



3rd July, 2013

Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg
(Old Minto Road), Near D. Zakir Husain College
New Delhi 110 002

Kind Attn: Mr. Wasi Ahmed

Re: **THE TELECOMMUNICATION (BROADCASTING AND CABLE)
SERVICES (FOURTH) (ADDRESSABLE SYSTEMS) TARIFF (SECOND
AMENDMENT) ORDER**

Dear Sir,

Attached please find the representation on behalf of DTH Association on the captioned subject.

Thanking you,

Yours sincerely,
For DTH Operators Association of India

A handwritten signature in black ink, appearing to read 'Harit Nagpal', is written over a horizontal line.

Harit Nagpal
President

DTH Association

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**THE TELECOMMUNICATION (BROADCASTING AND
CABLE) SERVICES (FOURTH) (ADDRESSABLE
SYSTEMS) TARIFF (SECOND AMENDMENT) ORDER.**

**Response by the DTH Association to the Draft Amendment in the Regulations
Prescribing the rates at which the Ala Carte Channels shall be made available in
the Digital Addressable Cable TV Systems (DAS) including in the Direct to Home
(DTH) services**



Response to the proposed Clause 6 (b) (1) – Fixation of ala carte rates of Standard Definition Channels

1. DTH industry has invested between INR 22,000-23,000 crores over the past six-seven years. Major costs for a DTH operator include satellite bandwidth, Head-end, technology platform, national sales & distribution network, installation, servicing logistics, broadcasters/content fees, customer care, license fees, applicable customs duty and high taxes. DTH is burdened by stringent tax regime to the tune of over 33% which includes licence fee, service tax and entertainment tax. Moreover, there is a huge capital deployed by the DTH operators at the start of the business and non-recovery of above stated costs will make the survival of the DTH business difficult/unviable. We believe that the proposed tariff order prescribing 'Twin Conditions' for a-la-carte rate pricing of the channels will not only adversely impact the customer value proposition but will also threaten to put additional financial liabilities upon DTH operators while impeding their growth. The reasons thereof are explained below:
2. The Association, most respectfully, submits that the Draft Tariff Order issued by TRAI on 4th June 2013 does not seem to meet the consumer interest. The Tariff Order, if put in place by TRAI, shall force the operators to increase the price of the bouquets being offered to the consumers thereby making the said Tariff Order anti-consumer. DTH subscribers are provided bouquets with multiple of channels at average low price of Rs 220 per month. This is a result of innovative packages designed to match the needs and value for money proposition of customers. However, the implementation of the proposed order with the Twin conditions will deny customers such dynamic tariff schemes.



3. In this regard, it is important to note that the Draft Tariff Order aims at prescribing the concept of “ascribed value” of a channel. To arrive at the ascribed value of the channel, the manner of calculation so prescribed does not consider the input price / RIO price of the channel. The said value is to be arrived at by considering the rate of the channels in the bouquet being offered by the DTH operator, the number of FTA Channels in the pack and the rate at which the pack is made available by the DTH operator to the subscribers.

If the DTH operators are made to arrive at the ascribed value of a particular channel and offer the same to the subscribers, the ala carte rate of such channel shall be different on each of the DTH platform since the ascribed value of the channel is dependent on the number of FTA Channels in the pack and the rate of the pack offered by the DTH operator. Thus, for a channel within the operator there will be multiple ascribed values and within the DTH segment operator to operator the ascribed value of each channel will vary. Such a regulation provoking differential rates for the same channels across bouquets and operators would create an anomaly in the market.

4. Additionally, application of these conditions shall result in a-la-carte pricing of channel to fall significantly below the wholesale rate of the broadcaster for various channels. With reduced prices many channels will become unviable for the operators to offer.
5. The proposed Tariff Order would therefore necessarily force DTH operators to change their offerings / bouquets in the market thereby impacting the consumers directly. Each of the bouquets may have to be recalibrated with different channels, based on the price of the channels rather than on the genre of the channels, which are more affordable while the higher value channels may no longer be available to many consumers which are a part of their current bouquets. It may also lead to an increase the price of a bouquet so as to be able to provide the channel on such ala



carte rate on commercially feasible rates for the DTH operator. The loss of value for the consumers will be absolute. Thus, the concept of ascribed value is neither practical nor viable and should not be taken into consideration while arriving at retail rate on a-la-carte basis.

Moreover, the concept of the Ascribed value along with condition-1 (2* DTH RIO rate) does not provide enough head room to the DTH operators to place pay channels in a bouquet. As per our estimate, in more than 50% of the cases condition-2 will override the condition-1 thereby making the Condition-1 redundant. Thus, the implementation of Ascribed value will take away the flexibility/innovation of pricing the channels from the DTH operators.

