

Subject: **The Consultation Paper on Tariff related issues for Broadcasting and Cable Services published by TRAI on 16th August 2019 inviting comments on it by 16th September 2019**

To: TRAI Arvind <arvind@traf.gov.in>

Cc: "V.K. Agarwal" <vk.agarwal@traf.gov.in>

Date: 09/02/19 11:03 AM

From: Rajesh Kumar Singh <vyomacommunications@gmail.com>

2nd September 2019

To

Shri Arvind Kumar,
Advisor (B&CS),
Telecom Regulatory Authority of India (TRAI),
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg,
New Delhi-110002.

Subject: The Consultation Paper on Tariff related issues for Broadcasting and Cable Services published by TRAI on 16th August 2019 inviting comments on it by 16th September 2019

Dear Shri Arvind Kumar

This refers to the abovementioned document and is a pointed response to '**Chapter V, Summary of Issues for Consultation**' based on my understanding of the issues mentioned in the Consultation Paper.

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.

Why should there be a bouquet at all? All channels should be either classified as FTA or Paid.

Entire bouquet of Free To Air (FTA) channels (SD), with quality of telecast as good as what it was on the day CAS was made compulsory, should be available to the cable subscribers for a nominal Network Capacity Fee (NCF) + GST. There should be a cap on it and it must not exceed Rs.150/- per month.

Now, here are a few important points to be noted in this regard as a backgrounder for this suggestion.

1. All the channels that began as FTA channels must remain FTA. There is no justification for them to turn 'Paid' overnight with the advent of digitisation and nationwide roll out of Conditional Access System (CAS) regime. Their revenue model was never based on this. When they turn 'Paid' they reap windfall profits, which is totally unjustified.

2. The initial and subsequent investments in developing Cable TV infrastructure were made by the lay subscribers and not the broadcasters or cable operators. The broadcasters used this infrastructure to develop a clientele for their programmes that in turn brought them advertising revenues. They got into this business out of their own volition and knew of the risks involved and the issue of addressability was never their concern at that time.

So, what channels should be treated as paid channels? All HD or upcoming 4K, 3D, VR, and AR channels can be treated as paid and should be allowed to charge the DRP, with no cap, they think their subscribers can afford. They should be free to offer long and short-term bouquets of HD/4K/VR/AR channels at a discounted price to their subscriber base and compete with rival channels in free market conditions. ***TRAI should act as a watchdog to ensure price cartels are not formed and market remains competitive and free and cross ownership are barred. No broadcasters should be allowed to have stake in cable business.***

The MSOs or LMOs must not charge any carriage fees from FTA Channels. However, they can charge carriage fees for all Paid channels depending on the revenues they generate. It should be a mutually negotiated arrangement. It can be a variable or fixed percentage depending on various market factors. In case there is a dispute in fixing such fees, TRAI can intervene and arbitrate between the parties.

The subscriber should be free to exercise the option of switching over or discontinuing the subscription of a Paid Channel with a month's notice depending on his billing cycle. He can also opt for an annual contract if offered a discounted price for a bouquet with the option to discontinue and shift to a, a-la-carte menu after a month's notice. In such cases the annual payment made by him will be adjusted in the bills based on a-la-carte rates. He will pay an additional exit charge for exercising the switch over option that will be specified before he signs the deal.

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

Answer to the first question makes this question more or less infructuous. Since all paid channels will determine their pricing based on free-market conditions, there should be no cap on discounts or prices of the a-la-carte menu or the bouquets. TRAI need not break its head over this until there is a dispute between cable operators and Paid Channels over the carriage fees.

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?

Refer to one and two.

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?

Refer to one and two.

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

Once we follow what's stated in the answer to the first and second question, this issue won't arise at all.

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?

Refer to one and two.

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

Infructuous if you follow answers to the first and second question. You don't have to break your head over this.

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?

Infructuous if you follow answers to the first and second question. You don't have to break your head over this.

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?

No cap whatsoever on Paid Channel Pricing. Infructuous if you follow answers to the first and second question. You don't have to break your head over this.

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?

It serves no consumer interest whatsoever. The entire approach so far has been heavily loaded against the consumer and favours broadcasters all the way. The consumer has been cheated. The conception of CAS was a scam and a conspiracy against the consumer that defied free market logic right from the beginning. TRAI willingly or unwillingly became a party to this scam. The broadcasters came in to the market following a certain set of rules and then they conspired with the TRAI and the I&B Ministry to change those rules to earn unprecedented windfalls and bonanzas at the cost of the consumer.

