

**TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART III, SECTION 4**

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the 8th July 2024

**THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES
(EIGHTH) (ADDRESSABLE SYSTEMS) TARIFF (FOURTH AMENDMENT) ORDER,
2024
(No. 1 of 2024)**

No. RG-8/1/(9)/2021-B AND CS(1 AND 3).--- In exercise of the powers conferred by sub-section (2) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Central Government, in the Ministry of Communication and Information Technology (Department of Telecommunications), No. 39, -----

1. issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and
2. published under notification No. S.O. 44 (E) and 45 (E) dated 9th January, 2004 in the Gazette of India, Extraordinary, Part II, Section 3, ----

the Telecom Regulatory Authority of India hereby makes the following Order to amend the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (1 of 2017), namely: -

1. Short title, extent and commencement:--- (1) This Order may be called the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Fourth Amendment) Order, 2024 (1 of 2024).

(2) This Order shall apply throughout the territory of India.

(3) This Order shall come into force after ninety days, from the date of its publication in the Official Gazette, except clause 2, 7 and 8 of this Order which shall come into force from the date of publication of this order in the Official Gazette.

2. In clause 2 of the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (hereinafter referred to as the “principal Tariff Order”), after sub-clause (za), the following sub-clause shall be inserted, namely:-

“(zaa) “Platform Services means programs transmitted by distribution platform operators exclusively to their own subscribers and does not include Doordarshan channels, registered TV channels and foreign TV channels that are not registered in India.”

3. In clause 3 of the principal Tariff Order, in sub-clause (2), in item (b), after the second proviso, the following proviso shall be inserted, namely: ---

“Provided also that a channel, which has been granted downlinking permission by the Central Government and is available without any subscription fee on the direct to home platform of the public service broadcaster, shall not be declared as pay channel for addressable distribution platforms.”

4. In clause 4 of the principal Tariff Order, --

(a) in sub-clause (1), ---

(i) the first and second provisos shall be deleted;

(ii) for the third proviso, the following provisos shall be substituted, namely: ---

“Provided that a distributor of television channels shall be free to declare different network capacity fee for different,-

- (i) number of channels offered by it;
- (ii) regions in its service area;
- (iii) classes of consumers; and
- (iv) any combination of (i) to (iii) above;

Provided also that every classification between consumers shall be based on intelligible eligibility criteria where such criteria shall have a rational nexus to the purpose of the said classification;”

(iii) for the fourth proviso, the following proviso shall be substituted, namely: ---

“Provided further that a distributor of television channels shall be free to declare network capacity fee, per month, for each additional TV connection, beyond the first TV connection in a multi-TV home and such capacity fee, in no case, shall exceed the fee declared for the first TV connection.”;

(iv) the fifth proviso shall be deleted.

(b) in sub-clause (4), in the second proviso, for the words “eighty five percent”, the words “fifty five percent” shall be substituted;

(c) after the sub-clause (11), the following sub-clause shall be inserted, namely: ---

“(12) Every distributor of television channels shall declare maximum retail price, per month, for each platform service provided by it.”;

5. In clause 6 of the principal Tariff Order, -----

(a) in sub-clause (1)—

- (i) after the word “Authority” and before the word “namely” the word “in such manner, as may be specified” shall be inserted;

(ii) in the second proviso, for the bracket, word and digit “(Third Amendment) Order, 2022”, the bracket, word and digit “(Fourth Amendment) Order, 2024” shall be substituted;

(iii) in the third proviso, in item (a) , after the words “prior to such change”, the words “in such manner, as may be specified” shall be inserted;

(b) in sub-clause (2), -----

(i) after the word “furnish to the Authority” and before the words “the following information”, the words “in such manner, as may be specified” shall be inserted;

(ii) in the second proviso, in item (a), after the words “prior to the change”, the word “in such manner, as may be specified” shall be inserted;

6. In clause 7 of the principal Tariff Order, ----

(a) in sub-clause (1),---

(i) after the word “Authority” and before the word “namely” the word “in such manner, as may be specified” shall be inserted;

(ii) for item (a), the following item shall be substituted, namely: ---

“(a) network capacity fees declared based on number of channels, different regions, different customer classes or any combination thereof;”;

(iii) item (b) shall be deleted.

(iv) after item (i), the following item shall be inserted, namely: ---

“(ia) list of all platform service channels along with their maximum retail price, available on its distribution platform;”;

(v) in the first proviso, for the words “first such report” the words “information as required under this sub-clause ” shall be substituted;

(vi) in the second proviso,-

(A) for the bracket, words and digit “(Third Amendment) Order, 2022”, the bracket, word and digit “(Fourth Amendment) Order, 2024” shall be substituted;

(B) for item (a), the following item shall be substituted, namely: ---

“reported to the Authority in such manner, as may be specified, at least fifteen days prior to such change; and –”;

(vii) after the second proviso , the following proviso shall be inserted, namely:--

“Provided also that any subsequent change in the network capacity fee, name, nature, language, distributor retail prices of pay channels, distributor retail price or composition of bouquet of pay channels and composition of bouquet of free-to-air channels, network capacity fee for each additional TV connection beyond first TV connection in a multi TV home, long term subscriptions, maximum retail price of platform services and introduction or discontinuation of any channel on its platform, as the case may be,---

(a) shall be reported to the Authority, in such manner, as may be specified , at least fifteen days prior to such change, and

(b) shall also be simultaneously published on the website of the distributor.”;

(b) in the sub-clause (1A), after the words “shall report to the Authority” and before the words “ and also communicate” the word “in such manner, as may be specified ” shall be inserted;

(c) in sub-clause (2), after the word “shall submit to the Authority” and before the words “the report containing” the words “in such manner, as may be specified” shall be inserted.

7. After clause 8 of the principal Tariff Order, following clauses shall be inserted, namely: ----

“(8A) Consequences for failure to comply with the provisions of this Order by the broadcaster or distributor.— (1) If any broadcaster or distributor of television channels, as the case may be, contravenes the provisions of the Order, it shall, without prejudice to the

terms and conditions of its license or permission or registration, or the Act or rules or regulations or order made or direction issued thereunder, be liable to pay the financial disincentive specified under Schedule-I, as the Authority or an officer authorized by the Authority, as the case may be, may by order direct:

Provided that in a calendar year the maximum financial disincentive, shall, in no case, exceed rupees two lakh for all the contraventions of clauses as mentioned under Group A in Table 1 of schedule-I:

Provided further that in a calendar year the maximum financial disincentive shall, in no case, exceed rupees five lakh for all the contraventions of clauses as mentioned under Group B in Table 1 of schedule-I:

Provided also that the maximum financial disincentives imposed on a service provider for all the contraventions in a calendar year shall not exceed rupees five lakh:

Provided also that no order for payment of financial disincentive shall be made by the Authority, or an officer authorized by the Authority, as the case may be, unless the broadcaster or the distributor, as the case may be, has been given a reasonable opportunity of representation against the contravention of the clauses observed by the Authority.

(2) The amount payable by way of financial disincentive under this Order shall be remitted to such head of account as may be specified by the Authority.

(8B) Consequences for the failure of the service providers to pay financial disincentive within the stipulated time.— (1) If a service provider fails to make payment of financial disincentive under clause 8A within the stipulated period, it shall be liable to pay interest at a rate which will be two per cent. above the one year Marginal Cost of Lending Rate (MCLR) of State Bank of India applicable as on the beginning of the Financial Year (namely 1st April) in which last day of the stipulated period falls and the interest shall be compounded annually.

Explanation: For the purposes of this Order, a part of the month shall be reckoned as a full month for the purpose of calculation of interest and a month shall be reckoned as an English calendar month.”

Schedule-I

Table 1 : Quantum of Financial Disincentive for contravention of Provisions of the Tariff Order

Clause	Details	Maximum amount of Financial Disincentive (Q) (in Rs.)	
		First Contravention	Subsequent Contravention
Group A: Clauses for lower financial disincentive			
3(2)(a)	Declaration of nature of channel as FTA or PAY	Advisory/ Warning	25,000
6	Reporting requirement by broadcasters	Advisory/ Warning	25,000
7	Reporting requirement by distributors	Advisory/ Warning	25,000
8	Designation of compliance officer	Advisory/ Warning	25,000
Group B: Clauses for higher financial disincentive			
3(1)	Offering of all channels on a-la-carte basis to all distributors	25,000	1,00,000
3(2)(b)	Declaration of MRP of pay channel offered on a-la-carte basis	25,000	1,00,000
2 nd Proviso to 3(2)(b)	MRP of a channel shall be uniform for all distribution platforms	25,000	1,00,000
3 rd Proviso to 3(2)(b)	Channels available on DD Free Dish to be FTA for addressable systems	25,000	1,00,000
3(3)	Formation of bouquet by broadcasters	25,000	1,00,000
4(1)	Declaration of NCF	25,000	1,00,000
4(2)	Offering of channels available on its network to the subscribers on a-la-carte basis	25,000	1,00,000

4(3)	Offering of bouquet of pay channels of broadcasters without alteration	25,000	1,00,000
4(4)	Offering of bouquets by distributors	25,000	1,00,000
4(6)	No distributor shall charge any amount, other than the NCF from its subscribers for subscribing to FTA channels or bouquets of FTA channels	25,000	1,00,000
4(8)	distributors shall not increase the NCF for a period of six months	25,000	1,00,000

- a) **Categorization in case of distributors of television channels for the purpose of imposing financial disincentive:** Distributors shall be categorized based on their subscriber base and the amount of financial disincentive payable by a distributor shall be determined based on the category of a distributor as given below (except where warning/ advisory is issued):

Table 2 : Categories of distributors of television channels and financial disincentives for each category

Category of DPOs	Subscriber Base	Amount of Financial Disincentive Applicable
Micro	Less than 30,000	10% of maximum FD amount i.e. 0.1Q
Small	Between 30,000 to 1,00,000	25% of maximum FD amount i.e. 0.25Q
Medium	Between 1,00,000 to 10,00,000	50% of maximum FD amount i.e. 0.5Q
Large	Above 10,00,000	100% of maximum FD amount i.e. Q

- b) **Categorization in case of television channels of broadcasters for the purpose of imposing financial disincentive:** In case of broadcasters, the financial disincentive shall be determined based on the nature of the television channels for which contravention is noticed i.e. whether it is Pay channel or an FTA channel, as given below (except where warning/ advisory is issued):

Table 3: financial disincentives for broadcasters

Contravention in relation to	FD amount
FTA channels	50% of maximum FD amount i.e. 0.5 Q
Pay channels	100% of maximum FD amount i.e. Q

- c) In case of more than three contraventions of the clauses mentioned under Group B in the Table 1 of schedule-I, in a block of three years counted back from the date of latest contravention, the Authority, besides imposing the financial disincentive referred to above, may recommend to the Central Government to take appropriate action without prejudice to any other action that the Authority may take as per provisions of the TRAI Act,1997.
- d) In case of a continued contravention of a provision i.e. a contravention that is not rectified within the timeline given by the Authority for its rectification, an financial disincentive of two thousand rupees per day for first thirty days and five thousand rupees per day beyond thirty days, counted from the last date of compliance specified in the order, shall be imposed besides the financial disincentive already specified in the order for compliance.

