Date: 11th March, 2016

To,

Mr. S.K. Gupta-Pr. Advisor (B&CS)

Telecom Regulatory Authority of India,

Mahanagar Doorsanchar Bhawan,

Jawahar Lal Nehru Marg,

New Delhi-110002

Dear Sir,

Subject: Comments on Consultation Paper on Tariff Issues related to TV Services dated 29th January 2016

We compliment the Telecom Regulatory Authority of India (TRAI) on issuing a detailed Consultation Paper (CP) which seeks to address various issues confronting the entire value chain of the Television broadcasting and distribution industry (TV industry). TRAI has rightly identified the core issue that forms the basis of all litigation amongst the stakeholders; primarily, current Broadcasters' Tariff for Delivery Platform Operators (DPOs), which is unrealistic and unrelated to the actual situation prevailing in the market. It is a derivation of the analogue regime and is continuing for several years based on Court Orders. This attempt of TRAI to notify a comprehensive Tariff Order in the Digital regime is highly appreciable and augurs well for orderly growth of the TV industry. This will ensure that disputes and litigation are kept to the minimum and **TV industry stakeholders can operate in an environment, which is transparent and non-discriminatory.**

We would like to place on record our views with regard to the current state of affairs of the TV industry (before providing a point by point response to the questions posed in the CP).

1. In most industries (manufacturing or services), the end subscriber pricing is determined by the manufacturer/ service provider. E.g.: Fast Moving Consumer

Goods (FMCG), Telecom, Consumer Durables etc. operate on this model so as to protect the interests of all stakeholders in the value chain. TV industry is the only industry wherein the subscriber price is not determined by the content creator viz., Broadcaster.

2. The CP while seeking to address numerous issues facing various stakeholders in the TV industry value chain, also needs to consider the interest of the Local Cable Operator (LCO) who constitute a critical part of the distribution chain in TV industry. In fact, initially, the industry was built through the efforts of the LCO and hence it is critical to acknowledge their role and address all inter-connection related issues so that transparency and trust can be established across the industry.

3. A unique aspect of the TV industry is that there is no correlation between the subscriber pricing and the manner in which deals are struck between Broadcasters and DPO & DPO and LCO. All these are done independent of each other by each stakeholder depending on their scale of operations and their business requirements, leading to several imbalances within the ecosystem and ultimately impacting subscriber choice.

4. The current definition of DPO should include all delivery platforms that exist currently or will get created in future for both Linear and Non Linear distribution of Content. Currently, the reference to DPO in the CP seems to refer only to DTH, Cable, IPTV and HITS platforms. The Tariff Order should govern all emerging platforms, including Over The Top (OTT), or any such mode of distribution that will emerge with the evolution of technology. Currently, there is disparity in the pricing at which Broadcasters offer content to various DPOs and therefore subscribers of DPOs are discriminated which affect the industry. In fact, the Broadcasters offer content free on their own OTT platform to the subscribers as they are not currently under the ambit of regulation.

5. Vertical integration in the value chain leads to unfair trade practices, impacting independent players and creates discrimination. Due to lack of regulated

transparent uniform pricing, companies under the garb of negotiated fixed fee pass on undue advantages/ favours to their vertically integrated companies creating unfair trade practice putting the independent competitors at a disadvantage. This issue also amplifies the concern raised in point # 4 wherein vertically integrated OTT platforms get undue advantage.

6. Cloning of content by Broadcasters on multiple genre, language channels and formats (HD/ SD) coupled with bundling of content deprives the subscriber of choice; in the absence of choice with the subscriber, the subscriber unfortunately pays several fold for the same content.

7. The Cable industry is also plagued with the unique problem related to payment collection. The prevailing practice is not scientific, devoid of processes and systems, which leaves not only the stakeholders but the subscribers in a state of confusion. The current state of affairs is so dismal that the subscribers do not get their monthly bill and end up paying inequitable rates across markets. Currently, the power to decide the subscriber pricing/credit period/content offering/discounts and offers etc. ultimately lies in the hands of thousands of last mile cable operators spread across various geographies, leading to lack of uniform offerings, pricing and thereby leaving the subscriber without his/her ability to limit the spend within his/her monthly budget.

