



Extraordinary Together

October 10, 2023

**To:**

**The Telecom Regulatory Authority of India (TRAI)**

Mahanagar Doorsanchar Bhawan,

Jawahar Lal Nehru Marg,

Old Minto Road,

New Delhi- 110002

**Kind Attention:** Mr. Anil Kumar Bhardwaj – Advisor (B&CS)

**Re: Consultation Paper on Issues related to Review Of Regulatory Framework For Broadcasting And Cable Service (“CP”)**

Dear Sir,

We, at Zee Entertainment Enterprises Limited (“ZEEL”), welcome the initiative of TRAI to address several issues raised by stakeholders with regard to the Review Of Regulatory Framework For Broadcasting And Cable Service.

Please find enclosed ZEEL’s comments/suggestions to the CP for your due perusal and favourable consideration.

Your sincerely,

For **Zee Entertainment Enterprises Limited**

Angel Singh

Compliance Officer

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Zee Entertainment Enterprises Limited

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An Enterprise

**RESPONSE OF ZEE ENTERTAINMENT ENTERPRISES LIMITED  
TO THE CONSULTATION PAPER ON  
REVIEW OF REGULATORY FRAMEWORK FOR BROADCASTING AND CABLE SERVICES  
ISSUED BY  
THE TELECOM REGULATORY AUTHORITY OF INDIA (“TRAI”)  
ON 08 AUGUST, 2023**



# **RESPONSE TO CONSULTATION PAPER ON ‘REVIEW OF REGULATORY FRAMEWORK FOR BROADCASTING AND CABLE SERVICES’**

## **Introduction**

We appreciate the effort made by The Telecom Regulatory Authority of India (“**the Authority/ TRAI**”) from time to time to relook at the regulations, as and when required, and seeking inputs from the stakeholders.

Over the years, especially since 2017, India has gone through tremendous changes in the manner and habits of the consumers/viewers to consume content.

Also, observed over time, that the cable distribution is no longer a “mom and pop” shop, there have been huge investments in this business, which has led to growth of them into big players.

Over the years, consumers have experienced more personalized, immersive media offerings and therefore it is important for the broadcasting business to evolve itself. This will only be possible if the industry is deregulated, i.e., by not regulating pricing and packaging of linear channels.

We reiterate that a stable regulatory environment has been established and now it is imperative that a “soft touch” in regulatory oversight is necessity of the day for the healthy growth and advancement of the industry. It will enable level playing field for the broadcasting and cable services with the OTT platforms etc.

We urge the Authority to de-regulate and allow the broadcasting industry to grow its full potential by improving the quality of content and services for the consumers.

It is time that TRAI de-regulate and consider returning to a system of forbearance. This will ensure that there is a level-playing field for all the stakeholders and doing so the consumer will be best served.

We recommend that TRAI de-regulates the sector to allow the competitive market forces to play out in the sector for the benefit of consumers and all service providers, broadcasters.

The recent Consultation Paper on ‘Review of Regulatory Framework for Broadcasting and Cable Services’ dated 08.08.2023. TRAI has sought comments of all stakeholders by 19.09.2023. TRAI, has initiated this consultation to address issues related to the DPO.

Please find below our inputs to the issues detailed in this Consultation Paper, the said inputs are not exhaustive in nature and any query or issue that indicates no comment, or is left without any comment, or unaddressed in this response should not be treated or deemed as acceptance of the issue/query or recommendations stated in the consultation paper.

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## **Issues for Consultation**

TRAI has issued the Consultation Paper seeking stakeholders’ comments on the following issues:

- (i) Issues related to Tariff for Broadcasting and Cable Services (Chapter II)

- (ii) Issues related to Interconnection for Broadcasting and Cable Services (Chapter III)
- (iii) Issues related to Standards of Quality of Service and Consumer Protection Regulations (Chapter IV)
- (iv) Issues related to financial disincentives for violation of the provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations. (Chapter V)

The aforesaid issues are dealt in detail herein below:

### **Issues related to Tariff for Broadcasting and Cable Services (Chapter II)**

#### **Ceiling on Network Capacity Fee (“NCF”)**

Under the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 (“**Interconnection Regulations, 2017**”), a Distribution Platform Operator (“**DPO**”) is permitted to charge a maximum amount up to Rs. 130/- per month as NCF from its subscribers for subscribing up to 200 SD channels and Rs. 160/- for more than two hundred SD channels. (*Para 2.7 to 2.8*)

The Authority has sought comments on the following issues:

#### **Q1. Should the present ceiling of Rs.130/- on NCF be reviewed and revised?**

- a. **If yes, please provide justification for the review and revision.**
- b. **If yes, please also suggest the methodology and provide details of calculation to arrive at such revised ceiling price.**
- c. **If not, provide reasons with justification as to why NCF should not be revised.**
- d. **Should TRAI consider and remove the NCF capping?**

**Q2. Should TRAI follow any indices (like CPI/WPI/GDP Deflator) for revision of NCF on a periodic basis to arrive at the revised ceiling? If yes, what should be the periodicity and index? Please provide your comments with detailed justification.**

**Q3. Whether DPOs should be allowed to have variable NCF for different bouquets/plans for and within a state/ City/ Town/ Village? If yes, should there be some defined parameters for such variable NCF? Please provide detailed reasons/ justification. Will there be any adverse impact on any stakeholder, if variable NCF is considered?**

#### **Our Comments:**

1. The NCF is charged by the DPO from the subscribers to recover the distribution expenses. The Authority had earlier conducted an analysis which suggested that cost of distribution network capacity to provide the signals of television channels to a service provider is not more than Rs. 130/-. Pertinently, the cost of transmission of television channel reduces with increase in subscribers.
2. A customer is already paying NCF of Rs. 130/- per month which is a fixed monthly payment that a DPO receives. In addition to the same, a DPO also receives a fixed distribution fee of 20% from the MRP price of each channel. Significantly large number of other DPOs also receive revenues from carriage fee, discounting/ incentives

and placement fee. Also, a high NCF, deters consumers from subscribing to more channels, thus missing out to complete universe of entertainment.

