



TELECOM REGULATORY AUTHORITY OF INDIA

GIST OF COMMENTS ON THE
CONSULTATION PAPER
ON
TARIFF IN CAS AREAS

NEW DELHI

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INDEX OF STAKEHOLDERS FURNISHING COMMENTS

Sl.No.	Name of stakeholder	From where
1	Col V.C Khare, Cable TV Industry Advisor,	Mumbai
2	VOICE ,	New Delhi
3	M/s. Consumer Unity & Trust Society (CUTS),	Jaipur
4	M/s. IndusInd Media Communications Limited,	Mumbai
5	M/s. Ortel Communications Limited,	Bubaneswar
6	Times Warner Inc,	Hongkong
7	M/s. Star India Pvt Ltd	Mumbai
8	M/s. ESPN Software India Pvt Ltd	Gurgaon
9	M/s. Discovery Communications India,	New Delhi
10	The Walt Disney Company (India) Private Limited (Director India- Legal Affairs)	Mumbai
11	M/s. Motion Picture Association	Singapore
12	M/s. NDS Asia Pacific Limited	Mumbai
13	M/s. Hathway Cable and Datacom Private Limited,	Mumbai
14	M/s. Set Discovery Pvt Ltd,	Mumbai
15.	M/s. Siticable Network Limited	Noida

Issue for Consultation

- i) **Should TRAI fix the maximum retail price for each individual channel?**

Comments Received

- a) No. If CAS is to be implemented, it should be in conformity with the statute, as it exists. Broadcaster must publicize the 'a-la-carte' rate for each PAY channel in CAS area. However, if PAY TV Broadcaster defies the statute, and the I&B Ministry cannot enforce this requirement, then TRAI could undertake the exercise of fixing the maximum retail price for each channel. **(Col VC Khare (Retd) , Cable TV Industry Observer, Mumbai)**
- b) Yes. In the present scenario, when the subscriber has no trust in the service providers, the regulator has to build confidence by fixing the price. **(Voice, New Delhi)**
- c) Yes , TRAI should fix the maximum retail price for each individual channel. Earlier TRAI had arrived at certain decisions regarding the manner in which Tariff for Cable TV would be regulated in CAS areas. One particular decision was that the maximum allowable discount on a bouquet of channels would be subject to regulation. Later stakeholders (in particular consumer groups) suggested that there should be a maximum retail price for a channel to be prescribed to avoid any unrealistic fixing of individual price of popular pay channels. The concern is that there are chances of consumers getting exploited by broadcasters for watching popular channels. **(CUTS, Jaipur)**
- d) TRAI may not fix maximum retail price for each channel, however, should have a limit for a maximum price limit for a channel under any genre. Considering CAS pricing prevailing in Chennai for individual channels and earlier indications (in 2003) for each channel pricing, a channel cannot be priced more than Rs. 20 as an ala carte for example. **(M/s.IndusInd Media and Communications Limited, Mumbai)**
- e) TRAI should fix the maximum retail price for each individual pay channel **(M/s. Ortel Communications Limited, Bhubaneswar)**
- f) Restricting channels to an a-la-carte basis not only reduces diversity in programming and consumer choice but also raises costs for consumers and restrains industry growth. As per the study commissioned by FCC that even if the consumers had the option of purchasing existing tiers instead of option for a-la-carte the price of the tiers would be significantly higher than the current rates. Indian market with the number of operators from DTH platform (existing and prospective operators) is competitive and therefore the current price cap should not only be lifted but it would be inappropriate for the regulator to impose MRP on new channels and the prices should be allowed to be set by commercial agreement. The production of new content and its distribution is an expensive and risky venture with a long break-even period and the pricing restrictions reduces the incentive and impedes investment. **(Time Warner Inc, Hongkong)**
- g) Across the world the Government typically intervenes and regulates prices if such industry provides essential services (such as water and electricity) or effective competition does not exist in that industry. The broadcast industry is not an essential service industry and there has been an increase in the competition. Under the CAS environment, the pricing of the channels should be left to market forces and no regulation needs to be introduced for unbundling of existing channels and /or a-la-carte pricing. Broadcasters

should be permitted to increase or decrease the price of the channels based on its acceptability /demand. Instead of introducing new pricing regulations in view of the increased competition due to introduction of platforms such as DTH and IPTV providing multiple choices, the existing price regulation be withdrawn in line with the recommendations of TRAI of 1.10.2004. **(Star India Pvt Ltd, Mumbai)**

