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**Subject:** COMMENTS ON TRAI CP ON REVIEW OF REGULATORY FRAMEWORK FOR BROADCASTING AND CABLE SERVICES

Respected Sir,

Our Comments on the above captioned subject is as under:-

At the outset, we welcome TRAI's initiative to issue a consultation on the aforesaid subject. Before we make our submissions it is stated that Content offering is done through collaboration between the content provider in the form of Linear channels through DPOs like MSOs, DTH, IPTV, HITS etc and OTTs which are delivered through smart phones TVs and now bundled with fibre connection and Smart TVs. We even have devices which are able to make CRTs or non smart TVs as SMART TVs. The issue therefore needs to be revisited from a fresh perspective in light of several new developments, market changes, integration and business models, which have started and evolved since the issuance of the previous consultation process. We have summarised the same in our response since the same does not find mention/reference in the consultation paper and the same has a material bearing before any further amendments are being carried out to the tariff orders and regulations. Indeed, these developments call for a complete overhaul and a revisit to entire approach and it is high time that what was earlier stated way back in 2004 that upon attaining sufficient competition the TRAI would adopt a forbearance or a free market regime. In so far as competition is concerned, the same is not limited to the MSOs/DTH/Cable operators and the broadcasters on the other end and it has now extended to OTT players, telecom and ISPs and offering of bundled services by vertically integrated players. In other words, it is high time that the sunset date for any form of regulation is soon implemented since there is adequate evidence that there is effective competition in existence across the country. As a free to air channel, we support forbearance where there is full freedom to price the channel and there should also be freedom on NCF. However, the rule of "must provide" should only be applicable if and only if the rule of "must carry" is also strictly followed. With the advancement of compression technologies, more channels can be accommodated in the same bandwidth and thus there will not be any situation of dearth of capacity. It should be minimum obligation of DPO that for NCF charged, it should be compelled to offer all FTA channels, since what is intended to be offered for free by the broadcaster must also reach the end consumer for free, where the end consumer has already paid for capacity to the DPO in the form of NCF and DPO should not indulge in an act of double dip in an attempt to extract carriage fee to make the channel available/visible to the end consumer. The way he desires the premium channels/pay channels as a matter of right under the must provide clause, he should also be fastened with obligation to carry all the FTA channels on a "must carry" principle.

The market changes which should be examined and considered to determine the extremely competitive environment would include the following:

1. On a comparison of the changes that have occurred from 2004 till 2023, it is clear that the number of TV Subscribers have grown Similarly, revenue has grown The number of channels has increased from 160 to around 900+ and from single DTH operator, we now have 4 DTH operators. Similarly, the number of MSOs has also grown. Similarly, cable operators have also risen. We also have new forms of permitted distribution like IPTV and HITS.
2. Huge proliferation of OTT content and adoption of hybrid STBs by distributors which supports both video broadcasting and IP based videos. In other words, these devices/STBs allow users to view digital cable programming as well as videos from the internet or local IP network. The sequitur is whether an MRP regime can still be continued when a bundled package of OTTs are offered and offering channel on MRP would make it unattractive and also disable the broadcasters from giving competitive offers.
3. The entry of telecom network operators by offering fibre bundled with OTT subscription and channel subscription.
4. The new market practices adopted by vertically integrated telcos with the broadcasters and OTT content providers.

