



**TV TODAY NETWORK LTD.**

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To,  
Mr. SK Gupta  
Pr. Advisor (B&CS)  
Telecom Regulatory Authority of India  
Mahanagar Doorsanchar Bhawan  
Jawahar Lal Nehru Marg  
New Delhi-110002

Dear Mr. Gupta,

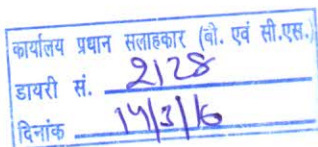
**Subject: Ref. Consultation Paper No. 01/2016 dated 29th January 2016.**

Please find enclosed herewith the comments from TV Today Network Limited (TVTN) with regard to the subject Consultation Paper.

### **Consultation Paper on Tariff Issues related to TV Services**

The purpose of the Consultation Paper (CP) is provided in the paper which states:

- To carry out a review of existing Tariff arrangements and developing a Comprehensive Tariff Structure for Addressable TV Distribution of "TV Broadcasting Services" across Digital Broadcasting Delivery Platforms (DTH/ Cable TV/ HITS/ IPTV) at wholesale and retail level.
- To ensure that the tariff structure is simplified and rationalized so as to ensure transparency and equity across the value chain.
- To reduce the incidence of disputes amongst stakeholders across the value chain encouraging healthy growth in the sector.
- To ensure that subscribers have adequate choice in the broadcast TV services while they are also protected against irrational tariff structures and price hikes.
- To encourage the investment in the TV sector.



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For perusal at DTR Stage



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vi. To encourage production of good quality content across different genres.

For this purpose we have segregated the Consultation paper into chapters on the present broadcasting and distribution sector scenario. It includes:-

- Business and revenue models used therein
- Overview of the evolution of tariff in the broadcasting sector
- Different possible tariff models with an aim to seek comments of the stakeholders with regard to future tariff framework
- Miscellaneous issues relating to tariff structure.

**The questions on which consultation has been sought are as follows:**

**1. Which of the price models discussed in consultation paper would be suitable at wholesale level in broadcasting sector and why? You may also suggest a modified/ alternate model with detailed justifications.**

**TV Today Legal Response:**

At the wholesale level, there are 3 major models that have been discussed -

a. **Price Forbearance Model**

This model envisages minimal regulatory intervention with regard to price fixation, giving freedom to broadcasters to price and market their channels as per their business requirements, while continuing to ensure that content is provided in a transparent and non-discriminatory manner.

A critical analysis of the model (in the CP) suggests that while FDI may increase and freedom of pricing is likely to bring in variety and quality of content, the possibility that monopolistic price control will result cannot be ruled out. Also, a vertical integration of entities involved in the industry will affect the success of such a model.

*Puneet Jain*  


**b. *Cost Based Model***

This model envisages that the price of a channel would be regulated on the basis of actual input costs incurred on creating content, the average unit outflow of a channel will be determined considering the total cost of the content production and revenue from advertisements and number of total subscribers subscribing to that channel. Thereafter the broadcaster can fix the price of the channel and bouquets by adding their profit margin and the details of the calculations shall be vetted by the authorities to ensure reasonableness and fairness.

While transparency and a reasonable rate of return on investments is the greatest pro on this model, the fact that the cost of production of content would vary depending upon the nature of content cannot be ruled out. Also, calculations would be a tedious process and that too meeting the needs of the regulatory authorities would not be easy.

**c. *RIO Based Models - - Universal RIO Model***

- This model envisages complete freedom to the broadcaster to decide its a-la-carte price for its channel(s) and making a declaration to the effect in the RIO. Bouquet channels are not offered in this model. Once again, much like the price forbearance model, there is a possibility of monopolistic practices being followed by the broadcaster.

***Flexible RIO Model -***

Much like the Universal RIO Model, this model grants freedom to the broadcaster to decide the a-la-carte as well as bouquet price for its channel(s).