   Another unique aspect of the Cable industry in its current form is that the Multi System Operator (MSO) is constrained to switch off the signals of all the subscribers of the LCO (after providing notice as mandated in law) upon non-payment of dues by the LCO to MSO regardless of whether the subscriber has effected the payment to LCO or not. This inconveniences the subscriber immensely. The DTH subscribers do not face this problem since they have access to directly pay using technology driven solutions.

   Taking a cue from Telecom and DTH, which also caters to large subscriber base, where the subscriber is able to experience hassle free and uninterrupted services at a transparent and non-discriminatory rate, Cable industry should adopt technology driven payment mechanism to ensure comparable services.

Given the above, it is imperative that the regulation mandates a payment mechanism, which ensures transparency in billing and collection at the end user level besides making the process robust enough for each stakeholder to get their fair share without any discrimination.

In our view, **"Prepaid Payment Mechanism"** appears to be the only solution to ensure that the cable subscriber can enjoy uninterrupted services akin to those provided by other DPOs like DTH.

8. Post digitization, in spite of the increase in bandwidth, carriage continued for several reasons like choice of a particular Logical Channel Number (LCN), need for the channel to remain in a particular pack so as to optimize the reach and remain in preferable slots in the neighborhood of the leading channels to enhance "**Opportunity To See**". All these factors have a direct correlation with the advertisement (AD) revenue earned by the Broadcasters. Due to the bandwidth constraints during analogue regime, the Broadcasters paid carriage to be on the prime band/colour band; they now pay placement/marketing fees to ensure channel placements in particular LCN/packs to increase their viewership and ultimately increase their AD revenue. Even the Broadcasters have a differential pricing for AD revenue depending on time slots/day parts/week day/weekends/events etc. Similarly, there is justification for DPOs to charge placement fee for preferential LCN.

   Further, the capacity created by all MSOs does not exceed 500 channels. The number of licensed channels is close to 900. This discrepancy has resulted in strong case for the continuation of carriage regime even in a digital era. Even in a scenario where a subscriber will be able to choose and pay for what he choose, the DPO will be constrained to create capacity to carry all the channels to make its product offering attractive. Such capacity expansion entails significant cost (both one time and recurring) and hence carriage is the only means to recover the same. In the absence of carriage, healthy competition within the Cable industry will cease to exist as MSOs, will not be able to accommodate lesser viewed channels and new entrants. In the current scenario where capacity is limited and there are numerous DPOs each DPO may end up carrying only compelling content creating a strong entry barrier for newer entrants.

Carriage constitutes 40% of the revenues of the MSOs post digitization, which is the second largest revenue component after subscription. Despite earning carriage income, the losses and capital employed (Equity and Debt) of MSOs have been mounting post digitization on account of the following factors:

1) Subsidy on Set Top Box;
2) Disproportionate increase in content cost;
3) Reduction in carriage income;
4) Increase in bandwidth cost;
5) Investment in subscriber management system and conditional access system;
6) Investment in technology up gradation and creation of infrastructure.

The subscription of MSOs was expected to grow significantly to offset the above factors. However, in reality, the subscription revenue has remained below expectation leading to severe stress on the financials. To substantiate this point, please refer the key data points from the consolidated financial statements of Hathway Cabel & Datacom Limited below:

Amount (in Rs. Crores)	**Year ended March 2011**	**Year ended March 2015**	**Change**
Profit/(Loss) after tax *	(27)	(175)	(148)
Equity	1343	2043	700
Loans/Debt (short term and long term)	341	1245	904

**Between March 2011 to March 2015, we have incurred a cumulative loss of Rs. 320 crores.*

***Numbers have been rounded off to nearest rupee in crores.*

In our opinion, the situation will be no different for other MSOs as well.

Just to reiterate, the above situation is despite MSOs earning carriage income. Hence any attempt on regulating carriage will seriously further impact the MSO's financial health.

The concept of carriage and placement is not unique to the TV industry. Even in FMCG and consumer durable industry, a slotting fee is paid by the manufacturer to the retailer to ensure preferential visibility of products.

