



Ortel Communications Ltd.

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Bringing Convergence to India

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Dtd : 15th November, 2016

**Without Prejudice
By Hand/By E-mail**

**The Telecom Regulatory Authority of India,
MahanagarDoorsancharBhawan,
Jawaharlal Nehru Marg,
NEW DELHI # 110002**

Kind Attention : Sh. Sunil Kumar Singhal, Advisor (B & CS)

**Subject : Draft Telecommunication (Broadcasting and Cable services)
Interconnection (Addressable systems) regulations 2016.**

Dear Sir,

We write to you, in response to the new features added to this Consultation Paper. We have perused in detail the Consultation paper and, would like to appreciate the efforts put in by the Authority in drawing such a comprehensive consultation paper which we believe will streamline the current industry practices. However we do have serious concerns with regard to the new features added in the Consultation paper vis-à-vis regulations on Carriage Fees which we are highlighting below.

- 1) In the current scenario, majority of the channels do not pay carriage fee and the DPOs in such cases decide to carry or not carry the channel based on the consumer's demand. For eg : Out of the 250 channels carried by us in our network only around 50 channels pay us carriage fee. Hence this matter is not a general issue affecting all stake holders in the business.
- 2) With over half a dozen DTH platforms, multiple MSOs/ LCOs competing in most of the markets and various other means of availability of signal to the subscriber, broadcasters always have multiple options to get their channels carried on alternate platforms and reach to the subscriber in case they find the carriage fee of any particular DPO unreasonable.
- 3) The carriage fee transaction between a broadcaster and a DPO is of B2B in nature where two organisations enter into a commercial arrangement. Pay channel prices of the broadcasters and subscription revenue charged by the DPOs directly affect the subscriber, whereas Carriage fee does not affect the subscriber in anyway. Hence we believe **regulating the carriage fee is not in the interest of the subscriber.**

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- 4) With Digitization, the DPOs are already under pressure to carry more and more channels in their network and hence it is unlikely that broadcasters can be pushed by the DPOs to pay unreasonable amounts towards carriage fees. Hence the Carriage fee is going to become a less relevant issue in Digitized era.
- 5) Both Broadcasters and DPOs have dual mode of revenue sources. Apart from subscription fees, broadcasters have second revenue stream in the form of spot selling (Advertisement Revenue). Similarly apart from subscription, the DPOs earn certain amount of revenue as Carriage Fee as a second revenue stream. Since there is no attempt by the Regulator to significantly reduce the advertisement revenue, it is unfair to do so when it comes to carriage revenue.
- 6) The rate of carriage fee is proposed to be capped at 20 paisa per channel per subscriber per month whereas the broadcasters are allowed to fix their MRPs up to Rs. 19/- per channel per subscriber per month. This is completely discriminatory and is in gross disparity. Regulator has allowed pay channel MRP, which directly affects the subscribers to be around 100 times higher than the carriage fee rate, which does not at all affect the subscribers.
- 7) Most of the pay channels have been allowed to increase their current prices by around 50% whereas the carriage fee seems to be capped at a price which is a fraction of the current prevailing prices charged by various DPOs.
- 8) The consultation paper further recommends that the carriage fee of a DPO for a channel will decrease with increase in its penetration amongst the subscribers of the DPO. We would like to state that a carriage deal is done with the sole purpose of increasing the visibility of the channel in the DPO's network, and subsequently the increased penetration results in an increase in the advertisement revenue of the channel. Decrease of carriage fee rates based on increased penetration ratio defies the rationale behind the concept of carriage. It is unfair to a DPO to carry a channel beyond 20% penetration level where a broadcaster earns higher advertisement revenue without sharing anything with the DPOs.
- 9) On an average, we invest around Rs. 3500/- (See annexure I for details) per subscriber to provide cable TV services. As per the latest audited accounts (FY16-17, 1stQtrtr) our operational expenses (Without pay channel cost) is around Rs. 120/- (See annexure II for details) per subscriber per month. While the monthly rate of Rs. 130/- per month per subscriber allowed by the authority barely suffices our operational expenses, we have no other source of revenue to recover our capex. Hence it is extremely critical for us to earn a significant amount of revenue through carriage fee to recover the heavy capital expenditure we incur to build the network. Hence the ceiling of 20 paisa going down to zero at 20% penetration level is simply not viable. This would mean that the cable network has to close down.

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10) The primary objective of carriage deals is to ensure reach of the channels to subscribers in a larger scale which would in turn help the broadcasters to increase their advertisement revenues. As you are aware the advertisement revenue is directly dependant on the TRP ratings of the channels, hence the carriage fee also has a direct relationship with the dependence of the channel with the DPO's network for the purpose of BARC ratings. Hence a standard rate across the country will be completely misleading.

For eg : A Hindi GEC channel will be more dependent on North and West Indian markets whereas Regional channels will have more dependency on their relevant regional market(s).

11) Most of the DPOs currently operate with a carrying capacity of around 250 channels whereas the available channels permitted to broadcast in India are around 800. There is still a demand supply gap and hence there has to be a negotiated carriage fee as per the need of individual channels/markets.