3. Additionally, NCF is a substantial part of consumer price which contributes more than 50% of average end-consumer payout and any increase in NCF will burden the end consumer. In fact, NCF should be brought down as the share of average end-consumer payout that DPOs get (NCF & share of Content Cost) is around 70%.
4. With the declining number of viewers of television channels, any increment in the cost of the NCF will be an additional burden on the consumers and will lead to their migration to other platforms which is detrimental for the entire broadcasting industry.
5. In any event, the expenditure/cost incurred by any DPO for carrying channels on its platform is a one-time capital expenditure and non-recurring in nature and therefore, there is no rationale for revision of NCF. It is the broadcasters who are required to infuse funds on regular basis to create fresh content and hence inflationary growth should be allowed on MRP of channels instead of NCF. Further, over a period of time, DPOs have already amortized said cost and therefore there is a need to reduce the ceiling on NCF.
6. It is our submission that variable NCF should not be allowed as per bouquet / plan offered by DPOs. However, variable NCF may be allowed at the state level or based on population strata (like DAS I, DAS II, DAS III & DAS IV etc.). Irrespective of the variable NCF for different geographies, the MRPs of Channels / Broadcaster Bouquets should not be changed.
7. We recommend that the TRAI should not increase the NCF nor remove the NCF capping.

### **Network Capacity Fee for Multi-TV Homes**

Under the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020 (“**2020 Tariff Order**”), a DPO is permitted to charge NCF for each additional TV connection, which shall not exceed 40% of declared NCF for first TV connection. DPOs have raised concerns regarding discriminatory treatment being meted out to them as the broadcasters are not subject to similar/any cap on the MRP of their respective channels for Multi TV Homes. (*Para 2.17*)

In view of the concerns raised by the DPOs, the Authority has sought comments on the following issues:

**Q4. Should TRAI revise the current provision that NCF for 2nd TV connection and onwards in multi-TV homes should not be more than 40% of declared NCF per additional TV?**

- a. **If yes, provide suggestions on quantitative rationale to be followed to arrive at an optimal discount rate.**
  - b. **If no, why? Please provide justification for not reconsidering the discount.**
- c. **Should TRAI consider removing the NCF capping for multi-TV homes? Please provide justification.**

**Q5. In the case of multi-TV homes, should the pay television channels for each additional TV connection be also made available at a discounted price?**

**a) If yes, please suggest the quantum of discount on MRP of television channel/ Bouquet for 2nd and subsequent television connection in a multi-TV home. Does multi-TV home or single TV home make a difference to the broadcaster? What mechanism should be available to pay-channel broadcasters to verify the number of subscribers reported for multi-TV homes?**

**b) If not, the reasons thereof?**

Our Comments:

1. The DPOs cannot claim parity with the broadcasters on the issue of additional TV connections as in a Multi TV home, a family comprises of members of different age groups with their separate viewing preferences and choices. A member may not be interested in watching GEC but may be interested in watching sports channels. Different packages could be subscribed for each additional TV connection depending upon the viewing preferences of individual members of the family.
2. In the case of a DPO, a single connection is coming to subscriber which is then divided in different rooms of the home in case of cable. Similarly, for DTH, one dish is installed to provide multiple connection within home. Moreover, generally one bill is generated for the consumer. Since activities are common, the DPOs save expenses on additional connection.
3. In multi-TV homes, the infrastructure which is provided by a DPO is common and only a STB and additional wiring are required to be provided for additional connections which is a one-time cost. Hence, any discount on NCF is justified and more than 40% of declared NCF should not be allowed.

In view of the above, the Authority should not consider removing the NCF capping for multi-TV homes.

4. There is no requirement of a discount on MRP of TV Channels as in a Multi TV home, a subscriber is watching different channels and consuming different content at the same time depending upon the profile of the viewer. Consumers opt for multiple connections within same home to view channels at their convenience. Hence, such consumers of multi-home TV connections should be treated as additional individual subscriber and thereby required to pay the full subscription charges as per MRP. Moreover, it is difficult to identify multi-TV home which may lead to manipulation and misreporting of subscriber base by the DPO.