***Regulated RIO Model***

The regulator shall provide for conditions subject to which RIOs shall provide for the price of the channel(s).

On a general understanding of the above models, therefore, the price forbearance policy would offer broadcasters maximum flexibility with the Competition Commission ensuring that monopolies are not created. However, the consumer's interests are what the TRAI would be seeking to protect, and in that regard the Regulated RIO Model would probably get preferential treatment.



**2. Which of the corresponding price models discussed in consultation paper would be suitable at retail level in broadcasting sector and why? You may also suggest a modified/ alternate model with detailed justifications.**

**TV Today Legal Response:**

With regard to the retail level, there are two possible models provided for in the CP:

a. **Price Forbearance Model** - this model envisages minimal regulatory intervention with regard to price fixation, giving freedom to broadcasters to price and market their channels as per their business requirements fixing both a-la-carte as well as bouquet prices.

b. **Exclusive A-La-Carte Model** - this model envisages capping of maximum retail premium for a-la-carte channels at retail level, in line with the wholesale level caps by the regulator. The price cap can be either genre based or uniform across the channels.

On a reading of the above models, it is the exclusive a-la-carte model that would be more preferable to the regulator in order to ensure that maximum freedom to choose channels is given to the audiences.

**3. & 4. How will the transparency and non-discrimination requirements be fulfilled in the suggested pair of models? Explain the methodology of functioning with adequate justification.**

**How will the consumers interests like choice of channels and budgeting their expenses would be protected in the suggested pair of models? Give your comments with detailed justifications.**

**TV Today Legal Response:**

The Networking Department would be in the best position to explain the on-ground reality of the impact of the pricing models suggested by the CP. If the broadcasters are given a complete free hand to decide the price of the channels, the broadcasters would need to agree to making complete disclosures to ensure transparency and shall also need to ensure that price rise or fall shall not be affected by the competition in the market.



5. Which of the integrated distribution models discussed in consultation paper would be suitable and why? You may also suggest a modified/alternate model with detailed justifications.

**TV Today Legal Response:** - There are 3 models suggested in the consultation paper:

**a. Conventional MRP Model** - This model envisages the Distribution Platform Operator (DPO) providing the channels on an a-la-carte basis and provide FTA channels and charge for it separately. The DPO will have to, in this model, give an accurate measurement of the total number of subscribers per month per channel and such MRP is in the public domain. While one of the main advantages of this model is that it is beneficial to the viewers (in that they get to pay for what they choose to watch), the workability of the same is questionable given that the process of making the consumers choose their channels needs to be facilitated by the DPO.

**b. Flexible MRP Model** - This model is similar to the Conventional MRP Model. However, in this model, the DPO may make additional bouquets in addition to the bouquets already made available by the broadcasters. The working and challenges are similar to that of the Conventional MRP Model.

**c. Distribution Network Model** - This model envisages the separation of charges for distribution networks and subscription of pay TV channels. The basic purpose of this model is to cover the costs of the DPO given that their main source of revenue is carrying of pay channels.

Ideally we would suggest that a hybrid model which combines the features of the Conventional MRP Model or the Flexible MRP Model would be in the interests of both the consumers as well as the industry. A model like the Distribution Network Model is likely to meet with stiff resistance from the consumers as well as the regulators.



**6. How will the transparency and non-discrimination requirements be fulfilled in the suggested models? Explain the methodology of functioning with adequate justification.**

**TV Today Legal Response:**

All rates will be disclosed in the first instance to the regulator, and the Competition Commission is actively keeping watch to ensure a congenial environment to foster healthy competition. This alone is sufficient to ensure transparency and non-discrimination.

**7. How will the consumers interests like choice of channels and budgeting their expenses would be protected in the suggested integrated distribution models? Give your comments with detailed justifications.**

**TV Today Legal Response:**

As mentioned in the response to question 5 above, in an ideal scenario the consumer should have the liberty to choose which channels he wants to watch and pay only for those channels that they wish to subscribe. This could possibly be the only mechanism that provides for the consumer's interest to be taken care of.