It is estimated that the Broadcasters' earnings from AD revenue would be Rs. 22,620 crores during F.Y. 17. (Source: FICCI KPMG report) and the DPOs play a significant role in showcasing the content to their subscribers. However, there is no sharing of AD revenue by Broadcasters with the DPOs.

In the light of the above discussion, our recommendation is that the concept of regulation of carriage should be discussed after a minimum period 3 years post implementation of the new Tariff Order and Prepaid Payment Mechanism for us to assess the impact on our overall income. Even currently, all Broadcasters (for FTA channels) pay carriage to Prasar Bharti for being carried on the Free Dish platform.

Further, it is important that both wholesale and retail prices be governed in a unified manner and not in isolation. Absence of linkage between the two is at the heart of most issues, which adversely affect the TV industry.

For each of the observations above, we have done an in-depth analysis/ discussion and we have come to the consensus that the ***"Integrated Distribution Network" model (with minor modifications) appears to be the best suited,*** keeping in mind that it meets the following objectives:

1. Subscriber choice of content;
2. Payment by subscriber only for his/her chosen content;
3. Elimination of litigation amongst stakeholders;
4. Transparency and simplified tariff structure;
5. Prevent significant markets powers taking shape;
6. Attract investments and foster innovation.

The above objectives can be best met only if ***packaging is the sole prerogative of the subscriber***.

Further, for the successful universal implementation of the Tariff Order in letter and spirit, it is critical that as soon as the new Tariff Order becomes effective, all DPOs agreements must migrate in line with the new Tariff Order simultaneously so as to prevent discrimination amongst subscribers of different DPOs.

Furthermore, the DPO industry, especially Cable TV, is operating in an extremely challenging environment due to the ever-increasing burden of unviable content costs coupled with limited control over LCO pricing. DPOs are saddled with huge accumulated losses in addition to depletion of capital employed, to the tune of several thousands crores of rupees and are clutching onto the hope that regulatory intervention is the only way forward. The CP is a timely exercise and we are confident that the woes faced by the industry will be addressed.

For Hathway Cable and Datacom Limited

Ajay Singh
Head Legal, Company Secretary and Chief Compliance Officer

HATHWAY'S RESPONSE ON THE ISSUES FOR CONSULTATION

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.***

We are of the firm view that if we were to separately consider wholesale pricing without relating it to retail pricing, then the objective which the CP seeks to address in the Tariff order will be defeated.

Hence, the Tariff Order should consider only an integrated approach whereby the Subscriber interest will be protected.

We have furnished detailed reasoning under the respective questions below.

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.***

Both the retail models recommended do not address the fundamental intended outcome of the tariff in the CP.

1) **Price forbearance model:**
    a. Current issues like lack of transparency, discrimination and favoritism will flourish unchecked if there is forbearance.

2) **Exclusive A-La-Carte model:**
    a. MRP is a function of the cost incurred by the Broadcaster to create a channel, and the popularity of the channel which will determine the demand-supply dynamics;

b. The ability of regulator to determine the MRP for every channel is practically impossible given the issue enumerated as in (a).

Given the above, ***we are of the opinion that if the interests of the entire value chain are to be safeguarded, then the regulation should govern the tariff on an end-to-end basis.*** Segregation of wholesale and retail pricing does not serve the purpose. ***We recommend that the model should be the integrated model, which would be all encompassing taking into account the interest of all stakeholders i.e. from Broadcaster to DPO to LCO (Cable TV) to Subscribers.***

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.***

In any pair of the suggested wholesale and retail pricing models, the problems relating to lack of transparency and non-discrimination is not addressed.

At a wholesale level, while regulated RIO model appears to be a viable one, the issues that exist in the present framework will continue (viz.)

1. Ability of dominant broadcaster to offer weak channel along with popular channel as a bouquet;

2. Ability of DPOs to push unwanted channel to subscribers in view of Point # 1 above will deprive subscribers the option to exercise choice and satisfy his/her viewing preferences within a reasonable price.