- h) Across the world the Government typically intervenes and regulates prices if such industry provides essential services (such as water and electricity) or effective competition does not exist in that industry. The broadcast industry is not an essential service industry and there has been an increase in the competition. Under the CAS environment, the pricing of the channels should be left to market forces and no regulation needs to be introduced for unbundling of existing channels and /or a-la-carte pricing. Broadcasters should be permitted to increase or decrease the price of the channels based on its acceptability /demand. Instead of introducing new pricing regulations in view of the increased competition due to introduction of platforms such as DTH and IPTV providing multiple choices, the existing price regulation be withdrawn in line with the recommendations of TRAI of 1.10.2004. **(ESPN Software India Pvt Limited, Gurgaon)**
- i) Any kind of price regulation whether at wholesale or retail level is anti competitive. A mandate for a-la-carte and packaging of pay TV channels and prices thereof will chill additional investment in India's digital economy, lead to higher costs – higher marketing and promotional costs for more number of individual channels instead of one bouquet, increased legal costs due more number of contractual arrangements, higher operating costs due to hiring and training of more staff, upgradation of business to allow more sophisticated billing system, costs of renegotiations - for programmers and distributors, fewer viewing options to consumers, restrict investment and lead to stagnation in the creation of new and quality content. **(Discovery Communications India, Delhi)**
- j) Given our world wide experience of other markets it is believed that packaging regulation and in particular a-la-carte pricing would have a severe impact on the distribution and availability of the channels to the viewers thereby directly effecting the operations of the channel business in terms of reducing advertising revenues, lowering pay channel revenues and reduced program diversity. The Indian consumer currently gets an average of over 200 channels at an average cost of Rs. 200 per household and are the lowest in the world and it is due to competitive market forces and self-regulation by broadcasters to ensure availability at reasonable prices. Regulation should be reserved for essential service industries such as water and electricity or industries in which competition is not deemed to exist. **(The Walt Disney Company (India) Private Limited, Mumbai)**
- k) Pricing of channels is best left to market forces. Pricing and packaging of channels if left to market forces, cable operators and channels themselves are forced to protect and improve their market position by delivering quality entertainment and services to consumers thereby relying on supply and demand to dictate pricing and programming. **(M/s. Motion Picture Association, Singapore)**
- l) No, TRAI should not fix the maximum retail price for any pay TV channels. Pay TV channels are non –essential, discretionary services primarily intended for entertainment. **(M/s. NDS Asia Pacific Limited, Mumbai)**

- m) From a long term prospective TRAI should not involve in price fixation of individual channel/ fixation of maximum retail price (MRP's) for each individual channel or bouquets of channels. However, for a short period of say 12-24 months TRAI must involve in price fixation of MRPS till the time misnomers for and against CAS is settled and this would be in the ultimate interests of the end subscribers of Cable TV. **(M/s. Hathway Cable and Datacom Private Limited, Mumbai)**
- n) No. We believe that the pricing of channels is best left to market forces **(Set Discovery India Pvt Limited, Mumbai)**
- o) Instead of fixing maximum retail price for each channel TRAI should prescribe a ceiling on maximum retail price of a channel in a particular genre. The flexibility should be provided to the broadcaster to fix up the price of its channels within the price ceiling / cap stipulated by the Authority. For example an individual channel in entertainment genre cannot be priced more than Rs. 20/-, individual channel in religious segment cannot be priced more than Rs. 10/-, an individual movie channel cannot be priced more than Rs. 12/-, the sports channel cannot be priced more than Rs. 10/- etc. The above ceiling shall be subject to the fixation of individual price of a channel as derived from the average price of a channel in a bouquet as explained in response to issue No. (iii) below. Example - suppose the price ceiling as stipulated by the Authority in respect of 'X' channel is Rs. 12/-, however, the individual price based on certain percentage of average price in a bouquet is Rs. 10/-, then the price of that channel cannot exceed Rs. 10/-. This price ceiling should be only in the initial stage of introduction of CAS i.e. for a period of 18-24 months and thereafter once the entire system stabilises, the same should be reviewed. **(M/s. Siticable Network Limited, Noida)**

Issue for consultation

ii) If so, what should be the methodology and principles to be adopted for the same?

