

14th October, 2015.

To,
Mr. Sanjeet Singh
Advisor (B & CS),
Telecom Regulatory Authority of India,
New Delhi.

Subj: Comments on the Consultation Paper on Twin Conditions.

Ref: Consultation Paper on Twin Conditions released on 30th September, 2015.

Dear Sir,



We are a Direct To Home (DTH) Service Providers Association, comprising six (6) DTH Operators.



This has reference to the above captioned draft Tariff Order released by the Hon. Authority on 30th September, 2015.



At the outset, we would like to state that the retail pricing regime has worked extremely well in DTH market so far and there is no reason for TRAI to regulate retail tariffs. While DTH industry continues to be under huge losses and heavily taxed, it still offers the most competitive and affordable tariffs to their consumers.



Indian DTH customers enjoy the most affordable bouquet package – high number of channels with lower retail tariffs – compared to other international markets. Indian Customers are benefited with almost double the number of Channels at 1/10th the price in comparison to DTH Services worldwide.



Twin Conditions will adversely impact end customers since it will require a substantial change in DTH subscription packs with the number of channels decreasing or an increase in retail prices.



We would like to put on record the concerns to which DTH Operators would ultimately end up encountering as follows.

- A. As the Authority is aware, the input costs borne by a DTH Operator is unregulated and is entirely left to the discretion of every broadcaster. We are of the view that, before regulating the a-la-carte price offered to customer, which are derived from the RIO rate of the Channels offered by the Broadcaster, the Authority may first regulate the RIO rates.
- B. The interconnect agreements negotiated and entered between broadcasters and DTH Operators take place at about 10-20% of the published RIO rates for both HD and SD Channels.
- C. Presently, the offering of channels and bouquets by DTH Operators to their subscribers is highly subsidized and in the interests of the subscribers, implementing the proposed twin condition under the captioned Tariff Order would compel the DTH Operators to increase the existing a-la-carte and bouquet prices which would then be unaffordable to consumers.
- D. As the Authority is aware, that rates of HD Channels offered by Broadcaster to distribution platform are unregulated. The RIO rate of the HD channels range from Rs. 16/- to Rs. 141/-. If any bouquet comprising HD channels and / or SD channel is offered to the subscriber, then due to non-regulation of HD wholesale tariff, the implementation of twin condition in such bouquet will invariably lead to huge loss to the operator. It would be unjust to force DTH operator to price HD channel at disproportionately lesser price than the wholesale price.
- E. The Authority would appreciate that, the criterion of determining the a-la-carte value is relied on incorrect assumptions, permutation and combinations. The maximum discount of 66.66% is presumptive and the same is without any appropriate backup analysis. It is not a mystery that at the wholesale level the discount passed in fixed fee deals with packaging obligation is in the range of 85% to 95% to the RIO rates which are nothing but wholesale a-la-carte offering.
- F. Under the proposed condition (a) of the Twin Conditions, offering of Channels at retail level at twice the RIO rate would not be of any help in absence of regulated RIO rate. Similarly, as per the proposed condition (b) of the Twin Conditions, offering of bouquet of Channels three times the total a-la-carte price of the channels offer in such bouquet, would have the following impact:



- (i) The Bouquet price would increase substantially, since it is linked to the sum of a-la-carte price of all the channels in that bouquet.
- (ii) Platform Operators would be forced to reduce the number of channels in the bouquet, in order to align the bouquet price with the proposed twin conditions.
- (iii) Twin Conditions makes offering of HD channels as part of bouquet, infeasible and impractical.
- (iv) If any channel is added to the platform, then the platform operator is forced to re-caliber the bouquet rates.
- (v) If the proposed twin condition is being brought in vogue then the platform operator would be forced to create the packaging keeping in mind the price of a channel and not the genre of the channel.



- G.** It is further submitted that the proposed conditions will take away all the liberty of DTH operators regarding the packaging of their channels. The addressable platforms would be forced to package the channels in such a manner where the package has less number of pay channels, less number of FTA channels with increased price of the package, which will be detrimental to the interests of the consumer at large. Further, if proposed twin conditions are implemented then every DTH Operator would have different a-la-carte pricing for different channels which would create chaos in the market. Also, within packages of a particular DTH Operator also the a-la-carte value of a particular channel would vary package-wise and this would also not be in the interest of consumers at large.
- H.** DTH operators get the channels from the broadcasters on 3 different terms – (i) RIO basis (ii)CPS basis and (iii)Fixed fee basis. If DTH operators offer the channels on a-la-carte basis, the DTH operators would not get the channels on Fixed fee/CPS basis from the broadcaster. If some of the DTH operators have fixed fees agreements then it has mandate to offer maximum numbers of channels in entry package, which packages cannot be altered under the agreement. In case of implementation of proposed Twin Conditions, the DTH operator necessarily will have to make small bouquets with less channels and cannot be in compliance of promised packaging obligation to the broadcasters. As such a

DTH operator may come in breach of the existing/future agreements.

- I. The Authority is aware that despite implementation of DAS in some part of the country, the competitors such as LCOs in most of the cities do not offer any package, bouquets but offer all the channels on the platform in bulk bouquet to the subscribers without any choice. If due to implementation of twin conditions if DTH operator is forced to create bouquet with lesser number of channels, then it would cause to great prejudice to DTH operators.
- J. The Authority needs to appreciate the fact that there exist a vast difference of Broadcaster offering their channels in bouquet to platform operators vis-à-vis platform operator offering channels to its subscribers. A platform operator while deciding composition of retail packages need to consider various consideration in mind which is not only limited to a-la-carte price of a particular nature.
- K. Currently, the DTH Industry is governed under multiple regulations including Standard of Quality Regulations. Proposed Twin conditions force DTH Operators to recalibrate both in prices and composition of bouquet. However, Quality of Standard Regulation prohibits the operators to make the changes in the price or composition of subscribed channels during first six months of the date of enrolment. Resultantly, there would be a scenario where one regulation would be complied with at the cost of non observance of another regulation which non observance would not be attributable to the DTH service providers.



In view of the above, we humbly submit that the proposed twin conditions be dispensed with and a-la-carte retail prices of channels be left to market forces to decide.

Thanking you

Yours faithfully,

for DTH Association,



For
President