

We, Times Global Broadcasting Company Limited (TGBCL) refer to the Consultation Paper on Tariff Issues in Cable TV Services in Non-CAS areas released by the Authority on March 25, 2010.

Please find below our response to the Issues raised by the Authority for consultation, as covered under Chapters 3, 5 & 6 and as summarized under Chapter 7 of the Consultation Paper.

We urge the Authority to take on record our below submissions and also take note of all our earlier views, suggestions and responses that we have humbly submitted to the Authority in the entire exercise of tariff fixation and other relevant issues including carriage and placement fees, that the Authority has undertaken under the aegis of the order of the Hon' Supreme Court of India.

ISSUES FOR CONSULTATION

Chapter 3 – Analysis of business models

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

Comments of TGBCL

It is our view that the figures are average figures based on the data provided by stakeholders, and not meant to be representative of any channel/company, hence we are not offering our comments on these figures.

Specifically we draw your attention to the fact that while the figures on Revenue have been segregated into advertising and subscription, there is no such break-up shown against operational costs such as programming costs, talent costs, marketing costs and distribution costs, amongst others. Our earlier submissions to the Authority, on this subject reflect clearly, the fact that carriage/placement cost is the major cost component incurred by broadcasters.

The figures shown in Annexure B3 cannot be attributed to TGBCL or other similarly placed news broadcasters. News broadcasters form a separate class; some of the news broadcasters have free-to-air channels and therefore appropriate calculations must be made to take these factors into account.

The Authority has premised its representative figures on the basis that the percentage of the total revenue of channels constituted by subscription revenue is 20% for the English news genre and in the process, has not taken into consideration the large number of free to air channels. As a result, the revenue of the pay channels is being taken as the index for the revenue of all news channels (i.e. of both free to air and pay).

Hence, for the aforesaid reasons we are of the view that the figures detailed in Annexure B3 are not truly representative of the different genres of broadcasters.

2. Are the figures in Annexure B5 representative for aggregators? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Comments of TGBCL

Since we are not privy to the figures and data provided by the other stakeholders in the value chain, we are unable to offer any comments on the representative figures stated by the Authority and neither are in a position to confirm their accuracy and represent-ability to each stake holder's business.

3. Are the figures in Annexure B7 representative for the national MSOs? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Comments of TGBCL

Since we are not privy to the figures and data provided by the other stakeholders in the value chain, we are unable to offer any comments on the representative figures stated by the Authority and neither are in a position to confirm their accuracy and represent ability to each stake holder's business.

4. Are the figures in Annexure B7 representative for the regional MSOs? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Comments of TGBCL

Since we are not privy to the figures and data provided by the other stakeholders in the value chain, we are unable to offer any comments on the representative figures stated by the Authority and neither are in a position to confirm their accuracy and represent ability to each stake holder's business.

5. Are the figures in Annexure B9 representative for the LCOs with > 500 subscribers? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Comments of TGBCL

Since we are not privy to the figures and data provided by the other stakeholders in the value chain, we are unable to offer any comments on the representative figures stated by the Authority and neither are in a position to confirm their accuracy and represent ability to each stake holder's business.

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

Comments of TGBCL

Since we are not privy to the figures and data provided by the other stakeholders in the value chain, we are unable to offer any comments on the representative figures stated by the Authority and neither are in a position to confirm their accuracy and represent ability to each stake holder's business.

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

Comments of TGBCL

It is our view that the average analog monthly cable bill that an end consumer incurs for cable services would be in the range of Rs. 150/- to Rs. 400/- per month.

8. Is the market for cable services in non-CAS characterized by the following issues:
- (i) Under-reporting of the analog cable subscriber base
 - (ii) Lack of transparency in business and transaction models
 - (iii) Differential pricing at the retail level
 - (iv) Incidence of carriage and placement fee
 - (v) Incidence of state and region based monopolies
 - (vi) Frequent disputes and lack of collaboration among stakeholders

Comments of TGBCL

Yes, we are completely in agreement with the above contention that the market for cable services in Non-CAS areas is characterized by the aforementioned issues, of which the most pertinent and critical ones, in our view are the lack of transparency, under declaration of subscriber numbers and levy of arbitrary carriage and placement fees.