Comments Received

- a) If TRAI were to fix tariff, rates prevailing in Chennai could be adopted, to bring in uniformity. After CAS implementation, Broadcasters will have the freedom to vary rates depending upon consumer appeal for their content and the value for money. Another possibility could be to take a bouquet price, as prevailing, assign a 1 to 5 rating in accordance with TRP ratings in the bouquet, total up the ratings according to the 1 to 5 scale, divide the bouquet price by this total to arrive at a per point rate, then apply the per rating point scale rate to the assigned rating to determine the per channel MRP. This would assist in CAS implementation say for the first year. Thereafter the market forces would decide the content sale according to market dynamics. **(Col VC Khare (Retd) , Cable TV Industry Observer, Mumbai).**
- b) During OPEN HOUSE DISCUSSION (on interconnection issues), the methodology used by PAKISTAN regulator was discussed. This could be a guide. As the CAS is being introduced in METROS only, CHENNAI rates could be used as the MRP. **(Voice, Delhi)**
- c) All pay channels should have the same price and the price should be determined on the basis of carriage cost. The content cost cannot be a base for determining price of individual channels, when other relevant data/information is not available. Our view is that there should be no premium (extra charge) for popular channels. Since broadcasters are able to cash on the popularity of a channel by charging a premium from advertisers and secondly, the premium the broadcasters charge advertisers is ultimately paid by the consumers, as advertising revenue is part of the price of any product. It is not clear what are the vast varieties of networks that TRAI is referring to while bringing out the problems in carriage-cost based pricing. As we understand, at present there are two networks – one, cable TV network, and second, DTH network. If there are significant differences in carrying channels in these two networks, then TRAI can work out different carriage costs, and hence different prices for channels telecasted through different networks. In Pakistan, the methodology used by Pakistan regulator is considered to be sound. One option could have been to consider a simple average of prices; another option could have been to calculate the simple average of the minimum and maximum historical price. As regards categorizing, the various genres of channels that can be identified are News channels, Movies, Religious, Educational (e.g. National Geographic, Discovery, History, etc.), Children (e.g. Cartoon Network, Pogo), Songs, Sports, General Entertainment (e.g. Star Plus, Sony, Zee TV, Star World, etc.). (All these can be further sub-categorized as per language). The above categories could be followed for defining various genres of channels. **(CUTS, Jaipur)**
- d) The methodology can be present prevailing CAS prices for individual channels in Chennai. Also the principles should be based on a full bouquet vs. ala carte and there has to a logical, acceptable ratio for a channel, when it is offered ala carte (stand alone basis) vs. when it is offered ala carte

(stand alone basis). **(IndusInd Media and Communications Limited, Mumbai)**

- e) The methodology should be as follows:
 - i) Individual channel should be categorized under particular genre and TRAI should fix a ceiling pertaining to the particular genre so that the individual channels cannot be priced above the ceiling.
 - ii) Similarly all new pay channels will also be defined under a particular new genre. **(M/s. Ortel Communications Ltd, Bhubaneswar)**
- f) In view of the position in reply to (i) above no comments. **(M/s. Motion Picture Association, Singapore)**
- g) No comments in view of reply to (i) above. **(M/s. NDS Asia Pacific Limited, Mumbai)**
- h) Chennai pricing of CAS can be the immediate basis for fixation of MRPs with respect to A-la-Carte channels and bouquet of channels for the next 12-24 months and the A-la-Carte prices have been published in chapter 3, para 4.1 of the consultation paper issued in April 2004 on Issues relating to Broadcasting and Distribution of TV channels. In the meanwhile the Authority can engage the services of any professional rating agency for determining the popularity of channels falling under a genre and co-relate the prices of individual channels with popularity on the basis of the recommendations of the rating agency. Eventually after 12-24 months the pricing of individual channel should be driven and decided by the market forces. **(M/s. Hathway Cable and Datacom Private Limited, Mumbai)**
- i) In accordance with our answer to (i) above, we have no comment to make on this question. Any methodology or principle used for price controls will inevitably be inefficient and result in a misallocation of resources and market distortions. **(Set Discovery India Private Limited, Mumbai)**
- j) As indicated in response to one above there should be a genre based price ceiling which shall be subject to the calculated price of individual channel as a percentage of average price of a channel in a bouquet. **(M/s. Siticable Network Private Limited, Noida)**

