Pointers on the Consultation Paper on behalf of B4U

We write to you in response to the consultation paper promulgated by TRAI on 29.01.2016 on Tariff issues related to TV Services

B4U as a group is an international conglomerate, operating channels like B4U Music, B4U Movies, B4U Aflam, B4U Plus and is available in various countries like USA, UK, Asia Pacific, Canada, South Africa, Europe, Middle East, Australia etc.

In India, B4U is a small broadcaster and has been operating since 1999, and currently, has two channels namely B4U Music and B4U Movies. B4U Music is a FTA channel while B4U Movies is a pay channel having negligible subscription. B4U is mainly dependent on its advertisement revenue for sustenance.. Thus, we write to from the perspective of a broadcaster running smaller/niche channels, and the challenges faced by Broadcasters like us.

The biggest challenge faced by broadcasters like us relates to carriage, placement and marketing fee, and/or by whatever name called, relating to carriage and placement of channels.

Thus, we state with some concern and responsibility that TRAI should lay down rules and regulations for carriage of channels on the distribution platform, in the same manner as subscription rules operate. An attempt has already been made by TRAI, while implementing the first phase of digital addressable systems, vide the 'The Telecommunication (Broadcasting And Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 and The Telecommunication (Broadcasting And Cable) Services (Fourth) (Addressable Systems) Tariff (First Amendment) Order, 2012, both dated 30.4.2012, whereby the concept of "Must Carry" crept in for the first time. Thus, for the first time in the history of cable industry, TRAI laid down the mandate for the distribution platform operators to carry channels on the declared rates of the DPOs. This system failed as the mandate was not based on parity, non-discrimination and actual cost incurred by the DPOs for carrying the channels. Also, the Must Carry resulted in non-payment of carriage fees for the channels demanded, while the new entrant channels primarily of the small broadcasters, who do not have demand, would result in having higher carriage spend. If carriage and placement fee is mandatorily based on parity, non-discrimination and is cost specific, the industry will function and regulate the carriage fee in a different manner. We have made a working demonstrating, based on approximation, of the infrastructure cost of the DPO's and how the same can be defrayed within a period of 3 years thus creating a win win situation for both the broadcaster and the DPO, and also benefitting the consumers who shall be able to receive better quality content with fewer advertisements.

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We have made an attempt by way of a table annexed at Annexure "A' in this response to work out the cost for a DPO to carry the channels, and if this cost is applied, then TRAI may consider regulating carriage completely, in the same manner as the rates of the channels are being regulated.

The biggest draw backs for broadcasters like us are the following facts:

1. The quantum of carriage fees charged in India is an entry barrier for new channels to enter the market, primarily of a small broadcaster, whether it is a general broadcaster or a niche channel broadcaster, thereby causing the newer channels to withdraw from the market.

2. The carriage fees is also a big concern for the existing channels of small broadcasters as the high carriage cost makes it difficult for them to sustain in the market.

3. In fact, many new channels from countries abroad came to India in the last few years but had to shut shop due to exorbitant and prohibitive carriage, placement and marketing fee scenario in India. Two examples are RTL of Germany, and CBS who operated for a few years but were unable to survive in the market. The channels of these broadcasters were either free to air channels, and/or channels having negligible subscription fee.

4. B4U, itself as a broadcaster spends 60% of its revenues on carriage, placement and marketing fee, and despite that, B4U has been unable to cover the entire market of India, i.e. today it has been able to cover only 75% market for its B4U Music channel and 66% for its B4U Movies channel. This itself shows that the fees being charged by the DPOs is prohibitive.

5. This prohibitive carriage fee, by whatever name called results in higher advertisement costs, higher free commercial time, and most importantly, reduced quality of content thus causing the consumer to suffer in the bargain. In the event there is a reduction and regulated carriage fee scenario, the consumer would be the most benefitted as the broadcaster would be able to invest in better content with reduced commercial time due to the reduction in its spend on carriage.

