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23-September-2019

The Telecom Regulatory Authority of India

Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg (Old Minto Road)
New Delhi – 110 002

Kind Attention: Mr. Arvind Kumar – Advisor (B&CS)

Reference: TRAI's Consultation Paper dated 16-August-2019 on Tariff related issues for Broadcasting and Cable Services ("Consultation Paper")

Subject: Preliminary response to Consultation Paper

Dear Sirs,

With reference to the captioned matter, please find enclosed TV18 Broadcast Limited's preliminary response to Consultation Paper.

We request you to kindly take the same on record and oblige.

Yours sincerely,

For TV18 Broadcast Limited


Authorized Signatory

Encl.: As mentioned above

TV18 Broadcast Limited

(CIN – L74300MH2005PLC281753)

Regd. office: First Floor, Empire Complex, 414- Senapati Bapat Marg, Lower Parel, Mumbai-400013

T +91 22 40019000, 6666 7777 F +91 22 24968238 W www.nw18.com

TV18 Broadcast Limited's preliminary comments to Telecom Regulatory Authority of India's ("TRA" / "Authority") consultation paper dated 16-August-2019 on tariff related issues for broadcasting and cable services

Introduction:

1. At the outset, TV18 Broadcast Limited ("TV18") takes this opportunity to thank the Authority for allowing stakeholders to submit their comments on issues raised in consultation paper on tariff related issues for broadcasting and cable services ("Consultation Paper"), which was published by Authority on its website on 16-August-2019.
2. By way of present preliminary response to Consultation Paper, we request the Authority not to proceed with Consultation Paper, and instead, require distribution platform operators ("DPO") to fully comply with provisions of the new regulatory regime (comprising of Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 ("Interconnect Regulations"); the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 ("Tariff Order") and the Telecommunication (Broadcasting and Cable) Services Standards Of Quality Of Service And Consumer Protection (Addressable Systems) Regulations, 2017 ("QoS Regulations") (hereinafter collectively, "New Regulatory Regime").
3. It is submitted that the Consultation Paper under response proceeds on certain incorrect and misplaced assumptions and findings, which indicate that the Authority may have not been presented with correct position and data. By way of the present response, we request Authority to share information and data relied upon by it so as to enable all stakeholders to evaluate the same and respond to Consultation Paper fully. We also draw Authority's attention to correct facts and circumstances, which are relevant and ought to be considered by Authority. We crave leave of the Authority to file detailed / paragraph-wise submissions and/or documents, if necessary, or if so called upon to do so by Authority in support of our submissions herein.

Preliminary Submissions; Requirement for proper and complete implementation of New Regulatory Regime prior to analysing need and extent of review of the same:

4. It is respectfully submitted that except as specifically specified herein, we request the Authority not to take any steps that may impact New Regulatory Regime as implemented by the Authority in its current form. It is submitted that any fundamental change or shift in New Regulatory Regime, as proposed in Consultation Paper, is bound to have an adverse impact on all stakeholders namely, the broadcasters, the DPOs and most importantly, the subscribers.
5. We would like to highlight that New Regulatory Regime has been recently implemented and that all the stakeholders are still in the process of settling into and getting acquainted with nuances of the changed regime. It would be not out of context to state

that New Regulatory Regime for all practical purposes came into force with effect from 1-April-2019 since, until then the DPOs were continuing to make available channels to consumers on the basis of their own devised 'best fit plans' and not on the basis of consumer's specific choice as contemplated in New Regulatory Regime. In this regard, it may be noted that the Authority had vide its press release dated 12-February-2019, extended the time up to 31-March-2019 for exercising the option by such consumers who have not exercised option for choosing the channels / bouquets of their choice for subscription under New Regulatory Regime and had accordingly, requested all DPOs to create best fit plans for such consumers. As such, we believe that the present consultation exercise is premature. In any event, it needs to be evaluated as to how many subscribers eventually migrated from best-fit-plans of DPOs to channels and/or bouquets of their choice.

