

*By Email*

November 4, 2019

**Sh. Anil Kumar Bhardwaj**  
Advisor (B&Cs)  
Telecom Regulatory Authority of India  
Mahanagar Doorsanchar Bhawan  
Jawahar Lal Nehru Marg  
New Delhi 110 002

**Sub. :** Comments on Consultation Paper on Issues related to Interconnection Regulations 2017

**Dear Sir,**

We take this opportunity to thank this Hon'ble Authority for issuing the Consultation papers on Issues related to Interconnection Regulations 2017.

In response to the above, we hereby kindly submit as follows:

1. Do you think that the flexibility of defining the target market is being misused by the distribution platform operators for determining carriage fee? Provide requisite details and facts supported by documents/ data. If yes, please provide your comments on possible solution to address this issue?
  - The Concept of Target Market has not been given any attention in terms of how the same can be structured. In the absence, the default position taken is defined either the whole of India or a state or combination of states as Target market. Broadcasters create content some of which will cater to specific regions or 'Diaspora'. In the absence of due recognition for the same, the current structure makes it unviable for niche FTA channels to operate. Also, the 5% and 20% limits specified for number of subscribers reached for the Carriage Fee determination, is not only skewed against the broadcasters (especially smaller broadcasters, who operate regional or niche channels), but causes a conflict in purpose between the two – DPOs and Broadcasters; Broadcasters wish to reach beyond 20%, whilst DPOs have no incentive to help that cause as it will cut their Revenue lines and thus take the entire universe route to calculate carriage fees that becomes unviable for a niche/regional FTA. Therefore, we propose that the charges should be at least halved For e.g from 20paise to 10 paise for channels that reach upto 5% consumers of a DPO and likewise for other brackets. DTH and DPOs should invest in technology to identify areas and share markets basis states/Pin Codes that will give broadcasters of regional channels to do deals with region specific.



9X Media Pvt. Ltd., AIHP Tower, 249 G, 1<sup>st</sup> Floor, Udyog Vihar, Phase – 4, Gurugram, Haryana- 122015. Ph: 91 124 6661999

Registered Office:

9X Media Pvt. Ltd., Urmi Corporate Park, 5th Floor, Solaris 'D', Opp. L&T Gate No.6, Saki Vihar Road, Powai, Mumbai 400 072. Ph - 91 22 66019999 | www.9xmedia.in  
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2. Should there be a cap on the amount of carriage fee that a broadcaster may be required to pay to a DPO? If yes, what should be the amount of this cap and the basis of arriving at the same?
  - When TRAI has already put "must carry clause" , the placement fee concept should be abolished. For a small FTA/niche channel carriage as mandated by TRAI is not honoured by DPOs as they still charge hefty placement fees that has been there since analog days. TRAI should work as per the cost per sub to DPO which would be less than the existing carriage fee of Rs0.20 with a proper structuring of target market
3. How should cost of carrying a channel may be determined both for DTH platform and MSO platform? Please provide detailed justification and facts supported by documents/ data.
  - This should be dependent on the no of channels a DPO is carrying and basis the subscriber nos they have.
4. Do you think that the right granted to the DPO to decline to carry a channel having a subscriber base less than 5% in the immediately preceding six months is likely to be misused? If yes, what can be done to prevent such misuse?
  - Yes, the 5% rule can be misused as DPO doesn't share the subscriber nos with FTA broadcasters . Moreover, there is no room for audit also for FTA channels to ascertain the no of subscribers. Nevertheless, process of not carrying for legitimate reasons needs to be streamlined. The decision to stop carrying a channel should be confirmed by the Authority based on a show cause statement filed by the DPO along with an opportunity for the channel to present its side of the argument. The decision should be dispensed within 10 working days of the matter getting filed with the Authority

#### **Issues related to Placement and other agreements between broadcasters and Distributors**

5. Should there be a well defined framework for Interconnection Agreements for placement? Should placement fee be regulated? If yes, what should be the parameters for regulating such fee? Support your answer with industry data/reasons.
  - FTA Channels should be given preference when it comes to Placement of a channel. The Regulator with defined rules like priority for FTA Channels, norm for sequence etc, which would be binding on the DPO. Pay channels get the priority placement as they incentivise and little room is left for others to occupy better position. If a subscriber has subscribed to a particular Pay channel he would not mind the position it is placed in the Genre.



