Bharti Telemedia Limited Response to the Consultation Paper on draft Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (Amendment) Order, 2015

Preamble:

At the outset, we wish to sincerely thank TRAI for providing us an opportunity to submit our response to the above captioned Consultation Paper (CP).

In the CP, TRAI has clearly stated that it does not intend to hamper the flexibility available to platform operators to price the channels individually and as a bouquet in a manner to suit their business plans. Further, TRAI has indicated that it does not want to impinge upon the freedom of platform operators by deciding the a-la-carte rates and bouquet rates for its consumers. One can thus infer that TRAI has no intention to regulate the retail tariffs.

The forbearance in retail pricing has worked extremely well in the DTH market so far and there is no reason for TRAI to regulate retail tariffs. It is pertinent to note that while the DTH industry continues to be under huge losses and is heavily taxed, it still offers the most competitive and affordable tariffs to its consumers, as illustrated below:

DTH Provider	Country	Pack Name	Channels	Price(USD)
Airtel	India	My Plan 99+Tamil Top up	156	2.2
Indovision	Indonesia	Mars	101	20
Astro	Malaysia	Family	41	10.24
Truevision	Thailand	Happy Family	57	8.5
Sky	UK	Original	51	22.8
DirecTV	USA	Select	145	20

It is evident from the above that the Indian Customers are benefited by having access to almost double the number of channels at 1/10th the price in comparison to DTH Services worldwide. For instance, we offer one of the cheapest packs in the country at Rs.99 only for a base pack having 125 channels.

Implementation of proposed 'Twin Conditions' will tantamount to regulating retail tariffs in a market where there is intense competition and input cost borne by DTH operators is practically unregulated. The proposed rules that link bouquet and a-la-carte rates will curtail the entire freedom of DTH operators to decide their retail tariffs.

Moreover, the proposed regulation is impractical to implement. To elaborate, a channel may be placed in one or more bouquets and further it may be added or deleted from the bouquets quite frequently, therefore, linking the price to ala-a-carte prices as per the proposed formula of "Twin

Condition" will add to complications and lot of operational challenges which may not be proportionate to the benefit which may accrue from implementation of these guidelines.

The DTH operators in India have invested thousands of crores in the last 10 years and led the objective of digitalization from front. They are incurring heavy losses on account of subsidizing set top boxes to the extent of Rs.1800-2000 per STB. Further, Industry is subjected to multiple taxes & levies amounting to approximately 33%-35%. The industry's total expenditure stands at Rs.27,250 Crore with accumulated losses (after tax) at approximately Rs. 11,400 Crores[1] (March 2013). The average loss per DTH connection is around Rs.2017.70. Therefore, Industry is in dire need of supportive regulations and any attempt to regulate retail tariffs will only worsen the financial health of the DTH Industry.

In view the intense competition, affordable tariffs and the declining financial health of DTH Industry, the tariff forbearance regime should not be tampered with and should be continued in its true spirit. The implementation of retail tariff ceiling in the form of Twin Conditions, in a regime where such twin condition does not apply on input side i.e. wholesale tariff, will not only put an additional financial burden on the beleaguered DTH Industry, but will also adversely affect the affordability of DTH services to the end consumer.

[1] TRAI's recommendations on issues related to new DTH Licenses dated July 23, 2014

Flaws and challenges in the principle of Twin Conditions:

We believe that the principle of ‘Twin Conditions’ is fraught with several issues and challenges and therefore, should not be implemented. Briefly stated:

1. **Twin Conditions are not being implemented/applied on input side (i.e. wholesale Tariff)**

   a. Currently, the input costs borne by a DTH Operator is practically unregulated and is entirely left to the discretion of each broadcaster to determine the same unilaterally and offer it to the DTH Operator. All commercial arrangements between broadcasters and DTH operators are one-sided, favoring broadcasters.

   b. Broadcasters offer their channels on the basis of fixed fee and RIO published by them. However, there is no clear criterion on which such wholesale tariff is based and there is no ratio between RIO rates of bouquet versus a-la-carte. Further, there are large number of fixed fee deals between broadcasters and DTH operators where this ratio cannot be derived.

   c. **As illustrated below, while the ratio of bouquet to a-la-carte at broadcasters’ level is 1:7, the ratio being proposed for retail tariff is 1:3.**