6. It is submitted that New Regulatory Regime is still at a nascent stage, considering that just over four (4) months have passed between the date on which New Regulatory Regime fully came into force (i.e., on 01-April-2019) vis-à-vis the date on which the Authority issued the Consultation Paper (i.e., on 16-August-2019). Thus, we humbly submit that at this point in time, the efforts and focus of all stakeholders ought to be concentrated around effective and full implementation of the existing provisions of New Regulatory Regime in letter and in spirit, which is a necessary prerequisite to evaluate shortcoming (if any) of New Regulatory Regime. It is submitted that the Authority is already aware about various issues that are being faced by the stakeholders pertaining to implementation and migration to New Regulatory Regime that include the following:
 - (a) Non-submission of monthly subscriber reports by DPOs. Authority will appreciate that submission of true and correct monthly subscriber reports by DPOs, in terms of Regulation 14 of Interconnect Regulations, is one of the primary obligations of DPOs and is also the bedrock of New Regulatory Regime. This is so because, unlike the erstwhile wholesale / fixed fee regime, the success of New Regulatory Regime hinges solely on accurate declaration of subscribers (receiving channels on an *a-la-carte* and/or bouquet basis) by DPOs to broadcasters, and consequent billing of DPOs by broadcasters on the basis of such declarations. It is submitted that despite New Regulatory Regime coming into force since, February 2019, DPOs have still not provided true and accurate monthly subscriber reports under the New Regulatory Regime. With respect of subscriber reports, it may be noted that for TV18 channels, in respect of approximately 900 interconnection agreements with DPOs, we have received subscriber reports only in respect of approximately forty-five (45) percent interconnection agreements with DPOs for all five (5) months (February 2019 to July 2019). Further, no subscriber report has been received for any of the said five (5) months in respect of over ten (10) percent of interconnection agreements with DPOs.
 - (b) Non-compliance of QoS Regulations: It is submitted that majority of DPOs are not in compliance with various provisions of QoS Regulations. It is submitted that Regulation 3(2) of QoS Regulations stipulates that every DPO shall adopt consumer friendly methods, including but not limited to website and telephonic

call to customer care centre, for requesting subscription of broadcasting services related to television however, most of the DPOs in the country have still not set up any such facilities. Authority will also agree that non-compliance of QoS Regulations remains a challenge as is evident from various directions issued by Authority to various DPOs seeking compliance of the provisions of the QoS Regulations.

- (c) Audits: It is submitted that pursuant to New Regulatory Regime, DPOs as well as broadcasters have conducted only handful of audits of records and systems of DPOs to *inter-alia* ascertain veracity of subscriber numbers reported by DPOs as well as to ascertain whether systems deployed by DPOs comply with stipulations of provisions of New Regulatory Regime. As such, unless the systems of DPOs as well as subscriber reports do not go through a cycle of verification through audits, they ought not be relied upon by Authority and/or taken as true reflection of acceptance / rejection of channels / bouquets under New Regulatory Regime.
7. It is submitted that before proceeding to evaluate the need for reviewing stipulations pertaining to New Regulatory Regime, concrete steps should be taken to first fully implement the current stipulations of New Regulatory Regime at the level of DPOs. In this regard, Authority should *inter-alia* cause all DPOs to provide monthly subscriber reports from the date of implementation of New Regulatory Regime, compel DPOs to ensure complete compliance of the existing provisions of QoS Regulations (including those relating to channel, bouquet selection / deselection, etc.). Further, Authority ought to take strict action in case DPOs are found to be in non-compliance of Interconnect Regulations and/or QoS Regulations.
8. In view of the above, we sincerely request the Authority to first ensure continued compliance of all provisions of New Regulatory Regime by DPOs and then proceed to adopt a light regulatory touch approach; followed by / eventually allowing market forces to determine technical and commercial arrangements between stakeholders. We believe that infrequent changes in regulatory regime and stipulations, followed by a light touch approach with regulatory certainty and predictability, will go a long way to ensure growth of broadcasting and cable services sector. The Authority will agree that broadcasters are compelled to invest heavily and incur huge recurring expenses *inter-alia* in content creation, content acquisition and content delivery services to compete with other broadcasters as well as online content providers. As such, any fluidity and uncertainty in regulatory regime, coupled with unregulated costs (relating to content production, acquisition and delivery) and issues such as, evolving viewer preferences / demand for new and varied content, issues relating to content protection, piracy and under-declaration; raises serious concerns on health and survivability of broadcasters and their channels.

