Response to Draft Amendments to the Interconnection Regulations and Tariff Order applicable for Digital Addressable Cable TV Systems (DAS)

A. Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems

1) Carriage Fees

Issue for consultation: - To introduce the following proviso

"Provided also that the provisions of this sub-regulation shall not apply in the case of a distributor of TV channels, who seeks signals of a particular TV channel from a broadcaster, while at the same time demanding carriage fee for carrying that channel on its distribution platform."

And delete 3(5) proviso of DAS interconnection regulation.

Our Reply

Digicable's view is that the above mentioned amendment **should not** be introduced and the existing 3(5) proviso of DAS interconnection should also be deleted for the following reasons:-

a) It contradicts with the MUST-PROVIDE proviso 3(2) of existing DAS interconnection regulation. The provision mandates that the broadcasters will have to provide the content to the MSO's, albeit with conditions and therefore there is no such situation of "seeking of content" by the MSO

b) This proviso should not be introduced keeping in mind the vertical monopolies and cross-media ownership that currently exists in the ecosystem (with whatever little percentages of ownership). Companies which are vertically integrated would endeavor to try and obstruct issuing of content to non-allied entities in the distribution (Cable/DTH/IPTV) thereby stifling the introduction of competition in the business

c) With the introduction of DAS, which has the feature of addressability as the essence, the Broadcasters are all set to gain in terms of exponential increase in subscription and advertisement revenue. Moreover, DAS entails offering of channels on a-la-carte basis to the subscriber along with the packages/bouquets. Hence, linking of seeking of content to demand of carriage fees is not justified

d) There are already adequate safeguards with regards to regulation of carriage fee in favour of the broadcasters in the form of Carriage Reference Interconnect Offer (RIO). Carriage fee must be uniform for all the broadcasters, no upward revision in Carriage fee for a minimum of 2 years etc.

B) Issues related to amendments to the Tariff Order applicable for Addressable Systems.

1) Twin Conditions at retail level

Our Reply

Twin conditions although well thought out and well intentioned has a few flaws as below

a) As per our understanding, the second condition 26.(b) is an overriding condition in the proposed new twin conditions since it requires that the retail a-la-carte rate of a pay channel in a bouquet to be not more than two times the broadcaster's wholesale rate

b) The calculation of Ascribed rate in the proposed first condition 26.(a) becomes irrelevant if the Ascribed rate is more than two times the a-la-carte wholesale rate and therefore the relevance of this clause is not understood.

However, the new condition 26.(b) is totally unacceptable to Digicable because of the following reason, which is explained in the following paragraphs:

Consider an example of a popular Pay Channel Star Plus with wholesale rate of Rs.7.87/- and various mark-up percentages as shown in the table below

Mark-up	Marked-up a-la-carte Rate	LCO Share	MSO Share
		35%	
50%	11.8	4.13	-0.20
70%	13.4	4.68	0.83
90%	15.0	5.23	1.85
100%	15.7	5.51	2.36
110%	16.5	5.78	2.87
115%	16.9	5.92	3.13
120%	17.3	6.06	3.38
125%	17.7	6.20	3.64
150%	19.7	6.89	4.92
175%	21.6	7.57	6.20
200%	23.6	8.26	7.48
225%	25.6	8.95	8.76
250%	27.5	9.64	10.03

Mark-up	**Revenue Share**		
	Broadcaster	LCO	MSO
50%	67%	35%	-2%
70%	59%	35%	6%
90%	53%	35%	12%
100%	**50%**	**35%**	**15%**
110%	48%	35%	17%
115%	47%	35%	18%
120%	45%	35%	20%
125%	44%	35%	21%
150%	40%	35%	25%
175%	36%	35%	29%
200%	**33%**	**35%**	**32%**
225%	31%	35%	34%
250%	29%	35%	36%

In the above example if we follow the proposed 26.(b) condition i.e. mark-up of a maximum 100% then

a) The broadcaster will earn 50% of the revenue **(please see the section of table highlighted in red color).** What is not acceptable and understood by us is that as per the revised Proviso, the Broadcaster without making any incremental investment in Digitalization is being offered a 50% Share of Subscription revenue while also getting to retain the entire advertisement revenue they generate by running advertisements and commercials on their channel

b) While on the other hand, the MSO would earn only 15% from Subscription Revenue after making all the investments in Digitalization which includes setting up of Digital Headends, procuring STBs, setting up and maintaining the call centres, SMS, CAS and all other related technical Capital and Operational Expenditure and not getting any share in revenue generated by the Broadcaster from Advertisements and Commercials aired on channels which they are carrying.

c) Further, it is important to state that only when the MSO marks- up the subscription a-la-carte rate by 200%, there is a situation of achieving parity in the revenue share with the other stakeholders. (Please see the section of table highlighted in Green color)

d) In the light of above, the proposed new Twin condition has flaws and doesn't seem to be practical.

Our Suggestion

We request the Hon'ble regulator to therefore mandate a *Retail Tariff instead of a Wholesale Tariff and mandate an equitable share from subscription, so that the MSO is able to recover the costs incurred in ushering digitization and earn a fair return on investment.*