

4. 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.

See our response to 1.2 above.

(b) Integrated Models

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.

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

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.

As stated above we believe that the current prevalent model as also elucidated in the price forbearance model at the retail level is the best model for the time being and therefore we would not like to suggest any of the models suggested in para 4.12 of the Consultation Paper.

(c) Channel Pricing Framework

8. Is there a need to identify significant market powers?

There is no need to identify significant market power as the tenets of consumer demand, non-discrimination and transparency coupled with existing laws such as the Competition Act, 2002 which prohibits anti-competitive agreements and abuse of dominant position are is adequate deal with any anti-competitive behavior.

9. What should be the criteria for classifying an entity as a significant market power? Support your comments with justification.

There is no appropriate criteria for classifying an entity with significant market power. Reliance on data such as BARC will be erroneous as popularity of a particular content in a week cannot be a measure of an entities' significant market power.

Even the experience of the erstwhile MRTP Act has shown that classification of a dominant undertaking is unnecessary. What is required is to prevent abuse of dominant position which is adequately provided for in the Competition Act, 2002.

10. 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?

It is difficult to envisage how a differential regulatory framework would be applicable to an entity which has just found out from the BARC report that their content was very popular in the previous week. Effective regulation has to be consistent and predictable so as to avoid confusion, create a stable regulatory environment, foster business confidence and minimise litigation.

(d) Channel Pricing Methodologies

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

Price freeze as well as the freeze on the composition of the bouquet is no longer warranted and should be immediately done away with. The price freeze was stipulated by TRAI in 2004 in analogue regime whereby the rates of the bouquets of channels prevalent on 26/12/2003 and the composition of these bouquets were frozen. TRAI had itself indicated in the Tariff Orders that freeze is temporary and is likely to be lifted once there is an adequate competition and digitalization. However, tariff freeze has continued for 12 years now. The continuation of the price freeze has caused distortion in the prices of channels inasmuch as whereas prices of the channel which were existing in December 2003 have remained frozen. (as they have been derived from the bouquets which were frozen in December 2003), while the new channels in the same genre /category have been priced higher. This has led to heavy discounting in the case of newer channels thus causing distortion. Accordingly we are of the view that the said price freeze as well as the freeze on the composition of the bouquets need to be discontinued.

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.

The true value of our various channels is much more than the prevalent caps and ceiling as mentioned in the Consultation Paper. With removal of tariff freeze, Turner should be allowed the flexibility to price its 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.

No comments.

14. What should be the measures to ensure that price of the broadcast channels at wholesale level is not distorted by significant market power?

Please see our response to questions 8, 9 and 10 above.

15. What should be the basis to derive the price cap for each genre?

There should be no price cap for reasons stated in response to questions 11 and 12 above.

16. What percentage of discount should be considered on the average genre RIO prices in the given genre to determine the price cap?

There should be no price cap for reasons stated in response to questions 11 and 12 above.

17. What should be the frequency to revisit genre ceilings prescribed by the Authority and why?

There should be no genre ceilings for reasons stated in response to questions 11 and 12 above.

18. What should be the criteria for providing the discounts to DPOs on the notified wholesale prices of the channels and why?

These should be as mutually negotiated between broadcasters and DPOs. The mutually negotiated contracts are based on a number of parameters including penetration offered, placement of channels, size of platform, EPG positioning, the number of channels carried, length of the contracts etc.

19. What would be the maximum percentage of the cumulative discount that can be allowed on aggregated subscription revenue due to the broadcasters from a DPO based on the transparent criteria notified by the broadcasters?

There is no need to regulate maximum percentage of cumulative discount that can be allowed on aggregated subscription revenue due to the broadcasters from a DPO and this must be left to be determined by market forces and mutual agreements.

(e) **Niche Channels**

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

The broadcasters should have the prerogative to classify a channel as a niche channel while reporting the launch of channel to TRAI. A channel falling under any of the following criteria may be classified as niche channel:

- (a) A specialized channel up to subscriber base of 5 million (i.e. 5% of the existing C&S universe assuming the same to be 100 million)
- (b) Newly introduced channel for a gestation period of 36 months subject to subscriber number condition as above.

The moment a channel crosses the threshold subscriber limit it would cease to be classified a niche channel.

21. 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.

The niche channels are meant for specialized set to viewers. These channels involve significant investment which is required to be recovered mainly from subscription as being a new channel and/or the channel having a specialized content, the advertisement revenue may be quite limited. Since the subscriber base is limited and the advertisements are also specific product based advertisements, the higher subscription charges are necessary to recover the investment in the niche channels. Accordingly, these channels should be out of the regulated tariff framework and should be given complete forbearance in fixation of their prices.

22. What should the maximum gestation period permitted for a niche channel and why?

As pointed out hereinabove a channel may be categorized as niche channel at the option of broadcaster with a gestation period of 36 months. This is for the reason that the new channel takes time to get itself established in the market. However a channel

may continue to be niche channel even after expiry of 36 months if it remains within the threshold limit of the number of subscribers.

23. How misuse in the name of “Niche Channel Genre” can be controlled?
24. Can a channel under “Niche Channel Genre” continue in perpetuity? If not, what should be the criteria for a niche channel to cease to continue under the “Niche Channel Genre”?

The channel can remain under niche genre till the threshold subscriber base is reached. Once the stipulated subscriber base is reached, the channel would cease to be a niche channel. It may be mentioned that it is entirely the prerogative of the broadcasters to classify a channel as niche. A broadcaster may at its option decide to treat a channel as a normal channel though it may have been initially classified under niche category even before the threshold subscriber limit is reached. Accordingly, there should be no regulatory bar in classifying a niche channel as a normal channel even though it may still qualify to be niche under the laid down parameters.

