

19th March, 2015

Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan
Jawahar Lal Nehru Marg
(Old Minto Road)
New Delhi – 110002

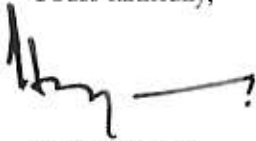
Subject: Response to the Consultation Paper on the Draft Tariff Order prescribing framework for commercial interoperability of Customer Premises Equipment (CPE) in DTH services

Kind Attn.: Mr. Wasi Ahmad, Advisor (B&CS)

Dear Sir,

We thank the TRAI for this opportunity to express our views on the above captioned consultation paper and Tata Sky's response to the same is attached for your ready reference.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Harit Nagpal".

Harit Nagpal
Managing Director & CEO

DRAFT CLAUSES FOR CONSULTATION

(4) Tariff for supply and installation of the Customer Premises Equipment

- (1) Every DTH operator shall specify the price of all types of the customer premises equipment offered by it, their installation and activation charges and taxes, if any.
- (2) DTH operator shall offer all types of customer premises equipment offered by it to every subscriber on outright purchase basis at the price and charges specified under sub clause(1) which shall be called standard scheme for customer premises equipment:

Provided that DTH operator may also offer other schemes for the supply and installation of customer premises equipment including bundled scheme and shall specify separately for all schemes the charges for the customer premises equipment, installation and activation charges thereof, the channels or bouquet of channels or bouquets of channels bundled with customer premises equipment and the taxes, if any.

Provided further that DTH operator shall offer customer premises equipment at the same terms and conditions as applicable for customer premises equipment under the bundled scheme.

- (3) DTH operator may specify a lock-in period not exceeding three months for all the schemes offered by it.
- (4) DTH operator may specify installation and activation charges for the customer premises equipment not exceeding rupees three hundred and fifty.

TATA SKY RESPONSE

We remain concerned on this issue for consultation and would like to bring the following to the attention of the TRAI:

EQUIPMENT

- Based on the TDSAT Order dated 24th October, 2014 ('TDSAT Order') the TRAI requested for only standard definition ('SD') DTH equipment details vide Letter dated 10th November, 2014 ('Letter') while this draft Tariff Order covers all types of CPE including premium equipment such as High Definition, High Definition Personal Video Recorders, 4K STBs etc.
- It is pertinent to note that due to the high end technology in such equipment, other than SD STBs, procurement costs including prices, import duties etc. and cost of installation and activation are higher for premium equipment as compared to standard definition equipment.
- Also, such premium equipment needs to be subsidized at a higher rate as compared to SD equipment and this is an additional impact on Tata Sky.
- Thus, in view of the costs which are already being absorbed by the Company, it would be unviable to provide the option of commercial interoperability for premium equipment.
- Accordingly, the scope of the commercial interoperability should be limited to SD STBs provided through Hire Purchase and Rental schemes.

DEFINITION OF CPE

- The definition of CPE in the Tariff Order is broad and covers all equipment, components and accessories installed at the premises of the subscriber to enable the reception of any broadcasting service offered through an addressable system.
- Please note that the viewing card contains proprietary Company data and thus ownership for the same needs to remain with the DTH operator. This was also highlighted in the response to the Letter we had submitted. Thus, this needs to be specifically excluded from the definition of CPE.
- Further, if the equipment (as covered in the definition) other than the STB and remote is also sold to the subscriber then it cannot be retrieved when damaged and would remain to be disposed by the subscriber, invariably resulting in more e-waste. However, if the said equipment is excluded then it would remain the property of the DTH operator and could be retrieved, adequately repaired and reused.
- In view of the above, the definition of CPE should be limited to the STB and remote alone.

INSTALLATION AND ACTIVATION CHARGES

- The TRAI has specified Rs350 for installation and activation on the following criteria:
 - Installation @ Rs. 300 based on – it is assumed that only 2 installers are required for a single installation; the average minimum wage is Rs.358 per day, 3 connections are installed by a team on an average and transportation cost is Rs.200
 - Activation @ Rs.50 based on the assumption that activation is basically creation/configuration of subscription details and should be same across various schemes
- Installation and activation charges differ amongst operators and are based on variable factors including 3rd party installation service providers, skill set of installation engineer, transportation cost, accessibility to a location, number of subscribers in a single location, costs pertaining to training, tools, test equipment and also the amount which can be absorbed to keep the installation charges at a uniform and nominal rate etc.
- For example sometimes a single installation provider may be providing service to 2 or 3 smaller towns and his transportation cost may be higher than if the installation is in the same city he is based in. Further, a higher number of installations may be possible in a high rise apartment in one day as the same is a single location with multiple subscribers, however more number of installers may be needed.
- Thus, the installation charges should remain uncapped as Tata Sky needs to balance the variable factors including the subscriber's perspective, to implement a suitable installation charges for subscribers on a pan India basis while also looking at the tax impact and then implementing the same in its billing system. Any upper limit restriction may result in losses to Tata Sky.
- Activation charges include various costs such as cost of activation vouchers, calls from the call center, integration and maintenance of details in the system. Further, for premium equipment costs for activation increases based on additional support which is provided to subscribers for example for premium HD PVR STBs, call center calls are also made to subscribers to explain product details, inform them about premium services and features. This adds to the activation costs. Thus, the same cannot be restricted to a single price for all types of STBs especially as other charges in place of activation charges are also disallowed under the explanatory memorandum.