Issue for consultation

iii) Should TRAI promote individual choice of channels by fixation of the maximum price as a percentage of the average price of a channel in a bouquet and if so, what should be this percentage?

Comments Received

- a) CAS mandated individual choice of channels at 'a-la-carte' to be published by the Broadcaster. If TRAI wants to promote individual choice of channels by assigning a maximum price, as percentage of a channel in a bouquet, then such percentage could be 200% maximum. **(Col VC Khare (Retd) , Cable TV Industry Observer, Mumbai)**
- b) It should not be more than 40 percent of the average price of a channel and not twice as quoted in example at para 10 of the consultation paper. **(Voice, Delhi)**
- c) In the context of CAS one wonders why should there be a bouquet of channels, By introducing the concept of bouquet, we are moving away from this very rationale for introducing CAS. Further, the introduction of bouquet brings along with it several complexities. First, the maximum allowable discount has to be determined to ensure that bundling of channels through bouquets with a scheme of discount does not nullify the individual choice (Here again, the focus is on protecting individual choice). This would result in TRAI making all the efforts in determining what an 'acceptable' maximum allowable discount would be. Another complexity that might arise is when a broadcaster includes a popular channel in various bouquets and chooses one of these bouquets as the reference bouquet for ensuring that it is complying with the regulation on maximum allowable discount. This way, the broadcaster can fix a higher price for a popular channel by selecting a reference bouquet that allows it to do so. This would nullify the regulation on maximum allowable discount. This reinforces the need to have maximum retail price for a channel. For these reasons, forming of bouquets should not be permitted. **(CUTS, Jaipur)**
- d) Yes. This percentage, as also indicated by MSO Alliance in earlier consultation papers, cannot be more than 50% of the average price of a channel in a bouquet. For example if a bouquet of 5 channels is at Rs. 50/- MRP, then any individual channel of this bouquet cannot be priced more than Rs.15 as a-la-carte (standalone) price. **(IndusInd Media and Communications Limited, Mumbai)**
- e) The real benefit of CAS is feasible only when the choice of individual channels is promoted and hence the maximum price of the individual channel needs to be fixed as a percentage of the average price of the bouquet and under no circumstances it should exceed 200% **(Ortel Communications Limited, Bhubaneswar)**
- f) The unbundling of existing bouquets and a-la-carte pricing would in all likelihood lead to higher costs and fewer viewing options to the consumers and less programme diversity. It has been an internationally accepted practice by both the broadcasters and the MSOs to offer bouquets even on addressable systems as it is more beneficial to the consumer and this practice has been validated by the regulators /Governments. Packaging of

channels merely represents form of volume discounts and competition will naturally limit the ineffectual bundling. **(Star India Pvt Ltd, Mumbai)**

