



Response to TRAI Consultation Paper
on
Issues related to
Implementation of Digital Addressable Cable TV
Systems

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Contact Person:

Anil Malhotra

Mobile No: 9810119854

e-mail: anil.malhotra@wwil.net

Response to TRAI Consultation Paper on Issues related to Implementation of Digital Addressable Cable TV System

At the outset, we would like to state that Ministry of Information and Broadcasting (MIB) based on the recommendations of TRAI has taken a historical initiative for transformation of entire unaddressable analogue cable regime into digital addressable regime (DAS) by the year 2014. In order to successfully implement the said initiative, it is imperative that an effective and efficient tariff and interconnection regime be put in place at the earliest to enable the service providers and various stakeholders in the value chain to structure their business model accordingly and to arrange for the necessary resources and investment.

Since the first phase of the said digitalization initiative is to start from 1st July 2012, the tariff and interconnection regime to be applicable in this regard must be available to the stakeholders by 2nd week of February 2012 to ensure the scheduled transition. Fortunately, another digital addressable system i.e. DTH is already available in the market and the tariff and interconnection issues qua the said system have almost been sorted out through extensive consultations with stakeholders and this has helped the DTH to achieve substantial penetration. Accordingly, for digital addressable cable, a model is already available which has worked successfully and we are of the view that the same can also be made applicable for ensuing DAS regime with certain modifications, in order to align the same with the peculiar nature of the cable TV delivery. This would not only result in creating a level playing field but would also result in uniformity in the regulatory regime applicable for all addressable digital platforms.

With this basic premise, the response to various issues raised by the Authority in the consultation paper dated 22/12/2011 is being given hereinafter:

Basic Service Tier for the Digital Addressable Cable TV Systems

- 1. What should be the minimum number of free-to-air (FTA) channels that a cable operator should offer in the basic-service-tier (BST)? Should this number be different for different states, cities, towns or areas of the country? If so, what should be the number and criteria for determination of the same?***

2. ***In the composition of BST, what should be the genre-wise (entertainment, information, education etc.) mix of channels? Should the mix of channels and/or the composition of BST be different for different states, cities, towns? If so, how should it be?***
3. ***What should be the price of BST? Should this price be different for different states, cities, towns or areas of the country? If so, what should be the price and criteria for determination of the same?***
4. ***What should be a-la-carte rate of channels that form part of BST? Should there be a linkage between a-la-carte rate of channels in the BST to the BST price or average price of a channel in the BST? If so, what should be the linkage and why?***

Response

1. There is a provision in the Cable Television Networks (Regulation) Amendment Act, 2011 that the Central Government or the Authority **may** in the public interest by Notification in the Official Gazette specify the Basic Service Tier and the number of Free to Air (FTA) channels to be included in the said package. From the reading of the said stipulation, it is clear that it is only an enabling provision and that the Basic Service Tier & other related stipulations thereto can be notified if the same is required to be done in the public interest. In other words, it is not mandatory as per the provisions of the amended Cable TV Act that to necessarily notify the Basic Tier, if the Central Government or the Authority is satisfied that the public interest is otherwise taken care of through other stipulations.
2. Although, at the time of implementation of CAS in 2006, the Basic Tier package consisting of minimum 30 Free to Air channels (FTA) was notified which is being delivered in the analogue mode, however subsequent to the same, there have been lot of developments in the distribution sector. In view of these developments and the notification of a transparent tariff and interconnection regime in the addressable distribution sector which are discussed in detail in the subsequent paragraphs, the notification/prescription of the Basic Tier consisting of certain number of only FTA channels as contemplated in the Amendment Act in our view is not necessary.