6. Addition of any new channel/s in existing bouquet/s will change ascribed value of all channels offered in such bouquet/s and a la carte price of all channels offered by DTH operator will have to be revised. If such channel is added without charging extra to consumer yet the ascribe value of all channels in such bouquet will change. Thus DTH operator will loose flexibility of adding new channel in existing bouquets and consumer will be deprived of getting new channel, in subscribed bouquet.
7. Further, if the TWIN conditions be applied dynamically and a DTH service provider carries out changes or need to recalibrate both in prices and compilation of bouquet, but the DTH QoS Regulation prohibits the operators to make the changes in the composition of package during first six months 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. From this view point also the proposed tariff regulation is unsustainable and impractical.
8. Additionally, since the prices of a pay channels are fixed by broadcasters and any change in price of a channel will require DTH Operator to recalibrate all subscription



packs/bouquets. Hence, this exercise will have to be repeated with the frequency of change in broadcasters' wholesale RIO rates. The interconnection regulation allows a broadcaster to change their tariffs with a prior notice of 21 days. We therefore request that **Retail price protection should be reduced to 21 days to match the wholesale price protection regulation.**

9. The Hon'ble Authority has proposed to offer bouquet comprising HD Channels to subscribers having specialized STB's and further proposed to offer the same bouquet excluding HD/3D channels to the other subscribers, by deducting the ascribed value of the HD Channels in such bouquet. We would like to bring the following important issues faced by Retailers/DTH Operators/Digital Service Providers:

- The rate of HD Channels and bouquets offered by the Broadcasters are uncapped/unregulated in-turn allowing Broadcaster to price the HD channels/HD bouquet at unreasonably high price in comparison to the same channels offered in SD.
- In case HD channel is offered a-la-carte or ascribed value of such HD Channel is calculated in particular bouquet then in all the cases a-la-carte value will be much lesser than the RIO price thereby causing substantial loss to the Service Provider.
- It is important to regulate the Price of HD channels offered by Broadcasters by creating a link between RIO price of SD channel and HD channel price offered by the Broadcaster and put a cap on a-la-carte price in multiples of the RIO price of such HD Channel.
- The absence of regulations governing the wholesale tariffs for HD channels make negotiations between the access operators and Broadcasters



impossible and lead to opportunistic and arbitrary pricing, by abuse of the dominant position by the Broadcasters.

- Such unregulated wholesale tariff in a monopolistic market also gives undue advantage to the broadcasters to force the DTH platforms to enter into a fixed fee deal with them.
- Accordingly, it is suggested that before the authority prescribes an amendment on the offering of the HD channels on the proposed lines, the forbearance on the HD pricing by the Broadcasters at wholesale level needs to be removed and HD channels should also be brought within the purview of tariff regulations.
- It may be noted that the HD market has also expanded and the end price to the customer can only be protected when HD pricing at wholesale level is also brought under tariff regulations. Currently, under the forbearance regime, the HD ala carte rates published by the Broadcasters are exorbitant which make the provision of channel on ala carte basis totally non-commercially feasible, both for the DTH operator as well as the consumer. For example, the Ala carte price of a HD channel of the ESPN is INR 140 per sub per month and taking the formula of the rate at which the ala carte channel not more than twice the ala carte rate of the broadcaster, a subscriber will have to shell out around Rs. 300 for a single channel. Such a situation defeats the entire process and purpose of provision of channels on ala carte basis to the subscribers. It is the need of the hour that the forbearance on the rate of the HD Channels is removed.
- In view of the above, it is suggested that authority should come out with the tariff regime for the HD channels also at wholesale level. Upon the Tariff Regulations becoming applicable to the HD Channels, the regulation



regarding making the same available to the DTH subscriber at a rate not exceeding twice the ala carte rate can be made applicable.

Our Suggestion/request:

1. Retail tariff should be continued to be forborne as before.

2. **Regulate and control wholesale rate which will automatically control retail rate**

Once RIO rate of SD/ HD channel is controlled a la carte pricing will be automatically capped and consumer interest will be protected.

3. **RIO SD price, RIO HD price and a la carte price be linked**

If the linkage between RIO SD rates, RIO HD rates and a la carte rate is created and maximum limit is capped then it shall achieve the envisaged purpose and consumer at large will be at benefit and will fulfill the very objective of the Hon'ble Authority.

4. **The second condition (b) in proviso of sub clause (1) be dropped and dispensed with.**

It is requested that considering the above mentioned difficulties, disadvantages and resultant business loss on proposed implementation of second condition (b) in proviso of sub clause (1) of clause 6 of Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010 (1 of 2010).

5. **A-la-carte Rate should be three (3) times of RIO Rate:**



It is suggested that the a-la-carte rate be **three times** of RIO rates and other condition be dispensed with being impractical.

- First portion of the price will be apportioned towards cost incurred by DTH operators towards the RIO price payable to the Broadcasters.
- Second portion would be appreciated towards huge operational costs incurred by DTH Operators.
- Balance portion (if any) would be apportioned towards the revenue for the DTH Operators.