Pricing of channels; Formation of bouquets and their pricing / discounting

9. In so far as issue of *a-la-carte* pricing of channels is concerned, we wish to draw Authority's attention to the fact that while determining price of channels, broadcasters have to consider various factors which *inter-alia* include cost of content, administrative

cost, paying capacity of target audience, blend of target audience, revenue estimated from subscription as well as advertisement and most importantly pricing of similarly placed competing channels. Further, there is a need to maintain balance between reach and revenue while determining price of channels. It is submitted that if channels of same language and genre are not relatively priced vis-à-vis similarly placed competing channels, then the higher priced channels may resultantly have very limited uptake. We humbly submit that Authority's finding that 94 (ninety-four) channels have been priced at less than Re.01/- is misplaced. In this regard, it may be noted that eighty (80) percent of all news channels in the country are free-to-air channels and consequently, market conditions compel the remaining news channels to be priced in such a manner that they do not get overlooked in favour of free to air channels. In this background, it becomes critical to note that 47 channels out of 94 channels priced less than Re.1/- are news channels. In this regard, TRAI's kind attention is being drawn towards the following:

| | |
|--|-------|
| Total channels in News genre | : 350 |
| Total FTA channels in News genre | : 294 |
| Total Pay channels in News genre | : 56 |
| Total Pay channels in News genre priced < Re.1/- | : 47 |

It is submitted that in any event, out of more than 900 channels in India, approximately 1/3rd or 35% of channels are pay channels and remaining channels i.e., approximately 2/3rd or 65% of all channels are free-to-air. Further, out of the 330 pay channels:

- 94 channels (i.e., 28%) are priced at less than Re.1/-.
- 77 channels (i.e., 23%) are priced between Rs.1/- and Rs.5/-.
- 59 channels (i.e., 18%) are priced between Rs.5/- and Rs.10/-.
- 19 channels (i.e., 6%) are priced between Re.10/- and Rs.15/-.
- 78 channels (i.e., 24%) are priced between Re.15/- and ceiling of Rs.19/- with only 3 channels (i.e., 1%) being priced over Rs.19/-.

10. The above clearly indicates that nature and price of a channel depends on market forces. It is submitted that the same holds good even in case of pricing of bouquets. Further, majority of channels (i.e., approximately 570 channels / 65% of total channels) in the country are already free-to-air under the New Regulatory Regime. It may be noted that pricing a bouquet irrationally will have a direct adverse impact on its uptake, which will ultimately affect the reach of channels comprising in such bouquet. Further, in order to determine correlation between price of bouquet and the price of channels forming part of such bouquet, it is important to evaluate the various factors that are considered by broadcasters while forming bouquets (as have been elaborated in following paragraphs), and as such, pricing of *a-la-carte* channels vis-à-vis pricing of bouquets that include such *a-la-carte* channels cannot be looked at in isolation from the standpoint of pricing. In any event, Authority has itself acknowledged that deep discounting of bouquet rates that used to hover around 80-90% has come down to the level of 40-50% under New Regulatory Regime. This itself shows that market forces of demand and

supply are influencing pricing of services. Be that as it may, it is submitted that prices under wholesale / fixed regime vis-à-vis prices under New Regulatory Regime should not be compared since, the two regimes are incomparable.

