

RESPONSE OF ZEE ENTERTAINMENT ENTERPRISES LIMITED

TO THE CONSULTATION PAPER

ON

TARIFF RELATED ISSUES FOR BROADCASTING AND CABLE SERVICES

ISSUED BY

THE TELECOM REGULATORY AUTHORITY OF INDIA (“TRAI”)

ON 16TH AUGUST 2019



Response of Zee Entertainment Enterprises Limited (“ZEEL”)
to
The Consultation Paper on Tariff related Issues for Broadcasting and Cable Services
issued by the Telecom Regulatory Authority of India (TRAI) on 16th August 2019

At outset, we would like to state that the Authority has taken a hasty step by issuing a Consultation paper on Tariff related issues for Broadcasting and Cable Services on 16th August 2019. In our view it is a premature and an unwarranted step at this juncture. It is a matter of record that barely six (6) months have elapsed after the previous Tariff Order was implemented. Although, the previous Tariff Order was notified on 3rd July 2017, it came into effect only on 1st February 2019. It would not be in fitness of things to assume that the regulations prescribed under the previous regime which is just about 6 months old has not worked necessitating changes in the Tariffs related to Broadcasters and Cable Services.

In order to create an enabling environment for orderly growth of the television broadcasting sector, given various developments related to technology, emergence of multiple distribution platforms, evolving business models, and enhanced addressability across platforms, a comprehensive review of the erstwhile tariff framework for the addressable systems was undertaken by TRAI in 2016. After an extensive exercise, TRAI had notified following orders on 3rd March 2017, which ultimately came into the effect on 1st February 2019:

- i. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017
- ii. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017
- iii. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017

While framing the above Regulations, the emphasis of the Authority was to ensure transparency, non-discrimination and creation of a level playing field for all players, providing choice and flexibility to consumers and creation of an enabling environment for orderly growth of the sector. We would like to state that the above objectives, within the constraints of some execution challenges in a change of this scale, which also are fast getting resolved, have been met. The same has been echoed by Shri R S Sharma, Chairman of TRAI in his talk with Indiantelelevision.com as reported on 28th March, 2019¹, his quote is reproduced – *“The implementation of the new broadcast tariff regime is working out very well. The monthly bills of thousands of consumers have also been reduced. The consumer’s bill is a function of how much he watches, if he or she watches hundreds of channels obviously the bills will go up. If someone watches 25 channels, the bill will come down to one-third.”* He further pointed out – *“The objective of the regulation is to essentially bring out a regime of transparency and allow the customers to choose channels which they want to watch, and then allow the market forces which were not in play earlier.”*

¹ <https://www.televisionpost.com/almost-all-tv-customers-have-moved-to-new-regime-says-tra-chairman/>

Even the other senior officers of the TRAI have stated the same in various public interactions. The same sentiment has been echoed by broadcasters, DPOs and other interested parties in the last few months. All stakeholders have successfully handled the difficult execution challenges of a high magnitude, in order to facilitate a consumer-friendly transition in a very short period of time.

Despite this, it is quite intriguing, and most certainly a consumer unfriendly and industry damaging step on the part of the Authority to tinker with Regulations which have become effective as recently as 1st February 2019. Just to elucidate the point of how complex a transition this has been for the industry, the execution of the regulation has meant that more than 160 Mn consumer homes had to be familiarised with pricing of more than 800 channels and bouquets thereof, had to submit their choice of channels (Ala carte and/or bouquets) to the 100,000 MSO / LCOs. The MSOs/LCOs were expected to completely change their back-end systems to be able to service these billions of specific choice sets of consumers (each choice of a channel by a home is a service demand on the backend system).

It further needs to be pointed out at this juncture that the Authority in its own wisdom had suggested on an earlier occasion that any change to Regulations should not be made within two years of changes made at any point of time. Our submission is that further changes in the Regulation is unwarranted, and some of the assertions made in the Consultation paper do not stand the test of logical scrutiny. Further, we would also like to point out, that the Authority has come out with this Consultation paper which lacks an evidence-based approach, relies on assumptions and generalisations. No data backed research findings are available, or if available to the Regulator, have not been shared with stakeholders. Given that it's been less than six months since the implementation of regulation which demanded such high intensity execution, expecting a major change again, without objectively studying data and analysing the case for any further disruption, is regulatory over reach. The case for further change, if indeed any further change is needed, must be clearly established by looking at data over a significant period of time (2 years at least)

Hence, the Authority's initiative to come out with a consultation paper so soon after the implementation is totally unnecessary and hasty. Prima facie, any changes are neither in the interest of consumer, nor the industry or society at large.

In the background of the above, we will now proceed to give our response to each of the 30 questions put forth by the Authority for Consultation on Tariff related issues for Broadcasting and Cable Services.

Ques 1: 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: We do not agree that flexibility available to broadcaster to give discount on sum of a-la-carte channels forming part of bouquets has been misused to push their channels to consumers. The categorization of driver/non-driver/unwanted channels in the CP are far from market realities. The Authority has used terms like non-driver/unwanted/unpopular channels

