnect Offer (RIO) is executed, any amendments should only occur with the mutual consent of both the parties and DPOs must be given the option to continue the unamended RIO or to continue with the new one.

It is suggested that the existing practice be continued and not be disturbed as the DPOs would be able to take an informed and rational decision with respect to the amendment proposed by the Broadcaster relating to change in bouquet or pricing etc.

Answer 15 : In cases where changes are necessitated by regulatory adjustments, the same be incorporated as per revised Regulation but sufficient time be given to the DPOs to implement the same and the amendment is to be made with the mutual consent of both the parties.

Q16. Should it be mandated that the validity of any RIO issued by a broadcaster or DPO may be for say 1 year and all the Interconnection agreement may end on a common date say 31st December every year. Please justify your response.

REPLY

Either of the Agreement, including RIO, be valid for three years, on the date of mutual consent of both parties. Ending all the Agreement on common date would create a heavy burden on DPOs to make changes in the system. They system would not be able to handle making lot of changes in the package, billing etc. on a single day. Imposing a fixed term for the duration of interconnection agreements is unwarranted. Such a restriction would deprive service providers of flexibility and infuse unpredictability in the sector. Longer-term agreements, by contrast, afford service providers a more stable framework to strategize their tariff structures and business models.

As the existing practice is going smoothly, it is suggested that no common date be fixed and let the parties decide the date of execution and expiry of the agreement.

Q17. Should flexibility be given to DPOs for listing of channels in EPG?

a. If yes, how should the interest of broadcasters (especially small ones) be safeguarded?

b. If no, what criteria should be followed so that it promotes level playing field and safeguard interest of each stakeholder?

Q18. Since MIB generally gives permission to a channel in multiple languages, how the placement of such channels may be regulated so that interests of all stakeholders are protected?

REPLY

Yes of course, flexibility should be given to DPOs for listing the channels in EPG. As the DPO understands its customers in a better manner, hence it can plan listing of channels keeping in mind the need and convenience of subscribers of different regions and areas in which it is distributing the channels.

EPG placement influences a channel's popularity is a misconception. Channel popularity predominantly comes from content quality. Regardless of EPG placement, viewers invariably navigate to their preferred channels.

To protect the interest of small broadcasters, there should be restrictions on big broadcasters so that they should not impose any conditions (whether through their RIO or otherwise – as Big Broadcasters are imposing conditions in their RIO to place their channels at their preferred place, else DPO would not get the incentives. The Big Broadcasters are indirectly controlling the EPG which they cannot control directly.

The level playing field can be maintained by placing the channels in sub-genre and the placement should be counted on the basis of sub-genre. The Genre would be declared by the Broadcasters and the right to create, as existing practice is going on, should remain with DPOs.

Reply to question no 18

We would like to draw the attention of the Authority to a concerning issue where certain broadcasters offer multiple language feeds for the same channel and compel Distributors to carry these channels across all target markets. Such conditions indirectly lead to the demand for multiple Logical Channel Numbers (LCNs) for a single channel in different states, which significantly affects DPOs with a multi-state presence.

It is to be noted that despite the feed of any channel is available in multiple languages, the genre of the Channel would remain the same. In our opinion, the existing practice may be continued as the channels be divided and listed as per their genre and further it may be sub-divided in sub-genre as per the language.

In light of this, we urge the Authority to consider mandating that broadcasters declare the primary language of transmission and prohibit them from imposing such conditions in their Reference Interconnect Offers (RIOs). This would address the challenges faced by DPOs with regard to managing channel listings across various states and promote fairness in channel distribution. The DPOs be given freedom to place the channels in the genre declared by the broadcasters but in the sub-genre finalized by the DPO (based upon language) and the placement sequence may be counted on the basis of sub-genre.

Q19. Should the revenue share between an MSO (including HITS Operator) and LCO as prescribed in Standard Interconnect Agreement be considered for a review?

a. If yes:

i. Should the current revenue share on NCF be considered for a revision?
ii. Should the regulations prescribe revenue share on other revenue components like Distribution Fee for Pay Channels, Discount on pay channels etc.? Please list all

the revenue components along-with the suggested revenue share that should accrue to LCO.

Please provide quantitative calculations made for arriving at suggested revenue share along-with detailed comments /justification.

b. If no, please justify your comments.

