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Response for Consultation Paper on Tariff Issues related to TV Services

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ALL INDIA DIGITAL CABLE FEDERATION

We congratulate The Telecom Regulatory Authority of India (TRAI) on the effort put behind this detailed and comprehensively informative Consultation Paper and the various proposals made to revamp the entire Cable and Broadcasting Industry. This will make the entire value chain more transparent and non-discriminatory. We also appreciate that the authority recognizes the various difficulties faced by the DPOs in the distribution chain within the present regime.

Before we continue to offer our comments on the queries posed under the Consultation Paper, it is important that we share brief background on the current day issues being faced by the MSO's.

With the implementation of digitalization, MSOs cost of infrastructure, overhead expenses and man-power has increased manifold whereas the revenue has steadily went south. It is to be noted that in the whole process of digitization which has been implemented till date, MSO's have played substantial role in the form of:

1. Doing capital investment of approximately ~Rs. 8,000 Crores for Network Building and Set Top Boxes which are solely attributable to the MSOs and that too, without any assistance from the Broadcasters or the LCOs.

2. Physical effort of building a state of the art Digital Network mainly by the MSOs leading to increased man power and investments without any projected revenue generation mechanism proposed or prescribed by the Ministry of Information and Broadcasting.

3. The colossal task of convincing and aligning with the unorganized LCO sector, which historically and even till date are resistant to support digitization.

It should be restated that only MSOs have invested in building the network, infrastructure or purchase of the Set Top Boxes without which the whole process of digitization would not have even taken off. In hindsight, digitization has affected the three stakeholders (Broadcasters, MSOs and LCOs) in different ways:

1. **Revenue increase for Broadcasters:** The Advertisement Revenue as well as the Subscription Revenue has steadily increased to the tune of ~40% and ~58% from 2012 to 2015 which has been noticed by TRAI in the present Consultation Paper.

2. **Increase in revenue for LCOs:** The cost of subscription to the Consumer has increased by ~Rs. 100/- versus the analog regime thereby helping the LCOs to retain the same or higher net realization from the ground despite the MSOs having to shell out more and more subscription revenue to the Broadcasters.

3. **Decrease in revenue of MSOs:** Out of the total revenue generated from Subscription from the consumers, 67% of the revenue share still evades the MSOs and we have to make our ends meet within the 33% revenue that is actually available for the MSOs. The collection of the MSO from the ground is in fact of a lesser percentage than what has been prescribed by the TRAI. On the other hand, the Broadcasters de hors the ground reality or popularity of content has increased their cost of channels. In all of this, the operating costs of the MSOs are going through the roof as demand for more and more boxes coupled with network repair and maintenance is steadily increasing without the resultant returns. Further with the investments already made for setting up of the head end and infrastructure, this has led to a huge debt burden on the MSOs.

There are various factors at play which has led to this downward trend for the MSO's. This is mainly because of the unrealistic approach of the Broadcasters who have continued to demand more money from us regardless of the ground conditions and this completely de hors the Regulatory Regime in operation whether of Tariff or Quality of Service to the customers. The LCO's on the other hand, despite collecting money from the customers are reluctant to share the same in a fair and just manner with the MSO's without realizing that if the money does not come from the LCO then it would be impossible for the MSO to share the same with the Broadcaster and pay the required taxes.

It is thus important to give details of the investments and the losses suffered by the MSOs for further clarity on what Digitalization has done to the MSOs. As per the available data from MIB and other industry sources approximately 33 Million Set Top Boxes have been seeded by the MSOs in Phase I, II and III as on date. The chart below contains details pertaining to top 3 Pan India MSO's to demonstrate the impact of digitalization on them and the same is even more devastating for the smaller MSO's.

Name of MSO	**Market Capital (01.04.2012) (Rs Cr)**	**Market Capital (11.03.2016) (Rs Cr)**	**Profit & Loss (FY 11-12) (Rs Cr)**	**Profit & Loss (FY 14-15) (Rs Cr)**	**Debt (2011-2012) (Rs Cr)**	**Debt (2014-2015) (Rs Cr)**
SITI	378.6	2,633.5	-82.14	-109.1	300	982
DEN	1,381.1	1,488	14	-144	258	996
Hathway	471.4	3,114.4	-42.21	-174.5	291	1,013
Total			**-110.35**	**-427.6**	**849**	**2,991**

Source: Company Annual Reports, AIDCF research

<u>Moreover, the combined EBITDA margins for the top three MSOs have fallen from 19% to 11% and combined Net Loss has increased from 6% to 11% over the same period.</u>

It is thus clear that the 3 largest MSOs in India are collectively saddled with debts of approximately Rs. 3,000 Crores in the financial year 2014-2015 which during 2011-12 was Rs. 850 Crores. The figures are further disturbing for the financial year 2015-2016 which is yet to close in a month's time. This shows that the ramifications of compulsory requirements and the necessary compliances imposed upon only the MSOs coupled with the present Regulatory regime has led to such a situation wherein MSOs continue to face losses whereas Broadcasters continue to fill up their coffers.

Further, as per TRAI, there are 600 MSOs and 60000 LCOs in India which itself goes to show that directly or indirectly, the MSO sector is providing employment to lakhs of individuals and thus the MSO Sector needs to be protected. Also, the present regime which burdens the MSOs to the maximum without any pressure on the Broadcasters and the LCOs should be done away with.

Except for the installation of the Set Top Boxes and the signals becoming digital, the attitude of the Broadcasters and the LCOs still remains analogue and this has in fact lead to negative competition amongst MSOs to try to keep themselves afloat in the business.