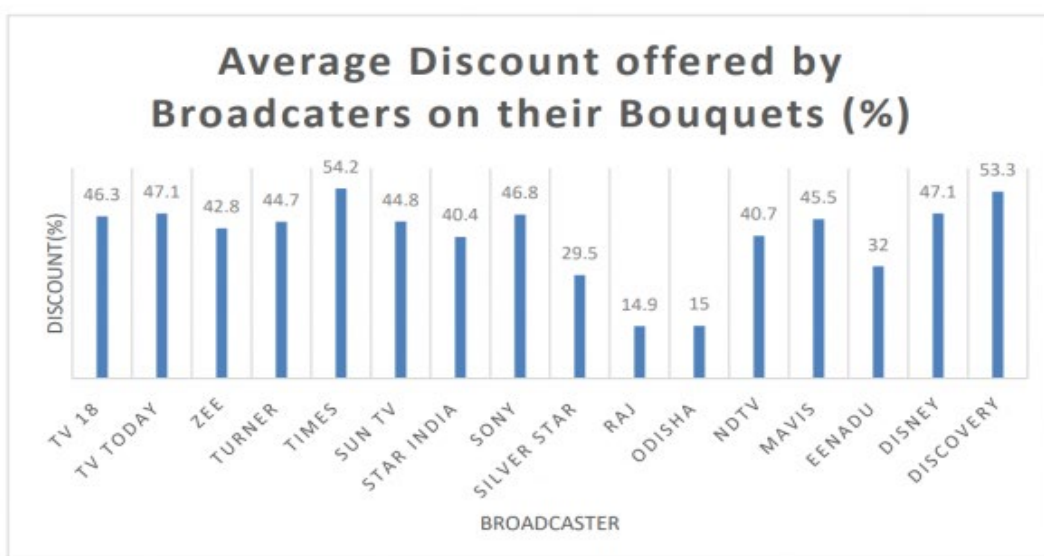
for some channels whose viewership numbers are limited. But it fails to acknowledge the specifics of consumer behaviour that drives TV consumption patterns in a home. Thus, while a consumer may spend a significant amount of time on watching her favourite GEC or movie channel, they equally have a need to also spend some time watching music channels, English news, English entertainment or lifestyle channels at other points of time. The time spent on these channels may be relatively lesser but is no less important in meeting the specific viewing demand, as and when the consumer has the need for that consumption. Equally, in a home, there are multiple consumers – grandparents, parents, teenagers, and young children. Each of these consumer groups have different content needs. Since 95% homes in India are single TV homes, they have to choose channels keeping in mind the requirement of all family members. Hence, bracketing channels basis absolute viewership numbers is incorrect, and using terms like non-driver/unwanted/unpopular channels may not be an accurate description of the consumption needs of a household. Hence, the Authority's assumption that the broadcaster has used discounts to push their channels to consumers is a completely misplaced notion.

Analogy: In a consumption basket of a consumer's grocery purchase, (s)he may purchase 2 kgs of cereals, 1 kg of pulses and 100 grams of spices. All the ingredients are important for the consumer and quantity of consumption does not imply that spices are non-essential or unpopular, and therefore can be done away with. Similarly, in the context of TV channels, viewership numbers cannot be the yardstick of classifying it as un-wanted or unpopular channels.

Ques 2: Do you feel that some broadcasters by indulging in heavy discounting of bouquets by taking advantage of non-implementation of 15% cap on discount, have created a non-level field vis-a-vis other broadcaster?

Response: It is wrong notion to assume that the broadcasters have extended discounts by taking advantage of non-implementation of 15 % cap on discounts has created a non-level field vis-à-vis other broadcaster. In fact, by extending discount it is the subscriber who has benefitted. The observation of the Authority that broadcasters have created most Bouquets with exceptionally high discounts is not borne by fact. In our view there is no non-level field created. The Authority has commented that the bouquet discounts are very high, and many bouquets are up to 70% discount over the sum of Ala carte rates. This is not factually correct, as most of the bouquet discounts are in the range of 35% - 45%. Below is chart² depicting average discounts offered by the broadcaster in bouquets:

² <https://ultra.news/s-e/48270/broadcasters-oppose-trais-second-move-make-tv-channels-cheaper>:



Out of the 331 bouquets offered by top 5 broadcasters, 15% have a discount that is less than 35%, and 66% have a discount that is 50% or less. Only 1 bouquet has a discount higher than 65%.

Discount	Count of Bouquets	% of Bouquets
< 35%	51	15%
35% to 50%	217	66%
51% to 65%	62	19%
> 65%	1	0%
Grand Total	331	100%

Flexibility in offering discounts should be allowed to ensure better consumer choice. Prescribing a fixed discount of say 15% / 30% / 45%, will be arbitrary and without any rationale; hence should be avoided. Moreover, higher discounts are ultimately to the benefit of the consumer, as it delivers better value for money.

Ques 3: 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: In view of our response to Question No. 2 herein above, there is no need to reintroduce a cap on discount on sum of a-la-carte channels forming part of bouquets while forming bouquets of broadcasters.

Ques 4: 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: In our view in order to ensure level playing field there is no need to review the cap on discount permissible to DPOs while forming the bouquet. The Market forces will decide as to whether the discounted extended by the Broadcasters are to be accepted or rejected. Hence, no appropriate methodology to workout the permissible discount is warranted.

Ques 5: What other measures may be taken to ensure that unwanted channels are not pushed to the consumers?

Response: Since 95% homes in India are single TV homes, they have to choose channels keeping in mind the requirement of all family members. Hence, bracketing channels basis absolute viewership numbers is incorrect, and using terms like non-driver/unwanted/unpopular channels may not be an accurate description of the consumption needs of a household. In our view more the number of Bouquets gives multiple choice(s) to a subscriber to choose channels across various genres and languages. The diversity of our country in fact pushes for a case of more bouquets in order to satisfy the different strata of our population wide ranging in different age groups, income groups, languages and religion having their own preference of content available on different channels.

Ques 6: 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: The Authority asserts that the large number of bouquets offered by Broadcasters has created confusion in the minds of Subscribers. This is incorrect, as number of bouquets offered by any network at a specific consumer level is limited. In fact, broadcasters were mindful that creating more complex bouquets for any home to choose from, would be to their own peril, as it could lead to consumer confusion and subsequent dropping of channels. The thinking behind the bare minimum, necessary bouquet creation is as below:

- i) Regulation itself demands that SD and HD bouquets have to be offered separately.
- ii) After a consumer has chosen between SD or HD version of channels. He then identifies the requirement of various language options as per his family needs. For example, a household can decide to subscribe to only channels of 1 language say Hindi or Marathi, or choice of channels of 2 languages- both Hindi and Marathi. For each of the above set of requirements ZEEL has offered only 1 specifically created bouquet.

To illustrate:

- (a) For customers who want to watch only Hindi SD channels, ZEEL has offered only 1 Bouquet – ZEE Family pack Hindi SD.
- (b) For customers who want to watch Hindi and Marathi SD channels, ZEEL has offered only 1 Bouquet – ZEE Family pack Marathi SD.