6. That the channels of a large broadcaster are carried by all distribution platform operators at a cost, which is one-fourth the carriage fee paid by us. The reason is that while the existing and new channels of a large broadcaster are bundled with other popular channels of large broadcasters, the small broadcasters have nothing to piggy back on. Contrary to this, it could be argued that the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television System) (Third Amendment) Regulation, 2014 dated 10.2.2014 and related Regulations regarding amendments in the Interconnect Regulations, dis-allowing the aggregator to aggregate channels of different and distinct broadcasters with other broadcasters has remedied this situation, but unfortunately, this has not taken place. The bundling for carriage fee is still to be seen, and rampantly taking place. Hence, an existing and new channel of a large broadcaster goes at a much lower carriage fee, in comparison. Also as stated above, vide the Must Carry provisions, the channel demanded by the DPO shall not be required to pay carriage fee. A DPO would demand a channel only which it is popular and highly in demand. The new entrants/small/niche broadcasters' channels would not have much demand nor is there any compulsion on the DPO to provide any channel which is demanded by few consumers. In such a scenario, the new entrants/small/niche broadcasters' channels would have to pay the carriage fees as published in the RIO by the DPO which is exorbitantly high and unreasonable while the

popular channels in demand would have to pay no carriage fees. Also when the broadcasters of the popular channels bundle their other channels with such popular channel they command a higher bargaining power. This only increases the disparity and discrimination. Hence, TRAI should regulate carriage fees in a manner where the Must Carry happens with non-discrimination and parity.

7. Further, a general comparison on the GRPs and TRPs of channels competing within the same genre owned and operated by large broadcasters vis-à-vis those operated by small broadcasters and the carriage spend of small broadcasters vis-à-vis large broadcasters, would show the high disparity and discrimination in carriage fees, as large broadcasters bundling more channels pay a lower cost for carriage per channel compared to a small broadcaster.

8. As per the rating agency BARC India, Zing or an Etc channel of Zee garners lower GRP's than a B4U Music channel (all falling in Music genre). Zee classic and B4U Movies are almost in the same GRP range while a Zee Action garners lower GRP than B4U Movies.

   But it is a known fact that, Zee Group pays the carriage, placement and marketing cost of Rs. 233 crores (based on its annual report) for its 33 channels, leading to a cost per channel of Rs. 7.06 crores, while we pay a carriage, placement and marketing cost of Rs. 41.68 crores for 2 channels, leading to a carriage cost of Rs. 20.84 crores per channel.

9. Hence, it is important for TRAI to regulate the carriage, placement and marketing cost for channels in a more efficient, and meaningful manner, thereby leading to growth of the sector rather than depressing the same. Thus, it is necessary to bring in the concept of carriage and placement fee on the basis of parity and non-discrimination. We feel that TRAI should call for the carriage, placement and marketing agreements of various broadcasters and study the carriage cost per channel.

10. The price range declared by the distribution platform operators for compliance with the must carry clause contained in the Regulations applicable to DACS dated 30.4.2012 is about Rs. 1-1.10 per subscriber per month, which cost has no justification, and bereft of market conditions. None of the DPOs have ever signed a deal for carriage and/or placement and/or marketing fee on Re 1-1.10 per subscriber per month, and in fact, the deals signed are much lower than what is declared to TRAI. TRAI should look into this aspect with greater detail and should not allow this to happen. This, in fact, is resulting in the smaller broadcasters sharing the infrastructure cost of the DPO in the higher proportions.

11. The figures even if taken on a higher side cannot be more than 0.87 per subscriber annually in the first year, according to the working done by us, with our limited market information. As per this working the cost per subscriber annually should be in the range of 0.84 paise to 1.02 paise per subscriber annually. This working takes into account reasonable profits, return on capital etc. Detailed working is attached herewith as **Annexure A**.