No. of Channels	Cost of Bouquet	Cost of one A-La-Carte Channel Offered by the Broadcaster to Airtel (DTH Operator) under this deal	Cost of all A-La-Carte Channels of the Bouquet offered by Broadcaster	Ratio : Bouquet VS A-La-Carte
7	Rs. 30/-	Rs. 30/-	Rs. 210/-	1:7

   d. Therefore, implementing Twin Conditions solely at the retail level will not meet the intended objective of TRAI. It will either force the DTH operator to sell ala-a-carte channel at loss or increase the bouquet prices.

   e. **Therefore, any condition of ratio should *first* be applied on the input side before evaluating the same on output side (retail tariffs). We strongly believe that the fixation of such ratio at the input side will obviate the need for prescribing Twin Conditions on retail side.**

2. **Twin Conditions would not promote consumer interest:**

a. The Twin Conditions has linked the retail pricing of bouquet with the a-la-carte rates of the channel. As per the proposed regulation, the sum of a-la-carte channel rate cannot be greater than 3 times of bouquet rate.

b. Currently, there is no such linkage between the bouquet and a-la-carte rates and as a result, the prices of both segments are market driven without any regulatory intervention.

c. However, to meet the first condition of the proposed regulation, DTH operators will price their a-la-carte rates as twice the RIO rates of Broadcasters. Thereafter, to meet second condition, DTH operators will have to either increase their bouquet prices or reduce the number of channels significantly.

d. **As illustrated below, the implementation of Twin Conditions will either lead to an increase in bouquet price from 20% to 38% or operators would be forced to remove 7 costliest channels or 141 cheapest channels:**

Pack	Channels	Current Price	Twin Rule Price	Increase	%Hike
South Value Sports	196	255	351	96	38%
South Economy	213	335	402	67	20%
South Magnum	328	590	720	130	22%

e. Therefore, the proposal of Twin Conditions will adversely impact end customers since it will require a substantial change / increase in DTH subscription packs and the value being delivered today to DTH subscribers will no longer be available on offer.

3. **Consumers would pay more money for less number of channels:**

a. Currently, DTH operators are offering more value – large number of channels at a very reasonable price - to their customers in bouquet packages. However, in the current regime where there is no linkage of wholesale a-la-carte prices with bouquet prices, customers who choose as few as a dozen channels on a-la-carte basis end up with higher bills than they currently pay for having access to hundreds of channels under the bouquet system. Therefore, the proposed regulation might not bring any true value to the customer.

b. **In the below illustration, we have taken the a-la-carte rates of 5,10, 15 channels on the basis of proposed formula and it shows that customers still get more value in bouquet packages:**

No. of channels	**5**	**10**	**15**
Channels	Zee Q, Sony Kix, Sony Six, Star Sports 2 & Ten Cricket	Zee Q, Sony Kix, Sony Six, Star Sports 1,2,3,4, Ten Action, Zee Khana Khazana & Ten Cricket	Zee Q, Sony Kix, Sony Six, Star Sports 1,2,3,4, Ten Action, Zee Khana Khazana, Sony Pal, Sony, Epic, Sahara One, Sony Max 2 & Ten Cricket
A-la-carte(Twice Rio-Rate)	219.5	359	466
Pack Name	South Value Sports	Economy	Economy
Pack Price	255	340	340
Extra Channels in Pack	137	142	137
Customer Benefit	**Customer Pays Rs. 35 more & gets 137 channels extra**	**Customer Pays Rs. 19 less but still gets 142 channels extra**	**Customer Pays Rs. 126 less but gets 137 channels extra**

4. **<u>DTH operators will pay more to Broadcasters but will receive less money from their customers:</u>**

a. Currently, in almost all interconnection agreements, DTH operators procure channels from broadcasters on fixed fee basis. Broadcasters and DTH operators arrive at the value of channel on the basis of cost per subscriber multiplied by the total number of subscribers.

b. For instance, we have a fixed deal with broadcaster “X” on INR 27 per sub per month for its 33 channels. We will report to the broadcaster the average no of subscribers in our monthly report and pay for that many customers. Therefore, if the subscriber chooses to have only one channel out of that bouquet, we will still have to pay for full bouquet price.