- (c) Similarly, for customers who want to watch Hindi, Marathi and English SD channels, ZEEL has offered only 1 Bouquet – ZEE All in One pack Marathi SD.
- (d) For customers who want to watch only English SD channels, ZEEL has offered only 1 Bouquet – ZEE prime pack English SD.

A detailed analysis of the Bouquet offerings is attached herewith marked as **ANNEXURE – I** for your ready reference.

From the above it may be observed that ZEE does not have multiple bouquets with similar offerings. Each bouquet has been created keeping in mind the varied needs of the viewers. It is also pertinent to mention that India is a country of many languages and limiting number of bouquets may not meet the needs of the masses. Therefore, ZEE has created 86 bouquets whereby each bouquet caters to specific needs of the diverse viewers. Hence, TRAI's notion of large number of bouquet offerings by broadcasters creating confusion in the minds of the consumers is on a fallacious note. In fact, Bouquets have been created to simplify the channel selection process for the consumers.

It is also necessary to highlight that in today's world of technology, DPOs are required to have system(s) to cater to the consumers request as per the laid down Quality of Standards Regulation (QOS). Any shortcomings in the DPOs systems cannot be attributed to the count of bouquets offered by the Broadcasters.

Analogy: Amazon, which is a leading e-commerce player with 49% market share in US, has over 562 mn³ products listed on its website. As the nation's largest online market place, Amazon has nearly endless variety of the products to choose from. Every day, customer searches for and sifts through millions of products in search of the one that meets his/her needs. In fact, in today's digital world, the higher number of choices is a boon to the consumers. If it is possible in some other industry, there should be no deterrent to offer multiple choice of channel bouquets to a consumer.

It has also to be kept in mind that in case the DPO has diverse subscriber base it is imperative for him to offer more bouquets of various languages. As a consequence, the DPO needs to opt for the multiple bouquets offered by the Broadcaster.

Ques 7: What should be the methodology to limit number of bouquets which can be offered by broadcasters and DPOs?

Response: In response to Question No. 6 herein above, there is no need to limit the number of bouquets offered by Broadcasters and DPOs. Instead of limiting the number of choices to the consumers, it would be far better to provide for a system based facility which allows consumers to choose seamlessly through an efficient user interface. This can be done by DPOs by making their systems robust to cater to consumers' choice.

³ <https://www.scrapehero.com/many-products-amazon-sell-january-2018/>

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

Response: The phenomenon of opting bouquets across the globe is common. In fact, in USA, a Subscriber has options to choose from multiple packs comprising of packages for instance- + 10 channels priced at US \$ 20/per month, + 125 channels priced at US \$ 60/per month and + 200 channels priced at US \$ 80/per month. Further, in case the said subscriber wishes to opt for additional channels, he has the option to choose from the Bouquet of channels available from the Cable service provider marketed as Premium channels comprising of a pack of channels priced at an additional cost of US \$ 5.99/ per month, In Demand channels - comprising of a pack of channels priced at US \$ 3.99/per month, Sports channels - comprising a pack of channels priced at US \$9.95/per month and International channels - comprising a pack of channels priced at US \$ 6.99/ per month⁴. It can be observed from the above offerings that a subscriber is not given a choice of ala carte channels but on the contrary, the choice available is only in a form of Bouquets in the primary offerings as well as in the additional choice of channels. This is a marketing philosophy adopted in the USA which clearly reflects that a DPO can bundle his channels in a Bouquet to give a wholesome choice to the subscribers in his primary choice of channels as well as ensure that additional choice of channels are also bundled in a Bouquet/pack classified on the basis of premium channels, In Demand channels, Sports channels and International channels. The primary offering in a Bouquet of + 125 channels the composition of such channels normally covers 46% of the most popular channels. This is a practise adopted by a developed country like USA and it does not in any way prevent the Authority in adopting the same practise in our country.

In view of the above, the Authority should adopt a pragmatic approach and refrain from comparing ala carte prices with Bouquet prices. On the contrary, accept the global practise of offerings of channels in Bouquets instead on an ala carte. Even if in India ala carte channels are offered, the Authority should allow the Broadcasters and DPOs forbearance in pricing their channels.

It would be most logical to allow market forces to decide the price(s) of channels offered on Ala carte or Bouquets. Putting restriction on a price of a la carte channel is not the order of the day in the global scenario.

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

Response: In view of our response to Question No. 8 herein above, there is no need to review the ceiling of Rs. 19/- on MRP of ala carte channel to be part of a bouquet. Further, we would also like to provide some local and global references to support our view.

In 2003, consumers used to pay a monthly TV subscription fee in the range of Rs. 150 – 250⁵. This has now increased to become in the range of Rs. 250 – 320 in 2019, post the NTO. This

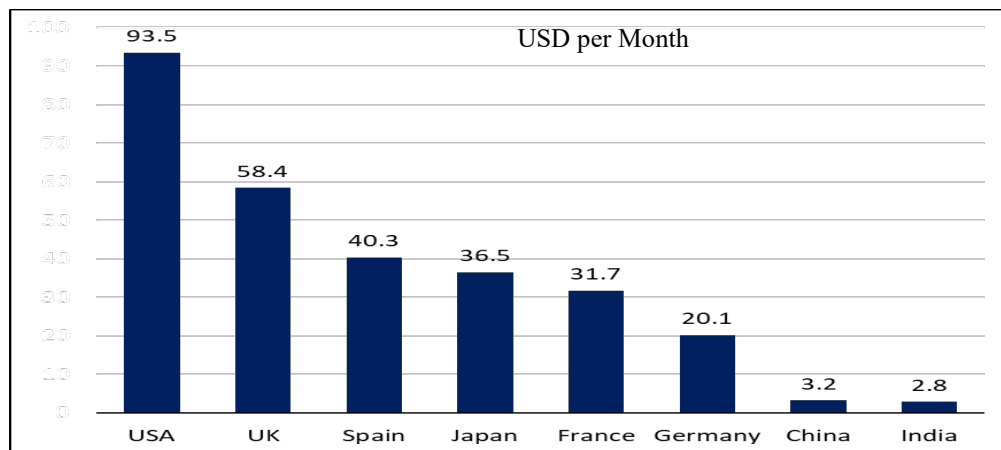
⁴ <http://www.allconnect.com/providers/xfinity/tv?ucm>

