

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

File No:15-3/2006 - B&CS

New Delhi, 31st August, 2006.

In exercise of the powers conferred upon it under sub-section (2) and sub-clauses (ii), (iii), (iv) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 [24 of 1997] read with Notification No.39 (S.O. No. 44(E) and 45 (E)) dated 09/01/2004 issued from file No.13-1/2004-Restg by the Central Government under clause (d) of sub-section (1) of section 11 and proviso to clause (k) of subsection (1) of section 2 of the Telecom Regulatory Authority of India Act, 1997[24 of 1997], the Telecom Regulatory Authority of India, hereby makes the following Order, namely:-

1. Short title, extent and commencement:

- i) This Order shall be called “The Telecommunication (Broadcasting and Cable) Services (Third) (CAS Areas) Tariff Order, 2006 (6 of 2006)”.
- ii) This Order shall apply throughout the territory of India.
- iii) This Order shall come into force from the date of its publication in the Official Gazette except as otherwise indicated elsewhere in the Order.

2. **Definitions:**

In this order, unless the context otherwise requires,

- (a) **“addressable system”** means an electronic device or more than one electronic devices put in an integrated system through which television signals can be sent in encrypted or unencrypted form, which can be decoded by the device or devices at the premises of the subscriber within limits of the authorization made, on the choice and request of such subscriber, by the service provider to the subscriber;

(b) **“alternative tariff package” (ATP)** means a tariff package which a service provider may offer, in addition to the standard tariff package, for supply of a set top box to the subscriber for receiving programmes;

(c) **“Authority”** means the Telecom Regulatory Authority of India established under subsection (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997[24 of 1997];

(d) **“basic service tier”** means a package of free-to-air channels provided by a cable operator, for a single price to the subscribers of the area in which his cable television network is providing service and such channels are receivable for viewing by the subscribers on the receiver set of a type existing immediately before the commencement of the Cable Television Networks (Regulation) Amendment Act, 2002 without any addressable system attached to such receiver set in any manner;

(e) **“broadcaster”** means any person including an individual, group of persons, public or body corporate, firm or any organization or body who or which is providing programming services and includes his or her authorized distribution agencies;

(f) **“CAS area”** means the State(s), City(ies), Town(s) or Area(s), where, in terms of a notification issued from time to time under sub section 1 of Section 4A of The Cable Television Networks (Regulation) Act 1995 (7 of 1995), it is obligatory for every multi system operator/cable operator to transmit or retransmit programmes of any pay channel through an addressable system;

(g) **“cable operator”(CO)** means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network;

(h) **“commercial subscriber”** means any subscriber who receives a programming service at a place indicated by him to a service provider and uses such signals for the benefit of his clients, customers, members or any other class or group of persons having access to such place;

(i) **“cable service”** means the transmission by cables of programmes including re-transmission by cables of any broadcast television signals;

(j) **“cable television network”** means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(k) **“distributor of TV channels”** shall have the same meaning as given in sub-clause (j) of clause (2) of the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004 (13 of 2004);

l) **“direct to home operator”(DTH Operator)** shall have the same meaning as given in sub-clause (k) of clause (2) of the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004 (13 of 2004);

(m) **“free to air channel” (FTA Channel)** means a channel for which no fees is to be paid to the broadcaster for its retransmission through electromagnetic waves through cable or through space intended to be received by the general public either directly or indirectly and which would not require the use of an addressable system attached with the receiver set of a subscriber;

(n) **“maximum retail price”(MRP)** is the ceiling price (exclusive of taxes) that will be payable by a subscriber to the cable operator or the multi system operator as the case may be for each pay channel or bouquet of pay channel;

(o) **“multi system operator”(MSO)** means a cable operator who receives a programming service from a broadcaster or his authorized agencies and re-transmits the same or transmits his own programming service for simultaneous reception either by multiple subscribers directly or through one or more cable operators and includes his authorized distribution agencies by whatever name called;

(p) **“ordinary subscriber”** means any subscriber who receives a programming service from a service provider and uses the same for his/her domestic purposes;

(q) **“pay channel”** means a channel for which fees is to be paid to the broadcaster for its retransmission through electromagnetic waves through cable or through space intended to be received by the general public either directly or indirectly and which would require the use of an addressable system attached with the receiver set of a subscriber;

- (r) **“programme”** means any television broadcast and includes
- i) exhibition of films, features, dramas, advertisements and serials;
 - ii) any audio or visual or audiovisual live performance or presentation;

and the expression ‘programming service’ shall be construed accordingly;

(s) **“service provider”** means the government as a service provider and includes a licensee as well as any broadcaster, multi system operator(MSO), cable operator or distributor of TV channels;

(t) **“set top box”(STB)** means a device, which is connected to, or is part of a television and which allows a subscriber to receive in unencrypted/descrambled form subscribed pay channels through an addressable system;

(u) **“standard tariff package” (STP)** means a package of tariff as may be determined by the Authority for supply of a set top box to the subscriber by a service provider for receiving programmes;

(v) **“subscriber”** means a person who receives the signals of a service provider at a place indicated by him to the service provider , without further transmitting it to any other person and includes ordinary subscribers and commercial subscribers unless specifically excluded;

3. Notwithstanding anything contained in the Telecommunication (Broadcasting and Cable) Services (Second) Tariff Order 2004 (6 of 2004):-

- i) the charges¹ payable by subscribers to cable operators/multi system operators/broadcasters in the CAS areas shall be determined by the provisions of this Order;
- ii) the charges¹ payable by cable operators to multi system operators/broadcasters and by multi system operators to broadcasters in the CAS areas shall be determined by the provisions of the Telecommunication (Broadcasting and Cable Services) Interconnection (Second Amendment) Regulation, 2006 (9 of 2006) dated 24th August, 2006, read with this Order.

¹ The word “charges” used for compatibility with the Telecommunication (Broadcasting and Cable) Services (Second) Tariff Order 2004 (6 of 2004) dated 1st October, 2004.

4. Tariff ceiling for 'basic service tier' in CAS areas:

The maximum amount which a cable operator/multi system operator may demand from a subscriber for receiving the programmes transmitted in the basic service tier provided by such cable operator/multi system operator shall not exceed Rs.77/- per month exclusive of taxes, for a minimum of thirty free-to-air channels. Free-to-air channels over and above the basic service tier would also be made available to the subscribers within the maximum amount mentioned above. This ceiling shall be effective from 31st December, 2006 and shall remain in force until otherwise notified.

Explanation: In respect of CAS areas of Chennai where CAS has already been implemented, the ceiling mentioned in this clause shall take effect from the date of publication of this notification.

5. Tariff for supply of set top boxes in CAS areas:

i) The provisions of this clause shall be effective from 15th October, 2006 and shall remain in force until otherwise notified.

ii) Every multi system operator / cable operator in a CAS area shall compulsorily offer to the subscribers both Option I and Option II of the standard tariff package (STP) specified in the Schedule annexed to this Order. In addition, the multi system operator / cable operator will be free to offer alternative tariff packages (ATP) and the subscribers shall have the freedom to choose from amongst the tariff packages so offered including the standard tariff package specified by the Authority.

iii) There shall be no levy or collection of any charges separately from the subscribers, either in the STP or in the ATP referred to in sub clause (ii) above, on account of

- a) installation of set top box;
- b) activation or reactivation of set top box;
- c) Smart Card / Viewing Card; and
- d) repair, maintenance or any other charges (for the first five years)

iv) A subscriber in a CAS area who desires to receive one or more pay channel(s)/bouquets of pay channels may make an application, on or after 15th

October 2006, to any one of the multi system operators/cable operators for supply and installation of one or more set top boxes in his premises as per the tariff contained in sub clauses (ii) and (iii) above.

v) A multi system operator /cable operator as the case may be, on receipt of a request under sub-clause (iv), shall ensure compliance with the request within two days of completion of all formalities as specified in the Standards of Quality of Service (Broadcasting and Cable Services) (Cable Television - CAS Areas) Regulation, 2006 (8 of 2006) dated 23rd August, 2006 issued by the Authority.

Provided that where a subscriber has already taken a STB under the STP and takes a refund after surrendering the STB, then that subscriber will not be entitled to a new STB under the STP (from the same service provider) unless he/she is shifting residence to another city or to another area in the same city where the service is not available from the same multi system operator.

vi) Without prejudice to the provisions contained in sub clauses (ii) to (v) above, a subscriber in a CAS area shall be free to buy a set top box of approved quality (as specified by Bureau of Indian Standards) from the open market, if technically compatible with the multi system operator's system, and no multi system operator or cable operator shall force any subscriber to buy or take on rent the set top box from him/her only. The multi system operator/cable operator shall transmit the requisite pay channels through the set top box acquired by the subscriber on his own.

vii) In respect of Chennai, a subscriber shall have the option to opt for the tariff packages as per sub clauses (i) to (vi) above, or to continue with the existing rental or lease scheme.

6. Ceiling on maximum retail prices for pay channels in CAS areas:

(i) It shall be mandatory on the part of the broadcaster to offer pay channels on a-la-carte basis to multi system operators, and multi system operators in turn shall offer pay channels on a-la-carte basis to cable operators. Similarly, multi system operators/cable operators shall also offer pay channels on a-la-carte basis to the subscribers. In addition to the a-la-carte offer, pay channels can also be offered in the form of bouquets.

(ii) In CAS areas, the ceiling in respect of maximum retail prices (MRP) payable by a subscriber to multi system operator/cable operator shall be five rupees per pay channel per month (exclusive of taxes). The maximum retail price for a pay channel within this ceiling shall be fixed by the broadcaster.

Provided that where the subscriber has opted for a pay channel for a period less than four months then the subscriber shall pay for four months of the MRP of the concerned pay channel.

(iii) The ceiling on MRP contained in sub clause (ii) above shall apply to all the existing pay channels as well as to new pay channels.

(iv) Notwithstanding anything contained in clauses 3.1, 3.2 and 3.5 of the Telecommunication (Broadcasting and Cable services) Interconnection Regulation, 2004 (13 of 2004), dated 10th December, 2004, the amounts payable by the MSOs to broadcasters and by cable operators to MSOs under the provisions of this order read with the provisions of clauses 5.1, 5.2 and 5.3 of the aforesaid Interconnection Regulation (as amended on 24.8.2006) shall not apply to non-CAS areas, to DTH operators or to any other distributor of TV channels.

(v) The nature of any channel, i.e., free to air or pay will normally remain the same for a period of one year. Any broadcaster of a free to air channel intending to convert the channel into a pay channel or vice-versa shall inform the Authority and give public notice one month before the scheduled date of conversion. The public notice shall be published at least in two newspapers, of which one should be a national newspaper and one in the same language as the channel proposed to be converted. The notice period of one month will be counted from the last date of publication in the newspaper, or from the date of receipt of intimation by the Authority, whichever is later. In addition, during the notice period, a scroll will also be run at periodic intervals on the channel proposed to be converted.

(vi) The provisions of sub clauses (i) to (v) above shall not apply to commercial subscribers and the same shall be governed by the Supreme Court Order dated April 28, 2006 in Civil Appeal No.2061 of 2006.

(vii) The provisions of this clause shall take effect from 31st December, 2006.

7. Reporting Requirement:

i) All multi system operators in a CAS area shall report to the Authority tariff packages, including all terms and conditions, associated with the supply of set top boxes to the subscribers. The first such report shall be sent by 12th October, 2006 and thereafter any changes to these tariff packages shall be reported 7 days prior to the launch of a new tariff package.

ii) All broadcasters shall report to the Authority, the MRPs fixed by them under clause 6(ii) for their pay channels to be effective from 31st December, 2006. The first such report shall be sent by 12th October, 2006 and thereafter any changes to these prices shall be reported 30 days prior to the change. All broadcasters shall also publish these MRPs on their respective web sites.

8. Explanatory Memorandum:

This Order contains an Explanatory Memorandum attached as **Annex-A**.

By Order

(Rakesh Kacker)
Advisor (B&CS-I)

Schedule

Standard Tariff Package (STP) for Set Top Box

(Digital Model)

OPTION - I

Particulars	Monthly Rental Scheme with Security Deposit
1) Rent per month per Set Top Box	Rs. 30/-
2) Security Deposit [Refundable]	Rs. 999/- per set top box
3) Installation Charges	Nil
4) Activation charges	Nil
5) Smart Card/Viewing Card Charges	Nil
6) Repair and Maintenance Cost	Nil.
7) Deduction from Refundable Security Deposit	The multi system operator or cable operator shall be entitled to make deductions from the refundable security deposit at the rate of twelve rupees and fifty paise (Rs.12.50) for every month or part of the month for which the subscriber has used a set top box taken on rent or lease, while refunding such refundable security deposit to the subscriber upon return of the set top box at any time up to a period of five years from the date of hiring or leasing of the set top box. This refund would be made where the STB has not been tampered with as provided in clause 6.3 of the Standards of Quality of Service (Broadcasting and Cable Services) (Cable Television – CAS Areas) Regulation, 2006 (8 of 2006) dated 23 rd August, 2006 issued by the Authority.

Note: No monthly rentals will be payable after the period of five years and the set top box will become the property of the subscriber after the expiry of five years. The subscriber shall however be liable to pay repair and maintenance charges from the sixth year onwards.

AND

OPTION – II

Particulars	Monthly Rental Scheme with Security Deposit
1) Rent Per Month Per Set Top Box	Rs.45/- *
2) Security Deposit (Refundable)	Rs.250/- per Set Top Box
3) Installation Charges	Nil
4) Activation charges	Nil
5) Smart Card/Viewing Card Charges	Nil
6) Repair and Maintenance Cost	Nil.
7) Deduction from Refundable Security Deposit	The multi system operator or cable operator shall be entitled to make deductions from the refundable security deposit at the rate of three rupees (Rs.3) for every month or part of the month for which the subscriber has used a set top box taken on rent or lease, while refunding such refundable security deposit to the subscriber upon return of the set top box at any time up to a period of five years from the date of hiring or leasing of the set top box. This refund would be made where the STB has not been tampered with as provided in clause 6.3 of the Standards of Quality of Service (Broadcasting and Cable Services) (Cable Television – CAS Areas) Regulation, 2006 (8 of 2006) dated 23 rd August, 2006 issued by the Authority.

*For Analogue Boxes this would be Rs. 23 per month per Set Top Box.

Note: No monthly rentals will be payable after the period of five years and the set top box will become the property of the subscriber after the expiry of five years. The subscriber shall however be liable to pay repair and maintenance charges from the sixth year onwards.

EXPLANATORY MEMORANDUM

1. The Hon'ble Delhi High Court in its order (Single Judge Bench) of 10th March, 2006 had directed that the Conditional Access System (CAS) be implemented within four weeks in the three Metros of Mumbai, Kolkata and Delhi. Union of India filed an appeal (LPA 985 of 2006) before a Division Bench of the Delhi High Court for extension of time for implementation upto 31st January 2007. The Hon'ble Division Bench in its order of 20th July, 2006 permitted time upto 31st Dec 2006. Government of India has also issued a notification on 31st July, 2006 notifying areas in the three cities of Mumbai, Kolkata and Delhi where CAS would be implemented w.e.f 31st December 2006. In Chennai, CAS is already in force and will continue. The Government of India also notified certain amendments to the Cable Television Networks Rules 1994 on 31st July 2006.