11. In so far as the issue of need for formation of bouquets and number of bouquets is concerned, we submit that both the need as well as number of bouquets arise from the fact that broadcasters want to tab subscribers at different price points with compelling and varied channel offering, as well as to counter offerings of other broadcasters and DPOs. While creating bouquets, broadcasters are regularly faced with the challenge of having the right mix of channels of various languages, genres and types (*i.e., SD or HD*) which would cater to the needs of the assorted mix of target audience depending / based on profile of a household, age group, purchasing power, anticipated choice of genres, etc. Since India is a country of diversity, hence, creating only few bouquets cannot, and would not, suffice in meeting the needs of subscribers who come from multiple lingual (*e.g., Bengali, Odia, Marathi, Telugu, Gujarati, Tamil, Malayali, Kannada, etc.*) and cultural groups / backgrounds. Economic and demographic spread of target audience also needs to be kept in mind while forming bouquets. It is submitted that each channel focuses on a specific target audience and is accordingly placed in suitable bouquets as so to offer plurality of choice to consumers. Further, bouquet composition is *inter-alia* linked to various language feed that are available for a channel. It is submitted that creation of multiple bouquets is also aimed at ensuring that prices remain reasonable.
12. It is submitted that India is still primarily a single television set household market. Further, a household comprises of members of various age-groups each having his/her own preferences / tastes. It is for this reason that need for each household would normally revolve around subscribing to a bouquet that has channels from a mix of genres. As such, opting for bouquets with channels of different genres such as, GEC, News, Music, Infotainment, Kids, etc. helps a household to access various channels in a simplified manner.
13. It is for the reasons stated above that one of our bouquets namely, 'Colors Wala Hindi Value Pack', which is priced at Rs.25/-, is one of our best-selling bouquets. The said bouquet comprises of 20 channels and is primarily targeted at Hindi language audience. The bouquet contains channels from various genres such as, GEC, News, Music, Kids, Infotainment, Movies, etc. The aim is to make bouquet a one-stop-shop bouquet for a family who want primarily Hindi language channels at reasonable price point.
14. It is also not out of place to mention that not only in India but, globally as well, bouquet is normal / preferred choice of subscribers while subscribing to television channels. Further, while it may seem to the Authority that huge number of bouquets are being offered by broadcasters, which is resulting in subscribers getting confused, the fact of the matter is that for a specific set of subscribers there are only limited bouquets. To illustrate, from amongst the various bouquets offered by TV18, there are only three (3) SD channel bouquets and four (4) HD channel bouquets, which are targeted at Tamil language speaking households. It is submitted that these seven (7) bouquets could have been reduced to three (3) or four (4) bouquets in case there were no restrictions on

including SD and HD variants of same channel to be included in a bouquet. In this regard, it may be noted that Authority has mandated that HD and SD variants of the same channel cannot be made a part of the same bouquet. Broadcasters' requirement to abide by this stipulation has also, to a certain extent, resulted in duplication of packages to cater to subscribers with SD set-top-boxes and subscribers with HD set-top-boxes.

15. We note that Authority has cited example of one of our bouquets namely, 'Colors Wala Tamil Budget Plus' as being offered at a price point of Rs.8/- at a discount of approximately 62% vis-à-vis a-la-carte rate of channels forming part of the bouquet. In this regard, we wish to clarify that the said bouquet comprises of two Tamil only language channels viz., 'Colors Tamil' (GEC) priced at Rs.3/- and 'News18 Tamil Nadu' (Regional News) priced at Paise 10, on *a-la-carte* basis. It is submitted that despite these two channels being priced so low, the uptake of bouquet at price point of Rs.8/- has been much more than uptake of these two channels on *a-la-carte* basis. This clearly shows that price point of Rs.8/- is found to be a better value-proposition for subscribers than *a-la-carte* channel alone. It is submitted that price is not the only criteria basis which a subscriber decides whether to subscribe to a channel or bouquet. To illustrate – 'Colors Bangla' channel has more number of *a-la-carte* subscribers than 'Colors Tamil' channel, even though 'Colors Bangla' is priced at Rs.7/- when compared with 'Colors Tamil', which is priced at Rs.3/-. The foregoing example shows that subscription of a channel on a-la-carte basis vis-à-vis subscription of bouquet comprising of such channel cannot be attributed only to the pricing of channel and/or bouquet.
16. We would also like to draw Authority's attention to the fact that prescription of fewer number of bouquets would automatically result in increase of pricing of such bouquets, which would consequently comprise of large number of channels. Further, any such prescription by Authority would also not be in consumer interests since, broadcasters / DPOs will no longer be able to offer bouquets at varied price points.
17. It is submitted that broadcasters do not also gain from having innumerable bouquets since, the same results *inter-alia* in administrative costs towards managing such bouquets. We believe bouquets with varying permutation-combinations were introduced by broadcasters and DPOs since, none had any prior experience of New Regulatory Regime, which is fundamentally different from the global practices. Considering that broadcasters and DPOs have started getting indication on uptake of bouquets, they will themselves discontinue bouquets with marginal uptake. Further, composition of existing bouquets too is expected to change once, broadcasters and DPOs are able to analyse market scenario based on choice of consumers.
18. We also take this opportunity to highlight that in paragraph 3.19 of the Consultation Paper (Pg.34), Authority has mentioned that it has obtained information about some of the most selling bouquets of major broadcasters to understand pattern of bouquet formation and their pricing. In this regard, it is submitted that while the Authority has attributed two bouquets belonging to us as being most popular TV18 bouquets however, we take this opportunity to clarify that one of the two namely 'Colors Wala Tamil Budget Plus' is our tenth most subscribed bouquet. This indicates that data obtained by Authority may be incorrect.