c. Therefore, the Twin Conditions has not taken into account the prevailing market reality where virtually all deals between broadcasters and DTH operators are on fixed fee basis. After such deals, if a DTH operator sells any particular channel on a-la-carte basis, he will incur loss on every a-la-carte customer. **For instance, if we take the price of a-la-carte rate of Broadcaster "X" as twice the RIO rate, we still need to pay much higher amount to Broadcaster as it's a CPS deal of Rs. 27 per customer whereas we will collect only Rs.15.74 for one channel from the customer. Therefore, for each a-la-carte customer, we will incur a loss of Rs.11.26, as illustrated below:**

	RIO Rate (Approx.)	Top up Price (Approx.)	CPS (Approx.)	Bouquet
Broadcaster "X"	7.87	15.74	27	30+

d. Therefore, the most appropriate approach would be to apply the principle of "Twin Conditions" on broadcasters so that DTH operators get a separate value of a particular channel as a part of fixed deal as well as on a-la-carte basis and through appropriate ratio between the two.

5. Wholesale tariff of broadcasters should be reduced for DTH operators:

a. Currently, there is a strong need to review the prevailing wholesale prices at which broadcasters sell TV channels/content to DTH operator. The current wholesale price which was fixed by the TRAI in 2010 for DTH platform is quite high and as a result, DTH operators are being forced to heavily subsidize their services to compete with cable platforms due to differential regulatory costs and other licensing requirements.

b. Over the years, the number of channels broadcasted in India has more than tripled, and the reach of distributors has grown exponentially. Broadcasters today own several channels to carry advertisement for significant durations throughout the day, and DPOs are serving more subscribers than ever.

c. As per FICCI-KPMG 2015 report , the total TV advertising revenue is estimated to have grown at 14 per cent in 2014 to INR 155 billion and going forward, it is expected to grow at a CAGR of 14 per cent over 2014 to 2019, to reach INR 299 billion. Similarly, the subscription revenue for broadcasters is estimated to have grown at 10 per cent to INR 75 billion and going forward, it is expected to grow at a CAGR of 22 per cent from 2014 to 2019 to INR 201 billion. Increase in the declared subscriber base and increase in revenue share of broadcasters in the subscription pie is expected to drive up the share of subscription to total broadcaster revenue from 33 per cent in 2014 to 40 per cent in 2019.

d. Moreover, the Indian media sector is undergoing a structural shift with the implementation of digitisation. While digitisation in Phase 1 and 2 cities is complete (excluding Chennai), due to strong push by government, Phase 3 and 4 digitisation deadlines have been extended from Dec 2014 to Dec 2015 and Dec 2016, respectively. The digitalization has improved the revenue of the broadcasters significantly and therefore, it is critical that the wholesale tariff of broadcasters for DTH service is reviewed at a lower level immediately.

e. **We request TRAI that the customers should be benefited from digitalization in the form of lower wholesale tariffs through progressive regulatory policies so that DTH operators are able to offer affordable packages / tariff for end customer.**

6. **Wholesale tariff to be regulated for HD Channels:**

a. The RIO/Wholesale rates of Standard Definitions Channels are currently regulated, however wholesale pricing for High Definition Channels is under forbearance. TRAI, vide its TTO (Addressable Systems) dated 21st July, 2010, opined that HD channels are niche and premium content that did not warrant price regulation at the time. The relevant extracts of the regulation is as under:

The niche TV channels can only be viewed in an addressable environment and that too with the help of specialized set top boxes. These channels which have been recently introduced employ advanced technology and therefore, can be considered premium in nature. As these channels are viewed by an elite section, the Authority is of the view that there is no general public interest involved and the tariff dispensation for niche channels requiring specialized set top box TV channels should be left to market forces. ***The Authority will review the position at an appropriate time.***

b. The ground realities today paint a different picture. Now would be an appropriate a time to review this issue de novo, taking into account the current large scale proliferation of high definition televisions, as well as a rapidly growing HD subscriber base. According to a joint study conducted by FICCI and KPMG in 2015, the share of HD panel TV sales is approximately 55 percent and it is expected to further increase over the next five years, reaching 80 percent by 2019. Currently, approximately 50 channels are on HD platform and all broadcasters are now creating more TV channels on HD platform and mostly all new channels are now coming on HD platform. As per our estimates, 50% of all new Airtel DTH subscribers opt for HD packages which shows high consumer interest in HD channels. Such large scale of adoption is an indication that HD television content no longer falls within the realm of niche or premium offerings, but is rather a segment that is growing and as such requires the attention of the Authority.