But such a situation cannot be beneficial to broadcasters, as it would take away the provision for bouqueting channels and allowing weaker channels to be compulsorily viewed when bouqueted with stronger popular channels. However, it needs to be clarified whether such a regime would allow the LCO/MSO/DPO to be able to value the channels at a rate that covers their costs. Therefore, there is a need to have a proper regulation in place to assist with the valuation of the channels in case such a regime is brought into place.

*Puneet Jain*  


**8 & 9 and 10. Is there a need to identify significant market powers? What should be the criteria for classifying an entity as a significant market power? Support your comments with justification. Should there be differential regulatory framework for the significant market power? If yes, what should be such framework and why? How would it regulate the sector?**

**TV Today Legal Response:**

From the perspective of a significant market power bundling off its weaker channel(s) with a strong channel and the customer being forced into buying the weaker channel(s) just so it can enjoy a channel of its choice, it is imperative that a significant market power is identifiable in the industry. However, the identification of a "significant market power" has to be qualified by a proper explanation as to how a monopoly created by such market players can be resolved without adversely affecting the interests of all stakeholders.

The criteria for classifying a broadcaster as a significant market power must take the following into account:

- a. How many popular channels must a broadcaster have to qualify as a significant market power?
- b. What is the yardstick of popularity that a channel must meet and who will fix the same?
- c. How will having a differential regulatory framework affect such market player? Would the broadcaster have been penalized for being successful?
- d. Is regulation in the sector only to the end of ending a monopoly like situation? If yes, then what role would the Competition Commission play in such a situation?

**11. Is there a need to continue with the price freeze prescribed in 2004 and derive the price for digital platforms from analog prices? If not, what should be the basic pricing framework for pricing the channels at wholesale level in digital addressable platforms?**



**TV Today Legal Response:**

Since the price of the channels has been so far determined by the regulator and remained static over a period of time, the fact that the said price has to ensure that the broadcaster's and LCO/MSO/DPO's costs are also covered is of prime importance. This is especially pertinent in light of the fact that making the channel available on digitized platforms has been a costly affair for the broadcasting industry, while ensuring adherence to the TRAI's price ceiling.

The basic pricing framework would therefore need to take into consideration the impact that digitization has had on the industry, and the fact that complete digitization has not yet been achieved.

**12. Do you feel that list of the Genres proposed in the consultation paper (CP) are adequate and will serve the purpose to decide genre caps for pricing the channels? You may suggest addition/ deletion of genres with justification.**

**TV Today Legal Response:**

The genres in the consultation paper are news and current affairs; infotainment; sports; kids; movies; devotional; general entertainment. While the CP clearly states that Hindi and English entertainment channels are included in the GEC category and music and lifestyle channels are included in the infotainment category, it is not clarified that English

and Hindi news and current affairs channels are included within the News and Current Affairs category. Why this assumes importance is because of the following reasons:

a. This creates a belief that while English and Hindi channels within certain genres are treated at par, there is ambiguity on the treatment of English and Hindi channels within a different genre.

b. How can there be a general cap on the genre? Within a genre English, Hindi and regional channels will have varied audiences and a genre cap would mean payment of the same amount for a channel that the customer does not watch as the channel that the customer actually wants.





c. For a genre cap to work, it would be imperative to allow the viewer to pick the channels he/she wants to watch so that payment can be made only for those channels.

**13. Is there a need to create a common GEC genre for multiple GEC genre using different regional languages such as GEC (Hindi), GEC (English) and GEC (Regional language) etc? Give your suggestions with justification.**

**TV Today Legal Response:** - N.A.

**14. What should be parameters for categorization of channels under the "Niche Channel Genre"?**

**TV Today Legal Response:**

What is the basis of the creation of the niche channel genre? Why can a new channel not be put into an existing genre, instead of creating a new genre altogether? This is a pertinent question in light of the fact that channels that target certain demographics and/or are educative and/or cookery in nature are already grouped under GEC/infotainment genres, as aforementioned.