The Consultation Paper issued by TRAI captures various difficulties faced by the MSOs as well as proposes various possible solutions so we will refrain our self from delving further into this.

All India Digital Cable Federation, the apex body of digital MSOs is supportive of the efforts of TRAI to revisit the tariff regime and recognize the criticality of the present exercise for creating a more suitable consumer choice and equal sharing of wealth. However, this revision must be done along with other changes required to make a holistic set of conditions fair for all the stakeholders' viz., the Broadcasters, the MSOs and the LCOs. It is only then, that the efforts of this Government's DIGITAL INDIA would truly be a success.

We would also like to give a round of applause for the authority for coming up with a new and innovative model for Distribution, i.e. The Integrated Distribution Model. This Model, as proposed by TRAI is a novel and groundbreaking initiative, implementation of which will lead to significant reduction in disputes between stakeholders and would also provide significant choice to consumers in terms of content and pricing thereof.

Distribution Network Model

TRAI has appreciated that huge investments have been made by the MSOs for successful implementation of Digitalization and has also noticed that we are entitled to the return on our investment by way of separate revenue for use of our infrastructure and bandwidth. The Federation wholeheartedly supports the authority in its endeavor to implement the Integrated

Distribution Model and therefore out of all the various models described in the Consultation Paper by the TRAI, only the *'Distribution Network Model'*, after making certain changes as suggested below would be suitable.

The aspect of this model, which has to be further worked upon, would be the manner of re-transmission of each MSO and the resultant revenue distribution to each link in distribution chain.

It should be done in such a manner as to ensure that MSOs are not worse off, in view of LCOs being part of the distribution chain, whereas revenue share would not arise in the case of any other DPOs. Also, the Input Costs of the MSOs are comparatively higher than the DTH operators and thus the Distributor Network Model should have a mechanism whereby the applicability has to be different for the MSOs vis-à-vis DTH Operators.

Additionally, for this model to be an overall success, in certain situations where the bandwidth from a "common node" to the end-consumer is that of the LCO, safeguards for both the MSO and the LCO need to be prescribed.

The workability of the 'Distribution Network Model' also needs to be further tested keeping in mind the current market conditions and the same needs to be further examined with facts and figures i.e. between the proposed model (wherein the pricing which the broadcaster(s) are likely to notify and the basis of price at which DPOs would be compensated by way of "basic subscription" for the bandwidth needs to be determined) vis-à-vis (the current prevailing price and also keeping in mind the B-2-B (Business to Business) Model i.e. recovery from LCOs with respect to the MSOs.

The success of the model is also to be seen from the perspective that the investments required by the MSOs are independent of the Broadcaster's requirements/demands. Huge amount of additional investment is still needed in distribution networks to expand reach and upgrade capabilities. The MSOs should also have sources of revenue independent of revenue share from pay channels subscription, to ensure reasonable rate of return on investment in the existing distribution networks and to ramp up further investment. This independent source of revenue could be in the form of monthly "basic subscription" from subscribers depending upon the quantum of bandwidth used and the revenue generated from the pay channels should be termed as the "additional subscription" which would be paid by the consumer and would be disbursed as per the revenue share described below.

In the said Model what needs to be ensured and fixed is the revenue share between MSO and LCO (which should be in the form of additional subscription of a minimum of Rs. 150/- for the Basic Services in a ratio of 70:30 (where 70 is for MSOs and 30 is for LCOs). The Revenue Share so fixed between MSO and LCO should be mandatory and not an indicative revenue share or by way of any fall back options as is the situation prevailing today. The revenue in the form of additional subscription from the pay channels should be distributed in ratio of 40:30:30 (Broadcaster:MSO:LCO).

Moreover, the Broadcaster should necessarily provide all its pay channels on à la carte with rates of each channel prescribed directly to the consumer. There should be no option of bundling or packaging allowed to the Broadcaster either for Pay channels or a combination of Pay and Free to Air.

This will thus lead to a situation wherein the revenue for each pay channel is guaranteed to the Broadcasters as well as the MSOs and would depend entirely on the choice of the consumer which is a key to the success of this Model.

If packaging is allowed, then the Broadcaster would definitely push the non-driver channels with the driver channels for attractive rates to consumers. The same will again restrict the choice of the consumers to choose channels and view the content of their choice. This would thus lead to the current situation where customers would be saddled with unnecessary channels which they would not like to view but have to eventually pay for.

In addition to the above, it is also important that the present mode of collection i.e. LCO collects from the consumers and retains its share and pays to the MSO has to be done away with. In the new regime, there is an urgent need for the consumer to pay directly to the MSO and that has to compulsorily be made pre-paid rather than today's postpaid model where the LCO collects money from the consumer and then after keeping his share, passes the rest to the MSO which in turn is shared with the Broadcasters.

The responses to the various issues raised in the Consultation Paper are as following:

Q1. Which of the price models discussed in consultation paper would be suitable at wholesale level in broadcasting sector and why? You may also suggest a modified/ alternate model with detailed justifications.

Ans. The preferred model is the Integrated Distribution Network Model. Detailed Submissions made hereinabove are reiterated and relied upon. In light of the same, no response is proposed by the Association for the present question.

Q2. Which of the corresponding price models discussed in consultation paper would be suitable at retail level in broadcasting sector and why? You may also suggest a modified/ alternate model with detailed justifications.

Ans. The preferred model is the Integrated Distribution Network Model. Detailed Submissions made hereinabove are reiterated and relied upon. In light of the same, no response is proposed by the Association for the present question.