2.(i) The implementation of CAS requires a number of steps to be taken. In respect of tariff matters these are:

- (a) **Tariff ceiling for 'basic service tier';**
- (b) **Tariff for supply of Set Top Boxes (STB)s; and**
- (c) **Maximum Retail Prices for pay channels.**

The Explanatory Memorandum accordingly has been divided into three parts dealing with these three issues. Before going into the individual components of this order it is necessary to explain the general approach of the Telecom

Regulatory Authority of India (hereafter referred to as the Authority) to these issues.

ii) The fundamental principle of regulation is to allow the market forces to work and to ensure a level playing field amongst various service providers. At the same time whenever the Regulator considers that there is not enough competition in the market, regulatory intervention is required to protect the interests of the subscribers. This fundamental principle has been kept in mind by the Authority while finalising this tariff order. The Authority would closely monitor the developments in the market and as the level of competition increases a review of the tariff regime would be considered.

iii) Price regulation is justified when markets fail to produce competitive prices. When markets are competitive and are said to function smoothly, they will lead to “efficient” prices that maximize value to consumers. For this efficient ideal competitive situation to be realized, the market must meet a number of conditions. These conditions include that the market must have several suppliers and consumers with none so large as to affect prices. There should also be free entry to and exit from the market. Where all these conditions are not present, the market will not generally produce optimal results. In such a situation, there is justification for intervention by the Regulator to improve social welfare. The introduction of price regulation in any market is one such intervention necessitated on account of lack of adequate competition in the market. Such market failures are caused by a number of factors.

iv) In the case of cable television sector in India, historically, there has been lack of effective competition and lack of choice to the subscribers. Cable

services, particularly the last mile operations, are in the nature of a monopoly market in India. Although, the cable TV industry is fragmented, it is characterised by a few dominant broadcasters and large Multi System Operators (MSOs) with some of them having vertically integrated operations, resulting in unequal bargaining powers amongst various players in the supply chain.

v) The slow pace of growth of the alternative modes of delivery of television services is one of the major factors responsible for the lack of competition in the market. Coupled with the unequal bargaining powers amongst various players as explained above, the sector witnessed rampant disconnection disputes, numerous billing and payment disputes, allegations of discriminatory practices in pricing and unfair trade practices in the last few years resulting in considerable litigation in the courts of law. This affected the interests of subscribers as they did not have effective choice of delivery platforms, choice of operators or choice of channels.

vi) The introduction of CAS provides subscribers with a degree of choice that they did not have so far. The CAS also brings in the transparency in the system and meets the ultimate objective of bringing in addressability in the system. However, the effectiveness of the CAS to the consumer largely depends upon the manner in which the channels are made available to the consumers by the broadcasters/operators. In a market which is considered to be lacking in competition, it is necessary to ensure that choice of individual channels is available to the subscriber within this addressable system i.e. CAS. With this end in view, the Ministry of Information and Broadcasting vide their Notification dated 31st July, 2006 have mandated transmission/re-transmission

of the programmes of every pay channel through an addressable system in the notified areas.

vii) Since CAS, currently in force in Chennai only, is to be extended to the notified areas of Mumbai, Kolkata and Delhi in a time bound manner, the changeover needs to be properly regulated so as to ensure that the transition takes place in a smooth manner. The new system would require that subscribers would have to make a number of decisions about acquiring an STB and deciding the channels that they wish to see. In making this transition as smooth as possible, the Authority has been guided by the following considerations:

- a) The subscribers should have the option of viewing the free to air channels at an affordable price without making any other payment for set top box, etc.
- b) The subscribers who wish to see the pay channels should be able to get a STB on *reasonable terms* and also have an *option to exit* the service if they find it not satisfactory.
- c) The subscribers having spent their money on acquiring a STB should in return get the *freedom to choose individual pay channels rather than buy a large bouquet of channels* that contains channels that he / she does not wish to watch. Further, the *tariff* applicable to such pay channels should *be affordable to the subscriber*.
- d) The need to facilitate the industry to move to a new era where there is greater transparency and reduction in the scope of disputes amongst the stakeholders particularly between broadcasters/ distributors and MSOs/cable operators (COs).

viii) Thus, the Authority believes that the framework of tariff regulation for the basic service tier (FTA channels), STB rental scheme and pay channel prices should be to the benefit of not just the consumers but also the industry as a whole.

3. Tariff for 'basic service tier' in CAS Areas

3.1 The Government of India vide notification no. S.O. 503(E) dated May 7, 2003 had fixed a ceiling rate of Rs.72/- per month per subscriber for the basic service tier under the Cable Television Networks (Regulation) Act, 1995. The Authority had, vide its tariff order dated 01.10.2004, fixed a general ceiling on the charges payable by subscribers to cable operators, cable operators to MSOs/broadcasters and MSOs to broadcasters throughout the country, both in respect of free-to-air and pay channels, at the levels prevalent as on 26.12.2003. By a subsequent amendment to the tariff order dated 1st December, 2004, the Authority allowed an increase of 7% in order to make adjustments for inflation, with effect from 1st January, 2005. A subsequent increase of 4% on account of inflation was allowed by the Authority by a tariff amendment order dated 29.11.2005 with effect from 1st January, 2006 but this increase has been stayed by the Hon'ble TDSAT.

3.2 Keeping the affordability objective in view, it had been proposed by the Authority (in the aforesaid draft tariff order) to notify a tariff ceiling for the basic service tier in areas notified by the Government under section 4A(1) of the Cable Television Networks (Regulation) Act, 1995 (Cable Act). The basic service tier is to include at least thirty free-to-air channels and the tariff ceiling for such basic service tier was proposed by adopting the maximum price of Rs.72/- as determined by the Government and adding the seven percent

increase allowed by the Authority with effect from 1.1.2005. Thus, the ceiling of rates fixed for the basic service tier in CAS areas was proposed at Rs.77/- (Rupees seventy seven only) per month per subscriber i.e., Rs.72/- plus Rs.5/- on account of the 7% increase for inflation allowed earlier. Free-to-air channels, over and above the basic service tier, would also be made available to the subscribers within the maximum amount mentioned above. This was proposed to be applicable in all areas notified by the Government as CAS areas under section 4A(1) of the Cable Act.

3.3 A draft of the Tariff Order providing for basic service tier charges was placed on the Authority's website on 27th July 2006. Gist of the comments received was placed on the Authority's website on 17.8.2006 and a copy of the same is attached as Annexure-I. The operators (MSOs and COs) have suggested that the tariff for basic service tier should be hiked and the extent of increase suggested by them ranged from Rs.20 to Rs.100 per subscriber per month. This would mean that the tariff ceiling for the basic service tier would become about Rs.100 to Rs.180.

3.4 In this context, the Authority recalled the requests made by the consumer groups in 2004, wherein they had argued even at that time that the price of the basic tier fixed at Rs.72/- per month itself was excessive and should be brought down. The consumer groups that were associated during the estimation of costs of basic service tier in 2002-03 have also represented to the Authority that there was a scope for reducing the basic service tier tariff and that this was in fact increased from the original cost estimates as a compromise/ concession to MSOs/CO in 2003. They also pointed out that the basic tier services were being offered in many areas at a level lower than Rs.72 per month per subscriber.

3.5 The Authority has considered both these viewpoints. The determination of tariff of the basic service tier is a complex exercise. The tariff estimated in 2002-03 was on the basis of a detailed exercise undertaken by the Ministry of Finance. The cable networks in the CAS and non CAS areas throughout the country have been laid at different points of time and have been put to use over differing periods. While there may be a case to revisit the estimates in the light of the suggestions made by the MSO and COs, it is also important to reflect that the initial cost may have been significantly recovered by most of the MSOs and COs. The Authority had proposed to make an inflation adjustment by allowing an increase of 7% from January 2005. The adjustment for inflation w.e.f 1st January 2006 is not proposed on account of the orders of the Hon'ble TDSAT. Therefore, the Authority is of the view that the proposed tariff, at Rs. 77/-per subscriber per month, is realistic and has a sound basis of cost analysis done earlier by the Ministry of Finance. A fresh exercise of cost estimate would entail huge collection of data on cost of rolling out networks, pattern of usage, population density using that network, age of equipments, nature of technological innovations, etc. Such an exercise would have greater meaning and relevance if undertaken after full implementation of CAS scheme in all the notified areas for some months.

3.6 Therefore for the present it has been decided that the basic service tier ceiling will not be changed from what was proposed in the draft Tariff Order. This tariff is therefore fixed at Rs.77/- per month per subscriber (exclusive of taxes).

4. Tariff for supply of Set Top Boxes

4.1 Every cable TV subscriber in a CAS area who intends to watch pay channels has to acquire a set top box (STB) on his own or from a MSO/CO (referred to jointly as operators). The success of CAS implementation is crucially dependent upon the manner in which the STBs are supplied to cable TV subscribers intending to watch pay channels and the tariff package at which it is offered. Experience with the introduction of CAS in 2003 indicates that one of the reasons for its failure in full implementation in many of the notified areas was that the schemes for STB offered by the operators to the subscribers were not perceived to be affordable by a large section of the population. Schemes requiring large upfront payments to be made by the subscribers acted as an ‘entry barrier’. Further, subscribers needed an assurance that the commercial terms associated with the acquisition and use of STB were reasonable. Another major concern of subscribers was that deployment of STBs to facilitate CAS should not negatively impact their ability to change their service provider.

4.2. Discussions with the industry associations and bodies representing consumers reveal that STBs offered on rent or lease would help promote better penetration of STBs and speedier implementation of CAS. Cable TV subscribers, living in the CAS notified areas and wanting to watch pay channels, will have to buy or rent a STB after implementation of CAS. In addition, as per the standards of the Bureau of Indian Standards, the STBs for cable television are not technically interoperable – which means that the STB of one MSO will not work in the network of another MSO. Accordingly, to provide an element of competition and choice to the subscriber, it is necessary that every subscriber has the facility of taking a box on rent which he can return if

the service is not satisfactory. In order to ensure that such choice is real and not illusory there is a need for the Authority to look at the rental schemes being offered. Most stakeholders including the MSOs have also agreed with this approach in the meetings that were held in March –April 2006. Therefore the Authority is of the view that tariffs for STBs need to be regulated and kept at affordable levels, besides regulating other terms and conditions governing the supply of STBs to the subscriber.

4.3. The Government of India have also notified amendments to the Cable Television Networks Rules, 1994 on 31st July, 2006 which inter alia provide that tariff packages, timelines for supply, delivery and quality of service standards for set top box in CAS areas would be in accordance with the orders/directions /regulations to be issued by the Authority.

4.4. In the context of these developments it was decided to initiate a consultation process on the schemes for supply of STBs. A draft tariff order setting out the schemes for rental, security deposit etc was placed on the Authority's website on 8th August, 2006. The gist of comments were placed on the website of the Authority on 28th August, 2006 and is placed at Annexure - II of this Explanatory Memorandum. In response to the Draft Order put on the website, comments have been received from eight stakeholders.

4.5 M/s CUTS, a consumer organization, have pointed out that the schemes available in Chennai could be used for adoption in the other three cities. They have also indicated that rather than adopting the schemes of the MSOs, the Authority should itself provide its own scheme. It needs to be clarified that the schemes put on website by the Authority are not those of the MSOs. They are

based on the MSO's schemes but there have been certain modifications made by the Authority. Moreover, in the case of Chennai, the schemes were introduced three years ago. What is relevant is the future scenario keeping in mind the current market conditions. In fact, the MSOs have objected to the modifications proposed by the Authority and these objections are dealt with in the subsequent paragraphs. One consumer from Chennai has requested that the proposed scheme should be extended to Chennai. This has been provided for in the Order.

4.6. The main objections of the MSOs are as follows:

- i) Apart from the deposit of Rs.999/- for the STBs, there should also be a Smart Card deposit of Rs.400/- and an installation charge of Rs.200/- to Rs.500/-.
- ii) It has been also suggested that the repair and maintenance charge would be waived only for the first year during which the warrantee period applies and from the second year onwards the repair and maintenance cost would have to be borne by the consumer.
- iii) There should be no standard tariff package which does not provide for a security deposit.
- iv) One of the MSOs has suggested that after five years the Box can belong to the consumer after paying a one time deposit of Rs.1000/- or a monthly deposit of Rs.25/-.
- v) Consumers should not be allowed to frequently change the STB by exiting a scheme, getting a refund, using the refund to make a fresh deposit and then applying for a new STB again. Therefore, refund should be allowed on genuine grounds only if a consumer is shifting out of the locality or city.

4.7 Two of the MSOs had written in March 2006 that they have decided to introduce STBs as a promotional offer with a returnable security deposit of Rs.999/- and a monthly rental of Rs.30/- only. At that time no additional

charges on account of Smart Card / installation charges were mentioned. In July 2006, TRAI had written to the MSOs as to whether these costs are included in the security deposit of Rs.999/- or not. While M/s Hathway had confirmed that there would be no additional charges on account of Smart Card activation charges, M/s IndusInd Media Communications Ltd (IMCL), stated that there would be additional charges of Rs.400/- of the Smart Card and Rs.250/- as the activation charge. It was also indicated by M/s IMCL that the lease rental would increase to Rs.60 per month in the second year and Rs.90 per month in the third year.

4.8 In response to the draft tariff order released on August 8, 2006, M/s Hathway have reaffirmed that the initial deposit of Rs.999/- would be inclusive of the Smart Card charges and the charges for activation / installation. The other operators have, however, suggested that since this is a separate cost, they should be permitted to add on this cost. The Authority has considered these suggestions very carefully. No doubt there is a cost associated with installation as well as with the viewing card. However, consumers should not be confused by adding on a number of charges to the basic scheme that is advertised. Since March 2006 the scheme that has been advocated by the MSOs only talked of a one time deposit of Rs.999/- with a monthly rental of Rs.30/-. One of the MSOs has also reaffirmed this commitment. Therefore, the Authority is not inclined to allow any increase either in the one time deposit or in the monthly rental over and above what the Authority had proposed in the draft tariff order. Accordingly, in Option I of the STP the monthly rental will remain at Rs.30/- per subscriber and the one time deposit at Rs.999/- per subscriber. The monthly deduction on account of depreciation has been kept at Rs. 12.50. This has been worked out at an annual depreciation of 15%. This is considered quite

reasonable since this is what has been proposed by one MSO and a life of about 6-7 years in the Indian context is quite reasonable. Accordingly the suggestion on account of depreciation have not been accepted.

4.9. In the draft tariff order, the repair and maintenance costs have been proposed to be borne by the operators in the standard tariff package as well as in the alternative tariff package. This was proposed to be done since the STBs provided under the STP would be the property of the operators and would not belong to the consumers. Accordingly in the case of the STP, there is no justification for permitting the repair and maintenance costs to be borne by the consumers. In the case of the ATP also, the repair and maintenance costs had been proposed, in the draft tariff order, to be borne by the operators. This had been done so that the consumers can easily compare the two packages and can choose from among the ATPs and the STP. With non – standardized cost structures certain costs may not be clearly visible and can lead to wrong choices by the consumers. Accordingly, no change has been made on this aspect in the Tariff Order.

4.10. All the operators have objected to the Option II under the STP since this does not provide for a security deposit. Such a deposit was considered necessary for the consumers to have some stake in the STB. The objective of the Authority in suggesting this scheme was to give an alternative in which there is a higher rent but there is no security deposit. This would be particularly beneficial to the low income consumers for whom giving a deposit of even Rs.999/- would be excessive. Nevertheless the objections of the operators are well taken. The Authority has reconsidered this Option and has decided that there would be a small and affordable security deposit of Rs.250/-

in Option II of the STP. This could be availed of by those consumers who can afford only a lower entry cost. However, since the monthly rent is Rs.45/- this would ensure that the total discounted flow to the MSO over five years would be virtually the same as in Option-I. All other conditions would be the same except that the monthly deduction for the refund would be Rs.3/- per month (about one-fourth of Rs.12.50 which is the monthly deduction in Option-I). The choice of options within the STP shall be with the consumer and not with the operator.

4.11. The STP Option-I and II provide that at the end of five years, the STP would become the property of the consumers. The charges for repair and maintenance beyond this period were not specified in the draft order. One of the MSOs has suggested that to take care of this aspect the consumers could either pay a one time deposit of Rs.1000/- or a monthly deposit of Rs.25/-. The Authority recognizes the need for such charges but at this point of time does not consider it necessary to fix these charges. This could be left to be mutually decided between the service providers and the consumers at that point of time and the need for regulation of this aspect, if any, should also be looked at later. The Tariff Order is, however, making clear that the repair and maintenance charges beyond the period of five years would have to be borne by the consumers.

4.12. An important point brought out by the operators is that the draft order would allow a consumer to take a new STB at short intervals by taking a refund of existing STB and then applying again for a new STB. This is a valid point and to ensure that the provision of refund in the STP is not abused, safeguards will have to be provided. Accordingly, it has been decided that once the

subscriber takes the refund he cannot get a new STB under the same scheme unless he is shifting his house to an area where the existing service provider does not have any service. Similarly a refund could be taken and a new STB taken from a different service provider – this is to ensure that the consumer has the freedom to choose amongst alternative service providers. If a subscriber takes a refund of his STB and then reapplies to the same service provider, he would not be entitled for a STB under the provisions of the STP. The draft tariff order has been modified to provide for these safeguards.

4.13. For the reasons elucidated above, it is considered necessary to mandate a Standard Tariff Package (STP) for STBs in the manner set out in the tariff order. MSOs/COs have to compulsorily offer both the options of the STP to every subscriber who wishes to watch pay channels in CAS areas. The Authority is of the view that payment of high security deposit by the subscriber as proposed by certain MSOs could be burdensome to a large majority of such subscribers who intend to watch pay TV channels. Therefore, the STP envisages two options, one with a higher security deposit and lower rent and the other with a lower security deposit but higher rent. In Option I, the monthly rental of a Digital STB is fixed at Rs.30/- along with a refundable security deposit of Rs.999/-. In Option II the monthly rental is fixed at Rs.45/- for a digital STB and Rs. 23/-for analog STB, along with a refundable deposit of Rs.250/-. After five years, the STB will become the property of the consumer in both options.

4.14. In addition to the above the operators are free to offer any combination of tariffs to the consumers as Alternative Tariff Packages.