**Ceiling of 15% on Discount on sum of MRP of a-la-carte channels for fixing of MRP of bouquets by DPOs.**

Under the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (“**2017 Tariff Order**”), a DPO is allowed to provide maximum discount of 15% on sum of MRP of a-la-carte channels in a bouquet while fixing the MRP of

that bouquet. DPOs have highlighted that a broadcaster is allowed to give 45% discount on sum of a-la-carte channel prices whereas a DPO is allowed to give only 15% discount. (Para 2.21)

The Authority has invited comments on the following issues:

**Q6. Is there a need to review the ceiling on discount on sum of MRP of a-la-carte channels in a bouquet (as prescribed through the second proviso to clause 4 (4) of the Tariff Order 2017) while fixing the MRP of that bouquet by DPOs?**

**a. If yes, what should be the ceiling on such discount? Justify with reasons.**

**b. If not, why? Please provide justification for not reviewing the ceiling.**

Our Comments:

1. Most of the DPOs do not mention their packs on their website providing break-up of cost of content, NCF and discount on MRP of broadcaster's channels/ bouquets. Therefore, it is not possible to ascertain if the DPOs are offering any discount on the MRP of broadcaster's channels/ bouquets. Keeping this in mind, there is no need to review the ceiling on discount on sum of MRP channels for a DPO.
2. On the contrary, in case of a broadcaster, the Authority in the Explanatory Memorandum to the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Third Amendment) Order, 2022 ("**2022 Tariff Order**"), had stated as under:

*“87. The Authority after due consideration of all these factors has prescribed a maximum discount of 45% on the sum of a-la-carte channels for arriving at the bouquet prices. A careful analysis of existing bouquets reflects that the prescribed maximum discount will cover almost 70% of existing bouquet offerings. In effect broadcasters will not be required to alter their bouquet composition or prices.”*
3. Further, the discount of 45% as provided under the amended 2017 Regulations has also been upheld by the Hon'ble Kerala High Court by way of its judgment dated 04.04.2023 in W.P. (C) No. 193 of 2023 titled as '*All India Digital Cable Federation v. Telecom Regulatory Authority of India & Ors.*'

**Number of SD channels equivalent to one HD channel.**

As one HD Channel occupies a bandwidth which could accommodate 2 SD channels, one HD Channel is equivalent to 2 SD channels. As DPOs have raised concerns that on account of technological innovations, the Authority felt a need to review the relationship between HD and SD channels for the purpose of counting the channels. (Para 2.27)

The Authority has accordingly sought comments on the following issues:

**Q7. Whether the total channel carrying capacity of a DPO be defined in terms of bandwidth (in MBPS) assigned to specific channel(s). If yes, what should be the quantum**

of bandwidth assigned to SD and HD channels. Please provide your comments with proper justification and examples.

**Q8. Whether the extant prescribed HD/SD ratio which treats 1HD channel equivalent to 2SD channels for the purpose of counting number of channels in NCF should also be reviewed?**

**a. If yes, should there be a ratio/quantum? Or alternatively should each channel be considered as one channel irrespective of its type (HD or SD or any other type like 4K channel)? Justify with reasons.**

**b. If no, please justify your response.**

**Q9. What measures should be taken to ensure similar reception quality to subscribers for similar genre of channels? Please suggest the parameter(s) that should be monitored/checked to ensure that no television channel is discriminated against by a DPO. Please provide detailed response with technical details and justification.**

1. Assuming that there are standards set for compression and other parameters of channel, the total channel carrying capacity of a DPO should be defined in terms of bandwidth because the quality of a channel is directly dependent upon bandwidth allocated to the respective channel when all other parameters are defined, and they remain constant.
2. The bandwidth allocation of a channel should be categorized based on the type of content or genre. For example, Sports channel has fast moving actions and therefore require higher bandwidth. Similarly, the channels having heavy graphics require higher bandwidth.
3. On the Cable platform, DPOs have the option to use MPEG 2 or MPEG 4 compression and also the option to configure TS (Transport Stream) with QAM 64 or 256. Therefore, If DPO configures TS with QAM 64 and MPEG 2, then the DPOs may be able to carry approx. 10-12 channels in one TS, on the other hand if the DPOs opt for 256 QAM, then they can configure approx. 25 channels in one TS.
4. Constant bit rate, which is commonly abbreviated as “CBR” refers to transmitting data at constant rate. Cable DPOs generally use CBR (Constant Bit Rate) to allocate bandwidth to the channels.
5. Cable Operator DPO can allocate bandwidth as follows:

Channel category	Compression	Minimum Bandwidth
SD	MPEG-2	3.5
SD	MPEG-4	3.0
HD	MPEG 4	7
4K	MPEG 4	12



6. Variable bit rate, which is commonly abbreviated as “VBR” refers to transmitting data at a variable rate. DTH operators generally use VBR (Variable bit rate) Bandwidth Management System. The channel bandwidth can vary as per the channel content requirement at any point in time. In case the channel has heavy graphics and fast-moving scene it can fetch extra bandwidth from pool of allocated bandwidth. VBR also depends on priority matrix defined in the Mux.
7. VBR Bandwidth allocation for DTH operator:

Channel category	Compression	Bandwidth Range in GHz
<b>SD</b>	MPEG-2	3.0
<b>SD</b>	MPEG-4	2.0
<b>HD</b>	MPEG 4	6.0
<b>4K</b>	DVBS-2	10.0

8. Each channel should be considered as one channel irrespective of its type (HD/SD) because the channel carrying capacity of a DPO headend depends on the technology and compression type adopted by DPO. Some DPOs have adopted MPEG 2 for SD channels and MPEG 4 for HD channels, in such a scenario bandwidth used by HD channel is not even close to 2 times of bandwidth use of SD channel. Therefore, one can't have a standard thumb rule of 1 HD channel equivalent to 2 SD channels. As discussed above, the channel bandwidth allocation depends on the multiple factors such as:

- (1) Compression MPEG 2/4
- (2) CBR / VBR
- (3) Platform – Cable / DTH / HITS

9. Therefore, a single formula to count the number of HD channels equivalent to 2 SD channels in NCF cannot be set. All the similar channels (consuming similar bandwidth, mostly in the same genre) should get similar treatment by the DPO. As discussed below wherein we have proposed genre wise bandwidth allocation chart, the DPO should configure and allocate similar bandwidth for similar genre channels irrespective of the broadcaster.
10. To ensure the quality and reception of channels to be similar at last mile customer, we need to standardize the following parameters. Genre wise bandwidth can be allocated as below.