Q3. How will the transparency and non-discrimination requirements be fulfilled in the suggested pair of models? Explain the methodology of functioning with adequate justification.

Ans. The preferred model is the Integrated Distribution Network Model. Detailed Submissions made hereinabove are reiterated and relied upon. In light of the same, no response is proposed by the Association for the present question.

Q4. How will the consumer's interests like choice of channels and budgeting their expenses would be protected in the suggested pair of models? Give your comments with detailed justifications.

Ans. The preferred model is the Integrated Distribution Network Model. Detailed Submissions made hereinabove are reiterated and relied upon. In light of the same, no response is proposed by the Association for the present question.

Q5. Which of the integrated distribution models discussed in consultation paper would be suitable and why? You may also suggest a modified/ alternate model with detailed justifications.

Ans. Out of the proposed integrated distribution models only the 'Distribution Network Model', after making certain changes would be suitable.

The aspect of this model which has to be further worked upon would be the manner of re-transmission of each DPO and the resultant revenue distribution to each link in distribution chain. It should be done in such a manner as to ensure that MSOs are not worse off, in view of LCOs being part of the distribution chain, where revenue share would not arise in the case of the DTH and IPTV Operators. Also, the Input Costs of the MSOs are comparatively higher than the DTH operators and thus the Distributor Network Model should have a mechanism whereby the applicability has to be different for the MSOs vis-a -vis DTH Operators.

Further, in certain situations where the bandwidth from a "common node" to the end-consumer is that of the LCO, safeguards for both the MSO and the LCO need to be prescribed, for this model to be an overall success.

The workability of the 'Distribution Network Model' also needs to be further tested keeping in mind the current market conditions and the same needs to be further examined with facts and figures i.e. between the proposed model (wherein the pricing which the broadcaster(s) are likely to notify and the basis of price at which DPOs would be compensated by way of "basic subscription" for the bandwidth needs to be determined) vis-à-vis (the current prevailing price and also keeping in mind the B-2-B (Business to Business) Model i.e. recovery from LCOs with respect to the MSOs.

The success of the model is also to be seen from the perspective that the investments required by the DPOs are independent of the Broadcaster's requirements/demands. Huge amount of additional investment is still needed in distribution networks to expand reach and upgrade capabilities. The MSOs should also have sources of revenue independent of revenue share from pay channels subscription, to ensure reasonable rate of return on investment in the existing distribution networks and to ramp up further investment. This independent source of revenue could be in the form of monthly "basic subscription" from subscribers depending upon the quantum of bandwidth used and the revenue generated from the pay channels should be termed as the "additional subscription" which would be paid by the consumer and would be disbursed as per the revenue share described below.

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<u>In addition to the above, it is also important that the present mode of collection i.e. LCO collects from the consumers and retains its share and pays to the MSO has to be done away with. In the new regime, there is an urgent need for the consumer to pay directly to the MSO and that has to</u>

compulsorily be made pre-paid rather than today's postpaid model where the LCO collects money from the consumer and then after keeping his share, passes the rest to the MSO which in turn is shared with the Broadcasters.

Q6. How will the transparency and non-discrimination requirements be fulfilled in the suggested models? Explain the methodology of functioning with adequate justification.

Ans. The response to Q5 and the detailed submissions made above may be read in response to this question. Further, in the 'Distribution Network Model' the "basic subscription" amount as described above to be charged by the MSOs, would be in terms of a formula prescribed or fixed by TRAI. The authority has already proposed a uniform price cap across distribution platforms. Also, once the pay channel broadcaster notifies the channel pricing, the same has to be identical across platforms which shall ensure that there is transparency and non-discrimination. The revenue share of the pay channels between the Broadcasters and the DPOs would ensure effective collection from the consumer and the consumer would also pay only for those channels which it wishes to subscribe to. This will lead to more revenue generation from the ground which can be used towards improvement and/or up gradation of infrastructure therefore leading to better quality services as well as value added services which can be provided to the consumers on reasonable terms.

Q7. How will the consumer's interests like choice of channels and budgeting their expenses would be protected in the suggested integrated distribution models? Give your comments with detailed justifications.

Ans. In the Distribution Network Model, the consumer has the maximum choice thus his interest in terms of choice of channels and budgeting is well taken care off. Further, the rates of channels notified by the Broadcaster are directly to the consumer and hence, the consumer is well aware of the cost of the channel and budgeting can be done on basis of the channels chosen by the consumer.

Q8. Is there a need to identify significant market powers?

Ans. No, not at this stage.

If the suggestions made above for Distribution Network Model are accepted, it would be a new direction for the entire Industry and hence, the impact of the same may first be analysed before attempting to identify significant market powers. We are hopeful that in the new regime, the unequal bargaining power enjoyed by the Major Pay Channel Broadcasters will be reduced and will give rise to a level playing field with respect to the MSOs.

Furthermore, as stated above at the level of the DPOs there is already intense competition with each consumer having a choice between at least 7-8 DPOs. In such a competitive market it is highly unlikely that a DPO will be able to have significant market power.

It is however felt, that at this stage when a new regime is being ushered in, the need to identify significant market powers may be deferred till the effect of the new Regulations is gauged.

Q9. What should be the criteria for classifying an entity as a significant market power? Support your comments with justification.

Ans. Subject to the answer of Q8 above, TRAI may advert to the criteria mentioned by it in the Telecommunication Interconnection (Reference Interconnect Offer) Regulation, 2002 to identify significant market power.