(Atul Kumar Chaudhary)
Secretary, TRAI

Note 1.----The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (1 of 2017) was published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 21-1/2016-B&CS dated 3rd March, 2017 and subsequently amended vide notifications No. 1-2/2017-B&CS dated 30th March, 2017, No. 21-01/2019- B&CS dated 1st January 2020 and No. RG-8/1/(9)/2021-B AND CS(1 AND 3) dated 22nd November 2022.

Note 2. ----The Explanatory Memorandum at Appendix A to this Order explains the objects and reasons of the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Fourth Amendment) Order, 2024.

EXPLNATORY MEMORANDUM

Introduction and Background

1. The Telecom Regulatory Authority of India (TRAI) on 3rd March, 2017 notified the new regulatory framework to ensure orderly growth of the Broadcasting and Cable TV Sector after a consultation process. This was necessitated by the complete digitization of Cable TV networks in India. The framework comprised of following Tariff Order and Regulations:
 - i. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (Tariff Order 2017);
 - ii. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 (Interconnection Regulations, 2017);
 - iii. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (QoS Regulations, 2017).

Hereinafter, the above two Regulations & the Tariff order are collectively referred to as 'the Framework.'

2. After passing legal scrutiny in Hon'ble High Court Madras and Hon'ble Supreme Court, 'the framework' came into effect from 29th December 2018. Collectively the three determinations completely revamped the regulatory framework for the Sector. Given the size and structure of the Sector and the changes that 'the framework' entailed, it was imminent that there could be some transient issues.
3. In order to address the issues noted during implementation of the Framework 2017, the Authority, after due consultation, notified the following amendments to the Regulatory Framework 2017, on 1st January 2020, TRAI notified the following amendments to the Regulatory Framework 2017, on 1st January 2020:

- A. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2017 (Tariff Amendment Order 2020)
- B. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment) Regulations, 2017 (Interconnection Amendment Regulations, 2020)
- C. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Third Amendment) Regulations, 2017(QoS Amendment Regulations, 2020).

Hereinafter, the above amendments are collectively referred to as ‘the amended Framework 2020’

4. Some stakeholders challenged the amendments framework 2020. Provisions of the amended Framework 2020 related to Network Capacity Fee (NCF), NCF for Multi TV homes and long-term subscriptions were challenged by All India Digital Cable Federation (AIDCF) and others in the High Court of Kerala. However, these were duly implemented in April 2020 after the interim orders of the Hon’ble High Court of Kerala. In its final judgement dated 12th July 2021, Hon’ble High Court upheld the amendments introduced by the Tariff Amendment Order, 2020.
5. Simultaneously, some broadcasters and other stakeholders challenged various provisions of Tariff Amendment Order 2020, Interconnection Amendment Regulations 2020 and QoS Amendment Regulations 2020 in various High Courts including in the Hon’ble High Court of Bombay vide Writ Petition (L) No. 116 of 2020 and other connected matters therewith.
6. Hon’ble High Court of Bombay, vide its Judgement dated 30th June 2021 upheld the validity of the amended Framework 2020 except for the condition of the average test provided in the third proviso to sub-clause (3) of clause 3 of the Tariff Amendment Order 2020.
7. The petitioners in Bombay High Court filed Special Leave Petitions (SLPs) in the Hon’ble Supreme Court of India, challenging the judgement dated 30th June 2021 of the Hon’ble High Court of Judicature at Bombay. The matter was heard by the Hon’ble Supreme Court on 18th August 2021. However, no interim relief was granted by the Hon’ble Supreme Court.

8. Subsequently, on 15th February 2022 the petitioners submitted an affidavit in Hon'ble Supreme Court for withdrawal of SLPs. On the same day Hon'ble court was pleased to grant permission for the withdrawal of the SLP and passed the following order ¹:
“The Special Leave Petitions are dismissed as withdrawn. All questions of law open are kept open.”
9. Meanwhile, considering that no interim relief was granted by Hon'ble Supreme Court on the judgement of Hon'ble Bombay Court, the Authority issued a letter dated 12th October 2021 to all the broadcasters seeking compliance with the provisions of the amended Framework 2020 as upheld by Hon'ble Court of Bombay, within 10 days. Consequently, most of the broadcasters submitted their Reference Interconnect Offer (RIOs) to TRAI in compliance with 'the amended Framework 2020' and also published these on their websites in November 2021.
10. New tariffs announced by the major broadcasters reflected a common trend i.e., the prices of their most popular channels, including sports channels, were enhanced beyond Rs. 20/- per month. Complying with the extant provisions, as regards the inclusion of pay channels in a bouquet, all such channels priced beyond Rs. 12/- (per month) were kept out of bouquets and offered only on an a-la-carte basis. The revised RIOs as filed indicated a wide-scale changes in composition of almost all the bouquets being offered.
11. Immediately after new tariffs were announced, TRAI received representations from Distribution Platform Operators (DPOs), Associations of Local Cable Operators (LCOs) and Consumer Organizations. DPOs also highlighted difficulties likely to be faced by them in implementing new rates in their IT systems and migrating the consumers in bulk to the new tariff regime through the informed exercise of options, impacting almost all bouquets, due to upward revision in the rates of pay channels and bouquets declared by broadcasters.
12. To address the issues raised in the representations, TRAI started engaging with the stakeholders through formal/ informal interactions. The discussions aimed to facilitate smooth

¹ https://main.sci.gov.in/supremecourt/2021/15611/15611_2021_2_11_33436_Order_15-Feb-2022.pdf

implementation of the pending provisions of the amended Framework 2020. It was incumbent upon TRAI to ensure that no major disruption occur in the pay television services.

13. Representations from LCOs also highlighted the adverse impact on subscription of linear TV due to the increasing popularity of Free Dish (no cost to the consumers except installations of dish antenna) and Video on Demand (VOD), popularly known as OTT (over-the-top) services. The consumer organizations highlighted likely increase in their subscription due to the price rise of popular channels, consequent upon implementation of proposed RIOs filed by the broadcasters.
14. In view of above, the stakeholders requested TRAI to take immediate measures to address certain issues, arising due to the implementation of pending provisions of Regulatory Framework for safeguarding the growth of the sector including those of viewership.
15. Almost all the stakeholders opined that the tariffs announced by the broadcasters will cause large-scale changes in consumer offerings. The DPOs/ LCOs will have to obtain revised choices possibly from every consumer. The stakeholders requested TRAI to enable smooth implementation of the amended framework 2020. Further, some stakeholders suggested that to avoid likely disruption for consumers, some provisions of the amended framework 2020 may be considered for revision.
16. To deliberate on the issues related to pending implementation of New Regulatory Framework 2020 and suggest a way forward, a committee consisting of members from Indian Broadcasting & Digital Foundation (IBDF), All India Digital Cable Federation (AIDCF) & DTH Association was constituted under the aegis of TRAI. The broad terms of reference of the Committee were as below:
 1. To look into the process of smooth implementation of New Regulatory Framework 2020 keeping in view consumers convenience in exercising informed choices and suggest measures thereof (if any).
 2. To identify issues of concern and suggest measures for overall growth of the broadcasting sector.

17. The purpose of the committee was to provide a platform and facilitate discussions among various stakeholders to come out on a common agreed path for smooth implementation of Tariff Amendment Order 2020. Stakeholders were advised to come up with an implementation plan with minimum disruptions or hassles to the consumers.

18. The committee held discussions on 23rd December 2021. Stakeholders listed the following issues which, in their opinion, required review:
 - a. The proposed tariffs by broadcasters through their RIOs submitted in compliance to NTO 2.0 Tariff Orders would cause a significant increase in the tariffs to consumers. The consumer price rise, if any, is required to be limited to a reasonable limit.
 - b. The proposed RIOs by Broadcasters may cause significant changes in the packages, especially due to keeping popular channels at higher a-la-carte prices, not being part of bouquets. This enjoins DPO to make very large number of plans and package offerings. Therefore, the DPOs require support from broadcasters so that they do not have to make large number of plans/ bouquets.
 - c. Considering the facts mentioned above, there is a need to simplify the process of exercising choices by consumers so that no channel should be provided to consumers without explicit consent. Consumers should have the facility to remove any channel.
 - d. The same product (television Channel) should be offered at the same price whether on Linear Television, Free Dish or Subscription based Video on Demand.
 - e. Stakeholders suggested that although more than two years have passed since NTO 2.0 amendments and more than three years have passed with NTO 1.0 implementations, since then, there is no change in prices of bouquet or a-la- carte channels. This has kept industry under stress in terms of providing quality products to the end consumers. As such restoring the MRP ceiling for bouquet inclusion to unamended tariff order level of Rs. Nineteen (19/-) would be appropriate.
 - f. The above provision shall also help in maintaining bouquet structure by ensuring all popular channels are within ceiling limits of bouquet. Additionally, this will also create bare minimum hassles to consumers in exercising their choices under new tariffs, as most of the tariffs may continue in their current form.