- g) The unbundling of existing bouquets and a-la-carte pricing would in all likelihood lead to higher costs and fewer viewing options to the consumers and less programme diversity. It has been an internationally accepted practice by both the broadcasters and the MSOs to offer bouquets even on addressable systems as it is more acceptable to the consumer. Packaging of channels merely represents form of volume discounts and competition will naturally limit the ineffectual bundling. **(M/s. ESPN Software India Pvt Ltd, Gurgaon)**
- h) Bouquets are the most cost-efficient means of delivering variety of quality content as it facilitates the spreading of marketing and operational costs across a range of channels. Given the level of upfront Investment and long breakeven period the risk of launching a new channel would increase substantially in the absence of ability to secure wide reach of distribution as part of bouquet and to negotiate a fair and reasonable rate of return. Without the wide reach the bouquets offer, channels will struggle to attract advertiser leading to suffering of revenue, slowing of investment in programme. In this situation the channel should either raise the subscription fees or close having failed. **(M/s. Discovery Communications India , Delhi)**
- i) Pricing of channels is best left to market forces **(M/s. Motion Picture Association, Singapore)**
- j) TRAI should not fix the maximum price as a percentage of the average prices of channel in a bouquet. Stating that the practice of bundling or tiering is routine international practice in the Pay TV market and in this connection has referred to a report submitted by US based National Cable Television Association (NCTA) to the General Accounting Office (GAO) and to the report of GAO. Quoting from the report it has been stated that competition leads to lower cable rates and improved quality and Ala-carte approach would facilitate more subscriber choice but would require additional technology and customer service and cable networks may lose advertising revenue. As a result of this some subscribers bills might decline and but for others it might increase **(M/s. NDS Asia Pacific Limited, Mumbai)**.
- k) As indicated in reply to (i) and (ii) the Authority can consider pricing of a-la-carte and bouquets as an interim measure and once the CAS settles down, the price fixation can be removed and the prices of individual channels can be left to market forces. **(M/s. Hathway Cable and Datacom Private Limited, Mumbai)**
- l) As noted above, we believe that the pricing of channels is best left to market forces. Fixing a maximum discount would create market distortions that would only hurt consumers, cable operators and distributors who want more choice by selecting to receive a larger number of channels. **(Set Discovery India Private Limited, Mumbai)**
- m) In order to provide the meaningful choice to the distributors / subscribers and to give true effect to the intent of CAS, a pricing formula needs to be incorporated whereby a ceiling on the individual price of channel comprised in a bouquet is to be imposed. One such formula could be: -

$$P = \frac{BP}{n} \times 1.5$$

P – Price of new channels

BP – Bouquet price

N – Number of channels comprised in a bouquet

Suppose a bouquet consists of 10 channels and is priced at Rs. 50/- then the broadcaster is free to fix the price of the individual channel not exceeding 1.5 times the average price per channel i.e.

$$\frac{50}{10} \times 1.5 = 7.5$$

Stating that there is no quarrel on the proposition of broadcasters that the volume discounts will benefit the subscribers what is requested is that there should be availability of both the choices to subscribe to the individual channels and ala carte basis as well as choice to subscribe to bouquet if it is beneficial. **(M/s. Siticable Network Limited, Noida)**

Issue for consultation

iv) If the individual MRPs are fixed by TRAI, along with a formula as indicated in (iii) above, should TRAI also regulate the maximum permissible discount for the bouquet of channels ?

Comments Received

- a) No. That would be contrary to the spirit of CAS implementation. Having fixed maximum MRP for a channel, the issue of bundling should be left to Broadcaster and MSO, since the MSO has to convey the chargeable rates to the subscriber through Customer Acquisition Forms for the first time and subsequently through EPG/SMS. **(Col VC Khare (Retd) , Cable TV Industry Observer, Mumbai).**
- b) While talking of CAS, bouquet should be out . It is high time that Subscriber is free from this catch. Let the broadcasters use more innovative ideas to attract subscribers, as the present business model is coercive. Continuation of bouquet will hurt the interest of non-CAS subscribers who are waiting for the DAY OF LIBERATION. **(Voice, New Delhi)**
- c) As mentioned in our response to (iii) above, in the context of CAS forming of bouquets should not be permitted, as it defeats the very purpose of having an addressable system. **(CUTS, Jaipur)**
- d) Yes. The maximum permissible discount will be a logical conclusion, if the ratio of MRPs of bouquet Vs. ala carte channel is firmed up. **(IndusInd Media and Communications Limited, Mumbai)**
- e) Without the control on maximum permissible discount on the bouquet of channels and the choice of individual channels cannot be promoted as they are inter linked issues. **(Ortel Communications Limited, Bhubaneswar)**
- f) In view of the position in reply to (i) above no comments. **(M/s. Motion Picture Association, Singapore)**
- g) TRAI should neither fix the maximum retail prices of pay TV channels nor the maximum permissible discounts for bouquets of channels.**(M/s. NDS Asia Pacific Ltd, Mumbai)**
- h) In view of replies to (i) to (iii) above TRAI need not get into any regulation on a long-term basis. **(M/s. Hathway Cable and Datacom Private Limited, Mumbai)**
- i) As noted above, we believe that the pricing of channels is best left to market forces. Fixing a maximum discount would create market distortions that would only hurt consumers, cable operators and distributors who want more choice by selecting to receive a larger number of channels.**(Set Discovery India Pvt Ltd, Mumbai)**
- j) Yes. The natural corollary of fixing of MRP and the price of individual channel and a ceiling on the price of Ala Carte channel based on certain percentage of average price of bouquet would naturally result in fixation / regulation of maximum permissible discount for subscribing the bouquet of channels. **(M/s. Siticable Network Limited, Noida)**