4.15. It may be recalled that one of the primary reasons for the subscribers' non-acceptability of STB in the earlier effort to implement CAS was the apprehension of getting 'tied with the box' purchased outright. In view of this the Authority does not propose to provide for any outright purchase scheme in its standard tariff package. However, the Authority has recognized that outright purchase could be an option and has provided freedom to the subscribers to choose the outright purchase option if they so desire. At the same time, it needs to be ensured that the STB purchased from sources other than the operators are technically compatible with the systems of the MSO.

4.16. The proposed date for bringing into effect the provisions relating to the tariffs for STBs has been kept as 15th October 2006 keeping in view the time frame for implementation of CAS in respect of activities of application for STB and supply thereof. This would also provide a transition time to the Chennai consumers. In order to safeguard the interests of existing subscribers in Chennai (where CAS has already been implemented) it has been provided that in case a subscriber is already having a more attractive scheme, he /she can continue with the same.

4.17. The provisions of the Tariff Order relating to STB Schemes have not been proposed for the STBs supplied by the Direct to Home (DTH) operators for the present as they are two different systems of delivery in several respects. Further, DTH is a matter of choice for the subscribers *throughout India* while CAS has been notified by the Government of India for implementation in the specified areas of Chennai, Delhi, Mumbai and Kolkata. However, the Authority is closely monitoring developments in the DTH market and will

consider initiating a separate consultation process on all regulatory issues concerned with DTH in India at an appropriate time.

4.18. Reporting requirements have been mandated by the Authority for reporting of tariffs offered by operators to the cable TV subscribers and these are to be complied with by the operators without fail.

5. Maximum Retail Price of pay channels

5.1 The Authority had in October 2004 issued a tariff order that sought to preserve the prices prevailing in December 2003 with some adjustments for inflation and for additions/deletions of pay channels. In CAS areas this meant that the basic service tier, a-la-carte and bouquet pricing that prevailed in December 2003 continued. The Authority had indicated some directions for change in the tariff regime that was to have been introduced after the Government took a view on the Recommendations on Broadcasting and Distribution of TV channels issued on 1st October, 2004 (hereafter referred to as the “Recommendations”).

5.2 To ensure effective implementation of an addressable system that facilitates choice to the consumers in the matter of viewing pay channels, it is necessary to address concerns that arise out of certain market practices that are prevalent in the broadcasting and cable television services industry. Experience from the earlier attempt at implementation of CAS in notified areas indicates that the choice of watching select pay channels did not actually rest with the consumer on account of the market practice of bundling channels in a manner where the subscriber did not have a real option to choose channels on a-la-

carte basis. After studying such market practices, the Authority in its Recommendations had suggested a model where it recognized the need to have a regulation on the maximum allowable discount on a bouquet of channels in CAS areas. This effectively meant that the issue of pricing individual channels as well as bouquets was left to service providers, so long as distortions due to bouquet discounts was prevented.

5.3 During the intervening period a number of significant developments have taken place in the market. One major development as brought to the notice of the Authority by consumers/consumer groups and the operators is the proliferation of pay channels and the system of bundled services wherein subscribers were forced to pay for channels they did not wish to watch. It is said that popular channels were packaged with less popular channels on a take it or leave it basis.

5.4 During the deliberations in March-April 2006 for evolving a plan of action for implementation of CAS , in the background of the Hon'ble High Court of Delhi order dated 10th March, 2006, a number of stakeholders (excepting the broadcasters) were of the view that one of the reasons for the failure of the earlier effort to implement CAS was the absence of a predictable mechanism to regulate the prices of pay channels in a CAS scenario. It was felt that in the initial stages there should be some form of determination of the prices of individual pay channels. The Authority initiated a consultation process to ascertain the views of the stakeholders, including subscribers, on tariff related matters for CAS areas. The consultation paper was issued on 14th June 2006. The gist of comments received from stakeholders was placed on the Authority's website on 11th July, 2006. This is attached as Annexure III to this

Explanatory Memorandum. The open house discussion was held in Delhi on 27th July, 2006 followed by a series of smaller meetings with different stakeholder groups. The important issues raised by various stakeholders are addressed separately in later paragraphs of this Explanatory Memorandum.

5.5 The Authority had requested all the broadcasters to provide wholesale/retail prices of channels both on an a-la-carte basis and bouquets of channels for the CAS areas on 20th July, 2006. This was in continuation of the consultation process which had been initiated as indicated in para 5.4 above. The broadcasters were to provide this information by 7th August, 2006. Subsequently the Government of India, also amended the Cable Television Network Rules 1994 (hereafter referred to as the Cable Rules) on 31st July, 2006. According to Rule 10(2) the broadcasters were required to furnish within 15 days of the issue of the notification (i.e. by 15th August, 2006) the maximum retail price (MRP) of all their pay channels on an a-la-carte basis. The relevant rule is reproduced below for convenience

10. Nature and prices of channels:-

- (1) *Every broadcaster shall declare the nature of each of its channels as 'pay' or 'free-to-air' channel as well as the maximum retail price of each of its 'pay' channels to be charged by the multi-system operators or local cable operators from the subscribers in each of the notified areas.*
- (2) *Every broadcaster shall file his declaration of the nature and prices of channels under sub-rule (1) before the Authority and the Central Government within fifteen days of the date of notification by the Central Government under section 4 A of the Act.*
- (3) *If in the opinion of the Authority, the price declared by the broadcaster in respect of any of its pay channels is too high, the Authority may, under section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997),*

fix and declare the maximum retail price of such a pay channel or fix a general maximum retail price for all pay channels within which the broadcasters may declare their individual prices for each pay channel, to be paid by the subscribers in any of the notified areas, and such an order of the Authority shall be binding on the broadcasters and the multi-system operators and local cable operators.

- (4) *Every broadcaster shall enter into interconnection agreements with multi-system operators in the notified areas as per the standard interconnection agreement or with any mutually agreed modifications on a non-discriminatory basis, as per the regulations or directions or orders of the Authority*
- (5) *If a broadcaster fails to declare the price of any of its pay channels within the prescribed time limit under sub-rule (2) or refuses or fails to comply with the direction under sub-rule (3) or refuses or fails to enter into an interconnect agreement with a multi-system operator permitted by the Central Government under sub-rule (3) of rule 11 within the time limit as prescribed by the Authority, then the Authority may, so as to protect the interests of the subscribers, take interim measures to ensure supply of signals.*
- (6) *In the event of non-compliance by the broadcaster of the directions issued by the Authority under sub-rule (5), the Central Government may, on the recommendations of the Authority, suspend the permission granted to the broadcaster under uplinking or downlinking guidelines as the case may be, to broadcast that channel in the country or any part thereof.*
- (7) *Every declaration filed by the broadcaster under sub-rule (1) or maximum retail price fixed by the Authority under sub-rule (3) shall normally remain valid for a period of one year from the date of such declaration or fixation, as the case may be, subject to the condition that every broadcaster will be free to revise the price of any channel or convert a pay channel to free-to-air or a free-to-air channel to a pay channel by giving one month's notice to the multi-system operator and subscribers.*

Provided that no increase in price beyond the individual limit, if any, specified by the Authority, shall be valid without prior approval of the Authority.

Provided further that no such price increase shall be valid beyond the general maximum retail price for all channels fixed by the Authority.

5.6 The broadcasters were also required to declare the nature of their channel i.e. pay or free to air channel by this date. As is evident from the sub rule 5 of Rule 10, the Authority is required to take interim measures to ensure supply of signals if the broadcaster fails to declare the price of its pay channels. The Cable Rules – sub rule 3 of Rule 10 also envisage that if in the opinion of the Authority the price declared by the broadcasters in respect of any of their pay channels was too high, the Authority may, as provided in Section 11 of the TRAI Act 1997 (24 of 1997), fix and declare the maximum retail price for all pay channels within which the broadcasters may declare their individual prices for each pay channel, to be paid by the subscriber in any of the notified areas.

5.7 Telecom Disputes Settlement & Appellate Tribunal (TDSAT) in its judgment dated 14th July, 2006 in Petition No.136(C) of 2006, ASC Enterprises Limited Vs. Star India Pvt. Ltd has also accorded priority to the interests of the subscribers to be determined in a fair and transparent manner. Some of the salient findings in the judgment are being reproduced as they bring out broad expectations from an addressable system. It is of course to be noted that the judgment relates to DTH operators.

“In the interest of consumers, balance of convenience and equitable business opportunity, all the channels of all broadcasters must be available on all DTH platforms. We feel that rate for these channels will have to be laid down by the regulator”.....

“In case the DTH operators also stick to bouquets the choice of the consumer will get restricted and the charges being levied to consumers will also vary depending on bouquets which may be against the basic principles of DTH service. This principle of all channels being available will ensure non-discriminatory availability of channels for all

the DTH operators from all the broadcasters and the consumer would thereby be able to exercise his choice of channels”

“We hope the TRAI will soon come out with the regulations to lay down the charges for each channel”

It may be noted that both M/s Star India and M/s ASC Enterprises have appealed against the order of the TDSAT in the Hon’ble Supreme Court. However, the order of TDSAT has not been stayed. The matter is currently subjudice.

Thus TDSAT has clarified that the determination of rates per channel is the prerogative of Authority. Therefore both the notified rules by Government of India and the judgment of TDSAT have called upon the Authority to evolve a mechanism which ensures subscribers choice on an a-la-carte basis within a regime of price determination.

5.8 In response to the letter of Authority dated 20th July, 2006 (referred to at para 5.5 above) and the provisions of the Cable Rules, the following Broadcasters have sent information on their pay channels.

- i) Star India (P) Ltd;
- ii) SET Discovery (P) Ltd;
- iii) Zee Turner Ltd;
- iv) ESPN Software India (P) Ltd;
- v) Raj Television Network Ltd;
- vi) B4U Television Networks (India) Pvt Ltd;
- vii) Sahara India Commercial Corporation Ltd;
- viii) Sun TV Ltd;
- ix) Udaya TV Pvt Ltd;

x) Gemini TV Pvt Ltd.

The broadcasters have also conveyed serious reservations on the exercise of price determination and have also made some other comments and these points have been addressed in the subsequent paragraphs.

5.9 The prices reported by the broadcasters are attached as Annexure-IV. On an analysis of the prices of these pay channels, the Authority has arrived at the conclusion that there is a need to fix a ceiling on maximum retail price for the pay channels. The basis for this decision of the Authority is discussed below:

- (a) The prices reported by the broadcasters for the pay channels are generally stated to be wholesale prices i.e. the prices that they may charge the MSO/CO and obviously the retail prices applicable to the subscriber would be higher than this.
- (b) These prices are too high both in comparison to the prevailing prices in Chennai as well as the prices that have been negotiated by broadcasters/distributors for supply of the signals to the DTH service provider. In the case of M/s Star India, the bouquet prices reported by them are also very high in comparison to the price that has been ordered by TDSAT for supply to the DTH operators in its judgment in the case of M/s ASC Enterprises Vs Star India (P) Ltd.
- (c) From the above, it is evident that there appears to be no attempt on the part of broadcasters/distributors to move away from the prevalent market practice of bouquet method of pricing that has been found to be affecting consumers' interests adversely.

5.10. The Authority has carefully examined the prices of various pay channels of the broadcasters as reported by them. While arriving at the decision contained in the tariff order, the Authority has kept in view the following basic considerations:

- i) The implementation of CAS would be judged by the subscriber with reference to his existing terms of cable transmission in a non-CAS environment. The primary purpose of an addressable system is to facilitate choice of pay channels at the level of subscriber, improved quality and monthly cable bill at a reasonable/acceptable level commensurate with the number of channels chosen by the subscriber. The expectation of the subscriber that the new system should not be an additional financial burden has merit and needs to be kept in view. If the subscriber is going to be worse off in the post CAS environment – either in the form of significant reduction in the number of pay channels currently watched by him or disproportionate increase in cable bill – it is unlikely that CAS would have wide acceptability from the subscribers.
- ii) Given the existing practices in non-CAS environment where different subscribers are paying different cable bills based on mutual negotiation with an element of cross subsidy, any approach based on average price determination is unlikely to satisfy all the subscribers. The Authority was sensitive to this challenge and has attempted to mitigate this perceived discomfort to some extent.

- iii) The business models are structured around the expectations of the subscribers and predictable addressability. The broadcasters would gain from a large subscriber base (as compared to the present practice of under declaration in non CAS environment) , and it is expected that the larger volumes should help both the industry and the subscribers who would get the benefits of a large, vibrant market. The larger subscriber base should help the revenue model of all the stakeholders in the distribution chain, which is based on the revenue stream from advertisement, carriage and revenue from subscription.
- iv) Cost based pricing of pay channels is an extremely complex exercise and it is neither practical nor feasible on a continuing basis to undertake such an exercise to cope up with the changes.
- v) Chennai is the only place in India where CAS has been implemented. The subscriber base of CAS in Chennai has not been sufficiently broad. Therefore, any adoption of Chennai model in other notified metro areas has its limitations.
- vi) The responses of stakeholders are not uniform and largely reflect their respective concerns.

The basic rationale for temporary intervention and methodology for determination of tariff is discussed in the succeeding paragraphs.

5.11 There is no uniformity in views on the question of fixation of maximum retail price by the Authority for each individual pay channel. It may be mentioned that the Authority in its Recommendations dated 1.10.2004 had not

favoured any intervention in terms of price determination of individual pay channels in respect of CAS areas. It should, however, be noted that the Authority in its Recommendation (referred to earlier) had emphasized the availability of choice of individual channels to the subscribers. Accordingly, the Authority had at that time decided to regulate the maximum discount in a bouquet price so that subscribers are not indirectly forced to opt for a bouquet even when the subscriber wants to subscribe to only a few of the channels in the bouquet. It has now become necessary for the Authority to follow a different course of action as the recent developments have overtaken the key considerations which formed the foundation of its earlier decision. The notification of rules by the Government and the judgment of TDSAT have been two important inputs to the revised position. Further, broadcasters have reported high tariff, both at wholesale level and in some cases at the retail level. This implies that if fixation of prices of individual channels is completely left to the market forces then there is a possibility that CAS implementation may not be beneficial to subscribers. The Authority also took note of the fact that there is a overwhelming view of the consumer organizations and different tiers of service operators (other than broadcasters) that the implementation of CAS would require some kind of intervention by the Authority over the prices, albeit for a limited period. In the background of this and the basic framework discussed in paras 5.7, 5.8, 5.10 and in this para, the Authority has decided to fix a ceiling on maximum retail price of pay channels to ensure the smooth transition to CAS in the notified areas. It is felt that this measure is least interventionist in its features. Firstly, the Authority expects that it will be in operation for a limited period and would enable the Authority to revisit the subject and consider deregulation on the basis of emerging market trends in future. Secondly, there is no price determination of specific pay channels and it

is subject to market forces, within the overall ceiling. Moreover, the structuring of bouquets and their offer to the subscriber has been totally left at the discretion of the service providers.

5.12 It is acknowledged that any methodology of determining pricing based on cost and revenues has complex implications as the reliable data will not be easily forthcoming. Therefore, the Authority has relied upon:

- a) The prices made available by the stakeholders during the process of consultation.
- b) Inference drawn from the agreements between the broadcasters and the MSO.
- c) Available data from CAS areas in Chennai.
- d) Offers made by DTH operators. The determination methodology adopted by TDSAT in its judgement in the case involving ASC Enterprises Limited and Star India Pvt. Ltd.
- e) Reported mismatch between the actual subscriber and chargeable subscriber (inference drawn from the prevailing practices)
- f) Arrangements of revenue sharing with a reference to advertisement, carriage and revenue generated from the subscribers.

5.13 It may be seen from Annexure V that the individual retail prices of different channels of the three major broadcasters have varied from Rs. 4.30 to Rs. 26.75 in Chennai. Evidently the market has failed to throw up any solution and a just and fair price did not find its level. Assuming that in the current non-CAS environment, a subscriber on an average is getting 25–30 pay channels, the sum of the individual channel prices (using a mix of high priced, average priced and low priced channels) at the rates prevalent in Chennai would work

out to over Rs.350/- per subscriber per month. This coupled with the cost of basic service tier plus taxes would lead to a monthly cable bill of more than Rs.450/- per subscriber per month. Even assuming that a subscriber chooses the ten lowest priced individual channels and one popular channel, the bill for the pay channels would work out to more than Rs.100 including taxes besides the cost of basic service tier. The total cable bill could exceed Rs.200 even for such 11 pay channels. In comparison, DTH service providers have already announced tariff packages which lead to a monthly bill of Rs.180- 200/- per subscriber per month with more than 30 pay channels. In the current scenario in non CAS environment information as available in the market shows that an average price for 25-30 pay channels along with 30 free to air channels is around Rs 175-200/- In this situation, it is clear that, the extension of the individual channel prices of Chennai may not give a just and fair solution.