5. The offering of content like sporting events (the rights for which are purchased for a huge premium) free of cost by luring customers to buy fibre from the vertically integrated entity and making of new offerings to the end consumers in the form of fibre, content, channels, OTTs, etc. In other words, the price of content is now made subject to maximising the broadband usage. This would mean that if a channel is offered in a bundled manner by vertically integrated telecom operator as a part and parcel of its broadband plan the price of the channel would lose its significance as it gets subsumed and merged with the broadband plan and thus there would hardly be any requirement of having MRP based regime as we have **today**.
6. It must also be appreciated that in the entire M&E market **today** or cable & broadcast industry as popularly called, there is only one or two cases of vertical integration by a telecom operator with a channel distributor of DPO and there is only one case where the channel is not only vertically integrated with a DPO but also with a broadcast company. Most broadcasters who are standalone broadcasters, are therefore disadvantaged for not being integrated with a distributor or a telecom operator and being incapacitated to give such offerings. If a regulatory regime (as it stands **today**) continues, it will lead to placing these set of broadcasters to a huge disadvantage as the vertically integrated operator would be able to offer discounted channels offering premium content using its distribution platforms which are integrated with its telecom arm. Thus, what it loses/discounts in content, it can make out on carriage. The standalone broadcaster on other hand has no means to recover the content price and would continue to charge for content and would ultimately be eliminated leading to monopolization. The regulations therefore must discourage such an approach and must abstain from formulating any regulations which would have consequences of creating unfair market conditions to the competitors and disturbance in level playing field. It must contemplate to have regulation which is more market friendly and which permits equal opportunity also factoring in the un equals and granting them a flat turf to compete, as against creating regulatory bottlenecks which would facilitate the dominant entity or create opportunities to it from practising abuse.
7. In other words, on one hand we have a broadcaster whose only choice is to adopt a subscription model (which is dependent on subscription and ad revenue) or a free to air model (which is solely dependent on ad revenues) and another broadcaster who ordinarily would have been chosen to adopt a subscription model however now is capable of discounting its channel price or alternatively offering it in a bundled service through its broadband plan and through its vertically integrated telecom company. In competition parlance these may even qualify as tie in arrangements. Telcos operate in a forbearance regime and thus are capable of recovering of what it loses in the broadcast market or subscription or ad-based model through its telco offerings which are now made more lucrative and attractive by stating offers, by way of an illustrative example, prepaid and postpaid JioFibre Plans are extracted hereunder:

- **“Prepaid plans:**

- ₹399+GST per month with unlimited 30 Mbps internet and free voice calls.
- ₹699+GST per month with unlimited 100 Mbps internet and free voice calls.
- ₹999+GST per month with unlimited 150 Mbps internet, free voice calls, and OTT subscriptions like Amazon Prime Video, Disney+ Hotstar, and 14 more.
- ₹1,499+GST per month with unlimited 300 Mbps, free voice calls, and OTT subscriptions including Netflix, Amazon Prime Video, Disney+ Hotstar, and 14 more.

- **Postpaid Plans:**

- ₹499+GST per month with unlimited 30 Mbps internet, free voice calls, and OTT subscriptions to Universal, Eros Now and 4 more.
- ₹899+GST per month with unlimited 100 Mbps internet, free voice calls, and OTT subscriptions including Disney+ Hotstar, SonyLIV and 12 more.
- ₹999+GST per month with unlimited 150 Mbps internet, free voice calls, and OTT subscriptions like Amazon Prime Video, Disney+ Hotstar, and 13 more.
- ₹1,499+GST per month with unlimited 300 Mbps, free voice calls, and OTT subscriptions including Netflix, Amazon Prime Video, Disney+ Hotstar, and 14 more”.

As can be seen from the above, the vertically integrated telcos are offering content along with its broadband plans. In these circumstances, if a broadcaster as a pure standalone broadcaster, having no

business interest or integration with a distributor or telco, is asked to compete with a another one who has such integration, then the competition would be on an extremely non-level playing field conditions, and with any tariff conditions/regulations being imposed, it would be a complete impossibility. Indeed, such an approach would now result in advancing monopolistic market and eliminating any form of content diversity/competition. In these circumstances the best approach would be that TRAI also practices a forbearance approach.

8. The presence of Prasar Bharti as a vertically integrated and a hugely disruptive player in the scheme of things and which causes huge disparity and non-level playing field conditions for both the distributors as well as the broadcasters.
9. The concern raised by LCOs/DPOs of the adverse impact of subscription of linear TV due to increasing popularity of Free Dish and VODs in the form of OTTs as rightly recorded in Para 1.12.
10. The absence of an effective and reliable measurement body which is determinative of the rate and volume of advertisement revenue that can be generated by a broadcaster.