c. This segment still remains unregulated at the wholesale level, and DTH Service Providers find it extremely difficult to negotiate bilateral arrangements with broadcasters, which in turn adversely impacts consumer interests and places many operators at a competitive disadvantage. The absence of a regulated wholesale pricing regime for HD Channels allows broadcasters to exercise a dominant position by employing opportunistic and arbitrary pricing for such content, and prevents larger scale proliferation of high definition content. Lack of regulation or control over wholesale pricing of HD channels may lead to even higher, more disproportionate prices for a significant number of consumers, and is tantamount to a violation of the must-provide conditions applicable to broadcasters.

d. Negotiations with broadcasters for HD channels are largely one-sided, and lead to unreasonably high prices for HD content, with little to no uniformity across the entire portfolio of HD channels available to distributors. We illustrate these gaps in a chart as an annexure to our response. A cursory look reveals stark differences in the ratio of prices of SD channels to their HD counterparts. These price differences range from a minimum of 2.7 times to over 15 times the price of the SD channel. It is in the context of this lack of uniformity in HD pricing that we propose wholesale price regulation of HD channels.

e. **To that end, we propose a formal linkage between the RIO price of an SD channel and its HD equivalent, and submit that the wholesale price of an HD channel should be set at max a multiple of 1.2 times the price of its SD counterpart.**

Annexure I - Chart comparing SD and HD rates

Channel	Company/ Distributor	Genre	SD	HD	SD v/s HD Ratio/Times
Fox Life HD	NGC	Lifestyle	1.98	30	15.2
Ten	TAJ	Sports	8.61	125	14.5
MTV Indies	Indiacast	Music	4.02	50	12.4
Zee Café	Taj	nglish Entertainmen	4.59	50	10.9
Star World	STAR	nglish Entertainmen	2.05	20	9.8
Nat Geo Music	NGC	Music	3.11	30	9.6
CNBC Prime	Indiacast	News	4.88	46	9.4
Star Sports 2	STAR	Sports	15.12	141.8	9.4
Animal Planet	Discovery	Knowledge	2.59	24.15	9.3
Star Sports 1	STAR	Sports	14.89	119.9	8.1
Zee Studio	TAJ	Movies	4.01	30	7.5
Sony Six	MSMD	Sports	18.77	127.65	6.8
Gemini TV	SUN	GEC- Regional	5.91	40	6.8
Sun Music	SUN	Music- regional	4.02	25	6.2
NGC	STAR	Knowledge	2.58	16	6.2
Sun	SUN	GEC- Regional	7.11	40	5.6
Baby TV	NGC	Kids	5.57	30	5.4
EPIC	Indiacast	GEC	10.5	55	5.2
TLC	Discovery	Lifestyle	4.65	24.15	5.2
Colors	Indiacast	GEC	11.46	57.5	5.0
Sony Pix	MSMD	Movies	6.88	33.3	4.8
Color Infinity	Indiacast	nglish Entertainmen	8.32	40	4.8
History TV 18	Indiacast	Knowledge	8.57	40.25	4.7
KTV	SUN	GEC- Regional	8.61	40	4.6
Nat Geo People	NGC	Knowledge	6.72	30	4.5
Nat Geo Wild	NGC	Knowledge	6.72	30	4.5
Sony	MSMD	GEC	11.47	51.06	4.5
&Pictures	Taj	Movies	9.65	40	4.1
Star Gold	STAR	Movies	7.42	30	4.0
Star Movies	STAR	Movies	7.42	30	4.0
Zee Cinema	TAJ	Movies	7.44	30	4.0
Zee TV	TAJ	GEC	7.44	30	4.0
Star Sports 3	STAR	Sports	12.58	50	4.0
Star Plus	STAR	GEC	7.87	30	3.8
Comedy Central	Indiacast	nglish Entertainmen	8.3	30	3.6
AXN	MSMD	nglish Entertainmen	8.32	30	3.6
Star Sports 4	STAR	Sports	14.89	50	3.4
Life OK	STAR	GEC	9.21	30	3.3
Discovery World	DISCOVERY	Knowledge	7.75	24.15	3.1
&TV	Taj	GEC	10.58	30	2.8
Travel XP		Lifestyle	31	85	2.7