Tariff for Pay channels

5.14 From the foregoing analysis, it may be seen that a simple extension of the prices in Chennai would lead to very high bills for the subscribers and in fact would not be in the interests either of the broadcasters or of the operators as they may stand to lose a large number of subscribers. The Authority, therefore, looked at the prices in Chennai in terms of the relationship between the bouquet and the a-la-carte prices. It was found that the discount for the bouquet varied from 33% to about 65%. These rates of discounts are very high and do not help to promote individual channel choice which was the primary objective of introducing CAS. Thus the prevailing practice of offering bouquets with heavy discounts has only forced the subscribers to accept a bouquet and not exercise his/her choice of individual pay channels. The subscriber in the process is saddled with unsolicited channels. The Authority,

therefore, calculated the adjusted price of the individual channels in Chennai for a normated discount level of 25% (lower than the lowest discount in Chennai). This was done keeping the bouquet prices as given. Further, it was found that while some of the channels have fixed a maximum retail price (MRP) for bouquet in Chennai at the same level as the bouquet wholesale price in the non CAS areas, M/s Star India fixed the MRP for its bouquet at a level higher than the non CAS wholesale bouquet price. Thus while the non CAS wholesale price for bouquet-I was Rs.30 (at the lowest range) the bouquet MRP was kept at Rs.55/-. To bring the prices of all the broadcasters on a common methodology and line the prices of Star India were, therefore, adjusted after making the MRP of the bouquet in Chennai equal to the wholesale price in non CAS areas i.e Rs.32/- per subscriber per month(Rs.30 plus 7% for inflation). On this basis the individual channel prices were also prorated. The result that emerged from the exercise was that while the average bouquet retail price from M/s Star India works out to Rs.4 per channel, the individual channel retail prices range from Rs.3 to Rs.9.25 per channel. A similar exercise was done for the other broadcasters and it was found that the retail prices range varied from broadcaster to broadcaster. The highest prices are for the general entertainment channels and the movie channels apart from the sports channels. Some channels would get priced at less than Rs.2/- per month per subscriber, as per this exercise. Therefore this exercise also shows that if genuine choice to choose bouquets are to be given and a reasonable balance is maintained between non-CAS and CAS areas then the Chennai MRPs for individual channels have to be drastically brought down.

5.15 The markets in other cities are very different from Chennai. The regional preferences of the subscriber is very evident. In the northern states

entertainment channels in Hindi language are watched by a large number of people. The market survey commissioned in 2004 by the Authority brought out certain salient trends:

- Popular Hindi entertainment channels are watched by a relatively small number of subscribers in Chennai. In the other 3 cities where CAS is now being extended, these are watched by a larger number of people cutting across different socio economic categories.
- Generally subscribers do not watch more than 15-20 channels including free to air channels – the type of channel preferred also varies from city to city.
- The average monthly cable bill was Rs. 176/- per subscriber per month.

As may be seen from the above, the value of a channel could vary from city to city. Further there is also the issue that the popularity of the channel could vary from time to time. Therefore, the Authority is of the view that there should be no peak and lows in terms of prices of the channels as long as they are regulated. However it must protect the preferences of the subscriber as also the interests of different players in the industry.

5.16 The other important consideration was to ensure that at least to start with viewership preferences and the household budget for entertainment should not be drastically altered. The MRP in CAS areas have to be so determined as to enable the subscribers to watch the channels to which they have been accustomed without any price shock. It has to be kept at an affordable level and the subscriber should be made to realize the advantages of

making choice through a process of awareness building. As the market matures and the consumers realize the advantages of the CAS regime, there would be a case for revisiting the price related decision so as to provide greater flexibility and choice to both the industry and the subscribers, including deregulation.

5.17 Keeping all these considerations in mind and the need to have a uniform ceiling in all the major four cities, the Authority has decided that the maximum price for a individual channel would be Rs.5/- per subscriber per month per pay channel (exclusive of applicable taxes).

Genre pricing

5.18 One of the frequent suggestions that have been made is that different tariff ceilings should be fixed for different genres of TV channels. The Authority has carefully considered this suggestion. It appreciates that there are certain sports and entertainment channels who have a different commercial model for transmission of their content. Often the cost of special programmes in such channels are dependent on competitive prices paid which may bear no relationship to the production cost. It has also been pointed out that the subscriber preference/choice for such channels is for a limited period of the event. Therefore any determination of regular revenue based on annual subscription is also not applicable in such cases. Similar advocacy was made on behalf of 24 hour film channels. One basic difficulty is that are channels which have got mixed programming and a puritanical approach to genre based classification is not possible. Moreover, commercial models in case of such channels are dependent on advertisement revenues in view of their higher popularity. Even a comparison of the bouquets of different channels shows

that there is no uniformity amongst the broadcasters in their approach to the pricing of different genres. Therefore, the authority is of the view that an objective criteria to have a genre based MRP is not feasible. Instead the ceiling on MRP determined by the Authority is expected to take care of the interests of such specialized programmes within the overall ceiling. Accordingly, only one MRP has been stipulated and this would apply to all types of channels. To take care of the concerns of the periodical and short terms choices made by subscribers, it has also been stipulated that any subscriber opting for a pay channel on an a-la-carte basis must subscribe to the channel for a period of at least four months. A subscriber taking a channel for less than four months will have to pay the MRP of four months.

Discount for Bouquets:

5.19 In 2004 , the Authority in its Recommendations dated October 1, 2004 had taken a view that it would stipulate a maximum discount for a bouquet vis-à-vis the prices of individual channel. It had then not preferred price determination of any individual pay channel in CAS areas.. The stipulation of a maximum bouquet discount was to ensure individual channel choice in a group of channels in the CAS areas. However, at the time of issue of the present consultation paper (14th June 2006), it was felt that the situation has changed and the subscribers and a majority of stakeholders preferred an MRP for individual pay channels. The rationale for the Authority's change in preference for fixation of MRP has also been discussed in para 5.11 above. With the MRP at Rs.5/- per subscriber per month, it is considered that the need for a maximum discount determination on a bouquet would not be necessary. If there are a large number of channels of low popular quality in a high bouquet

price then even a discount would not have the acceptance of the subscriber as the subscriber would have the choice of their favourite channel at a reasonable price of not more than Rs.5/- per channel. Therefore, the Authority has refrained from determining any maximum discount for the bouquet. It is felt that the discount to be given by the service providers of different tiers would be in the interests of both service providers and the subscribers.

Maximum price in terms of average bouquet price:

5.20 The suggestion for having the maximum price of a channel fixed in terms of the average bouquet price had been made during the consultation process in 2004. The problem with this approach is that it fails in a two channel scenario. This suggestion was, therefore, not accepted in 2004 and it was proposed to rely on the ceiling on bouquet discount to promote channel choice. However, after the Recommendations had been issued a suggestion had been made that this ceiling should also be imposed in addition to the maximum bouquet discount. Accordingly, this was also posed for consultation during the recently concluded consultation process. However, since the Authority has now fixed the individual channel price, it is not possible for any individual channel to be priced inordinately high. Accordingly this option has not been pursued.

Bouquet Vs A-la-carte:

5.21 It has been pointed out that the international practice favours different kind of bouquets offered at the level of broadcasters and operators without giving the choice of individual pay channels. However, there are some

channels which are sold on an a-la-carte basis. PCCW in Hong Kong did offer an a-la-carte model to make the initial penetration into the market. A similar debate is also alive in USA. There are indications that the subscribers because of the quality and content of individual channels now favour a mandate of a-la-carte charges. A final picture is yet to emerge in USA.

5.22 The policies and experience of other countries cannot be totally grafted to the Indian conditions. There are special features relevant to India. Till recently a digital mode of transmission was not available as a matter of choice to the Indian subscriber. DTH players are now operating in India also. The CAS Scheme has been introduced in notified areas of 4 metros through a Government mandate. The level of development, the purchasing power of the subscriber, different social groups and also the past practices will have an influence on the satisfaction level in the new CAS regime. As has been described elsewhere, the subscriber has to incur an expenditure for obtaining STB. Therefore, he/she should at least have a reasonable choice of programmes within the affordable limits of the family budget.

5.23 Keeping the above in view, the Authority has decided that the freedom to offer a-la-carte choice cannot be left to the individual broadcasters and operators in the beginning. It is against this background that the Authority has preferred the arrangement where all channels are offered on a-la-carte basis. These channels can be bundled together by a broadcaster or MSO or local cable operator. However, the freedom to choose the individual channel must always be left to the consumers. Accordingly the present tariff order has been so notified.

5.24 Some broadcasters have strongly argued that a-la-carte pricing is not a sustainable model as per the international experience. This argument has not been substantiated with any specific and plausible reason. As mentioned elsewhere PCCW in Hong Kong has been offering a-la-carte model since 2005. One of the broadcasters has pointed out that PCCW is now moving away from an a-la-carte model. While this may be correct, the important point is that even now many consumers are on an a-la-carte model and that initially PCCW had started with an a-la-carte model. It is to be appreciated that the Authority envisages a regime wherein both a-la-carte pricing as well as bouquets are being permitted. It has been pointed out that the subscribers in Chennai have not opted for a a-la-carte model. The subscribers have been buying bouquets instead of individual pay channels. As has been pointed out earlier the choice of individual is not real in view of very high discount in the bouquet prices. The subscriber effectively has no choice of individual pay channels. The only way to provide genuine choice to the consumers is to either fix a reasonable MRP for each individual channel or to introduce rules for fixation of maximum discount for bouquet and/or to fix a maximum individual price of a channel in terms of the average price of bouquet. The Authority has opted for the former as the model would be simpler, transparent and largely meet the objectives indicated in paras 2(vii), 5.7, 5.8, 5.10, 5.11 and 5.16.

5.25 One of the Associations had strongly argued that the Pakistan Electronic Media Regulatory Authority (PEMRA) has mandated a-la-carte price and Re.1 per channel per month for pay channels. This Authority had made a request to PEMRA for some details in this regard. The replies of PEMRA indicate that neither CAS nor DTH has come to the Pakistan market. Accordingly,

individual pricing of channels in an addressable system has not yet been attempted.

Comparison with DTH prices:

5.26 The prices on two addressable platforms should normally be the same if other conditions are uniform. Since both CAS and DTH are addressable platforms, it may be argued that the CAS wholesale price and the DTH wholesale price should be the same. It may also be argued that the symmetry of treatment by the Authority in case of two addressable systems is necessary. The TDSAT in its judgment in petition No.136 (c) of 2006 has decided that the price for the Star bouquet on DTH would be 50% of the non CAS price taking into account the fact that in the case of DTH all consumers are accounted for, whereas in a non CAS areas this is not so. At a retail price of Rs.5/- per channel the share of the broadcasters at 45% as per the terms of the standard interconnection contract would come to Rs.2.25 per channel as the price payable. This compares well with the average channel price of Rs.2.45 (derived from the bouquet price of Rs.27/- for a bouquet of 11 pay channels) that has been fixed by the TDSAT in the above mentioned judgment. A slightly higher price for DTH does not impact the current exercise because these prices for the CAS areas are being fixed for introductory phase of CAS only. The DTH contracts are for a much longer period.

5.27 It has to be noted that the DTH contracts and the standard contracts for CAS follow two different routes. Since the TDSAT price fixation formula has been derived from the non CAS practices, the impact of the MRP now fixed for CAS area is not likely to adversely impact the prevailing business models in non-CAS areas. It is noted that the prices of the ESPN/Star Sports bouquet in the DTH regime is likely to be higher than what will emerge under the

present tariff order for CAS areas. The two regimes are different in terms of their origins as well as spread. Therefore, symmetry of treatment with reference to interconnect regulation is not relevant as classification of the two are very different in terms of both model as well as geographical spread. The MRP regime in CAS areas has been mandated to ensure smooth roll out of CAS and the Authority proposes to revisit this after the market has settled and the subscribers have been given the comfort levels for the change over from non-CAS to CAS regime. Therefore, it is not necessary for the DTH wholesale prices to be equated with the CAS prices fixed in this tariff order. This is being specifically provided in the tariff order. The Authority would also be initiating a consultation on DTH regulation at an appropriate time as indicated in para 4.17.

5.28 *Commercial Tariff*

The TDSAT had passed an Order on 17.1.2006 in which it was held that the Tariff Order of TRAI did not apply to hotels and restaurants since these were commercial consumers. Taking note of the TDSAT judgment, TRAI had issued an Order on March 7, 2006 by which the definition of ordinary subscriber and commercial subscriber was introduced to the Tariff Order and the ceiling on price for the latter was fixed at the levels prevailing on March 1, 2006. Against the judgment of TDSAT, some of the commercial subscribers had filed an appeal in the Supreme Court (Civil Appeal 2061 of 2006). The Supreme Court on April 28, 2006 passed the following orders.

“Until further orders, status quo, as it exists today, shall be maintained”.

The Authority had filed an application to implead itself and to allow it to pass final orders in the matter. In the meanwhile, the judgment of the Delhi High

Court had been received and the Government had also issued the Notification for implementation of CAS. Accordingly, an application was filed in the Supreme Court, requesting that at least for the CAS areas the Authority may be permitted to pass an amendment to the Tariff Order in view of the new situation. This prayer has not been accepted so far and therefore for the present the commercial tariff will continue to be bound by the order of the Supreme Court of April 28, 2006.

De-regulation of prices

5.29 The Broadcasters have pointed to the rapid expansion of the Indian cable market and have urged that pricing be left to the market forces. The Authority has already taken a position that once there is effective competition, it would proceed to de-regulate the pricing. However, in the case of introduction of CAS for the reason already explained in para 5.11 above, there is clearly a need for some kind of regulation of pricing at least for the initial period of introduction of CAS. This view is reinforced by the responses of the broadcasters in terms of the prices they have reported. If such high prices are allowed unchecked there would be little point in ushering in the new CAS based system of distributing TV channels.

5.30 The present measures are to bring greater stability and transparent relationship between the subscriber and the service provider. There are serious issues of real subscriber numbers in a non addressable system. Once it is determined in terms of verifiable limits it would be easier to transit to regime of deregulation.

5.31 Broadcasters have also raised other issues like last mile monopoly “must carry” obligations and carriage fee which have been dealt with in other consultation process and therefore these are not being dealt with in detail here. Only one of these issues needs comment. M/s Star India have indicated that the best way to introduce addressability is that it should be implemented in a voluntary manner at the option of the end consumer. For the present CAS is being extended to the notified areas in three metros on the basis of an order of the Hon’ble High Court of Delhi. Accordingly, there can be no question of looking at any other option for these notified areas.

5.32 Conclusion:

The Authority had to fine tune the tradeoff between market forces, i.e. policy of non-intervention, and subscribers welfare without hurting the sinews of growth. Perhaps, the gains to the subscribers in the present case resulting from the workings of the market place cannot be definitely predicted due to fragmented market structure and varied practices and therefore, an attempt has been made to intervene temporarily for a more sustainable subscribers welfare. The domain of unregulated market can be as coercive as that of the State. This Authority has preferred temporary intervention which it believes would maximize the subscribers’ interest. In our view these measures seek to promote fair play and justice, and are not necessarily expanding the domain of intervention. The feature of this regulation is that it uses a market-like mechanism to create incentives for more efficient and cost effective delivery of services.

Annexure I

(Refer to para 3.3 of Explanatory Memorandum)

GIST OF COMMENTS ON THE DRAFT TARIFF ORDER FOR BASIC SERVICE TIER IN CAS AREAS

INDEX OF STAKEHOLDERS FURNISHING COMMENTS

Sl.No.	Name	From Where
1	Col V.C. Khare (Retd.) – A Cable TV industry observer	Mumbai
2	Cable Operators Federation of India (COFI)	New Delhi
3	Shri Vikki Choudhry, National Cable & Telecommunications Association (NCTA)	New Delhi
4	Dr. A.K. Rastogi, President, All India Aavishkar Dish Antenna Sangh	New Delhi
5	<u>Hathway Cable & Datacom Private Limited</u>	Mumbai
6	Cable Operators United Front (Couf)	Delhi

Issue for Consultation

In the Telecommunication (Broadcasting and Cable) Services (Second) Tariff Order, 2004 (6 of 2004), after the existing clause 3A and the entries relating thereto, the following new clause and the entries relating thereto shall be added as clause 3B:-

“3B. Tariff ceiling for ‘basic service tier’ in CAS Areas:

Notwithstanding anything contained in the provisions of clause 3, in areas specified by the Central Government by notification under section 4A(1) of the Cable Television Networks (Regulation) Act, 1995 [7 of 1995], the maximum amount which a cable operator may demand from a subscriber for receiving the programmes transmitted in the ‘basic service tier’ provided by such cable operator shall not exceed Rs.77/- per month

exclusive of taxes, for a minimum of thirty free-to-air channels. Free-to-air channels, over and above the basic service tier, would also be made available to the subscribers within the maximum amount mentioned above.