REPLY :

After due deliberations and discussions with all the stakeholders, various provisions have been incorporated in the Regulations, which inter-alia includes sharing of revenue between MSOs & LCOs. Both the stakeholders (MSOs and LCOs) have put in their efforts to establish such practice and such practice has been well established and accepted by all the stakeholders.

The dynamics between Multi System Operators (MSOs) and Cable Operators are inherently governed by market-driven factors, and there should not a binding regulatory prerequisite compelling either party to forge a mandatory partnership.

At this stage when the practice has been well established, any review may lead to dis-balance the eco system and may create lots of dispute. It is therefore suggested that the existing revenue share agreements between LCOs and MSOs need not be reviewed, and the existing practice be continued.

Q20. Should there be review of capping on carriage fee?

a. If yes, how much it should be so that the interests of all stakeholders be safeguarded. Please provide rationale along with supporting data for the same.

b. If no, please justify how the interest of all stakeholders especially the small broadcasters can be safeguarded?

Q21. To increase penetration of HD channels, should the rate of carriage fee on HD channels and the cap on carriage fee on HD channels may be reduced. If yes, please specify the modified rate of carriage fee and the cap on carriage fee on HD channels. Please support your response with proper justification.

Q22. Should TRAI consider removing capping on carriage fee for introducing forbearance? Please justify your response.

REPLY

There must be a review of capping on Carriage fee, as the existing practice is restricting the revenue stream of the DPOs. On the one hand, the Broadcasters are free to decide the MRP of their channels and the rate of their advertisement slot, while there is capping on carriage fee. DPOs should also be given freedom to charge the carriage fee as per their business model and commercial requirements, as the DPOs are running into heavy losses after investing a huge capital investment in their network, the capping are stopping them recover its cost.

DPOs are stringently regulated and have been curtailed for their business autonomy and affected their commercial viability adversely. DPOs have no other stream of income except Carriage and subscription. By regulating both the revenue streams of the DPOs (Subscription and carriage fee, TRAI has disabled the DPOs from recover their cost. The subscription fee is also regulated by the Authority and if the Carriage fee is also capped, how can a DPO survive in the business.

If the revenue of DPO is increased, it may invest further a part of the same in the network to upgrade the same which may help them to increase the carrying capacity also. This will help not only the consumers to view more channels, but also help the smaller and new broadcasters, as due to increase in carrying capacity – more channels would be carried by the DPO. This will not only give more variety, more entertainment but also good competition in the market. In

addition to this once the carrying capacity is increased the price of carriage fee may also likely to come down.

As the broadcasters are free to decide the MRP, the DPOs should also be allowed to determine the Carriage fee as they have to carry the channel in accordance with provisions of "must carry" clause.

As far as the rate of carriage fee on HD channels is concerned, since it consumes more bandwidth, it should be increased**.**

In view of the above, it is suggested that that there should be forbearance for carriage fee and TRAI must consider removing capping on Carriage fee.

E. Removal of a channel from the platform of a DPO after expiry of existing Interconnection agreement

Issue for consultation:

Q23. In respect of DPO's RIO based agreement, if the broadcaster and DPO fail to enter into new interconnection agreement before the expiry of the existing agreement, the extant Interconnection Regulation provide that if the parties fail to enter into new agreement, DPO shall not discontinue carrying a television channel, if the signals of such television channel remain available for distribution and the monthly subscription percentage for that television channel is more than twenty percent of the monthly average active subscriber base in the target market. Does this specified percentage of 20 percent need a review? If yes, what should be the revised prescribed percentage of the monthly average active subscriber base of DPO. Please provide justification for your response.

REPLY

The existing regulation is contrary to the self-discipline, fair business practices and also the provisions of the Regulations, which requires that there should be a written interconnection agreement between the broadcaster and DPO to carry the channel. Not having the agreement may create more dispute if the agreement is expired and not renewed. In our opinion if the agreement is not renewed then the DPO should not be obligated to carry the channels.

It is reiterated that if there is no written Agreement between DPO and Broadcaster, then DPO should not obligated to carry the channel on its platform irrespective of percentage of viewership of that channel or signal of the channel being made available by that Broadcaster and neither DPO nor Broadcaster will have financial liability towards each other in absence of written Agreement.