- g. Allowing additional fifteen (15%) percent incentive to DPOs for bouquets as well, as has been provided for a-la-carte channel (It was pointed by the chair that the said provision pertains to Interconnection regulations and is not part of Tariff Order).
 - h. The second twin condition may be reviewed to enhance the discount on sum of MRP of a-la-carte of pay channels forming part of the bouquet to fifty percent. This will enable the broadcasters to cross-subsidize the packages.
 - i. Revision in the ceiling of Network Capacity Fee (NCF) of Rs 130/-.
 - j. In case of multi-TV homes, broadcasters should also offer MRP of their channels for each additional TV connection, beyond the first TV connection, @ 40% of the MRP declared for the first TV connection. This will help consumers in saving cost of subscribing to pay channels on multiple televisions.
 - k. Review of ceiling of fifteen percent (15%) on discount on sum of a-la- carte channels of MRP of that bouquet available for DPOs.
 - l. Stakeholders suggested that TRAI should take immediate corrective measures and implement revised tariff by 1st April 2022. All DPOs present insisted that to properly implement new tariffs they will require sufficient time as prescribed.
19. The Stakeholders' Committee, however, requested TRAI to immediately address critical issues so that minimum hardship is caused to the consumers in implementation of Tariff Amendment Order 2020. Stakeholders also listed other issues for subsequent consideration by TRAI. All the members of the stakeholders' committee observed that urgent action is required to manage a smooth transition and to avoid inconvenience to consumers.
20. In order to address the issues as identified by the stakeholders' committee; TRAI issued the consultation paper on 'Issues related to New Regulatory Framework for Broadcasting and Cable services' on 7th May 2022 for seeking stakeholders' comments on points / issues, which were pending for implementation of 'the amended Framework 2020'.
21. After following the due consultation process, on 22nd November 2022, the Authority notified the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Third Amendment) Order, 2022 and the Telecommunication (Broadcasting and Cable)

Services (Addressable Systems) Interconnection (Fourth Amendment) Regulations, 2022, which covered the following issues:

- a) Continuance of forbearance on MRP of TV channels
- b) Ceiling of Rs. 19/- on MRP of a TV Channel price for inclusion in bouquet
- c) Discount of 45% on sum of the price of individual channels while forming Bouquet
- d) Additional Incentives of 15% by broadcaster to be permitted on Bouquets also.

22. The Stakeholders' Committee also listed several other issues for subsequent consideration by TRAI. In addition, the Authority held multiple meetings with representatives of broadcasters, MSOs, DTH operators and LCOs. Several issues were put forward during these meetings for inclusion in the proposed consultation paper².

23. In order to address the remaining issues pertaining to Tariff, Interconnection and Quality of Service of Broadcasting and Cable services, as identified by the stakeholders' committee and suggested by other stakeholders, TRAI issued the consultation paper on "Review of Regulatory Framework for Broadcasting and Cable services" on 8th August 2023 for seeking stakeholders' comments. Comments and counter comments received from stakeholders were placed on TRAI's website. This was followed by an open house discussion in New Delhi on 18th April 2024.

24. As far as the issues related to Tariff for Broadcasting and Cable Services is concerned, the Authority had broadly posed the following issues for consultation:

- a. Ceiling on Network Capacity Fee (NCF)
- b. Network Capacity Fee for multi-TV homes
- c. Ceiling of 15% on discount on sum of DRP of a-la-carte channels for fixing DRP of bouquets by DPOs
- d. Number of SD channels equivalent to One HD channel
- e. Mandatory FTA Channels in all packs formed by DPOs.
- f. Issues related to DD Free Dish

² Consultation paper on "Review of Regulatory Framework for Broadcasting and Cable services" dated 8th August 2023

g. Financial disincentives

Comments of Stakeholders and Analysis of Issues

A. Ceiling on Network Capacity Fee (NCF)

25. In the Tariff Order 2017, the NCF of maximum Rs. 130/- has been prescribed for carrying 200 SD channels. In the consultation paper, stakeholders were asked whether the present ceiling of Rs.130/- for NCF should be reassessed and revised. Additionally, they were prompted to provide suggestions on whether the NCF ceiling should be removed altogether.
26. In response, several stakeholders including MSOs and their Association, DTH operators, association of news broadcasters, LCO associations, few industry associations and an individual are in favour of revising the present NCF upwards and have mentioned that the ceiling on NCF should be removed. They put forth following arguments in favour of their opinion:
- The determination of NCF should be left to market forces as there is enough competition prevailing in the market and capping on NCF should be removed.
 - While fixing a ceiling, the Authority assumed that on an average, DPOs were providing 300 channels to customers, however, almost every DPO provides more than 450-550 channels. Carrying cost per channel of around 26 paisa is commercially unviable for DPOs.
 - The decrease in subscriber base from 110 million in 2017 to 65 million has also led to a substantial increase in the cost per subscriber.
 - NCF includes not only capital expenditure but also operational expenses such as rent of the premises, salary of employees, repair and maintenance of network and other expenses such as electricity, water, depreciation.
 - NCF capping restricts the DPO's ability to carry out business operations in a fluent and competitive manner.
 - The ceiling should be set Rs.170/-for SD channels and Rs.210/- for HD channels irrespective of number of channels.

- NCF is a part of the total MRP of cable TV. If NCF is not revised upwardly on yearly basis due to inflation, it will impact the net profit of DPOs and overall quality of service to consumers.
 - Ceiling on NCF for the first 200 channels should be increased to Rs. 150/- to reflect the changing dynamic of the broadcasting and distribution sector and considering the impact of inflation over the years.
27. One DTH operator opined that regulating different platforms with a blanket approach doesn't account for their diverse cost structures and business models. They also suggested that DPOs should be permitted to review NCF every six months until reaching forbearance, allowing market analysis and adjustment.
28. Some stakeholders including few broadcasters, association of broadcasters and an individual were in favour of revising the present NCF downwards and put forth the following arguments to support their opinion:
- 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. It will lead to their migration to other platforms which is detrimental for the entire broadcasting industry.
 - In addition to NCF, a DPO also receives a fixed distribution fee of 20% from the MRP price of each channel, revenues from carriage fee, discounting/ incentives and placement fee. So, reducing the NCF would make sense and be justified.
 - A high NCF, deters consumers from subscribing to more channels, thus missing out to complete universe of entertainment.
 - 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, ideally there should no rationale for revision of NCF.
 - It has created an arbitrage opportunity for DPOs to charge carriage fees from smaller broadcasters and disincentivizes the DPOs from carrying pay TV channels.
29. One stakeholder opined that with digitization, it is not practical to prescribe slabs of NCF based on the number of channels. They suggested that there should be a common NCF irrespective of the channels being opted by the consumer whether such number is 200 or more than 200.

30. Further, a couple of stakeholders opined that most products available offline/online have the fixed and variable cost accounted for in the price of the product. NCF can be assumed as a part of the channel price itself. To accommodate NCF in the channel pricing, they suggested that TRAI can increase the ceiling on the cap of channel price.
31. Some stakeholders are of the view that that there is no need for revision of the present NCF. They put forth the following arguments to support their opinion:
- The present ceiling of Rs.130 had arrived after due deliberations and seems to be a fair rate, therefore it should not be revised.
 - NCF is an important component of subscription revenue that recognizes the cost of infrastructure and its maintenance and offers a fair compensation to the distribution entities (LCO/LMO and the DPOs).
 - Frequent revision of NCF would create confusion at the subscriber levels and leads to misrepresentation by the DPO/LCO. Average NCF is lower than that currently stipulated and hence market forces are at work.
 - In CAS and initially in DAS the LCO used to get all the NCF. Now, it has been reduced to a minority revenue share, which is unfair and unjust to small businesspeople like the LCO.
 - Present ceiling of NCF should remain the same and gradually it should move towards forbearance. Further, one individual opined that NCF/ Channel/Bouquet MRP capping is required so that TV Channels may be available at affordable prices.
32. Further, the stakeholders were also asked if TRAI should follow any indices (like CPI/WPI/GDP Deflator) for revision of NCF on a periodic basis to arrive at the revised ceiling. Some stakeholders suggested that the Consumer Price Index (CPI) should be used for revision of NCF and to support their arguments, they provided the following reasoning and comments:
- CPI is a widely used index for gauging consumer price inflation and could serve as a suitable benchmark.
 - Capping on NCF should be removed and linked to number of channels as was prescribed in 2017 Regulation for the incremental NCF along with its linkage to CPI index.
 - CPI is a holistic index which also considers services and since the inputs primarily consist of services, use the same as base instead of WPI.

- There should be an inbuilt and automatic mechanism in such regulation to allow an increase in NCF linked to WPI/CPI for capping purposes, and these revisions should be carried out every two years.
 - Inflation rates in India have been 5.13% and 6.70% in the past two years respectively.
 - It has already been more than 4 years since the time NCF has been capped. The NCF rate needs to be revised periodically bearing in mind the inflation rates.
33. Some stakeholders have suggested that GDP Deflator should be used to arrive at the revised ceiling, and they provided the following arguments to support their argument:
- The most logical and reliable basis to apply is only the average GDP Deflator on yearly basis as this index is calculated and published by the National Statistical Office under the ministry of Statistics and Programme Implementation, Govt. of India.
 - The other two indices, that is, CPI and WPI should not be taken into consideration as those may vary too frequently.
 - It is a more comprehensive measure of inflation and considers a much wider range of products that also includes services and isn't based on a fixed basket of goods alone.
 - Using GDP deflator or other economic indices might provide a broader perspective on economic changes that could impact the pricing of the services.
 - The chosen index should be updated at a frequency that aligns with the desired revision cycle for NCF.
34. A couple of stakeholders have suggested that the NCF should be increased by 40% immediately and thereafter be revised on a periodic basis according to CPI index since the operational costs in maintaining the cable television infrastructure have also significantly increased by 40%.
35. One stakeholder is of the opinion that the periodicity of revision should be once every 5 years. The group advocated for WPI, which is a better measure of inflation than the CPI.
36. Another stakeholder has opined that TRAI should undertake a study to map the impact of such dynamic factors on the costs that are incurred by the DPOs for providing signals to the subscriber's homes.

37. In addition, stakeholders were also asked to comment whether DPOs be allowed to have variable NCF for different bouquets/plans for and within a state/ city/ town/village along with detailed justifications of the views.
38. In response, some stakeholders, mainly DTH operators are in favour of allowing DPOs to have a variable NCF for different bouquets/plans within a state/city/town/village. They put forth the following arguments to support their opinion:
- Implementing variable NCF would promote market competition, cater to diverse consumer needs, and enable greater consumer choice.
 - To cater to customers with different preferences - a regulated/fixed NCF poses a challenge as DPOs are unable to curate their plans which meet customer expectations.
 - The same amount of NCF may act as an undesirable higher package for customers who have subscribed to a lower value pack with less content, compared to customers who may have taken higher value packs.
 - Flexibility should be allowed to have a differential NCF based on a segment or class of customers created based on a justifiable, reasonable and non-discriminatory yardstick.
 - A consumer located in a particular geographical location should only have to pay for the actual cost of NCF incurred by the DPO in its regard instead of paying a uniform fee which cross subsidises the variable costs incurred by DPOs.
 - Allowing flexibility in pricing of NCFs basis bouquets/plans chosen by the consumer fosters and promotes consumer choice and the principle that a consumer should only have to pay for it has chosen.
 - For variable NCF, the regions can be categorized as DAS-I, DAS-II, DAS-III and DAS-IV areas as the affordability and demographics of subscribers in these regions are different. Such categorization will help DPOs to better serve the subscribers.
39. Some stakeholders are not in favour of variable NCF and provided the following justifications to support their point of view:
- The costing of NCF is not much dependent on bouquets/plans regarding any state/city/town/village.
 - NCF is a culmination of all the operational expenditure, which are majorly standardized for all the MSOs basis the capacity and infrastructure it has deployed.