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

Refer to the answer to Q10 above.

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

Refer to the answers to Q1 & Q2.

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

Refer to the answers to Q1 & Q2.

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

There should be 50% discount in NCF for second and 25% for 3rd TV in a home. DPO should have an option to offer free connections for 4 and more TVs.

Q15. Is there a need to fix the cap on NCF for 2nd and subsequent TV connections in a home in multi-TV scenario? If yes, what should be the cap? Please provide your suggestions with justification.

Refer to the answer for Q14 above.

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?

There is no need for that. Broadcasters have the option of lowering their DPRs to make their channels and bouquets more attractive in a competitive environment. They can of course offer deals to DPOs to promote their channels.

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

He should be mandated to provide FTA channels to all TV connections in a home in good broadcast quality.

Q18. How should a long term subscription be defined?

What kind of question is this? However, let DPO's and broadcasters work that out among themselves depending on competitive environment and consumer demand. It can be six months or a year. However, the consumer will always have the freedom to opt out of the deal with a month's notice by paying additional exit charged he was informed before he had signed on the deal.

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?

Refer to the answer for Q18 above.

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

Refer to the answer for Q16. (There is no need for that. Broadcasters have the option of lowering their DPRs to make their channels and bouquets more attractive in a competitive environment. They can of course offer deals to DPOs to promote their channels.)

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?

DPOs will charge no placement fees for FTA Channels that were carried by them on the eve of the launch of the nationwide CAS. The channels that came afterwards can be charged a placement fees. This will help DPOs meet the cost of carrying FTA Channels in good quality and keep the NCF low.

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

EPG should be alphabetical with existing classifications like News, GECs, Sports, etc.

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

Of course they should be allowed for the paid channels and their DRPs. There should be no cap whatsoever. They should be allowed to have promotional deals with broadcasters and make money. Such revenue will ensure they continue to provide high quality signals for FTA channels and further lower the NCF. Let the principles of free market apply here. In case DPOs indulge in underhand practices, the broadcasters can complain to TRAI and have their grievance investigated and redressed and the DPO indulging in unfair trade practice can be heavily penalised including cancelling of his license.

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?

TRAI should stay out of it. Also refer to the answer to Q23.

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

The consumer of Paid Channels can always opt out of any deal with a month's notice by paying an exit charge that will be specified before he signs the deal. Nothing can trap a consumer. He will be free to choose what he wants to choose.

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

Yes. They can have variable NCF with a cap of Rs.150/-.

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/-?

All FTA Channels (pre and post CAS roll out) will be carried by DPOs without affecting the NCF (Capped at Rs.150/-). The DPO will compensate himself for inclusion of a new FTA Channel post CAS Roll Out in the FTA bouquet by charging a carriage/placement fees from the channel.

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

Since all DD Channels are FTA they will come under NCF automatically. There will be an exception made for subsequent addition of DD Channels in FTA bouquet, post CAS Roll Out, which are essentially into news/and public service non-commercial broadcasting, by DPOs and they will charge no carriage fees for their placement.

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?

Please refer to the answer to Q28 above.

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

The only stakeholders whose concern TRAI and MIB need to address are the consumers who financed the cable TV Network in India to begin with. Without them this network won't have existed. Co-operative Housing Societies and households paid for the laying of cables and the other paraphernalia. Neither the GoI nor the broadcasters invested a single paisa in this massive entrepreneurial exercise. Even after digitisation it were the consumers who paid for STPs. Thus they are the biggest stakeholders in this gamut. Everyone else came later. TRAI officials seem not to take this important factor in their considerations. Any public policy that undermines them must not be implemented.

TRAI gave a false promise to them that post CAS roll out their cable bills will come down whereas the policies pursued by TRAI were inherently designed to favour the broadcasters who, right from the beginning, had the ears of the bureaucracy. TRAI officials bought the specious and bogus arguments of the broadcasters lobby led by James Murdoch of the Star group, the corrupt and wily son of Rupert Murdoch who has been shamed across the world for his misdeeds.

It's time TRAI stops acting as an agent of the broadcasters' lobby. It should also note that most of the channels that have become 'Paid Channels' overnight are still Free To Stream (FTS), in real time, on the Internet. Why should they be treated as Paid Channels on the Cable Network and by what logic?

In case you need to discuss the points raised in this response, I'm freely available.

Thanking you,

Yours truly,

Rajesh Kumar Singh

Panchsheel 4B, 406, Raheja Township, Malad East, Mumbai 400097.

