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From

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To

THE TELECOM REGULATORY AUTHORITY OF INDIA ,
Mahanagar Doorsanchar Bhavan,
(next to Zakir Hussain College),
Jawaharlal Nehru Marg,
New Delhi - 110 002.

Sirs,

**Sub.: Submission of comments on the consultation paper on
“DTH issues relating to tariff Regulation and new issues”.**

In response to TRAI’s Press Release No. 41/ 2009, Dated 12.5.2009, I would like to submit my point wise comments as furnished below for the consideration of TRAI.

Yours faithfully,

S.T.Balamurugan

5.2 Tariff fixation for DTH services

5.2.1 Whether there is a need to fix tariff for DTH?

Yes.

5.2.2 If yes, whether tariff regulation should be at wholesale level or at retail level or both, i.e., whether tariff should be regulated between broadcasters and DTH operators or between DTH operators and subscribers or at both the levels?

Both at whole sale and retail levels.

5.2.3 Whether tariff regulation for DTH at wholesale level should be in terms of laying down some relationship between the prices of channels/ bouquets for non-addressable platforms and the prices of such channels/ bouquets for DTH platform? If yes, then what should be the relationship between the prices of channels/ bouquets for non-addressable platforms and the prices of such

channels/ bouquets for DTH platform? The basis for prescribing the relationship may also be explained.

Tariff for pay channels on all addressable platforms may be arrived on content and operational cost of the channel. The subscription and advertisement revenue may also be taken into account while arriving the channel price. As the number of subscriber is known transparent in an addressable platform, price of the channel may be arrived accordingly without any relationship with non addressable platforms.

5.2.4 Whether tariff regulation for DTH at wholesale level should be in terms of fixation of prices for different bouquets/ channels? If yes, then the prices for different bouquets/ channels may be suggested. The methodology adopted for arriving at the prices for such bouquets/ channels may also be elucidated. Further, the methodology to fix price for a new pay channel may also be given.

(i) The sum of the a-la-carte rates of the pay channels forming part of such a bouquet shall in no case exceed one and half times of the rate of that bouquet of which such pay channels are a part.

(ii) The new pay channel may be available at the rate of lowest price of any pay channel available in the country for the first year. Next year onwards the channel cost may be arrived on content and operational cost, the subscription and advertisement revenue may also be taken into account while fixing cost of a channel.

5.2.5 Whether retail regulation of DTH tariff should be in terms of maximum retail prices of various channels or is there any other way of regulating DTH tariff at retail level?

The retail price of various channels/bouquet shall not be in excess of 25% of whole sale price i.e. if whole sale price is Rs.100, the retail price shall not be more than Rs.125.

5.2.6 In case DTH tariff is to be regulated at both wholesale and retail levels, then what should be the relationship between the wholesale and retail tariff?

The retail price of various channels/bouquet shall not be in excess of 25% of whole sale price. This is rational as there is no intermediary between the DTH Operator and Customer.

5.3 Comparison with CAS

5.3.1 Whether the basic features of tariff order dated 31st August, 2006 for cable services in CAS areas, namely fixing of ceiling for maximum retail prices of pay channels, at the level of the subscriber fixing of ceiling for basic service tier and standard tariff packages for renting of Set Top Boxes should be made applicable to DTH services also?

Yes. As both CAS and DTH are addressable platforms.

5.3.2 Whether the ceiling for maximum retail prices of pay channels for DTH should be the same as laid down for cable services in CAS areas?

Yes. The individual channels shall be made available to the DTH Subscribers on a-la-carte basis @ Rs.5.35 per channel per month on par with CAS areas.

5.3.3 Whether DTH operators should be mandated to provide a basic service tier of FTA channels and if so, what mechanism should be adopted by DTH operators to provide the service of unencrypted Basic Service Tier, which is available in CAS areas without having to invest in a Set Top Box?

Yes. The basic service tier may comprise not less than of 60 FTA/Pay TV channels @ Rs.82/- as the DTH Customer has already paid the CPE cost before activation of service. Comparing with CAS, the DTH platform does not have any intermediary such cable operator and DTH operator is a corporate body and a cable operator is mostly an individual/group of individuals. There is also no intermediary between the DTH Operator and Customer. Hence the composition of basic service tier of DTH service shall be double the number of TV (FTA/Pay) channels @ CAS basic tier price. The basic service tier shall be provided by the operators without taking into account of FTA TV channels of other operators/satellite. All the other pay channels not included in the basic tier shall be available on alacare basis to the DTH customers.

5.3.4 Whether the DTH operators should be required to make available the pay channels on a-la-carte basis to the subscribers as the cable operators are required to do in the CAS areas?

Yes. At present choice of a-la-carte is not available to a DTH subscriber even though the DTH Operator is getting the channels on a-la-carte basis from the distributors. As CAS and

DTH are addressable systems, the DTH subscribers shall also get the pay TV channels on a-la-carte basis.

