**Bharti Telemedia's response to the Draft Tariff Order prescribing framework for commercial interoperability of Customer Premises Equipment (CPE) in DTH services**

The recent draft tariff order, which modifies the prevailing commercial interoperability framework, is predicated on the concern that customers are faced with a lack of choice, and due to the high cost of customer premises equipment, have little financial incentive to switch from one provider to another. Such concerns are completely unfounded, andwe would like to draw the Authority's attention to certain issues that must be taken into consideration before modifying the existing regime.

The DTH industry in India is bound by multiple taxes & levies amounting to approximately 33% - 35% (these include Entertainment Tax (State Govt.), Service Tax (Central Govt.) and License Fees (Ministry of Information & Broadcasting)). Also, as acknowledged in TRAI's recommendations on new DTH licences[1], the industry's total expenditure stands at Rs. 27250 Crore with accumulated losses (after tax) at approximately Rs. 11400 Crore upto March 2013.**This pegs the average loss per connection at Rs. 2017.70[2] for the period.**

It is also important to take note that while the Industry has added subscribers at an aggregate level, it has also witnessed a concomitant increase in the number of inactive subscribers. As of 2011, about one third, or 33% of the total DTH subscribers were classified as inactive[3], while this proportion now stands at 44.4%[4].

Bharti Telemedia Ltd has accumulated losses amounting to Rs. 3,359 Crore as of 31st March, 2014,of which the company's contribution towards STB/CPEis significant, and the denial to flexibly price our services to recoup these investments, will further aggravate the state of affairs. Also, no DTH operator is making supernormal profits, and all have yet to break even on their investments.

***In light of the above, we submit that regulation of retail CPE rates is inappropriate, and complete forbearance in retail (including CPE pricing) will allow the industry to grow in a sustainable and socially beneficial manner.***

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[1] TRAI recommendations on Issues related to new DTH licences available at: http://trai.gov.in/WriteReadData/Recommendation/Documents/DTH%20Reco%20(New%20Licensing%20Regime)%20as%20uploaded.pdf

[2] BTL Analysis with inputs from supra note 1 and Indian Telecom Performance Indicator Report (Jan-March, 2013) available at http://trai.gov.in/WriteReadData/PIRReport/Documents/Indicator%20Reports%20-01082013.pdf

[3] http://archive.financialexpress.com/news/10mn-inactive-subscribers-hit-dth-cos/749673/0

[4] Indian Telecom Performance Indicator Report (July-September, 2014) available at http://trai.gov.in/WriteReadData/PIRReport/Documents/Indicator-Reports29012015.pdf

## Interoperability is not required in light of prevailing market reality

A majority of inactive subscribers have and continue to move from one service provider or platform to another,simply because it is affordable to do so. The risk, or potential harm that this tariff order seeks to prevent does not feature in the market, and customers can switch to competing DTH providers, and even to other platforms such as cable and IPTV. The number of inactive subscribers and stockpiles of CPE e-waste are an indication of the value customers place on the equipment, i.e. many customers have discarded CPE from one provider because of low switching costs and low perceived value for CPE. Commercial interoperability has little relevance when competition is intense, and multiple distributors (DTH, MSO/LCO, IPTV) provide competitive services at highly affordable rates.

LCOs/MSOs provide perfectly substitutable services to those offered by DTH operators, and compete primarily on price. On an average, CPE can be procured from cable operators for as little as Rs. 800, which has forced DTH operators to seek out new and innovative pricing mechanisms.

Under the provisions of *The Telecommunications (Broadcasting & Cable) Services (Fourth) (Addressable Systems) Tariff Order* dated *21st July, 2010*, customers can apply for DTH services under hire-purchase, outright purchase and rental schemes. However, due to prevailing competitive forces, operators offer additional schemes, under which they retain ownership of CPE, and merely charge for the activation of services and bundled channels. The latter scheme has generally proven itself to be the most competitive and affordable for consumers, as indicated by the large number of subscribers who opt for such packages.