The same however would need to be modified in view of the different market conditions applicable in the Broadcasting Sector. Furthermore, at the time of identifying and setting up a criterion for significant market power, TRAI should ensure that it does not impinge on the power of the Competition Commission of India, which has been setup with a specific purpose of ensuring fair and healthy competition.

Q10. Should there be differential regulatory framework for the significant market power? If yes, what should be such framework and why? How would it regulate the sector?

Ans. In view of the answer given to Q8 above, no separate response is necessary. The issue can be taken up by TRAI at a later date, on identifying if there is a need for the same after implementation of the new Regulations.

Q11. Is there a need to continue with the price freeze prescribed in 2004 and derive the price for digital platforms from analog prices? If not, what should be the basic pricing framework for pricing the channels at wholesale level in digital addressable platforms?

Ans. Yes. After taking into account the genre price cap, placed on each genre as prescribed in Para 4.14.4 read with 4.14.6 of the Consultation Paper and coming up with a suitable mechanism for arriving at channel pricing. At this stage if the price of channels is unfrozen before the genre price caps are finalized, it would lead to an anomalous situation where there would be no factual/ market driven prices available for arriving at such conclusions. As has been noticed in the Consultation Paper, the current market price of pay channels is around 10% of the published RIO rates, which clearly establishes that the rates set by the Broadcasters are exorbitant and de hors the market conditions/ reality.

Further, any increase in price of channels is borne by the consumers. A perusal of the Balance Sheet of most pay channel Broadcasters, shows that they have been making immense profits year on year, and even the Subscription Revenue have gone up tremendously as also observed by TRAI in its consultation paper and therefore it is in consumer interest that till such time as genre price cap is established, the present rates continue.

Q12. Do you feel that list of the Genres proposed in the consultation paper (CP) are adequate and will serve the purpose to decide genre caps for pricing the channels? You may suggest addition/ deletion of genres with justification.

Ans. Yes, however with the addition of Music Channels as a separate genre. Channels which are majorly playing music videos, songs etc. can be categorized separately as at present they are usually falling in the GEC genre, even though the content being shown does not fall in the GEC Category. The creation of a separate GEC Genre, would provide ease of access to the consumers.

Q13. Is there a need to create a common GEC genre for multiple GEC genre using different regional languages such as GEC (Hindi), GEC (English) and GEC (Regional language) etc.? Give your suggestions with justification.

Ans. Yes, for the purposes of determining genre price cap as mentioned in para 4.14.4 and 4.14.6 of the Consultation Paper.

Q14. What should be the measures to ensure that price of the broadcast channels at wholesale level is not distorted by significant market power?

Ans. No response is required in light of the answers to Question No. 7 and 8 above.

Q15. What should be the basis to derive the price cap for each genre?

Ans. The price caps have to be determined keeping in mind the fact that the prices of the channels of the pay Broadcasters at wholesale level to the DPOs are around 10% of the presently notified RIO rates. An appropriate statistical formula has to be applied for determining the maximum and minimum ceiling on the basis of the prevalent wholesale price.

Q16. What percentage of discount should be considered on the average genre RIO prices in the given genre to determine the price cap?

Ans. As mentioned above and as stated by TRAI in the consultation paper, the average cost of channels at wholesale rate are about 10% of the prevalent RIO prices mentioned. Thus, the Price Cap can be ascertained after taking the average of the current RIO Prices in a particular genre and bringing it down closer to the current prevailing rates at Wholesale Level.

Thereafter, the Price Cap can be further discounted by 40% - 50% depending upon the genre to arrive at a realistic price for a channel and the resultant Price Cap.

Q17. What should be the frequency to revisit genre ceilings prescribed by the Authority and why?

Ans. The genre ceilings can be revisited every 2 years depending on the popularity of content amongst the consumers and the demand for the same which can result in an upward or downward revision of the genre cap ceiling.

Q18. What should be the criteria for providing the discounts to DPOs on the notified wholesale prices of the channels and why?

Ans. DPOs should be given volume based discounts, so as to incentivise each DPO to further expand its service areas and give increased competition to incumbent DPOs.

The Broadcaster can be permitted to devise other criterion, which shall form part of its RIO and be applicable for all DPOs on a non-discriminatory basis.

Q19. What would be the maximum percentage of the cumulative discount that can be allowed on aggregated subscription revenue due to the broadcasters from a DPO based on the transparent criteria notified by the broadcasters?

Ans. At present there is no requirement for determining the maximum percentage and the mandate of transparency would automatically address the issue at hand. Further with the proposed implementation of the Distribution Network Model, the pricing of channels would be directly to the consumer and thus the stage of cumulative discounts etc, may not arise.

Q20. What should be parameters for categorization of channels under the "Niche Channel Genre"?

Ans. Only 'Ad Free' and '3D' channels should be considered niche channels. High Definition (HD) channels should be not be considered niche channels as observed in Para 4.18 of the Consultation Paper.

Furthermore, any criteria to identify niche channels on the nature of the content would be very difficult to implement and monitor and would also result in misuse of the 'Niche Channel Genre'.

Any other basis of classification would result in huge and constant regulatory monitoring by TRAI of all such Niche channels.

Q21. Do you agree that niche channels need to be given complete forbearance in fixation of the price of the channel? Give your comments with justification.

Ans. No. Niche channels should not be given complete forbearance in fixation of price. Niche channels can be considered under a separate category for the purposes of the fixation of the genre price cap.

Q22. What should the maximum gestation period permitted for a niche channel and why?