- Variable NCF will create discrimination within the same set of subscribers, which will lead to further litigation by subscriber with DPOs.
 - Variable NCF will likely be misused by one set of industry players against others, considering their deeper pockets and high spending capacity.
 - It may also create law and order situation on ground that may lead to piracy as well as to disputes between the broadcasters and DPO(s).
 - This may also create difficulty for the auditors to verify location details during audit.
 - Variable NCF could make the pricing structure more complex, leading to confusion among consumers and all stake holders. This complexity might undermine the transparency of pricing and make it harder for consumers to understand the true cost of their selected plans.
 - Since the MRP of the channel price have been fixed across the country, the NCF too should be same throughout to keep the packaging simpler.
 - With the density of the population and with the increasing vertical growth of housing like apartments, the DPOs have a lower cost of installation and maintenance.
 - The impact of such variable pricing is on many factors, such as building different products in CAS and SMS, call centre, call handling, which is prone to confusion as one customer moves from one place to another. Customer may have his or her own linguistic preferences and this may impact his or her NCF bundle.
40. Some stakeholders, particularly LCOs and a few broadcasters while supporting variable NCF for different state/city/town are against any variability based on the plan/bouquet subscribed. They have suggested that differential, but a set of standard NCF rates should be prescribed for different classification of locations such as metro cities, urban cities, towns and villages or rural areas. One stakeholder has suggested that DPOs should file such variable NCFs with the Authority at least 30 days before making such modifications.

Analysis:

41. Regarding comments of some stakeholders suggesting a reduction in the ceiling of NCF, the Authority is of the opinion that it is not required. The Authority is of the view that Rs. 130/- is the ceiling and DPOs are free to decide a NCF lower than this amount. A comprehensive review of market data has revealed that many DPOs are presently charging NCF rates below the prescribed ceiling of Rs.130. This observation underscores the existence of adequate

competition among service providers, resulting in market-driven pricing strategies that ultimately benefit consumers.

42. The Authority analysed the comments of the stakeholders and the discussions held during the open house discussion and noted the level of competition in the market due to the presence of multiple Broadcasters, DPOs (MSO/DTH/HITS/IPTV) and LCOs. Accordingly, the Authority is of the view that there is a need to provide flexibility to the service providers for enabling them to adopt to the dynamic market conditions while at the same time safeguarding the interest of consumers and small players through transparency, accountability and equitability. Following an analysis of stakeholders comments and a thorough examination of current market data regarding prevalent NCF rates, the Authority is of the view that bringing NCF under forbearance is the most prudent course of action.
43. The Authority is of the considered view that within the framework of forbearance, DPOs will have the liberty to fix NCF according to their individual business models and operational costs. One may argue that in case forbearance is given, DPOs may increase NCF. However, DPOs contemplating increase in NCF have to carefully weigh the potential risk of customer attrition in a competitive market. Therefore, the decision to maintain NCF under forbearance is deemed mutually beneficial for both DPOs and consumers. This approach allows NCF rates to be determined by market forces, facilitating flexibility in pricing strategies to align with competitive pressures and consumer demand effectively.
44. Regarding choosing a inflation index for changing the NCF at an given interval, the Authority is of the view that deciding index is not required since NCF has been brought under forbearance, allowing DPOs the flexibility to decide NCF based on their operational needs.
45. In the amended Tariff Order of 2020, the Authority allowed flexibility to DPOs in offering NCF based on geographical location and provided the following justifications in support of its decision:

“123. The Authority analysed the comments of the stakeholders and is of the view that DPOs should be given flexibility of declaring varying NCF for different regions/areas. The Authority also noted that offering of different NCF for different markets will not distort the whole scheme if it is offered in non-discriminatory manner to all the subscribers. Accordingly, the Authority

has decided that the DPOs should be permitted to declare different NCF for different regions/areas, such as State, district, town within its service area. However, NCF for each region/areas shall be reported to the Authority from time to time.”

46. The Authority analyzed the comments of the stakeholders and is of the view that DPOs should be given complete forbearance of declaring varying NCF based on number of channels, regions/areas, and class of subscribers. The Authority also noted that offering of different NCF will not distort the whole scheme if a particular NCF is offered in non-discriminatory manner to all the subscribers who meet the criteria of same number of channels, region/area, class of subscriber etc, declared by the DPO for that NCF. Accordingly, the Authority has decided that the DPOs should be given full flexibility to declare different NCF for different number of channels, different regions/areas, and different class of consumers or a combination thereof within its service area.
47. To ensure transparency, all NCF offerings along with their respective criteria have to be mandatorily published by the service providers and communicated to the consumers besides reporting to the TRAI.
48. It is expected that the DPOs will extend the benefit of forbearance allowed to them to their subscribers by innovative offerings. The Authority will continue to keep a close watch on NCF offering by DPOs, its impact on the market, and will take further suitable measures if the situation warrants.

B. Network Capacity Fee for multi-TV homes:

49. In the Tariff Amendment Order 2020, a ceiling of 40% on the NCF for each additional TV connection, beyond the first TV connection in a multi TV home has been prescribed. In the consultation paper, stakeholders were asked whether TRAI should 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. Suggestions were also sought regarding quantitative rationale to be followed to arrive at an optimal discount rate, in case the revision of the NCF takes place. It was also asked if TRAI should consider removing the NCF capping for multi-TV homes altogether.

50. In response, some stakeholders, that primarily included MSOs, DTH operators, LCOs, and consumer advocacy groups, have suggested revising the discount structure and eliminating the cap on NCF for subsequent TVs in multi-TV households. They justified their stance with the following rationales:
- NCF cap of Multi TV is not justified since subscribers with multi-TV are affluent subscribers and subsidizing NCF at the cost of the DPOs is only an unjust enrichment of such subscribers.
 - Giving discounts on NCF may not be possible at all since the incremental cost of providing a 2nd TV connection in each home is the same as that of providing the 1st TV connection.
 - Examples of similar product which are essential, and yet no discount is being given on second connection are electricity connection, gas pipeline, etc.
 - Any discount that are offered for 2nd TV connection onwards in a multi-TV home should be the prerogative of the DPOs based on their business requirements and ground realities.
 - To move to a less regulated market and light touch regulation as a policy, the NCF capping for multi-TV homes can be removed.
 - Cap should be revised to 60% on declared NCF for first additional connection (of it 20% to be allocated for MSOs and 40% to be allocated for LCOs/LMOs).
51. Some stakeholders were against the idea of removing the NCF capping on multi-TV homes. One broadcaster opined that in multi-TV homes, the infrastructure which is provided by a DPO is common and only a STB and additional wiring are required for additional connections which is a one-time cost. Hence, any discount on NCF ought to be justified and more than 40% of declared NCF ought not be allowed. Another broadcaster opined that any NCF on 2nd TV will further accelerate cord cutting in terms of cancelling their subscriptions to multi-channels.
52. A few LCOs were of the view that 40% discount on declared NCF for 2nd and more TV sets in a household is acceptable.
53. Additionally, stakeholders were also asked if the pay television channels for each additional TV connection be also made available at a discounted price. Suggestions were also sought regarding the quantum of discount on MRP of television channel/bouquet for 2nd and subsequent television connection in a multi-TV home, in case the discounted price becomes available.

54. Most of the stakeholders argued that if NCF discounting is continued then, the Broadcasters should also be made to discount content similarly for multi-TV connections. They provided the following justifications and comments for their stance:
- Some LCOs opined that if the discount for pay TV channels are introduced for multi-TV homes the customers' MRP should also be reduced which will relief the customers from a comparatively higher cable bill.
 - Without getting the discount from the broadcaster on the second TV, MSO cannot afford to offer from its own pocket, as it is bleeding and has no capacity to bleed further.
 - The broadcasters need to align their wholesale price in such a way that there is a price for the first TV and the reduced price for additional TV sets to facilitate consumers to use their subscription on multiple TV sets.
 - It should be compared to delivery of content on non-linear mode (OTT), wherein they allow consumers to watch the content on multiple devices at different places within the same subscription (be it the consumer's home, office or even at a third-party locations).
 - If NCF discounting is continued then, the Broadcasters should also be made to discount content similarly for multi-TV secondary connections.
55. A few DTH providers and an individual were of the view that the discounting idea should be left to the broadcasters. They provided following justifications for their opinion:
- The question of broadcasters being allowed to offer different MRP for multi-TV homes in addition to the 15% discount provided should, basis the industry practice and technical feasibility of operationalising such discounts, be left up to mutual negotiations between broadcaster and DPOs.
 - Only the broadcasters have the right to fix and publish MRP while the role of the DPOs is limited only to the extent of pipe/network through which the channels/bouquets are offered to the consumers.
56. Stakeholders were also asked to provide mechanism to verify the number of subscribers reported for multi-TV homes. In response they provided the following measures:
- One DTH provider opined that since the DPOs offer discount on multi-TV, the same mechanism can be relied upon by the broadcasters to verify the multi-TV homes. Another

DTH provider further opined that the provision yearly audit in the Interconnection Regulation sufficiently caters this aspect, and no further regulation/mechanism is required w.r.t the same.

- One of the stakeholders opined that each and every digital addressable system deployed by DPOs is compliant to the specification prescribed under the extant regulations and regular audit is being conducted of such systems so as to verify compliance of the systems. And in order to identify multi-TV homes the SMS should be capable enough to generate report area/locality wise with installation address of each STB mentioned therein with unique consumer ID provided therein to identify multi-TV homes. With the current advancement in technology, every set top box can be equipped with location tracing mechanism so as to ascertain multi-TV home connections.