**15. Do you agree that niche channels need to be given complete forbearance in fixation of the price of the channel? Give your comments with justification.**

**TV Today Legal Response:**

Merely because a channel is niche does not mean that they must enjoy benefits over any other kind of channels. If at all there is to be forbearance, it should be with regard to new channels in order that the subscriber is given a fair opportunity to decide whether he/she wants or does not want to subscribe to the same.



**16. How should the price of the HD channel be regulated to protect the interest of subscribers?**

**TV Today Legal Response:**

While increasing advertising on HD channels may mean that the financial impact of the cost of the channel on the subscribers may be lessened, however, the viewers' experience would not be protected. However, such a solution may be suggested until the process of digitization is complete and complete transparency is there in the subscription numbers.

**17. Should there be a linkage of HD channel price with its SD format? If so, what should be the formula to link HD format price with SD format price and why? Should similar content in different formats (HD and SD) in a given bouquet be pushed to the subscribers? How this issue can be addressed?**

**TV Today Legal Response:**

Once again, a link between HD and SD channel prices would be possible only if there is absolute freedom offered to the viewer to choose what channels they want to or do not want to watch/subscribe to.

*Puneet Jain*  


**18. Do you agree that separation of FTA and pay channel bouquets will provide more flexibility in selection of channels to subscribers and will be more user friendly? Justify your comments.**

**TV Today Legal Response:**

The classification as FTA or pay would facilitate the subscribers insofar as they will get to know what they need to pay for and what they don't. However separating the two in terms of bouquets may mean forcing certain unwanted FTA channels on subscribers. From this point of view, it would be more prudent to (as aforementioned) allow subscribers to choose their channel and since the must carry clause covers FTA channels, allow access to them unless a viewer asks for a specific FTA channel to be removed, the likelihood of which is slim considering a free extra channel will not be complained about given the Indian mindset.

**19. How channel subscription process can be simplified and made user friendly so that subscribers can choose channels and bouquets of their choice easily? Give your suggestions with justification.**

**TV Today Legal Response:**

As mentioned earlier, a complete list of available channels in various genres (as listed on EPGs) must be provided to a subscriber so that he/she may choose the channels of his/her choice. This would need an investment in terms of possibly publishing fliers/booklets to make the subscribers aware of the options they have, but the effect of the same would be felt almost instantly by the subscriber. Websites/apps can also be developed on similar lines to reduce costs in this regard.

*Puneet Jain*  


20. Should the carriage fee be regulated? If yes, what should be the basis to regulate carriage fee? Under what circumstances, carriage fee be permitted and why? Is there a need to prescribe cap on maximum carriage fee to be charged by distribution platform operators per channel per subscriber? If so, what should be the "price Cap" and how is it to be calculated? Should the carriage fee be reduced with increase in the number of subscribers for the TV channel? If so, what should be the criteria and why? Should the practice of payment of placement and marketing fees amongst stakeholders be brought under the ambit of regulation? If yes, suggest the framework and its workability?

**TV Today Legal Response:**

While from a broadcaster's perspective, a cap cannot be recommended, but this is sure to meet resistance from the MSOs, as there is no "must carry" clause, and an MSO can get away by mentioning the issues of bandwidth scarcity. Carriage fees then will be paid in addition in the name of Marketing fees/promotional fees/LCN fees etc, which will have more paper work & audit issues. The biggest loss in comparison to the existing scenario for the broadcasters will be:

- a) Carriage to be paid to all DPOs, if regulated as, on date most broadcasters do not pay to DTH providers.
- b) Broadcasters will not be allowed to pick & choose the markets as per their choice/business plan for visibility.
- c) All markets/STB will carry same weight so the ROI will be challenged.

