



**31<sup>st</sup> December 2008**

Telecom Regulatory Authority of India  
Mahanagar Doorsanchar Bhawan  
Jawaharlal Lal Nehru Marg  
New Delhi – 110 002

**Kind Attention: Principal Advisor ( B & CS )**

**Sub: Quality of Service issues for Cable TV Services in Non-CAS Areas and for DTH Services New Delhi: Response to Telecom Regulatory Authority of India Consultation Paper No. 14 / 2008 dated December 1, 2008**

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Dear Sir,

While the intent of TRAI to protect consumer interest is appreciable the inequitable nature of existing QoS norms also needs to be kept in view . The quality parameters should not lead to undue cost burden on the DTH industry. The Authority is aware on that the DTH industry is already reeling under the combined pressures of extraordinary multilayered taxation, highest ever revenue share levels mandated by the Licensing Authority and disproportionately high pricing by the vertically integrated broadcasters. Due to the absence of Content Tariff Regulations most of the issues are linked to content pricing and inter connection , remain to be addressed . These factors , particularly the combination of the same , seriously hamper the right of the DTH industry to do business and its market sustainability in general.

In the present circumstances where a clear commercial framework (particularly Content Tariff) for the DTH operators has not yet been prescribed, the DTH

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operators are faced with ever increasing input costs that are making them incapable of effectively competing with the analogue cable industry. Stringent QoS standards, that are extremely cumbersome to implement are **likely to accentuate the discrimination between two Pay TV platforms and render a disservice to consumers at large. They will add to the woes of the DTH operators and make their business unviable.**

Keeping the above in mind we have attempted to give our specific views on some of the issues highlighted in the Consultation Paper. We have also made specific suggestions with regard to:

1. Reconnection/ Reactivation Charges
2. Disabling the STB for non payment of Pay services .

These may kindly be referred to in the discussion under point 4.1.7:

**4.1.5 Whether the DTH operators should be specifically prohibited from dropping of channels from a subscription package for a subscriber for six months from the date of enrolment of that subscriber, if the channel continues to be available on their platform.**

- A. A specific prohibition is completely unnecessary and uncalled for without corresponding Regulations as per B below. Regulation 9 , although , restricts the rights of the DTH Operator , affords protection to the Subscribers in terms of the price of the package for six month .Tata Sky has voluntarily protected its subscribers both in terms of content and pricing and the same is demonstrated in our recent free of cost offering of some sports channels to our subscribers. Except where a channel is pulled out by broadcaster or factors beyond control, It is generally ensured that there is no change in package content for six months from the date subscriber enrolls on a package. Such Voluntary practices are good enough for fair treatment

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- B. Further compliance with any such mandate is impossible without putting in place a corresponding regulation mandating broadcasters to comply with such subscription package protection. The Interconnect regulations should be suitably amended to make it mandatory for broadcasters to comply with subscription package protection for DTH operators if it is required that such protection is passed on to subscribers .
  
- C. It is submitted that DTH is an extremely competitive industry with the presence of 7 DTH operators vying for a piece of the same pie. In such an environment, no DTH player will like to cause self- harm by changing the constituents of their package offerings to the disadvantage of their subscribers. The Authority should promote self regulation for the DTH industry as this result in demonstrable quality efficiency. Self regulation has a great benefit, especially where, the business practices are complex and industry members have inside knowledge of how best to structure best practices. Business processes have inherent mechanisms to meet customer expectations in order to develop the business.
  