Hence an integrated model wherein pay channels are offered on an a-la-carte basis only, by the Broadcaster to subscriber through DPO, is the solution that addresses all the ills plaguing the TV industry. Since Broadcaster is the creator of content, they should have the right to determine the MRP, subject to a regulatory cap so that dominant channels are not overpriced and interest of all stakeholders are protected.

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

As explained above, in order to provide subscribers with choice of channels and to limit viewing within their budgets, the only feasible model is one, which is integrated, and the pay channels are offered on an a-la-carte basis only. However, regulatory intervention will be required to cap the genre wise pricing so that the pricing power of any Broadcaster is not abused.

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.***

There are 3 models recommended in the consultation paper:

1) Conventional "MRP" Model:

a. Current situation of lack of transparency and differentiation between Broadcasters and DPOs will continue to exist in the current model;

b. Subscriber may have to subscribe for unwanted channels due to the push from the Broadcasters and also pay higher price for driver channels.

2) Flexible "MRP" Model:

a. Price discrimination from Broadcaster to DPO will continue to exist;

b. Subscriber may have to subscribe for unwanted channels due to the push from the Broadcasters and also pay higher price for driver channels.

3) Modified Distribution Network Model:

a. This model is suited in the best interests of the entire value chain;

b. This model will ensure transparency, non-discrimination and level playing field between and within stakeholders;

c. Subscriber has the full freedom to choose the channels and pay accordingly;

d. This model ensures fair pricing such that pricing power lies with Broadcasters with the price caps being decided by TRAI;

e. DPOs' interests are also protected as they will be able to charge rentals, which will provide fair and reasonable returns on their investments (both upfront capital investments + Recurring operating costs) to deliver the signals to the subscribers. In this regard we propose the following revenue model :

   i. Rs. 150+ tax per Set Top Box (STB) to be charged by DPO as minimum delivery charges for up to 100 FTA channels;

   ii. For every block of 10 additional channels (FTA/ Pay), subscribers has to pay additional charges of Rs. 10 + tax per block;

   iii. Rental charges mentioned in i. and ii. above to be shared between DPO and LCO in the ratio of 70:30 (DPO: LCO).

f. Pricing of Pay channels:

   i. Broadcaster to announce the "MRP" subject to genre-wise cap specified by the TRAI. MRP may differ from state to state subject to taxes being levied in each state. The content being produced by the Broadcasters are monopolistic in nature and hence creates significant market power. Hence, there is a need for regulatory intervention to cap genre-wise pricing of channels;

   ii. The commission payable by the Broadcasters to all DPOs should be non-discriminatory and uniform and should be published on the website of the TRAI;

   iii. Broadcaster should not be allowed to create their own bouquets as they tend to push the non-driver, non-popular channels by keeping a-la-carte rate of driver channels at a higher price and heavily discounting the bouquet price:

- It is possible that pay Broadcasters may create various bouquets in a way that each bouquet has only one driver channel and multiple less relevant channels which may compel the subscriber to take multiple bouquets at the respective bouquet rate instead of taking only the driver channel at the a-la-carte rate;

- Integrated Distribution Model without packaging / bouquets for pay Broadcasters may lead to a situation wherein the Broadcasters may offer the non-driver content as a FTA and only driver content will remain pay thereby benefiting the subscriber immensely;

- THE twin conditions is not enough protection to the subscriber as it encourages bouquets instead of a-la-carte choice and there is scope for Broadcasters to continue to over price the a-la-carte rate of their driver channel to ensure adoption of the whole bouquet (including weaker channels) by subscribers;

- Packaging should be the sole prerogative of the subscribers;

- Packaging / Bouquet of Pay Broadcaster is anti- subscriber and only in favour of Broadcasters.

iv. No DPO should be permitted to make any form of packaging for any vested or self-interest with regard to pay channels. If packaging is allowed for pay channels, the subscriber is being compelled to pay for channels which he/she does not wish to watch.

v. If no bouquet and packaging is allowed by PAY Broadcasters then the fear of circumventing the regulation, in the garb of marketing fees or packaging fees will not exist thereby ensuring parity and non-discrimination, leading to healthy business practices and reduced litigation.

vi. Broadcaster should not offer any hidden discount or enter into any mutual private contracts to avoid litigation.