⁵ <https://www.rediff.com/money/2003/may/19spec1.htm>

implies a mere 3% annual inflation rate over all these years. Now, if one compares the inflation rates of subscription charges vis-à-vis few essential commodities⁶ like

Commodity	Inflation CAGR from January 2013 to February 2019
Milk and products	5.3%
Cereal and products	4.0%
Vegetable	4.3%
Fuel and light	4.5%

As is evident from the above table, the present TV subscription charges paid by the subscribers is much lower than the inflation experienced in most goods of HH consumption. In fact, over the last 20 years, growth in TV ARPU is ~400 basis points lower than inflation. Therefore, any inference by the Authority that TV pricing is high and needs to be brought down, is incorrect. As can be seen by inflation data of other consumer items, Pay TV pricing in India has grown at a pace well below inflation vs most household items. It is also necessary to point out that ARPU in India is still significantly lower compared to other countries, not just in absolute dollar spends, but even in PPP terms.



Source: SNL Kagan, 2017 OfCOM

The M&E sector in India remains significantly under-monetised compared to global scenario. Any further regulations introduced by the Authority at this stage would be an impediment to the future growth of the sector.

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

Response: The consumer interest has been well served by the provisions in the new regime which allows the Broadcasters/Distributors to offer bouquets to the subscribers. It is pertinent

⁶ https://data.gov.in/catalog/all-india-consumer-price-index-ruralurban?filters%5Bfield_catalog_reference%5D=85827&format=json&offset=0&limit=6&sort%5Bcreated%5D=desc

to mention here that the mechanism to allow subscriber to choose his preferred bouquets has not been implemented across the board largely due to the shortcomings at the end of some MSOs/LCOs. It has been observed in certain cases that MSO/LCO does not give choice to the subscriber to choose his preferred bouquet but rather imposes a pre-defined bouquet as formulated by the DPO. This has created an impression that consumers are facing challenges in exercising real choice due to the composition of Bouquets. But the real reasons are far from this assumption. The Authority has inferred that the consumers are facing a challenge in being able to select the channels / bouquets and that this challenge is squarely because of the construct of the broadcaster bouquets, and due to the discounting of price from a la carte to bouquet. This is far from the ground reality.

The challenge is not the bouquets or bouquet pricing, but the inability of DPOs, especially the cable ecosystem, to deliver end to end service to fulfil the requests of the consumers. It would not be out of context to mention here that unlike the cable ecosystem, a subscriber of DTH operators like Tata Sky, Airtel etc. is able to get her/his choice of channels with a few clicks, and consumer issues and concerns are the least in the DTH ecosystem. This is best reflected in the fact that the DTH ecosystem, which was not seeing much growth prior to implementation of NTO, due to the non – level playing field, has actually performed very well post the NTO. The DTH subscriber base has grown more rapidly post the NTO rollout, at an annualised rate of ~12% in the first six months. And this is largely because of the better customer service provided by DTH, even though the pricing is now exactly the same as it is for the cable ecosystem. The same customer service however, is not there in the cable ecosystem, as the IT systems installed at the MSO's and LCO's have technological limitations/constraints, and consumers are not able to choose their channels freely. Moreover, the web portal of the DPO for customer service is not working at its optimum level.

It is this inadequacy of lack of systems upgradation in certain section of the DPOs, which is causing most of the consumer discomfort, and the same had been highlighted to the Authority well before the start of the implementation. It is suggested that to make it easy for consumers to get their channel choices in the cable ecosystem, the focus of the MSO's/ LCO's should be to invest in the backend infrastructure which facilitates easy and swift choices of the subscribers. The Authority should insist on such infrastructural changes in consumer interest.

Ques 11: How this provision has affected the ability and freedom of the subscribers to choose TV channels of their choice?

Response: In our view this provision has not affected the ability and freedom of the subscriber to choose TV channels of their choice. It's an erroneous assumption that consumers are unable to exercise choice due to broadcaster bouquets. The table below explains that there has already been a reduction of ~20% in the number of channels watched by TV homes in India.

Markets	Dec'18 (1st Dec-31st Dec,2018)			Jun'19 (22nd May to 21st June,2019)		
	Urban	Rural	U+R	Urban	Rural	U+R
All India	50	40	47	40	33	38
HSM	51	41	49	43	36	41
South	46	38	43	35	30	33

Source: BARC

It is evident that consumers have exercised choice and opted for channels they want to watch. Therefore, the Authority's notion that bouquets are not allowing consumers to make choices as they wish to make, seems factually incorrect. People are in fact making choices of what channels they want to watch, drop the channels they do not watch, and are already balancing things between their entertainment needs and the monthly pay-out. It might not be out of place to state that given the regulatory framework, it would have been expected that those consumers who wish to continue to watch 100% of the universe of channels they were getting in pre NTO period, would end up paying something more. Like in any discretionary spend, the new MRP regime is designed for people to make choices that most matter to them and be willing to pay for those in a transparent manner. Equally, if broadcasters' price their offerings incorrectly, and are not perceived to be right value by consumers, they will be penalised by the consumer by dropping those channels from the choice set. In our view the consumer interests have been served by the provisions in the new regime which allows the Broadcasters/Distributors to offer bouquets to the subscribers as per their choice.

We would like to reiterate that the prerogative of forming bouquets, should remain with the broadcasters, as they are the owners of the products. DPOs can additionally make bouquets by combining broadcasters' bouquets and/or a-la-carte channels to cater to the needs of their subscribers.