12. In fact, the detailed calculation done by us shows that the DPOs will be able to recover their entire capex, and other investments within a period of 3 years, with a substantial profit margin year on year for a period of 3 years. And after a period of 3 years, having recovered their capex and other

investments with a year on year profit, there would not be any need for DPOs to receive any further, carriage cost from the broadcasters. Once having recovered their investment cost, DPOs can easily and smoothly move to distribution network tariff model. The chart annexed at Annexure A to this response will show as to how the investment cost can be recovered at a carriage cost of 0.87per subscriber annually, 0.78for the second year annually, and 0.69 per subscriber annually, thereby leading to a healthy survival of all.

13. Thus, it is necessary to bring in the concept of carriage and placement fee on the basis of parity and non-discrimination.

14. Since we have fully achieved digitization in Phase I and Phase II notified cities, and the phase III cities will also achieve digitization by end of March, 2016, and rest of India by December, 2016, it is important that concept of carriage/placement be properly studied and clarified by TRAI and be regulated.

15. Non-regulation of carriage, placement and/or marketing fee is leading to monopolization of content, adversely affecting the industry. It is increasing the cost of small broadcasters to such an extent that they are totally dependent on the advertisement revenues thus increasing the free commercial time and reducing the quality of content for the consumers. If broadcasters like us are provided a comfortable and reasonable scenario of carriage fee, then the content that we provide will improve with time and also lead to a reduction in the free commercial time, otherwise, it is possible that the smaller broadcasters like us will get wiped out or be bought over by the large ones.

Tariff Model

RIO based model

For small broadcasters like B4U, Flexible RIO model will work the best. Such broadcasters should be given the liberty to decide the price of their channels which can be notified in their RIO and in addition their a-la-carte and bouquet rates can be declared. Such broadcasters may be given the freedom in pricing and revise the prices of their channels, and also the freedom to enter into mutual negotiations. This will give encouragement to the Niche channels which will increase their content variety as well. Since such broadcasters are aware of the actual rates at which their channels would sell, they will not rate their channels adversely.

Regulated RIO model

In the alternative to the Flexible RIO model, Regulated RIO model could be looked into by TRAI. The RIO declared by the broadcasters should be regulated by capping the prices of their channels. However, the broadcasters should be given the liberty to revise their prices every yearly as per the Consumer Price Index

(CPI). In the event of a change in the content strategy, the broadcasters should be allowed to re-price even after the yearly modification.

In TRAI's opinion, this model will take care of the issues such as non-discrimination, transparency, and transparent declaration of number of subscribers of each channel/bouquet, manner of providing TV channel signals to DPOs etc. We feel that this model could work well as the industry is mature to handle this formulation, and partly acquainted with the manner of its working. Further, there should be a ceiling on Retail prices – say 2x/2.5x of wholesale prices.

In addition, the distributors must be mandated to provide 200 FTA channels in the basic tier pack (BST).

And as suggested above, after the period of 3 years, the industry should move to the Distribution Network Model, where the Broadcaster gets the price of the Channel and the DPO gets the handling charges.

Price Cap

We are in agreement with genre wise pricing, maximum and minimum with regular revisions from time to time.

Review of Tariff

- Yearly adjustment in prices based on Consumer Price Index (CPI)
- The recommendation for 'flexible RIO model' is being made to facilitate the digitalization process as the same is least disruptive and also likely to be acceptable to other stakeholders. However, once the digitalization of entire country is complete in December 2016, a comprehensive review of the tariff regime must be carried out.
- Informal discussions to be held with digital MSOs/DTH operators regarding the acceptability of proposed tariff regime as outlined above.

Pre-paid model

In order to address the issue of timely payments by the stakeholders at the various levels, TRAI should explore the possibility of issuing Regulation for adoption of pre-paid model from consumers to MSOs as is prevalent in the DTH Sector.

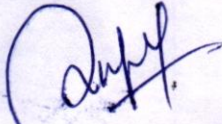
Audit

The audit primarily is a mechanism to ensure the compliance of contractual stipulations including authentication of periodic reports by the digital MSOs/DTH service providers so as to safeguard the subscription revenue of the broadcasters. We feel that audit done by one broadcaster should be followed by all the other broadcasters except in cases where the broadcaster and the DPO is vertically integrated, directly and/or indirectly.