57. Many broadcasters totally opposed the idea of the discounted price. They provided the following justifications for their stance:

- As per the terms of Broadcaster Agreement, each TV/STB is being considered as individual subscriber and billed accordingly.
- In a multi-TV home, viewers of each of the TV sets have different choice of channels and therefore, each multi-TV connection should continue to be considered as a separate and distinct additional subscriber for reporting in the MSR by the DPO.
- It is not technically feasible for broadcasters to identify the true and correct subscriber numbers for a multi-TV connection home even by way of audit.
- The distributor does not share the details of the customers with the broadcasters. It is very difficult for the broadcaster to verify the multi-TV connections as the SMS-CAS systems are at the distributor level.
- Discounts can be passed to Hospitals/Hotels etc and same can be misused by unscrupulous DPOs. This is going to lead to disputes between broadcasters and DPOs.
- The second TV connection is bought only by affordable households who can afford paying the subscription fees.

Analysis:

58. After reviewing comments and suggestions from stakeholders and analyzing market data, the Authority noted that multi-TV households account for only 2-3 % of the total TV users in the country. In line with the forbearance provided to DPOs to declare NCF, the Authority is of the

view that forbearance should also be extended to NCF declared by DPOs for the 2nd TV onwards in a multi-TV home. Therefore, in case of NCF for the 2nd TV onwards in a multi-TV home, the ceiling of 40% of the NCF declared for the first TV has been done away with. However, DPOs have the option to offer different NCF rates through promotions or discounts for additional TVs, based on their business models. This approach aims to increase competition and provide customers with a range of choices.

59. The Authority noted that in a multi-TV home, TV connections are provided in different rooms/places in a household as an extension of the first/primary TV connection and therefore is of the view that the NCF for the 2nd TV onwards in a multi-TV home should not be more than the NCF declared for the first TV in the same household.
60. The Authority considered the comments of stakeholders that broadcasters should also offer their channels at a reduced rate for every additional TV in multi-TV homes. Looking at the challenges likely to be faced by broadcasters in accurately verifying multi TV homes, the Authority do not intend to mandate broadcasters to offer their channels at a reduced rate for every additional TV connection in multi-TV homes.

C. Ceiling of 15% on discount on sum of DRP of a-la-carte channels for fixing DRP of bouquets by DPOs:

61. In the consultation paper, comments were sought from stakeholders if there was a need to review the ceiling on discount on sum of DRP 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 DRP of that bouquet by DPOs.
62. In response, some stakeholders including DPOs, consumer advocacy groups and a few news broadcasters were of the view that the provision needed revising and the discount ceiling on the sum of MRP of a-la-carte channels in a bouquet while fixing the MRP of that bouquet by DPOs should be increased to 45%. They provided the following arguments to support their views:
- The discount ceiling for DPOs (45% discount on sum of a-la-carte channels in a DPO bouquet) should be the same as the discount ceiling provided to broadcasters.

- A flexibility in terms of discounting the DPO's bouquets is necessary to cater to the choices of the subscribers and offer better plans and offerings to them. A complete forbearance on discounts will benefit all stakeholders viz. customers, DPO's and broadcasters.
- Subscription of DPO's bouquets by subscribers is far greater than the bouquets provided by the broadcasters (70% of subscribers on DPO compared to only 10% subscribers on broadcasters' bouquets).
- Removal of the ceiling will lead to further competition between the DPOs leading to better and more efficient business practices while ensuring that the subscribers receive better rates for the bouquet(s) being offered.
- By restricting the discount given by the DPOs for the bouquet made and offered by the DPOs, the consumer is affected adversely with the price being higher than what is determined by the marketplace.
- The DPO business is constrained by the lack of freedom in deciding the price of their services. This could lead to the closure of DPOs, as consumers are already moving to other alternatives like streaming services.
- Complete forbearance should be allowed in pricing of channel by broadcasters and DPOs without any capping and celling to effectively compete with OTTs and with others vertically integrated broadcasters.
- In a hypercompetitive market, no DPO can afford to procure channels on a-la-carte basis and make it a part of consumer's subscription at the a-la-carte price when the same channel is available in bouquets at 45% of the a-la -carte price.
- The discrepancy in discounting has created an imbalance between DPOs and broadcasters and does not allow DPOs to compete effectively in the market.
- The license granted by MIB to the TV channel operator neither allows them to sell their channels to consumer directly nor allow the creation of bouquets.
- The broadcasters push the FTAs (by converting them into pay channels) and/or the less popular pay channel in the network of DPOs and forces them to carry such channels without paying any carriage charges to earn advertisement revenue.

63. Some MSOs and an association opined that the discount of 45% should be reduced to zero as it would help the broadcaster to reduce the a-la-carte price by 45% and also it would provide

flexibility to DPOs and consumers to opt for either a-la-carte or bouquets without being worried about the huge price difference between the two.

64. Some stakeholders like few broadcasters, some individual and a LCO association argued no changes in the current provisions is required. They provided the following justifications for their views:
- Any increase in discount by distributors is not logical as distributors act as resellers and are not expected to sell the services below cost.
 - If a distributor is really interested in passing on more discount to the consumer, it can offer first level discount on the DRP followed by second level discount in terms of offering up to 15% discount on the bouquets.
 - 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.
 - Some foreign entities may also enter the space and uproot the local players by initially offering deep discounts and capturing market by burning cash.

Analysis:

65. In the Tariff Order 2017, the Authority had prescribed that while forming bouquet of pay channels, a broadcaster or a DPO could offer a maximum discount of 15% on the sum of MRPs/DRPs of all the pay channels in that bouquet. The prime reason for prescribing the maximum permissible discount on the MRP/DRP of a bouquet was to enable consumer choice through a-la-carte offering and prevent skewed a-la-carte and bouquet pricing.
66. In a case filed by broadcasters, the Hon'ble Madras High Court declared that the capping of the price of bouquets by broadcasters at 85% of the sum of a-la-carte prices of the pay channels in the bouquet, as provided for in the third proviso to clause 3(3) of the Tariff Order 2017, is '*arbitrary and un-enforceable*'. However, there was no challenge to the discount of 15% permitted to DPOs while forming bouquets.

67. In Tariff Amendment Order 2020, the Authority prescribed twin conditions as the relationship between pricing of a-la-carte channels and bouquets offered by broadcasters. The first conditions provided a discount of 33% that a broadcaster could offer while forming its bouquet of pay channels over the sum of MRPs of all the pay channels in that bouquet. The second condition provided that MRP of a channel in a bouquet cannot be more than three times the average price of a channel in that bouquet. In a case file by broadcasters, the High Court of Bombay struck down the second twin condition, as a result first condition could not be implemented. However, there was no change in the discount of 15% permitted to DPOs while forming bouquets.
68. In the Tariff Amendment Order 2022, a maximum discount of 45% on the sum of price of a-la-carte channels in a bouquet has been permitted to broadcasters when forming bouquets. However, there was no change in the discount of 15% permitted to DPOs while forming bouquets. Now DPOs have demanded that in order to maintain parity with broadcasters, they should also be permitted a maximum discount of 45% while forming the bouquets.
69. In the Tariff Amendment Order 2022, while prescribing a discount of 45 % the Authority referred to an Article⁴, 'Preference between Individual Products and Bundles: Effects of Complementary, Price, and Discount Level in Portugal' by Mr. Paulo Martins and others seems quite relevant. As per the article³, in case of discounts upto 20% on bundling, individual products are preferred. However, at a discount level of 45%, bundles are preferred over individual products.
70. To ensure level playing field across various service providers, the Authority has decided to extend this provision to DPOs as well. Consequently, DPOs are now permitted to offer a maximum 45% discount on the total prices of a-la-carte channels when assembling their own bouquets. This would enable flexibility for them in forming bouquets and offer attractive deals to the consumers.

³ Preference between Individual Products and Bundles: Effects of Complementary, Price, and Discount Level in Portugal available at <https://www.mdpi.com/1911-8074/14/5/192/htm>

71. There may be concerns regarding the feasibility of such discounts, given that DPOs currently receive maximum 35% discount (20% fixed + 15% variable) on channel prices from broadcasters. However, it should be noted that DPOs also generate revenue from other sources such as carriage fees, placement fees, and marketing fees. Therefore, if a DPO can sustain it based on their business strategies and profit margins, they may offer a maximum 45% discount.
72. The Authority will continue to keep a close watch on bouquets offered by DPOs, their impact on the market, and will take further suitable measures if the situation warrants.

D. Number of SD channels equivalent to One HD channel:

73. Stakeholders were asked if the total channel carrying capacity of a DPO be defined in terms of bandwidth (in MBPS) assigned to specific channel(s) and what should be the quantum of bandwidth assigned to SD and HD channels in that case.
74. In response, many stakeholders including MSOs, LCOs, an organization, a few DTH providers, a few associations were opposed to the idea of the total channel carrying capacity of a DPO be defined in terms of bandwidth. They put forth the following arguments to support their stance:
- There is a high degree of heterogeneity in terms of technologies deployed by DPOs for compression and transmission of TV channels. Thus, defining channel capacity in terms of MBPS would not yield any benefits.
 - Advancements in compression technologies in future may allow even more channels within the same bandwidth.
 - Bitrate requirements for encoded channels vary depending on content type; entertainment channels typically require lower bandwidth compared to sports channels due to the frequency of frame changes and on-screen information.
 - DPOs have the liberty to accommodate channels based on their channel capacity and they undertake the required expenditure for maintaining such capacity. If channels were to be defined in terms of bandwidth, it will lead to some channels receiving preference due to the type and volume of content leading to an adverse effect on content diversity.
 - The total channel carrying capacity of a DPO is based on the procurement of transponders and the bandwidth provided by the Department of Space which is satellite based as compared to TSPs and ISPs.

75. On the other hand, some broadcasters and LCOs supported the suggestion of defining the total channel carrying capacity of a DPO be defined in terms of bandwidth and provided the following reasons and comments:
- 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.
 - The bandwidth allocation of a channel should be categorized based on the type of content or genre.
 - Quantum of bandwidth assigned to any channel depends on the type of channel. Ideally 2 to 3 MBPS bandwidth is required for SD channels. Minimum requirement of bandwidth for HD channels is around 6 to 8 MBPS.
 - TRAI should, in consultation with BECIL propose a standard encoding / bit rate for each of the QAM (64 or 256) in which the channels of a particular genre are being distributed, to ensure uniform quality parameters for all the channels falling under a particular genre.
 - As HD channels require higher bandwidth than that of needed for SD channels carrying capacity of a DPO particularly of an MSO should be defined in terms of bandwidth assigned to specific channels.
76. Stakeholders were also asked to comment on 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.
77. In response, in response many stakeholders that included MSOs, DTH operators, some associations and a few broadcasters were supportive of the idea of revising the existing provisions of 1HD=2SD. They provided the following comments and justifications for their opinion:
- SD and HD channels can be compressed to different levels depending upon the technology that a DPO uses to retransmit the channels. Therefore, an SD channel cannot be the basis for defining the amount of space (in terms of number of channels) that an HD channel would take on a DPO's network.
 - The bitrate ratio of SD to HD content can be variable and they depend on the specific encoding settings, codec, and the content being encoded (whether it is a fast moving or an entertainment channel).