3. In this context, it may be noted that TRAI has issued a Tariff Order on 21st July 2010, which is intended to apply to all the addressable systems irrespective of the mode of delivery i.e. the said Tariff Order is intended to apply to DTH, IPTV, addressable digital cable etc. The attention in this regard is invited to Para 15 & 47 of the Explanatory Memorandum to the said Tariff Order which read as under:

15. *Having decided to regulate the tariff for addressable systems, the next issue is regarding the framework of tariff regulation. It is felt that within a single tariff framework, the different addressable systems can be accommodated with suitable provisions. Thus, the tariff dispensation can follow two frameworks - one meant for addressable systems and other meant for non-addressable systems. This approach is further supported by the extant Interconnection Regulations which deal with the overall TV market on single distinction basis. This Tariff Order is meant for addressable systems.*

47. *As already indicated in paragraph 15 supra, the Authority is of the view that the tariff dispensation for broadcasting and cable services can follow two broad frameworks, one for addressable systems and the other for non-addressable systems. **The general principles of tariff determination under the present tariff order are, thus, intended to be applicable to all addressable systems, including cable services provided through conditional access systems (CAS) in areas notified by the Central Government under section 4A of the Cable Television Networks (Regulation) Act, 1995.....***

4. In the said Tariff Order in Part-III under the head “Retail Tariff” the following has been provided for:

6. Mandatory offering of pay channels on a-la-carte basis to ordinary subscribers and charges therefore.

(1).....

(2).....

(3).....

(4) *It shall be open to the service provider to specify a minimum monthly subscription, not exceeding one hundred and fifty rupees (exclusive of taxes) per month per subscriber, towards channels chosen by the subscriber, either a-la-carte or bouquet, for availing the services of such service provider.*

Thus, vide Clause 6(4) of the above mentioned Tariff Order, it has been provided that a service provider is entitled to charge a minimum monthly subscription of not exceeding Rs. 150/- plus applicable taxes towards the channel chosen by the subscriber either on a-la carte basis or on bouquet for availing the services of such service provider. In the explanation it has been further provided that:

Explanation: It shall be mandatory for all service providers, who are providing broadcasting services or cable services to subscribers through addressable systems, to transmit or retransmit the channels of Doordarshan required to be transmitted compulsorily under section 8 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995), to each subscriber on its network.

5. Thus, it is clear that a **Basic Entry Level Tier** has been provided for in the said Tariff Order by the TRAI in order to ensure that not only the Doordarshan channels but also the other channels whether FTA or pay either in the form of package or a-la carte, are made available to the consumers of an addressable platform on the one hand and the service provider is also able to cover the basic cost of providing access to the consumer by charging the amount stipulated by TRAI in this behalf. Thus, the concept of Basic Tier as contemplated under the Amendment Cable TV Act, 2011 stands incorporated in the retail Tariff Order already issued by TRAI in this regard and therefore it is not necessary to stipulate any other tier at entry level as that would not only be a duplication but would also create lot of confusion, thereby leading to practical problems in implementing the same at the ground level.
6. It may also be mentioned that prescription of any other Basic Tier consisting of purely FTA channels as contemplated under the amended Cable Act 2011 would be contradictory to the Entry Level Tier prescribed by the Authority in the Tariff Order dated 21/7/2010 and would create lot of confusion in the mind of subscribers as well. It may be noted that the said stipulation of Entry Level Tier has worked very well in the DTH sector which is substantiated by the fact that in DTH sector, different DTH operators are offering different monthly packs ranging from Rs. 90/- per month per subscriber for 132 channels pack to Rs. 150/- per month per subscriber for 186 channels pack. As observed by TRAI itself in Para 1.16 of the consultation paper that these packs also include a sizeable number of pay channels. It is therefore, suggested that no separate Basic Tier is required to be notified in this behalf and the provisions already made under the Tariff

Order dated 21/7/2010 being applicable to all the addressable platforms including addressable digital cable are adequate.

