

**Comments of DEN Networks Limited on issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems.**

***Carriage fee***

(1) Whether the following proviso should be introduced in the clause 3(2) of the interconnection regulations for DAS and the clause 3(5) of interconnection Regulation for DAS should be deleted.

“provided that the provisions of this sub-regulation shall not apply in the case of a multi-system operator, who seeks signals of a particular TV channel from a broadcaster, while at the same time demanding carriage fee for carrying that channel on its distribution platform.”.

(2) If no, the reasons thereof.

**DEN:-** No, The Judgment of Hon'ble TDSAT in Appeal 5(C) of 2012 is very clear and any stipulation of such condition shall be violative of the said judgment.

More Over the rational given by the Authority is non-existence as the carriage fee is totally depend on the Broadcaster's wish if it wants its channel to be carried. There is no such stipulation for other existing Addressable System then why the authority is contemplating to put this for Multi System operators only?

MSO's are in the business of serving customers, therefore MSOs will give channels as per the wish of the customers and if customer will not get as per his choice then he will move to other alternate platforms and therefore to retain its base the MSOs will serve the customers as per their choice. It is best to leave carriage fees to market forces.

In mature markets, cost of access for the MSO's come in the form of revenue share or sharing of some of the advertisement time to MSO's to recover some cost. These models work to provide the cost of access to platform operators.

The market will evolve over a period of time as other mature markets have and will find its own model. Therefore by that time there should not be any regulation on Placement/Carriage Fee.

Regulation of carriage fee in the present circumstances is very difficult as it also implies regulation of positioning of channels. Our Country has diversified culture, language, choice etc. and there are different viewership patterns. The capacities of cable networks also have to be considered. Therefore any such regulation would lead to multiplicity of disputes. Even Public Broadcaster is charging carriage fee which receives grant from the Government and we do not get any such grant and regulating carriage fee also infringes the commercial bargaining power.

***Minimum Channel Carrying Capacity of 500 Channels for MSOs***

(3) Whether there is a need to specify certain minimum channel carrying capacity for the MSOs in the interconnection regulations for DAS.

(4) If yes, what should be the different categories (example cities/town/rural area) of areas for which minimum channel carrying capacity should be prescribed and what would the capacity for each category.

**DEN:-** It is submitted that number of channels to be provided ought be left to market forces as there is enough competition in the market.

No MSO should be required to carry channels unless there is a market demand or an opportunity making economic sense. Infact, a study conducted by CMS on behalf of TRAI has shows that the number of channels usually watched at the household level varies from city to city and it ranges between 7 and 15 channels per city and further that only 25% households were willing to pay more for better services through digitalization. Therefore, specifying certain minimum channel carrying capacity in the DAS system is clearly a case of non-application of mind with the objective of enriching the Broadcasters who do not

have a viable subscription model and the said unreasonable mandate of certain minimum channel carrying capacity will only help the broadcasters to develop their advertising model.

To cater the local taste Cable Operator/MSO also has local channels therefore any mandate of minimum channel carrying capacity will not be in consumer interest. There is no prohibition to Broadcasters for migrating from MPEG 2 to MPEG 4 and MSOs are forced to bear the cost as MSOs has to invest further for converting MPEG 4 into MPEG 2 as the Set Top Boxes installed are capable of only displaying MPEG 2 signals then why to prescribe minimum channel carrying capacity for MSOs.

Also there is a much higher Infrastructure cost attached to expansion on every single channel. Further it will not be possible for the MSO's to shift the Headend to a new location in the given time frame, if the existing place does not have room for expansion.

National MSO will have more than 20 digital control rooms and to add each channel, huge investments are needed in backend, running into Crores. So MSO can't be forced to do it without any business model.

### ***Placement Fee***

(5) Whether there is a need for regulating the placement fee in all the Digital Addressable Systems. If so, how it should be regulated. The stakeholders are requested to submit their comments with justifications.

**DEN:-** NO Regulation on Placement Fee. Regulating Placement Fee in all the Digital Addressable System will only help one stake holder, Broadcaster and is detriment to other stakeholders i.e. MSOs, DTH Players and Subscribers. An MSO has to make large investments in its network to create the infrastructure

to carry channels. Placement/Carriage functions as an access charge to channels that want to use that infrastructure. Without Placement/carriage, there is no justification for the MSO to make any investments.

Cable distribution is a highly competitive industry where a cable operator is competing with 7 large and well funded DTH companies for the same subscribers. In the interest of keeping a subscriber, a cable platform will be forced to offer what the competition is offering. He cannot afford to be arbitrary in selecting which channels to show for fear of losing that subscriber. Hence, market forces alone ensure that the consumer is not denied what channels he or she wants to receive.