- The only reason, this ratio is defined is to help determine the NCF and carriage fees. Forbearance and empowering DPOs to decide all retail related will obviate the need to micro regulate the aspects pertaining to SD/HD channel capacity.
- The bandwidth allocated to such category of channels is the following: SD = 1.2 MBPS|HD = 4.5 MBPS|4K = 16 MBPS. One HD channel should be equivalent to 4 SD Channels and one 4K channel should be equivalent to 4 HD Channels or 15 SD Channels.
- 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.
- If the HD channel is priced high, there is greater margins with the distributors, hence treating one HD channel equal to 2 SD channels stifles the growth of better transmission to the viewer.
- With advancements in technology, the distinction between HD and SD content may become less relevant as more channels migrate towards higher resolution.
- Each channel should be considered as one channel irrespective of its type.

78. While a few stakeholders were opposed to making any changes in the extant HD/SD ratio giving the following arguments:

- The bandwidth requirement of SD and HD stands at 2 to 3 Mbps and 6 to 8 Mbps respectively for SD and HD, the review of the prescribed HD/SD ratio doesn't arise.
- HD:SD ratio was designed based on consumption of bandwidth by the Standard definition content and High-definition content. That ratio is well established and the same is not required to be changed.
- During a scan of the DPO feed at the user's end, one can obtain a list of all encoders along with their frequencies used by the DPO. Average uplink bitrate for SD channels: 2.5 Mbps and average uplink bitrate for HD channels: 5 Mbps.

79. In order to ensure similar reception quality to subscribers for similar genre of channels, stakeholders were asked to provide measures and parameters to be monitored/ checked to ensure that no television channel is discriminated against by a DPO. In response stakeholders provided the following measures:

- DPO should be mandated to retransmit signals of broadcasters' channels in the quality as received by the DPO from the broadcasters, without any variance (i.e. input quality = output quality).
- DPOs' registration as the primary distribution operator ought to be evaluated against an enhanced channel carrying capacity to ensure that all registered TV channels can be carried by the DPO on its platform.
- Genre-wise, standardized Bit-rate allocation should be pre-defined (the min-max range be defined), so that all DPOs conform to the set standards.
- Have a penal mechanism in place so as to ensure that any DPO unfairly discriminating against a television channel, should face consequences inter alia affecting their MSO license.
- Regular QoS audits as laid by the Authority to be carried out by a competitive agency and submit the reports to all the stake holders. Monthly compliance reports with parameters to be submitted by DPOs to TRAI.
- Frequent checks on the given parameters like signal strength in decibel, bitrate etc to be measured at different locations by the competitive agencies and keep the record of the same to decide the compliance.
- The reports should be put on TRAI's website, which can be accessed by Broadcasters. If Broadcaster observes any discrepancy at the time of checking the parameters on ground, they should intimate TRAI and TRAI should have provision to penalise the DPO for each such instance.

80. On the other hand, some stakeholders debated that there doesn't seem to be any concrete evidence suggesting that a DPO has engaged in practices to degrade the reception quality of any channel. They argued that given the hyper-competition within the DPO industry, no DPO would risk alienating its customer base by engaging in discriminatory practices.

Analysis:

81. As stakeholders have noted, the bit rate of a TV channel varies due to factors such as content type, compression techniques, and transmitting equipment. The Authority firmly holds the view that in the digital era, consumers want better quality of viewing. Therefore, establishing a uniform bit rate for all SD, HD, or 4K channels would not serve any purpose.

82. With the Authority's decision to place NCF under forbearance, the rule where one HD channel equaled two SD channels for NCF calculation purposes now seems irrelevant. Each channel, whether SD, HD, 4K, or otherwise, can be considered individually when determining the NCF charged by a DPO.

E. Mandatory FTA Channels in all packs formed by DPOs:

83. In the consultation paper, the stakeholders were asked if there should 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.
84. In response, various stakeholders including many broadcasters and an association agreed with the idea of mandatorily providing the Free to Air News / Non-News / Newly Launched channels available on the platform of a DPO to all the subscribers. They provided the following comments and justifications to support their stance:
- News and current affairs channels are critical for disseminating news and information. They enable the public to form opinion on various issues of national importance.
 - Most news channels are FTA channels, which earn their revenues solely through advertisements. The survival of such channels will be jeopardized if they are not given the opportunity to reach viewer's homes.
 - Distributors already have a guaranteed source of revenue in the form of NCF of Rs. 130/-, which covers their cost of operations and profit margin. Therefore, it should be the duty of the DPOs to upgrade the platform to carry all news channels.
 - It will benefit all the stakeholders involved: DPOs being able to offer more variety to the consumers at the same cost, the consumers being able to receive diverse and multiplicity of viewpoints by watching different news channels, and the broadcaster being able to expand its reach.
 - There will also be less cord-cutting by consumers.
 - With the development of compression technologies which enables enhancing the capacity of the distributor's network, mandatory placing of all FTA news channels on the distributor platform should not be a distant dream.
 - The consumer has already paid a NCF and deserves to be compensated by ensuring that all FTA channels are being available for the said fee.

- In case of other free channels, customer should be given a choice to select the said channels. This would limit the consumption of unnecessary bandwidth and make the consumer viewing experience better.

85. On the other hand, a few LCOs and a consumer advocacy group supported mandatorily adding only the newly launched channels in all packs for a certain amount of time. They came up with the following comments:

- 1 - 2% of channels on any DPO platform should be kept for newly launched channels. This capacity can be used for any channel for a maximum period of three months only as a sampling for consumers to experience.
- Broadcasters can submit their applications where FIFO rules are applicable in case of excess capacity at that moment. In case there is no demand for this, the DPO can utilise the channel for any other purposes.
- It would encourage new content providers to come forth which is something the cable industry needs in the days of OTT.
- It would encourage innovation and promote competition in the marketplace by lowering the barrier to entry. Consumers will benefit due to increased choice and lower prices.
- A maximum of 5 % of the minimum number of channels, that is 10 (5 % of 200) should be reserved. The period should be for a year from the date of launch, after which the market forces will be in play.
- MSOs should provide Free to Air channels from all genres of channels into the bouquet of Free to Air channels and always maintain the number of channels they are supposed to mandatorily provide. But after that they should not be mandated to provide extra newly launched channels whether it is News/ Non-News to all the subscribers.

86. While most of the stakeholders, particularly all the DPOs were not in favour of allowing all the FTA channels to be provided mandatorily. They provided the following reasoning and comments to justify their stance:

- Broadcasters operate channels for commercial purposes to earn revenue from various sources such as advertising, etc and cannot be called public service.
- The proposal is completely contrary to the basic tenant of consumer choice and places further financial burden on DPOs.

- It will lead to blocking and hoarding of the network capacity irrespective of the uptake of such channels amongst the viewers.
- No commercial organization can be asked to provide their product/service to customers free of cost without adequate compensation. Therefore, any such a proposal would be viewed negatively by the investors in this sector and will be against the growth of the sector.
- Any channel having unique and attractive content will automatically catch eyeballs and would generate the demand in case it is required.
- A plethora of channels will suddenly witness being launched by the big broadcasters using content from their old library as they will automatically get carried on network and push small broadcasters out of business.
- The DPOs are already carrying the mandatory channels as prescribed by the Central Government free of cost and without any incentive.
- It will interfere with the market dynamics and will lead to a situation where even unpopular channels are being kept afloat at the expense of other channels, which are more popular but could not be carried by DPOs due to network constraints and bandwidth limitations.
- DPOs will have to strain/augment their technical infrastructure which can either raise the costs for all the consumers or may lead to degraded quality of service for all channels.
- It's crucial to acknowledge the shrinking cable TV subscriber base. Imposing unwanted channels may exacerbate this decline.
- 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 mandatorily available in a scenario where DPOs have limited bandwidth will impact consumer choice.
- There are channels which are regional and via this they can ask to be carried on the networks where they may not be even required by the consumers.
- DPOs operate within tight economic constraints, balancing bandwidth costs, content acquisition charges, and consumer subscription fees. Forcing them to carry channels without appropriate compensation would further strain their already delicate financial balance.

Analysis:

87. Clause 7(4) of the Tariff Order 2017 empowers a subscriber to choose channels of its choice be it in a-la-carte or in bouquets as below:

“(7) Within the distribution network capacity subscribed, in addition to channels notified by Central Government to be mandatorily provided to all the subscribers, a subscriber shall be free to choose any free-to-air channel(s), pay channel(s), or bouquet(s) of channels offered by the broadcaster(s) or bouquet(s) of channels offered by distributors of television channels or a combination thereof:

Provided that if a subscriber opts for pay channels or bouquet of pay channels, he shall be liable to pay an amount equal to sum of distributor retail price(s) for such channel(s) and bouquets in addition to network capacity fee.”

88. The Authority acknowledges that mandating the inclusion of every FTA channel available on a DPO's platform in all packs goes against consumer choice. Moreover, there's a risk of a surge in number of FTA channels launched by major broadcasters, which could act as entry barrier for smaller broadcasters. With over 500 FTA channels accessible nationwide, mandating inclusion of all the FTA channels for each subscriber might diminish user satisfaction, as navigating preferred channels could become challenging. Currently, consumers already possess the right to select their preferred FTA channels from those available on the DPO's platform. Stakeholders have highlighted that deserving channels will naturally attract viewers and thrive. Moreover, mandating DPOs to carry all FTA channels could strain their financial models and potentially disrupt the free market. Therefore, the Authority does not endorse mandatory provision of all FTA News / Non-News / Newly Launched channels available on a DPO's platform to all its subscribers.

F. Issues related to DD Free Dish:

89. In the consultation paper, stakeholders were asked to suggest whether the channels available on DD Free Dish platform should be mandatorily made available as Free to Air Channels for all the platforms including all the DPOs.

