

To

The Chairman
Telecom Regulatory Authority of India
New Delhi

Dated 11.1.2013

Sub: Comments on Consultation Paper No. 18/2012 on Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems & Tariff Order applicable for Addressable Systems 20th December, 2012

Dear Sir,

With reference to above mentioned subject, the comments of the undersigned are given below:

1. Overview of digital television industry as reported by Media Partner Asia (MPA) in April, 2012:
 - 1.1. 100 million active digital television subscribers in next 54-months, nearly three-fold jump from the current numbers, while overall pay-TV subscribers will cross 170 million.
 - 1.2. The digital pay-TV penetration of TV homes in India will grow from less than 20% in 2011 to 50% by 2016
 - 1.3. The active DTH subscriber base (i.e. paying customers only) could grow from 29 million in 2011 to 69 million by 2016
 - 1.4. DTH industry revenues will reach almost \$4 billion by 2016 with revenue growth largely driven by expanding the subscriber base
 - 1.5. Digital cable subscribers, MPA said, will reach approximately 33 million by 2016
 - 1.6. Current market share of DTH service providers is as under:

Operator	Gross Subs (mil.)	Market Share (%)	Active Subs (mil.)	Market Share (%)
Airtel Digital TV	8	16%	5.8	19%
Big TV	4.4	9%	2.3	8%
Dish TV	13.4	28%	6.9	23%
Sun Direct	7.6	16%	4.9	16%
Tata Sky	9.2	19%	5.7	19%
Videocon d2h	6.1	13%	4.2	14%
Total	48.8		29.8	

Source: Company data, MPA analysis

2. The TRAI should follow some basic principles for fixing the retail tariff applicable to consumers:
 - 2.1. Promote new technologies and up gradation of services (analog to digital and SD to HD).
 - 2.2. Low subscription of HD channels due to high prices of HD packages combining with unwanted channels with HD packages as well on a-la-carte and malpractices of service providers.
 - 2.3. No. of HD subscribers increasing due to availability of HD TV set at affordable prices as well as in lower size of screen (i.e. in 32 inches). So, there are already a large number of HD subscribers and they are going to continue to grow exponentially due to projected digital television industry growth. Therefore, TRAI has to regulate the tariff of HD channels in the interest of the large number

of consumers. However, 3D HD content may be left to the market forces as number of subscribers are low and only few service providers are providing one 3D channel.

- 2.4. Promote selection of channels on a-la-carte basis as per the consumer choice at competitive rates as offering of channels on a-la-carte basis is basic advantage of **addressable** digital system.
- 2.5. **One Connection for One TV and View of One Channel** in a digital addressable system reduces the amount of viewing time for each channel as number of subscribed channels increases as the viewing time is inversely proportional to the number of channels subscribed.
- 2.6. Consumers should have choice to make a bouquet of his choice as there are many types of consumer groups due to the diversity in the region, languages and culture in India.
- 2.7. The price of bouquet made by the consumer by its choice should not be determined only by the sum of rate of a-la-carte channels but it should be discounted (in slabs) depending on number of channels subscribed keeping in view the principle stated at para 2.5 above.
- 2.8. Tariff should be simple and understandable to the general public in consonance with the low literacy rate in India.
- 2.9. Ceiling of a-la-carte channels should be fixed by TRAI and bouquet prices should be determined by using the a-la-carte rates (*but TRAI is trying to determine the a-la-carte rates ceiling based on bouquet rates available by some formulas without testing the same*).
- 2.10. The determination of bouquet prices by a service provider should be on public domain in a transparent manner.
- 2.11. The formulas suggested by TRAI may be verified exhaustively with the available rates of a-la-carte channels as well as bouquets of major service providers (on the basis of market share) before finalisation. This analysis for all the major service providers should be put in public domain before implementation to protect the interest of consumers.

3. **Existing unhealthy practices in the Market by the DTH service providers for HD services.** The following unhealthy practices are prevalent in the market due to the ineffective tariff regulations and leaving the tariff in forbearance without any proper justification in violation of Section 11(2) of TRAI Act:

- 3.1. The DTH service providers are forcing to take base pack which cost Rs. 200 approximately before buying add-on pack of HD/SD service.
- 3.2. There is a vast variation of the prices of HD channels among the DTH service providers and they are exploiting the customers.
- 3.3. The service providers are offering lot of channels as a part of bouquet which are not needed by the subscribers such as all regional channels.
- 3.4. Some of the operators are transmitting SD recorded/broadcasted channels in HD format and claiming to be HD channels.
- 3.5. Combining with unwanted channels with HD packages pricing at higher rate as well on high rate of a-la-carte e.g. a-la-carte price of Dish TV is Rs. 50 per HD channel and on the other end Videocon D2H is offering 22 HD channels for Rs. 133.
- 3.6. Same Channel is accessible in HD as well as SD format whereas consumers view only HD format and SD format redundant.

