



COMMENTS BY
DEN NETWORKS LIMITED
ON THE CONSULTATION ON
THE DRAFT
TELECOMMUNICATION
(BROADCASTING
AND CABLE SERVICES)
(EIGHTH) (ADDRESSABLE
SYSTEMS) TARIFF
ORDER, 2016



PREAMBLE

At the outset, we at **DEN NETWORKS LIMITED** (DEN) wish to express our sincere gratitude to the Telecom Regulatory Authority of India (the Authority) for its support, cooperation in the establishment and growth of Broadcasting & Cable TV industry in India and also resolving various issues, which have arisen from time to time.

In continuation with its vision for growth, streamlining and revamping the said industry, the Authority has come up with the Draft Telecommunication (Broadcasting and Cable Services) Interconnection (Addressable Systems) Regulations, 2016 keeping in mind the interest of all the stakeholders. We congratulate the Authority and its officials on all the hard work put behind the in-depth study and research and for having come up with the said Draft Regulations.

We specially thank the Authority for providing us an opportunity to submit our response on the same.

COMMENTS ON THE DRAFT TARRIF ORDER, 2016

- **Clause 2(zh) states that ““subscriber” means a person who receives television broadcasting services, provided by a service provider, at a place indicated by such person without further transmitting it to any other person and each set top box located at such place, for receiving the subscribed television broadcasting services from the service provider, shall constitute one subscriber;**

DENs Response: We would request the Authority that the definition of Subscriber as defined above should be qualified for the purpose of this regulation only as the DPOs may face various hurdles during the assessment of Taxes such as Entertainment Tax etc. Further, one household with more than one STBs would be subjected to additional Tax which may end in additional burden to consumer. Thus, we would appeal

the Authority to add “for the purpose of this Regulation/Tariff Order” in the definition.

Proposed definition: “subscriber” for the purpose of this Tariff Order means a person who receives television broadcasting services, provided by a service provider, at a place indicated by such person without further transmitting it to any other person and each set top box located at such place, for receiving the subscribed television broadcasting services from the service provider, shall constitute one subscriber;

- **Regulation 6 sub regulation 1 states that “No distributor of television channels shall charge a rental amount exceeding rupees one hundred and thirty, excluding taxes, per month per set top box from a subscriber for providing a capacity so as to enable the subscriber to receive the signals of up to one hundred SD channels:**

Provided that one HD channel shall be treated equal to two SD channels for the purpose of calculating capacity of one hundred channels offered to the subscriber.”

DENs Response: It is submitted that it should be mandated that each distributor of television channels shall charge a fixed amount of Rs. 130/- excluding taxes per month per set-top box from a subscriber, rather than a maximum ceiling being prescribed. Once the rental amount is fixed there would be no scope for unfair trade practices, predatory pricing and/ or any restrictive trade practice. It would also ensure that all subscribers are assured parity in rental amounts and each subscriber irrespective of areas would be assured of services at a constant price without fear of change. It would also reduce the changes of distributors of TV channels trying to enter into anti-competitive agreements, so as to subvert the regulations.

Once the rental charge of Rs. 130/- excluding taxes per month per set-top box from a subscriber is fixed, there is no need for a price increase clause and hence, sub-regulation (11) has been deleted.

Alternatively, if the above submission is not accepted, in such a case the Authority shall cap the maximum ceiling of Rs.130/- per month on the

lower side. In our view, absence of any lower limit may lead to a situation where the DPOs may adopt unfair trade practises like predatory pricing in order to take control of the market resulting in extinction of smaller players. In our view the lower limit shall also be capped at the rate of 85% of the maximum ceiling.

Secondly, in digital cable with MPEG -2 Video compression one Standard Definition (SD) channel is being transmitted at bit rate of about 1.5 to 2.0 Mbps, while in High Definition (HD) one channel is being transmitted about 4.5 to 6.0 Mbps. Hence one HD channel should be equal to three SD channels. Therefore, the Regulation should be amended accordingly to reflect the bandwidth utilization of a HD Channel.

