

**SUBMISSION OF INDIAN BROADCASTING FOUNDATION TO TELECOM REGULATORY  
AUTHORITY OF INDIA IN RESPONSE TO THE CONSULTATION PAPER NUMBER 6/2014  
DATED 11 JUNE 2014 ON TARIFF ISSUES RELATED TO BROADCASTING AND CABLE TV  
SERVICES FOR COMMERCIAL SUBSCRIBERS**

Indian Broadcasting Foundation welcomes the TRAI Consultation Paper on “Issues related to Broadcasting and Cable Television Services for Commercial Subscribers”. This is particularly significant in light of the Order passed by the Supreme Court of India dated 16 April 2014. The Consultation Paper is appropriate as it can result in addressing all controversial issues that have come about over the years in relation to commercial subscribers.

India has become by far, one of the most diverse, plural and competitive cable and satellite television systems in the world. Hundreds of significant multi-system operators, six direct-to-home operators, the advent of IPTV, the advent of head-ends in the sky, accessing television through mobile applications and thousands of local cable operators giving viewers last mile connectivity in the absence of broadband connectivity direct to homes compete to serve this market. Very few distribution systems in the world have such a wide, competitive variety to reach viewers.

In this stiffly competitive market, the only overbearing fact is, different operators should not charge viewers differently. The rest of the commerce in this severely competitive market should be based on free-market principles as the way forward.

In its own recommendations on issues relating to broadcasting and distribution of television channels dated as way back as 1 October 2004 has noted that

***“It must be emphasised that the regulation of prices as outlined above is only intended to be temporary and till such time as there is no effective competition. The best regulation of prices is done through competition. Therefore as soon as there is evidence that effective competition exists in a particular area price regulation will be withdrawn. TRAI will conduct periodic reviews of the extent of competition and the need for price regulation in consultation with all stakeholders.”***

Indian Broadcasting Foundation is the foremost association of broadcast industry participants. The channels belonging to IBF members represents over 85% of television viewership in India and in this position finds itself responsible to ensure industry representation is both weighed in and comprehensive.

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## ISSUES ON WHICH INPUTS ARE SOUGHT TO THE CONSULTATION PROCESS

### 1 DEFINITION OF COMMERCIAL SUBSCRIBERS

After much consultation with members, Indian Broadcasting Foundation has come to the conclusion that all subscribers that do not qualify as “domestic” are “commercial subscribers”.

To elaborate, IBF offers the following:

Any premise, indoor or outdoor, that is not a domestic premise should be categorised as commercial. Any sub-categorisation would result in unnecessary contentions and derail the more important process of determining how such establishments ought to be charged for subscriptions.

In accordance, any subscriber receiving broadcast services through multi-system operators, direct-to-home operators, head end in the sky operators, or a service provider offering IPTV at the subscriber’s indicated place and using such signals for the benefit of but not limited to employees, commercial visitors, clients, customers, students, members or patients should be termed as commercial subscribers.

### 2 CATEGORISATION OF COMMERCIAL SUBSCRIBERS

With the sole exception of domestic subscribers, therefore, every subscriber ought to be categorised as a commercial subscriber. Any sub-categorisation thereof would result in derailment of the due process this consultation paper is indeed attempting to affect.

### 3 OFFERING MANNER TO COMMERCIAL SUBSCRIBERS

Of the three models suggested in the consultation paper, Model (i) should be prescribed for distribution of TV signals to Commercial Subscribers. Model (ii) is prone to commercial subscribers not getting signal because of potential breakdown of negotiations between broadcasters and DPOs. Model (iii) is prone to confusion, as both broadcasters and DPOs would be allowed to provide Reference Interconnect Offers.

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Based on Model (i) IBF proposes the following methodology:

**Where Commercial Subscribers do not have their own head-ends:**

- a Broadcasters would publish the RIO for commercial tariff
- b Such RIO shall form the basis for finalising agreements with Commercial Subscribers
- c Commercial Subscribers would finalise rates and agreements with Broadcasters
- d Broadcasters would authorise designated operators in particular areas to supply signals to Commercial Subscribers
- e Broadcasters shall enter into agreements with these designated DPOs (as authorised by Operators) based on mutual negotiations to enable them to provide signals to Commercial Subscribers
- f DPOs would enter into a separate and distinct agreement with Commercial Subscribers and such agreement would be clearly distinguishable from the agreement that DPOs enter into for provision of signals to domestic subscribers
- g DPOs would form/devise a separate offering for Commercial Subscribers based on Broadcasters' RIOs for Commercial Subscribers and such commercial offerings would be clearly identifiable as being meant for Commercial Subscribers only
- h Separate Commercial Subscriber Application Forms (CSAF) would be devised for Commercial Subscribers which would be different from the SAF for domestic subscribers
- i Wherever the mandatory digital addressable system (DAS) is in force, DPOs would ensure that the delivery of channels to Commercial Subscribers is in encrypted mode through set top box only
- j DPOs would send a separate Commercial Subscribers Report on a monthly basis to Broadcasters
- k Commercial Subscribers would pay Broadcasters/DPOs basis the terms of the agreement executed with them.

**(B) In case the Commercial Subscribers have their own digital head-ends**

- a Broadcasters' RIOs would include provisions for Commercial Subscribers seeking signals directly from Broadcasters
- b Such Commercial Subscribers should have their own digital head-ends
- c Such Commercial Subscribers should negotiate commercial terms with Broadcasters basis Broadcasters' RIOs and directly enter into an agreement with them
- d Commercial Subscribers would send monthly subscriber reports to Broadcasters in such format as may be agreed between them
- e Such Commercial Subscribers would pay Broadcasters directly on a monthly basis.

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#### 4 TARIFF FOR COMMERCIAL SUBSCRIBERS

IBF proposes that all viewers outside domestic premises be considered commercial. There are tens of millions of commercial establishments in India, and given IBF's proposed definition, that number will be even higher. Digital addressability is imminent. In such a vast market, competitive forces will work as they have shown to thus far. Tariff for commercial subscribers has always been under forbearance and has worked effectively. We propose that the principle of market forces be continued without price regulation. Tariff for Commercial Subscribers should accordingly be under complete forbearance. Commercial Subscribers have significant countervailing power and they are not the end-consumers. There is no rationale to regulate tariffs for commercial subscribers. We propose that commercial negotiations in an RIO methodology be the underlying basis for tariffs to commercial subscribers wherein, tariffs are under complete forbearance.

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