

**RESPONSE OF TAJ TELEVISION (INDIA)
PRIVATE LIMITED**

ON

DRAFT NOTIFICATION

**THE TELECOMMUNICATION (BROADCASTING AND
CABLE) SERVICES (FOURTH) (ADDRESSABLE SYSTEMS)
TARIFF (SECOND AMENDMENT) ORDER, 2013**

ISSUED ON 4TH JUNE 2013



From : Viresh Dhaibar
E-mail ID: viresh.dhaibar@tensports.com

RESPONSE TO DRAFT NOTIFICATION - THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES (FOURTH) (ADDRESSABLE SYSTEMS) TARIFF (SECOND AMENDMENT) ORDER, 2013 ISSUED ON 4TH JUNE 2013

At the outset, we submit herewith that response to the issues raised in the Consultation paper is without prejudice to the rights and contentions of the Broadcasters/Aggregators in Civil Appeal No's 2847 to 2854 of 2011 and D – 8827/2011 pending adjudication before the Honorable Supreme Court or any other legal proceedings initiated by any Broadcasters/Aggregators/entities in relation to the Addressable Tariff Order (including in relation to the Wholesale rates applicable to Add-On packages) and Civil Appeal No. 829-833 of 2009 pending adjudication before the Supreme Court or any other legal proceedings initiated by the Broadcasters/ Aggregators/Entities inter alia in relation to the Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Eighth Amendment) Order 2007 dated 4th October, 2007 (Collectively “Appeals”)

In our opinion the draft Tariff Order issued by TRAI on 4th June 2013 does not take into account the interest of the Consumers. If the proposals as enumerated in the said consultation paper are implemented, we fear that prices of the Bouquets offered on the addressable platform would see a steep rise thereby affecting the consumers directly.

We hereby give our comments on the following specific issues:

- (1) Whether the word ‘pay’ in heading of clause 6 of the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010 should be omitted.**

Comments: We are fine with the suggestion mooted by the Authority.

- (2) Whether in sub clause (1) of clause (6) the following proviso should be substituted**

“Provided further that in case a multi system operator or direct to home operator or Internet Protocol service provider or HITS operator providing broadcasting services or cable services to its subscribers, using a digital addressable system, offers channels as a part of a bouquet shall be subject to the following conditions, namely:-

- (a) the a-la-carte rate of a pay channel forming part of a bouquet shall not exceed two times the a-la-carte rate of such channels offered by the broadcaster at wholesale rates for addressable systems; and**
- (b) the a-la-carte rate of a pay channel forming part of a bouquet shall not exceed three times the ascribed value of the pay channel in the bouquet;**

Explanation: Ascribed value of a pay channel in a bouquet means the value arrived at by multiplying the proportionate value of the pay channels in the bouquet with the a-la-carte rate of the same pay channel and divided by the sum of a-la-carte rates of all the pay channels in the bouquet, and proportionate value of the pay channel in the bouquet shall be calculated in the following manner:-

[Bouquet rate x sum of a-la-carte rate of pay channels] / [sum of a-la-carte rate of pay channels + sum of a-la-carte rate of free- to – air channels taking rate of free-to-air channel as Rs.1];

Comments: At the outset, we recommend that retail tariff and retail packaging should be continued to be kept at forbearance and retail tariff order and retail packaging at this stage is not advisable. Moreover, the aforesaid formula is too complex to apply at retail level. E.g In DTH, retail Tariff has been under forbearance and is working very well and has in fact outperformed cable in the over regulated regime.

Further, we submit that for sports channels there should not be same pricing norms and guidelines as compared to other channels due to its niche content,

event based content availability, mandatory sharing feed with Doordarshan and huge content acquisition costs.

- (3) **Whether the word ‘pay’ in Sub clause (2) of clause 6 wherever appearing should be omitted;**

Comments: The suggestions mooted by the Authority are fair and acceptable.