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

Comments of TGBCL

Yes, we are of the view that the issues detailed aforesaid have a direct and adverse impact on efficiency in the market and the lack of adequate discipline and controls as characterized by the aforesaid issues, would result in less revenue for stakeholders in the value chain and there by impacting their respective businesses.

Chapter 5 – Regulatory intervention in the analogue non-addressable environment

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

- i) Revenue share
- ii) Retail minus
- iii) Cost Plus
- iv) Any other method/approach you would like to suggest

Comments of TGBCL

We are of the firm view that there should be no tariff regulation at the wholesale or retail levels. These are best left to market forces. We do not recommend any regulations on the basis of any of the aforesaid models.

In the absence of addressability and mandatory digitization of cable services in Non-CAS areas, the Revenue share model would be ineffective due to fragmentation of LCOs in the value chain

The Cost Plus model does not take in to account the fluctuating costs that operate in the entire value chain, as a result of which, expenses such as programming costs, talent costs, marketing costs and distribution costs, amongst others are not give effect to. These costs vary from broadcaster to broadcaster over various periods of time and therefore this model cannot spell out a formula that can take into account such fluctuating factors.

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

Comments of TGBCL

Please refer to our comments to Issue no. 10 above.

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

Comments of TGBCL

Please refer to our comments to Issue no. 10 above.

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

Comments of TGBCL

As stated above we do not recommend any tariff regulations at wholesale or retail levels and these are at best left to market forces. With increased competition in the market and with approximately 460+ channels in 2010 as compared to just 100 channels in 2005-2006, and with the rise of new platforms such as DTH, IPTV etc., market conditions have ensured that the prices of channels are reasonable (and have been kept down) (it is relevant to mention that in the telecom sector, prices are not regulated, yet telecom tariffs in India are amongst the lowest in the world).

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

Comments of TGBCL

In our view there is no rationale in drawing up a ratio between advertising revenue and subscription revenue of broadcasters. Also the proposal of the Authority that broadcasters recover content cost from advertising revenue and carriage cost from subscription revenue is without basis and reasoning. In addition to the above costs, it is pertinent to note that broadcasters incur significant other costs and would be fully and rightfully justified as a business model to recover all such costs from the revenues earned.

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

Comments of TGBCL

Please refer to our comments to Issue no. 10 above.

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

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

Comments of TGBCL

We do not recommend any tariff regulations at wholesale or retail levels and these are at best left to market forces. With increased competition in the market and with approximately 460+ channels in 2010 as compared to just 100 channels in 2005-2006, and with the rise of new platforms such as DTH, IPTV etc., market conditions have ensured that the prices of channels are reasonable (and have been kept down). Available statistics show that about 460+ channels are available to an estimated 134 million TV households in the country with subscription revenues of approx. Rs. 15,600+ crore being collected from cable. An average household would therefore spend less than a rupee per hour per household to enjoy such services. This signifies that despite cable TV being one of the cheapest forms of service available in the country today, the prices continue to be heavily regulated. It is also relevant to mention here that in the telecom sector, prices are not regulated, yet telecom tariffs in India are amongst the lowest in the world.

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

Comments of TGBCL

We are of the firm view that there should be no tariff regulation at the wholesale or retail levels. These are best left to market forces. We do not recommend any regulations on the basis of any of the aforesaid models.

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

Comments of TGBCL

We are of the firm view that there should be no tariff regulation at the wholesale or retail levels. These ratios are best left to market forces and there can be no fixed ratio to determine such a ratio of minimum pay and FTA channels. However, we refer to the initiative undertaken by the Authority in respect of CAS areas with respect to the mandate for FTA channels, which maybe considered for determining this ratio.