- D. In any case the Authority is sufficiently empowered to take care of any unfair market practices , should the situation warrant

**4.1.6 Within this period of six months, in case the channel ceases to be available on a particular DTH platform, then whether it would be appropriate to have a mechanism of reducing the subscription charges by an amount equal to the wholesale a-la-carte rate of that channel. *Alternatively*, can you suggest any other methodology for such compensation to the subscriber? Should such compensation be paid / adjusted even when one channel in a package is dropped, and it is replaced / substituted by another channel so that the total number of channels in that package is not affected?**

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- A. Such suggestions are impractical. Not only the DTH industry, reeling under the combined pressures of extraordinary multilayered taxation, highest revenue share levels and an extremely competitive market environment, the DTH is forced to heavily subsidize its services and the cost of acquisition of a subscriber is considerably higher, than what is charged.
- B. Packages are already competitively priced and often incorporate cross subsidies and loss on content payments. Hence, in the event of a channel ceasing to be available it is impossible to arrive at a realistic price reduction. Furthermore, wholesale a-la-carte rate is not a realistic price point as channels are being offered in various packages, which do have direct linkage to a – la –carte pricing.
- C. We strongly submit that any such regulation is unnecessary. **DTH services in India are the cheapest addressable services** in the world and offer the best value for money to the consumers. DTH services not only include channels but also various interactive platform services which are generally offered free of cost to the consumers.
- D. It is further submitted that the Authority should amend the regulations to allow DTH operators to increase the subscription charges of a package in certain exceptional cases such as where the FTA channels are suddenly declared Pay by the Broadcasters

**4.1.7 Whether the subscribers should also be required to subscribe to any channel/ package for a certain minimum subscription period as in CAS areas. If yes, what should be such minimum subscription period?**

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- A. Currently, we do not have any minimum subscription period, which is in the best interest of the subscribers. Such decision should be left to the DTH players and regulation in this respect would be unduly intruding into the Commercial Policies of the DTH operators. It should be appreciated that over regulation is also not in consumer interest.
- B. In addition to the above, there is strong case for the Authority for reconsidering regulation 8 of the the Direct to Home Broadcasting Services (Standards of Quality of Service Redressal of Grievances) Regulations, 2007 which requires a DTH operator to not disable a subscriber's STB who does not intend to continue to opt or avail the DTH services provided that the subscriber does not owe any dues to the operator.
- C. In this regard, we submit that the requirement under regulation 8 has a serious impact on the financial viability of the DTH business as subscribers continue using the STB without recharging their accounts to avail the FTA feed of DD Direct. It is submitted that a DTH operator is primarily in the business of providing a continuing TV 'service' to the subscribers where the STB acts as an enabler to the service an operator provides. Since the STB has already been subsidized heavily and a significant investment has been made to acquire the subscriber (by way of marketing spends, promotions, offers etc) it is expected that a customer commits to the 'service' for a certain period of time. However, it is observed that a section of customers do not avail the DTH services once the offer periods expire and instead use the STB and CPE for FTA services . Such consumer behavior undermines not just the cost that an operator incurs in terms of subsidizing the STB and acquiring a subscriber, but goes against the fundamentals of Pay TV Services .

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D. In addition to the above, we request the authority to also reconsider regulation 10 of the Direct to Home Broadcasting Services (Standards of Quality of Service Redressal of Grievances) Regulations, 2007 which requires a DTH operator to not levy charges during discontinuance of direct to home service.

E. .Since reconnection/ reactivation involves substantial costs in terms of use and deployment of resources and Customer Services management, the DTH operator is forced to bear the cost of the same to comply with this illogical regulation. With subscriber bases of millions, it is next to impossible to keep up with every single subscriber's requests for disconnection and reactivation as per their convenience while absorbing the costs for such requests. Such a requirement is unheard of in any Quality of Service (QoS) norms , be it for sectors like Telecom (where the operator does not bear such cost and rental for whole month is charged) or Broadband or for similar addressable platform like CAS. Hence we would like to suggest a 'reactivation charge' or 'reconnection charge' that would be levied when a subscriber, reactivates his service after due date. This is a 'reactivation charge' to compensate for:

1. Protecting our revenues in the light of our payments to the broadcaster being worked out on the month's average subscriber base. To illustrate: we pay the broadcasters on monthly basis and would have to pay for a de-active subscriber even without the subscriber having made his payment (e.g. A sub is de-active say between 10<sup>th</sup> & 20<sup>th</sup> of the month), . Our payment to the broadcaster would include this subscriber for the entire month although we have actually lost 10 days revenue).

