



**26<sup>th</sup> April 2013**

Telecom Regulatory Authority of India  
Mahanagar Doorsanchar Bhavan  
Jawahar Lal Nehru Marg,  
New Delhi – 110002

Sub: THE TELECOMMUNICATION (BROADCASTING AND  
CABLE)SERVICES (\_\_\_)(THE DIRECT TO HOME BROADCASTING  
SERVICES) TARIFF ORDER, 2013 (No. \_\_\_ OF 2013)

Attn: Mr. WASI AHMED, ADVISOR (B&CS)

Dear Sir,

On the captioned subject, we, the DTH Association, have the following to state by way of our comments on the draft circulated by the Authority. We reserve our right to add further comments should the need for the same arises.

1. Before commenting on the draft Tariff Order, we would like to draw the Authority's attention to certain issues which should be taken into consideration. It has been indicated by the Authority that the proposed Tariff Order is to protect the interests of the Consumer. While we appreciate the same, we are at a loss to understand as to why the Authority does not want to take into account the fact that a Service Provider like Tata Sky would not have the consumer's interest in mind too. Providing the service on a DTH platform is a highly capital intensive proposition and we would have invested a few thousand crores of Rupees over the last six years essentially on account of high subscriber acquisition and servicing costs. To burden it with the proposed tariff order would only add to the accumulated loses being suffered by the platform.

2. The TRAI, besides regulating the Broadcast industry is also responsible for regulating the telecom industry. Telecom operators do not provide hardware to its subscriber. All that they provide is a registration into the service and a SIM card to activate the service. The purchase of the handset is the responsibility of the subscriber. In case of DTH, we provide the entire hardware to the consumer at a subsidised price so that it is affordable to the subscriber. The cost of the hardware is much higher as compared to the proposed assumption that has been taken by the Authority. The very basic Standard Definition connection is currently subsidised by over Rs 3000 per subscriber.
3. The DTH industry has been the pall bearers of digitalisation since its inception. The transparency of the service is apparent as the Industry contributes its share of taxes with the Government. On an average, each service provider is paying approximately 36% of every rupee to the Government by way of various taxes – Entertainment Tax to the State, Service Tax, Licence fee to the Central Government and duty on imports to the Customs department. The industry has been representing to the Central and State Governments for relief in the tax imposed on it. In fact, while there are tax holidays for industries in other sectors, no tax holidays have been provided to the DTH sector. So far, the Government has not even considered the representations made but from this financial year has increased the tax on the industry by increasing the import duty on set top boxes from 5% to 10 %. To impose the proposed tariff order would be a further burden on the Industry which is incurring losses as the set top boxes to the subscriber is heavily subsidised in any event and also the proposed Tariff Order is in violation of the rights guaranteed to the Service Providers under the Constitution of India.

On the Draft Tariff Order, we have the following comments to offer:

1. The Authority, through this tariff order is proposing to “Protect the Interests of the Consumer through the provision of Commercial Interoperability of the CPE”. Interoperability provisions have not





been enforced by the Authority. In fact the appeal in the Supreme Court, against the order of the TDSAT to enforce interoperability, was filed by the Authority. We are at a loss to gather how this tariff order is going to enforce commercial interoperability.

2. The reasoning provided in the Explanatory Memorandum of the proposed tariff order states - that the CPE will be available at a reasonable cost and terms to a consumer. While considering the costs of the CPE, the Authority has assumed a cost of Rs. 2250/-. It needs to be pointed out that this cost assumed by the Authority is far less than the actual cost that the CPE would cost. The CPE includes the set top box, dish, LNB, wires, connectors, viewing card and remote. The landed cost including custom duties, transportation and installation costs, is far greater than the assumption. This is not only severely detrimental but also far away from reality and hence for this reason alone this is not a correct assumption.
3. In all the options provided by the Authority for the package, the security deposit of the CPE is far too less than the actual cost of the CPE incurred by the service provider. How is the service provider protected against loss, theft, wilful damage to the CPE at the consumer end? In India, individual credit ratings do not exist, hence contracts with individuals cannot be enforced, insurance companies are reluctant to cover small value transactions and repossession of assets from defaulting customers is an almost impossible and expensive process, the entire loss in case of a defaulting subscriber will be to the DTH platform's account. The TRAI has failed to address this issue and not provided for any protection of the service provider.
4. In all the options provided by the Authority for the package, there is a restriction on charging activation charges, installation charges and repairs and maintenance charges from the subscriber. It is pertinent to note that the DTH service providers have to incur costs installers, call centres for handling subscriber inquiries, scheduling visits, repairs of product under warranty, etc. which has not been taken into



consideration. In fact, the costs incurred are in excess of the activation and installation charges currently being charged. Additional restrictions on these will further hamper the business, severely.

5. Competition of the severest nature has ensured that adequate protection is provided to the DTH consumer. Besides attractive packages for the channels being offered, we also provide service to the consumer as and when there is a fault in the CPE. The equipment being electrical may develop some problem due to usage. Service to repair these faults or replacements are not covered in the proposed tariff order. Wherever feasible, DTH operators have tried and reduced the entry cost for the customer. For instance, Tata Sky has offered DTH connections in cities undergoing digitisation a connection at sub Rs 500 down payment with the balance deductible in equated daily instalments spread over a year. This however is possible only in cities where third party verification facilities are available and possible just as in the case of Post Paid connections offered by Telecom operators.

We would be happy to meet with you and discuss this draft Tariff Order whenever its convenient.

Thanking You,

Yours Sincerely,

**For DTH Operators Association**

A handwritten signature in black ink, appearing to read 'Harit Nagpal', with a horizontal line extending to the right.

Harit Nagpal  
President