Q24. Whether the extant charges prescribed under the 'QoS Regulations' need any modification required for the same? If yes, justify with detailed explanation for the review of:

a. Installation and Activation Charges for a new connection
b. Temporary suspension of broadcasting services
c. Visiting Charge in respect of registered complaint in the case of DTH services.
d. Relocation of connection
e. Any other charges that need to be reviewed or prescribed.

Q25. Should TRAI consider removing capping on the above-mentioned charges for introducing forbearance? Please justify your response.

REPLY

The Authority must consider removing capping on the above-mentioned charges for introducing forbearance.

We as DPOs have to provide these services on a regular basis and need to employ sufficient number of staff to adhere to the QOS Regulations. The annual increase in the salary of staff, erratic increase in the price of petrol, and other increases in the operational expenses from time to time, force the DPO to increase the price. Had there been a cap on these charges then DPO has to pay the charges from his own pocket, which adds to another dent to their small profit and increases the loss.

Moreover, the DPOs operate under high competition and in strict regulatory environment which drives DPOs to proactively offer value-added benefits to their customers such as providing set-top boxes at subsidized rates etc. The impositions of price ceilings on the above charges is therefore not justified, especially when such charges are primarily levied by DPOs to recover those specific operational costs as well as to dissuade the consumer from misusing such services. Imposing ceilings on these operational charges may prevent DPOs from fully recovering their operational costs.

In light of these considerations, it would be prudent to opt for forbearance with respect to the charges in question. DPOs can, however, be mandated to publish these charges.

Hence it is proposed that TRAI must remove capping on the above-mentioned charges.

B. Display of channels in EPG and LCN listing of channels:

Issues for consultation:

Q26. Whether the Electronic Programme Guide (EPG) for consumer convenience should display :

(a) MRP only (b) MRP with DRP alongside (c) DRP only ?

Justify your response by giving appropriate explanations.

REPLY

Majority of the DPOs are offering the channels on MRP only, hence only MRP should continue to be mentioned, which otherwise create confusion in the mind of subscribers.

C. Billing cycle for pre-paid payment option shall be thirty days from the date of activation of services.

Issues for consultation:

Q27. What periodicity should be adopted in the case of pre-paid billing system. Please comment with detailed justification.

Q28. Should the current periodicity for submitting subscriber channel viewership information to broadcasters be reviewed to ensure that the viewership data of every subscriber, even those who opt for the channel even for a day, is included in the reports? Please provide your comments in detail.

REPLY

It is wrong observation or rather a very remote exception that the subscriber opts for the channel for a few days, normally the channel is subscribed on monthly basis.

As it is mentioned in present CP also that Regulation 23 (2) of QOS states that the billing cycle for pre-paid payment option shall be 30 days from the date of activation of the services. All the DPOs are adhering to this regulation and raising their bills on a monthly basis. Hence it is wrong assumption that any subscriber subscribes for any channel for 3-4 days.

It is therefore submitted that the present billing system of 30 days be maintained as there is no issue therein and accepted by all the stakeholders and the practice/system is properly established, changing the billing cycle will disturb the same.

Reply to Question no 28:

It is submitted that the existing practices which are well established, and inter-alia includes submitting the channel viewership information to the broadcasters should not be disturbed, unless there is some flaw therein. Accordingly, we find the existing provision of submitting the report to the Broadcaster is well placed in the system and both the stakeholders are very much satisfied with the same; hence should not be disturbed and be continued. Daily reporting will be cumbersome and will raise unnecessary disputes, as it is not likely (we have not seen any case, where subscriber subscribe only for one day) hence day billing practice should not be introduced, which would be superficial and complicated and would lead to putting lot of efforts for insignificant results. Moreover, the SMS of all the DPOs have already been configured as per existing provisions, and any change will lead to substantial investments and substantial time which is not viable as it may create chaos in the system.

D. Regulations on Platform Services Channels

Issues for consultation:

Q29. MIB in its guidelines in respect of Platform Services has *inter-alia* stated the following:

a. **The Platform Services Channels shall be categorised under the genre 'Platform Services' in the EPG.**
b. **Respective MRP of the platform service shall be displayed in the EPG against each platform service.**
c. **The DPO shall provide an option of activation /deactivation of platform services.**

In view of above, you are requested to provide your comments for suitable incorporation of the above mentioned or any other provisions w.r.t. Platform Services channels of DPOs in the 'QoS Regulations'.