7. In this context, it is also pertinent to point out that the DTH service namely DD Direct Plus launched by the Prasar Bharati offers free of cost a package/bundle of about 58 number of FTA channels to the consumers. A consumer desirous of availing only FTA channels can subscribe to the said service by making one time investment of around Rs. 700-800. As pointed out hereinabove, there are no recurring charges which are required to be paid by a consumer to Prasar Bharati. It has been recently announced by the Prasar Bharati that the offering of channels on DD Direct Plus is going to be increased from the present level of 58 numbers of channels to 200 numbers of channels shortly. Thus, an alternative is available in the form of DD Direct Plus service to the subscribers who wish to view only FTA channels and are not interested in subscribing to pay channels.
8. It may also be mentioned in this context that the necessity of notifying the Basic Tier consisting of FTA channels only in CAS regime arose on account of the fact that these FTA channels were required to be delivered to the subscribers in the analogue mode. Keeping in view the limited capacity available in the analogue mode, in order to ensure that certain numbers of FTA channels are also made available to the subscriber for spending the minimum amount required to access the cable services, such stipulations were made. However, in the proposed DAS regime, even the FTA channels would be delivered in encrypted digital mode. Thus, there would be neither any issue of capacity nor the issues pertaining to the inclusion of different genres etc. in the said Basic Tier package. In addition, since the service provider would also be required to incur certain expenditure in the form of encryption royalty, STB etc. there is no comparison between the Basic Tier delivery as notified in the CAS regime and the one which would be made in the DAS.
9. Accordingly we are of the view, that as pointed out hereinabove, since the dispensations qua Basic/Entry Level Tier as contained in the Tariff Order dated 21/7/2010 have worked well in case of DTH sector, the same be replicated in DAS regime as well. The number of channels, the mix of channels, the a-la carte rates thereof etc. should be left to the discretion of the service providers in their respective operational areas. The uniform ceiling of Rs. 150/- should be applicable across all notified DAS areas with flexibility to the service providers to determine the

composition of the said Entry Level Tier and also the a-la carte rates of the channels comprising the said tier. The market forces would ensure that the service providers in their respective operational areas offer the Entry Level Tier in accordance with the choice, preference and requirements of the subscribers in that area and also keeping in view the offerings by the competing platforms such as DTH etc.

Retail Tariff for the Digital Addressable Cable TV Systems

As pointed out hereinabove, the Tariff Order dated 21/7/2010 issued by TRAI intends to apply to all the addressable platforms. In the said Tariff Order, there is forbearance at retail level with the stipulation that the service provider will have to offer all the channels that are available on its platform on a-la carte basis also in addition to the offerings in the form of bouquet. Clause 6 of the Part-III of the said Tariff Order under the head "Retail Tariff" reads as under:

6. Mandatory offering of pay channels on a-la-carte basis to ordinary subscribers and charges there for.

(1) Every service provider providing broadcasting services or cable services to its subscribers using an addressable system shall, from the date of coming into force of this Order, offer or cause to offer all pay channels offered by it to its subscribers on a-la-carte basis and shall specify the maximum retail price for each pay channel, as payable by the ordinary subscriber:

Provided that in the case of direct to home service, a direct to home operator who is unable to offer all its pay channels to its subscribers on a-la-carte basis on the date of coming into force of this order due to any technical reason, shall offer all its pay channels on a-la-carte basis to its subscribers with effect from a date not later than the 1st day of January, 2011.

(2) It shall be open to a service provider, while offering its pay channels on a-la carte basis and specifying a-la-carte rates for each of them under clause (1), to specify a minimum subscription period, not exceeding three months, for subscribing to a pay channel on a-la-carte basis by a subscriber.

(3) Every service provider providing broadcasting services or cable services to subscribers using an addressable system may, in addition to the offering of pay channels on a-la-carte basis under sub-clause (1), also offer bouquets of channels, in

which case, it shall specify the maximum retail price for each such bouquet applicable to its ordinary subscribers.

We are of the view that in view of the prevalent competition in the market in the form of availability of the alternate delivery platforms such as DTH, IPTV etc., in order to create the level playing field, the tariff at retail level should be left to the market forces. The consumer interest would be duly taken care of as because of the competition it will not be possible for the DAS cable service providers to charge the exorbitant retail tariff as in such an event the subscribers would shift to the other competitive platform viz. DTH.

Thus, the provisions of Clause 6 of the Tariff Order dated 21st July 2010 being applicable for all the addressable distribution platforms, these would *mutatis mutandis* apply to the digital addressable cable platforms also. Accordingly, our response to various issues raised in the consultation paper in this regard is as under:

5. ***Should the retail tariff be determined by TRAI or left to the market forces? If it is to be determined by TRAI, how should it be determined?***

Response

It should be left to the market forces.