This will ensure that

- Consumer will get ala-carte rates of the channels transparently across the platforms and can then take an informed decision what to subscribe to and what not to.
 - The channels also will be clear how the billing for these a-la-carte customers will happen.
 - There is uniformity of the pricing of the channels
 - The buying and selling rates in this arrangements will not be disturbed for the a-la-carte channels.
6. In view of the above submissions, we would request if the condition regarding fixation of the price on the basis of derived ascribed value of the Channel be removed from the Tariff Order and the a la carte rate at which the channels are to be made available by the DTH operator may be fixed at – *“the a-la-carte rate of a pay*



channel forming part of a bouquet shall not exceed three times the a-la carte rate of the channel offered by the broadcaster at wholesale rates for addressable systems.”

Response to Clause 4 on ‘Minimum Monthly Subscription fee’:

1. TRAI in the Telecommunication (Broadcasting and Cable Services) (Fourth) (Addressable Systems) Tariff order, 2010 had prescribed a minimum monthly subscription of Rs. 150 (excl. of taxes) per month per subscriber, towards channels chosen by the subscriber, either on a-la-carte or bouquet basis. The rationale of Rs 150 was arrived at on the basis of the entry level packs range of Rs 125 - Rs 160 offered by the DTH operators during that period.
2. However, over the last 3 years, the cost of providing DTH services has been increased and there is an increment in other costs viz. Call centre, processing cost, bandwidth cost conditional access cost, manpower cost, high content cost offered by the Broadcasters, increase in diesel price, forex fluctuation, inflation etc. thereby increasing financial burden on the beleaguered DTH industry. Moreover, most of the entry level packs offered by the **DTH operators have also been increased to Rs 220.**
3. **We request the Authority to review this minimum monthly subscription to Rs. 200 per month.**

ANNEXURE

Chart: A la carte Price Versus RIO rate.

Annexure

	Basic Pack			Basic Enhanced Pack			Advanced Pack			Highest Pack		
	Pack Price No. of Channels	Rs. 196 172	(excl. taxes)	Pack Price No. of Channels	Rs. 270 190	(excl. taxes)	Pack Price No. of Channels	Rs. 320 218	(excl. taxes)	Pack Price No. of Channels	Rs. 470 227	(excl. taxes)
	3*Ascribed Value	2*RIO Rate	A-la-carte Rate as per proposed formula	3*Ascribed Value	2*RIO Rate	A-la-carte Rate as per proposed formula	3*Ascribed Value	2*RIO Rate	A-la-carte Rate as per proposed formula	3*Ascribed Value	2*RIO Rate	A-la-carte Rate as per proposed formula
Sony TV	11.01	17.98	11.01	11.59	17.98	11.59	11.48	17.98	11.48	6.03	17.98	6.03
SAB	7.67	12.35	7.67	7.92	12.35	7.92	7.92	12.35	7.92	4.25	12.35	4.25
Star Plus	9.78	15.74	9.78	10.21	15.74	10.21	10.03	15.74	10.03	5.26	15.74	5.26
Life Ok	11.35	18.43	11.35	11.84	18.43	11.84	11.79	18.43	11.79	6.25	18.43	6.25
Zee TV	7.23	11.66	7.23	7.61	11.66	7.61	7.45	11.66	7.45	3.96	11.66	3.96
Colors	11.05	17.98	11.05	11.63	17.98	11.63	11.51	17.98	11.51	6.02	17.98	6.02
Sahara One	10.67	17.22	10.67	11.01	17.22	11.01	10.97	17.22	10.97	5.79	17.22	5.79

And other channels...

As per the proposed formula, the final a-la-carte rate of each channel is minimum of the values derived by calculating the a-la-carte rate of that channel for each bouquet.

	Price as per				A-la-carte Rate as per proposed formula		
	Basic Pack	Basic Enhanced Pack	Advanced Pack	Highest Pack			
Sony TV	11.01	11.59	11.48	6.03	6.03	#	
SAB	7.67	7.92	7.92	4.25	4.25	#	
Star Plus	9.78	10.21	10.03	5.26	5.26	#	
Life Ok	11.35	11.84	11.79	6.25	6.25	#	
Zee TV	7.23	7.61	7.45	3.96	3.96	#	
Colors	11.05	11.63	11.51	6.02	6.02	#	
Sahara One	10.67	11.01	10.97	5.79	5.79	#	

And other channels...

	A-la-carte Rate as per proposed formula		RIO Rate
Sony TV	6.03	8.99	
SAB	4.25	6.17	
Star Plus	5.26	7.87	
Life Ok	6.25	9.21	
Zee TV	3.96	5.83	
Colors	6.02	8.99	
Sahara One	5.79	8.61	

And other channels...

Hence, a-la-carte rate of each channel as per TRAI proposed formula, will be lower than the purchase rate (RIO rate) offered by Broadcaster.