

*Comments of R.L.Saravanan*

**R.L.Saravanan.,** M.B.A., B.L.,  
Advocate & Consumer Activist

48, Elango Salai,  
Teynampet,  
Chennai – 600 018.  
Mob. : 94440 22418

---

Date : 23-04-2010

To

The Chairman,  
Telecom Regulatory Authority of India,  
New Delhi – 110002.

Sir,

Sub: Comments for the consultation paper No. 5/2010.

I herewith enclose my comments for the consultation paper as mentioned above.  
Kindly accept the same.

Thanking you.

Yours truly,

R.L.SARAVANAN

1. Are the figures in Annexure B3 representative for the different genres of broadcasters? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the genre, and not of your company.

In the absence of a parallel data or any other market information it shall be presumed that the data collection exercise done by TRAI to be a correct representative figure. However stake of different states as mentioned in figure 2.2 brings out a fact that more than 40% of share is contributed by southern states namely Karnataka, Andhra pradesh, Tamilnadu and Kerala. If we further go into details two states, Tamil nadu and Andhra pradesh would constitute to about 30 % of total share which means the factors prevailing in these state should be given more importance.

It is relevant to make a record that the viewing of Hindi channels is negligible in these southern states and very much influenced by their own regional language channels. However in Annexure B3 the genres of regional channels are put into a lot and in my opinion considering the large number of viewer ship TRAI should have gone into the regional channels in details.

2. Are the figures in Annexure B5 representative for aggregators? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.
3. Are the figures in Annexure B7 representative for the national MSOs? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.
4. Are the figures in Annexure B7 representative for the regional MSOs? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.
5. Are the figures in Annexure B9 representative for the LCOs with > 500 subscribers? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

6. Are the figures in Annexure B9 representative for the LCOs with  $\leq$  500 subscribers? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

For issues 2 to 6:

In the absence of any other data the given annexures shall not be disputed.

7. What according to you is the average analog monthly cable bill in your state or at an all India level?

In my state of Tamil Nadu the average analog monthly cable bill varies from Rs. 120/- to Rs.150/-

8. Is the market for cable services in non-CAS characterized by the following issues:

**(i) Under-reporting of the analog cable subscriber base**

Under-reporting of analog cable subscriber base is a perennial issue, when we have a close watch on the issue it is the industry which has been encouraging the problem all along. Initially by year 2000 when the pay channel culture slowly started to enter into the market, it was the broadcasters who want to develop the habit of paying for the pay channels amongst cable operators have deliberately accepted the under declared subscription amounts. Latter when the pay channel industry got stabilized those broadcasters are in fix for there own deeds and now cry for a gross under declaration from the cable operators. However to compensate the under declaration they have introduced less popular channels and priced them high and subsequently sold them in bouquets to the operators whereby compensating there under declaration.

More over if the subscriber is asked to pay for all the channels which is being re-transmitted in analog cable, his subscription charges would multifold. Hence in my opinion under declaration is the virus induced by broadcasters themselves at earlier period which is back firing them after a while. Further this practice has helped to keep the prices in control to the subscriber end.

**(ii) Lack of transparency in business and transaction models**

Last mile Cable operators are the first generation entrepreneurs with lack of professional experience, knowledge and training. The cash collection mode from the consumer level would add fuel to non maintenance of records. The percentage of LCOs who own 100 to 200 connections are more, with these connections it is hard to expect more professionalism and transparency from their business model.

**(iii) Differential pricing at the retail level**

The preferences of TV Channels vary from one location to other based on various demographic features. That is the reason TRAI itself in “Schedule to the Telecommunication (Broadcasting and Cable) services (Second) Tariff order 2004 has prescribed different subscription rates to different cities and towns and hence the difference in retail pricing shall not be avoided.

**(iv) Incidence of carriage and placement fee**

In my opinion carriage and placement fee is a variable factor depending upon the greediness of the content owner to force the consumers to watch their channels by paying carriage and placement fees. Hence the carriage and placement fees not being a constant one shall not be taken into account.

**(v) Incidence of state and region based monopolies**

By and large the last point in analog is a monopoly one. The cross holdings of companies and individuals in vertical integration of the broadcasting and cable industry has created monopolies. A strict anti competition law related to interconnection, abuse of dominant position and licensing would curb the problem.

**(vi) Frequent disputes and lack of collaboration among stakeholders**

This issue shall be left to market forces, since collaboration among the stakeholders would lead to monopoly and prevent the new entrants in to the market.

**9. Are these issues adversely impacting efficiency in the market and leading to market failure?**

Yes it may be partly true that the above issues would make an impact in the market. However an effective interconnect regulation taking those factors in mind would lead to give a solution.