90. In response, most stakeholders were supportive of the idea of the channels available on DD Free Dish platform to be mandatorily made available as Free to Air channels for all the platforms including all the DPOs. They put forth the following comments and justifications for their stance:

- According to current regulations, once, a channel is declared as FTA or Pay, it must be provided as FTA or Pay uniformly to all DPOs.
- The continuation of carriage of pay channels by DD Free Dish is leading to situation where broadcasters on one hand, are charging subscription free for their pay channels from licensed DPOs but are paying DD free dish for the carriage of the same channels.
- Broadcasters have been raising issues about demand for carriage/ placement of their channels but can pay Free Dish hefty fees in an open auction.
- Parity in channels across distribution platforms will serve to make the market more competitive and provide a level playing field for all the players involved.
- A subscriber of other DPO should not be made to pay for the same channel which is being enjoyed for free by the subscribers of DD Free Dish. Uniform pricing across DPOs and DD Free Dish needs to be promoted.
- Dichotomy between the nature of channels can lead to a situation where such channels may end up becoming exclusive to certain platforms.
- Most "pay channels" are mostly minimally priced pay channels and indeed if TRAI removes the restriction relating to FTA channels not being permitted to be part of bouquet, it is quite possible that these channels are also offered on FTA basis.
- To maintain the integrity of the broadcasting sector, fair competition should be ensured, and consumer interests should be upheld, it is imperative that channels maintain their designated status (be it "pay" or "FTA") consistently across all DPOs.

91. On the other hand, a few stakeholders were against the idea of the channels available on DD Free Dish platform to be mandatorily made available as Free to Air channels for all the platforms including all the DPOs. They provided the following arguments to justify their point of view:

- Any mandate to provide channels which are available on DD Free Dish platform to private DPOs on an FTA basis would be erroneous and unfounded.
- There is nothing wrong with a channel being a Pay channel on pay and addressable platforms and being a free to air channel on DD Free Dish. It does not result in a non-level playing field.
- It facilitates the interest of viewers, especially those with limited incomes, who thereby get access to an otherwise 'pay channel' free of cost.

- There is no element of discrimination, since having regard to the different nature of the platforms, in one case the broadcaster pays DD Free Dish and in the other the private platforms pay the broadcaster.
- Even if a consumer opts for say same FTA channels as available on DD Free Dish from a DPO, still the consumers must pay NCF charges. Hence, both systems are not comparable.
- This restricts the freedom of the broadcaster and in turn the reduction in inter platform competition, which is detrimental to consumer choice.
- The number of pay channels that use DD Free Dish is a minuscule number of 20, which does not warrant any intervention by the regulator.
- Prasar Bharti is a distinct entity vis-a-vis other private distribution platform operators since it is not similarly placed either under law or regulatory regime.

Analysis:

92. According to the e-auction guidelines set by Prasar Bharati, broadcasters participate in an e-auction to secure placement for their channels on the DD Free Dish Platform. These channels are classified into different groups based on their genre and language. Currently, 75 private television channels that are permitted by MIB, are available on the DD Free Dish platform. Out of these, 20 channels are declared as 'pay' channels by their respective broadcasters under the provisions of the Tariff Order 2017. However, these 20 channels are accessible to DD Free Dish consumers without any monthly subscription fees.
93. Stakeholders have mentioned that the current price gap for pay TV channels between private DPOs and DD Free Dish. Further, on DD Free Dish both free-to-air and pay channels are accessible to viewers without any monthly fees. Due to which increasing numbers of consumers are moving to the DD Free Dish platform. As a result, private DPOs are facing a decline in the subscribers number. This also results in discrimination among customers of DD Free Dish vis-à-vis private DPOs, as the same product is available at different prices.
94. The Authority is of the view that price of a pay channel should be uniform across all the distribution platforms in order to ensure the level playing field among DPOs and non-discrimination among customers. Accordingly, the Authority has decided that a channel, which is permitted by MIB and is available at no subscription fee on DD Free Dish platform,

shall not be declared as pay channel for addressable distribution platforms. Suitable provisions to this effect have been incorporated in the Tariff Order 2017.

95. Stakeholders were also asked to comment if Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 should be made applicable to nonaddressable distribution platforms such as DD Free Dish also.

96. Additionally, stakeholders were asked to comment if there is a need to consider upgrading DD Free Dish as an addressable platform. Suggestions were also sought regarding the mechanism/technology and migration methodology for making all the STBs addressable.

97. The Authority, after analyzing the comments of stakeholders and its own analysis, has separately sent its detailed recommendations to the Government on the above two issues.

G. Financial Disincentive:

98. In the consultation paper, stakeholders were asked if 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. They were also asked to specify the amount of financial disincentive for different violations along with the time for compliance and any additional financial disincentive to be levied in case the service provider does not comply within the stipulated time.

99. In response, some stakeholders agreed with the idea of levying financial disincentive in case of violation of any provision. They provided the following arguments and justifications to support their stance:

- 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.
- TRAI should look at imposing financial disincentives including cancelation of the license and the same can be weighed depending on the nature of violation and frequency of such violation and the rectification concerned DPO.

- 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 introduced in those areas where there is no dependency of the MSO with other stakeholders.
- The default should be decided in major or minor on the basis of its gravity, e.g. distributing signals in analogue mode be treated as major default, entering the subscription fee deal on fixed fee basis be treated as major default.
- Authority should impose suitable financial disincentive for non-compliance by DPOs of the provisions of extant regulation which shall inter-alia include non-signing / timely renewal of interconnection agreement, non-compliance with provision of placement of channel in applicable genre/language, non-submission of timely audit report, non-submission of monthly subscriber report, etc.

100. While suggesting the amount of financial disincentive one stakeholder recommended that for first default an explanation be sought from the DPO and be forgiven for his bonafide mistake and for continuous default, the financial punishment may be imposed to the tune of 25,000/- for minor kind and Rs. 50,000/- on the first default of major kind. Another stakeholder suggested that a small DPOs with fewer than 500 customers may face financial disincentives of no less than INR 1 Lakh per month for non-compliance or piracy, escalating to INR 1 Lakh per day until resolution, with penalties set at a minimum of 50% of the actual loss incurred.

101. For compliance time and additional disincentive beyond that, the stakeholder made the following different suggestions:

- The time for the payment of the financial disincentive can be fixed as 15 days from the date of intimation to the service provider. There should be a penalty of 50% of the financial disincentive for non-compliance beyond the time period. The interest rate as mentioned in the regulations of 2 % above SBI base rate for loans should be levied.
- Service provider should be required to make payment within 7 days along with interest and penal provision. Interest should be levied @18% P.A. calculated from date of violation till date of payment of interest. 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.

102. In case of loss to the customer one stakeholder recommended that the consumer may be adequately compensated to the tune of the loss suffered by consumer. While the other stakeholder suggested that the compensation should be twice the loss to the customer.

103. However, majority of the stakeholders majorly DTH operators, MSOs and some associations and few news broadcasters were against the idea of levying any financial disincentive and provided the following arguments to support their stance:

- The implementation of regulatory financial disincentives can lead to higher compliance costs and diversion of resources away from productive activities and innovation.
- The regulatory financial disincentives might encourage businesses to prioritize short-term compliance over long-term sustainable practices.
- Rising subscription costs, primarily driven by broadcasters' pricing strategies, have caused a significant decline in their subscriber base. Financial disincentives would exacerbate the decline of the industry rather than fostering better compliance.
- These are anti-consumer, as this cost will be eventually passed onto consumers only. Therefore, no financial disincentives should be imposed on service providers.
- Any deficiency in services can be addressed through the general laws of the country relating to consumer rights.
- In a highly competitive market such as the broadcasting sector, any deficiency in service will result in a loss of business to competitors.

104. Stakeholders recommended the following measures to ensure compliance without applying financial disincentive:

- TRAI may direct broadcasters to not to provide their signals to DPOs who don't undergo technical audit, as mandated under the regulations, for a consecutive period of two years.
- Any DPO found engaging in piracy should also be denied access to broadcaster channels.
- Provisions under the TRAI Act, 1997 are sufficient to ensure regulatory compliance.
- The policy of positive encouragement should be deployed to ensure compliance.

Analysis:

105. There exist provisions related to financial disincentives in QoS Regulations 2017 and Interconnections regulations 2017.

106. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and consumer Protection (Addressable Systems) Regulations, 2017 as amended from time to time, stipulate following regarding financial disincentive:

“22. Delivery of post-paid bills and payment. — (1) Every distributor of television channels shall, either directly or through its linked local cable operator, as the case may be, deliver to every postpaid subscriber, the post-paid bill within fifteen days from the end of billing cycle: Provided that the distributor or its linked local cable operator, as the case may be, shall deliver such bill to the subscriber either in printed form or electronic form, as may be opted by the subscriber.

.....

.....

(5) Every distributor of television channels or its linked local cable operator, as the case may be, shall, issue a receipt to every postpaid subscriber for every payment made by him and shall enter the details of the receipt including the date, serial number of the receipt, and amount paid by the subscriber management system against the name of the subscriber, within seven days of the payment made by the subscriber:

Provided that the distributor or its linked local cable operator, as the case may be, shall deliver such bill to the subscriber either in printed form or electronic form, as may be opted by the subscriber.

.....

(7) If any distributor of television channels contravenes the provisions of the of the sub-regulation (1) or sub-regulation (5), it shall, without prejudice to the terms and conditions of its registration or the provision of the Act or rules or regulations or orders made , or, directions issued there under , be liable to pay an amount, by the way of financial disincentive, not exceeding rupees twenty per subscriber in respect of whom such contravention is observed, as the Authority may by order direct.

(8) No order for payment of an amount by way of financial disincentive under sub- regulation (7) shall be made by the Authority unless the distributor of television channels has been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority.

(9) The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by order by the Authority.”

107. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable System) Regulation 2017, as amended from time to time, stipulate following regarding financial disincentive:

“4A. Compliance to requirements of Addressable System by distributors of television channels. —

.....

(2) If a distributor fails to obtain the certification of the conditional access system and/or subscriber management system deployed in its network within the stipulated timelines, as specified by the Authority under sub-regulation (1), it shall, without prejudice to the terms and conditions of its license or permission or registration, or the Act or rules or regulations or orders made, or directions issued, thereunder, be liable to pay, by way of financial disincentive, an amount of rupees one thousand per day for default up to thirty days beyond the due date and an additional amount of rupees two thousand per day in case the default continues beyond thirty days from the due date, as the Authority may, by order, direct:

Provided that the financial disincentive levied by the Authority under this sub-regulation shall in no case exceed rupees two lakhs:

Provided further that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the distributor has been given a reasonable opportunity of representation against the contravention of the regulations, observed by the Authority:

Provided also that the Authority may direct the broadcasters to disconnect the signals of its television channel after giving written notice of three weeks to the distributor in case the default continues beyond sixty days from the due date.”