Explanation - For the purposes of this clause, -

“basic service tier” means a package of free-to-air channels provided by a cable operator, for a single price to the subscribers of the area in which his cable television network is providing service and such channels are receivable for viewing by the subscribers on the receiver set of a type existing immediately before the commencement of the Cable Television Networks (Regulation) Amendment Act, 2002 without any addressable system attached to such receiver set in any manner.”

Comments Received

1. The benchmark price of Rs.72/- per month did not take into account the quality of picture quality at the end of the line (farthest subscriber in terms of cable length in the network). This figure of Rs.72/- per month for 30 channels (analog - to be received without STB) was arrived at for a network spectrum 47-550 MHz transporting 62 channels, with a customer base of 32000 and a radius of operation of 7.5kms on coaxial cable. Technically, head ends using 500 series trunk cable over 47-862 MHz and transporting 90 channels cannot deliver signal quality per IS 13420 beyond 4.8 kms cable length, with a cascading limit of 16 amplifiers. The subscriber base of 32000 was high as independent head ends were having 18000 subscribers on an average. On the other hand networks have consolidated with fiber, 120 digitally compressed signals, encryption and SMS hardware installed. If the upward and downward adjustment in cost for the above factors is taken into account the cost of Rs.72/- as prorated would give at least a minimum cost of Rs.100/- (exclusive of taxes). (Supporting calculations given; not attached with gist) **(Col V.C Khare, a Cable TV Industry Observer)**
2. The price of Rs.72 for 30 FTA channels fixed in 2003 was not realistic, as all parameters were not taken into account. There was no representation of stakeholders in the committee. Only one MSO headend was considered and not the distribution cost through franchisee operators who maintain their own offices, technical maintenance staff, collection staff etc.) Quality of service was not considered while calculating number of subscribers and

the number of subscribers was based on extended network of the MSO prevailing at that time. Radial distance of the network taken was 7 km on 500 Series Cables as against the BIS Standard of transmission of 4-5 Kms. Cost increase in water, electricity which has gone beyond rates of increase in inflation should be taken into account. The cost of FTA channels has to be reworked. Even as per our calculations submitted to the Ministry in 2003 the cost was Rs.180/-. One option is to use the benchmark of Rs125, which was the charge for 15-20 channels in 1994 when there were no pay channels In our view a minimum of Rs.150 should be charged for the basic tier considering the fact that TRAI does not want last mile operators to pay for the FTA package to the MSOs. An amount of Rs.30 to Rs.50 is being paid at present to MSOs. **(COFI, New Delhi).**

3. 10 years ago, most of the cable operators in the country were charging a price of around Rs 150 per month from the consumers when there was no pay channel in existence. Since this price was unregulated, it reflects market dynamics and cost structure. With an annual inflation of around 5 percent per year, the amount equivalent to this price at present value will be around Rs.180 per month. A price below this level will result in deficiency in quality of service for the consumers, Non-conformity with the provisions of CAS. & Standards of BIS, no investment in network up gradation or maintenance, loss of employment, incentivise most broadcasters to keep (or convert) their channels into pay, loss of revenue to the Indian Government and encourage under declaration by the cable service providers of FTA subscribers. The price as worked out by them during 2003 and given to the Ministry was around Rs.201.65 (Supporting calculations given; not attached with gist) **(Vikki Choudhry, NCTA).**

4. As per our tariff plan the basic service tier charges should be as under:

Rs.100 + 7% inflation + ST (service tax) for 30 channels

Rs.1+ ST (service tax) per channel exceeding 30 channels

The above tariff will be charged by cable operator from the consumer.

(Dr.A.K.Rastogi, President, All India Aavishkar Dish Antenna Sangh)

5. Original price for basic service tier was fixed in July 2003, three years back. The various parameters for determination of the said rate took into account, the cost of materials like cable, amplifier, electronics, collection/service cost etc. Most of the materials required for cable TV are

manufactured out of metals like copper, aluminum whose prices have shot up significantly. Further power & fuel are important components in delivery of the services, which have also risen sharply in the last 1-2 years. There are further inflationary pressures on the overheads front like salaries, administration etc. Further the LCO/MSO are bound to deliver at least 50-60 channels rather than the statutory 30 channels. Under the circumstances and keeping in mind the all round increase in costs of LCO's & MSO's , we request the Authority to fix the price of the basic service tier at Rs.100 per month (excl.of taxes) for a minimum of 30 channels. **(M/s Hathway Cable and Datacom Pvt Ltd, Mumbai)**

6. FTA price of $\text{Rs } 72 + 7.2 = \text{Rs } 79.2$ is not only unrealistic but also initially it was wrongly calculated. The FTA price may be increased. It should be around not less than Rs 150/- per month in order to facilitate the implementation of CAS. **(M/s Cable Operators United Front (Couf), Delhi)**

Annexure II

(Refer to para 4.4 of the Explanatory Memorandum)

GIST OF COMMENTS ON THE DRAFT TARIFF ORDER FOR SET TOP BOXES IN CAS AREAS

INDEX OF STAKEHOLDERS FURNISHING COMMENTS

Sl.No.	Name	From Where
1	Col V.C. Khare (Retd.) – A Cable TV industry observer	Mumbai
2	Shri Shahul Hameed	Chennai
3	Indusind Media and Communications Ltd. (IMCL)	Mumbai
4	Consumer Unity & Trust Society (CUTS)	Jaipur
5	Star India Pvt. Ltd. (Star)	New Delhi
6	NDS Asia Pacific Ltd. (NDS)	Mumbai
7	Siticable Network Ltd. (Siticable)	New Delhi
8	Hathway Cable & Datacom Pvt. Ltd. (Hathway)	Mumbai

Issue for Consultation

2. *Definitions*

(a) “Authority” means the Telecom Regulatory Authority of India established under sub- section (1) of Section 3 of the Telecom Regulatory Authority of India Act;

(b) “Addressable System” means an electronic device or more than one electronic devices put in an integrated system through which signals can be sent in encrypted or unencrypted form, which can be decoded by the device or devices at the premises of the subscriber within limits of the authorization made, on the choice

and request of such subscriber, by the Service Providers to the subscriber;

- (c) “Alternative Tariff Package” means a tariff package which a Service Provider may offer, in addition to the Standard Tariff Package, for supply of a Set Top Box to the Subscriber for receiving Programmes;*
- (d) “Broadcaster” means any person including an individual, group of persons, public or body corporate, firm or any organization or body who or which is providing programming services and includes his or her authorized distribution agencies;*
- (e) “CAS Area” means the State(s), City(ies), Town(s) or Area(s), where, in terms of a notification issued under sub section 1 of Section 4A of The Cable Television Networks (Regulation) Act 1995 (7 of 1995), it is obligatory for every Multi System Operator / cable operator to transmit or retransmit programmes of any pay channel through an addressable system;*
- (f) “Cable Operator” means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network;*
- (g) “Cable Service” means the transmission by cables of programmes including re-transmission by cables of any broadcast television signals;*
- (h) “Cable Television Network” means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment designed to provide cable service for reception by multiple subscribers;*
- (i) “Multi System Operator” means a cable operator who receives a programming service from a broadcaster or his authorized agencies and re-transmits the same or transmits his own programming service for simultaneous reception either by multiple subscribers directly or through one or more cable operators and includes his/her authorized distribution agencies by whatever name called;*

- (j) “Pay Channel” in respect of a Cable Television Network in a CAS area, means a channel the reception of which by the Subscriber would require the use of an addressable system to be attached to the receiver set.**
- (k) “Programme” means any television broadcast and includes –**
- i) exhibition of films, features, dramas, advertisements and serials ;**
 - ii) any audio or visual or audiovisual live performance or presentation and the expression ‘programming service’ shall be construed accordingly.**
- (l) “Service Provider” means the government as a service provider and includes a licensee as well as any broadcaster, multi system operator, cable operator or distributor of TV channels.**
- (m) “Set Top Box” means a device, which is connected to, or is part of a television and which allows a Subscriber to receive in unencrypted/descrambled form subscribed pay channels through an addressable system;**
- (n) “Standard Tariff Package (STP)” means a package of tariff as may be determined by the Authority for supply of a Set Top Box to the Subscriber by a Service Provider for receiving Programmes;**
- (o) “Subscriber” means a person who receives the signals of a cable television network at a place indicated by him to the cable operator, without further transmitting it to any other person;**

Comments Received

- i) The Alternative Tariff packages can be combined with subscription of pay channels and STB for varying periods (say 60 pay channel subscription for one year and STB ownership at Rs. 1200, etc.). MSO should be free to consider any different Tariff packages with or without combination of various services including digital FTA channels, for Non CAS areas. The Standard Tariff Package to be determined by the Authority should be valid only for 1st year , beyond which MSOs are free to work out Tariffs based on Market Acceptance and market Forces. IMCL is of the view that Subscriber should include commercial establishments like hotels ,

hospitals also where the subscriber will be full establishment as one entity and can have many STB requirement for that entity. (IMCL)

- ii) Clause 2(e) :- Only multi system operators who have been granted permission by the Central Government are authorized to provide signals in CAS areas. Therefore, in the fourth/fifth line, the words ‘Multi System Operator/Cable Operator’ should be substituted with the words ‘Service Providers’. Clause 2(i):- In the third line, the word ‘agencies’ should be substituted with the word ‘Cable Operators’. In the third line, the word ‘or’ should be substituted with the word ‘and’. Clause 2(j):- In the third line, the words ‘an addressable system’ should be substituted with the words ‘a digital Set Top Box’. Clause 2(l):- The definition of ‘Service Provider’ should be: “Service Provider” means a Multi System Operator in a CAS area who has been granted permission by the Central Government to distribute cable television networks services with addressable system in any of the CAS areas. Clause 2(o) :- The definition of ‘Subscriber’ should specifically exclude ‘commercial subscriber’. The tariffs applicable to commercial customer would be different even in CAS areas. In the second line, before the words ‘Cable Operator’ add the words ‘Service Providers/’. (Star)
- iii) The definition of set top box should be linked to the features it can provide. NDS suggests that definition (m) be amended to provide for two definitions one a standard set top box and another which like a standard set top box would be BIS compliant but would provide additional features or functionality or gives superior performance. (A formulation of the definition given has not been added as part of the gist of comments) (NDS)
- iv) The definition of subscriber should also include commercial establishments, hotels, institutions etc . **(Siticable)**
- v) Clause 2 (m) Definition of SET TOP BOX. The said definition of STB needs a further clarification Hathway suggests to amend the definition of SET TOP BOX into two versions as “ Standard Set Top Box” & “Advance Set Top Box”. Hathway puts forward the aforesaid two definitions as follows : “ Standard Set Top Box” – means a device, which is connected to, or is part of a television and which allows a Subscriber to receive in unencrypted/descrambled form subscribed by pay channels through an addressable system with a compliance of all the mandatory provisions as specified by Bureau of Indian Standards IS 15245 : 2002 for

Digital Set Top Box or IS 15244 : 2002 for Analogue Set Top Box. “Advance Set Top Box” – means a device, which is connected to, or is part of a television and which allows a subscriber to receive in unencrypted/ descrambled form subscribed pay channels through an addressable system and which is compliant with all of the mandatory provisions as specified by Bureau of Indian Standards IS 15245 : 2002 for Digital Set Top Box or IS 15244 : 2002 for Analogue Set Top Box and also with the provision of any additional features / functions / offers which promises to give superior performance than the Standard Set Top Box. (Hathway)

Issue for Consultation

3. Every Multi System Operator / Cable Operator in a CAS area shall compulsorily offer to the Subscribers a tariff for Set Top Boxes as per the Standard Tariff Package (STP) specified in Schedule – 1 annexed to this Order. In addition, the Multi System Operator / Cable Operator will be free to offer Alternative Tariff Packages (ATP) and the Subscribers shall have the freedom to choose from amongst the tariff packages so offered including the Standard Tariff Package specified by the Authority.

Comments Received

- i) Tariff proposal while being consumer friendly it should be related to business realities and viability of the service provider. Some major issues such as refundability or otherwise of the security deposit once the rental ceases; service restoration after the transfer of lien to the user; payments of royalty for has been raised. The service provider, therefore, needs to provide MRP for each type of box irrespective of outright sale or renting. Payment of 40% of the MRP as non-interest bearing security deposit and the balance 60% spread over 60 months may be fair Another solution could be that the user deposits the cost of STB as non-interest bearing refundable security deposit and pays a nominal 5% of the price as monthly rental for the duration of usage. Any time the user moves out of CAS service area of the service provider, the box can be returned in serviceable condition and security deposit refunded. Deduction from refundable Security Deposit @ Rs.12.50 per month of usage is considered reasonable for

the figure of Rs.999/-. (Col V.C Khare, a Cable TV Industry Observer).

- ii) In Non CAS area STP will not apply. (IMCL).
- iii) Only multi system operators who have been granted permission by the Central Government are authorized to provide signals in CAS areas. Therefore, in the first and fourth lines, the words 'Multi System Operator/Cable Operator' should be substituted with the words 'Service Providers'. (Star).
- iv) NDS suggests the following addition after the second sentence (the first sentence having been amended to refer to Standard Set Top Boxes): In addition. the Multi System Operator/Cable Operator will be free to offer Advanced Set Top Boxes which will not be subject to the Standard Tariff Package. (NDS).
- v) Siticable understand from the draft Tariff Order that obligation of every MSO/Cable Operator is to offer a basic vanilla CAS Box to the subscribers as per the Standard Tariff Package specified in Schedule-I annexed to the Order. The MSO shall be free to offer the technologically advanced STBs with various valued added features on such tariff schemes, terms etc. as deem suitable by the MSOs as per their business model. (Siticable)
- vi) In view of definition of "Advance STB" clause 3 be amended as " :In addition, the Multi System Operator / Cable Operator will be free to offer Advanced Set Top Boxes which will not be subject to the Standard Tariff Package, but will be based on Market Forces." (Hathway)

Issue for Consultation

4. *There shall be no levy or collection of any charges separately from the Subscribers, either in the STP or in the ATP referred to in clause 3 above, on account of*

- i) *installation of Set Top Box;*
- ii) *activation or reactivation of Set Top Box;*

- iii) *Smart Card / Viewing Card; and*
- iv) *repair, maintenance or any other charges*

Comments Received

- i) The cost of installation is a basic cost based on actuals of logistics, pairing, handling and manpower costs and cannot be considered free. We recommend at least Rs.400 for same – One Time. Activation cost can be Rs.100 one time. However if a consumer himself requests for deactivation or deactivates because of non usage for a long time or for any other reason like payment default etc. Re Activation charges – (One time) to be a maximum of Rs.200 Smart Card Charges are not included in the STB and it is a high Security item, in case of Rentals a one time Charge of Rs.400 will be taken for Smart Card. In case of Alternative tariff packages, we can club up this charge with STB. Repair and Maintenance is free for the first year under the warranty. Beyond this a minimum Annual maintenance charge of Rs.120 (Rs.10 per month) per year will be taken or will be on actuals like any other hardware industry. (IMCL)
- ii) The entire section should be deleted. Such restrictions do not all apply to Indian mobile phone tariffs (or if they do, they are routinely flouted). The services referred to in the section has associated costs and making it free would not prevent misuse of the subsidy and neither encourage subscribers to be careful and use for only the purpose for which it is meant. The fact that two Multiple System Operators have proposed such pricing schemes as a promotional offer does not mean that they should be compelled to continue to make such an offer if it is not sustainable (i.e. profitable) in the long run. (NDS Asia Pacific)
- iii) Installation of STB – As per our estimates atleast an amount of Rs. 250/- is required to be incurred for installing a box and as such the MSO should be allowed to recover the actual amount incurred on such installations. (i) Activation / Reactivation of STB – Once the Authority permits for charging of installation cost, the initial activation charges may be waived by the MSOs. However, if a deactivated customer (on account of any reason which may include the payment default, his own request, non-usage for a long time etc.) is reactivated, it is proposed that reactivation charges of Rs. 250/- + tax should be allowed to charge as the process of reactivation requires lot of efforts in terms of communication, coordination, manpower

etc., as mentioned above which in addition involves lot of interface with SMS system also for necessary authorisation. (iii) Smart Card / Viewing Card – The position of ‘No charges’ on account of Smart Card / Viewing Card is totally unacceptable. It is therefore, proposed that MSO should be allowed to charge the refundable Security Deposit of Rs. 400/- for Smart Card for providing these Cards to the subscribers. Once a subscriber surrenders the connection and returns the Viewing Card in proper working condition, the refund of Security Deposit shall be made. The security deposit for VC is also required to be charged to safeguard against the possible tampering/mishandling on the part of subscribers. (iv) Repairs & Maintenance - It is not possible for MSOs to offer free repair and maintenance as the lease rental proposed by the Authority are not sufficient to recover even the capital cost of STBs. For the first year, since STBs would be under warranty, the repair and maintenance would be free. However, from 2nd year onwards an option will be given to the subscriber to take either the Annual Maintenance Contract (AMC) for a fixed sum, which would be in the range of Rs. 125/- - Rs. 130/- or the repairs would be charged as per actuals whenever there is any rectification / repair required of a malfunctioning STB. The rationale for providing the above free of charge is not clear specially in view of the fact that the rental proposed in the Draft Tariff Order are not sufficient even to recover the net investment cost in STBs. The Authority is quite conscious of the fact that each of the above-mentioned four items constitute the “cost” to the MSO and as such entails an outflow of funds by way of an expenditure. (Siticable)

Issue for Consultation

5. A Subscriber in a CAS area who desires to receive one or more pay channels/bouquets of pay channels may make an application, on or after 1st October 2006, to any one of the Multi System Operator/Cable Operator who have been granted permission by the Central Government to distribute pay channels through an addressable system in a CAS area, either directly or through any of his linked Cable Operators, for supply and installation of one or more set top boxes in his premises as per the tariff package contained in clauses 3 and 4 above.