Issue for Consultation

v) Which of the Options at para 10 should be adopted and why? Is there any other Option that should be adopted? If so please give details along with reasons.

Comments Received

- a) If bouquets are to be permitted, then option II.. There appears to be no other option. **(Col VC Khare (Retd) , Cable TV Industry Observer, Mumbai).**
- b) Option 1 must be adopted to build confidence of subscribers in the regulator and other stake holders. **(Voice, New Delhi)**
- c) Forming of bouquets are not permitted.. TRAI determines the price of channels, depending on the cost of carriage, and if carriage cost is difficult to calculate, then fix the ceiling price for each individual genre based on a simple average of historical prices of all channels falling under a particular genre as per categorisation given above. **(CUTS, Jaipur)**
- d) Option II and in combination with Option III as follows are best suited and can be implemented. However, the ceilings should be discussed and frozen before adopting these options. **(IndusInd Media and Communications Limited, Mumbai)**

Option II

- The Broadcaster shall announce the price of each individual channel
- Forming of Bouquets are permitted
- TRAI fixes the maximum ceiling for bouquet discounts

Option III

- Same as II above with the addition that TRAI also fixes the ceiling of an individual price as a percentage of the average bouquet price.
- e) The fourth option at para 4 should be adopted and therefore TRAI should fix the ceiling price for each individual genre and also fix maximum ceiling for discount for bouquet. **(Ortel Communications Limited, Bhubaneswar)**
 - f) No option is suggested as establishing a set rate that any commercial entity can charge for their goods and/ or services –except in the case of universal services such as water and electricity is government intrusion of the worst kind. **(Discovery Communication India, Delhi)**
 - g) In view of the position in reply to (i) above no comments. **(M/s. Motion Picture Association, Singapore)**
 - h) The best option of those presented is Option 2. However the fixing of maximum ceiling for bouquet discounts is unnecessary. New option proposed is :
 - The broadcasters shall announce the price of each individual channel

- Forming of bouquets are permitted
- No limits are set on channel pricing or bouquet pricing.

The safeguards required for the new option are that pricing and composition of bouquets and other conditions such as minimum contract duration and notice period are clearly stated to the consumer at the time of selection. Further in case if the consumer opts for a set of channels on a-la carte basis and there is an option to choose the same set of channels in the form of selecting one or more bouquets, the lower of the applicable prices for the options of bouquet(s) or A-la-carte should be made applicable so that the consumer stands protected if he inadvertently opt for A-la-Carte option leading to a higher price. **(M/s. NDS Asia Pacific Limited, Mumbai)**

- i) As is prevalent in the Chennai CAS market, wherein, the underlying broadcasters announced the MRP of the individual channels as well as of the bouquets of channels, the similar Chennai prices should be adopted as an interim measure for the next 12-24 months. Thereafter it be left for the market forces to determine the price. **(M/s. Hathway Cable and Datacom Private Limited, Mumbai)**
- j) As noted above, we believe that the pricing of channels is best left to market forces. None of the Options should be adopted as the price controls referenced in each Option would result in significant market distortions that would hurt consumers. **(Set Discovery India Pvt Limited, Mumbai)**
- k) We recommend the following: -
 - TRAI shall fix the price ceiling of individual pay channels in accordance with the above-mentioned methodology.
 - The broadcasters shall announce the maximum retail price of each individual channel within the stipulated ceiling by TRAI.
 - The distributors of channels / subscribers can also opt for bouquet if they so wish.
 - TRAI shall fix the maximum ceiling for bouquet discounts. **(M/s. Siticable Network Limited, Noida)**