Customers can today obtain Standard Definition DTH services under the company owned CPE scheme for as little as Rs 1500, in which the customer premises equipment (STB, Dish, LNBF, cables, connectors) is installed at customer premise, along with a starter channel pack for a few months. The authority has also failed to take into account all costs such as distributor margins and transport/logistics. These costs are critical and absolutely essential for getting STB and other equipment to customer premises. After deducting all reasonable costs (service tax, installation, distributor margins and transport/logistics) from the amounts collected from subscribers, net realization per subscriber amounts to Rs 351 only ( without considering the marketing & promotional and other incidental backend activation costs). This leaves little scope for any refund, especially when the full cost of the equipment as well as depreciation and financing charges on the **total value of CPE** are taken into consideration. A working calculation with all reasonable costs is attached as an annexure to this response.

The deployed equipment is not recovered from subscribers due to the commercial infeasibility of the proposition, and many items (Dish, LNBF, cables and connectors) are interoperable between DTH service providers. Adding up costs for this equipment, third party charges for installation, and the starter channel pack leaves little doubt that DTH operators essentially provide services at a loss.

***The above market realities merit the due consideration of the Authority before a change can be reasonably affected in the existing interoperability framework. Flexibility to price products and services in the retail market is critical for the growth of highly competitive and loss making sectors. Rate regulation is inappropriate in these cases, and complete forbearance in retail services is absolutely essential for the survival of the sector.***

**Refunds on subsidized equipment**

The Authority, in the draft tariff order, has mandated the implementation of a refund policy for all schemes offered by DTH operators. While refunds can be reasonably applied in cases where customers purchase CPE at full cost, it is important to note that under most schemes offered by operators, CPE is either provided at a highly subsidized rate, or fully subsidized in the case of the additional schemes discussed above. Mandating refunds on subsidized equipment will financially incentivize movement from one operator to another and only serve to increase subscriber churn within the sector.

Additionally, the Authority has already prescribed a standard monthly rental of Rs. 150 for FTA channels.Operators use this as a base pack,to which channels are added to create customized packages to suit the needs of different groups of customers. It is important to take note that these monthly charges do not include the cost of CPE, and cover only the costsof operating the DTH Platform, sales & marketingand broadcasting/contentlicensing.

***Overall, operators are currently offering services at a loss in the hope that increased scale will improve their financial condition. The implementation of this tariff order will deny operators the level of flexibility that is absolutely essential for the survival of this sector. Any regulation that mandates refunds on subsidized equipment will incentivize churn, which will lead to more inactive subscribers. The only scheme for which refunds can plausibly be justified is the outright purchase scheme, under which subscribers purchase CPE (including STB) at its full cost. It is important to note that given the high cost of CPE, few if any subscribers opt for outright purchase schemes.***

**Differential treatment between platform operators and the lack of a level playing field**

Broadcast television in India reaches viewers through numerous types of distributors – Local cable operators, Multi Service Operators, IPTV service providers and DTH operators. The differential regulatory treatment received by these distributors leads to the emergence of a non-level playing field. Much of the regulation is directed towards DTH service providers along with a larger set of financial obligations.

As is evident from the table below, DTH operators receive differential treatment, especially in comparison to other platforms.

| Parameter | DTH | MSO | HITS |
| --- | --- | --- | --- |
| Entry/permission fee | Rs. 10 crores | Rs. 1 lakh | Rs 10 crores |
| Annual licence fee | 10% of gross revenue | N/A | N/A |
| Bank Guarantee | Rs. 40 crores | N/A | Rs. 40 crores |

DTH operators are currently burdened with major costs that include, but are not limited to, satellite bandwidth, technology platform, national sales & distribution networks, installation, servicing &logistics, broadcasters/content fees, customer care, license fees, customs duty and high taxes.

A significant number of financial obligations mentioned above are unique to DTH operators, and render moot any justifications for the application of the draft TTO under consideration. The proposed changes would limit the ability of DTH providers to recoup investments, and would be to the overall detriment of the sector.