Channel Category	Bandwidth Required
<b>Entertainment SD (MPEG-2)</b>	3.5
<b>Entertainment SD (MPEG-4)</b>	3
<b>Sports SD (MPEG-2)</b>	4

<b>Sports SD(MPEG-4)</b>	3.5
<b>Entertainment HD</b>	7
<b>Sports HD</b>	7
<b>Entertainment/Sports 4 K</b>	12

If channels have allocated less bandwidth, then channel quality may be compromised.

### **Mandatory FTA Channels in all packs formed by DPO**

As per the Interconnection Regulations, 2017, DPOs have been mandated to offer all the TV channels available on their platform on a-la-carte basis. Some of the FTA news channels have suggested that FTA news channels should be declared as public service.. (*Para 2.30 to 2.31*)

The Authority, has invited comments on the following issues:

**Q10. Should there be a provision to mandatorily provide the Free to Air News / Non-News / Newly Launched channels available on the platform of a DPO to all the subscribers?**

- a. If yes, please provide your justification for the same with detailed terms and conditions.**  
**b. If not, please substantiate your response with detailed reasoning.**

Our Comments:

In our view, the current Regulations are adequate in this respect. Channels carried by DPOs are based on must provide on a first come first basis and is heavily influenced by quality of content and consumer choice. Making any channel (News / Non-News / Newly launched) mandatorily available in a scenario where DPOs have limited bandwidth will impact consumer choice.

### **Level playing field between DD Free Dish and other DPOs**

Prasar Bharati, being a public service broadcaster does not charge any monthly or annual subscription fee for viewers from availing DD Free Dish service. Prasar Bharati has issued an e-auction policy for allotment of DD Free Dish slots to private broadcasters who are desirous of placing their channels on DD Free Dish. DPOs have raised concern that the Pay Channels of broadcasters are available as FTA on DD Free Dish which creates a non-level playing field between DD Free Dish and other DPOs. DPOs have also stated that once a channel is declared as a Pay Channel by a broadcaster, it cannot be converted to FTA for DD Free Dish. (*Para 2.32 to Para 2.64*)

The Authority has sought comments on the following issues:

**Q11. Should Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 be made applicable to nonaddressable distribution platforms such as DD Free Dish also?**

**Q12. Should the channels available on DD Free Dish platform be mandatorily made available as Free to Air Channels for all the platforms including all the DPOs?**

**Q13. Whether there is a need to consider upgradation of DD Free Dish as an addressable platform? If yes, what technology/ mechanism is suggested for making all the STBs addressable? What would be the cost implications for existing and new consumers? Elaborate the suggested migration methodology with suggested time-period for proposed plan. Please provide your response, with justification.**

Our Comments:

1. In our view, Interconnection Regulations 2017 and Quality of Service Regulations 2017 should be made applicable to non-addressable distribution platforms such as DD Free Dish as the regulatory regime requires that every household should be addressable.
2. However, till the time DD free dish is covered under a separate regulation, the pricing of channels available on DD free dish cannot be compared with pricing of channels available on addressable systems.
3. In light of government focus on Digital India, where each subscriber can be identified, we are of strong opinion that Free Dish should be an addressable platform for industry to grow and to provide customized service and content to end consumer irrespective of his demographics and financial status.
4. For DD Free Dish to be addressable they need to have addressable ready infrastructure with CAS, SMS and standardized STB with embedded CAS. Currently any subscriber can purchase normal KU band STB directly from open market and downlink all channels without any KYC and there is no need for any activation from DD free dish.
5. As per the information available, approximately 35+mn STBs have already mushroomed across the India and no data of STB and customers is available with DD Free Dish. Considering the large base of STBs used by subscribers to get un-encrypted channels directly from DD Free Dish, there should be timebound plan to migrate subscribers to addressable system using electronic KYC and various government schemes.
6. For convenience of subscribers, DD Free Dish needs to install and configure SMS and CAS system in their DHE and encrypt the channels in phase manner.
7. DD Free Dish needs to ensure STBs supporting the CAS system should be easily available in open market or through authorized distributors.
8. The customer can get addressable STB from market and upload information directly on DD portal/App which should be directly linked to SMS and CAS to register the STB in system and activation of the channels.
9. DD Free Dish can target to complete the exercise of encryption of all channels within 18 months.