Hence, we recommend the 3rd model (Distribution Network Model) with minor modification (viz.)

- ✓ Pay Channels should be offered only on a a-la-carte basis by Broadcaster to subscriber through DPO;
- ✓ Free To Air (FTA) channels should be allowed to be bundled and packaged in order for the DPO to earn his basic return on the CAPEX invested so far.

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

Answered in Question No. 5.

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

Since the entire pay channel offerings would be on a-la-carte basis with a genre-wise price cap regulated by the TRAI, the subscriber would be able to select channels as per his preference and accordingly budget his expenses towards the same.

It is important here to mention that the whole premise of this model requires the Broadcasters to disclose the a-la-carte rates transparently on their website. The commission offered to all DPOs need to be transparently disclosed to the TRAI.

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

As suggested above in answer to Q5 (Point f), if this model is followed in its letter and spirit, we believe that there won't be any need to identify significant market powers.

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

Not required in view of answer to Q5 (Point f).

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

Not required in view of answer to Q5 (Point f).

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?***

The genesis of the problems faced by the TV industry stems from the arbitrary unrealistic prices which were notified by Broadcasters during the analog regime. The wholesale pricing of a channel in the Integrated Distribution Network Model is not required at all since the entire value chain will work on the Distribution commission model whereby every stakeholder in the value chain will be paid commission on a predetermined uniform rate.

The a-la-carte rate payable by the subscriber would be decided by Broadcasters which will be in compliance with the regulated genre wise caps as decided by TRAI.

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.***

We are fine with the proposed genre proposed in the consultation paper.

However, we have the following observations to make:

1) Currently, it is observed that Broadcasters are pushing content belonging to a particular genre to another genre. E.g.: Sports content is being broadcasted on GEC/Movies genre channels, which is not in the best interest of the subscriber. Also, GEC content is aired on News channels;

2) There has to be complete clarity regarding the definition of a genre and interchangeability of a channel between genres.

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.***

There should be 3 categories of GEC for price cap purposes:

1. English GEC;
2. Hindi GEC;
3. Regional GEC.

There is a need to differentiate multiple GEC genres since the consumption of the genres differ from region to region. E.g.: The consumption of GEC Kannada channels is more in Karnataka as compared to Hindi GEC.

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

Our recommendation is the Integrated Distribution Network model. Hence there is no need for Broadcasters to notify wholesale prices. Broadcasters will notify MRP for each channel and distribution commission will also be settled in a transparent manner and will be same for all DPOs. MRPs may differ from state to state subject to taxes being levied in each state. Considering that the DPOs have to make further payout to the LCOs and assume the credit risk, Broadcaster has to pay 60% of the MRP net of taxes to the DPOs, which would be shared equally between DPOs and LCOs.

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

There must be an inverse correlation between the popularity of a channel/ genre and it's pricing.

The rationale is as follows:

1. The cost of content and cost of delivery does not vary based on how many subscribers subscribe to the content regardless of the number of means to deliver the same. (Platforms such as Theatre, TV, OTT, DTH, IPTV, HITS etc.);

2. Content can be monetized via Ad sales and subscription – higher the reach, greater the Advertisement revenue; benefit of large reach of content should accrue to the subscriber;

3. If consumption is higher, lower should be the genre cap. E.g.: Hindi GEC

channels reach out to a large number of subscribers and hence the genre cap should be lower;

4. Special interest channels like Fashion, Sports should have a higher price cap as it will be consistently viewed only by a lesser number of subscribers when compared to Hindi GEC channels.

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

Any abnormality on higher side must be ignored to arrive at the cap for a particular genre.

E.g. In the Hindi GEC Genre, the current a-la-carte price of the No. 4 rated channel is higher than the No. 1 rated channel (based on last months ratings)

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

The frequency to revisit genre ceilings should be once in a year because frequent changes in subscriber pricing is not advisable.

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

Since wholesale price discounting is not applicable in the suggested Integrated Distribution Network Model, there is no need for ascertaining any criteria for providing discounts to DPOs.

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?