The main reason for the failure of erstwhile regulations was the imaginary and pseudo consumer concern of offering channels of choice and/or subscribing of only those channels which were desired by the end consumers and thus empowering consumers with the option of making an a-la-carte choice of channels. The consequence was that the entire viewing experience of uninterrupted flipping through channels and having an option to stop at a point when a content that created interest for a viewer to pause and making a fresh choice thereafter and to carry on from one channel to the other was completely taken away from the consumer by making him/her responsible or to be the owner/decision maker to make a choice of the channel. It was not appreciated that such a choice was neither ever asked for by the consumer nor was it even desired at the cost of hampering the TV viewing experience and making it completely unattractive proposition as compared to other content mediums like OTTs, short videos, or short reels etc. In our submission, this according to us is the prime reason for cord cutting, shift in migration of viewers from DTH to OTTs as also the overall hampering of growth which is leading to bankruptcy, closure/shutdown of channels/businesses, absence of business case and inability to compete on account of unfavourable regulatory regime.

The entire context also needs to be understood that on the one hand TRAI was regulating the linear TV offering through the medium of DPOs [MIB registered distribution mediums] at regulated prices and on the other hand we had OTTs, short videos, streaming videos which were able to give a better choice to the consumer and also compensate for the drawbacks that resulted as a consequence of the previous regulations.

The paradox can also be understood from the example of the concept of short videos wherein a consumer does not have the choice of knowing as to what content would follow after few seconds of the initial video that he had watched; however, he continues to flip one after the other and enjoys the experience of non-stop uninterrupted offering of short collection of a barrage of videos one after the other. It keeps him hooked and addicted. As against this, the TV medium which was able to offer a similar experience in a linear mode, was made to go through a regulatory restraint which resulted in empty unutilised capacities with a frequent label being witnessed by the subscriber that "*the channel has not been subscribed to*". This regulatory disparity made TV viewing entirely unattractive and which as per recent reports has resulted in cord cutting and evident from recent press reports (TRAI Subscriber Report to be referred to). Indeed, the TRAI has gone wrong that the choice made by the subscriber is that of a channel when indeed it was always the choice of the content made available by a channel at a particular point of time. It is a well-known viewing habit that a subscriber may want to watch a repeat of a content which he/she may have already watched in the past. Similarly, there are channels which may not be so popular, but which offer an extremely popular content like an old blockbuster movie or a high TRP show as a repeat or by way of a deferred or late telecast which a consumer may be interested in. In fact, this is a prime reason why low-priced channels were bidding in DD Free Dish auction and their only business case was to earn through ad revenues by enhancing reach. The consumer may pause and watch content for some time before switching and flipping channels and may in the process make out a choice of extremely unpopular channel, which at some point may also offer a popular content. These are always subjective choices and to pre-suppose that the choice is that of channel as compared to a content would be wrong.

The same example can also be substantiated by way of taking any OTT platform which in most cases host a variety/plethora of content for a fixed fee and it is for the consumer to decide which content he/she wishes to watch based on the title. In some cases, a preview of the content also appears while the subscriber flips through the content tiles or from switches from one OTT to the other.

If the consumer's choice is limited at the point of channel on grounds of pricing, a-la-carte-bouquet ratio etc., the multiple options of free flow of content gets reduced/minimised with an added disadvantage of a pause or a blank screen. This is also comparable to a fast passenger bus or an express/Rajdhani/ Vande Bharat train which makes the entire travel experience uninterrupted in contrast to a passenger/mail train or a bus travel which stops at every small destination or even in the middle of the road. It is undisputed that there is huge gap in the browsing experience of a user of OTT platform vis-à-vis a TV channel platform and the sole reason for the same is inability of offering channels in the same manner because of regulatory restraints. The best recourse would be to fall back to earlier fixed fee regime or a forbearance regime and permitting the channels to price their channels as they deem fit and without any further any a-la-carte / bouquet restrictions. Similarly, the DPOs must also be given the freedom to decide upon the NCF. Both the principles of "must carry" and "must provide" must co-exist. The DPO may have a choice of not opting for a "pay channel" because of the pricing however he will have no excuse to refuse carriage on any ground including capacity constraints or whatsoever for FTA channel. The existing regulatory restraints are resulting in making entire TV viewing experience unattractive to the consumer and unaffordable not because of the pricing but because of the regulatory constraints that made the entire offerings an awful, unpleasing, and grotesque proposition.