- (a) ***Should the a-la-carte channel price at the retail be linked to its wholesale price? If yes, what should be the relation between the two prices and the rationale for the same?***

Since we are recommending forbearance at retail level, there should not be any linkage between the whole sale price and retail price of a channel. In case a channel is exorbitantly priced at retail level by a service provider, the Authority can always intervene and take corrective action in this regard.

- (b) ***Should there be a common ceiling across all genres for the pay channels or different ceilings for different genres? What should be the ceilings in each case and the reasons thereof?***

There should be neither common ceiling nor any differential ceiling for the pay channels of different genres and the same should be left to the market forces.

- (c) ***Should there be a common ceiling across all genres for the FTA channels or different ceilings for different genres? What should be the ceilings in each case and the reasons thereof?***

There should be neither common ceiling nor any differential ceiling for the FTA channels of different genres and the same should be left to the market forces.

- (d) ***Any other method you may like to suggest?***

Other than fixing BST at Rs 150, rest should be left to forbearance i.e. The market forces.

Interconnection in the Digital Addressable Cable TV Systems

6. ***Does any of the existing clauses of the Interconnection Regulations require modifications? If so, please mention the same with appropriate reasoning?***
7. ***Should the subscription revenue share between the MSO and LCO be determined by TRAI or should it be left to the negotiations between the two?***
8. ***If it is to be prescribed by TRAI what should be the revenue share? Should it be same for BST and rest of the offerings?***

Response

1. In this regard it may be noted that Clause 5 of the Tariff Order dated 21/7/2010, prescribes that the charges payable by LCO to MSO are to be governed by mutual agreement. The relevant extract of the said clause is reproduced as under:

5. Charges payable by cable operator to multi system operator or HITS operator to be governed by mutual agreement between them.----- *The charges payable by a cable operator to a multi system operator or to a HITS operator, as the case may be, shall be as determined by mutual agreement.*

2. We are of the view that the above mentioned stipulation be made applicable to digital addressable system also. The revenue share, both out of Basic Tier subscription and pay channel subscription be worked out by the MSOs and LCOs through mutual negotiations. The provisions of Tariff Orders pertaining to revenue share in CAS cannot be made applicable to DAS regime as there is a fundamental difference between the way the delivery of channels is to be effected in DAS regime wherein all the channels whether pay or FTA are to be delivered in the encrypted form and through STB only. In other words, even to access the FTA channels, the consumer would need to deploy the set top box. Keeping in view this critical requirement in mind, even if the Authority intends to stipulate the revenue share between the MSO and LCO, the entire investment viz. the headend, the cable infrastructure, the encryption system, the SMS, STB etc. being done by the MSO and the role of LCO in the proposed regime being only that of the provider of link between the subscriber and the MSO and the collector of subscription revenue, the MSO is entitled for higher revenue share.

Must Carry

9. ***Should the ‘must carry’ provision be mandated for the MSOs, operating in the DAS areas?***
10. ***In case the ‘must carry’ is mandated, what qualifying conditions should be attached when a broadcaster seeks access to the MSO network under the provision of ‘must carry’?***
11. ***In case the ‘must carry’ is mandated, what should be the manner in which an MSO should offer access of its network, for the carriage of TV channel, on non-discriminatory terms to the broadcasters?***

Response

1. It is not possible to stipulate the “Must Carry” provisions even in the digital addressable cable. In this regard, it may be appreciated that although in digital addressable cable, the capacity to carry the channels is much more than that of analogue networks, however, the said capacity depends upon the headend infrastructure established by MSO. In this regard, it is pertinent to point out that by implementing the digital addressable system, the MSOs in their respective operational

areas would establish the headend which would have varying capacities to carry the number of channels. At present, there are about 800 channels registered with the MIB. Since there is no standard headend capacity, a typical digital addressable cable system usually established by MSO would carry at the most 250-300 channels. Moreover adding/expanding capacities in digital regime also involve the additional capital expenditure which adds to the cost of delivery.

