

18th January 2013.

Mr. WASI AHMED
Advisor (B &CS)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawaharlal Nehru Marg
New Delhi - 110002

Dear Sir,

The DTH Association submits its response to the Consultation Paper dated 20th December 2012 (18 of 2012) on Issues Related to Amendments to the Interconnect Regulations applicable to Digital Addressable Cable TV Systems & Tariff Order applicable for Addressable Systems.

Thanking you,

Yours sincerely
For DTH ASSOCIATION



HARIT NAGPAL
(PRESIDENT)

A . Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems.

Carriage fee

- (1) Whether the following proviso should be introduced in the clause 3(2) of the interconnection regulations for DAS and the clause 3(5) of interconnection Regulation for DAS should be deleted.
“provided that the provisions of this sub-regulation shall not apply in the case of a multi-system operator, who seeks signals of a particular TV channel from a broadcaster, while at the same time demanding carriage fee for carrying that channel on its distribution platform.”.
- (2) If no, the reasons thereof.

Response

-If a particular channel has more popularity, there will always be a high demand from the customers to include such channels and in such a scenario; the Broadcasters may not be required to pay any carriage fee and instead earn subscription revenue.

-However, even after complete digitalization, capacity will always be a constraint to carry all channels. Therefore, the DAS operator shall have the freedom to choose the channels to carry and put suitable charge to less popular channels in order to recover its carriage costs.

-Presuming there will not be any demand for a less popular channel for which the carriage fee is being demanded by the DAS operator. Therefore, there will not be a situation when a popular channel required by the customer is not being carried by an operator because of high carriage fee. Thus, the carriage fee should be left to the market forces.

-Moreover, if there is no limit on advertisement rates, which is driven by demand & supply; there is no reason as to why there should be any limit on carriage / placement fee. However, still if any consideration is made to regulate the carriage/ placement fee then the Broadcasters should be directed to share a certain percentage of their advertisement revenue with the distributor of channels.

Minimum Channel Carrying Capacity of 500 Channels for MSOs

- (3) Whether there is a need to specify certain minimum channel carrying capacity for the MSOs in the interconnection regulations for DAS.

- (4) If yes, what should be the different categories (example cities/town/rural area) of areas for which minimum channel carrying capacity should be prescribed and what would the capacity for each category.

Response:

Specifying a minimum number of channels for MSOs on a national or on regional basis would mean that the DTH necessarily have to carry more or equal number of channels, in order to maintain level playing field, considering that all DTH service providers have a pan India presence. Unlike MSOs, DTH has to cater to all their customers from different regions. Given the capacity constraints faced by DTH, due to availability of satellite, the Association is of the view that this number needs to be reduced considering the capacity constraints faced by the DTH.

It shall be left with the discretion of particular MSO as per market available to him.

Placement Fee

- (5) Whether there is a need for regulating the placement fee in all the Digital Addressable Systems. If so, how it should be regulated. The stakeholders are requested to submit their comments with justifications.

Response:

Like Carriage fee, placement fee should also be left to the Market forces.

B. Issues related to amendments to the Tariff Order applicable for Addressable Systems.

Twin conditions at retail level

- (6) The stakeholders are requested offer their comments on the following twin conditions, to prevent perverse a-la-carte pricing of the pay channels being offered as part of the bouquet(s).
- “ a. The ceiling on the a-la-carte rates of pay channels forming part of bouquet(s) which shall not exceed three times the ascribed value# of the pay channel in the bouquet;
- b. The a-la-carte rates of pay channels forming part of bouquet(s) shall not exceed two times the a-la carte rate of the channel offered by the broadcaster at wholesale rates for addressable systems.

#**ascribed value** of a pay channels in a bouquet is calculated in the following manner:

1. Proportionate Bouquet Rate for pay channels [A]=

Bouquet Rate x (Sum of a la carte rate of Pay channels)/(Sum of a la carte rate of Pay channels+ Total no of FTA channels x factor*)

2. Ascribed value of a pay channel in a bouquet = [A] x a-la-carte rate of a pay channel/ (sum of a-la-carte rate of all the pay channels)

*factor=1 if uniform rate of free-to-air channel is less than or equal to Rupees three. The factor = uniform rate of free-to-air channel/ 3, if the uniform rate of free-to- air channel is greater than Rupees three.”