**Issues related to Interconnection for Broadcasting and Cable Services**

**Amendment to Reference Interconnection Offer (RIO)**

Regulation 7(9) of the Interconnection Regulations, 2017 mandate that if a broadcaster amends its RIO, it shall give an option to all the distributors to either continue with the existing RIO or to enter into fresh interconnection agreement in accordance with the amended RIO. Stakeholders have suggested that choice may not be given to the DPOs to continue with old interconnection agreements. (*Para 3.5 to 3.7*)

The Authority has sought comments on the following issues:

**Q14. In case of amendment to the RIO by the broadcaster, the extant provision provides an option to DPO to continue with the unamended RIO agreement. Should this option continue to be available for the DPO?**

**a. If yes, how the issue of differential pricing of television channel by different DPOs be addressed?**

**b. If no, then how should the business continuity interest of DPO be protected?**

**Q15. Sometimes, the amendment in RIO becomes expedient due to amendment in extant Regulation/ Tariff order. Should such amendment of RIO be treated in a different manner? Please elaborate and provide full justification for your comment.**

**Q16. Should it be mandated that the validity of any RIO issued by a broadcaster or DPO may be for say 1 year and all the Interconnection agreement may end on a common date say 31st December every year. Please justify your response.**

Our Comments:

1. There should be no choice given to the DPOs to continue with old interconnection agreement as two sets of agreements lead to different terms and conditions for different DPOs. Further, it also leads to different timelines for operation of the agreements. To maintain uniformity, it is suggested that the new interconnection agreement should be applicable to all the DPOs and no choice to continue with the existing RIO should be given to the DPOs. However, DPOs may be given protection against price change in such scenario till the RIO end date (in case of channel launch). In case a channel is shut down, proportionate reduction may be given to the DPOs.
2. The validity of RIO should end / expire on a common date irrespective of the date of signing / start date of the RIO to maintain parity in MRP / Incentive to be given to the DPOs and other terms of RIO applicable to various DPOs operating in the same city / town / village. We would recommend 31<sup>st</sup> March of every year.
3. If amendment in RIO is expedient due to amendment in extant Regulation / Tariff Order, the amended RIO should be mandatorily signed by DPO without any changes in expiry date of the previous RIO.

**Listing of channels in Electronic Programme Guide (EPG)- Language genre problem in EPG**

Regulation 18 of the Interconnection Regulations, 2017 mandate that all television channels of one genre should be placed consecutively. (*Para 3.11 to 3.18*)

The Authority, has invited comments on the following issues:

**Q17. Should flexibility be given to DPOs for listing of channels in EPG?**

- a. If yes, how should the interest of broadcasters (especially small ones) be safeguarded?**
- b. If no, what criteria should be followed so that it promotes level playing field and safeguard interest of each stakeholder?**

**Q18. Since MIB generally gives permission to a channel in multiple languages, how the placement of such channels may be regulated so that interests of all stakeholders are protected?**

Our Comments:

DPO should have flexibility to organize the channel on EPG based on language and genre and the combination of LxGy should remain together in the EPG. Current regulation is adequate in this regard. To address the issue of channels with multiple languages, the Authority may ask the broadcasters to specify the Primary Genre and Language of the channel for the purpose of arrangement of EPG. Once a channel language and genre is defined by the broadcaster then the DPO would have to mandatorily put channel as per defined language and genre. Any other arrangement such as placement or marketing agreement between a broadcaster and a DPO should be kept out of the regulatory regime.

Additionally, there has to be a penal provision on DPOs for non-compliance of EPG regulations.

**Revenue Share between LCO and MSO**

Regulation 12(7) provides that the NCF and Distribution Fee shall be shared in the ratio of 55:45 between an MSO and an LCO. LCOs are demanding to frame a new policy for pay channel sharing percentage. TRAI has invite comments on whether the revenue share between MSO and LCO needs to be revised. (*Para 3.20 to 3.22*)

The Authority has sought comments on the following issues:

**Q19. Should the revenue share between an MSO (including HITS Operator) and LCO as prescribed in Standard Interconnect Agreement be considered for a review?**

- a. If yes:**
  - i. Should the current revenue share on NCF be considered for a revision?**
  - ii. Should the regulations prescribe revenue share on other revenue components like Distribution Fee for Pay Channels, Discount on pay channels etc.? Please list all the revenue components along with the suggested revenue share that should accrue to LCO. Please provide quantitative calculations made for arriving at suggested revenue share along-with detailed comments /justification.**
- b. If no, please justify your comments.**

Our Comments:

Revenue share arrangement between DPO and LCO is a commercial arrangement for the DPO and we have no comments on the same.

**Carriage Fee**

Under the Interconnection Regulations, 2017, a broadcaster is required to pay carriage fees:

- a. SD Channels: at the rate of twenty paisa per month to the distributor and the sum total of which will not exceed rupees four lakh per month
- b. HD Channels: rate of forty paisa per month to the distributor and the sum total of which will not exceed rupees eight lakh per month. (*Para 3.24 to 3.32*)

TRAI has invited comments on the following issues:

**Q20. Should there be review of capping on carriage fee?**

- a. **If yes, how much it should be so that the interests of all stakeholders be safeguarded. Please provide rationale along with supporting data for the same.**
- b. **If no, please justify how the interest of all stakeholders especially the small broadcasters can be safeguarded?**

**Q21. To increase penetration of HD channels, should the rate of carriage fee on HD channels and the cap on carriage fee on HD channels may be reduced. If yes, please specify the modified rate of carriage fee and the cap on carriage fee on HD channels. Please support your response with proper justification.**

**Q22. Should TRAI consider removing capping on carriage fee for introducing forbearance? Please justify your response.**

Our Comments:

1. In our submission there is no requirement for revision of the cap prescribed for carriage fee. Carriage fee for a pay channel should be different should be different from that of a FTA channel.