**10. Which of the following methodology should be followed to regulate the wholesale tariff in the non-CAS areas and why?**

- i) Revenue share**
- ii) Retail minus**
- iii) Cost Plus**

Out of the above three methodology I would suggest the revenue share model which is viable for the present situation.

iv) Any other method/approach you would like to suggest

In addition to the revenue share method there should be a mechanism where the subscribers are made to pay in accordance to the viewer ship. The same may be achieved by the suggestion as below

- First to determine the base at the LCO level with sufficient amendments to be made in the Cable TV Networks Act-1995, there to provide the Subscriber Line Report (SLR) streetwise which shall be endorsed by the post master after verification. The Said SLR shall be reviewed every year and based on such SLR the subscription base shall be fixed. This practice would remove the under declaration.
- Second to determine the share of the amount to be paid to every paid TV channel in a-la-carte basis. TRAI with help of the various data available for measuring viewer ship shall determine the percentage of portion of amount to be paid to every channel on a-la-carte basis. This exercise should be done for every State separately. Based on the percentage allotted to the channels the MSOs shall pay the respective share to the broadcasters.
- This method would eradicate both under declaration and a balance would be laid on viewer ship based payment.

11. If the revenue share model is used to regulate the wholesale tariff, what should be the prescribed share of each stakeholder? Please provide supporting data.

If the revenue share model is used the same shall be as per the existing revenue share in the CAS areas.

12. If the cost plus model is used to regulate the wholesale tariff, should it be genre wise or channel wise?

No comments

13. Can forbearance be an option to regulate wholesale tariff? If yes, how to ensure that (i) broadcasters do not increase the price of popular channels arbitrarily and (ii) the consumers do not have to pay a higher price.

No, forbearance cannot be an option to regulate the wholesale tariff. Forbearance has already proven to be a failure in the past.

14. What is your view on the proposal that the broadcasters recover the content cost from the advertisement revenue and carriage cost from subscription revenue? If the broadcaster is to receive both, advertisement and subscription revenue, what according to you should be the ratio between the two? Please indicate this ratio at the genre levels.

The parrato's principle of 80:20 would squirrelly applicable to the broadcasting industry. i.e 20% of the channels are gaining 80% of revenue . This has already created an imbalance and injustice to the other 20% of channels who are otherwise striving to improve their market share. My suggestion is that the subscribers of pay channels need a privilege on this issue. In the interest of consumers I may suggest as follows:

At present the channels are allowed to transmit an advertisement of 10 minutes per hour per programme in accordance to the advertisement code of Cable TV Network Rules, 1995 which is not complied by many of the channels. All the pay channels should be allowed only half of the time for advertisements as allowed to FTA channels. This would give justice to the pay channel viewers.

15. What is your view on continuing with the existing system of tariff regulation based on freezing of a-la-carte and bouquet rates as on 1.12.2007; and the rate of new channels based on the similarity principle at wholesale level? You may also suggest modifications, if any, including the periodicity and basis of increase in tariff ceilings.

This being a *de novo* exercise the question of continuing the existing system should not arise. However any efforts in fixing or freezing the channel rates should not pinch the pocket of the consumers.

16. Which of the following methodologies should be followed to regulate the retail tariff in non-CAS areas and why?

- i) Cost Plus
- ii) Consultative approach
- iii) Affordability linked
- iv) Any other method/approach you would like to suggest

I find the Consultative approach would be more consumer friendly approach among the list.

- 17. In case the affordability linked approach is to be used for retail tariff then should the tariff ceilings be prescribed (i) single at national level or (ii) different ceilings at State level or (iii) A tiered ceiling (3 tiers) as discussed in paragraph 5.3.23 or (iv) Any other**

**No comments**

- 18. In case of retail tariff ceiling, should a ratio between pay and FTA channels or a minimum number of FTA/pay channels be prescribed? If so, what should be the ratio/number?**

**No comments**

- 19. Should the broadcasters be mandated to offer their channels on a-la-carte basis to MSOs/LCOs? If yes, should the existing system continue or should there be any modification to the existing condition associated with it?**

**Yes, the broadcasters should be mandated to offer their channels on a-la-carte basis only to MSOs/LCOs. The existing system should not continue and the option of providing the channels in bouquets should be abolished. The rate of different genres shall also be prescribed by the authority.**

- 20. How can it be ensured that the benefit of a-la-carte provisioning is passed on the subscribers?**

**In the emerging competitive environment of different distribution platforms it would be the competition to first compel the MSOs to pass the benefit to consumers and give rate to content ratio price to the consumers.**

- 21. Are the MSOs opting for a-la-carte after it was mandated for the broadcasters to offer their channels on a-la-carte basis by the 8th tariff amendment order dated 4.10.2007. If not, why?**