Ans. The maximum gestation period permitted for a Niche Channel should be 12 – 18 months; however, the same should be subject to crossing of 1 million subscriber base.

Once, the channel crosses the 1 million subscriber mark, it should be removed from the niche genre and be considered in the genre as per its content and the price be governed as per the price cap of the genre.

The reasoning for a channel to be categorized as Niche is that it has less viewership and thus can seek higher subscription revenues to offset its low reach.

Once the reach of the channel becomes significant i.e. 1 million subscribers, it would no longer require higher subscription revenues to offset its costs.

It may be mentioned here that the criterion for a Niche Channel has to be objective and not subjective, which would lead to a myriad of problems. The distinction has to be on the basis of the type of content being transmitted and not the nature of the content being retransmitted.

Q23. How misuse in the name of "Niche Channel Genre" can be controlled?

Ans. The criteria mentioned in response to Q22 should help prevent the misuse of the niche channel genre.

Q24. Can a channel under "Niche Channel Genre" continue in perpetuity? If not, what should be the criteria for a niche channel to cease to continue under the "Niche Channel Genre"?

Ans. No. The criteria mentioned in response to Q22 should be applicable to ascertain, whether a channel continues to be a niche channel.

Q25. How should the price of the HD channel be regulated to protect the interest of subscribers?

Ans. The price of HD Channels should be regulated similar to the SD Channels. HD and SD are only display resolutions/ formats and have no linkage to the copyright of the content. Additionally, today most content produced/ licensed by the Broadcasters are shot in HD and no additional cost is incurred by the Broadcaster on account of providing HD Channels.

In fact, there is no reason or justification for pricing HD Content higher at the wholesale level by the Broadcaster. The present regime in which HD Channels are in forbearance is being abused by the Broadcasters to extort the DPOs. Further, it should be mandated upon the broadcaster to compulsorily provide the HD format signals to DPOs for retransmissions, which can thereafter be retransmitted by the DPOs in the HD or SD format depending on the choice of the customer.

This will also allow the customer to choose the viewing format of the channel and thus would not be burdened with paying additionally for the HD Channels and/or be forced to subscribe to the SD Channels.

Q26. Should there be a linkage of HD channel price with its SD format? If so, what should be the formula to link HD format price with SD format price and why?

Ans. Yes. It is reiterated that most content produced/ licensed by the Broadcasters are shot in HD and no additional cost is incurred by the Broadcaster on account of providing HD Channels. In fact, there is no reason or justification for pricing HD content higher at the wholesale level by the Broadcaster.

In the event, the Broadcaster in incurring additional cost due to differential bandwidth price or any other cost incurred by it, the same can be compensated by a corresponding hike in the price of the SD Channel to arrive at the price of the HD Channel.

Q27. Should similar content in different formats (HD and SD) in a given bouquet be pushed to the subscribers? How this issue can be addressed?

Ans. Yes. However, the same should be provided to customers only if the customers are being charged for either the HD or SD Channel and not for both channels.

Q28. Do you agree that separation of FTA and pay channel bouquets will provide more flexibility in selection of channels to subscribers and will be more user friendly? Justify your comments.

Ans. Yes. Under the present Regulatory regime, the DPOs are being forced to bundle pay channels with FTA in view of the fixed fee/ CPS deals being executed with the Broadcasters. Once, the proposed Distribution Network Model is in place, then the offerings of the Broadcasters will be directly to the consumers which will be as per their viewing choices, leading to consumers being in a position to budget their expenses and pay only for their choice of channels, rather than those imposed by the Broadcaster.

Q29. How channel subscription process can be simplified and made user friendly so that subscribers can choose channels and bouquets of their choice easily? Give your suggestions with justification.

Ans. The suggestions made by TRAI in Para 4.20.1 of the Consultation Paper i.e. change of packages using Registered Mobile Number and development of Mobile Apps for selection/ change in bouquet or addition/ removal of channel can be implemented for simplification of the process.

Attempts have to be made by TRAI and all stake holders to educate and inform the consumers/subscribers of the various facilities available so that the consumer does not have to solely depend upon the DPOs.

Q30. How can the activation time be minimized for subscribing to additional channels/bouquets?

Ans. In the event the suggestions made in response to Q29 above are implemented, they would reduce the activation time for subscribing to additional channels/ bouquets.

Q31. Should the carriage fee be regulated? If yes, what should be the basis to regulate carriage fee?

Ans. Under the present Regulatory regime, Carriage Fee is already regulated in view of Regulation 3(10) of the Interconnect Regulations, 2012, which provides for a must-carry obligation on the part of the MSO. In terms of Clause 3(10), the MSO has to give non-discriminatory access to its Network. Even under the present Regulatory System, there have not been complaints made to TRAI or the Hon'ble TDSAT with regard to non-fulfillment of Regulatory obligations, which leads to the conclusion that the present regulatory regime has worked as intended and does not require interference. In continuation to this, also please refer to answer given for question number 42.

Q32. Under what circumstances, carriage fee be permitted and why?

Ans. The answer to Q31 should be read in response to this question also. Carriage Fee can continue on the basis of the must- carry obligation and providing non-discriminatory access to the Network. It is also to be noted, that Carriage Fee is an important source of revenue for the DPO, which helps in compensating for the cost of running and maintaining their Networks. Furthermore, Carriage Fee is also necessary to incentivize the DPOs to upgrade their Networks and increase Channel capacity, otherwise there would be no investment on the part of DPOs to improve infrastructure. In continuation to this, also please refer to answer given for question number 42.

