

At the outset, we appreciate and are thankful to the Telecom Regulatory Authority of India (“TRAI”) for bringing out a comprehensive consultation paper on tariff issues concerning television services in India issued on 29 January, 2016. We have collated our submissions in response to various questions raised in the aforesaid consultation and same are mentioned below-

Pricing of the channel vis-à-vis suitable pricing methods

We understand from the consultation paper that TRAI has suggested the following pricing models at wholesale level-

- (i) Price Forbearance Method
- (ii) Cost based Method
- (iii) RIO based Models
 - (a) Universal RIO Method
 - (b) Flexible RIO Method
 - (c) Regulated RIO Method

At present, there are more than 830 private satellite TV channels, 243 private FM Channels, 35 TV channels of public service broadcaster and 180 community radio stations in India. Broadcasting distribution sector comprises of 60,000 Local Cable Operators (LCOs), 6000 Multi System Operators (MSOs), 7 Direct-to-Home (DTH) operators, 2 Headend-In-The Sky (HITS) operators and a few IPTV service providers. Besides, Service Providers offering over the top (OTT) services have also entered the space in recent times. All these are collectively referred to as Distribution Platform Operators (“DPO”). Hence, there are sufficient number of DPO’s presently operating in the market.

Further, under each genre there are several television channels demonstrating healthy competition. The viewer has choice to choose a channel under a particular genre depending upon the content and his/ her preference. It is also pertinent to mention here that no two TV channels have similar content running at the same time. Now a days, views have option of watching the content over platforms other than TV like smartphones, computers etc. The content is also easily available through various online streaming modes. With rapid growth in internet users and smart phones users in India, people have more ways to access content. With 4G connections online live streaming is seamless and mobile TV offers further value in terms of quality and option to access the content while on go.

Suggested Tariff Model- Price Forbearance

In light of rapid development of Indian broadcasting market and fast advent of technology, we are of view that the price forbearance is the future. Hence, we recommend ‘Price Forbearance’ Method at wholesale level.

We are of a view that the broadcasting industry in India is now home to sufficient number of players in each category and hence there is adequate and healthy competition. TRAI in its recommendations dated 1 October, 2004 observed that-

“It must be emphasized that the regulation of prices as outlined above is only intended to be temporary and till such time as there is no effective competition. The best regulation of prices is done through effective competition. Therefore as soon as there is evidence that effective competition exists in a particular area price regulation will be withdrawn.”

Today there is multiple number of channels available under each genre, multiple DPOs offering re-transmission on their platforms and other players offering digital services. More channels of different genres like entertainment, sports, news & current affairs, life style etc. are available to consumers and more channels are likely to be launched in coming months. Consumer has a lot choice regarding the TV channels it wishes to watch. Presently there are around 830 TV channels available in India and availability of such large number of channels ensures that no single broadcaster is in a dominant position. Now the time has come to move towards a regulation free regime as far as price determination is concerned. The present system of price freeze has caused considerable losses to broadcasters over years. The content costs are increasing due increase cost of production, new technology, increase in cost of acquiring new programs, acquisition of IPR and other associated expenses. However, the prices have not increased vis-à-vis the increase in cost of content.

Price determination should left to broadcasters, more so when at retail level there are minimum restrictions regarding pricing of channels by DPOs but at a wholesale level, the prices are highly regulated. Price Forbearance will provide a level playing field to broadcasters and other stake holders. The logic of exorbitant price increase is totally unfounded as any price increase will impact eyeballs which in turn will affect the revenues. Consumer will always have a choice to move towards other platform offering channels at competitive prices.

Both broadcaster and DPO should be free to enter into a mutual agreeable deal on a mutual agreed fee. In such a scenario both the broadcaster and DPO are clear about their commitment. Broadcaster is clear about its revenue and DPO is clear about its payout. Both can accordingly plan their finances. TRAI can prescribe maximum rates of every genre and these should be holistically fixed with option to increase with yearly consumer inflation index. Also, payout can be different depending upon the size of the network of the DPO.

This model will enhance the quality of content being available to consumers allowing broadcasters to invest in content in light of new technological developments which in turn will lead to better quality of content, more consumer eye balls and hence an increase in advertisement revenue. Moreover with increases advertisement revenue, broadcasters will be inclined to reduce the wholesale prices of their channel to stay in competition. Broadcasters know the best rate at which their channel will attract maximum consumers compared to other channels. The prices will reduce due to effective competition in the market. The rates will be driven by competition and actual demand and supply will control the price.

TRAI observation that the market is not ideal, matured and pluralistic is also incorrect. Market will respond when new schemes are introduced and consumer will respond to them. The present market only thrives on bouquets and demand for a-la-carte channel is very small. Consumers simply opt for bouquets. As a result, a lot of non-driver channels which even though a consumer does not want are thrust upon it being part of the bouquet.

Further, TRAI belief that price forbearance may lead to monopolistic control of TV channels is again wrong. There is no broadcaster who has a monopoly in the market. For e.g. no single news channel can be considered to be monopolistic as there is a demand for various news channels. Similarly, there are so many GEC channels, both in hindi and regional languages and all have their own demand and market

Forbearance has existed for a long time now in retail level and there have been no complaints of high price or any anti-competition complaint. India remains one of the few countries with cheapest tariffs in broadcasting sector.

Price Forbearance is also in line with the government vision that 'Government has no business being in business.' It should provide a healthy environment for business to grow and flourish with minimum regulatory control.

TRAI has pointed out certain disadvantages it associates with the Price Forbearance method. It has mentioned that price forbearance will lead to monopolistic control of TV channels by dominant market players. We suggest that this can be checked by TRAI making it mandatory to disclose the wholesale price of the channel offered by broadcaster to DPO and any discounts also if offered.

It has also been pointed out that it will lead to limited consumer choice and bundling of channels by DPOs. We suggest that all channels should be available to consumers in form of a-la-carte and bouquet. It will also make it easier for consumer to make a comparison and then make a choice.

Alternate Method-Flexible RIO Method

We have provided our preference of Price Forbearance Method. However, in case the Authority believes that there is a requirement of a regulatory regime within which the industry should function, we would recommend a mix of 'flexible RIO Method' and 'Regulated RIO Method.'

In this method, TRAI prescribes the maximum and minimum wholesale price cap for every genre. Broadcaster will notify the RIO to regulator and disclose the wholesale price of its a-la-

carte channels as well as bouquet. Broadcaster shall have flexibility to enter into mutual agreeable agreements with the DPOs within the prescribed regulatory framework.