**The question should be other way round on whether the broadcasters are providing the signals on a-la-carte. The fact remains the broadcasters does not give the option of a-la-carte and press only the bouquet even after the said amendment order. This is because the a-la-carte was an optional thing and they wanted to push bouquets for additional revenue. In strange cases where the MSOs ask for a-la-carte, then the broadcaster would increase the “negotiated subscriber base” to an un-justified level to compel the MSOs to take in bouquet only.**

- 22. Should the carriage and placement fee be regulated? If yes, how should it be regulated?**

As told earlier carriage and placement fee is a variable factor. People who give carriage are giving for better reach and thereby they can increase their advertisement revenue and the same is not happening continuously. Once they achieve their target they withdraw from giving carriage fees. On the other hand carriage fees is not same to the whole of the country. For example the carriage fee revenue in south which is otherwise dominated by regional channels is very less when compared to north and eastern of the country. We experience that carriage fees does not exist in many parts of rural and sub-urban areas of south India, hence the regulation of carriage fees shall not make as a mandatory obligation to all MSOs to demand the same. Carriage fees is a case sensitive issue and hence the same needs no regulation.

- 23. Should the quantum of carriage and placement fee be linked to some parameters? If so, what are these parameters and how can they be linked?**

No comments

- 24. Can a cap be placed on the quantum of carriage and placement fee? If so, how should the cap be fixed?**

No comments

- 25. Is there a need for a separate definition of commercial subscriber in the tariff order?**

No comments

- 26. If the commercial subscriber is to be defined in the tariff order, then does the existing definition of 'commercial subscriber' need to be revised? If yes, then what should be the new definition for the commercial subscriber?**

No comments

- 27. In case the commercial subscriber is defined separately, then does the present categorization of identified commercial subscribers, who are not treated at par with the ordinary subscriber for tariff dispensation need to be revised? If yes, how should it be revised?**

No comments



- 28. Should the cable television tariff for these identified commercial subscribers be regulated? If yes, then what is your suggestion for fixing the tariff?**

A separate tariff to the commercial subscribers is not justifiable one. Commercial customer lends their hospitality service to individuals or groups. A hotel room occupier is already a subscriber of pay channel in his home. For the reason and season of the floating time he temporarily views the channel in the hotel room. Inter alia those staying consumer is paying twice the charges one in his house and the other through the hotel. It is the bonus amount the broadcasters get for the same viewer ship and hence the commercial subscribers shall be treated at par with non-commercial consumers.

- 29. Do you agree that complete digitization with addressability (a box in every household) is the way forward?**

I do agree that the complete digitization with addressability is the way forward.

- 30. What according to you would be an appropriate date for analog switch off? Please also give the key milestones with time lines.**

In my opinion a period of three years shall be given to convert all analog networks in to digital one. A task force was already formed by TRAI for expansion of mandatory CAS to 55 more cities and digitalization. In spite of the time period specified by the task force in step by step manner to make 55 cities in to CAS regime, the same is lying in the cold storage of the nodal ministry without any notification. However TRAI should consult the ministry's seriousness in introduction of digital networks in the country before fixing any time lines. The conversion shall be in phased manner within three years.

- 31. What is the order of investment required for achieving digitization with addressability, at various stakeholder levels (MSOs, LCOs and Customers)?**

No comments

- 32. Is there a need to prescribe the technology/standards for digitization, if so, what should be the standard and why?**

Yes, the technology/standards for digitalization shall be prescribed and the same should be reviewed every two years to incorporate the latest technology.

- 33. What could be the possible incentives that can be offered to various stakeholders to implement digitization with addressability in the shortest possible time or make a sustainable transition?**

**A 100% exemption on import duty and income tax incentives for a specified period for those networks do digitalisation within the time limit can be incentives.**

- 34. What is your view on the structure of license where MSOs are licensed and LCOs are franchises or agents of MSOs?**

**Yes, the MSOs should be brought under the license and need to be more accountable and the LCOs should have a simple licensing process and be treated as agents of MSOs.**

- 35. What would be the best disclosure scheme that can ensure transparency at all levels?**

**The independent audit scheme as available for telecom service providers may be extended to broadcasting and cable domain too.**

- 36. Should there be a 'basic service' (group of channels) available to all subscribers? What should constitute the 'basic service' that is available to all subscribers?**

**Yes, a basic service for every state should be made available to all subscribers which should be from FTA only.**

- 37. Do you think there is a need for a communication programme to educate LCOs and customers on digitization and addressability to ensure effective participation? If so, what do you suggest?**

**Yes, ignorance in the social disease which is prevailing in the industry amongst the lower hierarchy of the vertical integration system. Hence a series of communication programmes are must to LCOs and consumers. The same shall be conducted in different parts of every state in their own language.**

- 38. Stakeholders are free to raise any other issue that they feel is relevant to the consultation and give their comments thereon.**

**No comments**

**X-X-X-X-X-X**