Q33. Is there a need to prescribe cap on maximum carriage fee to be charged by distribution platform operators per channel per subscriber? If so, what should be the "price Cap" and how is it to be calculated?

Ans. No. The answer to Q31 should be read in response to this question also. The provisions regarding non-discriminatory access to the Network of the DPO and the intense competition inter-se DPOs duly takes care of carriage fee charged by the DPOs and hence, there is no need to prescribe maximum carriage fee. In continuation to this, also please refer to answer given for question number 42.

Q34. Should the carriage fee be reduced with increase in the number of subscribers for the TV channel? If so, what should be the criteria and why?

Ans. No. If there is an increase in the number of subscribers of the TV Channel, the TV Channel gets a consequential increase in advertising revenue. It should be noted that the majority of revenue earned by the Broadcasters are on account of Advertising Revenues, which is due to their wide reach on the Networks of the DPOs. The DPOs are not compensated or given a share of the Advertising Revenue earned by a Broadcaster, by virtue of being available and made popular because of the DPOs Network. In continuation to this, also please refer to answer given for question number 42.

Q35. Should the practice of payment of placement and marketing fees amongst stakeholders be brought under the ambit of regulation? If yes, suggest the framework and its workability?

Ans. No. The same should not be Regulated and left to forbearance. In the event, the same is Regulated it would interfere with the rights of the DPOs to package channels as per their choice and the choice of their consumers. It should be noted that the DPOs are better placed to understand and implement consumer choices.

Q36. Is there a need to regulate variant or cloned channels i.e. creation of multiple channels from similar content, to protect consumers' interest? If yes, how should variant channels be defined and regulated?

Ans. Variant Channels should be defined, however, not regulated if the same is provided to customers and are charged for either of the channels and not for both channels.

In the event a DPO/ Broadcaster intends to charge separately for variants of the channels, then there would be a need to Regulate cloned channels including but not limited to giving choice to the customer to choose from either of the cloned channels to better suit its need and budget.

Variant channels can be defined to mean those channels which do not have any original content and is only showing content which has been previously aired on a different channel by the same Broadcaster or is showing the content being run simultaneously on another channel by the same Broadcaster. In case of channels which are showing the same video feed, and audio in different languages, the customers should be charged only for a single language and not multiple languages.

Q37. Can EPG include details of the program of the channels not subscribed by the customer so that customer can take a decision to subscribe such channels?

Ans. Yes. This will promote consumer choice and would be a good step to increase consumer awareness of the various channels available for Subscription.

Q38. Can Electronic Program Guide (EPG) include the preview of channels, say picture in picture (PIP) for channels available on the platform of DPOs but not subscribed by the customers at no additional cost to subscribers? Justify your comments.

Ans. Yes, but this depends on the feasibility of the same on each DPOs Network. It may not be possible for all DPOs to provide such a facility as the systems installed by them may or may not provide such facility/ capacity.

In addition, the same should not be mandated at an additional cost to the DPOs, if the same is not technologically feasible for them, as it would unreasonably burden the DPOs to incur additional expenditure for a service, from which there would no revenue.

The same would also result in use of additional bandwidth of the DPOs and hence, there should be some mechanism wherein the Broadcaster willing to promote its channel should compensate the DPO for the cost incurred by it.

Also, it may be taken into consideration that even in the PIP no audio can be made available to the consumer as the audio of the background channel would be playing.

Q39. Is the option of Pay-per-program viewing by subscribers feasible to implement? If so, should the tariff of such viewing be regulated? Give your comments with justification.

Ans. No. The addition of pay-per-program viewing would lead to increase in the cost of Subscription payable by the end consumers.

In today's scenario, where pay-per-program viewing is not permitted, all content is made available by the Broadcasters to the consumers on their Regular Channels, however, if the same would be permitted the

Broadcasters would then demand additional amounts for the same content, terming it as pay-per-program.

It would lead to the removal of quality content from Regular channels to Pay-per-program and the consumers would then be forced to pay for both, thus increasing their monthly expenses.

Further, for implementation of pay-per-program, MSOs would need to insist on pre-paid/upfront payments i.e. prior to the airing of the Program, and not post-paid payments as is the norm in the Industry today.

Q40. Will there be any additional implementation cost to subscriber for pay-per-view service?

Ans. Yes. The DPOs would have to provide additional bandwidth and network resources, as well as upgrading their present systems to provide pay-per-view service, which cost would have to be borne by the consumer. In any event, carrying of pay-per-view content should not be mandated on the DPOs and be left to their choice.

Q41. Do you agree with the approach suggested in para 5.8.6 for setting up of a central facility? If yes, please suggest detailed guidelines for setting up and operation of such entity. If no, please suggest alternative approach(s) to streamline the process of periodic reporting to broadcasters and audit of DPOs with justification.

Ans. Yes. However, it has to be ensured that the privacy and confidentiality of the data of the DPOs is maintained and not provided to any third party. Further, non-disclosure agreements between the DPO and the Broadcaster need to be mandated.

The central facility should be set-up by a technology company of a high repute or by a government department like the National Informatics Centre. Also, the central facility has to ensure that the data collected by it cannot be tampered with and cannot be accessed by any person other than the authorized individuals.

It also has to be ensured, that each Broadcaster should only be able to access the data relevant to its Channels and not the data pertaining to other Broadcasters.

Strict punishments/Penal provisions have to be mentioned for breach of the non-confidentiality provisions.