Comments Received

- i) In terms of Clause 9, the Service Providers need to provide the first report on Alternative Tariff Packages by October 10, 2006. Unless the Subscribers are aware of the Alternative Tariff Packages, it would have no choice but to opt for the Standard Tariff Packages. Therefore, in the third line, the words '1st October 2006' should be substituted with the words '10th October 2006'. Only multi system operators who have been granted permission by the Central Government are authorized to provide signals in CAS areas. Since, 'Service Providers' have been defined, therefore, in the third/fourth line, the words 'Multi System Operator/Cable Operator who have been granted permission by the Central Government to distribute pay channels through any of his linked Cable Operators,' should be substituted with the words 'Service Providers'. (Star)

Issue for Consultation

6. *A Multi System Operator /Cable Operator as the case may be, on receipt of a request under clause 5, shall ensure compliance with the request withindays as specified in the Regulations issued by the Authority regarding Quality of Service in CAS Areas.*

Comments Received

- i) Within 15 days.(IMCL)
- ii) The MSO/cable operator should ensure compliance with the request within 48 hours. This was also mentioned in TRAI's recommendation to the government on Cable TV system. (CUTS)
- iii) Only multi system operators who have been granted permission by the Central Government are authorized to provide signals in CAS areas. Therefore, in the first line, the words 'Multi System Operator/Cable Operator as the case may be' should be substituted with the words 'Service Providers'. (Star)
- iv) TRAI need not set a time limit on provision of set top boxes. NDS sees that there could be unforeseen problems which would make difficult to meet the bench mar,. It would be better to encourage the MSOs to inform each Subscriber the latest expected installation date will be and commit to and stick to that. (NDS)

- v) Hathway suggests that the compliance of the request made by the Subscriber shall be ensured by the Multi System Operator/ Cable Operator within a maximum period of Three (3) days of receipt of request from the customer. (Hathway)

Issue for Consultation

7. Without prejudice to the provisions contained in clauses 3 and 5 above, a Subscriber in a CAS area shall be free to buy a Set Top Box of approved quality (as specified by Bureau of Indian Standards) from the open market, if available and technically compatible with the Multi System Operator's system and no Multi System Operator or Cable Operator shall force any Subscriber to buy or take on rent the Set Top Box from him/her only. The Multi System Operator/Cable Operator shall transmit the requisite pay channels through the Set Top Box acquired by the applicant on his own.

Comments Received

- i) It should be obligatory on an MSO to make public the technical specifications of an STB that is technically compatible with its system. Armed with this information, STB providers in the open market would be able to compete effectively with MSOs in supply of STBs, and surely this would give more choice to consumers. (CUTS).
- ii) As only multi system operators who have approval can provide signals in CAS areas. in the fourth/fifth line, the words 'Multi System Operator's system' should be substituted with the words 'Service Providers' system'. Likewise, in the fourth/fifth and seventh lines, the words 'Multi System Operator/Cable Operator' should be substituted with the words 'Service Providers'. The Service Providers need to also transmit the requisite pay channels through the Set Top Box acquired by the Subscriber. Therefore, in the seventh line, a word 'also' should be added after the words 'The Service Providers shall'. The Applicant has not been defined. Therefore, in the ninth line, a word 'applicant' should be substituted with the word 'Subscriber'. (Star).
- iii) If the Subscriber purchases his or her own Standard Set Top Box without a Smart Card / Viewing Card, the Cable Operator should be

allowed to provide the Smart Card / Viewing Card at a reasonable charge to cover costs, handling, shipping etc. (NDS).

- iv) Although in a practical sense it shall be the Multi System Operator & Cable Operator who will provide the STB with Smart Card, Hathway has no objection for a customer to buy the STB directly, provided technical Compatibility vis – a –vis the MSO'S addressability system is maintained by such a STB. The MSO will not guaranty for quality of service on STB directly purchased by the customer from the open market. (Hathway)

Issue for Consultation

8. Tariffs to be charged by the Multi System Operator/Cable Operator from Subscribers in a CAS area for provision of Set Top Box shall be published along with the conditions thereof in such manner as the Authority may from time to time direct.

Comments Received

- i) As Service Providers would only need to publish the 'Alternative Tariff Package'. in the first line, the word 'Tariff' should be substituted with the words 'Alternative Tariff Package'. Only multi system operators who have been granted permission by the Central Government are authorized to provide signals in CAS areas. Therefore, in the first line, the words the 'Multi System Operator/Cable Operator' should be substituted with the words 'Service Providers'. (Star)

Issue for Consultation

9. All Multi System Operators/Cable Operators in a CAS area shall report to the Authority tariff packages including all terms and conditions associated with the supply of Set Top Boxes to the Cable Television Subscribers. The first report shall be sent by October 10, 2006 and thereafter any changes to these tariff packages shall be reported 15 days prior to the launch of a new tariff package.

Comments Received

i) Changes in Alternate Tariff Packages can be informed maximum 7 days in advance to authority under confidentiality clause as they will be sensitive considering strong competition from other platforms like DTH and IPTV and even other for MSOs competition. (IMCL)

ii) In the first line, the words the 'Multi System Operator/Cable Operator' should be substituted with the words 'Service Providers'. As only the 'Alternative Tariff Package' is to be reported to the TRAI. in the second, fifth and sixth lines, the words "Tariff Package" should be substituted with the words 'Alternative Tariff Package'. As 'Cable Television Subscribers' has not been defined in the third/fourth line, the words 'Cable Television Subscribers' should be substituted with the word 'Subscribers'. The consumers, who have opted for alternative tariff packages, should be given adequate time to react to the new alternative tariff packages. Therefore, in the fifth line, the words '15 days' should be substituted with the words 'one month'. (Star)

iii) The Authority has prescribed the reporting time period of 15 days prior to the launch of new package. Siticable are of the view that instead of the said 15 days, 7 days notice is sufficient. (Siticable)

Issue for Consultation

10. In respect of Chennai, a Subscriber has the option to opt for the tariff packages as per clauses 3 to 7 above, or to continue with the existing rental or lease scheme, whichever is more beneficial in his opinion.

Comments Received

- i) The detailed draft on CAS tariff is appreciated. It is requested that Chennai be included as part of this. Currently, in Chennai, there is no option to rent STB and consumers are facing a lot of problems in watching a lot of pay channels because of this. If Chennai is included in the Tariff plan, subscribers who are suffering for about 2 years will get some options in place to enjoy the pay channels. It is hoped that the TRAI will take into consideration this concern. (Shri Shahul Hameed)
- ii) Tariff Packages are mentioned in Clauses 3 and 4 only. Therefore, in the second line, the words '3 to 7' should be substituted with the words '3 and 4'. (Star)

Issue for Consultation

Schedule – I

**Standard Tariff Package (STP) for Set Top Box
(Digital Model)**

OPTION I

Particulars	Monthly Rental Scheme with Security Deposit
1) Rent per month per Set Top Box	Rs.30/-
2) Security Deposit [Refundable]	Rs.999 per set top box
3) Installation Charges	Nil
4) Activation charges	Nil
5) Smart Card/Viewing Card Charges	Nil
6) Repair and Maintenance Cost	Nil.
7) Deduction from Refundable Security Deposit	The multi system operator or cable operator shall be entitled to make deductions from the refundable security deposit at the rate of twelve rupees and fifty paise (Rs.12.50) for every month or part of the month for which the Cable Television Subscriber has used a set top box taken on rent or lease, while refunding such refundable security deposit to the Subscriber upon return of the set top box at any time upto a period of five years from the date of hiring or leasing of the set top box.

Note: No monthly rentals will be payable after the period of five years and the Set Top Box will become the property of the subscriber after the expiry of five years

OPTION II

Standard Tariff Package for Set Top Box

Particulars	Monthly Rental
1) Rent Per Month Per Set Top Box	Rs.45/- *
2) Installation Charges	Nil
3) Security Deposit	Nil
4) Activation charges	Nil
5) Smart Card/Viewing Card	Nil

<i>Charges</i>	
<i>6) Repair and Maintenance Cost</i>	<i>Nil.</i>

** For Analogue Boxes this would be Rs.23 per month per Set Top Box*

OR

Any other Option

(Stakeholders are also free to suggest any other option as a STP).

Comments Received

i) The deductions has to be Rs. 21 per month at least and not Rs. 12.50 per month, considering the basic optimum depreciation for such products. In regard to note below ‘Option 1’ it is suggested that the monthly rentals should go up in this option (I) to at least Rs.45 per month, then we don’t charge any rental after 5th Year or we should be allowed to charge Rs.500 at the end of 5th year to consider ownership , subject to lease taxation and lease rental issues. Smart card, activation and installation charges (Rs.900), mentioned in response to clause 4 to be added. Option II needs deposit of Rs.999 as above and can be for 5 years. We do not recommend any scheme without deposit, a lower deposit of Rs.500 and monthly rental of Rs.60 per month, with ownership option after 54 months (deposit to be adjusted) – for digital STB.Smart card and installation charges, mentioned above to be added. Based on the above, IMCL’s suggestion on the Option for STP is as follows:

Upfront Down payment Deposit Rs.999

Rental: Rs.45 per month for 5 years

One Time Smart Card Amount: Rs.400

One Time Installation: Rs.400

One time Activation: Rs.100

Deductions, while refunding at the rate of Rs.21 per month

The ownership of STB after 5 years for the subscribers. The initial upfront down payment deposit adjusted and not to be refunded.

BASIC CONDITION OF REFUND: No subscriber can ask for a refund until he is changing the city/place/house or is changing the MSO, under whom the specific CAS digital STB is functioning at his place. This will be after sufficient proof from the subscriber in case of a refund. There is a need

to keep this condition, else subscribers can every year ask for changing the STB from the same MSO. (IMCL)

ii) Taking into account the monthly outgo under option 1 on rental, deduction in refundable security deposit for use, opportunity cost of lump sum security deposit works out to effectively Rs. 50/- there is not much difference in the two offers with respect to the monthly outgo for a consumer.. With rapid changes in technology, the STB which the subscriber gets to own after five years, may itself become obsolete. Further, since the STB may not work in the networks of other MSOs, there is not much advantage to the consumer. The first option is actually a hire purchase scheme and it is misleading to term it as a “rental scheme with a refundable security deposit”, which it is not. Generally, a refundable security deposit implies that the full amount is refundable as in the case of deposit paid while getting a telephone connection, the deposit paid while getting an LPG connection. The draft order is silent on the experience of Chennai with regard to the schemes available for supply of STBs. TRAI should, in the final order, specify clearly the implications of the various schemes for consumers and devise appropriate schemes based on the experience of Chennai. With these comments as the backdrop, the following options could be considered: Option I (Monthly rental scheme with fully refundable security deposit): remove the clause on ‘deduction from refundable security deposit’ and ‘no monthly rental after five years’. Instead the option should be of Rs.30 per month rent and Rs.999 (fully refundable security deposit,.). Option II (Only monthly rental scheme): seems ok. Option III (Only fully refundable security deposit): TRAI should devise an option whereby STBs are provided in a manner similar to the way LPG cylinders are available. All these options should be part of the Standard Tariff Package (STP) to allow subscribers enough choice from among the various packages (including alternative tariff package). (CUTS)

iii) Neither of the two proposed Standard Tariff Packages appears to take account of the cost to the Multiple System Operator or Cable Operator of borrowing the money to purchase the Standard Set Top Boxes. Option II appears to be worse than Option I in this regard.. In regard to non levy of charges in respect of services the response to Section 4 is reiterated. In Option I, regarding Deduction from Refundable Security Deposit, NDS suggests that the text following the comma in line six should be amended to insert the word ‘the residue of’ before the word ‘ such refundable security deposit to the Subscriber... .’ (NDS)

iv) Option – I It is submitted that it is not possible for MSOs to recover the capital cost of STB within a period of 60 months with a rent of Rs. 30/- per month as proposed by the Authority. It may be mentioned that Authority has not indicated any basis to arrive at the rental of Rs. 30/- per month for a period of 60 months i.e. the period in which the MSO is expected to recover its capital investment on STB. Siticable are not aware about the cost estimates of STB adopted by the Authority in arriving at the figure indicated in Option-I. Siticable would like to bring to the notice of the Authority that a basic Vanilla CAS box at present costs Rs. 2700/-. After accounting for the refundable Security Deposit of Rs. 999/-, the net investment of Rs. 1700/- would be required to finance the purchase of STBs. Considering the cost of capital at 14% p.a. which is quite reasonable as per the prevalent rate of interest in banking sector, and after accounting for the Security Deposit of Rs. 999/- per STB, it would require a period of 7.7 years or 92 months to recover the capital investment in STB. It may be specifically mentioned that the cost of Smart Card / Viewing Card is separate and has not been considered while calculating the above-mentioned period of capital recovery. However, STB being an electronic equipment, the capital recovery period of 7.7 years as mentioned above is very long. Accordingly the monthly rent for STB should be structured in such a manner that the entire capital investment be recovered in a period of 5 years. In that event, lease rental of STB needs to be revised and fixed at Rs. 40/- per month instead of Rs. 30/- per month proposed by the Authority so as to enable the MSOs to recover their net investment on STBs. Installation charges, smart card/viewing card charges, repair and maintenance charges are as per response to clause 4.A refundable Security Deposit of Rs. 400/- is proposed to be charged. No basis has been indicated by the Authority in arriving at a deduction figure of Rs. 12.50 for every month in respect of security deposit The deduction is necessitated because of the wear & tear in the STB on account of its continuous usage. The subscriber would be entitled for refund only in the following circumstances:

- i) He is moving out of city on account of transfer etc. or is changing his residence and the new residence falls in services area served by another MSO.
- ii) He is changing the service provider.

The above mentioned stipulations are necessary as otherwise the customer may demand new STB every year by surrendering his old STB and getting back his Security Deposit even after necessary deduction. In other words, a customer should not be permitted to surrender the box and obtain the refund so long as he continues to avail services from a particular service provider, as

otherwise such an unintended flexibility to the customer would result in huge inventory loss to the service providers. It may be clarified that the lease rental shall be subject to the applicable VAT or any other tax and activation charges to applicable service tax, which shall be payable by the subscriber in addition to the prescribed lease rental by the Authority.

Option – II In this option the entire investment on STB has to be made by MSO. Considering the investment of Rs. 2700/- on STB with a cost of capital at 14% p.a., the capital recovery would take 102 months. It may be appreciated that STB being an electronic equipment, the proposed capital recovery period of 102 months is quite long. In addition, we are of the view that in order to safeguard against the misuse of this scheme, it is imperative that a refundable Security Deposit needs to be permitted to be charged in this scheme also. If no Security Deposit is mandated, then the STB is liable to be mishandled and in case of any damage / fault in the STB, customer would insist upon its replacement even in the first 2-3 months itself. Therefore, it is necessary that the customer should also have some stake by way of payment of Security Deposit to safeguard against possible mishandling at subscriber end. This would act as an effective deterrent against negligence & mishandling and customer would take proper care of STB. This would also ensure faster recovery of capital investment as explained in subsequent paragraphs. Siticable propose that a Security Deposit of Rs. 699/- be stipulated in Option – II with a monthly rental of Rs. 45/- per month for a period of 62 months instead of perpetual rent as proposed by the Authority. MSOs would be able to recover their STB investment in 62 months. The comments in respect of installation charges, Security Deposit, Activation Charges, Smart Card / Viewing Card charges, Repair & Maintenance are the same as have been given in Option – I above. The same Refund Policy will apply as specified in Option – I above in Option – II also. (Supporting calculations in support of the scheme proposed has been received but have not been attached with the gist) (Siticable)

v) The landed cost of a STB and a smart card is approximately Rs.3,500/-. There are also extra payments are to be made to the STB vendor as well as the conditional access provider, by way of Annual Maintenance Charges (AMC). Now if we consider TRAI's recommendations of Rs.999/- as security deposit and Rs.30/- per month or Rs.360/- per annum as rentals the following situation emerges:

Rs. in INR

Cost of STB		3500
Upfront payment received	999	
Approx net present value of five years rentals as fixed by TRAI	900	
Total inflows received		1899
Deficit to the MSO		1601

The above deficit on a per STB basis is a quiet steep a subsidy to the consumer, which will not be possible for any service provider to bear on a sustainable basis.