In these circumstances, the concern no longer is confined to the offering of bouquets or the ratio between bouquet and a-la-carte pricing or the Network Capacity Fee (NCF) ceiling and so on and the various questions posed by TRAI. The market dynamics needs to be studied in more details and this study/regulations/tariffs cannot be determined agnostic to these various developments. The satellite TV broadcast industry is in the cusp of becoming extinct on account of onerous, discriminatory & selective regulations being made applicable to them in contrast to other content mediums which are rightly left to be determined and run by market forces and by adopting the policy of forbearance.

Similarly, when it comes to the Free to Air (FTA) channels, it must be kept in mind that what is offered by the broadcasters for free must be made available to the end consumer for free. The market has already seen that even the most premium content is offered for free at the whims and caprice of a distributor. To make an argument of any capacity constraint while simultaneously practicing the offering of content free of cost would be an inconsistent and self-contradictory practice.

Thus, the NCF paid by the consumer can be increased/decreased to accommodate all FTA which are to be mandatorily offered to the end consumer. No further liability should be fastened upon the broadcaster to pay any Carriage Fee or any fee in the name of Carriage Fee. This principal must be applied with greater strength and force in the case of a news channel which are in the nature of "essential services" & "public service" and must therefore be subject to "must carry" obligation.

We are at full agreement with the proposal that bouquet formation should not be restricted by having any condition of not allowing FTA to be bundled with Pay channels. Strangely it is noted that DPOs have objected to formation of Multi Broadcaster bouquet (Para 1.23), however they themselves on other hand have demanded through the MIB route to TRAI as being recently published in a report which states that "following a request by AIDCF, the MIB has requested the TRAI to include issue of granting autonomy to TV distributors in bouquet formation". It is submitted that if such autonomy is being sought for the purpose of forming a distributor bouquet, then why not the same can also be done at a stage before by broadcasters by being capable of collaborating with other broadcasters and offer multi-broadcaster bouquets. We however agree to the proposals of de-linking the DRP from MRP and give freedom to price or forbearance in the NCF. The DPO must also be given freedom to have different NCF for different region/subscribers. There should also be no ratio/relation that should exist to distinguish or create a distinction between HD and SD channel. We also agree on the removal of the concept of itemised bill (i.e., split of NCF, price of pay channels price and GST), difficulty in checking for Multi-TV homes, and forbearance on pricing, since it is already controlled due to enough competition in the market.

### **Responses to the questions framed:**

**Q1) Should the present ceiling of Rs.130/- on NCF be reviewed and revised? a. If yes, please provide justification for the review and revision. b. If yes, please also suggest the methodology and provide details of calculation to arrive at such revised ceiling price. c. If not, provide reasons with justification as to why NCF should not be revised. d. Should TRAI consider and remove the NCF capping?**

**Q2) Should TRAI follow any indices (like CPI/WPI/GDP Deflator) for revision of NCF on a periodic basis to arrive at the revised ceiling? If yes, what should be the periodicity and index? Please provide your**

**comments with detailed justification.**

**Q3) Whether DPOs should be allowed to have variable NCF for different bouquets/plans for and within a state/ City/ Town/ Village? If yes, should there be some defined parameters for such variable NCF? Please provide detailed reasons/ justification. Will there be any adverse impact on any stakeholder, if variable NCF is considered?**

**Ans:** The detailed submissions made hereinabove are reiterated. DPOs must be permitted to have forbearance regime on NCF subject to a pre-condition that they shall carry all the FTA channels by not making any additional imposition levy upon the FTA broadcasters in the form of Carriage Fee, Marketing, Promotional expenses, etc.

On Q2 & Q3, the freedom must be given to DPO to fix NCF and compete and must ensure that all FTA channels especially the regional channels catering to any State, Town, Village are mandatorily carried and offered on their platform. The business risk of having a variable NCF would solely be upon the DPO i.e., MSO & DTH operator and he should be permitted to decide upon the same. In our view there shall be no impact on any stakeholder in case variable NCF is considered and which shall be the sole prerogative of the DPOs.