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

Response: In our view the provisions permitting the Broadcasters/Distributors to offer bouquets to subscribers should not be reviewed. The assumption that Ala Carte is more consumer-friendly vs Bouquets is contrary to all consumer research across the world. TRAI assumes that choosing channels Ala carte (Individually, and not as bouquets) is the consumer preferred and friendly route. There is no evidence provided by TRAI to substantiate this belief. In fact, across the world, bouquets have been firmly established as the preferred route by consumers. A 2004 FCC report⁷ concluded that mandating Ala carte for cable consumers in the USA would very likely harm new and niche channels and reduce choice to consumers. An evaluation of a similar proposal in Canada in 2014 concluded that in "unbundling" could have adverse effects for the broadcasting sector and could result in 26% of the current channels becoming unviable. As per CASBAA, in a study of broadcast regulations in 10

⁷ <https://timesofindia.indiatimes.com/india/media-entertainment-sector-to-add-7-8-lakh-jobs-in-5-years-report/articleshow/61901275.cms>

countries, apart from India, no country mandated ala carte selling, and bouquets were the preferred choice of consumers.

Ques 13: How whole process of selection of channels by consumers can be simplified to facilitate easy, informed choice?

Response: In our view the whole process of selection of channels by consumers is already simplified and is also facilitating easy and informed choice. In our experience it is only certain DPOs who are having problems in providing adequate choice to the subscribers. In case of a cable DPO, the problem is two-fold. Firstly, the LCO affiliated to an MSO visits the customer/subscriber and offers his pre-fixed Bouquets. This is basically due to the technological limitations/constraints at the MSO's end. It is also due to lack of upgradation in certain sections of the DPOs which is causing most of consumer discomfort and the same had been highlighted to the Authority at every stage of implementation of the NTO. The focus of the MSOs /LCOs should be to invest in the backend infrastructure which will make the entire process of choosing channels for the subscribers a hassle-free activity which can be accomplished with a few clicks as seen in the case in the case of customer service provided by a DTH operator, say Tata Sky or Dish TV. The Authority should insist on such infrastructural changes in the interest of the consumers. The Authority may also conduct surprise visits to the Head-ends of the MSOs to ensure that the infrastructure installed is adequate and technologically capable of delivering the customer service on the expected levels. Also, in today's digital world, technology if well implemented, allows for convenient user interface on mobile devices including tabs, mobiles or laptops for facilitating comprehensive choice to the customer.

Ques 14: Should regulatory provisions enable discount in NCF and DRP for multiple TV in a home?

Response: In our view regulatory provision should enable discount only for NCF. No discount on DRP is warranted as a regulatory provision, since a subscriber of a multi TV home has the liberty to create his own choice of ala carte and/ or Bouquet of channels as any other subscriber in the NTO regime.

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

Response: We believe conceptually, the NCF for the 2nd and subsequent TV can be lesser than the primary connection. The reasoning is the cost of installation and servicing for multiple TV is a subset of primary connection. It may be observed that in case of a household multiple TV connections, a single cable line is coming to subscriber which is then divided in different rooms of the home in case of cable. Similarly, for DTH, one dish is installed to provide multiple connection within home. In our view the cap should be in consultation with the DPOs but in any case, the discount percentage should be standardised across for all DPOs to ensure consistency of service charges.

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

Response: We strongly believe that Broadcasters should not be allowed to offer different MRP for multi home connections, since typically a subscriber in a multiple TV Home is choosing different channels as per the profile of the viewer (viz: grandparents, parents, teenagers, and young children) who may be simultaneously consuming different content via separate and distinct Television sets. Hence, such subscribers of multi-home TV connections should be treated as additional individual subscriber and thereby pay the full subscription charges as per MRP. Moreover, in the present regulatory framework, each Set Top Box (STB) has been identified as one consumer. In fact, the Interconnection Regulations, 2017 in the “Note” under Schedule VII clarify that-

“Each set top box, located at a place indicated by the subscriber for receiving the subscribed broadcasting services from the distributor of television channels, shall constitute one subscriber.”

Currently there is no provision to help broadcasters in identifying a household which has multiple connections. Therefore, different MRPs should not be allowed for multiple TV connections.

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

Response: Yes, the Distributor should be mandated to provide choice of channels for each TV separately in Multi TV connection home since the viewer for each of the Television set is different and his choice of channels differs from the choice of other occupants of the house as explained in our response to question no. 16 herein above. Consequently, each multi TV connection should also be considered as a separate and distinct additional subscriber for reporting in the Monthly Subscriber Report by the DPO.

Ques 18: How should a long- term subscription be defined?

Response: In our view the long- term subscription should be defined as a subscription which is for a minimum period of 6 months to 12 months paid by the subscriber in advance to the DPO to be eligible to be covered under the Long-term subscription. Of course there should be checks and balances built in whereby in case the DPO discontinues to offer any ala carte channel(s) or Bouquet of channels for which advance subscription fee has been paid by the Subscriber, then in such an event it shall be obligatory on the part of the DPO to refund the unutilised amount from the advance money received from the subscriber forthwith.

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

Response: The Regulation may permit the DPO to offer discount on Long term subscriptions. The discount should only be applicable on NCF, as it is his prerogative to design his plan for NCF with an upper limit of Rs. 130/- plus taxes as per the Regulation. In any case as per the Regulations, the DPO has the flexibility to decide DRPs of the channels; while, the broadcasters will continue to be paid as per respective MRPs prescribed in RIOs.

The Authority must also take into account the fact that channel/bouquet availability to the DPO might change during this period which may cause inconvenience to the end-consumers.

Ques 20: Whether Broadcasters also be allowed to offer discount on MRP for long term subscriptions?

Response: Yes, in our view Broadcaster should also be allowed to offer discount on MRP for long term subscription which may be for 6 months or 12 months provided the subscriber pays the entire subscription for the opted channels in advance to the DPO who in turn passes on the said amount to the Broadcaster to enable the Broadcaster to classify such subscribers as Long term subscribers.

