

**Comments on the Consultation Paper dated 6.8.2013 on
Distribution of TV Channels from Broadcasters to Platform Operators on
behalf of Hotel and Restaurant Association of Northern India**

1. Hotel & Restaurant Association of Northern India (HRANI) is an apex body of the Hospitality sector. HRANI, founded in 1950 by legendary Rai Bahadur M.S. Oberoi, represents hotels, restaurants, tourism industry & travel Trade of all nine states of northern India i.e. Delhi, Rajasthan, Himachal Pradesh, Punjab, Jammu & Kashmir, Uttarakhand, Chandigarh, Uttar Pradesh and Haryana with a membership base of almost 2000 affiliated directly or through its regional, state and district level Associations.

2. The HRANI supports the consultation paper with regard to the addressing the issue of monopolistic practices of major authorised distribution agencies and would like to highlight that the members of the association have also suffered due to such monopolistic practices. The proposed amendments should aim at curbing monopolistic practices and discretionary access to channels all the way from the broadcasters to the subscribers.

3. HRANI would like to highlight that authorised distribution agencies [“agencies”] representing broadcasters are preventing platform operators from supply their channels to commercial subscribers such as hotels, and particularly to those hotels that that are in any one of the following categories (for whom tariff is not fixed at the same rate as for ordinary subscribers and is to be mutually determined by virtue of tariff orders dated 21.11.2006 for CAS and non-CAS) :

- (a) three star and above,
- (b) heritage hotels, or
- (c) Hotels having 50 or more rooms.

DTH:

4. The broadcasters/authorised distribution agencies do not permit any DTH operators to supply signal to any hotel.
5. This is contrary to the principle of non-discrimination provided for in the Interconnect Regulation.

Non-CAS:

6. The broadcasters/authorised distribution agencies take the stand that no cable operator/MSO is authorised to supply signal to any commercial subscriber, particularly hotels in the aforementioned categories. They insist that each hotel must approach the agency directly and pay the “commercial rate” fixed by the agency to the agency directly and then the very same cable operator concerned will become authorised to supply signal to such hotel. To this effect, the agency causes the cable signal to be disconnected, sends demand notices to hotels, files police complaints against the hotel, etc. causing harassment to the hotel.
7. If the hotel requests the LCO not to supply feed of that particular broadcaster it is informed that the hotel has no choice but to take all signal or none at all as the LCO is incapable of supplying selective channels. Thus, the hotel is left with no option but to agree to the exorbitant unilaterally fixed rates demanded by the agency or to forgo receipt of all cable signal (even of channels of other broadcasters/agencies).
8. It is submitted that the stand taken by the agencies/broadcasters is incorrect and requires to be addressed for the following reasons:
 - (i) It is highly impractical to expect every hotel to approach the agency directly for receipt of signal, and all broadcasters/agencies must be directed to authorise their LCOs to supply signal to commercial establishments.

- (j) The insistence on paying the “commercial rates” fixed by the broadcasters/agencies is contrary to the Telecommunication (Broadcasting and Cable) Services (Second) Tariff Order, 2004 [“non-CAS tariff order”] which clearly stipulates that the charges payable by hotels in the afore-mentioned three categories, is to be “mutually determined” [Cl. 2(f)(ii)].

CAS/Digital Addressable Systems:

9. The agencies take the stand that no LCO is authorised to supply signal to commercial subscribers such as hotels, particularly those falling the afore-mentioned three categories.

SUGGESTIONS:

10. Based on the aforesaid observations the HRANI has the following suggestions/comments to offer:

- i) No authorised distribution agency be permitted to represent more than one broadcaster.
- ii) Neither broadcaster nor agency should be able to prevent service to a subscriber through any platform. It is suggested that a provision similar to the one already existing in the Digital Addressable Interconnect Regulation be inserted to provide as follows:
No broadcaster shall, directly or indirectly, prohibit any distributor from providing its services to any subscriber. [ref. to clause 3 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012]
- iii) A commercial subscriber should not be forced to go to a broadcaster/agency for signal. Such subscriber should be able to deal with his point of contact - the concerned platform operator. The Tariff

Orders be amended/clarified to provide to provide that commercial subscriber will pay the subscription charges to the platform operator/distributor as mutually determined between the hotel and the platform operator.

- iv) The Authority may consider setting a higher limit that can be charged to hotels falling in the afore-mentioned three categories by way of tariff, which may be fixed in relation to the existing tariff rates prevailing in each respective area for other commercial subscribers and ordinary subscribers (such as 10% higher than the existing price).
- v) Since the term “distributor” is already defined to mean platform operators, the Authority may consider defining an “authorised distribution agency” so as to avoid any confusion in future, particularly with the term “distributor”, and also to clearly delineate that the scope of such agencies is restricted to acting as facilitators and authorised signatories of the broadcasters, as set out in the consultation paper at para 23.

For HRANI

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President