**Q4) Should TRAI revise the current provision that NCF for 2nd TV connection and onwards in multi-TV homes should not be more than 40% of declared NCF per additional TV? a. If yes, provide suggestions on quantitative rationale to be followed to arrive at an optimal discount rate. b. If no, why? Please provide justification for not reconsidering the discount. c. Should TRAI consider removing the NCF capping for multi TV homes? Please provide justification.**

**Q5) In the case of multi-TV homes, should the pay television channels for each additional TV connection be also made available at a discounted price? a) If yes, please suggest the quantum of discount on MRP of television channel/ Bouquet for 2nd and subsequent television connection in a multi-TV home. Does multi-TV home or single TV home make a difference to the broadcaster? What mechanism should be available to pay-channel broadcasters to verify the number of subscribers reported for multi-TV homes? b) If not, the reasons thereof?**

**Ans:** In response to Q4 and Q5, in our view, the NCF for multi-TV home connection should be left to forbearance with full freedom to distributor to decide upon the price. The same should be subject to all the FTA channels being compulsorily carried and offered to end customers.

**Q6. Is there a need to review the ceiling on discount on sum of MRP of a-la-carte channels in a bouquet (as prescribed through the second proviso to clause 4 (4) of the Tariff Order 2017) while fixing the MRP of that bouquet by DPOs? a. If yes, what should be the ceiling on such discount? Justify with reasons. b. If not, why? Please provide justification for not reviewing the ceiling.**

**Ans:** In our view, there should be no ceiling on discount on MRP on ala carte channels on the contrary there should be complete freedom of pricing given to pay broadcasters to effectively compete with OTTs and with others vertically integrated broadcasters.

**Q10. Should there be a provision to mandatorily provide the Free to Air News / Non-News / Newly Launched channels available on the platform of a DPO to all the subscribers? a. If yes, please provide your justification for the same with detailed terms and conditions. b. If not, please substantiate your response with detailed reasoning.**

**Ans:** In response to Q10, we reiterate the submission made and reproduced in para 2.30 of the TRAI consultation and same is reproduced once again for ready reference:

*'News channels especially FTA news channels should be made available to the consumers "free of cost". The FTA News Channels must be declared as "public service". It is to be appreciated that the word "FTA" in its true sense never gets implemented wherein the consumer can enjoy these channels free of cost and on the contrary, it is the DPOs who are able to get these channels free of cost. Further, to add to the above DPOs have created a huge unregulated revenue stream for themselves at the cost of FTA News Broadcasters by creating marketplace which offers carriage, placement, landing pages, boot up screen, LCN activities and various other network related cost on discriminatory, non-transparent and unfair pricing. On the contrary, all the FTA channels must compulsorily be made available to the end consumer*



*within the NCF charged by the DPOs. The consumer has already paid a Network Capacity Fee (NCF) and deserves to be compensated by ensuring that all FTA channels are being available for the said fee. To implement the same, Network Capacity should be increased from existing 200 to unlimited or to the extent that all FTA channels are made available. DPO shall also be given an option to charge the end consumer any amount of NCF which is required for the purpose of ensuring all FTA channels. Alternatively, unless being opted out by the consumer, all the FTA channels or at least the top 15 FTA news channels of all national + regional / vernacular languages (BARC data could be one means to determine the same or the age of the channels could be another method) must be mandatorily carried and made available'.*

Taking a note and being cautious from the assertion made by Prasar Bharti about better bandwidth being given to private broadcaster's vis a vis the mandatory channels of Prasar Bharti, it is submitted that any regulation which mandates free carriage must also ensure that same be done in a non-discriminatory manner and without in any manner compromising on provision of bandwidth capacity / reception quality.

**Q11. Should Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 be made applicable to nonaddressable distribution platforms such as DD Free Dish also?**

**Q12. Should the channels available on DD Free Dish platform be mandatorily made available as Free to Air Channels for all the platforms including all the DPOs?**

**Q13. Whether there is a need to consider upgradation of DD Free Dish as an addressable platform? If yes, what technology/ mechanism is suggested for making all the STBs addressable? What would be the cost implications for existing and new consumers? Elaborate the suggested migration methodology with suggested time-period for proposed plan. Please provide your response, with justification.**

**Ans:** From a reading of para 2.59 and Table 2.2 it is evident that the so called "pay channels" are mostly minimally priced pay channels and indeed if TRAI removes the restriction relating to FTA channels not being permitted to be part of bouquet, it is quite possible that these channels which are pay channels /minimally priced pay channel for the purpose of fitting into the regulations are also offered on FTA basis. Thus, issue therefore needs to be first addressed on the regulatory restriction imposed on pricing and TRAI must consider to give:

A) full freedom to price the channels

B) The pay broadcasters should also be permitted to form bouquets and in which FTA channels shall also be permitted to be offered.