TATA SKY RECOMMENDATION

In light of the above and without prejudice to our rights and contentions, we would like to primarily state that commercial interoperability may be workable provided that technical interoperability is removed from the DTH License. We further add and urge the TRAI to recommend that commercial interoperability be limited to SD STBs, which are provided on Rental or Hire Purchase, with

prospective applicability and charges for installation, activation and collection should be allowed to be decided by the respective DTH operator based on business factors.

DRAFT CLAUSES FOR CONSULTATION

5. Refund on surrender of connection

- (1) DTH operator shall give an option to every subscriber to return the customer premises equipment in all schemes and for all types of customer premises equipment:

Provided that there shall be no obligation on DTH operator to take back the customer premises equipment if it is tampered with or is not in working condition at the time of return.

- (2) On return of the customer premises equipment by the subscriber, DTH operator shall refund,-

(a) if the customer premises equipment has been acquired under the standard scheme, the total depreciated value of the said equipment;

(b) if the customer premises equipment has been acquired in a scheme other than the standard scheme, the amount paid by the subscriber for the customer premises equipment after deducting the amount of depreciation of the value of the said equipment applied for the same type of customer premises equipment under the standard scheme;

(c) if the customer premises equipment has been acquired under bundled scheme, in addition to the refund towards customer premises equipment specified in para (b), the balance amount for the bundled programmes after deducting the charges for the number of completed month or part thereof for which DTH services were availed by the subscriber by applying average monthly charge for such programmes:

Provided that DTH operator may deduct additional one month average charge for surrender of connection before the expiry of the specified period for the bundled scheme:

Provided further that if a subscriber surrenders his connection within the lock-in period, DTH operator may deduct the amount of depreciation of the value of the customer premises equipment and the average monthly charge for the bundled programmes for the entire lock-in period.

- (3) The depreciation on the price of the customer premises equipment specified by DTH operator under sub-clause (1) of clause 4 shall be calculated using straight line method at the rate of 1.7 per cent. for every completed month or part thereof.
- (4) DTH operator shall designate one centre located in every district headquarter for surrender of customer premises equipment.
- (5) Every DTH operator shall provide facility for registration of request of the subscribers for surrender of the connection on its toll free number and display it on its website.
- (6) DTH operator shall, on the registered request of the subscriber, collect the customer premises equipment from the premises of the subscriber and deduct an amount not exceeding rupees one hundred and fifty as collection charge from the total amount refundable to the subscriber.

- (7) The subscriber may surrender the customer premises equipment at the designated centre of the service provider and in that case DTH operator shall not charge any collection charge.
- (8) DTH operator shall not deduct any other charge from the amount refundable to the subscriber on return of the customer premises equipment.
- (9) There shall be no obligation on DTH operator to make any payment on return of customer premises equipment after it has been used by the subscriber for five years.
- (10) Every DTH operator shall, within fifteen days of receipt of request from the subscriber collect the customer premises equipment from the premises of the subscriber.
- (11) Every DTH operator shall, within seven days of receipt of the customer premises equipment, ensure payment of the refund amount at the premises of the subscriber.

TATA SKY RESPONSE

We remain concerned on this issue for consultation and would like to bring the following to the attention of the TRAI:

STANDARD SCHEME

- The standard scheme covers CPE which is sold to the subscriber. However, a sale transaction implies transfer of ownership and rights, in the equipment to the subscriber for consideration. Accordingly, the DTH operator should not be burdened with the compulsory condition of accepting return of the equipment especially when there are other schemes such as Hire Purchase and Rental schemes which have a refund option in place and the subscriber readily opts to purchase the equipment.
- Cl. 4(2) implies a sale under the standard scheme, which means the equipment, will be an inventory and not a fixed asset. Whereas Cl. 5(2)(a) presupposes this to be a fixed asset. The financial treatment for an inventory is different compared to that of a fixed asset. However, this distinction has not been appropriately covered.

REFUND AND LOCKIN PERIOD

- The different schemes currently being offered by the various DTH operators have not been taken into account. For example the refund specified in Cl. 5(2)(b) is calculated by deducting depreciation from the amount paid for CPE. This calculation becomes unworkable under the Entrustment scheme which is one of the options provided by DTH providers, as no amount is paid for the equipment and the same remains the property of the DTH operator.
- Further, the refund amount based on the proposed formula are extremely high and would be an additional financial burden on Tata Sky. Besides this the costs such as refurbishing costs, freight and logistics costs, inventory holding cost, call center cost, testing and verification cost, technology upgrade cost, viewing card repairing cost etc. are not taken into account.
- This would have a negative impact on revenue as anyway DTH services being prepaid services are prone to subscribers temporarily exiting or churning out by not recharging their subscription accounts and again recharging their accounts when they are interested in certain programs/events.
- The subscription charges are paid upfront in a prepaid model by the subscriber. Thus, if the subscriber chooses to discontinue services then there is no clarity in the Tariff Order as to why prepaid subscription charges should be refunded as specified in clause 5(2)(c).
- The 3 month lock in is an insufficient time for the subscriber to understand and gauge the DTH services and accordingly the minimum lock in should be 6 months.