- (4) **Whether for sub clause (4) of clause (6) before the Explanation, the following sub-clause and proviso should be substituted namely:-**

- (4) It shall be open to the service provider providing services through addressable system to specify a minimum monthly subscription, not exceeding one hundred and fifty rupees (exclusive of taxes) per month per subscriber, towards channels chosen by the subscriber;**

***Provided that* the subscriber of the addressable systems may subscribe to any bouquet or any bouquet and any pay or free-to-air channel or only free-to-air channels or only pay channels or pay channel and free-to-air channels.**

***Provided further that* nothing contained in this sub-clause shall apply to the service provider providing service through digital addressable cable television system;**

Comments: We are fine with the changes mooted by the Authority.

- (5) **Whether after sub clause (4) the following sub-clause should be inserted**

(5) if a service provider offers a bouquet consisting of standard definition channels and high definition channels or three-dimensional channels or both, requiring special type of set top box, it shall:--

- (a) ensure that such bouquet is provided to only those subscribers who have set top box compatible to receive the channels contained in the said bouquet; and**
- (b) offer the same bouquet to other subscribers after excluding high definition and three dimensional channels from the bouquet; and**
- (c) fix the rate of bouquet, referred to in para (b), after deducting the ascribed value of the high definition and three dimensional channels forming part of the bouquet referred to in para (a).”**

Comments: At the outset we recommend there should be complete forbearance.

**RESPONSE OF TAJ TELEVISION (INDIA)
PRIVATE LIMITED**

ON

DRAFT NOTIFICATION

**THE TELECOMMUNICATION (BROADCASTING AND
CABLE SERVICES) INTERCONNECTION (DIGITAL
ADDRESSABLE CABLE TELEVISION SYSTEMS) (SECOND
AMENDMENT) REGULATIONS, 2013**

ISSUED ON 4TH JUNE 2013



From : Viresh Dhaibar
E-mail ID: viresh.dhaibar@tensports.com

RESPONSE TO DRAFT NOTIFICATION THE TELECOMMUNICATION (BROADCASTING AND CABLE SERVICES) INTERCONNECTION (DIGITAL ADDRESSABLE CABLE TELEVISION SYSTEMS) (SECOND AMENDMENT) REGULATION, 2013, (AMENDMENT) REGULATIONS, 2012 (_____) OF 2013) ISSUED ON 4TH JUNE 2013

At the outset , we submit herewith response to the issues raised in the Consultation paper is without prejudice to the rights and contentions of the Broadcasters/Aggregators in Civil Appeal No's 2847 to 2854 of 2011 and D – 8827/2011 pending adjudication before the Honorable Supreme Court or any other legal proceedings initiated by any Broadcasters/Aggregators/entities in relation to the Addressable Tariff Order (including in relation to the Wholesale rates applicable to Add-On packages) and Civil Appeal No. 829-833 of 2009 pending adjudication before the Supreme Court or any other legal proceedings initiated by the Broadcasters/ Aggregators/Entities inter alia in relation to the Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Eighth Amendment) Order 2007 dated 4th October, 2007 (Collectively “Appeals”)

We welcome that this Consultation paper which will not only prevent overlap and the possibility of misinterpretation leading to unwarranted confusion, but also create a level playing field amongst all addressable delivery platforms/distributors of channels.

The moot question to be answered vide our comments - In regulation 3 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (9 of 2012) ---

(a) In sub-regulation (2), after the second proviso, the following proviso shall be inserted, namely,

“Provided also that nothing in this sub –regulation shall apply in the case of a multi-system operator, who seek signals of a particular TV channel from a broadcaster, while at the same time demand carriage fee for carrying that channel on its distribution platform.”

(b) sub regulation (5), sub-regulation (8) and sub-regulation (11A) shall be omitted.

For the sake of clarity, and giving our comments, it is important to note that **sub regulation (5)** pertains to – “A multi System operator, who seeks signals of a particular TV channel from a Broadcaster, shall not demand carriage fee for carrying that channel on its distribution platform”

Further **sub-regulation (8)** pertains to – “Every multi system operator, operating in the areas notified by the Central Government under sub-section (1) of the section 4A of the Cable Television Networks (Regulation) Act, 1995, shall have the capacity to carry a minimum of five hundred channels .not later than the date mentioned in the said notification applicable to area in which the multi system operator is operating.

Provided that a multi system operator operating in the Municipal boundary of Greater Mumbai, National Capital Territory of Delhi, Kolkata Metropolitan area and Chennai Metropolitan area shall have a capacity to carry a minimum of two hundred channels as on the 30 June 2012 and such capacity shall be enhanced to a minimum of five hundred channels by 1st January 2013.