Therefore, Hathway requests the following:

Let the upfront deposit remain at Rs.999/-. Further the monthly rental at the rate of Rs.30/- per month should not have a mere ceiling period of 60 months. At the end of 60 months the customer should buy- back the STB by way of a one time additional payment of Rs.1,000 (all inclusive) or as an option the customer can continue to use the box beyond the period of 60 months, but however by paying a monthly maintenance charge of Rs.25/- per month. Once the customer agrees for the maintenance charge option, it will be the responsibility o the MSO/LCO to bear the upkeep and maintenance of the STB.

Hathway's second point of suggestion would be that the above monthly rental of Rs.30/- should be net of taxes, which means lease rental tax or service tax if any shall be collected as extra from the consumer based on the prevailing percentage as applicable. Similalry the maintenance charge of Rs.25/- per month (which is proposed beyond the 60th month) shall also be net of taxes. (Hathway)

Annexure III

(Refer to para 5.4 of the Explanatory Memorandum)

GIST OF COMMENTS ON THE CONSULTATION PAPER
ON TARIFF IN CAS AREAS

INDEX OF STAKEHOLDERS FURNISHING COMMENTS

Sl.No.	Name of stakeholder	From where
1	<u>Col V.C Khare, Cable TV Industry Advisor,</u>	<u>Mumbai</u>
2	VOICE ,	New Delhi
3	M/s. Consumer Unity & Trust Society (CUTS),	Jaipur
4	M/s. IndusInd Media Communications Limited,	Mumbai
5	M/s. Ortel Communications Limited,	Bubaneswar
6	Times Warner Inc,	Hongkong
7	M/s. Star India Pvt Ltd	<i>Mumbai</i>
8	M/s. ESPN Software India Pvt Ltd	Gurgaon
9	M/s. Discovery Communications India,	New Delhi
10	The Walt Disney Company (India) Private Limited (Director India- Legal Affairs)	Mumbai
11	M/s. Motion Picture Association	Singapore
12	M/s. NDS Asia Pacific Limited	Mumbai
13	M/s. Hathway Cable and Datacom Private Limited,	Mumbai
14	M/s. Set Discovery Pvt Ltd,	Mumbai
15.	M/s. Siticable Network Limited	Noida

Issue for Consultation

i) Should TRAI fix the maximum retail price for each individual channel?

Comments Received

- a) No. If CAS is to be implemented, it should be in conformity with the statute, as it exists. Broadcaster must publicize the 'a-la-carte' rate for each PAY channel in CAS area. However, if PAY TV Broadcaster defies the statute, and the I&B Ministry cannot enforce this requirement, then TRAI could undertake the exercise of fixing the maximum retail price for each channel. (Col VC Khare (Retd) , Cable TV Industry Observer, Mumbai).
- b) Yes. In the present scenario, when the subscriber has no trust in the service providers, the regulator has to build confidence by fixing the price. (Voice, New Delhi).
- c) Yes , TRAI should fix the maximum retail price for each individual channel. Earlier TRAI had arrived at certain decisions regarding the manner in which Tariff for Cable TV would be regulated in CAS areas. One particular decision was that the maximum allowable discount on a bouquet of channels would be subject to regulation. Later stakeholders (in particular consumer groups) suggested that there should be a maximum retail price for a channel to be prescribed to avoid any unrealistic fixing of individual price of popular pay channels. The concern is that there are chances of consumers getting exploited by broadcasters for watching popular channels. (CUTS, Jaipur).
- d) TRAI may not fix maximum retail price for each channel, however, should have a limit for a maximum price limit for a channel under any genre. Considering CAS pricing prevailing in Chennai for individual channels and earlier indications (in 2003) for each channel pricing, a channel cannot be priced more than Rs. 20 as an ala carte for example. (M/s.IndusInd Media and Communications Limited, Mumbai)
- e) TRAI should fix the maximum retail price for each individual pay channel (M/s. Ortel Communications Limited, Bhubaneswar).

- f) Restricting channels to an a-la-carte basis not only reduces diversity in programming and consumer choice but also raises costs for consumers and restrains industry growth. As per the study commissioned by FCC that even if the consumers had the option of purchasing existing tiers instead of option for a-la-carte the price of the tiers would be significantly higher than the current rates. Indian market with the number of operators from DTH platform (existing and prospective operators) is competitive and therefore the current price cap should not only be lifted but it would be inappropriate for the regulator to impose MRP on new channels and the prices should be allowed to be set by commercial agreement. The production of new content and its distribution is an expensive and risky venture with a long break-even period and the pricing restrictions reduces the incentive and impedes investment. (Time Warner Inc, Hongkong).
- g) Across the world the Government typically intervenes and regulates prices if such industry provides essential services (such as water and electricity) or effective competition does not exist in that industry. The broadcast industry is not an essential service industry and there has been an increase in the competition. Under the CAS environment, the pricing of the channels should be left to market forces and no regulation needs to be introduced for unbundling of existing channels and /or a-la-carte pricing. Broadcasters should be permitted to increase or decrease the price of the channels based on its acceptability /demand. Instead of introducing new pricing regulations in view of the increased competition due to introduction of platforms such as DTH and IPTV providing multiple choices, the existing price regulation be withdrawn in line with the recommendations of TRAI of 1.10.2004. (Star India Pvt Ltd, Mumbai).
- h) Across the world the Government typically intervenes and regulates prices if such industry provides essential services (such as water and electricity) or effective competition does not exist in that industry. The broadcast industry is not an essential service industry and there has been an increase in the competition. Under the CAS environment, the pricing of the channels should be left to market forces and no regulation needs to be introduced for

unbundling of existing channels and /or a-la-carte pricing. Broadcasters should be permitted to increase or decrease the price of the channels based on its acceptability /demand. Instead of introducing new pricing regulations in view of the increased competition due to introduction of platforms such as DTH and IPTV providing multiple choices, the existing price regulation be withdrawn in line with the recommendations of TRAI of 1.10.2004. (ESPN Software India Pvt Limited, Gurgaon).

Any kind of price regulation whether at wholesale or retail level is anti competitive. A mandate for a-la-carte and packaging of pay TV channels and prices thereof will chill additional investment in India's digital economy, lead to higher costs – higher marketing and promotional costs for more number of individual channels instead of one bouquet, increased legal costs due more number of contractual arrangements, higher operating costs due to hiring and training of more staff, upgradation of business to allow more sophisticated billing system, costs of renegotiations - for programmers and distributors, fewer viewing options to consumers, restrict investment and lead to stagnation in the creation of new and quality content. (Discovery Communications India, Delhi)

- g) Given our world wide experience of other markets it is believed that packaging regulation and in particular a-la-carte pricing would have a severe impact on the distribution and availability of the channels to the viewers thereby directly effecting the operations of the channel business in terms of reducing advertising revenues, lowering pay channel revenues and reduced program diversity. The Indian consumer currently gets an average of over 200 channels at an average cost of Rs. 200 per household and are the lowest in the world and it is due to competitive market forces and self-regulation by broadcasters to ensure availability at reasonable prices. Regulation should be reserved for essential service industries such as water and electricity or industries in which competition is not deemed to exist. (The Walt Disney Company (India) Private Limited, Mumbai)
- h) Pricing of channels is best left to market forces. Pricing and packaging of channels if left to market forces, cable operators and channels themselves are forced to protect and improve their market position by delivering quality entertainment and services to consumers thereby relying on supply and demand to dictate pricing and programming. (M/s. Motion Picture Association, Singapore)

- i) No, TRAI should not fix the maximum retail price for any pay TV channels. Pay TV channels are non –essential, discretionary services primarily intended for entertainment. (M/s. NDS Asia Pacific Limited, Mumbai)
- j) From a long term prospective TRAI should not involve in price fixation of individual channel/ fixation of maximum retail price (MRP's) for each individual channel or bouquets of channels. However, for a short period of say 12-24 months TRAI must involve in price fixation of MRPS till the time misnomers for and against CAS is settled and this would be in the ultimate interests of the end subscribers of Cable TV. (M/s. Hathway Cable and Datacom Private Limited, Mumbai)
- k) No. We believe that the pricing of channels is best left to market forces (Set Discovery India Pvt Limited, Mumbai)
- o) Instead of fixing maximum retail price for each channel TRAI should prescribe a ceiling on maximum retail price of a channel in a particular genre. The flexibility should be provided to the broadcaster to fix up the price of its channels within the price ceiling / cap stipulated by the Authority. For example an individual channel in entertainment genre cannot be priced more than Rs. 20/-, individual channel in religious segment cannot be priced more than Rs. 10/-, an individual movie channel cannot be priced more than Rs. 12/-, the sports channel cannot be priced more than Rs. 10/- etc. The above ceiling shall be subject to the fixation of individual price of a channel as derived from the average price of a channel in a bouquet as explained in response to issue No. (iii) below. Example - suppose the price ceiling as stipulated by the Authority in respect of 'X' channel is Rs. 12/-, however, the individual price based on certain percentage of average price in a bouquet is Rs. 10/-, then the price of that channel cannot exceed Rs. 10/-. This price ceiling should be only in the initial stage of introduction of CAS i.e. for a period of 18-24 months and thereafter once the entire system stabilises, the same should be reviewed. (M/s. Siticable Network Limited, Noida)

Issue for consultation

ii) If so, what should be the methodology and principles to be adopted for the same?

Comments Received

- a) If TRAI were to fix tariff, rates prevailing in Chennai could be adopted, to bring in uniformity. After CAS implementation, Broadcasters will have the freedom to vary rates depending upon consumer appeal for their content and the value for money. Another possibility could be to take a bouquet price, as prevailing, assign a 1 to 5 rating in accordance with TRP ratings in the bouquet, total up the ratings according to the 1 to 5 scale, divide the bouquet price by this total to arrive at a per point rate, then apply the per rating point scale rate to the assigned rating to determine the per channel MRP. This would assist in CAS implementation say for the first year. Thereafter the market forces would decide the content sale according to market dynamics. (Col VC Khare (Retd) , Cable TV Industry Observer, Mumbai).
- b) During OPEN HOUSE DISCUSSION (on interconnection issues), the methodology used by PAKISTAN regulator was discussed. This could be a guide. As the CAS is being introduced in METROS only, CHENNAI rates could be used as the MRP. (Voice, Delhi)
- c) All pay channels should have the same price and the price should be determined on the basis of carriage cost. The content cost cannot be a base for determining price of individual channels, when other relevant data/information is not available. Our view is that there should be no premium (extra charge) for popular channels. Since broadcasters are able to cash on the popularity of a channel by charging a premium from advertisers and secondly, the premium the broadcasters charge advertisers is ultimately paid by the consumers, as advertising revenue is part of the price of any product. It is not clear what are the vast varieties of networks that TRAI is referring to while bringing out the problems in carriage-cost based pricing. As we understand, at present there are two networks – one, cable TV network, and second, DTH network. If there are significant differences in carrying channels in these two networks, then TRAI can work out different carriage costs, and hence different prices for channels telecasted through different networks. In Pakistan, the methodology used

by Pakistan regulator is considered to be sound. One option could have been to consider a simple average of prices; another option could have been to calculate the simple average of the minimum and maximum historical price. As regards categorizing, the various genres of channels that can be identified are News channels, Movies, Religious, Educational (e.g. National Geographic, Discovery, History, etc., Children (e.g. Cartoon Network, Pogo), Songs, Sports, General Entertainment (e.g. Star Plus, Sony, Zee TV, Star World, etc.). (All these can be further sub-categorized as per language). The above categories could be followed for defining various genres of channels. (CUTS, Jaipur)

- d) The methodology can be present prevailing CAS prices for individual channels in Chennai. Also the principles should be based on a full bouquet vs. ala carte and there has to a logical, acceptable ratio for a channel, when it is offered ala carte (stand alone basis) vs. when it is offered ala carte (stand alone basis). (IndusInd Media and Communications Limited, Mumbai)
- e) The methodology should be as follows:
 - i) Individual channel should be categorized under particular genre and TRAI should fix a ceiling pertaining to the particular genre so that the individual channels cannot be priced above the ceiling.
 - ii) Similarly all new pay channels will also be defined under a particular new genre. (M/s. Ortel Communications Ltd, Bhubaneswar)
- f) In view of the position in reply to (i) above no comments. (M/s. Motion Picture Association, Singapore)
- g) No comments in view of reply to (i) above. (M/s. NDS Asia Pacific Limited, Mumbai)
- h) Chennai pricing of CAS can be the immediate basis for fixation of MRPs with respect to A-la-Carte channels and bouquet of channels for the next 12-24 months and the A-la-Carte prices have been published in chapter 3, para 4.1 of the consultation paper issued in April 2004 on Issues relating to Broadcasting and Distribution of TV channels. In the meanwhile the Authority can engage the services of any professional rating agency for determining the popularity of channels falling under a genre and co-relate

the prices of individual channels with popularity on the basis of the recommendations of the rating agency. Eventually after 12-24 months the pricing of individual channel should be driven and decided by the market forces. (M/s. Hathway Cable and Datacom Private Limited, Mumbai)

- i) In accordance with our answer to (i) above, we have no comment to make on this question. Any methodology or principle used for price controls will inevitably be inefficient and result in a misallocation of resources and market distortions. (Set Discovery India Private Limited, Mumbai)
- j) As indicated in response to one above there should be a genre based price ceiling which shall be subject to the calculated price of individual channel as a percentage of average price of a channel in a bouquet. (M/s. Siticable Network Private Limited, Noida)

Issue for consultation

iii) Should TRAI promote individual choice of channels by fixation of the maximum price as a percentage of the average price of a channel in a bouquet and if so, what should be this percentage?

Comments Received

- a) CAS mandated individual choice of channels at ‘ a-la-carte’ to be published by the Broadcaster. If TRAI wants to promote individual choice of channels by assigning a maximum price, as percentage of a channel in a bouquet, then such percentage could be 200% maximum. (Col VC Khare (Retd) , Cable TV Industry Observer, Mumbai)
- b) It should not be more than 40 percent of the average price of a channel and not twice as quoted in example at para 10 of the consultation paper. (Voice, Delhi)
- c) In the context of CAS one wonders why should there be a bouquet of channels, By introducing the concept of bouquet, we are moving away from this very rationale for introducing CAS. Further, the introduction of bouquet brings along with it several complexities. First, the maximum allowable discount has to be determined to ensure that bundling of channels through bouquets with a scheme of discount does not nullify the individual choice (Here again, the focus is on protecting individual choice).

This would result in TRAI making all the efforts in determining what an 'acceptable' maximum allowable discount would be. Another complexity that might arise is when a broadcaster includes a popular channel in various bouquets and chooses one of these bouquets as the reference bouquet for ensuring that it is complying with the regulation on maximum allowable discount. This way, the broadcaster can fix a higher price for a popular channel by selecting a reference bouquet that allows it to do so. This would nullify the regulation on maximum allowable discount. This reinforces the need to have maximum retail price for a channel. For these reasons, forming of bouquets should not be permitted. (CUTS, Jaipur).

- d) Yes. This percentage, as also indicated by MSO Alliance in earlier consultation papers, cannot be more than 50% of the average price of a channel in a bouquet. For example if a bouquet of 5 channels is at Rs. 50/-MRP, then any individual channel of this bouquet cannot be priced more than Rs.15 as a-la-carte (standalone) price. (IndusInd Media and Communications Limited, Mumbai).
- e) The real benefit of CAS is feasible only when the choice of individual channels is promoted and hence the maximum price of the individual channel needs to be fixed as a percentage of the average price of the bouquet and under no circumstances it should exceed 200% (Ortel Communications Limited, Bhubaneswar).
- f) The unbundling of existing bouquets and a-la-carte pricing would in all likelihood lead to higher costs and fewer viewing options to the consumers and less programme diversity. It has been an internationally accepted practice by both the broadcasters and the MSOs to offer bouquets even on addressable systems as it is more beneficial to the consumer and this practice has been validated by the regulators /Governments. Packaging of channels merely represents form of volume discounts and competition will naturally limit the ineffectual bundling. (Star India Pvt Ltd, Mumbai).
- g) The unbundling of existing bouquets and a-la-carte pricing would in all likelihood lead to higher costs and fewer viewing options to the consumers and less programme diversity. It has been an internationally accepted practice by both the broadcasters and the MSOs to offer bouquets even on addressable systems as it is more acceptable to the

consumer. Packaging of channels merely represents form of volume discounts and competition will naturally limit the ineffectual bundling. (M/s. ESPN Software India Pvt Ltd, Gurgaon).