REPLY

In our opinion, there is no need to include the above provisions in the QOS Regulations, as it would be nothing but the duplication of the existing provisions, as the law has been promulgated by MIB has all the provisions mentioned

hereinabove. Incorporating them in QOS would not serve any purpose but would only be duplication. Hence the above is not required to be included in QOS.

E. Review of mandatory provisions of toll-free number, Consumer Corner, Subscriber Corner, establishment of website and Manual of Practice etc.

Issues for consultation:

Q30. Is there a need to re-evaluate the provisions outlined in the 'QoS Regulations' in respect of:
(a) Toll-free customer care number (b) Establishment of website
(C) Consumer Corner (d) Subscriber Corner (e) Manual of Practice
f. Any other provision that needs to be re-assessed.

Please justify your comments with detailed explanations.

REPLY

The provisions related to all the above issues are well thought of and properly incorporated on QOS and have been well accepted and established among all the stake holders, hence do not require any revaluation.

Issues for consultation:

Q31. Should a financial disincentive be levied in case a service provider is found in violation of any provisions of Tariff Order, Interconnection Regulations and QO Service Regulations?

a. If yes, please provide answers to the following questions:

i. What should be the amount of financial disincentive for respective service provider? Should there be a category of major/ minor violations for prescription of differential financial disincentive? Please provide list of such violation and category thereof. Please provide justification for your response.

ii. How much time should be provided to the service provider to comply with regulation and payment of financial disincentive. and taking with extant regulations/tariff order?

iii. In case the service provider does not comply within the stipulated time how much additional financial disincentive should be levied? Should there be a provision to levy interest on delayed payment of Financial Disincentive?

1. If yes, what should be the interest rate?
2. In no, what other measures should be taken to ensure recovery of financial disincentive and regulatory compliance?

iv. In case of loss to the consumer due to violation, how the consumer may be compensated for such default?

b. If no, then how should it be ensured that the service provider complies with the provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?

REPLY

Financial disincentive may be levied in case a service provider is found in continuous violation of any provisions of Tariff Order, Interconnection Regulations and QOS Regulations. Sometime there could be an inadvertent mistake for the DPOs should not be punished. For first default and explanation, be sought from the DPO and be forgiven for his bonafide mistake. However, if he continues to be involved in same default then the financial punishment may be imposed to the tune of 25,000/- for minor kind and Rs. 50,000/- on the first default of major kind.
The default to be decided in major or minor on the basis of its gravity, e.g. distributing signals in analogue mode be treated as major default, entering the subscription fee deal on fixed fee basis be treated as major default.

But before that a DPO should be allowed to rectify the mistake within the given time and if the DPO fails to cure the default then fine should be two times the normal fine and incase still the default continues, its license be recommended for cancellation.

iv. In case of loss to the consumer due to violation, the consumer may be adequately compensated to the tune of the loss suffered by Consumer.

Any other matter related to the issues raised in the present consultation.

Q32. Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in the present consultation.

REPLY

In addition to above, the Authority to consider the following issues also which requires the attention of the Authority urgently :

1. **Price war (Predatory Pricing) due to Analogue signals/ Fixed fee deals :**
   a. **I**t is observed that many of the Broadcasters and MSOs have entered the fixed fee deals which is prohibited in the regulations. Due to which the MSOs are distributing the channels on the price which are less than cost price/predatory pricing as the same has also been observed by the Authority.
   b. This predatory pricing is affecting the MSOs like us, who are providing the services strictly in accordance with the provisions of the regulations and not able to compete with the non-compliant MSOs
   c. Consequent upon which the LCOs are migrating to those MSOs and this is increasing the loss of revenue to the compliant MSOs.
   d. The Authority needs to take an urgent action in this regard.

2. OTT : there should be content parity between OTT Platform and linear platform. The Authority should promulgate the regulations which should regulate the OTT platform, failing of which the Cable industry would bleed badly and many of the MSOs would be forced to leave the cable distribution.

3. Bouquet formation should be the prerogative of DPO

4. Right of Way should be provided at subsidized rate and we need a help and coordination of the local officer of the Authority with respective municipality/authority.

As a matter with respect to certain issues is sub-judice, hence the present reply is being submitted without prejudice to our rights before any court and tribunal and/or the outcome of the Petition filed by AIDCF before Hon'ble Delhi High court, which the Authority, may please take kind note of.

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