12) The decision to carry a channel has to be in the commercial interest of the DPO. Either almost all subscribers (eg star Plus) are interested to watch the channel or the DPO earns money from the broadcasters from carriage fees. If the carriage fee becomes insignificant at 10% penetration level and nil at 20%, Why should a DPO carry the channel?

In view of the above reasons we strongly feel that the carriage fee deals between broadcasters and DPOs should not be regulated and be left to the mutual negotiations between both the parties.

However, in case the authority is keen to regulate this matter, a larger consultation is required to come up with a more appropriate mechanism. In this context we would like to recommend the followings for your consideration.

- a) There should be no carriage fee allowed to a DPO for a channel if he has sought the channel under must provide clause. The carriage fee will be payable only in the cases where the broadcaster approaches the DPO to carry their channel.
- b) The current proposal of 20% penetration used as cut-off for carriage fee is not logical. Carriage Fee should apply to 100% of the subscribers so that the channel could be carried to larger audience and meet the key objective of a carriage deal.
- c) For arriving at the price at which the carriage fee should be capped we suggest the following methods:
 - i) The capping of the carriage fee rate should be the same as the capping fixed on The MRPs of the pay channels. This would address the commercial interests of both the stake holders in a just and fair manner. For eg if the MRP GEC channel is capped at Rs. 12 per month per consumer then the capping of carriage fee of a GEC channel should also be Rs. 12 per month per consumer.

Contd.....4P

- ii) There should also be a distinct difference between a national and a regional channel/market. For eg carriage fee of a Telugu channel in AP can be logically much higher than a Hindi national news channel
- iii) Considering the above points and our own experience in the market a price cap per channel per STB of Carriage fee can be fixed at Re.1/- for national channels and Rs.5/- for regional channels for national and regional markets respectively. We are suggesting this differential rate in view of our contribution in terms of TRPs of the national channels which directly contributes to their advertising revenue. Since our contribution is lower for a national channel, a lower rate and since our contribution is higher for a regional channel, a higher rate for a regional channel. Also national channels cater to a larger universe hence their rate should be lower. Regional channels cater to a concentrated smaller universe hence their rate can be higher.
- iv) As mentioned in the point no 9 above the monthly rental proposed by the authority takes care of the operational expense incurred by the DPO to provide services to the subscribers. In this context carriage fee should be seen as a source of revenue to recover the capital expenditure incurred in the network. We invest Rs. 3500/- per subscriber towards capital expenditure in building the cable network. If the life of a network to be 5 years, we need to recover Rs. 58/- per month per STB to recover from carriage income assuming that the operational expenses are met from the monthly charges allowed by the authority. We typically get carriage fee from around 35-40 national channels and 10-15 regional channels and hence the rate suggested above seems reasonable.
- v) DPOs can be asked carry at least 50% of their capacity (No of Channels) without charging any carriage Fee so that interest of the Consumers can be protected.

We most humbly request the Authority to give an insight into our concerns and incorporate our recommended changes in the new path breaking Tariff order and make it ready for implementation.

Thanking You,

Yours faithfully

For **ORTEL COMMUNICATIONS LIMITED**



BIBHU PRASAD RATH

President & CEO

Enclosed as above

ANNEXURE # I

| Break-up of Capex per Subscriber in Rupees | |
|--|-------------|
| Cost for every home passed | 800 |
| On an average of 40% penetration cost per connection | 2000 |
| Cost for every drop | 300 |
| Back end per connection (approximately) | 300 |
| Cost of STB | 1500 |
| Total Capex per subscriber | 4100 |
| Less One time activation income | 600 |
| Capital Deployed Per Customer | 3500 |

ANNEXURE # II

| Calculation of average operational expenses incurred per customer (Without Pay Channel Cost) | | |
|--|----------------|---------------|
| Particulars | Numbers in lac | |
| Average number of Connections during Quarter1 of FY 16-17 (Lac) | 7.36 | |
| Total operational Expenses incurred during the quarter (Rs lac) | 2640.91 | |
| Average monthly operational expenses during the quarter (Rs Lac) | 880.31 | |
| Average monthly expense incurred per customer during the quarter | 120 | |
| Details of number of customers during Quarter 1 of Fy-16-17 | | |
| Particulars | Numbers in lac | |
| Opening customer base as on 1/4/16 | 7.70 | |
| Closing customer base as on 30/6/16 | 7.01 | |
| Average Customer Base during the quarter | 7.36 | |
| Break-up of our operational expenses during Qrtr 1 of FY 15-16 | | |
| | Quarterly | Monthly |
| Digital Video Carrying cost | 128.2 | 42.73 |
| Repairs, Maintenance, Electricity & Water | 287 | 95.67 |
| Collection expense | 394.73 | 131.58 |
| Salary, Wages and Employee welfare | 609.89 | 203.3 |
| Other expenses | 645.51 | 215.17 |
| Bad Debt Provision | 575.58 | 191.86 |
| Total | 2640.91 | 880.31 |

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