

Cable Operators Federation of India

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Without Prejudice

(Sent by Email and Speed Post)

Dated: 19 November 2015

The Chairman,
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg
New Delhi-110002

Kind Attn: Shri S.K.Singhal, Advisor (B&CS) and Shri S.M.K.Chandra

**Sub: Comments on TRAI Draft Amendments to interconnection regulations for
DAS dated 03 November 2015**

Sir,

This is in reference to the Draft Amendment to Interconnect Regulations dated 03 November 2015.

At the outset we wish to submit that amending the Interconnect regulations in isolation will not solve the problem of disputes in the industry, nor will it help the consumers get a better deal from the MSOs or the broadcasters.

Although DAS was mandated in consumer interest for implementation by a private industry comprising of Broadcasters, MSOs, LCOs and Consumers, investing a huge amount without any support from the government, even the Regulations framed for addressable systems have not created an eco-system benefitting the consumers and encouraging the growth of all stakeholders. Almost four years have gone past since the process started in November 2011, consumers have not benefitted in any way except that they are being made to pay high activation fee for STBs and monthly subscriptions to the MSOs and 'Pay' Broadcasters and a huge amount in taxes to the Central government and the State governments.

MSOs, LCOs and consumers are investing a huge amount on the mandate of the government but Broadcasters who have benefitted the most, have not

spent a single penny for digitization of cable TV industry. Not even a single MSO has started giving itemized billing to consumers so far. TRAI's frequent directions issued to MSOs fall on deaf ears. This indicates that there is something drastically wrong in our implementation.

Consumers and LCOs have no Say in the present system

One of the main reasons for the present chaotic situation in the industry is that consumers, who for the last twenty five years were served by the LCOs, have to face a completely new system of service without having opted for it. They are being forced with the bouquets and rates of TV channels as desired by the broadcasters and imposed by the MSOs. No one has asked for their choice and regulations have reduced the LCOs to just agents of MSOs to collect the subscriptions as fixed by Broadcasters and MSOs. Both LCOs and Consumers do not have any say in selecting even the Free to Air channels. TRAI regulations are not been followed in letter and spirit and TRAI has not found any way to implement what it has penned down on the paper. Its role is reduced to only issuing directions, which till date have not resulted in anything positive.

Mutual Negotiations are Meaningless when there is No Level Playing Field

It may be noted that since TRAI has failed to provide a level playing field to all stake holders, big or small, the present regulations allowing mutual negotiations have resulted in giving the decision power to the stronger party, be it a broadcaster or an MSO. There is no mechanism created by the Regulator to check exploitation of the weaker stakeholder. Approaching to the Courts is a long drawn process and also very inconvenient and costly for the smaller stake holder. It leads to ultimately edging out the weaker link in the service chain and since consumer recognise only the weaker link, the LCO, he is confused as to what can he do. Consumer has no immediate alternative than going to DTH service. And if he does not want that, there is nothing for him.

In the present system, Pay Broadcaster decides a rate for his channels, makes his packages and sells to the MSOs in the way he wants. He gives it at different rates to different MSOs mostly on fixed amount deals. The only option he gives is the RIO. Even RIO rate is not one for all. TRAI has failed to ensure that broadcasters give the same rate of RIO to all MSOs, irrespective of size and status. Broadcasters manipulate this rate in favour of the larger MSOs. Criteria of fixing the rate is made by the broadcaster, so different MSOs get different rates which they have to pass on to the consumers. There is no competition in the market. Subscribers of different networks have to pay different rates for the same content.

After the discriminatory process at the Broadcaster level, the MSO does the same with the LCOs. He discriminates with LCOs and forces them to collect the same subscription from the subscriber.

The LCO who is the last link to subscriber has no choice except to force the subscriber what the Broadcaster and the MSO wish. Thus the onus of increasing the ARPU is left only on the LCO when he has no control on either the content, or its cost or the packaging.

