



NSTPL/TRAI/HITS/STB/01/2013

01 May 2013

To,
The Secretary
Telecom Regulatory Authority Of India,
Mahanagar Doorsanchar Bhawan,
Jawaharlal Nehru Marg,
New Delhi 110002

Kind Attention: Sh. Wasi Ahmed, Advisor (B&CS)

Subject: THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES (____)
(DIGITAL ADDRESSABLE CABLE TV SYSTEMS) TARIFF ORDER, 2013 (No. ____
of 2013)

Dear Sir,

This has Reference to TRAI draft consultation tariff order issued on 11th April 2013. Before going in for detailed comments we would like to bring a few facts before you for kind consideration;

1. We are a HITS operator; we have to essentially send our signals to subscribers through connected LCO/MSO/ISO.
2. That we are using MPEG 4 technology in the transmission over Satellite & on ground segment.
3. We probably will be the first operator using MPEG4 technology on ground as a last mile access ON PAN-INDIA BASIS.
4. TRAI while calculating charges for STB's has essentially taken cost of MPEG2 STBs that needs to be corrected or separate cost for MPEG 4 boxes be specified or left for forbearance.
5. Two phases of digitization have already been implemented & Boxes seeded in prime areas. Essentially this order of TRAI will be for Phase 3 & Phase 4.
6. Since our commercial services are yet to start these orders will hurt us in subscriber acquisition & put undue burden on us.
7. We will like to bring following for the Authority's notice
 - a) That TV distribution market is fiercely competitive & customer has many choices to choose from as far as type of content, he wants to receive is concerned.
 - b) As per section 11 (2) of TRAI Act 1997, as amended, TRAI can regulate the rates of Telecommunication services including the rates at which messages are transmitted outside the country.
 - c) It may be noted that STB at the premises of subscriber is a good & not service. In case of DTH operators Dish receiving equipment alongwith STB form reception chain

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& in case of Cable TV, reception Cable head end equipment along with STB form the receiving chain.

- d) **The STB being provided is akin to CPE or Handset (CE) essential to receive broadcast signals & accordingly as in Telecom, TRAI should not mandate modeling of offerings from Cable distributors based on TRAI's mandate. There is enough competition in market to take care of subscribers' needs & requirement not only from cable operators from IP TV as well as DTH operators also.**
- e) STB has been classified under ITC (HS) code for manufacturing/ imports etc., there is custom duties or excise duties which are payable on these STB's, **there is no Service Tax paid on these hence these can't be equated as a service offering. Hence its pricing can't be regulated under TRAI Act section 11(2).**
- f) Without prejudice to our contentions above, TRAI has assumed the cost of STB as Rs 1750/-, it may be noted that cost of vanilla STB of MPEG 4 meeting the TRAI requirements & proposed BIS standards is nearly Rs 3000/-. TRAI needs to accordingly correct its assumption.
- g) TRAI has considered the life of STB as 05 years which is inconsistent with existing Company ACT 1957 as well as Income Tax Act 1961. The assets like CPE are written off in a year. As per companies Act & Income Tax act ; assets having value not exceeding Rs 5000/- shall be depreciated 100% in a year (Schedule XIV of Companies Act 1957 may be referred to).
- h) In case the scheme envisaged by TRAI is implemented we will need to retain these assets in our books for a period of 5 years against statutory provisions to retain for 1 year. **It may be noted most of Electronic equipment's have a warranty of one year so mandating 5 years is also against such prevailing norms & puts undue burden on operators.**
- i) While TRAI in DAS order of Interconnection as well as QOS has mandated many provisions for QOS & general specs of equipments, it has not allowed cable operators to charge for activation or deactivation of CPE (where disconnection is done earlier than the contractual period).
- j) In all options provided by TRAI the Security Deposit is far less than the actual cost of STB (CPE). At present in India individual credit ratings are almost non-existent that makes it difficult to enforce individual contracts. Moreover Insurance companies are generally reluctant to offer insurance cover for such low value assets & re-possessing & remarketing is difficult & almost impossible, increasing burden on operator.
- k) TRAI has also refrained operators from charging customer's for repairs, activation, deactivation charges & has not taken into account that CPE equipment is not manufactured by these operators but only marketed by them and accordingly the

warranty & free servicing is not possible beyond a period of one year from date of installation.

- l) While we strongly believe that TRAI shall not be regulating these CPE offerings still if TRAI wants it should revisit pricing as mentioned above & allowing one year only to recover the cost.

8. In closing we will like to summarise our submissions as under:

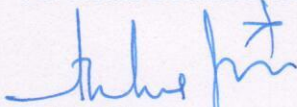
A. Tariff for CPE should not be regulated by TRAI, they have not done so for CDMA/GSM operators. The section 11(2) of TRAI Act 1997, gives TRAI powers to regulate Tariffs & not CPE.

B. Without prejudice to our views of TRAI's powers to regulate CPE offerings from operators we submit that;

- CPE should be allowed to be depreciated in one year's time.
- TRAI need to revisit the cost of MPEG 4 CPE's. The minimum CPE cost of MPEG 4 STB should be taken as Rs 3000/- or allow different schemes to be offered by operators based on type of Box compatible with operator's network.
- Security Deposit to be charged from subscriber shall be left to operator while the rental component may be so prescribed that cost of CPE is recovered in a year since STB once used by a subscriber can't be offered to another without cost & expenditure on refurbishing testing etc..
- Activation/deactivation cost be allowed to be charged from subscriber to protect the interest of operator.
- Visitation charges & repair cost on actual basis beyond a period of one year should be allowed to be charged by operators.

Thanking You

For Noida Software Technology Park Ltd.



Ankur Jain
Authorized Signatory
Managing Director