108. The Telecommunication (Broadcasting and Cable) Services Register of Interconnection Agreements and all such other matters Regulations, 2019 stipulate following regarding financial disincentive:

“4. Consequences for failure to report or verify the reported information by the broadcaster or distributor.— (1) If any broadcaster or distributor fails to furnish the information or certificate or fails to verify the reported information, as required under regulation 3, by the due date, it shall, without prejudice to the terms and conditions of its 8 license/permission/registration, or the Act or rules or regulations or order made or direction issued thereunder, be liable to pay, by way of financial disincentive, an amount of rupees one thousand per day for default up to thirty days beyond the due date and an additional amount of rupees two thousand per day in case the default continues beyond thirty days from the due date, as the Authority may, by order, direct.

Provided that the financial disincentive levied by the Authority under this sub-regulation shall in no case exceed Rupees Two Lakhs.

Provided further that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the broadcaster or the distributor, as the case may be, has been given a reasonable opportunity of representation against the contravention of the regulations observed by the Authority.

(2) The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by the Authority.”

109. But the provisions related to financial disincentives in QoS Regulations 2017 and Interconnections regulations 2017 are applicable to limited provisions only. There are no provisions regarding financial disincentives in the Tariff Order 2017.

110. The Authority has observed that in a number of cases, the service providers are not complying with the provisions of the Tariff Order and Regulations. Non-compliance may result in inferior quality of service to subscribers and disputes among service providers. Accordingly, to ensure compliance to Tariff Order and Regulations by service providers, and to protect consumer interests, the Authority has decided to introduce provisions for imposing financial disincentives for contraventions of Tariff Order and Regulations. However, the Authority recognizes that these provisions should be simple and implementable.
111. In this regard, the Authority has noted that a significant amendment in the Cable Television Networks (Regulation) Act, 1995 was carried out by the Government on 11th August 2023 through Jan Vishwas (Amendment of Provisions) Act, 2023. The said Jan Vishwas Act was made to amend certain enactments including Cable TV Act for decriminalizing and rationalizing offences to further enhance trust-based governance for ease of living and doing business. The nature of proceedings for imposition of Penalties were amended from earlier criminal ones to more of administrative ones such as issuing advisory, or censure, or warning, or a financial penalty or both.
112. Section 16 of the aforementioned Jan Vishwas Act provides for Penalties for any violation of the provisions of the Act. No such penalty can be made without giving a reasonable opportunity of being heard. The said penalty is appealable within 30 days of the said order before the any officer authorized in this regard. Appeal may be entertained after the expiry of the period of 30 days, if the appellant explains that he was prevented by sufficient cause from preferring the appeal in time.
113. The Authority has also considered the provisions related to contraventions proposed in the Draft Broadcasting Bill, 2023, wherein different amounts of penalties have been proposed based on the gravity of the clauses. Further, service providers have been categorized into based on their turnover and investment. Different penalties have been proposed for each category.

114. The Authority is of the view that provisions could be emulated to design the financial disincentives regarding violation of Tariff Order, Interconnection Regulations and QoS Regulations.
115. For the purpose of imposing financial disincentives, the Authority noted that some contravention of clauses of the Tariff Order 2017 (as amended) may have large adverse implications such as affecting consumer choice, transparent information to consumers, non-discrimination among service providers, affecting healthy competition, unfair business practices, etc. Accordingly, the Authority has decided to impose a higher amount of financial disincentives for the contravention of these clauses (mentioned under Group B in Table 1). For violation/ contravention of clauses having lesser implications, and which do not directly impact consumer interests or affect healthy competition, a lower amount of financial disincentives have been prescribed (mentioned under Group A in Table 1). Although the Authority believes in light touch regulation yet ensuring compliance of Regulations and Orders is of prime importance. Balancing both, the Authority has decided to issue an Advisory/ Warning in case of the first contravention of clauses having lesser implications. Further, in order to deter service providers from repeated contraventions, a lower amount of financial disincentive has been prescribed for first contravention of each clause and a higher amount for each subsequent contravention of the same clause has been prescribed. Accordingly, different clauses of Tariff Order 2017 as amended, and the amount of financial disincentive to be imposed for their first contravention and subsequent contravention are as given below:

Table 1: Quantum of Financial Disincentive for contravention of Provisions of the Tariff**Order**

Clause	Details	Maximum amount of Financial Disincentive (Q) (in Rs.)	
		First Contravention	Subsequent Contravention
Group A: Clauses for lower financial disincentive			
3(2)(a)	Declaration of nature of channel as FTA or PAY	Advisory/ Warning	25,000
6	Reporting requirement by broadcasters	Advisory/ Warning	25,000
7	Reporting requirement by DPOs	Advisory/ Warning	25,000
8	Designation of compliance officer	Advisory/ Warning	25,000
Group B: Clauses for higher financial disincentive			
3(1)	Offering of all channels on a-la-carte basis to all DPOs	25,000	1,00,000
3(2)(b)	Declaration of MRP of pay channel offered on a-la-carte basis	25,000	1,00,000
2 nd Proviso to 3(2)(b)	MRP of a channel shall be uniform for all distribution platforms	25,000	1,00,000
3 rd Proviso to 3(2)(b)	Channels available on DD Free Dish to be FTA for addressable systems	25,000	1,00,000
3(3)	Formation of bouquet by broadcasters	25,000	1,00,000
4(1)	Declaration of NCF	25,000	1,00,000
4(2)	Offering of channels available on its network to the subscribers on a-la-carte basis	25,000	1,00,000

4(3)	Offering of bouquet of pay channels of broadcasters without alteration	25,000	1,00,000
4(4)	Offering of bouquets by DPOs	25,000	1,00,000
4(6)	No DPO shall charge any amount, other than the NCF from its subscribers for subscribing to FTA channels or bouquets of FTA channels	25,000	1,00,000
4(8)	DPO shall not increase the NCF for a period of six months	25,000	1,00,000

116. The Authority has noted that the financial data of all the broadcasters and DPOs is not available. Therefore, in case of DPOs, the Authority has considered subscribers base of DPOs that varies from few hundred to more than one million. Since their revenue vary as well, the implications of the violations by them also vary, therefore, it may not be justifiable to impose the same financial disincentive for all DPOs. Accordingly, the Authority has decided to categorize the DPOs on the basis of their subscribers' base and to impose graded financial disincentive for each category as follows:

Table 2: Categories of DPOs based on subscribers base and financial disincentive for each category

Category of DPOs	Subscriber Base	Amount of Financial Disincentive Applicable
Micro	Less than 30,000	10% of maximum FD amount i.e. 0.1Q
Small	Between 30,000 to 1,00,000	25% of maximum FD amount i.e. 0.25Q
Medium	Between 1,00,000 to 10,00,000	50% of maximum FD amount i.e. 0.5Q
Large	Above 10,00,000	100% of maximum FD amount i.e. Q

117. In case of broadcasters, the Authority has noted that all the clauses of Tariff Order 2017, mentioned under Group B in Table 1, are to be complied by broadcasters of pay channels, whereas clauses mentioned under Group A in Table-1 are to be complied by broadcasters of pay as well as FTA channels. Broadcasters offering only FTA channels are usually smaller

ones. Accordingly, the Authority has decided that in case of broadcasters, the financial disincentive should be determined based on the nature of the channel for which contravention is noticed i.e. whether it is Pay channel or an FTA channel, as follows (except where warning/ advisory is issued):

Table 3: Financial disincentive for broadcasters

Contravention in relation to	Amount of financial disincentive
FTA channels	50% of maximum FD amount i.e. 0.5 Q
Pay channels	100% of maximum FD amount i.e. Q

118. The Authority has also decided that in case of more than three contraventions, mentioned under Group B in Table-1, in a block of three years, counted back from the date of latest contravention, besides imposing the financial disincentive referred to above, it may recommend to the Central Government to take appropriate action without prejudice to any other action that the Authority may take as per provisions of the TRAI Act, 1997.
119. In order to curb the continued contravention of a provision i.e. a contravention that is not rectified within the timeline given for its rectification, even after imposition of financial disincentive, the Authority has also decided to impose a financial disincentive of two thousand rupees per day for first thirty days and five thousand rupees per day beyond thirty days, counted from the specified last date of compliance specified besides the financial disincentive already imposed.
120. The Authority is of the view that the amount of financial disincentive should not be increased beyond a limit otherwise, it may impact, especially the smaller service providers, adversely beyond recovery. Accordingly, the Authority has decided to cap the maximum financial disincentive imposed on a service provider for all the contraventions in a calendar year to rupees two lakh for all the contraventions of provisions mentioned under Group A in Table-1 of schedule -I and rupees five lakh for all the contraventions of provisions mentioned under Group B in Table-1 of schedule -I.

121. In case a service provider fails to make payment of financial disincentive within the stipulated period, it shall be liable to pay interest at a rate which will be 2% above the one year Marginal Cost of Lending Rate (MCLR) of State Bank of India existing as on the beginning of the Financial Year (namely 1st April) in which last day of the stipulated period falls. The interest shall be compounded annually.

H. Other Issues:

122. The Ministry of Information and Broadcasting (MIB) has issued operational guidelines for platform services (PS) in respect of DTH operators on 16th September 2022 and for MSOs on 30th November 2022. These guidelines require all PS to be grouped together under the genre "Platform Services" in the EPG, along with their MRP. These guidelines also prescribe that an option for activation/deactivation of PS should be provided to subscribers in accordance with applicable regulations of TRAI. Accordingly, in the consultation paper the stakeholders were asked to provide comments for suitable incorporation of provisions related to PS as mentioned in the guidelines issued by MIB, in the QoS Regulations notified by TRAI. The comments and counter comments received from the stakeholders have been elaborated and analyzed in the explanatory memorandum annexed to the amendments of QoS Regulations 2017. Accordingly, definition of PS, regulations related to display of PS along with MRP in EPG and provisions related to option for activation/deactivation of PS have been incorporated in the QoS Regulations 2017.

123. Since DPOs are required to display MRP of PS in their EPG, the Authority is of the view that DPOs should declare the MRP of the PS offered by them under the provisions of the Tariff Order 2017. Accordingly, definition of PS and suitable clauses for declaring and reporting of tariff for PS offered by DPOs have been incorporated.

124. In addition, amendments to the Tariff Order 2017 necessitate amendments to related reporting requirements. Accordingly, suitable provisions to this effect have been incorporated in the Tariff Order 2017.