19. It is for reasons mentioned above, we request Authority not to introduce any measures restricting price and/or bouquet compositions, and instead, Authority ought to allow New Regulatory Regime to settle thereby giving time to stakeholders to decide on nature, number, composition and pricing of bouquets based on market conditions / forces. In this regard, we would also like to draw Authority's attention to paragraphs 67, 68 and 81 of explanatory memorandum of Tariff Order, wherein the Authority stated that it will keep a watch on the developments in the market on account of New Regulatory Regime for a period of about two years before reviewing the relevant provisions. It is submitted that from the said paragraphs it is apparent that the Authority was conscious of the fact that minimum period of two years is required before evaluating the need for review. As such, the present consultation exercise, which has been commenced in less than five (5) months from the date of complete implementation of New Regulatory Regime is premature and hence, not required. It is submitted that the Authority ought not give a go-by to principles of regulatory certainty and continuity that were contemplated by the Authority itself on mere assumptions based on viewpoints of stakeholders, who themselves are not in compliance with provisions of New Regulatory Regime. It is submitted that once all the provisions of New Regulatory Regime have been effectively implemented, then the Authority may consider reviewing the same in a transparent manner provided there are justifiable reasons for doing so. It is submitted that a myriad of frequent regulatory interventions not only creates issues for all stakeholders including consumers but, also leads to multiple disputes amongst them.

Response to issues for consultation:

20. By way of abundant caution and without prejudice to the foregoing submissions, our response to questions posed for comments by the Authority is mentioned below. In this regard, it is submitted that submissions made hereinabove may kindly be read as forming part of our issue-wise response, and the same are not being repeated herein for the sake of brevity.

Issues for Consultation:

- 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.

Response: It is respectfully submitted that we do not concur that flexibility to give discount on sum of *a-la-carte* channels forming part of bouquets has been misused to push channels to consumers, and as such, no remedial measures are being proposed or necessary. Submissions made above, may kindly be read as forming part of our reply to question under response.

- 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 non-level field vis-à-vis other broadcasters?

Response: It is respectfully submitted that we do not concur that there has been any deliberate or mala fide attempt to indulge in heavy discounting or to take any unfair advantage of non-implementation of fifteen (15) percent cap on discount. Further, we do not believe that discounting in bouquet rates or non-implementation of fifteen (15) percent cap on discount has led to a situation of non-level field vis-à-vis other broadcasters. Submissions made above, may kindly be read as forming part of our reply to question under response.

- 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?

Response: It is respectfully submitted that we do not concur that there is a need to reintroduce a cap on discount on sum of *a-la-carte* channels forming part of bouquets while forming bouquets by broadcasters. As such, no methodology to work out the permissible discount and/or value of such discount is being proposed. Submissions made above, may kindly be read as forming part of our reply to question under response.

- 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?

Response: It is respectfully submitted that we do not concur that there is a need to review the cap on discount permissible to DPOs while forming the bouquet. As such, no methodology to work out the permissible discount is being proposed. Submissions made above, may kindly be read as forming part of our reply to question under response.

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

Response: It is respectfully submitted that other than proper and complete implementation of provisions of QoS Regulations, no new measures need to be undertaken to ensure that unwanted channels are not pushed to the consumers. It is submitted that New Regulatory Regime has sufficient safeguards to protect interests of subscribers however, its implementation at DPO-level remains a challenge. Submissions made above, may kindly be read as forming part of our reply to question under response.