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

Response: The Authority in Regulation 18 of the Interconnection Regulations, 2017 already has in place provisions to control and regulate any menace sought to be conducted by way of arbitrary placement of channels. As per the present regulatory framework, every DPO is required to display all channels available on its platform in the electronic program guide (EPG) and each channel should be listed under the respective genre of the channel as declared by the broadcaster and one channel shall appear at one place only.

For orderly growth of the sector, it is desirable that the regulatory mechanism is adhered to by all the stakeholders and adequate checks & balances should be built-in by the Authority.

Ques 22: How the channels should be listed in the Electronic Program Guide (EPG)?

Response: Normally, the consumer prefers to subscribe channels in the language(s) they speak and surf accordingly. Therefore, channels should be listed in the Electronic Program Guide (EPG) whereby channels are arranged such as L1:G1, L1:G2, L1:G3.....L2:G1, L2:G2 and so on. In this option, Consumer who understands specific language is not required to move all across the languages to watch his own language channel if he intends to watch GEC, News, Movies, etc. This will ensure convenience to the consumer to access channels relevant to them. Although, this may require amendment to the present regulations.

Also, DPOs should not place any Platform Services, VAS channels which are outside TV Broadcast regulations, and not permitted as TV channels under the uplinking and downlinking

guidelines, within the regular genre listing of broadcast channels. The VAS/ platform services should be listed separately in the EPG, not together with the broadcast TV channels.

Ques 23: Whether distributors should also be permitted to offer promotional schemes on NCF, DRP of the channels and bouquet of the channels?

Response: The Regulations provide flexibility to the DPOs to determine the NCF subject to the maximum limit which is Rs. 130/- excluding taxes and DRP of the ala carte channels and Bouquets subject to the maximum limit of the prescribed MRP as fixed by the Broadcasters. Within these prescribed respective limits, the DPOs are free to charge NCF/DRP as per their schemes. The Broadcasters should be paid as per the MRP of their respective channels/Bouquets irrespective of the discounts extended to the end Subscribers.

Ques 24: In case distributors are to be permitted, what should be the maximum time period of such schemes? How much frequency? How much frequency should be allowed in a calendar year?

Response: The maximum time period of scheme should be in parity with what is being allowed to a Broadcaster. The DPOs may be permitted to offer promotional schemes on DRP per month of it's a-la carte/ Bouquet prices per month. These schemes should not exceed ninety days at a time and the frequency of such scheme should not exceed twice in a calendar year. It should also be further mandated that price(s) of a-la-carte pay channel(s) offered under any such promotional schemes should be considered as Distributor Retail Price (DRP) during the period of such promotional scheme(s).

It is further clarified that any such rates charged by the DPO during any such promotional scheme(s) applicable to them will have no bearing whatsoever on the Maximum Retail Price (MRP) of the Broadcaster which the DPO is under a legal obligation to pay towards all such channels availed from the Broadcaster. There will be no discount from the Broadcaster to any DPO on account of any promotional scheme floated by the DPO.

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

Response: In our view, TRAI should take adequate reporting disclosures from the DPOs to monitor and maintain checks & balances for such promotional schemes. This will ensure monitoring of the number of subscribers opting for such promotional schemes on real time basis.

Ques 26: Whether DPOs should be allowed to have variable NCF for different regions? How the regions should be categorized for the purpose of NCF?

Response: In our view the DPOs may be allowed to have variable NCF for different regions. Basically, the NCF is towards the infrastructure fee which is being compensated to the DPO for setting up its own infrastructure for carrying the channels of the Broadcasters from the DPOs headend to the subscriber's home. The logic of having different NCF for DAS -I, DAS-II, DAS-III and DAS-IV may be the correct methodology since the implementation of Digitisation was done in a phased manner across different geographical areas across the country on the basis of Tier-I, Tier-II cities and so on and so forth. But at the same time the DPO would be able to ascertain the quantum of NCF that he would like to charge in order to account for the infrastructure cost based on the number of subscribers he is servicing in different areas of the country.

The criteria for categorization of regions for the purpose of NCF may be based on population of various cities/towns/villages which are being serviced by the DPO along with criteria's like urban, rural, plains or hilly terrains. Be it be so, whatever may be the criteria, the charging of NCF would be the prerogative of the DPO which in our view should be left to his good judgement.

As an alternate approach, the criteria for the purpose of NCF can be based upon the consumer ARPU, rather than region based differentiation. Under current Regulatory framework, NCF of Rs. 130 (plus tax) forms almost 50% or more of the end-consumer price. For a consumer who is paying Rs. 300 (inclusive of taxes), NCF of Rs. 153 (inclusive of tax) is applicable, which forms more than 50% of pay-out, In DAS-III & DAS-IV areas where ARPU is likely to be lower (around Rs. 200-220), the NCF accounts for a much larger percentage, around 75% of the consumer price. This pricing does not ensure equity among various class of consumers. A better model perhaps would be to put a cap on the NCF as a percentage of end-consumer price, i.e., NCF can be maximum 35% of the end-consumer price or Rs. 130, whichever is lower. This will ensure more equity amongst all class of consumers as also allow the flexibility to the DPOs to structure the NCF based on their consumer segments.

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

Response: In our view, the count of 100 channels is good enough for an average household. Hence there is no need to review the Regulation pertaining to charging NCF of Rs. 130 plus tax for initial 100 channels.

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

Response: In view of our response to Question No. 27 herein above, the 25 DD mandatory channels should be provided to each and every subscriber by the DPO within the initial 100 channels only.

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

Response: In our response to Question no. 28, we have suggested that 25 mandatory DD channels will be part of initial 100 channels, therefore no recommendation is required to MIB in this case.

Ques 30: Stakeholders may also provide their comments on any other Issues

Response: In our view there would be potential impact on Industry if any further changes are introduced in the tariff regulations. It appears from the consultation paper issued, that without allowing for the new regulation to fully settle in, or without adequate analysis of consumer data, the Authority wants to rush into another set of “hard touch” regulation which is certain to negatively impact orderly functioning and future growth prospects of the industry, besides inhibiting choice for the consumers.

