

## ANNEXURE

### **US-INDIA STRATEGIC PARTNERSHIP FORUM RESPONSE TO THE TELECOM REGULATORY AUTHORITY OF INDIA'S CONSULTATION PAPER ON TARIFF-RELATED ISSUES FOR BROADCASTING AND CABLE SERVICES**

Members of the U.S.-India Strategic Partnership Forum (the Forum) welcome the opportunity to comment on the above referenced consultation paper.

We believe this industry can play an important role in contributing to the Government of India's ambitious goal of becoming a US\$5 trillion economy by 2024. In order to achieve this goal, providing a stable regulatory environment for investors will be critical for realizing the 9% growth rate required to achieve the target.

#### **Media & Entertainment: A Promising Growth Industry**

India's Media & Entertainment (M&E) industry, which includes TV, print, films and digital media is an under-performing sector that can contribute more to India's economic growth with the right mix of enabling regulatory policies. The sector is expected to top US\$33.6 billion by 2021 with TV broadcasting, a US\$10.6 billion business in 2018, making up the largest component of the M&E segment. As a result of this potential, the Ministry of Commerce & Industry has recognized Audio-visual services (encompassing broadcasting and digital services) as two of 12 champion sectors that can make positive contributions to the country's economic growth.

While the Indian M&E industry is one of the fastest growing segments of the Indian economy and has created significant numbers of entrepreneurs and jobs and provides diverse content to consumers at home and abroad, the sector under performs in contribution to GDP. The share of the Indian M&E sector to the national GDP is less than 1% whereas in countries with similar economies the M&E industry's contribution is closer to 1.5% of GDP. This is despite the extraordinary growth of the Indian broadcast eco-system, which includes extensive regional language content and growing popularity of Indian content in international markets.

#### **The Path to Growth Relies on an Enabling Regulatory Environment**

If the M&E sector is to realize its growth potential and increase its contribution to GDP, it will require an enabling regulatory environment that provides stability for investors, while encouraging innovation in the creation of new content and services that address consumers' evolving demand. Ex-ante government intervention as proposed in the Consultation should be minimized with government interceding only to address market failures in a case-by-case basis. Government should likewise avoid undermining the robust competitive landscape that is providing consumers with unparalleled choice in high-quality content, distribution platforms, pricing, packaging and delivery services.

The government can provide stability by not moving beyond the New Tariff Order (NTO), which only became effective on February 1, 2019. We believe the NTO puts “consumers” at the centre of the broadcasting industry and has contributed to transparency, accountability and sound business practices in the sector. We do not support re-opening issues identified in the Consultation related to capping discounts offered on bouquets, adjusting ceilings on retail prices of channels, limiting the number and form of bouquets offered by broadcasters, and mandating the Network Capacity Fee (NCF) charged by the broadcast distribution platforms. These issues are better solved by the economics of the marketplace. For these reasons and to ensure stability in the marketplace and incentivize new investment, we believe the NTO should remain in place for at least two more years before its effectiveness is assessed and modifications contemplated.

The following are specific concerns related to the questions posed in the Consultation:

**The paper assumes that consumers prefer a la carte over bouquet channels:** The assumption posed in the Consultation is that the cost of servicing a channel on an a la carte basis is the same as the cost of servicing a bouquet of channels. Based on this assumption, the Consultation supposes that a la carte prices of a channel can be derived from their bouquet prices. Furthermore, it assumes that by capping the discounts on bouquets, a la carte prices will fail to adjust to their bouquet rates. We do not understand the rationale behind the push for a la carte channels when consumers clearly prefer bouquets.

A CASBAA (now, AVIA), study of broadcast regulations in 10 countries, apart from India, found no country mandated that a la carte selling versus bouquets were the preferred choice of consumers.<sup>1</sup> Mandating a la carte at the expense of more competitively priced bouquets has other disadvantages. A 2004 report conducted by the U.S. Federal Communications Commission concluded that mandating a la carte pricing for cable consumers would likely harm new and niche channels and reduce choice to consumers.<sup>2</sup> An evaluation of a similar proposal in Canada in 2014 concluded that “unbundling” could have adverse effects for the broadcasting sector and could result in 26% of the current channels becoming unviable.

**Paper asserts prices are ‘illusory’:** Data from the Consultation paper’s annexure and its basis for calling a la carte prices “illusory” is unclear, as retail prices in the new regulatory regime cannot be compared with the wholesale rates declared by broadcasters in the old regulatory regime. The data comparison in the Consultation paper relied on the 2017 prices which are wholesale rates, vis-à-vis 2019 prices, which are retail prices. These two prices are outcomes of two completely different regulatory regimes and not comparable.

**Debate on Consumer Interest:** Bouquets provide consumers a variety of choice in terms of content and price options putting more control in consumers’ hands. The Consultation paper appears to bring in a cross linkage between a la carte and bouquet offerings which could result in consumers getting less channels and choice by having to pay more in monthly subscription fees.

**Bouquets are preferable since 98% Indian households are single TV households:** An average family in India consists of 4.5 people and it stands to reason that family members are from different age groups with different viewing preferences. Hence it is economically

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1 [http://icrier.org/pdf/An\\_Analysis\\_of\\_Competition\\_and\\_Regulatory\\_Interventions.pdf](http://icrier.org/pdf/An_Analysis_of_Competition_and_Regulatory_Interventions.pdf)

2 <https://www.fcc.gov/reports-research/reports/cable-industry-prices-reports/report-cable-industry-prices-2004>

advantageous for families to select bouquets that meet the family's varied tastes in genres and language rather than to select channels on an a la carte basis. Bouquets are clearly a win-win situation for the Indian family and the Indian broadcasting eco-system.

The data shared in the Consultation paper indicates that 80% of TV subscribers in the New Regulatory Framework have made a choice for bouquets, primarily because co-viewing among family members is the Indian practice and tradition. Thus, it remains unclear why TRAI would wish to force Indian consumers to opt for a more expensive and content-limited a la carte option.

**All contributors to consumer prices should be taken into account:** Our analysis indicates that the Network Capacity Fee (NCF) of Rs. 130 plus 18% GST (INR. 153.40 post GST) is one of the major contributors for the monthly subscription outgo, comprising 46.7% of consumers' monthly TV bills. Since NCF is mandatory, the adverse impact of NTO cannot be unfairly apportioned on broadcasters. Without any public research and market analysis of the NTO, it would be erroneous to blame price rises due to methods adopted by a section of the service providers. The enforcement of Quality of Service standards plays a role in this evaluation and it is important for all distributors to come up to the standards.

**Cost of regulatory interventions and compliance:** We find the economic analysis to be flawed in its assumptions and generalizations and recommend a thorough analysis be conducted after the NTO is in existence for an additional two-years, before the questions posed in this consultation are re-addressed.

The Forum and its members appreciate the opportunity to comment on this proceeding and we look forward to continued substantive conversations on creating a regulatory environment that will help the industry contribute to the economic growth of the sector.