***While interoperability, both technical and commercial, has been thoroughly and repeatedly examined in the case of DTH operators, the unchecked monopoly of local cable operators has rarely received the attention it deserves. Subscribers of cable platforms are generally served by local monopolies, with no possibility of interoperability, whereas DTH subscribers can choose from amongst 6 operators. The large number of inactive subscribers on the DTH platform is an indication that switching costs in the DTH industry are low, and the kind of consumer protection that forms the basis for interoperability regulation has already been achieved by market forces. Any additional regulation that restricts retail pricing flexibility will have a measurable negative impact on the industry.***

The prime objective of the proposed tariff Order is to maintain commercial interoperability in a market that has no need for it. The end that this order seeks to achieve, i.e. low switching costs,has already been accomplished. Also, it is important to take note of the huge number of inactive subscribers,who have switched from one provider/platform to another not because of customer dissatisfaction but rather due to the availability of a large number of low cost options in the market.

**To conclude, we humbly request the Authority to consider the following before implementing this tariff order**

- **The DTH industry has been the flag bearer of digitalization since its inception, and has brought information & knowledge to people across the country.**
- **The industry's financial condition is grave, and as acknowledged by TRAI, accumulated losses (after tax) for the entire industry amount to Rs. 11400 crores**
- **The Industry is operating at a net loss of approximately Rs. 2018 per subscriber**
- **The concern that customers are currently financially locked into availing services from DTH providers, owing to the high cost of CPE, is unfounded**
- **All evidence are in fact contrary – there are a large number of inactive subscribers who have jumped ship to other operators/platforms because of numerous low cost solutions available in the market**
- **The DTH Industry is exposed to numerous taxes & levies, amounting to as high as 35% of revenues, and any change that restricts their ability to flexibly package retail services will place them under additional financial strain**
- **Excessive levels of competition have led to the financial deterioration of the industry, and the denial to price services appropriately will place a premium on future growth & innovation within the sector**
- **The only scheme for which refunds are appropriate, in the manner suggested by the Authority, is the outright purchase scheme under which the subscriber pays for the full cost of the CPE, and not for schemes under which the equipment is highly or fully subsidized**
- **Other costs such as distributor margins, transport/logistics etc are essential costs that must be taken into consideration**
- **After deducting all reasonable costs (service tax, installation, distributor margins and transport/logistics) from the amounts collected from subscribers, net realization amounts to Rs 351 only. This leaves little scope for any refund, especially when the full cost of the equipment as well as depreciation and financing charges on the total value of CPE are taken into consideration. A working calculation with all "reasonable" costs is enclosed below.**
- **Given the significant business and socio-economic impact of this tariff order, we request the authority to conduct an open house session on the issue before releasing a final tariff order**

Annexure I – Working calculation for CPE cost recovery and refund

| **SD Box** | **Bare Box** |
|---|---|
| Customer Pays | 1500 |
| *Less*Service Tax | 165 |
| *Less* Installation | 350 |
| *Less* Trade Margin | 550 |
| *Less* Transport/Logistics | 84 |
| **Net realization from customer** | **351** |

| **Cost to Company** | |
|---|---|
| CPE Box | 2256 |
| ODU | 600 |
| **Total Cost** | **2856** |

| | |
|---|---|
| Depreciation pm on Above Cost | 48 |
| Finance Charges pm | 21 |
| **Dep& Finance Charges*** | **68** |

| | |
|---|---|
| Refund due if surrendered in 2 months without Pick up | 146 |
| Refund due if surrendered in 2 months with Pick up | (4) |
| Refund due if surrendered in 6 months without Pick up | (60) |
| Refund due if surrendered in 6 months with Pick up | (210) |

* Depreciation calculated using TRAI's methodology prescribed in draft tariff order (@1.7%)
Finance charges per month assumed at 10% of total value less net realized amount from subscriber