- **Regulation 6 sub regulation 6 states that “*Within the capacity of one hundred SD channels, as referred to in sub-clause (1), in addition to channels notified by the Central Government to be mandatorily provided to subscribers, a subscriber shall be free to choose any free to air channel(s), pay channel(s), premium channel(s) or bouquet(s) of channels offered by the broadcasters or bouquet(s) of channels offered by the distributor of television channels:***

Provided that if a subscriber opts for pay channels or premium channels or bouquet of pay channels, he shall be liable to pay retail price for such channels or bouquets separately”

DENs response: We would like to submit that the freedom to the subscriber to choose any free to air, pay or premium channel may lead to a chaotic situation as the DPOs would have to form large number of bouquets and the system may not permit the same. We would urge the Authority to kindly consider the tried and tested model which was followed in CAS. The DPOs should be allowed to form Basic Service Tier (BST) and same shall be mandatorily subscribed by the subscribers as it is.

In alternate, we would like to submit that the freedom to the subscriber to choose should be limited to FTA only and should not include any premium or pay channels within that 100 channels. Further, it is technically not possible to provide 8 million different and individualized packages to the subscribers.



➤ **Regulation 7 states that**

“(1) Every broadcaster shall furnish the following information to the Authority, namely: -

(a) names, genre, language and relevant geographical area of all free to air channels offered by the broadcaster;

(b) name, maximum retail price, genre, language and relevant geographical area of each pay channel offered by the broadcaster;

(c) list of all bouquets of pay channels offered by the broadcaster with maximum retail prices of each bouquet, indicating the names of all the pay channels contained therein;

(d) name, maximum retail price, language and relevant geographical area of each premium channel offered by the broadcaster;

(e) whether the pay channels are pay channels in whole of the country or only in part of the country. (relevant geographical market(s) must be specified if a channel is a pay channel in part of the country);

(f) advertisement revenue for the last financial year;

(g) any other information relevant to free to air channels, pay channels, premium channels, maximum retail prices and bouquets offered by a broadcaster as called for by the Authority from time to time:

Provided that the first such report, containing maximum retail prices effective from April 1, 2017, shall be submitted to the Authority by March 1, 2017 and, thereafter, any changes in such rates ---

(a) shall be reported to the Authority thirty days prior to the change; and

(b) shall also be published on the website of the broadcaster.

Provided further that every broadcaster shall provide to the Authority the advertisement revenue for each financial year within ninety days of the end of that financial year,

(2) Every broadcaster who, after the commencement of the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2016 (of 2016),-----

(a) introduces any new pay channel or free to air channel or premium channel; or

(b) converts any pay channel or premium channel into free to air channel; or

(c) converts any free to air channel into pay channel or premium channels; or

(d) converts any premium channel into free to air channel or pay channel; or

(e) discontinues any free to air channel or pay channel or premium channel; or

(f) introduces any new bouquet or discontinues any bouquet or changes rate of existing bouquet; or

(g) changes genre, language, name etc. of any existing channel, shall, ninety days prior to such introduction or conversion or discontinuation or change, furnish to the Authority, the following information, namely:-

(i) name of the channel to be introduced, converted or discontinued,

(ii) the date on which the new channel is to be introduced, converted or discontinued;

(iii) the maximum retail price of the pay channel if it is a newly introduced or converted pay channel;

(iv) the maximum retail price of the premium channel if it is a newly introduced or converted premium channel

(v) composition of new bouquet or bouquets to be introduced along with maximum retail price for each such new bouquet;



(vi) in the case of a new channel, the genre and language of the new channel;

(vii) changed maximum retail price of the existing bouquet;

(viii) changed maximum retail price, genre, language, name etc. of the existing channel.

(3) Every broadcaster shall display on its website the information furnished under sub-clauses (1) and (2), except the information specified under sub clause (f) of clause (1), simultaneously with its submission to the Authority.

(4) Every distributor of television channels shall furnish the following information to the Authority, namely:-

(a) monthly rental amount charged from subscribers

(b) list of all pay, free to air and premium channels available to subscribers on its network

(c) list of all the bouquets of pay channels and bouquets of free to air channels available to subscribers on its network

(d) retail price for pay channels, premium channels and bouquets of pay channels available to subscribers on its network

(e) all terms and conditions, associated with the supply of set top boxes to the subscribers

(f) all the platform services and their rates

Provided that the first such report, containing monthly subscription charges and retail prices effective from April 1, 2017, shall be submitted to the Authority by March, 2017 and, thereafter, any changes in such rates ---

(a) shall be reported to the Authority ninety days prior to the change; and

(b) shall also be published on the website of the distributor of television channels:

Provided further that every such distributor of television channels who commences its services after coming into force of

this Tariff Order shall submit to the Authority such reports before commencement of its services and thereafter any changes in the rates shall be reported thirty days prior to the change.