5.3.5 Whether standard tariff packages for renting of Set Top Boxes should also be prescribed for DTH operators?

Yes. The set top box is simply deactivated by the DTH operators in violation of Clause 8 of the Direct to Home Broadcasting Services (Standards of Quality of Services and Redressal of Grievances) Regulations, 2007 when the subscriber does not renew the subscription even though the subscriber has procured the CPE on outright purchase mode/rental basis and has no outstanding due to the operator. As per media reports as many as 10 lakhs Set top boxes have been deactivated by various DTH Operators causing a huge loss/blockade of money to the DTH subscribers. One operator claims that it provides the CPE to the customers free of cost by charging Rs.1250 as installation and activation charges. The DTH Operators do not provide the scheme details to the customers as per Clause 5 of the Direct to Home Broadcasting Services (Standards of Quality of Services and Redressal of Grievances) Regulations, 2007. In the absence of scheme details i.e. security deposit towards CPE, rental period, refund in case of termination of service etc., the subscriber can not take appropriate action to redress the grievance in case of unsatisfactory service.

5.4 Other Relevant Issues

5.4.1 Whether the carriage fee charged by the DTH operators from the Broadcasters should also be regulated? If yes, then what should be the methodology of regulation?

No. Carriage fee shall not be charged by the DTH operators when the channel is demanded by the DTH Operators from the distributor/broadcaster as per the must provide clause of interconnect regulations.

5.4.2 Whether any ceiling on carriage fee needs to be prescribed? If yes, then whether the ceiling should be linked with the subscriber base of the DTH operator or should it be same for all DTH operators?

No. Carriage fee is charged as per the mutual agreement between the DTH Operator and the broadcaster of a channel.

5.4.3 Comments may also be offered on the prayers made in the writ petition of M/s Tata Sky Ltd.

M/s Tata Sky Ltd. has rightly demanded for tariff regulation in DTH service as done for CAS. CAS and DTH service are addressable platforms and transparent systems. However Tariff may be regulated at retail level with a ceiling of 25% in excess of whole sale level.

6.1: Provisioning of new services on DTH platform

6.1.5

a) Whether Movie-On-demand, Video-on-Demand, Pay-per-view or other Value added services such as Active Stories should be recognized as a broadcast TV channel?

No. However the same may be considered as value added services (VAS) of the operator. The operators may be free to introduce the same but the operator shall intimate the authorities the details of each VAS viz., genre, language, charges levied from the customers and total revenue earned etc.

b) In case these are termed as broadcast TV channels, then how could the apparent violation of DTH license provision (Article 6.7, Article 10 and Article 1.4), Uplinking and Downlinking guidelines be dealt with so that availability of new content to consumer does not suffer for want of supporting regulatory provisions?

No. These may be termed as value added services and the operator is responsible for the established rules/code etc. in respect of the content available in VAS.

c) What should be the regulatory approach in order to introduce these services or channels while keeping the subscriber interest and suggested alterations in DTH service operations and business model?

The operators may be free to introduce these services but the operator shall intimate the authorities the details of each VAS viz., genre, language, charges levied from the customers and total revenue earned etc.

d) In case these are not termed as broadcast TV channels, then how could such a channel be prevented from assuming the role of a traditional TV channel? How could bypassing of regulatory provisions- Uplinking/ Downlinking, Programme Code, and Advertisement Code be prevented?

The operator shall adhere to the programme code/rules etc.

e) Whether it should be made mandatory for each case of a new Value added service to seek permission before distribution of such value added service to subscribers? Or whether automatic permission be granted for new services on the basis that the services may be asked to be discontinued if so becomes necessary in the subscribers' interest or in general public interest or upon other considerations such as security of state, public order, etc.?

The operator may be allowed to introduce any value added service but the same may be intimated to the authorities periodically.

The operator is responsible for the content of VAS and will be dealt according to the established code/rules for any violation.

f) In view of above, what amendments shall be required in the present DTH license conditions and Uplink/ Downlink guidelines?

No. The operator may be allowed to introduce any value added service but the same may be intimated to the authorities periodically.

g) How could the selling of advertisement space on DTH channels or Electronic Program Guide (EPG) or with Value added Service by DTH operators be regulated so that cross-holding restrictions are not violated. In this view, a DTH operator may become a broadcaster technically once the DTH operator independently transmits advertisement content which is not provided by any broadcaster. How could the broadcaster level responsibility for adherence to Program code and Advertisement Code be shifted to a DTH operator, in case the operator executes the sale and carriage of advertisements?

No. Advertisement in any form may not be allowed in any Value Added service as the operator is charging for the content.

h) Traditionally advertisements as well as program content fall in the domain of the Broadcasters. In case, DTH operator shares the right to create, sale and carry the advertisement on his platform, then the channels are necessarily distinguished on the basis of who has provided the advertisement with the same program feed. In what way any potential demand to supply clean feed without advertisement by a DTH operator be attended to (by a broadcaster)? Should 'must provide' provision of the Interconnect Regulation be reviewed, in case supply of clean feed is considered necessary?

No. The DTH Operator has to carry the channels in the platform as provided by the broadcaster. A DTH operator shall not turn into a broadcaster as it will violate the DTH licensing conditions.

6.2: Radio channels on DTH services

6.2.4

a. Whether carriage of radio channels by a DTH operator be permitted? Should such permission cover all kind of radio channels to be carried?

Radio channels must also get the uplinking/downlinking license from the authorities and only such channels may be available in any DTH platforms.

b. In case this is permitted, whether DTH license, Uplink/ Downlink guidelines, Conflict of business interests conditions with existing radio system operators, should be amended keeping in view, the incumbent or new DTH operators?

Yes. All the existing and new operators have to adhere the revised guidelines.

c. If so, what changes are needed in the existing regulatory provisions so that the general policy of must provide and a non-discriminatory offering of channels be extended to between radio channels and DTH operators?

It needs to be extended to cover radio broadcast also.