- a. Pay channels

Pay channels are already paying Distribution Fee as well as Incentives (wherever applicable) to DPOs. DPOs are getting adequately compensated for investments on their networks. There are three revenue streams available to the DPOs as mandated by the Regulations – NCF, Distribution Fee and Incentives on pay channels. At present, DPOs share in consumer price is ~70%, which is extremely high. As highlighted in our response to Question 1, Content creation by pay broadcasters is a continuous activity and requires huge investments. To bring a more equitable revenue share for broadcasters there is an urgent need to reduce the revenue share accruing to the DPOs. Hence, there should be no carriage fee applicable for pay channels.

A large part of the investments in networks is in the nature of capex and a one-time activity. Most DPOs made their investments several years back and compensating the same through a monthly fee is not justified.

- b. FTA channels

It can be argued that FTA channels are not compensating anything to DPOs for use of network access. And therefore, carriage fees is a fair way of remunerating DPOs for carrying FTA channels. We believe that carriage fee should be applicable only to FTA channels and the carriage fee capping as provided in the regulations is adequate for this purpose.

2. The DPOs should not be allowed to unbundle the bouquets offered by a broadcaster. The pricing and bundling of channels is and should remain the sole prerogative of broadcasters as provided in the regulations. The a-la-carte prices of all the channels are clearly defined and therefore the DPOs are free to create their own bouquet of channels. The current regulations already provide for pricing in a non-discriminatory manner to all DPOs and therefore the interest of DPOs are sufficiently protected.
3. As stated above we believe that the carriage fee should be applicable only for FTA channels. The same principle should apply to HD channels as well.

### **Removal of a channel from the platform of a DPO after expiry of existing Interconnection agreement**

Under Regulation 10 of the Interconnection Regulations, 2017, a broadcaster is required to have a written interconnection agreement with a DPO to provide signals of tv channels. Under Regulation 10(14), a broadcaster is required to enter into a new interconnection agreement before the expiry of an existing agreement. In case the parties fail to enter into new agreement before the expiry of the existing agreement, a broadcaster is not required to provide the signals of television channels to the distributor. Under Regulation 10(21), parties fail to enter into new interconnection agreement before the expiry of the existing interconnection agreement, the DPO may not carry such television channels on expiry of the existing interconnection agreement, however DPO shall not discontinue carrying a television channel if the signals of such television channel remain available for distribution and monthly subscription percentage for that particular television channel is more than twenty percent of the monthly average active subscriber base in the target market.. *(Para 3.34 to 3.35)*

The Authority, has invited comments on the following issues:

**Q23. In respect of DPO's RIO based agreement, if the broadcaster and DPO fail to enter into new interconnection agreement before the expiry of the existing agreement, the extant Interconnection Regulation provide that if the parties fail to enter into new agreement, DPO shall not discontinue carrying a television channel, if the signals of such television channel remain available for distribution and the monthly subscription percentage for that television channel is more than twenty percent of the monthly average active subscriber base in the target market.**

**Does this specified percentage of 20 percent need a review? If yes, what should be the revised prescribed percentage of the monthly average active subscriber base of DPO. Please provide justification for your response.**

Our Comments:

There is no requirement of any revision of the specified percentage. The specified threshold of more than 20% of the monthly average active subscriber base in the target market should be calculated as per the average percentage of last 6 months.

## **Issues related to Standards of Quality of Service (QoS) and Consumer Protection Regulations**

### **Review of all prescribed charges in QoS**

Distributors charge for installation, activation, restoration and reactivation of signals which are regulated under the QoS Regulations. (*Para 4.3 to 4.12*)

The Authority, has invited comments on the following issues:

**Q24. Whether the extant charges prescribed under the ‘QoS Regulations’ need any modification required for the same? If yes, justify with detailed explanation for the review of:**

- 1. Installation and Activation Charges for a new connection**
- 2. Temporary suspension of broadcasting services**
- 3. Visiting Charge in respect of registered complaint in the case of**

### **DTH services**

- 4. Relocation of connection**
- 5. Any other charges that need to be reviewed or prescribed.**

**Q25. Should TRAI consider removing capping on the above-mentioned charges for introducing forbearance? Please justify your response.**

### **Our Comments:**

The Authority should not remove the capping on the aforesaid charges as it ensures for level playing field and is non-discriminatory. These charges need to be regulated to keep a check on the distributors and complete forbearance in this regard may lead to excessive charges being levied on the consumers which may lead to their migration from the platform. Additionally, the capping ensures that the cost of access for Cable / DTH services remains affordable for the consumers.

### **Display of channels in EPG and LCN listing of channels**

In the current regulatory framework, the distributors of television channels display all channels available on its platform in the EPG. Some of the distributors have set their DRP lower than the MRP. (*Para 4.13 to 4.17*)

The Authority, has invited comments on the following issues:

**Q26. Whether the Electronic Programme Guide (EPG) for consumer convenience should display**  
**a. MRP only**



**b. MRP with DRP alongside**

**c. DRP only?**

Our Comments:

The fundamental tenet of the regulation is that all channels are sold on a non-discriminatory basis on MRP as defined by the broadcaster. Therefore, displaying MRP on EPG makes it transparent to the consumer for the price being charged by the broadcaster. It is akin to MRP being displayed for any product in a shop. To address the situation, where some DPOs may have chosen DRP lower than MRP, the provisions with respect to display of rates on EPG should be amended as follows:

*“Respective MRP should be displayed on the EPG for each channel. Wherever DRP declared by DPO is different than MRP, the EPG should display MRP with DRP alongside.”*

This will ensure complete transparency on the MRP of the channel as well as the consumer offer from the DPO.