- (1) Authority to ensure timely subscriber audit of DPOs which is central to the success of NTO: In our view, the Authority should focus its attention on increasing the declaration of subscribers in the country with adequate monitoring systems in place along with stringent penalties for under-declaration of subscribers by the DPOs. The only mechanism to ensure correct reporting of subscriber base is to enforce quality parameters for timely audit. To illustrate,
As per BARC estimates, there are 197 mn TV households in India.

<u>Particulars</u>	<u>Estimated Household (mn)</u>
Total TV	197
Free TV	33
DTH (Pay)	55
Cable (Pay)	109

Source: BARC 2019, EY FICCI report 2019, industry estimates

While from above table the estimated Pay TV household is 164 mn, broadcasting industry gets subscription revenue only from ~100 mn homes. This reflects a very significant under-reporting of subscriber base. The focus of the Regulator as well as the industry should be to address this gap in the actual pay homes (viz 164 mn) vs the industry realised revenue (from just ~100 mn homes). Ensuring formalisation and complete transparency of the subscription ecosystem by ensuring compulsory audit of the DPOs’ systems, will not only help broadcasters to offer quality content for more consumer delight, but also

help the government to realise the full potential of tax revenue from the sector. It will also allow more degree of freedom for pricing of TV channels to the broadcasters.

In majority of the cases where a broadcaster is seeking subscriber audit from DPOs, they are delaying the process of starting the audit or even if they agree, they do not provide complete data to enable a proper audit to be conducted. There seems to be an unholy alliance of certain DPOs with the CAS & SMS vendors with an intent to wilfully under-report subscribers of broadcasters' channels. Because of lack of clarity under the current Regulatory and legal dispensation, the broadcasters are not getting any timely solution for this issue.

- (2) CAS & SMS vendors to be brought under Regulatory ambit: At present, several DPOs do not provide access for comprehensive subscriber audit. On detailed questioning, they try to put the blame on their technology provider, namely their CAS/SMS vendors. Currently there seems to be no direct responsibility on the CAS & SMS vendors to follow Regulations nor are there any penal provisions for having tampered with subscriber data. Since the implementation of NTO is dependent on true & accurate subscriber counts, the Authority should ensure that all errant CAS & SMS vendors are put to strict scrutiny. If any evidence of data manipulation is established, it should lead blacklisting of such CAS/SMS vendors and they should be barred from providing their services to any DPO in India.
- (3) Significant impediment to ease of doing business: Such frequent changes in regulation are not desirable for the orderly growth of the sector. The rationale for this sudden change is not even supported logically by data, is a significant impediment to ease of doing business, a key objective of the government which is keen to spur growth in the economy.
- (4) Potential Impact on employment loss in the sector – Broadcasters, content production companies, operators and their linked service providers together employ more than 1 mn people in the sector⁸. At present, the business models of industry players are reasonably robust, though coming under increasing pressure due to content and talent costs. Due to the current economic slowdown, wherein advertising revenue, which is ~ 70% of the broadcaster revenue, and was growing in double digit till last year, has come down to low single digit growth. In this context, “heavy hand” regulation that prescribes micro aspects like pricing and discounts will negatively impact the financial viability of the business models. Unviable economics will force shutting down of channels. Broadcasters will be unwilling to launch new channels and producers will be unwilling to experiment with new content. All these will lead to fewer shows being produced, which will have a knockdown effect on downstream production and on employment in the sector.
- (5) Significant costs of transition from these frequent changes for the industry: Overall, the broadcast industry has spent approximately Rs.860 Crores in educating consumers on the

⁸ <https://timesofindia.indiatimes.com/india/media-entertainment-sector-to-add-7-8-lakh-jobs-in-5-years-report/articleshow/61901275.cms>

changes in the Regulations, creating awareness on the tariffs and methods to subscribe to their favourite channels/bouquets. In case of further revisions in pricing, it would require communicating afresh to the consumers which will entail a further large expense for the industry.

The other loss during the first transition was the Advertising revenue loss to the industry, as advertisers stayed away for 4 months from the regular advertising spends, given the uncertainty. It is estimated that the industry lost revenue to the tune of 3,900 Crores from the period Jan 2019 – June 2019. Any Tariff changes will put the same kind of unnecessary and unwarranted burden on the industry. At a time when there is such a marked slowdown in GDP growth in the country, the industry can ill afford avoidable changes to the regulatory framework, which has not even had time to fully transition. The media and entertainment industry is a true reflection of the nation's economic performance, and any such "hard Touch" regulatory changes would be detrimental to the interest of the industry.

Conclusion:

Stability in policy formulation and a "soft touch" regulatory oversight is an absolute necessity for healthy industry growth. The Government's focus on "ease of doing business" warrants minimal regulatory intervention. Hence, regulatory intervention at this early stage in the implementation of the NTO is not only premature but will have disastrous consequences for the entire industry. In these circumstances, we would humbly urge the Authority to defer any further regulatory interventions, and allow the consumers, the industry and all its stakeholders time to adapt to the new regulatory regime.

In addition, we would also like to recommend that the Authority should work towards allowing market forces to determine the pricing of channels based on the strength of its content and thereby allow forbearance in pricing of channels. In any event, channels with content which does not have the pull of subscriber's interest would any way become unviable for the Broadcasters to continue. It would be only be a matter of time whereby such number of channels which are popular with the viewers at acceptable price levels would survive as may be determined by the market forces. Hence, any attempt to bring in price controls for the channels would be an exercise in futility. In fact, the Authority should promote the doctrine of Laissez-faire for deciding the tariffs for the Broadcasting and Cable Services as it would take care of the interests of all the stakeholders in the value chain.