Subject to the above, an alternative refund mechanism should be provided by the TRAI which has a lower business impact to the DTH business.

RETURN OF EQUIPMENT

- Further, costs of setting up collection centers in each district along with costs to have onsite personnel test the working condition of returned equipment, would be an additional cost burden on Tata Sky and the collection charge is very low in comparison.
- Similar to an installation, collection of equipment would include de-installation cost, delinking cost from the system and transportation. However, while the cost of installation is stated as Rs.300 but the collection charge are stated as Rs.150.
- The option of the subscriber providing the equipment at the collection center may not work as the subscriber may not be able to correctly de-install the equipment which would result in damage and rejection at the collection center.
- Please note that 7 days is too short a period in view of the refund process and even the Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007 ('QoS') provides 30 days for refunds for billing related issues.

CROSS PLATFORM MIGRATION

- The Tariff Order specifies migration from DTH to cable or other platform.
- However, there could be migration from cable to DTH and accordingly cable and other service platforms/DPOs should be included under interoperability norms. This is necessary especially in view of DAS and other platforms should be covered.

BUSINESS FACTORS AND VIABILITY

- Foreign exchange rate fluctuations and customs duty as part of CPE procurement costs and financing of subsidies have not been taken into account in this Tariff Order although the same were highlighted in the TDSAT order.
- The Tariff Order states that TRAI has not specified pre-determined CPE prices and DTH operators are free to keep a modicum of profit.
- However, based on the above, the offer price to the subscriber would need to factor additional costs, the low collection charges and the high refund charges and as a result would become prohibitive. Such a high price would not be competitive and at a lower price, realizing a profit would be impossible. This would worsen the current scenario where the DTH industry already is imposed with major tax burdens while already subsidizing equipment costs.
- Further, the draft Tariff Order does not provide any clarity on whether the refund scheme is prospective or will be available to the legacy STBs which are already with the subscribers.

TATA SKY RECOMMENDATION

In light of the above, we therefore, urge the TRAI to reconsider that commercial interoperability be limited to (i) SD STBs, which are provided on Rental or Hire Purchase, as specified in our response above, (ii) for lower refund amounts which do not have a such a negative impact on the DTH industry and (iii) charges for installation, activation and collection should be allowed to be decided based on business factors.

DRAFT CLAUSES FOR CONSULTATION

6. Publication

- (1) Every DTH operator shall publish on its website all schemes for customer premises equipment along with their terms and conditions.
- (2) DTH operator shall, before entering into subscription agreement with the subscriber, explain to the subscriber details of all the schemes for acquisition of customer premises equipment and take the declaration of the subscriber on subscription agreement acknowledging that details of the schemes have been explained to him.
- (3) Every DTH operator shall, on entering into subscription agreement with the subscriber, provide to the subscriber details pertaining to scheme opted by him, as specified in the Schedule I of this order.
- (4) DTH operator shall display the refund table along with corresponding scheme on its website.

TATA SKY RECOMMENDATION

Tata Sky already provides scheme details including terms and conditions on its website and would continue doing the same.

DRAFT CLAUSES FOR CONSULTATION

9. Repair and maintenance of CPE

DTH operator shall, at the time of entering into subscription agreement with the subscriber, provide the details of repair and maintenance services to be provided by it to the subscriber and charges therefor, if any:

Provided that DTH operator shall repair and maintain the customer premises equipment for five years without any charges from the date of activation of services to the subscriber.

TATA SKY RESPONSE

REPAIR AND MAINTENANCE

- Service visits for repair and maintenance are also a cost to Tata Sky and there might also be a cost for components. Nevertheless, nominal charges are applicable for the same.
- To provide such service free of cost for 5 years is an unviable business proposition due to the absorption of these costs for millions of subscribers.
- A warranty is already specified under the QoS Regulations is adequate from subscriber and business perspective.

TATA SKY RECOMMENDATION

We therefore, request the TRAI to continue with the current position where repair and maintenance charges are free for the 1st year under warranty and charged thereafter.

DRAFT CLAUSES FOR CONSULTATION

11. Reporting Requirement

Every DTH operator shall report to the Authority, within fifteen days of launch of any new scheme or any modification in the existing scheme, the details of the scheme along with its terms and conditions.

TATA SKY RESPONSE

SCHEME DETAILS

- Scheme related details are already provided in the Performance Monitoring Report provided to the TRAI on a Quarterly basis.

TATA SKY RECOMMENDATION

- We request the TRAI to continue with the current position where the details are provided in the QPMR.
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