Further, in case of disputes regarding the authenticity of the data in the central facility, leading to Audit of the system of the DPOs, the Audit should only be carried out by Agencies Authorized by the TRAI i.e. BECIL. TRAI may notify other agencies like BECIL to carry out such Audits. The Broadcaster should not be permitted to carry out the Audit using its own Audit/

Employees. Furthermore, it should also be mandated that who is to bear the cost of the Audit and can be done on the basis of the correctness of the Reported Numbers.

For example, if the system and reports are found in order, the cost of the Audit should be borne entirely by the Broadcaster and in the event the system/ reports are found wanting, the cost of the Audit be borne by the DPO. Under the present Regulatory Regime, the Broadcasters have been misusing the Audit provisions to harass the DPOs and hence, their power to conduct independent Audits needs to be curtailed and be handed over to Notified Agencies which would conduct Audits in a fair, transparent and timely manner.

Q42. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

Ans. There are 5 issues which have though not been specifically mentioned in the Consultation Paper, but have a direct bearing on the issues raised in the present Consultation Paper. The issues are as under:

1. The MSOs are not given a share in the Advertisement Revenue earned by the Broadcasters.

2. Continuance of existing Carriage Regime.

3. Broadcasters providing content free of cost on OTT/ Internet/ YouTube etc. whereas the DPOs are paying for the same content which is been seen by the end consumers.

4. Exorbitantly high prices of Sports Channels.

5. Mandatory fixation of revenue sharing between MSOs and LCOs and alteration of method of collection from consumers directly to MSOs on compulsory pre-paid model

<u>The DPOs are not given a share in the Advertisement Revenue earned by the Broadcasters.</u>

As has been noted in the Consultation Paper, the Revenue of the Broadcaster is from 2 sources i.e. Advertisement and Subscription (applicable only in the case of pay channel broadcasters), out of which the Revenue from Advertisements is much higher than from Subscription Fee. Furthermore, a Broadcaster gets advertisement revenue depending on number of consumers watching the channel i.e. the TRP Rating of the channel. The number of consumers watching a channel is directly dependent on the availability of the Channel, which is because of its availability on the Network of the DPOs. In the event, a channel is unavailable on all DPOs; it would not earn any Advertisement Revenue as no advertiser would buy airtime on a channel which has no reach.

Thus, the Advertising Revenue earned by a Broadcaster is a result of its availability on the Network of the DPO, for which the DPO is not compensated. In such a scenario, it is necessary and imperative that a framework be worked out, whereby the DPOs are given a share of the Advertising Revenue earned by the Broadcasters for the use of the Networks of the DPO by the Broadcasters.

Continuation of existing Carriage Regime

The Federation requests TRAI to look at the entire industry revenue i.e. consumer subscription and the advertisement revenue. We further request TRAI not to discuss the CARRIAGE revenue in isolation as today carriage has become a taboo topic. It is to be realized and recognized that the current Regulations have led to a situation where MSOs are forced by Broadcasters to carry large bouquets of channels that the end consumer do not want, only with a view to enhance the substantial advertisement revenues for the Pay Channels.

At present, all over the World and in all industries, there is a minimum 8-15% “channel” margin to carry content especially when in today’s case of MSOs, only a small proportion of the end consumer will opt for channels if not in a bouquet. If the content is great, then we should let the consumer pay for it by buying the same and in no case should the MSOs be forced to carry the same.

It is thus imperative that Carriage Charge become mandatory for the Broadcasters to pay to the MSOs as Carriage is a legitimate revenue stream, and the same would be clear from the fact that the broadcasters pay such carriage fees to distribution platforms around the world. It is because of the MSOs that the Broadcasters get reach/access to a large consumer base which they would other-wise not have. This reach allows the broadcasters to generate ratings that then get translated into advertising revenue which is much more than what is paid as carriage to the MSOs. MSOs at present do not get any share of advertising despite being one of the major contributors to creating this advertising revenue.

It is reiterated that under the present Regulatory regime, Carriage Fee is already regulated in view of Regulation 3(10) of the Interconnect Regulations, 2012, which provides for a must-carry obligation on the part of the MSOs. In terms of Clause 3(10), the MSO has to give non-discriminatory access to its Network.

Carriage Fee must continue on the basis of the must- carry obligation and providing non-discriminatory access to the Network. It is also to be noted, that Carriage Fee is an important source of revenue for the MSO, which helps in compensating for the cost of running and maintaining their

Networks. Furthermore, Carriage Fee is also necessary to incentivize the MSOs to upgrade their Networks and increase Channel capacity, otherwise there would be no investment on the part of MSOs to improve infrastructure.

Since the last three years of digitization, carriage has already declined manifold due to market forces and unreasonable restrictions put by the Broadcasters. It should be noted that carriage forms a substantial part of MSOs revenue and the same is now only 40% of the total revenues. A further decrease in carriage will make the already bleeding balance sheet of MSOs worse. Therefore, any knee jerk change to this source of revenue will immediately threaten the very existence of the MSOs and hence the Cable industry as a whole. It is pertinent to mention here that the investments as on date have far exceeded the revenue from subscription due to various factors mentioned above, and if the revenue from Carriage is tinkered with, then each and every MSO will be wiped off the market leaving a void which will definitely lead to regression than progression as proposed by TRAI.

The Federation thus, requests TRAI to ensure that the new distribution network model being a revolutionary model is implemented which can set the industry right. We are also aware that as with any new model, it will take time to become operational and for the revenue from it to come through the system to the various stakeholders. However, in the meanwhile, any threat to the carriage revenue stream will be doubly destabilizing. Hence we reiterate that giving the distribution network model a minimum of three years to settle and to rethink carriage revenues if at all required post such period.