Annexure - I

	# Zee SD Bouquets	Count	Bouquet Name
1 language	Hindi	1	Zee Family Pack Hindi SD
	English	1	Zee Prime Pack English SD
	Tamil	1	Zee Prime Pack Tamil SD
	Telugu	1	Zee Prime Pack Telugu SD
	Kannada	1	Zee Prime Pack Kannada SD
2 languages	Hindi + English	1	Zee All-in-One Pack Hindi SD
	Marathi + Hindi	1	Zee Family Pack Marathi SD
	Bangla + Hindi	1	Zee Family Pack Bangla SD
	Odia + Hindi	1	Zee Family Pack Odia SD
	Tamil + Hindi	1	Zee Super Pack Tamil SD
	Tamil + English	1	Zee Family Pack Tamil SD
	Telugu + Hindi	1	Zee Super Pack Telugu SD
	Telugu + English	1	Zee Family Pack Telugu SD
	Kannada + Hindi	1	Zee Super Pack Kannada SD
	Kannada + English	1	Zee Family Pack Kannada SD
	Tamil+Telugu	1	Zee Prime Pack Tamil-Telugu SD
	Telugu+Kannada	1	Zee Prime Pack Telugu-Kannada SD
	Tamil+Kannada	1	Zee Prime Pack Tamil-Kannada SD
	Odia+Telugu	1	Zee Prime Pack Odia-Telugu SD
	Odia+Bangla	1	Zee Prime Pack Odia-Bangla SD
3 languages	Marathi + Hindi + English	1	Zee All-in-One Pack Marathi SD
	Bangla + Hindi + English	1	Zee All-in-One Pack Bangla SD
	Odia + Hindi + English	1	Zee All-in-One Pack Odia SD
	Tamil + Hindi + English	1	Zee All-in-One Pack Tamil SD
	Telugu + Hindi + English	1	Zee All-in-One Pack Telugu SD
	Kannada + Hindi + English	1	Zee All-in-One Pack Kannada SD
	Tamil-Telugu +Hindi	1	Zee Super Pack Tamil-Telugu SD
	Tamil-Telugu +English	1	Zee Family Pack Tamil-Telugu SD
	Tamil-Kannada +Hindi	1	Zee Super Pack Tamil-Kannada SD
	Tamil-Kannada +English	1	Zee Family Pack Tamil-Kannada SD
	Telugu-Kannada +Hindi	1	Zee Super Pack Telugu-Kannada SD
	Telugu-Kannada +English	1	Zee Family Pack Telugu-Kannada SD
	Marathi-Kannada + Hindi	1	Zee Family Pack Marathi-Kannada SD
	Odia-Bangla + Hindi	1	Zee Family Pack Odia-Bangla SD
4/4+ languages	Tamil-Telugu + Hindi + English	1	Zee All-in-One Pack Tamil SD
	Telugu-Kannada + Hindi + English	1	Zee All-in-One Pack Telugu SD
	Tamil-Kannada + Hindi + English	1	Zee All-in-One Pack Kannada SD
	Marathi-Kannada + Hindi + English	1	Zee All-in-One Pack Marathi-Kannada SD
	Odia-Telugu + Hindi + English	1	Zee All-in-One Pack Odia-Telugu SD
	South Mix	4	
	Total SD Bouquets	43	

	# Zee HD Bouquets	Count	Bouquet Name
1 language	Hindi	1	Zee Family Pack Hindi HD
	English	1	Zee Prime Pack English HD
	Tamil	1	Zee Prime Pack Tamil HD
	Telugu	1	Zee Prime Pack Telugu HD
	Kannada	1	Zee Prime Pack Kannada HD
2 languages	Hindi + English	1	Zee All-in-One Pack Hindi HD
	Marathi + Hindi	1	Zee Family Pack Marathi HD
	Bangla + Hindi	1	Zee Family Pack Bangla HD
	Odia + Hindi	1	Zee Family Pack Odia HD
	Tamil + Hindi	1	Zee Super Pack Tamil HD
	Tamil + English	1	Zee Family Pack Tamil HD
	Telugu + Hindi	1	Zee Super Pack Telugu HD
	Telugu + English	1	Zee Family Pack Telugu HD
	Kannada + Hindi	1	Zee Super Pack Kannada HD
	Kannada + English	1	Zee Family Pack Kannada HD
	Tamil+Telugu	1	Zee Prime Pack Tamil-Telugu HD
	Telugu+Kannada	1	Zee Prime Pack Telugu-Kannada HD
	Tamil+Kannada	1	Zee Prime Pack Tamil-Kannada HD
	Odia+Telugu	1	Zee Prime Pack Odia-Telugu HD
	Odia+Bangla	1	Zee Prime Pack Odia-Bangla HD
3 languages	Marathi + Hindi + English	1	Zee All-in-One Pack Marathi HD
	Bangla + Hindi + English	1	Zee All-in-One Pack Bangla HD
	Odia + Hindi + English	1	Zee All-in-One Pack Odia HD
	Tamil + Hindi + English	1	Zee All-in-One Pack Tamil HD
	Telugu + Hindi + English	1	Zee All-in-One Pack Telugu HD
	Kannada + Hindi + English	1	Zee All-in-One Pack Kannada HD
	Tamil-Telugu +Hindi	1	Zee Super Pack Tamil-Telugu HD
	Tamil-Telugu +English	1	Zee Family Pack Tamil-Telugu HD
	Tamil-Kannada +Hindi	1	Zee Super Pack Tamil-Kannada HD
	Tamil-Kannada +English	1	Zee Family Pack Tamil-Kannada HD
	Telugu-Kannada +Hindi	1	Zee Super Pack Telugu-Kannada HD
	Telugu-Kannada +English	1	Zee Family Pack Telugu-Kannada HD
	Marathi-Kannada + Hindi	1	Zee Family Pack Marathi-Kannada HD
	Odia-Bangla + Hindi	1	Zee Family Pack Odia-Bangla HD
4/4+ languages	Tamil-Telugu + Hindi + English	1	Zee All-in-One Pack Tamil HD
	Telugu-Kannada + Hindi + English	1	Zee All-in-One Pack Telugu HD
	Tamil-Kannada + Hindi + English	1	Zee All-in-One Pack Kannada HD
	Marathi-Kannada + Hindi + English	1	Zee All-in-One Pack Marathi-Kannada HD
	Odia-Telugu + Hindi + English	1	Zee All-in-One Pack Odia-Telugu HD
	South Mix	4	
	Total HD Bouquets	43	