2. Even if the “Must Carry” is mandated, it would not be possible to practically implement the same as there would be lot of issues regarding the criteria to be followed by an MSO to accord “Must Carry” status to a channel. It is not possible to lay down the basis upon which a channel would qualify to be carried mandatorily by an MSO on its network. It is submitted that the channels of Public Broadcaster already enjoy “Must carry” status and as such all the addressable platforms are statutorily required to carry all these channels on their networks. It is thus, neither practical nor equitable to mandate the “Must Carry” in case of channels belonging to private broadcasters as these channels are “commercial” in nature and operate whether with a view to earn revenue either from advertisements (FTA channels) or both advertisements and subscription (pay channels).
3. The headend infrastructure, the network and the related paraphernalia is created by the MSO by making substantial investment. In addition, since as per amended Cable Network Act provisions, it is mandatory to encrypt the channels, there would be expenditure in the form of encryption royalty and maintenance of Subscriber Management Systems. Thus, it would not be equitable on the part of the Authority to stipulate any kind of “Must Carry” provision to accord “free ride” to FTA channels which otherwise may have very low demand or to a pay channel by compelling an MSO to subscribe to the said channel and carry it although it may not have any demand in its operational area and incur the expenditure on it.
4. The service provider is the best judge in respect of the choice and preferences of the consumers in their respective operational areas and thus, would definitely carry the channel which is in demand. In this regard, it is pertinent to mention that with the competition from the other alternative delivery platforms in the operational areas, the MSOs would otherwise also ensure to carry all such channels as are demanded by the consumers in its operational area.

Carriage Fee

12. ***Should the carriage fee be regulated for the digital addressable cable TV systems in India? If yes, how should it be regulated?***
13. ***Should the quantum of carriage fee be linked to some parameters? If so what are these parameters and how can they be linked to the carriage fee?***
14. ***Can a cap be placed on the quantum of carriage fee? If so, how should the cap be fixed?***

Response

1. As already pointed out hereinabove, the MSO has to invest substantial sum of money in order to create the entire delivery infrastructure viz. Headend, network, encryption system, SMS & STB etc. It has already been provided by TRAI in the Interconnect Regulations that in case of invoking “Must Provide” by the service provider from a broadcaster, the carriage fee cannot be demanded. In other words, if an MSO invokes the “Must Provide” requirement, the carriage of the channels is automatically ensured without the payment of carriage fee. It would be fair and equitable to allow the MSO to commercially exploit the delivery infrastructure created by it by charging the suitable carriage fee from the other private broadcasters in order to recover the huge investment made by it in creating the said infrastructure.
2. In business and commercial world, it is normal for an infrastructure creator/provider to levy charges for making that infrastructure available for use by the willing users. The prime example is the creation of roads and highways which are created by investing huge sum of money for the convenience of commuters/users thereof and toll charges are levied by the infrastructure provider on the users in order to recover its investment. The delivery infrastructure created by the MSO is a kind of toll created for the carriage of channels and therefore it is legitimate on the part of MSO and in fact it is otherwise obligatory on the part of the broadcasters to pay the necessary carriage charges (akin to toll) in case they wish to utilize the said infrastructure for reaching the end-consumer.

3. In this context, it is also relevant to point out that there is no regulation of carriage fee in DTH sector which is a competing platform and accordingly it would be entirely inequitable and discriminatory to impose any kind of regulation in this regard on digital addressable cable.
4. In addition, it is submitted that it is not possible to regulate the carriage fee as TRAI itself has observed in the Explanatory Memorandum to the Telecommunication (Broadcasting and Cable Services) Interconnection (Fifth Amendment) Regulation, 2009 dated 17th March 2009 which reads as under:

Carriage Fee – need for regulation

13. The distributors of TV channels have opposed any kind of regulation of carriage fee. It has been asserted by them that the issue is very complex and intricate and that there cannot be one universal rule for governing the carriage fee. It has been pointed out that the addressable platforms suffer huge operational losses due to mismatch between infrastructure cost and the meagre subscription revenues. It has been highlighted that the advertisement revenue of a Broadcaster is incapable of being regulated; similarly carriage fee needs to be left to market forces to decide because the two are intimately linked. On the other hand the broadcasters have demanded some regulation of carriage fee. One broadcaster has suggested that the Regulator must achieve this purpose through a separate consultation process and through a process of constitution of a core consultative committee comprising all stakeholders to come up with a workable balanced mechanism.