- 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?

Response: It is respectfully submitted that we do not concur that the number of bouquets being offered by broadcasters and DPOs to subscribers is too large. Further, we submit that the Authority should not consider limiting number of bouquets on the basis of State, region, target market. Submissions made above, may kindly be read as forming part of our reply to question under response.

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

Response: It is respectfully submitted that we do not concur that there be any limitation on number of bouquets being offered by broadcasters / DPOs. Further, we submit that there is no need for any methodology to limit number of bouquets, which can be offered by broadcasters and DPOs. Submissions made above, may kindly be read as forming part of our reply to question under response.

- Q8. 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?

Response: It is respectfully submitted that we do not concur that price of an individual channel in a bouquet gets hedged while opting for a bouquet by subscribers. Further, we submit that there is no need for any corrective measures in this regard. Submissions made above, may kindly be read as forming part of our reply to question under response.

- Q9. 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: It is respectfully submitted that we do not concur that ceiling of Rs.19/- on MRP of an *a-la-carte* channel to be part of a bouquet needs to be reviewed. Further, presently, there is no requirement for specifying any new ceiling on MRP of an *a-la-carte* channel to be part of a bouquet. Submissions made above, may kindly be read as forming part of our reply to question under response.

- Q10. 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?

Response: It is respectfully submitted that New Regulatory Regime is consumer centric and takes care of consumer interests. Further, bouquets offered by Broadcasters / DPOs to subscribers is a form of additional choice given to consumers. In this regard, it is relevant to ensure that proper and complete implementation of provisions of QoS Regulations by all DPOs takes place so that consumers get to enjoy / experience full benefit of New Regulatory Regime. It is reiterated that New Regulatory Regime has sufficient safeguards to protect interests of subscribers however, its implementation at DPO-level remains a challenge. Submissions made above, may kindly be read as forming part of our reply to question under response.

Q11. How this provision has affected the ability and freedom of the subscribers to choose TV channels of their choice?

Response: It is respectfully submitted that stipulations pertaining to permissibility of broadcasters / DPOs to offer bouquets to subscribers has not adversely impacted ability and freedom of the subscribers to choose TV channels of their choice. It is submitted that New Regulatory Regime is consumer centric and takes care of consumer interests. Further, bouquets offered by Broadcasters / DPOs to subscribers is a form of additional choice given to consumers. However, what is relevant is that subscribers should not be saddled with channels that they have not selected. This issue can be addressed by proper and complete implementation of provisions of QoS Regulations by all DPOs. It is reiterated that New Regulatory Regime has sufficient safeguards to protect interests of subscribers however, its implementation at DPO-level remains a challenge. Submissions made above, may kindly be read as forming part of our reply to question under response.

Q12. Do you feel the provision permitting the broadcasters / Distributors to offer bouquets to subscribers be reviewed and how will that impact subscriber choice?

Response: It is respectfully submitted that stipulations pertaining to permissibility of broadcasters / DPOs to offer bouquets to subscribers need not be reviewed since, it does not adversely impact ability and freedom of the subscribers to choose TV channels of their choice. It is reiterated that New Regulatory Regime has sufficient safeguards to protect interests of subscribers however, its implementation at DPO-level remains a challenge that needs to be addressed by the Authority. Submissions made above, may kindly be read as forming part of our reply to question under response.

Q13. How whole process of selection of channels by consumers can be simplified to facilitate easy, informed choice?

Response: It is respectfully submitted that the current stipulations relating to channel selection process by consumers already facilitates consumers to make informed choice by consumers. With an aim to further simplify process of selection of channels by consumers, Authority may issue general guidance for DPOs to improve layout of channel / bouquet offering on their websites, Apps etc. so that consumers are able to navigate easily through various channel / bouquet offerings. Submissions made above, may kindly be read as forming part of our reply to question under response.

Q14. Should regulatory provisions enable discount in NCF and DRP for multiple TV in a home?

Response: It is respectfully submitted that discount on NCF as well as discount on DRP for multiple television households should be left to the discretion / prerogative of DPOs provided that such discounts do not directly / indirectly result in broadcasters being compelled to give discount in MRP of their channels / bouquets.