Since wholesale price discounting is not applicable in the suggested Integrated Distribution Network Model, there is no need for maximum percentage of cumulative discount to be allowed on aggregated subscription revenue.

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

We are in sync with the parameters defined in the CP.

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.***

Yes, the price forbearance should continue since it has got a limited and defined viewership with a specific targeted segment.

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

Maximum gestation period for a niche channel should be the time period to scale up to 10% of the Universe of a particular State or 2 years whichever is earlier.

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

To avoid the misuse in the name of Niche Channel Genre, it should have a limited audience (up to 10% of the Universe) and should not have same and/or similar content in any existing 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"?

As soon as it loses any of its eligibility criteria mentioned in answer to Q 22, it should cease to continue under the Niche Channel Genre.

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

There should be a genre wise cap on similar lines as in the case of SD channels to protect the interest of subscribers.

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?***

Since technology is evolving and content is being increasingly produced in HD format only, there should be no difference between HD and SD channel.

We strongly urge that HD channel cannot be treated as Niche channel if it is providing same content as SD channel with advertisements.

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?***

In the Integrated Distribution Network Model, since the pay channels are offered on a-la-carte basis to the subscriber, subscriber can take an informed decision on whether to choose SD or HD channels. Hence, there is no regulatory intervention needed.

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.***

Yes, we 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 because in the Integrated Distribution Network Model, the subscriber will be able to choose for the channels, which he/she wishes to pay/watch.

The segregation between FTA and Pay channels is relevant because Pay channels will be offered on a-la-carte basis and FTA will be offered as a lot of 100 channels from a content point of view. FTA ensures a minimum robust fare of content to the subscriber.

This will also assist DPOs to develop a viable business model which is independent of the Pay channel subscriptions.

Due to the immense diversity in languages and cultures in India, categorization of FTA channels separately will enable subscribers to view FTA channels as a basic service and further choose add-on pay channels which are suited to their individual budget, regional languages and cultural preferences.

Further categorization of FTA channels will facilitate distribution of the channels of Doordarshan as mandated by the I&B Ministry.

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.***

Though pay channels will be offered to subscribers on a-la-carte basis, with a view to simplify and make the selection process user friendly, the subscriber should give a list of his/her requirements well in advance to ensure the same.

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

DPOs should be made responsible to develop systems and processes to establish Subscriber Management Systems, which provide prompt services to subscribers. For example, subscribers should be provided with access to a web portal and/or mobile application, which will empower a subscriber to activate/deactivate a channel within a reasonable period of 5 minutes of requisition based on his or her preference.

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

The carriage fee should not be regulated. It is estimated that annual TV AD revenues in India in F.Y. 17 would be Rs 22,620 crores (Source: FICCI KPMG report). The financial statements of all publicly listed Broadcasters also indicate healthy growth in advertising revenues. It is an accepted fact that the reach and distribution provided by DPOs is a significant contributor to burgeoning advertising revenues of Broadcasters. Hence carriage fees should be a subject matter of mutual negotiation between the DPO and the Broadcaster.

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

To the extent of carriage being paid to DPOs, the subscriber is getting a subsidy in pricing and ultimately subscriber is being benefitted. At present, DPOs earn a significant share of their revenues from carriage; so any changes to this in the short term would make the business unviable for the DPO. Until new model and economics are established (which would take 3 years at-least) regulator should not consider regulation of this revenue stream.

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?***

It is difficult to arrive at what cost/cap should be considered for regulating carriage as several factors go into determining the carriage fee namely:

a) Genre of the channel;
b) Market in which the Broadcaster wants to promote the channel;
c) Viewership rating of the channel vis-à-vis competition;
d) Broadcasters assessment of the viewer profiles of the DPOs (E.g. A teleshopping network may choose a particular DPO if they perceive better potential to reach their target subscriber);
e) Cost incurred by the DPO to deliver the signal to the subscriber which may vary from network to network.

Under such circumstances it is practically difficult to regulate the carriage.

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?***

Carriage fee should not be regulated as explained in our response to question nos. 31, 32 and 33.