34. The Authority has decided against regulation of carriage fee at this stage for the following reasons:-

- a. *Carriage Fee is a market driven phenomenon and the levels of carriage Fee are determined by play of market forces. Carriage fee is a direct result of demand-supply mismatch due to capacity constraints of distribution platforms.*
- b. *Payment of Carriage/ Placement/ Technical Fee by a broadcaster is intimately linked with the perceived benefit that the broadcaster would enjoy by way of increased advertising revenue. This linkage is manifested by higher levels of Carriage Fee in TAM cities (cities where the rating agencies have installed their metering devices in sample*

households). Therefore, regulation of Carriage Fee cannot be done in isolation without regulating the advertising revenue.

- c. *Payment of Carriage Fee ultimately gets recovered from the advertisers on TV channels by way of higher advertisement charges. However, no objections have been made by any advertiser in this regard so far.*
- d. *Carriage Fee has emerged in the market primarily as a result of inadequate digitalization in the Broadcasting & Cable TV market in the country. A view has also been expressed by some distributors of TV channels that Carriage Fee is genuinely required to promote digitalization. Any attempt to regulate it by way of ceiling or specifying a charge on carriage may slow down deployment of digital networks.*
- e. *The payment of Carriage Fee is often done in cash or kind (equipment for head-end, foreign tours, gifts etc.). Moreover many of the distributors of TV channels receiving Carriage Fee are small operators and their accounts are not subject to statutory audit. Therefore any regulation of Carriage Fee is bound to be a very porous regulation. Further, enforcement problems are anticipated in Carriage Fee regulation which may lead to other distortions in the market.*
- f. *If some kind of ceiling is laid down for carriage fee, then there is a possibility that more channels may be willing to pay the maximum permissible Carriage Fee than the number of available channel slots. Selection of which channels to carry in such a situation would again result in covert deals.*
- g. *There are some distributors of TV channels having other businesses (such as newspapers, radio stations, amusement parks etc.) also. If such distributors of TV channels start collecting carriage fee disguised as payments for other goods or services sold by other companies within the group, then it will be practically impossible to regulate carriage fee.*
- h. *Carriage Fee is also linked with popularity of a channel, which in turn is determined by the market. In such a scenario, laying down a carriage fee regime through regulation for channels of varying popularity will be extremely difficult.*

- i. *There is no suitable mechanism for enforcement of any regulation on carriage Fee.*

35. However, the Authority has amended regulation 3.2 to restrict its applicability in respect of those channels in respect of which any fee is being demanded by the distributor of TV channels from a broadcaster for carriage of the channels on its distribution platform. This has been done to ensure that the broadcasters are not forced to supply their channel in terms of regulation 3.2 and at the same time forced to pay carriage fee for the same channel. This amendment has been made to prevent a distributor of TV channels from misusing the regulation 3.2. However, this amendment does not prevent the distributor of TV channels from charging a fee for placement of the channel of a broadcaster vis-à-vis channels of other broadcasters on its distribution platform, in case the broadcaster wants the channel to be placed at a particular frequency spot.

In view of the above, we suggest that there should not be any regulation on the carriage fee and that it should be left to the market forces.