The regulation does not control the causes of failure of negotiations whether it is the signal quality, arbitrary increase in rates by broadcaster or the MSO or any other reason out of control of the LCO

LCOs at the Mercy of the MSOs

LCO is completely at the mercy of the MSO for the service. If an MSO wants to edge out an LCO, he only has to disturb his signal level to spoil his service without switching off the signal. Surely the subscribers will shift to either a DTH operator or find another LCO, if available.

Since an MSO also is a last mile provider, competing with his own LCO, he may suggest to the consumer to shift to his service directly. Thus only the strongest will survive.

This is the reason that disputes have increased and interconnection agreements fail on all accounts.

If LCO/ MSOs is making payments regularly as per the current agreement, why should his connection be switched off? Why should a broadcaster or an MSO increase the cost of content and service without any consideration for the subscriber. TRAI should ensure that all Tariffs and Pay TV rates are controlled by it.

To ensure a smooth migration to digital, the following changes to the regulations are suggested:-

1. STANDARDISE INTERCONNECTION AGREEMENTS

The regulator must make a “Standard interconnect Agreement” mandatory for all MSOs and put up on the website of each MSO.

Interconnect agreement should include commercials, quality of service, standards of Digital Signals, revenue share, billing, STB portability and taxes etc.

Interconnect Agreement should be submitted to TRAI and all agreements should be in public domain on the website of TRAI.

Interconnect agreements should have adequate safe guards for LCO/LMO business and protect their livelihood against any hostile takeover either by raising dummy operator, providing poor quality signals or raising exorbitant outstandings.

The term '**MSO**' should be replaced with **HSP** (Headend Service Provider)

The ICA should be in compliance with other prevalent acts/laws like the contract or the competition Act etc.

2. Before renewal – all Interconnect agreements must be approved by TRAI.
3. Rates of channels and bouquets must be approved by TRAI before making them public.
4. TRAI's Tariff of Rs. 100 for the basic package of 100 FTA channels must be ensured by all MSOs without mixing it with pay channels.
5. These FTA channels of the Basic Package must be of the choice of subscribers of a network as provided by the regulations.
6. Even the a-la-carte rate of FTA channels should not be more than Rs 1 because the FTA broadcaster does not charge any money from the MSOs. It is the right of the subscriber to get all FTA channels at the same price whether they are in basic package or a-la-carte.
7. There has to be a mechanism of evaluating Pay Channel costs. We suggest that TRAI fixes the rates (MRP) of all channels existing before 2012 and broadcasters be left free to fix rates of channels launched after that. There can also be rate slabs fixed by TRAI and broadcasters be asked to list out their channels for each slab and these be notified to the public.
8. A level playing field for all must be created in every respect. This includes licencing according to the area covered, registration fee, security of business, recognizing the role of LCOs as Last Mile Owners and all regulations framed in that manner.

Conclusion

So far all regulations look after the interests of the Pay Channels who are just 25% of the total TV channels in India. These are being owned by just two or three Media groups. Even small independent broadcasters are suffering in digitization and find it difficult to survive.

There is nothing for the distribution networks in the regulations. There is a fixed distribution expense that an MSO or an LCO has to incur in providing a number of digital or analogue TV channels. Then there is a limit to the affordability of majority of

existing subscribers. These should be the main criteria of fixing the subscriptions and making the packages. TRAI does not have any regulation for broadcaster's content and the way they make the bouquets. Even if it made any regulations for consumers regarding the tariff, broadcasters challenge it in the court and matters become subjudice. This situation has to be rectified making amendment to the legislation. We know TRAI cannot do that but it can definitely recommend to the parliament to do the needful without bringing the I&B Ministry in the process. Since I&B Ministry does not deal with network infrastructure, it has not shown any interest for improving the distribution networks for the converged services, which is the need of the hour.

Thus, unless this scenario is fixed by TRAI, none of these regulations will be effective and the digitization process will keep dragging on for years even if the government wishes to declare closing the phases successfully on paper. It is the masses who will keep suffering for years to come.

Yours Faithfully,
(Roop Sharma)
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