- h) Bouquets are the most cost-efficient means of delivering variety of quality content as it facilitates the spreading of marketing and operational costs across a range of channels. Given the level of upfront Investment and long breakeven period the risk of launching a new channel would increase substantially in the absence of ability to secure wide reach of distribution as part of bouquet and to negotiate a fair and reasonable rate of return. Without the wide reach the bouquets offer, channels will struggle to attract advertiser leading to suffering of revenue, slowing of investment in programme. In this situation the channel should either raise the subscription fees or close having failed. (M/s. Discovery Communications India , Delhi).
- i) Pricing of channels is best left to market forces (M/s. Motion Picture Association, Singapore).
- j) TRAI should not fix the maximum price as a percentage of the average prices of channel in a bouquet. Stating that the practice of bundling or tiering is routine international practice in the Pay TV market and in this connection has referred to a report submitted by US based National Cable Television Association (NCTA) to the General Accounting Office (GAO) and to the report of GAO. Quoting from the report it has been stated that competition leads to lower cable rates and improved quality and Ala-carte approach would facilitate more subscriber choice but would require additional technology and customer service and cable networks may lose advertising revenue. As a result of this some subscribers bills might decline and but for others it might increase (M/s. NDS Asia Pacific Limited, Mumbai).
- k) As indicated in reply to (i) and (ii) the Authority can consider pricing of a-la-carte and bouquets as an interim measure and once the CAS settles down, the price fixation can be removed and the prices of individual channels can be left to market forces. (M/s. Hathway Cable and Datacom Private Limited, Mumbai).
- l) As noted above, we believe that the pricing of channels is best left to market forces. Fixing a maximum discount would create market distortions that would only hurt consumers, cable operators and

distributors who want more choice by selecting to receive a larger number of channels. (Set Discovery India Private Limited, Mumbai).

- m) In order to provide the meaningful choice to the distributors / subscribers and to give true effect to the intent of CAS, a pricing formula needs to be incorporated whereby a ceiling on the individual price of channel comprised in a bouquet is to be imposed. One such formula could be: -

$$P = \frac{BP}{n} \times 1.5$$

P – Price of new channels

BP – Bouquet price

N – Number of channels comprised in a bouquet

Suppose a bouquet consists of 10 channels and is priced at Rs. 50/- then the broadcaster is free to fix the price of the individual channel not exceeding 1.5 times the average price per channel i.e.

$$50/10 \times 1.5 = 7.5$$

Stating that there is no quarrel on the proposition of broadcasters that the volume discounts will benefit the subscribers what is requested is that there should be availability of both the choices to subscribe to the individual channels and ala carte basis as well as choice to subscribe to bouquet if it is beneficial. (M/s. Siticable Network Limited, Noida)

Issue for consultation

iv) If the individual MRPs are fixed by TRAI, along with a formula as indicated in (iii) above, should TRAI also regulate the maximum permissible discount for the bouquet of channels ?

Comments Received

- a) No. That would be contrary to the spirit of CAS implementation. Having fixed maximum MRP for a channel, the issue of bundling should be left to Broadcaster and MSO, since the MSO has to convey the chargeable rates to the subscriber through Customer Acquisition Forms for the first time and subsequently through EPG/SMS. **(Col VC Khare (Retd) , Cable TV Industry Observer, Mumbai).**
- b) While talking of CAS, bouquet should be out . It is high time that Subscriber is free from this catch. Let the broadcasters use more innovative ideas to attract subscribers, as the present business model is coercive. Continuation of bouquet will hurt the interest of non-CAS subscribers who are waiting for the DAY OF LIBERATION. **(Voice, New Delhi).**
- c) As mentioned in our response to (iii) above, in the context of CAS forming of bouquets should not be permitted, as it defeats the very purpose of having an addressable system. **(CUTS, Jaipur).**
- d) Yes. The maximum permissible discount will be a logical conclusion, if the ratio of MRPs of bouquet Vs. ala carte channel is firmed up. **(IndusInd Media and Communications Limited, Mumbai).**
- e) Without the control on maximum permissible discount on the bouquet of channels and the choice of individual channels cannot be promoted as they are inter linked issues. **(Ortel Communications Limited, Bhubaneswar).**
- f) In view of the position in reply to (i) above no comments. **(M/s. Motion Picture Association, Singapore).**
- g) TRAI should neither fix the maximum retail prices of pay TV channels nor the maximum permissible discounts for bouquets of channels.**(M/s. NDS Asia Pacific Ltd, Mumbai).**
- h) In view of replies to (i) to (iii) above TRAI need not get into any regulation on a long-term basis. **(M/s. Hathway Cable and Datacom Private Limited, Mumbai).**
- i) As noted above, we believe that the pricing of channels is best left to market forces. Fixing a maximum discount would create market distortions that would only hurt consumers, cable operators and

distributors who want more choice by selecting to receive a larger number of channels. **(Set Discovery India Pvt Ltd, Mumbai)**.

- j) Yes. The natural corollary of fixing of MRP and the price of individual channel and a ceiling on the price of Ala Carte channel based on certain percentage of average price of bouquet would naturally result in fixation / regulation of maximum permissible discount for subscribing the bouquet of channels. **(M/s. Siticable Network Limited, Noida)** .

Issue for Consultation

v) Which of the Options at para 10 should be adopted and why? Is there any other Option that should be adopted? If so please give details along with reasons.

Comments Received

- a) If bouquets are to be permitted, then option II.. There appears to be no other option. **(Col VC Khare (Retd) , Cable TV Industry Observer, Mumbai)**.
- b) Option 1 must be adopted to build confidence of subscribers in the regulator and other stake holders. **(Voice, New Delhi)**
- c) Forming of bouquets are not permitted.. TRAI determines the price of channels, depending on the cost of carriage, and if carriage cost is difficult to calculate, then fix the ceiling price for each individual genre based on a simple average of historical prices of all channels falling under a particular genre as per categorisation given above. **(CUTS, Jaipur)**
- d) Option II and in combination with Option III as follows are best suited and can be implemented. However, the ceilings should be discussed and frozen before adopting these options. **(IndusInd Media and Communications Limited, Mumbai)**

Option II

- The Broadcaster shall announce the price of each individual channel
- Forming of Bouquets are permitted
- TRAI fixes the maximum ceiling for bouquet discounts

Option III

- Same as II above with the addition that TRAI also fixes the ceiling of an individual price as a percentage of the average bouquet price.

- e) The fourth option at para 4 should be adopted and therefore TRAI should fix the ceiling price for each individual genre and also fix maximum ceiling for discount for bouquet. **(Ortel Communications Limited, Bhubaneswar).**
- f) No option is suggested as establishing a set rate that any commercial entity can charge for their goods and/ or services –except in the case of universal services such as water and electricity is government intrusion of the worst kind. (Discovery Communication India, Delhi)
- g) In view of the position in reply to (i) above no comments. (M/s. Motion Picture Association, Singapore)
- h) The best option of those presented is Option 2. However the fixing of maximum ceiling for bouquet discounts is unnecessary. New option proposed is :
- The broadcasters shall announce the price of each individual channel
 - Forming of bouquets are permitted
 - No limits are set on channel pricing or bouquet pricing.

The safeguards required for the new option are that pricing and composition of bouquets and other conditions such as minimum contract duration and notice period are clearly stated to the consumer at the time of selection. Further in case if the consumer opts for a set of channels on a-la carte basis and there is an option to choose the same set of channels in the form of selecting one or more bouquets, the lower of the applicable prices for the options of bouquet(s) or A-la-carte should be made applicable so that the consumer stands protected if he inadvertently opt for A-la-Carte option leading to a higher price. (M/s. NDS Asia Pacific Limited, Mumbai)

- i) As is prevalent in the Chennai CAS market, wherein, the underlying broadcasters announced the MRP of the individual channels as well as of the bouquets of channels, the similar Chennai prices should be adopted as an interim measure for the next 12-24 months. Thereafter it be left for the market forces to determine the price. (M/s. Hathway Cable and Datacom Private Limited, Mumbai)
- j) As noted above, we believe that the pricing of channels is best left to market forces. None of the Options should be adopted as the price controls referenced in each Option would result in significant market distortions that would hurt consumers. (Set Discovery India Pvt Limited, Mumbai)
- k) We recommend the following:-
 - TRAI shall fix the price ceiling of individual pay channels in accordance with the above-mentioned methodology.
 - The broadcasters shall announce the maximum retail price of each individual channel within the stipulated ceiling by TRAI.
 - The distributors of channels / subscribers can also opt for bouquet if they so wish.
 - TRAI shall fix the maximum ceiling for bouquet discounts. (M/s. Siticable Network Limited, Noida)

Annexure IV

Statement indicating the details of information on prices of pay channels for CAS notified areas furnished by broadcaster/their authorized distribution agencies in response to Ministry of Information & Broadcasting's notification no GSR 452(E) dated 31.7.2006 / letter of Telecom Regulatory Authority of India of 20.7.2006

Name of the Broadcaster /Authorized Distributor (1)	Details of Information on Prices Received. (2)
1. Star India Pvt Ltd	<p>No maximum retail price as required under sub-rule (2) of Rule 10 furnished. Only the net wholesale rates per subscriber per month, to MSOs / Cable Operators, of Individual channels as well as of Bouquet given. The rates in Rupees are given below:</p> <p>i) Star Plus 24/-, ii) Star Movies 20/-,iii) Star World 14/-, iv) Star Gold 10/-, v) National Geographic Channel 10/-, vi) Vijay 10/- vii) Channel(V) 8/-, ix) History Channel 15/-, x) STAR one 22/-, xi) Toon Disney + The Disney Channel 12/-, xii) Hungama 6/-.</p> <p>Bouquet price of Rs. 54.10 per subscriber per month comprising of all the above channels</p>

<p>2. Set Discovery Private Ltd</p>	<p>No maximum retail price as required under sub-rule (2) of Rule 10 furnished. Only standard individual wholesale price per subscriber per month given along with Bouquet prices for two bouquets. The rates in Rupees are given below:</p> <p>i)Animal Planet 10/-, ii)Animax 10/-, iii)AXN 14/-, iv)Discovery 15/-, v) Discovery Travel & Living 12/-,vi) MTV 10/-, vii)NDTV Profit 12/-, viii)NDTV 24/7 -14/-,ix) Nick 10/-, x) SAB 15/-,xi) SET 24/-, xii) SET MAX 20/-,xiii) SET PIX 15/-,xiv) Ten Sports 20/-</p> <p>Bouquet 1 – Rs. 52.86 per subscriber per month Bouquet 2 - Rs. 55 per subscriber per month. (including a free to air channel –NDTV India)</p>
<p>3. Zee Turner Ltd</p>	<p>No maximum retail price as required under sub-rule (2) of Rule 10 furnished. Proposed Wholesale domestic rate per subscriber per month to MSOs / LCOs of individual channels given. The rates in Rupees are given below:-</p> <p>Zee TV 26.75/-, ii) Zee Trendz 10.70/-,iii)Reality 5.35/-,iv)CNBC 21.40/-, v) Cartoon Network 21.40/-, vi) Zee Marathi 8/- ,vii) Zee Gujarati 8/- , ix) Zee Punjabi 8/- ix) Zee Bangla 8/-, x) Zee Cinema 21.04/-, xi)Zee Studio 16.05/, xii)Zee Café10.70/-, xiii) Zee News 10.70, xiv) CNN 5.35/- xv) HBO 25/-, xvi) VH1 8/-,xvii) Zee Business 10/-, xviii) Awaaz 10/-, xix) POGO 21.4/-, xx) Zee Sports 10/-, xxi) Zee Premier 10/- , xxii) Zee Classic 10/-, xxiii) Zee Action 10/-, xxiv) Zee Kanada 8/-, xxv) Zee Telegue 10/- xxvi) Play TV 10/-, xxvii) ETC Punjabi 15/-, xxviii) ETC 8/-, xxix) Zee Music 15/-, xxx) Zee Jagaran 10/-, xxxi) Zee Smile 10/-, xxxii) 24 Ghante 10/-</p>

4. ESPN Software India Pvt Ltd	<p>Maximum Price / Maximum Retail price per set top box on an annualized basis per month of individual channels as well as bouquet of channels given. The rates in Rupees are given below:</p> <p>i) ESPN 40.80/-, ii)Star Sports 40.80 /-, iii)ESPN Plus 20/- (All based on annualized subscription contract)</p> <p>Bouquet of ESPN & Star Sports Rs. 45/-</p>
5. Raj Television Network Ltd.	<p>No maximum retail price as required under sub-rule (2) of Rule 10 furnished. Wholesale rate per subscriber per month to MSOs / LCOs of individual channels given. The rates in Rupees are given below:-</p> <p>i) RAJTV 6/-ii) RAJ DIGITAL PLUS 6/-,iii)VISSA TV 6/- Bouquet price for all the above three channels Rs.9/-</p>
6. B4U Television Network (India) Pvt. Ltd.	<p>B4U Movies Rs 10 /per subscriber per month. B4 Music to be a free to air channel.</p>
7. Sahara India TV Network (Unit of Sahara India Commercial Corporation Limited)	<p>The maximum Retail price per subscriber per month for CAS Areas for individual channels are given below:</p> <p>i) Sahara One Rs. 22.50/-, ii) Filmy Rs.15/- Bouquet consisting of both the channels will be at Rs. 25/- per subscriber per month.</p>
8. SUN TV Limited	<p>No maximum retail price as required under sub-rule (2) of Rule 10 furnished. The wholesale rates in rupees per subscriber per month net to the company is given as under:</p> <p>i)KTV 12.84/-, ii) Sun Music 3.21/-, iii)Sun News 5.35/-, iv)Adithya 5.35/-,v) Teja News 5.35/-, vi)Ushe TV 7.49/-, vii)Udaya News 5.35/-</p>
9.Udaya TV	<p>No maximum retail price as required under sub-rule (2) of Rule 10 furnished. The wholesale rates in rupees per subscriber per month net to the company is given as under:</p> <p>i) Udaya TV 10.70/-</p>

10. Gemini TV Private Ltd.,	No maximum retail price as required under sub-rule (2) of Rule 10 furnished. The wholesale rates in rupees per subscriber per month net to the company is given as under: i) Gemini TV 10.70/-, ii)Teja TV 5.35/-
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Statement indicating Maximum Retail Prices of pay channels
prevailing in Chennai CAS Areas

S. NO	PARTICULARS	MAXIMUM RETAIL PRICE PER SUBSCRIBER PER MONTH (Rs.)
A	ALA CARTE RATES	
1	ALPHA BANGLA	16.05
2	ALPHA GUJARATI	16.05
3	ALPHA MARATHI	16.05
4	ALPHA PUNJABI	16.05
5	ADVENTURE/ HISTORY	16.05
6	ANIMAL PLANET	4.30
7	AXN	15.00
8	CARTOON NETWORK	21.40
9	CHANNEL V	8.60
10	CNBC	21.40
11	CNN	5.35
12	DISCOVERY	10.70
13	ESPN	31.05
14	STAR SPORTS	31.05
15	NATIONAL GEOGRAPHIC	10.70
16	HALLMARK	12.85
17	HBO	25.00
18	NICKELODEON	10.70
19	SETMAX	15.00
20	SONY	21.40
21	STAR GOLD	10.70
22	STAR MOVIES	21.40
23	STAR PLUS	25.70
24	MTV	10.70

25	STAR WORLD	15.00
26	TEN SPORTS	15.00
27	ZEE CINEMA	21.40
28	ZEE ENGLISH	10.70
29	ZEE SPORTS	10.00
30	ZEE MGM	16.05
31	ZEE NEWS	10.70
32	ZEE - REALITY TV	5.35
33	ZEE TRENDZ	10.70
34	ZEE TV	26.75
35	POGO	15.00
36	ZEE BUSINESS	10.00
37	AWAAZ	10.00
38	VH 1	8.00
39	MX	15.00
B	PACKAGES (BOUQUETS)	
1	STAR BOUQUET -1	59.50
2	SONY BOUQUET-1	52.85
3	ZEE BOUQUET -1	58.85
4	ZEE BOUQUET -2	40.00
5	ESPN STAR SPORTS ANNUALISED (RATE PER ANNUM)	376.70