4. **Comments on the issues raised in the Consultation Paper:** While examining the comments, the points raised in para 1 & 2 has to be kept in view:

4.1. **Minimum subscription period:** The minimum subscription period should be one month only, as consumer may be subscribing to sports channel for one month on a-la-carte basis due to broadcast of some important event/sport on a particular channel. Moreover, the subscription prices of sports channels are very high.

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

As per TRAI Clause 11(2) of TRAI Act, the Regulation of Tariff is within preview of TRAI, so HD service can't be left on forbearance unless until rates are low on the basis of market forces and competition (Please refer para 35 of the consultation paper). Moreover, the No. of HD subscribers increasing due to availability of HD TV set at affordable prices. As all the channels are not available in HD formats, and customers are subscribing to both HD as well as SD Channels. Tariff order should cover the HD Channels and combination of HD+SD if permitted. It is suggested that:

The SD Channels + HD Channels should not be mixed in Bouquet. There should be separate bouquet for HD channels as well as a-la-carte.

Therefore, TRAI should regulate the tariff of HD services and these should not be left to market forces in view of provision in 11(2) of TRAI Act. The proposed provision after sub clause 6(4) should be modified as below:

"It shall be open to the subscriber of the addressable systems(SD as HD) to subscribe to any bouquet(s) or any bouquet(s) and any channel(s)(pay or free to air) or only free to air channels or only pay channels or pay channels and free to air channels without any condition subscription to base pack subject to following condition:

SD and HD Channels will be offered by service providers in separate Bouquet as well as on a-la-carte basis".

4.3. **Twin condition at retail level**

TRAI is proposing to replace the following clauses of section 6 of tariff order dated 21.07.2010

(a) the sum of the a-la-carte rates of the channels forming part of such a bouquet shall in no case exceed one and half times of the rate of that bouquet of which such channels are a part; and

(b) the a-la-carte rate of each channel forming part of such a bouquet shall in no case exceed three times the average rate of channel of that bouquet of which such channel is a part;

by

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.*

4.3.1 Regarding clause a

Whole sale price may vary from one service provider to another service provider and these will not be put on public domain by the service providers due to confidentiality of commercial interests. So these criteria cannot be used for determining a-la-carte prices by service providers. However, TRAI can take the data from various service providers and use as a reference while deciding the tariffs ceiling.

4.3.2 Regarding clause b

If you substitute the value of [A] at Sl No. 2 the formula and apply condition a. Above comes out to be :

a-la-carte rate of a pay channel =< 3 x Bouquet Rate x a-la-carte rate of a pay channel/(Sum of a la carte rate of Pay channels+ Total no of FTA channels x factor*)

Further simplification i.e.

(Sum of a la carte rate of Pay channels+ Total no of FTA channels x factor*) =< 3 x Bouquet Rate

It is beyond understanding as to why TRAI proposed such a complicated formula in clause (b) which can be simplified mathematically as above.

Moreover, in the above formula the price weightage for free to air channels have been reduced from 3 to 1 by the introduction of a factor and cost ceiling has been enhanced from 1.5 to 3.

Analysis of the above formula suggests that the same has not been verified statistically with the market rates offered by the service providers and it is being proposed without any logic and reasoning.

It is suggested that either the old formula may be continued and there should be separate bouquet for free to air channels on a fixed subscription basis and these channels should not be taken into consideration while calculating the cost of ceiling of the a-la-carte channels *i.e.*

(a) the sum of the a-la-carte rates of the channels forming part of such a bouquet shall in no case exceed one and half times of the rate of that bouquet of which such channels are a part (free to air channel will not be taken into consideration);

It is suggested that any proposed formula may be verified exhaustively with the available data keeping in view the rates being offered by the service providers on al-la-carte as well as bouquets before finalisation. This analysis for all the major service providers (para 1.6) should be put in public domain. Further, the formula should be simple which is understandable to a common person.

It is logical that ceiling of a-la-carte prices should be determined by TRAI and service providers may be asked to determine bouquet price based on these a-la-carte prices instead of doing the other way round.

Moreover, it is to further highlight that twin conditions at retail level has been debated in the Appeal no. 3 (C) of 2012 (M.A Nos. 223 & 224 of 2012) in the TDSAT by service providers against the TRAI Tariff Order and TDSAT in its judgement dated 19th December, 2012 has not granted any relief to the service providers on this issue. Now, TRAI is proposing to change the twin condition without any logic and reasoning to bypass the judgement of TDSAT. Moreover, twin condition has not been implemented by any service provider for a single day.

5. Additional comments:

The term 'BOUQUET' used by TRAI should be changed to 'PACK' as bundling of channels by service providers and limited consumption as per choice by consumers due to principle stated in para 1.3 above. (It is a concept of buffet not bouquet).

If required, the undersigned can represent the case through my authorized representative.

Thanks

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