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

Comments of TGBCL

As reiterated in our earlier submissions, in terms of the 'must provide' clause of the Interconnect Regulations, broadcasters are required to provide their channels on a 'non-discriminatory' basis to operators, without a similar obligation being cast on the operators to compulsorily carry the broadcasters' channels. In our view, it is extremely important to ensure that every digital platform must carry channels of the same genre in the same bundle. The bundling of channels can be brought about on the basis of genre and other parameters such as viewership base, market share, reach etc. This would reduce the pressure on the broadcasters to pay exorbitant placement fees to place their channels in a specific path.

News Broadcasters have the social responsibility of bringing news & information to their viewers through the best available and effective means. The bundling of channels would help news broadcasters in fulfilling this duty.

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

Comments of TGBCL

In our view any benefit arising out of a-la-carte provisioning of channels can be passed on to subscribers only if there exists a 'must carry' obligation on the operators. With lack of transparency and addressability it will be difficult to measure the benefit that an end consumer can avail from such provisioning.

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

Comments of TGBCL

We believe, broadcasters are offering their channels on a-la-carte basis to MSOs, but we are not able to comment on this since TGBCL was operating only a single channel during the period being reviewed for this exercise.

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

Comments of TGBCL

After the non-CAS tariff order was passed in 2007, the scenario has drastically changed (this is also recognized/noticed in the impugned judgment of the Hon'ble TDSAT). The scenario changed primarily because of increased competition in the market with the advent of approximately 460+ channels in 2010 as compared to just 100 channels in 2005-2006, and with the rise of new platforms such as DTH, IPTV etc. Market conditions have ensured that the prices of channels are reasonable. The distributors (MSOs) however are demanding and extracting carriage and placement fees from broadcasters to distribute the channels on their network and for placement of channels at a particular frequency/band.

In most parts of India, the cable system is still analogue and is not yet digitized. Since the total channels' signal carrying capacity of the analogue cable is only about 100, more than 400 channels are vying for the 100 available slots, which has resulted in a capacity constraint. There has been an unprecedented increase of more than 300% in carriage and placement fees between the period 2005-2006 and 2008-2009, which along with the ceiling imposed by the Authority on charges payable at the subscriber level has had an adverse effect and impact on stakeholders. This has affected the level playing conditions for the stakeholders, particularly broadcasters.

Moreover, there is no co-relation between the change in subscription revenue for pay channels and the carriage / placement fees over the years. There are no corresponding benefits accruing to the Broadcasters in respect of the placement and carriage fees being extracted from them.

The only solution to this, in our view, is digitization of cable services within a 'sunset' date, which will free up the spectrum space and provide more transparency to subscriber numbers.

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

Comments of TGBCL

Without prejudice to its submissions above, TGBCL is of the view that the MSOs/COs should be paid carriage/placement fees based on, amongst other things,

- a. Number of households serviced (or no of digitized boxes)
- b. Price paid per household
- c. Channel placement

This would ensure that the broadcasters get value for their money spent on carriage / placement fees. The regulation of carriage/placement fees should also prescribe a suitable formula that caps the increase on such fees up to a maximum & reasonable % based on various factors that influence such increase. This increase should also be linked to the increase in the number of households serviced and level of digitization achieved. A cut off year (e.g. 2005-06) can be considered as the benchmark fees or the base year for carriage / placement charges, and increase calculated from that year. This should be linked to the subscription increase percentage prescribed.

It is our view that every digital platform must carry all the news channels and bundling of channels should be based on the genre as well as other parameters e.g. viewership, Market Share, Reach etc. Alternatively, the news channels must be allowed to form and price their own bouquet.

It is submitted once again that it should be made mandatory to have digitization effected within a specific period of time.

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

Comments of TGBCL

Please refer to our comments to Issue no. 23 above

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

Comments of TGBCL

Yes, in our view, there is a need for a separate definition of 'commercial subscriber' in the tariff order.

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

Comments of TGBCL

We suggest that the existing definition of 'commercial subscriber' be modified to read as an all inclusive definition that covers all categories of subscribers except residential subscribers. In other words there is no need in our view to categorize commercial subscribers as referred to in Clause 13.2A.1 of the Interconnect Amendment Regulations of March 17, 2009.