(f) HD Channels

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

Presently the prices of HD channels are under forbearance both at wholesale level as well as retail level. Creation of HD content involves significant investment in equipment, shooting and transmission. The bandwidth requirement is also more vis-a-vis SD variant. HD channels have lesser advertisements as compared to SD channels. The subscription is the main source for recovering the investment in the channel. With the advancement of technology and awareness about the broadcasting services, consumer habits and demands are changing towards television programs viewing. Certain segment of viewers is demanding high quality viewing experience even at a higher cost. HD channel is premium product and is meant for the section of subscribers who can afford specialized STB which is required to access these channels. In other words, this segment of consumers is prepared to pay a premium price for a better quality product. Accordingly we are of the view that no price regulation whatsoever is warranted in respect of HD channels. The HD channels in India are at a nascent stage. The market for HD channel is still evolving. So far there are just about 7 million number of HD subscribers out of the entire universe of C&S subscribers. It is an admitted position that cost for producing the HD channel content is more than that of SD content. The HD channel should be allowed to be sold both as a-la carte as well as in bouquet. Accordingly we are of the considered view that the tariff of HD channels should be left for forbearance as:

- (i) it is a specialized product meant for section/segment of viewers who are willing to pay an extra/premium price for better quality viewing
- (ii) for each HD channel there is a SD variant with the same content and accordingly those who do not wish to avail the HD quality and pay the price thereof, can very well subscribe to the SD channels.
- (iii) Any attempt to regulate the wholesale and retail tariff for HD channels would amount to stipulating restrictions on the business model of the broadcasters and would directly affect the viability of these channels. This may result in dissuading the broadcasters from launching these kinds of channels, thus depriving the options otherwise being made available to the consumers.

26. 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?

We do not recommend any such formula. In fact no logical formula can be arrived as the dynamics of industry can change continuously. An HD channel when converted to an SD channel is not the same content in form factor, audio and video attributes or the quantity of information carried on a screen.

27. Should similar content in different formats (HD and SD) in a given bouquet be pushed to the subscribers? How this issue can be addressed?

We are of the view that if a consumer is subscribing to HD channels then the price of only HD channel should be charged. The service provider may give both HD channel as well as its SD variant provided no additional charges are recovered for SD variant.

(g) Manner of Offering

28. 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.

We agree that this will give better clarity to subscriber in choosing the channels they want and will also allow DPOs to package channel better.

29. 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.

Every subscriber should be in a position to view each channel information including price and then have an option to 'subscribe' for a given period either through the mobile app, the web, call centre, set top box or through SMS.

30. How can the activation time be minimized for subscribing to additional channels/bouquets?

Activation process should be linked to the mobile number of the subscriber and should happen instantly like in the case of DTH.

(h) Regulation of Carriage Fee

31. Should the carriage fee be regulated? If yes, what should be the basis to regulate carriage fee?

32. Under what circumstances, carriage fee be permitted and why?

33. 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?

The existing provisions of Interconnect Regulations already mandate that in case the distribution platform invokes the "must provide" provisions contained in clause 3.2 of the Regulations, it is prohibited from demanding the carriage fee to carry the said channel. Our preference would be for all platforms to be prohibited from seeking carriage fee. However, if that is not possible carriage fee should be completely

regulated by introducing the non-discrimination and transparent criteria. As pointed out hereinabove, the distribution platform should be mandated to come out with their interconnect offers (RIOs) for charge of carriage fee /placement fee/marketing fee and the said charges should be on non-discriminatory basis i.e. uniform for all the channels seeking carriage/placement. Further TRAI should stipulate that all the broadcasters and distribution platforms are required to file their carriage/placement/marketing fee agreements also with the Regulator.

34. 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?

35. 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?

We would recommend TRAI coming up with regulatory framework to phase out carriage fee in any form.

(i) Variants of Channels

36. 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?

There is no need for a separate regulation on variant or cloned channels. These will be regulated as either normal, HD or niche channel based on the aforesaid discussions.

(j) Channel visibility on Electronic Program Guide (EPG)

37. 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?

Yes, it is a good suggestion. This would make consumers aware about the availability of various channels on the platform.

38. 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.

Yes, it is a good suggestion. This would help consumers decide.

(k) Pay-per-program viewing and tariff options

39. 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.

The volume of subscribers using such a service is too small to merit regulation.

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

Unlikely.

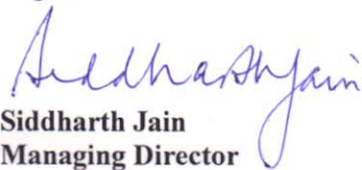
(I) **Audit and reporting issues related to tariff**

41. 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.

We welcome TRAI's initiative for taking up the issue of Audit in such a detailed manner in this consultation paper. The thought process of setting up of a central facility is indeed a step in the right direction to have authenticated data which can be relied upon by all the stakeholders. For this to succeed the data has to be authentic, tamper proof, dependable, robust and independent. The facility should ensure ease, correctness and transparency of the data with regards to reporting of Subscriber numbers from the CAS and SMS systems of DPO's. Additionally, it will also ensure a baseline for Broadcasters to conduct their Audit of the DPO's by looking into specific areas of inconsistencies observed in the data fetched from the central facility and thereby improving the outcome of the audit exercise as well and also reduce the overall time for conducting audit.

Thank you for the opportunity to make our views known. We would be happy to discuss any of these points further at your convenience.

Regards



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