Also, as observed by TRAI in clause 4.17 on page 73 of the Consultation Paper, it should be made mandatory for DPOs to place each individual channel on the actual LCN number as well as LCN rank as displayed in the EPG. The channel should not be displayed on any other LCN for a seamless viewing experience.

**Billing cycle for pre-paid payment option shall be thirty days from the date of activation of services**

Regulation 23(2) of QoS Regulations provides that the billing cycle in the case of pre-paid billing method is thirty days from the date of activation of the services. But it is silent on the periodicity of the billing cycle in case a subscriber intends to recharge for the services for an entire year. TRAI has invited comments on the periodicity to be adopted in case of pre-paid billing system and if the current periodicity for submitting subscriber channel viewership information to broadcasters be reviewed to ensure that the viewership data of every subscriber, even those who opt for the channel even for a day, is included in the reports. *(Para 4.18 to 4.23)*

The Authority, has invited comments on the following issues:

**Q27. What periodicity should be adopted in the case of pre-paid billing system. Please comment with detailed justification.**

**Q28. Should the current periodicity for submitting subscriber channel viewership information to broadcasters be reviewed to ensure that the viewership data of every subscriber, even those who opt for the channel even for a day, is included in the reports? Please provide your comments in detail.**

Our Comments:

1. The periodicity of pre-paid billing that the DPO is charging to the consumer should be same as periodicity of billing that broadcaster charges to DPO.

2. The provision for periodicity of pre-paid billing cycle at 30 days can be retained. In such a situation, the broadcaster's pricing should also be for a 30-day period. Alternately, DPO should charge consumers for one month and broadcasters should continue offering their MRPs on a per month basis. To take care of consumer need for recharging on a long-term basis, DPO should be provided flexibility to change the billing cycle to a period of more than 1 month, subject to the period being in multiples of 1 month.
3. In view of the observations that DPOs offer subscribers the choice to re-charge / choose a channel only for a day / few days, the requirement of submitting subscriber reports in a defined format needs to be amended.
4. Subscriber report should be submitted on a monthly basis displaying subscriber count for each channel/bouquet for each day of the month.
5. Instead of subscriber report being declared on the 7<sup>th</sup>,14<sup>th</sup>,21<sup>st</sup> and 28<sup>th</sup> of each month, it should be amended to report being declared for each day of the month.
6. Given the pricing methodology of a broadcaster, where MRP is defined on a per month basis, it should be mandatory for DPOs to also offer consumers the pay channels on a minimum period of one month. This implies that a subscriber should be charged full MRP even if they have opted for the channel for a period of less than 1 month.
7. Illustration: Suppose Mr. X subscribes to a channel on 1<sup>st</sup> day of a month and then drop the said channel 7<sup>th</sup> Morning of the same month. In this case, following the existing provision of regulation on submission of MSR, though DPO charge and earn from the said subscriber for 7 days the Broadcaster deprived of getting anything of its share on such subscriber.

### **Regulations on Platform Services Channels**

Platform Service (PS) channels are the channels where the programmes are exclusively transmitted by the DPOs excluding channels like Doordarshan, registered TV channels and foreign TV channels that are not registered in India. MSOs are permitted to offer a maximum of 5% of their total channel capacity as PS channels, including those of LCOs. *(Para 4.26 to 4.29)*

The Authority, has invited comments on the following issues:

**Q29. MIB in its guidelines in respect of Platform Services has inter-alia stated the following:**

- a. The Platform Services Channels shall be categorised under the genre 'Platform Services' in the EPG.
- b. Respective MRP of the platform service shall be displayed in the EPG against each platform service.
- c. The DPO shall provide an option of activation /deactivation of platform services.

**In view of the above, you are requested to provide your comments for suitable incorporation of the above mentioned or any other provisions w.r.t. Platform Services channels of DPOs in the 'QoS Regulations'.**

Our Comments:

The MIB Guidelines for regulation of Platform Services offered by MSOs should also be incorporated in QoS Regulations.

Additionally, it is very important for TRAI to introduce penal provisions on DPOs who do not adhere to these provisions. Very often we have observed that a broadcaster's pay channel is shown on the LCN meant for a platform service in the EPG. This way, the DPO avoids reporting of the pay channel in the subscriber report thereby making a mockery of the regulations. Therefore, a strict penalty should be introduced against any DPO indulging in such malpractices.

**Review of mandatory provisions of toll-free number, Consumer Corner, Subscriber Corner, establishment of website and Manual of Practice etc.**

As per the QoS Regulations, television channel distributors are required to set up toll-free number, consumer corner, subscriber corner, establishment of website and manual of practice before offering broadcasting services to subscribers.. (*Para 4.30 to 4.33*)

The Authority, has invited comments on the following issues:

**Q30. Is there a need to re-evaluate the provisions outlined in the 'QoS Regulations' in respect of:**

- a. Toll-free customer care number**
- b. Establishment of website**
- c. Consumer Corner**
- d. Subscriber Corner**
- e. Manual of Practice**
- f. Any other provision that needs to be re-assessed**

**Please justify your comments with detailed explanations.**

Our Comments:

The QoS regulations are important for maintaining the service quality to the consumer. While DPOs have implemented the QoS Regulations, but it is observed that several DPOs hardly update them on a regular basis. Provisions of a consumer corner / subscriber corner / DPO website and manual of practice are outdated for several DPOs and are not necessarily linked with the services offered to the consumer. Therefore, it is very important to emphasize on ensuring periodic updation of these from the DPO end. It has been noticed that the packages uploaded on the consumer corner / subscriber corner of the DPO's website have no connection to the packages being offered on the ground.

