



By E-Mail /By Hand

17th January 2013

Mr. Wasi Ahmad
Advisor (B & CS)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg, New Delhi-110 002

Dear Sir,

RE: Consultation Paper No. 18 of 2012

We enclose our comments on the issues raised by the abovementioned consultation paper related to amendments to the Interconnect Regulations and Tariff Order on Digital addressable cable TV systems.

Should you require any clarifications / elucidations please please do let us know and we shall be glad to assist.

Thanking You

Yours faithfully

Bhavik Palan
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HATHWAY'S REPLY TO THE ISSUES FOR CONSULTATION

I. 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.*

HATHWAY'S REPLY :

Carriage fee and its terms and conditions are components which are in the realm of a private contract/treaty between two private individuals and hence should not be subject to any governmental interference, administration or regulation or restriction. All and any restrictions are nothing but fetters on the individuals right and freedom to do business and to monetise the value of his property.

Historically, carriage fee has not been regulated.

The entire burden of Digitisation has fallen upon the shoulders of the MSO and the Cable Operator with the government not offering any subsidy or incentives to the MSOs and Cable Operators. The MSOs and cable operators will therefore incur huge costs in setting up the digital infrastructure and should therefore be allowed to monetise it in order to recover its costs, which has been acknowledged by the TRAI.

The bone of contention in an analogue regime for the broadcasters was that the MSOs and cable operators charged huge amounts of money to the broadcasters for access to their network (the spectrum being limited), which increased the broadcasters costs for maximising its reach to the consumer. This was purely a demand and supply situation in an environment of trade and commerce which the government purportedly saw as being monopolistic and anti - competitive. Even then, the TRAI in its wisdom chose not to regulate, restrict or restrain the stakeholders right to trade.

In a digital environment where the limitation on spectrum no longer exists there should in fact be no regulation or restriction on carriage fee as the forces of demand and supply will not be influenced by and monopolistic or anti competitive behaviour.

However, should the TRAI still choose to regulate carriage fee then the proviso as suggested by TRAI to be introduced clause 3(2) of the Interconnect Regulations is

fine by Hathway and no further conditions or restrictions should be imposed by the TRAI.

II. MINIMUM CHANNEL CARRYING CAPACITY

(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.

HATHWAY'S REPLY:

In our view there is a need to specify a certain minimum channel carrying capacity for the MSOs.

The minimum channel carrying capacity for the MSOs in the four metro's namely Mumbai, Delhi, Kolkata and Chennai should be 250 channels.

So far as cities, towns and areas which form a part of Phase II, III and IV of the Digitisation notification are concerned, the capacity should be fixed keeping in mind the population of that particular city, town or area and also market forces prevailing in such area.

III. 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.

HATHWAY'S REPLY:

Placement fee should also not be regulated. The TDSAT has rightly set aside the ban/complete restriction on charging placement fee and has given cogent reasons for the same.

Placement fee and its terms and conditions are components which are in the realm of a private contract/treaty between two private individuals and hence should not be subject to any governmental interference, administration or regulation or restriction. All and any restrictions are nothing but fetters on the individuals right and freedom to do business and to monetise the value of his property; viz cable television network.

Even the DTH operators right to collect placement charges has not been fettered. DTH operators have been equated with Digital addressable cable operators. Hence there should not be inequality amongst equals.

There should be a level playing field amongst all digitally addressable systems. The TDSAT in its wisdom has also held accordingly.

IV. MINIMUM SUBSCRIPTION PERIOD

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.

HATHWAY'S REPLY:

The word 'pay' should be deleted as in this new digital regime it is incumbent for the Service Provider to offer FTA channels also in A la carte. Hence in order for the Service Provider to recover its costs of service for so providing FTA channels in A la carte, the minimum subscription period threshold limit should apply to FTA also.

V. TWIN CONDITIONS

"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.

HATHWAY'S REPLY:

The twin conditions formula is not practical at this juncture. To meet the same one has to

1. Drop prices of pay channels to FTA pricing levels, so that some of the popular pay channels can be priced at decent levels, which leave MSO some margin after the LCO revenue share.
2. Reduce the number of pay channels in a package making the package unattractive and value for money.
3. Hike the rate of the package which again makes us uncompetitive.

Today the combined efforts of Broadcasters and MSOs have ensured that packages offer true value for money for the subscriber. Broadcasters too benefit from packages as all their channels are available to subscribers and they can then increase their advertising revenue. We also have to create packages keeping in

mind the low level of ARPUs prevailing today and the fact that the subscriber is going to exercise his/her choice for the first time.

In most cases the pricing of PAY A la carte has to be reduced or brought on par with the FTA channels. After providing for 35% LCO margins and assuming content cost @20%, the margins for MSO are in fact lower for pay channels than FTA channels.

	FTA chnl	PAY chnannel	
MRP	3	3	4
35% LCO share	1.05	1.05	1.4
20% Content cost	0	0.6	0.8
MSO retains	1.95	1.35	1.8

In 56% of the cases we have come to a situation where PAY A la carte has to be priced lower than the Broadcaster RIO rates. This can make business unviable especially in the case of Sports channels, when we cannot conclude a deal and are forced to take the signals at RIO rates. In such instances, the MSO will have to bear the LCO margins as well as the additional cost of content.

Finally this rule is only applicable for calculating a la carte prices based on bouquets. There is no cap or formula on the price set for a single a la carte channel. This will not provide much benefit to the subscriber.

VI. FREEDOM TO CHOOSE THE CHANNEL(S) ON A LA CARTE AND/OR BOUQUET(S)

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 any bouquet(s) or any bouquet(s) and any channel(s) (pay or free to air) or only free to air channels or only pay channels or pay channels and free to air channels".

HATHWAY'S REPLY:

The clause may be included but it must be subject to the minimum monthly subscription threshold limit of Rs. 150/- (exclusive of taxes) per subscriber per month to enable the service provider to recover its cost of service.

VII. HD & 3D STB's

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.

HATHWAY'S REPLY:

HD/3D requires a different STB and there is no way in which a subscriber can view this content on an ordinary STB. To the best of our knowledge there is no DTH/MSO who is forcing subscribers of SD services to pay for HD content when the same cannot be delivered to them. The way some platforms have set up their systems is that a viewer gets the Channel no for the same channel in HD on their existing SD STB. This is more of a marketing tool to announce that the same channel is available in HD and encourage conversions.

HD pricing can be in a bouquet or a la carte and that choice should be left to market forces. However there should be no compulsion to offer HD/3D channels only on A la carte or as a separate bouquet. Such restrictions will only make it difficult for the service provider to recover its cost of service.