(5) Every distributor of television channels who, after the commencement of the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2016 (of 2016),-----

(a) introduces any new pay channel or free to air channel or premium channel on its network; or

(b) discontinues any free to air channel or pay channel or premium channel from its network; or

(c) introduces any new bouquet or discontinues any bouquet or changes rate of existing bouquet; shall, ninety days prior to such introduction or conversion or discontinuation or change, furnish to the Authority, the following information, namely:-

(i) name of the channel to be introduced or discontinued,

(ii) the date on which the new channel is to be introduced or discontinued;

(iii) retail price of the pay channel or premium channel if it is a newly introduced;

(iv) composition of new bouquet or bouquets to be introduced along with retail price for each such new bouquet;

(v) changed retail price of the existing bouquet;

(6) Every distributor of television channels shall display on its website the information furnished under sub-clauses (4) and (5), simultaneously with its submission to the Authority.

DENs response: In the first proviso to sub-regulation (1) the time period to declare the maximum retail price by the Broadcaster shall be changed to January, 2017 instead of March, 2017 as only once the Broadcaster has declared the maximum retail price, the distributor of TV channels can formulate the packages and publish the same and start its consumer

awareness programs. Since, the Regulation is to come into effect from April, 2017 a minimum period of 2 months' prior thereto is required for creating and publicizing our packages and also for spreading consumer awareness regarding the changes. Furthermore, the distributor of TV channels also requires some time to formulate packages and thereafter circulate the publicity material etc. In the case of MSOs, they also need to hold meetings with LCOs and educate them regarding the changes in the packaging etc., who in turn would have to educate the end consumer/ subscriber.

In sub-clause (a) of the first proviso to sub-regulation (4) the time period to report the changes to the Authority shall be reduced from 90 days to 30 days. The same shall be done as the Broadcaster has been given a period of 90 days to give information regarding the introduction or conversion or discontinuation or change of a channel. Once the Distributor of TV channels has received such information from the Broadcaster, it would have to change its offerings i.e. bouquets etc. Therefore, in order to provide some more time to the distributor of TV channels to modify its offerings the time period shall be reduced.

In sub-regulation (5) the time period of 90 days given to a distributor of TV channels in the event of introduction or conversion or discontinuation or change of a channel/ bouquet shall be reduced to 30 days. There is a two-fold reason for the same. Firstly, the Broadcaster has been given a period of 90 days to give information regarding the introduction or conversion or discontinuation or change of a channel. Only once, the Broadcaster gives such information to the distributor of TV channels, and then only the distributor of TV channels can take a decision with regard to the same. Secondly, in the event of discontinuation of a channel due to non-payment of carriage fees etc., the proposed and extant Interconnect Regulations provide for a notice of 21 days. A period of 90 days in such situations is excessively long. Therefore, the reduced time frame of 30 days is required.

- ***Regulation 8 sub regulation 1 states that "Every service provider shall, within thirty days from the date of commencement of this order, appoint a compliance officer:***

Provided that nothing contained in this sub-clause shall apply to a distributor of television channels having average subscribers base, over the immediately preceding calendar quarter, less than two lakh or such other number of subscribers which may be prescribed by the Authority through direction from time to time:

Provided further that this sub-clause shall also not apply to a free to air broadcaster and a local cable operator.”

DENs response: In our view, the time period of 30 days shall be increased to 60 days, as in most cases new hiring would have to be done by the service providers in terms of the Regulations. Any new hiring in an organization would be difficult to manage within a period of 30 days.

- ***Regulation 8 sub regulation 4 states that “In the event of any change in the name of the compliance officer so appointed under subclause (1), the same shall be reported to the Authority by the service provider within ten days from the date of occurrence of such change along with authenticated copy of board’s resolution or authorization letter, as the case may be.”***

DENs response: In our view, the time period of 10 days shall be increased to 30 days. The same is on account of the fact that in the event of any change in the compliance officer, 10 days is not sufficient to recruit a replacement. Furthermore, at times employees can resign at very short notice period and therefore, sufficient time is required to appoint a replacement.

To conclude our submissions, we once again express our deepest gratitude to the Authority for taking up an exhaustive exercise and coming up with the said draft regulations and we request the Authority to consider our comments/suggestions made above.

In case of any queries or clarification required by the Authority, we further request the Authority to contact Mr. Ashish Yadav –Deputy General Manager – Legal @ ashish.yadav@denonline.in or Ms. Ritika Arora- Officer-Legal @ ritika.arora@denonline.in DEN Networks Limited.