**Financial Disincentive for violation of Tariff Order, Interconnection Regulations and Quality of Service Regulations**

Under Clause 4 the Telecommunication (Broadcasting and Cable) Services Register of Register of Interconnection Agreements and all such other matters Regulations, 2019, if a broadcaster

fails to furnish the following information relating to all interconnection agreements (including modifications or amendments thereto):

- a. for which RIO has been published as per Regulations 7, of the Interconnection Regulations,
- b. for placement,
- c. for marketing, or
- d. for any other technical or commercial arrangements

will be liable to pay an amount of Rs. 1000 per day for default up to thirty days beyond the due date in the form of 'financial disincentive'. An additional amount of Rs. 2000 per day would be paid by the broadcaster if the default continues beyond thirty days. (Para 5.7)

TRAI has sought comments on the following issues.

**Q31. Should a financial disincentive be levied in case a service provider is found in violation of any provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?**

**a. If yes, please provide answers to the following questions:**

**i. What should be the amount of financial disincentive for respective service provider? Should there be a category of major/ minor violations for prescription of differential financial disincentive? Please provide list of such violation and category thereof. Please provide justification for your response.**

**ii. How much time should be provided to the service**

**provider to comply with regulation and payment of financial disincentive. and taking with extant regulations/tariff order?**

**iii. In case the service provider does not comply within the stipulated time how much additional financial disincentive should be levied? Should there be a provision to levy interest on delayed payment of Financial Disincentive?**

**1. If yes, what should be the interest rate?**

**2. In no, what other measures should be taken to ensure recovery of financial disincentive and regulatory compliance?**

**iv. In case of loss to the consumer due to violation, how the consumer may be compensated for such default?**

**b. If no, then how should it be ensured that the service provider complies with the provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?**

Our Comments:

In our view, financial disincentive may be levied in case a service provider is found in violation of any provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations.

It is essential to provide for financial disincentives and blacklisting, without prejudice to any rights that the broadcaster may have (including the Broadcaster's right to disconnect under the Interconnect Regulations). Financial disincentives can be in the nature of substantial amounts to be payable as penalties to be imposed upon DPOs for non-compliance of Schedule III requirements, QoS and data manipulation / deletion of data. We also suggest that the defaulting DPOs, who are found to be in contravention of the interconnection agreements, Interconnection Regulations (including provisions of Schedule III) and QOS Regulations, which is directly link to piracy, thereby causing loss of revenue to Broadcaster shall be liable to pay financial disincentives not less than INR 1 Lakh per day of default. They should also be disentitled to seek signals for a period varying from one (1) to five (5) years in terms of TRAI's Interconnection Regulations depending on gravity of default. Any small DPO having less than 500 customers shall be liable to pay financial disincentives not less than INR 1 Lakh per month for any non-compliance or piracy. In case such non-compliance continues, then financial disincentives of INR 1 Lakh per day shall be levied till all non-compliance gets resolved.

Service provider should be required to make payment within 7 days along with interest and penal provision.

- a. DPO should be required to compensate the Broadcaster for the actual loss.
- b. Interest should be levied @18% P.A. calculated from date of violation till date of payment of interest.
- c. The penalty should be at least 50% of the amount of actual loss.

**The following may be considered as violations by the DPO :**

1. Non-Submission of MSR within prescribed time limit
2. Non-compliance of Schedule III requirements
3. Non-Compliance on requirement to keep historical log / records of subscriber for last two years.
4. Non-Submission of 15(1) Audit report as per extant regulations.
5. Non-Payment of dues based on 15(2) audit reports.
6. Non-cooperation in 15(2) Audit

In case the DPOs do not comply within the stipulated time the penalty amount should be doubled and interest @18% p.a. should be continued and the service provider should not be allowed to continue the business.

In case of any loss to the consumer due to the said violation, the service provider should compensate the consumer by offering discount in its future subscription.

**Q32. Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in present consultation.**

In addition to the issues under consideration, the Authority may also consider the following issues:

1. CAS SMS and MUX vendor should be brought under ambit of TRAI.
2. Audit under 15(1) should be scrapped.

3. The minimum subscription period for a channel/bouquet subscribed by a subscriber should be a minimum for one month as the published MRP is on monthly basis.
4. In majority of cases DPOs are not allowing broadcaster to allow audit u/s 15(2). The rights remains on paper only. Strict penalty should be levied on DPOs for not allowing/delaying audit u/s 15(2).
5. Regulation to keep mandatory provision for DPO to provide State wise report.
6. Provision in Regulation should include to generate and provide MSR strictly from system of the DPO and Manually prepared MSR should not be allowed.
7. DPOs should be penalized for changing LCN of the channels without informing the broadcasters in advance.
8. Any changes in the EPG related to channel LCN, rank and genre without prior intimation and approval from the broadcaster should be penalized.

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