Broadcasters providing content free of cost on OTT/ Internet/ YouTube etc. whereas the DPOs are paying for the same content which is been seen by the end consumers.

In the last 2 years or so, most of the Broadcasters have started their own websites, You Tube Channels, Apps for Mobile Phones etc. which are providing the same content on demand, which is being made available on their pay TV channels to the consumers.

The consumers in view of the same have also started questioning as to why the DPOs are charging for content which is freely available otherwise and that to on demand. In fact, the advertising revenue earned by the Broadcasters through websites, You Tube Channels, Apps for Mobile Phones etc. is minuscule compared to the Advertising Revenue earned by them through Television Advertisements.

Furthermore, even live sporting events are made available on the website, Apps etc. for free, with their being a delay of only 1-2 minutes. It is a highly anomalous situation wherein DPOs are paying for content, which is freely available otherwise.

There is thus a need for TRAI to review the matter at the earliest, and to take the same into account to ascertain whether pay channels should be permitted to make available the same content free of cost on other mediums, or that there should be cross-platform non-discrimination. It is suggested that cross-platform non-discrimination is essential to ensure the orderly and sustained growth of the Broadcasting Sector, failing which consumers shall start migrating to platforms which are providing the same services free of cost.

Exorbitantly high prices of Sports Channels

As far as Sports Channels are concerned, the same are the highest priced channels but are only watched by consumers when some specific sporting event is happening and not otherwise. The consumers do not have an option of subscribing to the channels only for the duration of the event of their choice.

It is therefore proposed that Sports Channels should be treated on a different footing from the Regular Channels under any Genre and their price should be calculated on the basis of the number of days it is actively viewed, rather than the standard practice of monthly subscriber numbers.

Mandatory fixation of revenue sharing between MSOs and LCOs and alteration of method of collection from consumers directly to MSOs on compulsory pre-paid model

TRAI also needs to consider the LCO share wherein there is an urgent need to mandate the share receivable by the LCO and mutual discussions and agreements should be completely done away with. Additionally, TRAI should also make rules and regulations for enforcement of electronic payment and receipts keeping in view the changing trends and the ease of access to consumers of the same. This would lead to better and timely receipt of payments by all parties concerned and over a period of time and with certain corrections would work as a well-oiled machine to ensure smooth functioning of the industry as a whole from the Broadcasters till the end consumer.

Apart from the above it is also important that the present mode of collection i.e. LCO collects from the consumers and retains its share and pays to the MSO has to be done away with. In the new regime, there is an urgent need for the consumer to pay directly to the MSO and that has to compulsorily be made pre-paid rather than postpaid. In the present scenario, the LCO is the ultimate beneficiary of the collection from the ground as they willfully retain the amounts collected from the consumers and do not part with the same to the MSOs which leads to a situation where the MSO and the customer due to the actions of the LCOs suffers disconnection of signals of the channels of the Broadcasters. The Broadcasters are not concerned with the plight of the MSOs and demand their subscription amount come what may (irrespective of collections by the MSOs).

Thus, apart from this, there are further repercussions such as non-implementation of Packaging by the MSOs due to no collection from the LCOs and further losses to Government Exchequer in the form of lesser collection of taxes due to money being wrongly withheld by the LCOs. The below chart clearly establishes the amount collected from the consumers, passed on to the MSOs and the retention by the LCOs with its resultant impact on Service Tax collection.

Cable TV subscribers in 2014 as per the TRAI Consultation Paper	9,93,00,000	Approximately 10 crores
LCOs collection from the ground assuming Rs 200/- per subscriber	Rs. 19,86,00,00,000/-	Approximately Rs. 2000 Crores
MSOs Share in today's scenario	Rs. 5,95,80,00,000/-	Approximately Rs. 600 Crores
LCOs Share (Balance)	Rs. 13,90,20,00,000/-	Approximately Rs. 1400 Crores

With the implementation of the Pre-Paid Model as well as the methods of Electronic Payments, there will be surety of complete collection of revenue from the ground i.e. the money paid by the consumer reaching all tiers of the hierarchy i.e. LCO, MSO and the Broadcaster. Therefore, if the consumer pays to the MSO directly, then apart from a proper electronic trail being formed, each tier in the hierarchy of distribution would get payments in time and the revenue share would thus become payable on time and in a fair and transparent manner. As an example, if the consumer pays the MSO on a pre-paid model for channels subscribed by him, then the MSO would disburse the share of the Broadcasters and the LCOs as well as pay the relevant taxes to the concerned authorities. Thus, if a consumer decides not to pay, he would not get signals of the channels subscribed and resultant subscription payment to the LCOs or the Broadcasters would not be saddled upon the MSOs.

The proposed Integrated Distribution Model has elements that recognize a need to provide a minimum return in the form of "basic subscription" for the infrastructure of the MSOs that is being used apart from the "additional subscription" which will be paid by the consumer at the rates fixed by the Broadcasters directly to the consumer.

AIDCF is very supportive of this model and eager to make it work. The MSOs are also expected to expand Broadband in light of the Digital India initiative which can only happen once the Cable and Broadcasting Sector is fixed with fair returns to MSOs in comparison to the investments already made by them.

In conclusion, we once again express our deepest gratitude to TRAI for taking up such an exhaustive exercise. We request the authority to consider our comments/suggestions and though all the details have been given, if the authority still needs any further clarification, we would be more than willing to do the same upon hearing from you.

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