We have raised issued which directly impact small broadcasters like ours, and have not answered issues which do not relate to us. We earnestly hope that TRAI would consider these issues, and reasonably answer the same positively.

In case of any clarification, we would be happy to present our view orally.

For B4U Television Network India Ltd.



Sandeep Gupta
Director

Particulars	Index	Values	Annexure "A" Calculation Formulae	Ist Year	2nd Year	3rd Year	4rd Year	Remarks
Number of TV Viewing House Holds in India	A			153,511,000	153,511,000	153,511,000	153,511,000	Source BARC India (TV owning Households)
Number of TV Viewing House Holds in **HSM** India	B			95,801,000	95,801,000	95,801,000	95,801,000	Source BARC India
Number of approved MSO's in India	C			757	757	757	757	522 provisional plus 235 permanent as per MIB's site as on 26/02/2016
Approximate Investment of MSO's in Headends	D			7,500,000				Investment per MSO is taken up on the higer side to ensure the entire cost is covered.
Total Investment for Headends	E		C * D	5,677,500,000				
Avg cost of Boxes / STB's	F			1,200				
Avg cost of deployment per box	G			100				
Total investments in STB's	H		(F+G)*A	199,564,300,000				
Avg Recovery per Box from Customers	I			800				
Total Recovery from Box	J		A * I	122,808,800,000				
Loss on recovery of Boxes :	K		H - J	(76,755,500,000)				
Interest cost on the Investment @ 15%	L		(E+K)*15%	12,364,950,000	8,243,300,000	4,121,650,000	(0)	Interest Cost is reduced in year 2 & 3 by the recovery from carriage presuming they will payout the debts in the subsequent year to the extent of amortisation
Annual recovery needed if the Investment & Loss is to be amortised in 3 years	M		(E+K)/3	27,477,666,667	27,477,666,667	27,477,666,667	-	
Average number of Channels with each MSO's								Average No. of channels presumed to be provided by DPO
- PAY	N	120						
- FTA	O	150						
- HD PAY	P	30	(N+O+P)	300	300	300	300	
Average collection per STB on a yearly basis	Q	120	(Q*12)	1,440	1,440	1,440	1,440	
Total Annual Collection for MSO	R	60%	(A*Q)*60%	132,633,504,000	132,633,504,000	132,633,504,000	132,633,504,000	
Less: Interest Cost	S		L	12,364,950,000	8,243,300,000	4,121,650,000	(0.00)	
Amortisation of Capex	T		M	27,477,666,667	27,477,666,667	27,477,666,667	-	
Subscription paid to Pay Channels	U	75%	R*75%	99,475,128,000	99,475,128,000	99,475,128,000	99,475,128,000	
Operating Loss of MSO if they bear the total burden of investment	V		R-(S+T+U)	(6,684,240,667)	(2,562,590,667)	1,559,059,333	33,158,376,000	
Recovery from Broadcasters as carriage	***W***		***A*P*'DD'***	***46,750,611,667***	***42,628,961,667***	***38,507,311,667***	-	
Final Profit available to meet the operation cost	X		V + W	40,066,371,000	40,066,371,000	40,066,371,000	33,158,376,000	
% Profit	Y		**X/(R-U+W)**	**50%**	**53%**	**56%**	**100%**	
% of Carriage revenue of Net Total Revenue	Z		**W/(R-U+W)**	**59%**	**56%**	**54%**	**0%**	
% of Net Sub Revenue Of Net Total Revenue	AA		**(R - U)/(R-U+W)**	**41%**	**44%**	**46%**	**100%**	
Recovery towards carriage per Households	BB		(S+T)/A	259.54	232.69	205.84	(0.00)	
Recovery per channel	CC		'BB'/P	0.87	0.78	0.69	(0.00)	
Recomanded Recovery per channel after adding additional margin of 15 paise	***DD***		***'CC'+0.15p***	***1.02***	***0.93***	***0.84***	-	

Note: The industry size of carriage currently is expected to be about 2000 Cr. per year