Q15. Is there a need to fix the cap on NCF for second 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: It is respectfully submitted that we do not believe that there is any need to fix the cap on NCF for second and subsequent TV connections in a home in multi-TV scenario. As such, NCF for second and subsequent TV connections in a home in multi-TV scenario should be left to the discretion / prerogative of DPOs provided that such discounts do not directly / indirectly result in broadcasters being compelled to give discount in MRP of their channels / bouquets.

Q16. 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: It is respectfully submitted that it is technically not feasible for broadcasters to identify multi TV connection homes. Even during audits, information or documents relating to details of subscribers, STBs installed at individual homes, etc. are not disclosed by DPOs. It is in this background, unless the issue pertaining to verifiable identification of multi-TV connections is not addressed, the issue of offering different MRP in respect of multi-TV connection homes should be kept in abeyance. It is submitted that in any event, India is still primarily a single television set household market.

Q17. Whether Distributors should be mandated to provide choice of channels for each TV separately in Multi TV connection home?

Response: It is respectfully submitted that issue of providing choice of channels for each TV in case of multi TV connection homes should be left to market forces / discretion / prerogative of DPOs.

Q18. How should a long-term subscription be defined?

Response: It is respectfully submitted that definition of long-term subscription plans need not be defined and may be left to the discretion / prerogative of DPOs however, long term plans should have no impact on MRP of channels / bouquets. It is respectfully submitted that it is not feasible for broadcasters to identify subscribers availing long term plans, which in any event, in respect of broadcaster-DPO relationship was a concept relevant under the earlier regime.

Q19. 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: It is respectfully submitted that we do not believe that there is any need to prohibit DPOs from offering discounts on NCF and/or DRP on account of long term subscription plans, and that the same should be left to the discretion / prerogative of DPOs, provided that such discounts, do not directly / indirectly result in broadcasters being compelled to give discount in MRP of their channels / bouquets. It is further submitted that we do not believe that there is any need to prescribe any cap while giving discount on long term subscription plans.

Q20. Whether Broadcasters also be allowed to offer discount on MRP for long term subscriptions?

Response: It is respectfully submitted that it is not feasible for broadcasters to ascertain as to which subscriber has opted for long term subscription plans, if at all. As such, the Authority ought not require broadcasters to offer discount on MRP for long term plans since, any such stipulation, in the absence of verifiable information / documents, is susceptible to be misused. It is submitted that unless the issue pertaining to verifiable identification of subscribers with long term plans is not addressed, the issue of offering different MRP in respect of such plans should be kept in abeyance. In the event, the Authority is still inclined to allow broadcasters to offer different MRP for long term plans, then the same should be permitted only on a voluntary basis by broadcasters provided that broadcasters and DPOs are able to agree to additional stipulations for verification process of such plans.

Q21. 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: It is respectfully submitted that in various cases, DPOs have been found to be violating stipulations pertaining to EPG and consecutive listing of channels as prescribed in New Regulatory Regime. It is submitted that certain DPOs resort to such illegal activities with an aim to target channels of broadcasters with whom such DPOs may be having issues / disputes. It is submitted that DPOs may be allowed to arrange channels both on LCNs as well as in EPG, either on the basis of: (a) language followed by genre under each language, or (b) genre followed by language under each genre. However, in either of the above aforesaid two scenarios, it should be mandatory for DPOs not to place channels in more than one genre or language. Further, DPOs ought to report: (i) methodology of listing of channels, (b) EPG listing of channels, and (c) LCN sequencing of channels, simultaneously to the Authority as well as to the broadcasters with whom it has an interconnection / carriage agreement. Further, reporting should be done by DPOs within fifteen (15) days from the date of commencement of the relevant agreement and that DPOs should be responsible for producing proof of receipt of aforesaid reports, as and when required. Additionally, such details ought to be published on DPOs website at all times.

Q22. How the channels should be listed in the Electronic Program Guide (EPG)?

Response: Our submissions in response to Q.21 may be read as forming part of our answer to the issue / question Q.22 that is under response.