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

Comments of TGBCL

In our view, the category of commercial subscribers identified in the Tariff order of November, 2006 should be dispensed with and they be redefined as stated in Issue no. 26 above.

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

Comments of TGBCL

As stated earlier, we do not recommend any tariff regulations for cable services either at wholesale or retail levels, including for commercial subscribers and these are at best left to market forces.

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

Comments of TGBCL

Yes, in our view, digitization of Cable Services would go a long way in the speedy implementation of Conditional Access System (CAS) across the country. CAS would encourage cable networks to move from analogue to digital mode of services and will enable subscribers to make an informed programming choice.

To begin with, CAS should be rolled out in at least the top 100 cities in the country. Digital Feeds should be made available to cities with over 1 Lac population and customer awareness on the availability of such a digital platform should be created by not only by the Government but also by the stakeholders involved i.e. the broadcasters, Multi System Operators and the Cable Operators.

We refer to the phased manner in which the Authority had planned the implementation of CAS across the country. We recommend that a similar framework be drawn up for implementation and be put into effect within a 'sunset' date.

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

Comments of TGBCL

As detailed in our comments to Issue no. 29 above, the phased roll out of CAS should be carried out in a time bound manner and with a sense of urgency, specifically in the top 100 cities that are identified.

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

Comments of TGBCL

Being a broadcaster we are not in a position to offer any comments.

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

Comments of TGBCL

In our view, there should be adherence to the technical standards by all cable operators as prescribed by the Authority under the Interconnect Regulations of March 2009.

We are of the view that the regulatory provisions for Quality of Standards (QoS) regulations in the Non-CAS areas should compliment the existing QoS regulations for CAS notified areas and should also cover the Voluntary CAS networks in Non-CAS areas. Some of the parameters covered by the existing QoS regulations in CAS areas, which would be worthy, implementing in Non-CAS areas, are as under:

- a) Complaint handling and redressal mechanism
- b) Proper documentation for connection, disconnection, transfer and shifting of cable services
- c) Proper billing systems and handling of billing related complaints
- d) Monitoring of performance of quality of service standards by the Authority

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

Comments of TGBCL

In our view, any measure or initiative undertaken by the Government that would encourage and help speed up the digitization process in the country is welcomed.

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

Comments of TGBCL

The cable industry has been predominantly unregulated which has led to considerable fragmentation in the distribution chain. There is no firm data available on the number of players and the extent of their subscriber base. Also the absence of addressability has lead to low transparency levels of disclosure and compliance. With the concept of digitization gaining ground, it is also important to bring out a sound regulation of licensing of cable operators.

The licensing of digital services would facilitate the setting of high standards business practices and operating conditions. Licenses could also be a major factor of consideration for operators to claim concessions, incentives etc., from the Government. Licensing would also act as an important tool of control mechanism in the cable services sector.

In this regard we urge the Authority to make it mandatory for MSOs and LCOs to comply with the Interconnect Regulations, to be eligible to be granted license and/or its suspension or cancellation.

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

Comments of TGBCL

As far as effectiveness and transparency of operations of cable operators is concerned, we are of the view that the QoS codes and Guidelines of the Authority in relation to Broadcasting and Distribution of TV Channels dated October 01, 2004, need to be strictly adhered to.

In addition, the Government should consider setting up call centres with adequate support facilities to handle customer complaints, on-line billing process, review of systems by conducting periodic mandatory audits, etc to ensure consumer interests are protected. This mechanism can be supervised and managed by a nodal agency such as the District collector or Superintendent of Police of a District, or an equivalent authority, who should also be vested with certain powers for licensing and regulating the cable operators.

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

Comments of TGBCL

In our view, if the Authority intends prescribing a basic service to all subscribers, we are of the opinion that such group of channels should include channels of national public broadcasters.

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

Comments of TGBCL

Yes, in our view, there is need for better and effective communication to educate LCOs and customers to bring about effective participation. We suggest that the Authority consider open house discussions on relevant subjects, information availability on Authority's websites and local communication means through agencies etc.