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?***

No. The practice of payment of placement and marketing fees amongst stakeholders should not be brought under the ambit of regulation as explained in our response to question nos. 31, 32 and 33 in the context of carriage and same should be the subject matter of mutual negotiation between the DPO and the Broadcaster since it is a B2B transaction.

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?***

In the Integrated Distribution Network Model, since the pay channels are offered on a-la-carte basis to the subscriber, subscriber can take an informed decision on whether to choose variant/cloned channels. Hence, there is no regulatory intervention needed. E.g.: If the same cricket live event is offered on multiple channels in multiple languages, subscriber will choose the preferred language channel.

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

Yes, this will improve the ARPUs of the value chain and also give choice to the subscriber to make an informed decision.

However, the DPO will have to incur certain captive cost on EPG, frequency towards such channel not chosen by the subscriber.

Hence, the broadcaster should pay listing fees for such channels in order to share some of the cost burden to be incurred by DPOs towards this service (namely Display of EPG for the channel not chosen by the subscriber).

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 subscribers at no additional cost to subscribers? Justify your comments.***

Yes, the Electronic Program Guide (EPG) can include the preview of channels, say picture in picture (PIP) for channels available on the platform of DPOs but not subscribed by the subscribers at no additional cost to subscribers.

However, the DPO will have to incur certain captive cost on EPG, frequency towards such channel not chosen by the subscriber.

Hence, the broadcaster should pay listing fees for such channels in order to share some of the cost burden to be incurred by DPO's towards this service (namely Display of EPG for the channel not chosen by the subscriber.

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.***

Yes, it is feasible to implement.

Since currently there is no choice with the subscriber to pay and watch only for a particular event (Sports/Entertainment), he/she is compelled to subscribe to a single/multiple channel on which the event is telecast.

In the interest of subscriber, we strongly recommend that Pay Per View should be made compulsory/mandatory especially for the event based Broadcasters.

In addition, the pay per view cost should be significantly less than the monthly a-la-carte cost of the channel broadcasting the event. Currently, Broadcasters resort to splitting an event and airing the same series on multiple channels thereby compelling the subscribers to subscribe to multiple channels. E.g. various matches of EPL/Cricket World Cup are shown on multiple channels.

Pay Per View will be limited to a few popular events hence pricing of such services can be left to market forces. Even if Pay Per View does not become a reality, the problem highlighted above requires regulatory intervention in the best interests of the subscribers.

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

There will be some additional implementation cost at the back-end (related to subscriber service and technical infra-structure) and the Broadcaster accordingly should share the cost of implementing the same.

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.***

In the current scenario where the Broadcasters define the scope and appoint its own auditors, numerous disputes and litigations arise between the DPOs and the Broadcasters.

We recommend appointing a Govt. certified Audit body (E.g. BECIL) whose findings will be acceptable to all stakeholders on the lines of Audit Bureau of Circulation for Print publications.

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

1) For any model to succeed, a regulatory intervention is required to prevent migration of LCO from one MSO to another and the following ground rules should be incorporated in the regulations:

    a) Subscriber approval: Given the fact that a pack chosen by the subscriber cannot be changed for a minimum period of 6 months and the fact that the packaging of various MSOs is different, subscriber consent is essential;

    b) Clearance of dues and issuance of No Objection Certificate (NOC) from current DPO;

c) Return of all assets including STBs issued other than sale to subscriber;

A centrally controlled process should be incorporated in the regulation whereby a NOC is given by the erstwhile MSO prior to migration of the LCO to the new MSO.

2) The regulation should define a fixed revenue share (say 70:30 between the MSO and the LCO) rather than defining a cap on the ratio;

3) Need to include OTT players within the ambit of DPO definition;

4) Consideration of LCO as a part of the DPO value chain;

5) Regulation to curb vertical integration;

6) As per the current TRAI regulations, a DPO cannot change its package offering for a period of 6 months from the date of subscription of the package by the subscriber which is not applicable from Broadcaster to DPO. Hence, currently it is a challenging situation for DPOs who are prohibited from revising subscriber prices whenever Broadcasters increase their costs. This point has to be viewed regardless of the pricing model that will be finalized in the Tariff Order.