Response:

The proposed amendments suggested by the TRAI to the twin conditions have not taken into account that the bouquets offered may consist of both free to air and pay channels. It has not addressed the issue of a situation on what happens in the event service providers offer bouquets of only free to air channels.

The Association had made representations in the past and also discussed with the Authority that the presumption being drawn by the Authority – in arriving at this formula was that they were assuming that the a-la-carte rates of all channels offered by a broadcaster is uniform. In reality this is not true. The rates of channels differ and there is no uniformity in the rates being offered. The service provider has to take into consideration the rates at which he gets the channel from a broadcaster before arriving at an a-la carte rate for a subscriber.

Assuming that this formula is applied and a service provider carries out changes, both in prices and in his compilation of bouquets, then how is the service provider protected from the regulation where he can't make changes for a period of 6 months from the time a subscriber takes the bouquet at a specific price? The Authority has not addressed this issue to protect the interests of the Service Provider before making the suggestions in the Consultation Paper.

We therefore request TRAI that the retail price protection should either be reduced to 21 days to match the wholesale price protection or the Wholesale (Broadcaster) should be asked to offer the same price as per the signed Interconnection agreement and any withdrawal of price should be at a 3 months formal notice with a copy of the same to the Authority and the retail price protection should also be reduced then to a 3 months time period.

In case, of a-la-carte channels the price protection too should be exactly matched by the channel prices as per the Interconnection agreement signed with any broadcaster.

The above issue should be addressed by the Authority on immediate basis as this anomaly has left DTH operators at a detriment and affected the business case of DTH operators negatively.

The Association suggests an urgent meeting on these issues before arriving at an acceptable solution on both the points raised herein.

Analysis of above twin condition can be done through below trial Calculation for finding a la carte value of Star Plus channel having Broadcasters wholesale a la carte rate as per RIO, Rs 7.87

Super Gold Pack	New Gold Sports Pack
<p>Bouquet Rate = INR 178 (w/o tax). No. of PAY channels = 83. No. of FTA channels = 104.</p> <p>Uniform rate of FTA channels = INR 5. Hence, Factor = $5/3 = 1.67$.</p> <p>Sum of a-la-carte rate of all pay channels in Super Gold pack = INR 367.</p> <p>So, Proportionate Bouquet Amount = $(178 \times 367) / (367 + 104 \times 1.67) = 121$.</p> <p>So, Ascribed Value (e.g. for Star Plus) = $(7.87 \times 121) / 367 = 2.59$.</p> <p>As per Condition (a), max. a-la-carte rate for Star Plus = $3 \times 2.59 = \text{INR } 7.77$.</p> <p>As per Condition (b), max. a-la-carte rate for Star Plus = $2 \times 7.87 = \text{INR } 15.74$.</p> <p>Hence, the lowest value as per the Regulation, (maximum a-la-carte rate) for Star Plus = INR 7.77</p>	<p>Bouquet Rate = INR 236 (w/o tax). No. of PAY channels = 92. No. of FTA channels = 104.</p> <p>Uniform rate of FTA channels = INR 5. Hence, Factor = $5/3 = 1.67$.</p> <p>Sum of a-la-carte rate of all pay channels in Gold Sports pack = INR 487.</p> <p>So, Proportionate Bouquet Amount = $(236 \times 487) / (487 + 104 \times 1.67) = 174$.</p> <p>So, Ascribed Value (e.g. for Star Plus) = $(7.87 \times 174) / 487 = 2.81$.</p> <p>As per Condition 1, max. a-la-carte rate for Star Plus = $3 \times 2.81 = \text{INR } 8.44$.</p> <p>As per Condition 2, max. a-la-carte rate for Star Plus = $2 \times 7.87 = \text{INR } 15.74$.</p> <p>Hence, the lowest value as per the Regulation, (maximum a-la-carte rate) for Star Plus = INR 8.44.</p>

-As we see in the above calculation, a-la-carte rate for any channel varies from pack to pack. To finalize on a-la-carte rate for a channel, minimum value coming out of considering calculation for all packs needs to be taken in order to satisfy proposed formula.