MSO's are making huge investment in creating digital access. The cost of access has to be borne by either the broadcasters or the consumers. In a low ARPU country like India, it is important that consumer prices don't go up. The pricing of pay channels even at 42% (approx 400) don't provide any business model on a ARPU of Rs 160. In mature markets, cost of access for the MSO's come in the form of revenue share or sharing of some of the advertisement time to MSO's to recover some cost. These models work to provide the cost of access to platform operators. The market will evolve over a period of time as other mature markets have and will find its own model. Therefore by that time there should not be any regulation on Placement/Carriage Fee.

**B. Issues related to amendments to the Tariff Order applicable for Addressable Systems.**

***Twin conditions at retail level***

(6) The stakeholders are requested offer their comments on the following twin conditions, to prevent perverse a-la-carte pricing of the pay channels being offered as part of the bouquet(s).

“ a. The ceiling on the a-la-carte rates of pay channels forming part of bouquet(s) which shall not exceed three times the ascribed value# of the pay channel in the bouquet;

b. The a-la-carte rates of pay channels forming part of bouquet(s) shall not exceed two times the a-la carte rate of the channel offered by the broadcaster at wholesale rates for addressable systems.

#**ascribed value** of a pay channels in a bouquet is calculated in the following manner:

1. Proportionate Bouquet Rate for pay channels [A]=

Bouquet Rate x (Sum of a la carte rate of Pay channels)/(Sum of a la carte rate of Pay channels+ Total no of FTA channels x factor\*)

2. Ascribed value of a pay channel in a bouquet = [A] x a-la-carte rate of a pay channel/ (sum of a-la-carte rate of all the pay channels)

\*factor=1 if uniform rate of free-to-air channel is less than or equal to Rupees three. The factor = uniform rate of free-to-air channel/ 3, if the uniform rate of free-to- air channel is greater than Rupees three.”

**DEN** :- This restriction has made the business of MSO unviable and this restriction will lead to elimination of MSO from the business and other players will take over the business of MSO if this restriction is not removed.

The pricing of the channels have never been determined by any Authority and therefore firstly channel pricing is to be corrected as it relates only to the pricing prevalent earlier in the name of Under Declaration. The TRAI has taken a benchmark of the analogue channel price which is already at very higher side and therefore the Authority should determine the actual price of the channel at whole sale level and this correction is needed for the benefit of consumers. The pricing of channel has emerged from the self assessment of price by the Broadcasters and therefore it has to be corrected first.

The DTH operator has no intermediary therefore it can do so but in case of Digital Addressable Cable System MSO's have to share its revenue with LCOs and if MSO follows this twin condition then it would be detrimental to subscriber as MSOs will not be able to form cheaper bouquets for the subscribers.

Therefore this twin condition should be removed completely.

***Minimum Subscription Period***

(7) The stakeholders are requested to offer the comments, if any, on the proposed deletion of the word „pay“ in clause 6 and 6(2) of the principal tariff order dated 21.07.2010.

**DEN:-** the word 'pay' should be deleted.

***Freedom to choose the channel(s) on a-la-carte and/or bouquet(s)***

(8) The stakeholders are requested to offer their comments, if any, on the proposed inclusion of the following provision after sub-clause 6(4) in the tariff order dated 21.07.2010, as amended.

“It shall be open to the subscriber of the addressable systems to subscribe to one or more pay channel or only free to air channels or only pay channels or pay channels and free to air channels.”

**DEN:-** While as per clause 6(1) both multi-system operator and DTH operators have to offer all channels to their subscribers on a-la-carte basis, but as per Clause 6 (1A) it is only the MSO in whose case the Subscriber can choose any combination of free to air channels up to one hundred channels, which is not so in the case of the DTH Operator. It is a clear case of discrimination and non-level playing field.

It is further submitted that the effect of such a choice being given to the subscribers i.e. to choose any combination of one or more pay channel or only free to air channels or only pay channels or pay channels and free to air channels will result in endless number of packages / commands in the Headend, which is not possible to be implemented by the MSO's because to add each channel, huge investments are needed in backend, running into Crores. So MSO can't be forced to do it without any business model.

***Offerings of Bouquet(s) of channels which require special Set Top Boxes (STBs) such as High Definition Television (HDTV) or Three Dimensional Television (3D TV) channels etc.***

(9) Whether the channels that require special type of STB be offered only on a-la-carte basis or as part of separate bouquets that consists of only those channels that require a particular type of specialized STB

**DEN:-** The offering under HDTV should be left on market forces as premium products is generally subscribed by the higher sector of the market and premium products need special STB and TV to view and any condition or restriction will not help the growth of this segment.