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2. There are significant IT and call center costs involved in handling the reactivations and a DTH operator should be allowed to recover the same.

**4.1.8 Whether there is any justification for visiting charges for “no signal” complaint by the subscribers? If yes, should there be a ceiling on such visiting charges for complaints of “no signal”?**

- A. DTH caters to customer across the country in far of places where normal cable, infrastructure is not available. The cost of the service to these areas is subsidized by the cost of service in metros. Hence there should not be any regulation on customer service costs.
- E. Signal complaints can be because of variety of reasons eg damage, tampering by the subscriber etc. For a subscriber's own breach, the operator should be allowed to charge for visiting the subscriber. Such charges should be left to the operator's discretion as a case by case call has to be taken regarding levy of such charges.
- F. For customers in warranty or under AMC, we do not charge except where a complaint is on account of factors attributable to customers. For our of warranty customers, service charge is essential since we incur a cost on .sending a trained technician to subscriber premises

**4.1.9 Similarly, should any ceiling be placed in respect of visiting charges for repair and maintenance of CPE for DTH services? Alternatively, should DTH operators be required to offer Annual Maintenance Contracts (AMCs) to their subscribers?**

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A. With a presence of 7 DTH operators in the country, customer service is the only differentiator. Cost of customer service should not be a subject of regulation unless are substantially e existing financial burdens on the DTH industry is eased.

B. Field repair charges should be left to the discretion of the DTH operator..

**4.1.10 Can you suggest some form of AMCs for DTH Service covering all aspects such as repair & maintenance charges for CPE, visiting charges, attending “no signal” complaints, etc.?**

A. We already offer AMC at Rs.500 per annum post the warranty period however this does not cover complaints that are on account of factors attributable to customer

**4.1.11 Whether the service providers should be required to make available toll-free numbers for recharge calls for prepaid accounts?**

A. While telephone is one mode, other self care methods for recharging such as SMS / web are more cost effective and convenient for the customer. The help platform clearly lists the various modes of recharge. Alternative modes of recharging have been also provided such as vouchers to the customers, Auto debit, EPRS, Oxigen and cheque payment.

B. We would like to again submit that the cost of the establishing National Toll Free Numbers is prohibitively expensive and is not economically viable given its huge operations costs. Hence this requirement should be done away with immediately.

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**4.1.12 Whether the request for suspension of service for full calendar months only should be entertained?**

A. Yes as DTH pays the broadcaster for the full calendar month.

**4.1.13 Whether tariff plan or subscription package changes requested by the DTH subscriber should be accepted and implemented immediately or from the start of next billing cycle for DTH subscriber.**

A. Request for up-gradation could be forthwith, however request for down-gradation is possible from billing cycle only.

B. Not possible where subscriber has opted for annual or other fixed tenure package where special pricing has been given.

**4.1.14 Whether advance notice of minimum 30 days should be given by DTH operators to a DTH subscriber before terminating his existing tariff plan provided that no tariff plan can be terminated within the contracted period, if any, for that package or within six months of enrolment of that subscriber to that package.**

A.No advance notice of 30 days is required in the current scenario to be given by DTH operators to subscribers since new tariff plans are applicable only for new subscribers and not for existing subscribers who are price protected for 6 months. Tariff plan in respect of a particular package can be reduced by a DTH operator even during the contracted period or within 6 months of enrollment of subscriber to that package as this would be advantageous to the subscriber. For increase in tariff plan, the existing restriction should be done away.

Thanking you,

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Yours sincerely,  
**For Tata Sky Limited**

A handwritten signature in blue ink, appearing to read "Anshuman".

Anshuman Sharma  
Chief Legal & Regulatory Affairs Officer

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