15. ***Should TRAI prescribe a standard interconnection agreement between service providers on similar lines as that for notified CAS areas with conditions as applicable for DAS areas? If yes, why?***

Response

1. At the outset, it may be mentioned that the Standard Interconnection Agreements were mandated in the notified CAS areas as at that time, the methodology of Reference Interconnect Offer (RIO) was not prevalent in the broadcasting and cable sector. It is only in September 2007 that the concept of RIO was introduced for the DTH sector by way of amendment in the Interconnection Regulations.
2. In addition, it is submitted that there is no need to prescribe any Standard Interconnection Agreement between the service providers in DAS, as the tariff dispensation in the digital addressable system which are being suggested are totally different from the tariff regime prevalent in CAS areas which is essentially based on the retail price mechanism and the revenue share entitlement of various service providers in the value-chain. The tariff regime suggested for digital addressable system

at wholesale level prescribes the tariff of 42% of non-CAS tariffs. Simultaneously, the Telecommunication (Broadcasting and Cable Services) Interconnection (Fifth Amendment) Regulation, 2009 dated 17/3/2009 prescribes the RIO based methodology for facilitating the agreements between the broadcasters and addressable system service providers. The methodology has worked very well in the DTH sector. It is accordingly, suggested that the same methodology be extended for facilitating the interconnection amongst the broadcasters and MSOs in the digital addressable system operational areas.

3. The tariff dispensation as per the Tariff Order dated 21/7/2010 prescribes the mutual negotiations amongst the MSO and cable operators in order to facilitate the Interconnection Agreement at this level. It is suggested that the same RIO methodology be extended as is stipulated for interconnection between the broadcasters & MSOs. In other words, the TRAI through an amendment in the interconnection regime make it mandatory for the MSOs also to publish and make available their Reference Interconnect Offer (RIO) for cable operators specifying the main terms & conditions for the interconnection, which should form basis for concluding agreements between MSOs & local cable operators.

Quality of Service Standards for the Digital Addressable Cable TV System

16. ***Do you agree with the norms proposed for the Quality of Service and redressal of consumer grievances for the digital addressable cable TV systems? In case of is agreement, please give your proposed norms along with detailed justifications.***

Response

At the outset we would like to state that QOS Regulations should be uniform for all the addressable systems and accordingly the same quality/service standards should apply to both DTH and addressable digital cable. We feel that there are certain conditions/stipulations which are required to be reviewed as it is not practicable to implement them:

- (i) No change in package for the first six months of the subscription by the consumer:

- (a) There are many cases where certain channels become pay within the 6 months period and additional cost is required to be incurred for such channels by the operator. It would be unreasonable to expect the operator to continue to provide the said pay channel (s) free to the consumers.
- (b) There may be a situation wherein a consumer may default on the payment to the service provider in the second month itself and still an obligation has been imposed on the service provider to provide the channels to such consumer which is not justifiable.
- (ii) Clause 12.7 is not practical as inter operability is not mandated in cable and STB's even if enabled cannot be used elsewhere.

(iii) No reconnection or disconnection charges:

The operators/service providers are required to pay for their technology costs, royalties on the boxes to the conditional access providers, middleware providers, MPEG LA etc. irrespective of the customer being on their platform or not. If there is no disincentive to the customer for delayed payment, we are of the view that there should be an administrative charge, in case the consumer defaults on the timely payment. All service industries like electricity supply, Telecom, Piped Gas have such a concept then why Cable and Satellite distribution companies be prevented from having the same?

- (iv) In the QOS there are clauses which mandate that the STB provided under hire purchase or lease are to be repaired by the operator at no cost or a replacement be given at no cost to the consumer. This tantamount to a lifelong warranty, which is not justifiable. There has to be a limit of 6 months for such a support. It may be mentioned that there have been instances where such clauses have been misused against the operators.
- (v) In case of refund to the subscribers for the rental of the STB etc., there has to be a provision for the deduction of the taxes as they form a substantial part of the cost of STB and cannot be recovered/refunded.

17. ***Please specify any other norms/parameters you may like to add with the requisite justifications and proposed benchmarks.***
18. ***Who should (MSO/LCO) be responsible for ensuring the standards of quality of service provided to the consumers with respect to connection, disconnection, transfer, shifting, handling of complaints relating to no signal, set top box, billing etc. and redressal of consumer grievances?***

Response

We feel that as far as service to subscriber is concerned, MSO should be responsible for STB related issues like complaint relating to billing and functioning of STB's. Whereas issues relating to connection, disconnection, transfer, shifting and handling of complaints regarding no signals etc. should be the responsibility of LCO. All network related problems from LCO onwards should be the responsibility of LCO only. since MSO cannot provide service in LCO's network for signal maintenance etc.