Provided further that all multi system operators operating in the area referred to in the first proviso and having subscriber base of less than twenty five thousand

shall have the capacity to carry a minimum of five hundred channels by the 1st April 2013.

Further, **sub-regulation (11A)** pertains to – “No multi system operator shall demand from a broadcaster any placement fee.”

We hereby give our comments on the following specific issues:

(I) Whether the following proviso should be introduced in the clause 3(2) of the interconnection regulation for DAS and the existing clause 3(5) of the interconnection Regulation for DAS should be deleted:

“Provided also that nothing in this sub –regulation shall apply in the case of a multi-system operator, who seek signals of a particular TV channel from a broadcaster, while at the same time demand carriage fee for carrying that channel on its distribution platform.”

Comment: In our opinion, the above proviso should be introduced in the clause 3(2) of the Interconnection regulation for DAS. We do agree to the amendment suggested by the Regulator. In order to have a viable Business revenue model, no carriage fee should be charged by the MSO’s. In the digital regime, where there is addressability in place coupled with enhanced capacity to carry a large number of channels and the anomalies of the analogue regime wherein there were capacity constraints have been met. Moreover, the infra structure required for DAS regime is already in place and there are no limitations whatsoever. Also, it is pertinent to mention that the MSOs are coming to terms with the present regulatory framework.. Moreover, there are adequate safeguards in case carriage is charged by an MSO, if a

particular channel is carried by the MSO on the specific request of a Broadcaster with regard to charging of carriage fee. (1) Carriage fee to be transparently declared in the RIO of the MSO, (2) The carriage fee is to be uniformly charged (3) The carriage fee not to be revised upwardly for a minimum period of 2 years, and (4) The details of the carriage fee are to be filed with the Authority and the Authority has a right to intervene in cases it deems fit.

- (II) Whether there is a need to specify certain minimum channel carrying capacity for the MSOs in the interconnection regulations for DAS and if so what should be the different categories (example cities/town/rural area) of areas for which minimum channel carrying capacity should be prescribed and what should be the capacity for each category.**

Comment: India's population is represented by states/provinces with multiple languages, customs and choices and preferences. Therefore, it may be not essential for an MSO to be compliant with a minimum number of channel carrying capacity all across the country in DAS areas. For example in the southern states, Hindi GEC channels may not be popular and likewise in Northern Hindi speaking belt, south regional channels will not be in excess demand. It is therefore likely that the market dynamics will itself take care of emerging markets. Moreover, the MSO may establish its infrastructure on the basis of the customer base it is going to service and accordingly the infrastructure would be established to take care of the requirement of the city/town/rural areas. Further, Out of the total 800 channels registered with the Ministry of Information and Broadcasting (MIB) about 625 channels are Free to Air Channels, thereby leaving approximately about 175 channels as pay channels. Therefore, mandating a minimum requirement of 500 channels at the

present juncture would not be required. But at the same time in case of any increase in pay channels, the MSO's are bound to meet the requirement of its customer base by enhancing the channel carrying capacity in terms of the Market requirement of demand and supply. We also believe that MSO's operating in a particular city/town or rural area cannot charge any exorbitant rates for the channels offered to the customers because of the regulatory mechanism in place and competition will always throw up new MSO's to provide any additional services/ channels to its the customers in order to give ample choice to its customers.

(III) Whether there is need for regulating the placement fee in all Digital Addressable Systems. If so, how it should be regulated.

Comment: We are not in favor of a Regulation for Placement fee in Digital Addressable System as there are no different bands like Prime band, Color Band and so forth DAS like in Analogue market. Tiering /packaging fee intrinsically include carriage and there is practically no difference between the two apart from the nomenclature. In the DAS regime the MO is obligated to provide an Electronic program Guide (EPG) to the consumer and therefore there is no requirement of placement Fee in DAS regime.

However, Broadcaster may be permitted to have the flexibility to pay reasonable amount towards tiering/packaging fee, if they so desire as part of their commercial negotiations. But this should left to the discretion of the MSO and the Broadcast and not mandated by law.