- If we choose minimum value of all then final Retail a la carte value of “Star Plus” channel cannot be more than 7.77 (presuming of presence of the channel in only above two bouquet, however in reality all DTH operator will have more than one bouquet, containing such channel) , admittedly the same is lesser than a la carte price of Rs. 7.87 ,offered by broadcaster.

- A channel in a bouquet will be present in one or more bouquet and hence as per condition (a) value of channel will have to vary in every bouquet, however there cannot be two a la carte value to a single channel depending on presence of channel in different bouquets.

- DTH operator will have to provide different bouquets to its consumers, all of which may contain one or more channel, then as per proposed condition (a) a la carte value of such channel will be different, all the time and minimum of all will be lesser than the RIO price of such channel.

- In view of above, the presence of condition (a) is not serving any purpose BUT is conceiving the same problem which we are trying to resolve.

-In relation to condition (b) considering the additional expenditure and burden incurred on DTH operators in serving channel on a la carte basis, the condition (b) be modified to the extent of “3 times” instead of “2 times” a la carte rates offered by broadcaster to service provider.

-Therefore we propose the formula can be simplified by deleting condition (a) being impractical and making condition (b), (with above suggested modification) alone applicable to determine a la carte price of channel

Minimum Subscription Period

(7) The stakeholders are requested to offer the comments, if any, on the proposed deletion of the word „pay” in clause 6 and 6(2) of the principal tariff order dated 21.07.2010.

Response:

We recommend that the word “Pay” be deleted from clause 6.2 of the tariff Order of 21.7.2010. We would also place on record that though DTH had opposed this inclusion in the first instance, the Authority had mandated its inclusion, giving it time to upgrade their systems to take care of the issue. As this has been mandated, the use of the word “Pay” has

become redundant and hence the provisions of the clause are applicable to all channels, subject to the other requirements mandated in the clause remaining the same.

Freedom to choose the channel(s) on a-la-carte and/or bouquet(s)

(8) The stakeholders are requested to offer their comments, if any, on the proposed inclusion of the following provision after sub-clause 6(4) in the tariff order dated 21.07.2010, as amended.

“It shall be open to the subscriber of the addressable systems to subscribe to one or more pay channel or only free to air channels or only pay channels or pay channels and free to air channels.”

Response:

Service Providers form bouquets based on the requirements of their subscriber base. Bouquets are also created to cater to the regional demands, giving the subscriber an opportunity to opt for a bouquet carrying channels of the region he chooses to view. Bouquets created may consist of both Pay and Free channels, only pay or only free channels. This is left to the Service Provider. This is besides the channels being available on a-la-carte basis.

We recommend that this clarity be incorporated suitably in the proposed addition to the clause.

Offerings of Bouquet(s) of channels which require special Set Top Boxes (STBs) such as High Definition Television (HDTV) or Three Dimensional Television (3D TV) channels etc.

(9) Whether the channels that require special type of STB be offered only on a-la-carte basis or as part of separate bouquets that consists of only those channels that require a particular type of specialised STB.

Response:

The Authority vide its TTO (ADDRESSABLE SYSTEMS) dated 21st July 2010 for Addressable System has left the wholesale tariffs for HD and 3D TV channels under forbearance considering them being niche channels requiring specialized set top box.

Channels that require special STBs like HDTV or 3D TV, should be offered by the Service Provider based on his business model that is adopted, be it a-la-carte which he has to offer or in the form of bouquet of only HD/SD/3D or combination of any. This determination should be left to the Service Provider and kept in forbearance and the authority should not regulate on this matter.