Once 100% digitization and DAS-4 is completed, if the regulated price comes into force then overall outflow in carriage/promotional/marketing fees will increase, as C&S are growing day by day and every broadcaster will pay for 168 million homes.

Puneet J.



A red circular stamp with the text "TV TODAY NETWORK LTD." around the perimeter and "NEW DELHI" in the center. A signature "Puneet J." is written over the stamp.

**21. Is there a need to regulate variant or cloned channels i.e. creation of multiple channels from similar content, to protect consumers' interest? If yes, how should variant channels be defined and regulated?**

**TV Today Legal Response:**

The cloning of channels insofar as the same relates to SD and HD channels is inevitable and should not be regulated as the same would mean that poorer families who cannot afford an HD TV would be deprived of certain channels that are not watchable if the duplicity of channels is done away with by an upgrade to HD alone. Apart from this kind of cloning, therefore, further elucidation would be needed on any other kind of variant or cloned channels, as merely stating that certain regional channels that carry dubbed programs are clone channels may be an unfair comment.

**22. Can EPG include details of the program of the channels not subscribed by the customer so that customer can take a decision to subscribe such channels? Can Electronic Program Guide (EPG) include the preview of channels, say picture in picture (PIP) for channels available on the platform of DPOs but not subscribed by the customers at no additional cost to subscribers? Justify your comments.**

**TV Today Legal Response:**

Several platform operators have included details of the programs of channels not subscribed to by the customer. However, this is not an exhaustive all inclusive list of channels not subscribed to and therefore serves no purpose. This would take us back to the answers given above that a guide must be provided to all customers so that they can pick and choose the channels of their choice. Advertisements for other channels (not subscribed to) may also be included by platform operators to ensure that the subscriber comes to know of other options that are available to him/her.

*Puneet Jain*  


**23. Is the option of Pay-per-program viewing by subscribers feasible to implement? If so, should the tariff of such viewing be regulated? Give your comments with justification.**

**TV Today Legal Response:**

In the current scenario where digitization is not yet complete and viewers are still getting used to the new regime, it may not be prudent to offer too many new options which

comes at a cost and loss to the broadcasting industry. Such options may therefore form part of a re-assessment/innovation-of-ideas process undertaken when digitization is complete and the teething problems currently faced by the entire exercise are weeded out.

**24. Will there be any additional implementation cost to subscriber for pay-per-view service?**

**TV Today Legal Response:**

From a broadcaster's perspective, a pay-per-view/pay-per-program service must be expensive, as it comes at a loss to the broadcaster who would be forced to allow only one show on the channel be viewed as opposed to the channel being made available with a variety of shows.

**25. Do you agree with the approach suggested in Para 5.8.6 for setting up of a central facility? If yes, please suggest detailed guidelines for setting up and operation of such entity. If no, please suggest alternative approach(s) to streamline the process of periodic reporting to broadcasters and audit of DPOs with justification.**

**TV Today Legal Response:**

Yes, the setting up of a central facility is a good concept as there is no published data till date which can declare the Subscriber base for any existing MSO, the figures are only mentioned in their balance sheets (after cosmetic changes) for the financial reasons best known to them. This is also true for MSOs who are listed with Stock Exchange.

*Puneet Jain*  


We at TV Today Network Limited have a strong reason to believe that a central facility would help broadcasters:

- a) Justify the amount paid to MSO in terms of Carriage fees.
- b) Justify the subscription revenue collected.
- c) There can be changes done in terms of business plan.
- d) ROI can be calculated in all aspects. subscribers/viewers.

Thank you.

Yours sincerely,

**For TV Today Network Limited**

*Puneet Jain*



**Dr. Puneet Jain**  
**Group Head - Legal & Compliances**  
**Company Secretary & Vice President (Internal Audit)**