

## **Digicable's comments on the Draft Tariff Order applicable for Non-Addressable Cable TV Systems, 2014.**

Digicable appreciates the Hon. Regulator's proposed amendment to increase the existing Retail cap in Analog by bringing forth the new consultation paper on Draft Tariff Order for Non-Addressable Cable TV Systems dated 01<sup>st</sup> December 2014.

Digicable's comments on the Draft Tariff Order (Non-addressable Cable TV Systems) are as below:

### **Charges Payable by Cable Operators or Multi System Operators to Broadcasters (Wholesale Tariff)**

Every broadcaster shall offer or cause to offer all its pay channels on a-la-carte basis to distributors of TV channels using non-addressable systems, and specify the a-la-carte rate for each pay channel.

In case a broadcaster provides pay channels as part of a bouquet consisting only of pay channels or both pay and free to air channels, such broadcaster shall specify the rate for each such bouquet of channels offered by it.

*Digicable is of the view that most of the pay broadcasters generally have certain number of Free-To-Air (FTA) channels along with the pay channels as part of their total service offering. These FTA channels are usually bundled with the pay channels and offered as part of a bouquet. Hence, we are of the view that the Regulation should rather be, "Every broadcaster shall offer or cause to offer all its channels (Pay and encrypted FTA) on a-la-carte basis to distributors of TV channels using non-addressable systems..."*

*Integrated Receiver cum Decoders (IRDs) is required to be provided by the broadcasters to decrypt and receive such encrypted FTA channels. The reason for seeking additional clarification on the above provision is to preempt pay broadcasters from coercing Analog operators into subscribing their pay channel while offering such encrypted FTA channels.*

*In our view, such encrypted FTA channels should be offered on a-la-carte basis without any preconditions that they are available only if pay channels/bouquets are subscribed. If such encrypted FTA channels are offered only as a package or a bouquet along with pay channels it may be construed as Restrictive Trade Practices.*

## **Issue of Receipt and Bill**

Every bill referred to in sub-clause (1) shall contain all relevant details including the total number of pay and free to air channels provided by such cable operator or multi system operator, as the case may be, the charges levied (excluding taxes), nature and rates of taxes levied and amount thereof.

*Digicable is of the view that every consumer of Cable TV services should be provided with a Bill and Receipt. However, it is not advisable to issue an Itemized Bill in Analog.*

*Channel Packaging is not possible in analog platform and hence there is only a single Service/Package that goes out to all the subscribers. Secondly, the consumer may not be able to receive/view all the channels transmitted from the Analog Headend of the MSO either because of the limitations in the distribution infrastructure (MSOs and/or LMOs and/or consumer's internal cabling and/or type of television set)*

*This may result in misunderstanding and billing disputes and therefore it is not advisable to provide an itemized bill to the end consumer.*

## **Reporting Requirement**

Every broadcaster who, after the commencement of this Order

- 1) introduces any new pay channel or free to air channel; or
- 2) converts any pay channel into free to air channel; or
- 3) converts any free to air channel into pay channel
- 4) discontinues any free to air channel or pay channel; or
- 5) introduces any new bouquet or discontinues any bouquet or changes rate of existing bouquet; or
- 6) changes a-la-carte rate, genre, language, name etc. of any existing channel,

shall, one month before such introduction or conversion or discontinuation or change, furnish to the Authority the following information namely:-

- 1) name of the channel to be introduced, converted or discontinued,
- 2) the date on which it is to be introduced, converted or discontinued;
- 3) the a-la-carte rate of the pay channel if it is a newly introduced or converted pay channel;
- 4) composition of new bouquet or bouquets to be introduced along with rates for each such new bouquet;
- 5) in the case of a new channel, the genre and language of the new channel;
- 6) changed rate of the existing bouquet;
- 7) changed a-la-carte rate, genre, language, name etc. of the existing channel.

*Digicable is of the view that Distribution Platform Operators (DPOs) should also be informed along with the Authority regarding the above mentioned changes since the DPOs will also have to make changes to their service offering accordingly. Also, the effect of the same at the consumer end should be considered after 60 days from the date of issue of the notice taking into account the billing cycles.*

## **Additional Comments**

*In a recent TDSAT judgment in Petition No.47 (C)/2014 and other linked cases, the Hon. Tribunal observed as under:*

*“RIOs mostly give only a la carte rates and even those rates are fixed with reference to the maximum permissible under the tariff orders. But in reality the maker of the reference would be giving signal to most parties or at least its favored ones at rates far lower than those stated in the RIO. In other words, the RIO rates are completely diverse from the market rates. The vast difference between the realistic market prices and the rate in the RIO gives the provider a free hand to quote a price much higher than the market price to a new seeker or one in this favour, a price that would be commercially unviable and force the seeker either to accept that price or accept the RIO”.*

*The above judgment establishes and reinforces the widely held belief that the Wholesale Tariff Regime is opaque and a more acceptable formula needs to be worked out. Our opinion is that a Retail Price formula will be able to address the above issue as well as integration issues (both vertical and/or horizontal) prevalent in the trade and bring about a transparent and fair trade ecosystem.*

*In a Retail Tariff Regime, the individual Broadcasters should be free to decide the Retail Price of their pay channels, both a-la-carte as well as bouquet, and publish the same so that the consumers are well informed of the pay channel pricing and they take a considered decision on “what and why” while paying for their choice of channels.*

*A Retail Tariff Regime with a mandated Revenue share between the stakeholders will bring about a completely transparent trade ecosystem in DAS and greater transparency and wider acceptability even in Analog.*

*Digicable therefore earnestly requests the Hon. Regulator to evaluate and consider bringing forth a consultation paper on the introduction of a Retail Tariff Regime for both Analog as well as Digital Addressable systems.*