

27th July, 2015

To,

Shri. Wasi Ahmad
 Advisor (B&CS)
 Telecom Regulatory Authority of India (TRAI)
 Mahanagar Doorsanchar Bhawan
 Jawaharlal Nehru Marg
 New Delhi-110 002.

JAT

28 July 15

Reg. : TRAI Consultation Paper.

Dear Sir,

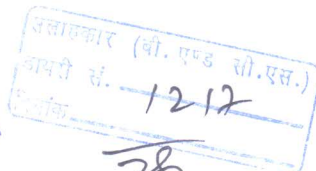
This is to inform you that Jaypee Hotels owns & operates Five (5) hotels classified as five star deluxe / five star i.e. Jaypee Vasant Continental, New Delhi, Jaypee Siddharth, New Delhi, Jaypee Palace Hotel, Agra, Jaypee Residency Manor, Mussoorie and Jaypee Greens Golf & Spa Resort, Greater Noida (U.P.).

Prior to TRAI Ruling in 2006, the hotel industry was availing the Pay Channels services from the cable operators as commercially viable option available to the industry at an economical cost. But, TRAI Ruling in 2006 made it mandatory for the commercial establishment to avail the services directly from the broadcasters of the pay channels. This has resulted the increase in cost exorbitantly as the broadcasters keep on increasing the tariff every now and then without any control or monitoring by any competent / statutory authority.

The primary functions of TRAI are to protect the interests of service providers and consumers of the telecom sector and to promote the orderly growth of telecom services. TRAI vide its order in 2004 did not distinguished between the ordinary & commercial subscribers to maintain the sanctity of the ceiling of cable TV charges, the underline objective of these tariff orders was simply to give relief & protection to the consumers of broadcasting & cable TV services from frequent hikes in cable TV charges.

It is not out of place to mention that on 24 November 2006, the Hon'ble Supreme Court of India decided Civil Appeal No. 2061 of 2006 and reversed the order of the TDSAT dated 17 January 2006 to -

- a) Hold that Hotels are covered by the definition of "consumer";
- b)



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1. Pl put all these in a collation folder
2. Seek soft copy of all responses & mail it. into the folder

SRO-I/50-II (B & CS)

The matter of tariff for commercial subscribers has been under judicial scrutiny since 2005 and on 16 April, 2014, Hon'ble Supreme Court dismissed civil appeals filed by the broadcaster challenging the quashing of the Notification dated 21 November, 2006 by the TDSAT and further directed TRAI to consider the matter de-novo within three months to re-determine tariff after hearing the contentions of all the stake holders.

The Authority notified regulations and orders on 16 July, 2014 and 18 July, 2014 as under: -

- a) All commercial subscribers were required to obtain television services only from a MSO/LCO/DTH/IPTV/HITS operator.
- b) Broadcasters were in effect prohibited from entering into direct agreement / relationship with any subscriber including commercial subscribers.
- c) Commercial establishments which did not specifically charge their clients / guests on account of providing / showing television programmes and offered such services as part of amenities, were to be treated like ordinary subscribers. The charges would be on per television set basis.
- d) Commercial establishments which levy and recover specific charge from their clients / guests for providing / showing television programmes, in that case supply of signals shall be at a tariff to be mutually agreed between the broadcaster and the commercial subscriber.

The two tariff amendment orders was challenged before the Hon'ble TDSAT. The Hon'ble TDSAT vide judgement dated 09 March 2015 allowed the appeal by quashing the two tariff amendment orders dated 16 July 2014 & 18 July 2014. The relevant portion of the orders reads as under: -

"TRAI must now undertake a fresh exercise on a completely clean slate. It must put aside the earlier debates on the basis of which it has been making amendments in the three principal tariff orders none of which has so far passed judicial scrutiny. It must consider afresh the question whether commercial subscribers should be treated equally as home viewers for the purpose for broadcasting services tariff or there needs to be a different and separate tariff system for commercial subscribers or some parts of that larger body".

We feel that TRAI should take a completely fresh and holistic view on the question of tariff in broadcasting services and the different tariff provided in the tariff order for commercial subscribers shall also be quashed.

In view of above facts, we wish to submit to secure a favourable tariff order from the Regulator as under: -

1. There is no need to classify subscribers of TV broadcasting services into different categories.

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2. There should not be any difference tariff even if the subscribers are classified in different categories. The reasons is that the method of provisioning of the TV signal for ordinary and commercial subscriber is same and no extra cost is being incurred to provide the TV signals to commercial subscribers. Further, there is no element of subsidy involved in the pricing for ordinary subscriber as in the case of other utilities like water, electricity etc.
3. The last but the most important facts to mention as under: -
 - a) it is very difficult to determine the criteria for differential tariffs,
 - b) who shall have option to prescribe such differential tariffs and
 - c) what should be regulatory frame work to implement such differential tariffs.

We request authority to consider the case of commercial establishment once over again in a broad based manner.

Thanking you,

Yours faithfully,
For Jaypee Hotels
(A Division of Jaiprakash Associates Limited)

(Manju Sharma)
Director

cc : HRANI