19. ***Whether Billing to the subscribers should be done by LCO or should it be done by MSO? In either case, please elaborate how system would work.***

Response

It is suggested that in DAS areas, the billing to the subscriber should be generated at the MSO's end from the Subscriber Management System and given to the LCOs. The taxation part(entertainment tax & service tax wherever applicable) can be incorporated in the billing by LCO. The distribution of the same to the consumers can be mutually worked out by the MSOs and LCOs in their operational areas.

20. ***Should pre-paid billing option be introduced in Digital Addressable Cable TV systems?***

Response

Yes, it should be allowed at the option of the service provider, since the other digital addressable system i.e. DTH is already prepaid, hence the same should be permitted for cable also.

Miscellaneous Issues

Broadcasting of Advertisement free (ad-free) channels

21. ***Whether an ad-free channel is viable in the context of Indian television market?***
22. ***Should there be a separate prescription in respect of tariff for ad-free channels at both the wholesale and retail level?***
23. ***What should be the provisions in the interconnection regulations in respect of ad free channels?***
24. ***What should be the revenue sharing arrangement between the broadcasters and distributors in respect of ad-free channels?***

Response

The Ad-free channels are niche channels and require lot of investments. They are meant for the targeted viewers only. Since the primary source for earning revenue for these channels is subscription only, if any kind of price regulations are imposed on these channels whether at wholesale level or at retail , they may not take off at all. Similarly, these being niche channels, other kind of regulatory interventions such as “Must Provide” etc. are also not warranted in respect of these channels as such kind of stipulations would directly affect their viability. The pricing as well as the revenue share etc. should be left to the mutual agreement between the broadcasters and the service providers.

Non addressable digital Set top boxes

25. ***In case you have any view or comment on the non-addressable STBs, you may Please provide the same with details.***

Response

The non-addressable STBs are deployed by the MSOs in non-CAS (non-notified) areas, primarily to increase the channel carrying capacity of the networks. Through these STBs it is possible to deliver more number of channels than can be done through analogue cable. However, since these are non-addressable boxes, there is neither any encryption nor it is possible to ascertain the number of subscribers

receiving a particular channel. However, when these non-notified areas would come within the purview of DAS notification, it may become difficult to trace these boxes and replace them with the addressable STBs. Moreover, the consumer may have to spend the additional money in order to acquire the DAS-compliant set top boxes and the money spent on the non addressable STBs would be wasted. It is therefore suggested that suitable directions be given by TRAI for discontinuance of deployment of these boxes and also the replacement of these boxes by the addressable STBs as per BIS specifications in next 6 months.

Reference point for wholesale price post DAS implementation

26. ***Would there be an impact on the wholesale channel rates after the sunset date i.e. 31st Dec 2014, when the non-addressable systems would cease to exist? If so, what would be the impact?***

Response

There would not be any impact. In this regard, it may be noted that firstly though the analogue may cease to exist still the rates that were prevalent immediately before such cessation would continue to be the basis/benchmark for deriving the tariff for addressable system. The same can be ensured by introducing a suitable amendment in the Tariff Order at that point in time. Secondly, the sector is gradually moving towards forbearance. It would be for the Authority to assess the operations of market forces and take a call as to whether the continued intervention is necessary or the tariff dispensation in the addressable systems can be left to the forbearance.

27. ***Any other relevant issue that you may like to raise or comment upon.***

Response

1. Immediately upon notification of DAS tariff, the Tariff Orders and other Interconnection Regulations pertaining to CAS areas be discontinued w.e.f. 30/6/2012 i.e. the date from which the DAS notification would become operational.
2. In notified CAS areas, one of the major issues faced by the service providers is the piracy of the channels. In order to ensure that DAS is

successfully implemented and achieves the purpose sought to be achieved, a suitable enforcement mechanism is required to be devised and implemented to check the piracy of channels.