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6. Do you think that the forbearance provided to the service providers for agreements related to placement, marketing or any other agreement is favouring DPOs ? Does such forbearance allow the service providers to distort the level playing field? Please provide facts and supporting data/ documents for your answer(s).
- Yes, DPOs are arm twisting to get into placement, marketing/landing page deal and thus allowing big broadcasters to exploit that doesn't provide level playing field and makes difficult for smaller FTA channels to survive.
7. Do you think that the Authority should intervene and regulate the interconnection agreements such as placement, marketing or other agreement in any name? Support your answer with justification?
- Yes, of course, the authority should intervene as soon as possible as the current system is becoming difficult for smaller FTA broadcasters to survive. None of the DPOs has entertained carriage deals and have pressurized to do placement deals so that their revenues are not impacted. In other words, we would like to inform that there has been no change in carriage fee outgo for a smaller broadcaster like us.
8. How can possibility of misuse of flexibility presently given to DPOs to enter into agreements such as marketing, placement or in any other name be curbed? Give your suggestions with justification.
- Pl refer to Q 7
9. Any other issue related to this consultation paper? Give your suggestion with justification.
- DTH/MSO to provide a real-time data in their website giving details on No. of connections in each of the PIN Code cluster it has its signals on. In the case of MSO it has to in addition provide the No of connections broken down by each LCO connected to their headends.
  - DTH/ MSO should be required to be open for a time-to-time audit/validation process on the No of connection data, either by TRAI or by any agency empowered by TRAI
  - TRAI to define the %age of penetration in each Market cluster for different Genres at annual interval, based on parameters applicable for each Genre Viz,. English language Content, Regional Language Content, HSM Market etc. (Market Penetration Factor-MPF)

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- If TRAI's audit findings indicate overstated connections in any target market, TRAI to issue a warning to the DPO, make the same public and after warnings may impose such fine as it may deem appropriate.
- If despite the action as above, there exists continuing non-compliance, TRAI may suspend/cancel license.
- No. of FTA channels in BST should go up to 200 from 100. Except 2-3 DD national channels rest 24 channels should be left for regional DPOs.
- In the situation where a DPO asks for the channels from a Broadcaster and sends his RIO to the Broadcaster, especially in case of FTA channels, the current regulation lacks clarity. In this scenario, the regulations may clearly provide that the broadcaster should not be liable to pay any carriage fee to the DPO.
- In an alternate proposal, we recommend that TRAI should discontinue Bouquet/ Packs to be formed by Broadcasters/DPOs and should put all channels in ala-carte and leave it to consumer to decide what he/she wants to watch. We propose this because by making these packs/bouquets broadcasters/DPOs (as the case may be) try to distort market and ultimately consumer suffers.
- We have also derived the channel carrying fee for DPOs in the attached sheet basis their financial nos and their current subscriber base as declared to TRAI and we propose that the carriage fee charges may appropriately be decreased from 20p, 10p, 5p etc. to more reasonable charges.

If this Hon'ble Authority requires any further clarifications in this regard, we shall be glad to assist.

Thanking you,

For **9X Media Private Limited**



**Nitin Sharma**  
**Executive Vice President - Distribution**

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**Methodology for Deriving Channel Carrying Fee**

		DISH TV	DEN	SITI	Hathway	GTPL
<b>A</b>	<b>Subscriber base in # Million</b>	16.90	7.03	11.13	6.69	5.25
<b>B</b>	<b>Costs Rs Cr</b>					
	Employee Costs	99.89	60.95	53.88	82.90	147.11
	Operating Expenses	2,990.1			253.30	88.34
	Other Expenses	369.70	166.85	218.93	280.09	178.42
	Less programming	(2,278.49)				
	Less: Advertisement Expenses	(125.41)				
	Less: Advertising Income	(86.63)				
	Less Teleport Income	(22.80)				
	Less: Bandwidth Income	(144.64)			(527.60)	
	Less : Activatin Income		(68.20)	(30.71)		
	Less: Distribution Commission		(24.63)	(57.81)		
	Less : Allowances for Doubtful Debts		(14.63)			
	Less : Management Charges			(79.21)		
	Less: Other Income					(43.32)
	<b>Total in Rs Cr</b>	<b>801.72</b>	<b>120.34</b>	<b>105.08</b>	<b>88.69</b>	<b>370.55</b>
<b>C</b>	<b>Per Subscriber Annual Costs in Rs</b>					
	Per annum	474.39	171.18	94.41	132.57	705.81
	Per month	39.53	14.27	7.87	11.05	58.82
<b>D</b>	<b>No of Channels</b>	902	902	902	902	902
<b>E</b>	<b>Cost Per Channel Per Month Rs.</b>	0.044	0.016	0.009	0.012	0.065
<b>Methodology:-</b>						
1. FY 19 PUBLISHED FINANCIALS WERE USED AS THE BASIS						
2. THE SUBSCRIBER BASE IS AS PROVIDED IN THE TRALS CONSULTATION PAPER ON ISSUES RELATED TO INTERCONNECTION REGULATIONS, 2017 DATED 25TH SEPT. 2019						
3. EMPLOYEE COST, OPERATING EXPENSES & OTHER EXPENSES WERE CONSIDERED IN FULL AND DEDUCTIONS MADE FOR ADVERTISING EXPENSES AND INCOMES AND ANY OTHER INCOME- AS EXPENSES WERE TAKEN IN FULL						
4. PER SUBSCRIBER COST WAS DERIVED BY DIVIDING COST BY SUBSCRIBER BASE						
5. TOTAL NUMBER OF CHANNELS TAKEN FROM TRALS CONSULTATION PAPER ON ISSUES RELATED TO INTERCONNECTION REGULATIONS, 2017 DATED 25TH SEPT. 2019						
6. COST PER CHANNEL PER MONTH IS COMPUTED AND IT APPEARS TO BE IN THE RS 0.01 RANGE						

*ADH*