Q23. Whether distributors should also be permitted to offer promotional schemes on NCF, DRP of the channels and bouquet of the channels?

Response: It is respectfully submitted that we do not believe that there is any need to prohibit DPOs from offering promotional schemes on NCF and/or DRP of *a-la-carte* and/or bouquets, and that the same should be left to the discretion / prerogative of DPOs, provided that such schemes, do not directly / indirectly result in broadcasters being compelled to give discount in MRP of their channels / bouquets. It is further submitted that in-line with the submission made in the preceding sentence, restrictions on broadcasters regarding promotional schemes too should be removed. In the unlikely event, the Authority is of the view that restrictions on broadcasters regarding promotional schemes should continue, then *inter-alia* for the purposes of maintaining level playing field between broadcasters and DPOs, restrictions in respect of promotional schemes on NCF and DRP should be brought in that are in sync with stipulations pertaining

to promotional offers that apply in case of broadcasters. However, under no circumstances, should broadcasters be compelled to offer discount in MRP of their channels / bouquets.

Q24. 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: Our submissions in response to Q.23 may be read as forming part of our answer to the issue / question Q.24 that is under response.

Q25. What safeguards should be provided so that consumers are not trapped under such schemes and their interests are protected?

Response: It is submitted that promotional schemes on NCF and DRP of the channels / bouquets should be subject to scheme documents, which should require DPOs to ensure a two-tier authentication mechanism to verify as to whether a subscriber has available scheme out of his own volition. It is submitted that in today's competitive scenario, DPOs are expected to have consumer centric approach and that they would not knowingly do something that may trigger subscribers to migrate to other DPOs.

Q26. Whether DPOs should be allowed to have variable NCF for different regions? How the regions should be categorized for the purpose of NCF?

Response: It is respectfully submitted that regions should not be categorized by TRAI for the purposes of discounting NCF and that if DPOs so desire, then in their discretion / prerogative DPOs should be permitted to categorize regions and have variable NCF for different regions provided. However, such variable NCF should not directly / indirectly result in broadcasters being compelled to give discount in MRP of their channels / bouquets. In-line with the foregoing suggestion, broadcasters and DPOs too ought to be allowed to have variable MRP and DRP, as the case may be. Further, in so far as variable MRP for different regions is concerned, the same may be allowed *inter-alia* on the basis of target market declared by broadcasters in respect of their channels as well as depending on language of channel.

Q27. 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: It is respectfully submitted that it should be left to DPOs to decide as to how many channels in addition to one-hundred channels, they wish to provide in the NCF cap of Rs 130/- for one-hundred channels.

Further, in case DPOs are found to be offering more than one-hundred channels for NCF of Rs.130/-, then the same is reflective of market forces being at play. However, stipulations permitting DPOs to offer more channels within NCF of Rs.130/- should not directly / indirectly result in broadcasters being compelled to give discount in MRP of their channels / bouquets.

Q28. Whether 25 DD mandatory channels be over and above the One hundred channels permitted in the NCF of Rs. 130/-?

Response: It is respectfully submitted that it should be left to DPOs to decide as to whether or not the twenty-five mandatory DD channels should be over and above the one-hundred channels permitted in the NCF of Rs. 130/-. However, the same should not directly / indirectly result in broadcasters being compelled to give discount in MRP of their channels / bouquets.

Q29. 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: In view of our response to Q.29, it suggested that no recommendations ought to be made to MIB on this issue.

Q30. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

Response: It is respectfully submitted that the Authority ought to defer review of New Regulatory Regime for a period of at least two years. During this period, the Authority should undertake extensive exercise by conducting periodic audits to ascertain and ensure that DPOs comply with and continue to remain in compliance with all aspects of New Regulatory Regime (specially the QoS Regulations). Further, such audits may also be conducted as part of subscription audits being conducted by broadcasters. In case, the Authority comes across instances of non-compliance of provisions of New Regulatory Regime by DPOs (specially with respect to provisions of QOS Regulation), then stern and punitive action ought to be taken by Authority to deprecate such practices and to send out a clear message to other defaulting DPOs that such non-compliances will not be taken lightly. The actions to be taken by Authority should also include recommending to MIB to revoke license granted to defaulting DPOs.