It is apparent that FTA channels are offered on negligible price to comply to regulation and facilitate the inclusion of the same as a part of the bouquet offerings.

Alternatively, in the event the pay broadcasters are still continuing to offer the said channels as pay channels and not FTA and also simultaneously participating in DD free dish auction then they should also be mandated to be FTA channels and must be offered to all on FTA. It can't be the same that there is a discriminatory practice of offering a high auction price on one hand and making it as a pay channel for the purpose of DPO, the same shall be highly discriminatory practice and thus TRAI must mandate offering for free to all DPOs to ensure level playing field.

While we do not have any submission to make whether Prasar Bharti DD free dish to be addressable or should be subject to same regulations as that of DPO, one of the aspects that TRAI must regulate and recommend is to ensure that there is a transparency in the auction process which are held annually. The following submissions are made in this regard:

The recent Policy/E-auction methodology and the Notice for E-auction several conditions have been newly introduced and are found to be highly unfair, unreasonable, non-transparent and to be extremely prejudicial to the news broadcasters (placed in Bucket C) who have always contributed and secured the maximum auction price to Prasar Bharti in last several years of e-auction bidding much more than Bucket A+, A or B. The following may be noted in this regard:

1. The policy fails to disclose the exact number of slots. It therefore falls short to adhere to the principle of transparency. Such an approach adopted in the policy is therefore unfair, promotes speculation, uncertainty amongst participating broadcasters. While such an approach may benefit monetarily to Prasar Bharti, but it results in defeating the objectives of 'public interest' which are now categorically and expressly mentioned and stated in the latest E-auction policy as well.

2. The guiding principles of e-auction policy categorically provide in clause 2.8 that *to further public interest objectives of DD Free Dish as a platform and to sustain genre diversity on the platform MPEG-2/MPEG-4 slots may be reserved for genres "deemed to be in public interest"*. Keeping the above in mind the news broadcasters must be deemed to be "channels of public interest" as they play a vital role in dissemination of public interest related content and the said fact needs no further elaboration and is evident from the role played by the news broadcast industry during the pandemic times and when they were "deemed to be essential services". The policy therefore needs to provide additional number of slots for news broadcasters and must also consider news genre to be placed in a higher bucket so that it can get preferred treatment in participation.
3. The policy for the first time has come up with an objective / guiding principle of maximising revenue potential in addition to ensure a stable portfolio of channels from viewers standpoint (Clause 2.4). While there is nothing wrong in having an objective of "revenue maximisation" however such an objective doesn't find any place and prima facie appears to be outside the ambit, scope and objective of Prasar Bharti Act. The overall tone and tenor of the provisions appears to be solely focussed on revenue maximisation while completely forgetting the objectives of promoting "public interest channels" or to have a stable portfolio from viewer's standpoint. It must be appreciated that "revenue maximisation" objective directly militates against the objective of "public interest" or the objective of "stable portfolio of channels". The provisions in the policy and 67<sup>th</sup> e-auction policy appears to have completely mortgaged and has bygone the principle of "public interest" enshrined in Clause 2.8 and has also made the provision of "deemed public interest" completely meaningless.
4. The news channels over last couple of years have always out bid the other genres/buckets and are best qualified to be titled as 'channels of public interest' and thus basis these two criteria's and rational it should have been placed in a superior bucket A. Despite such high prices having been bid in the past, the news channels are given a step motherly treatment and this would result in higher outflows and severe business and monetary impact on the already ailing news broadcast sector. It is also understood that more news channels are likely to be in the race and thus reservation of extra slots in terms of policy and on grounds of 'deemed public interest' could only be the option to address this anomaly. It is therefore important that going by the past performance of News Channels in bucket C where they have bid more than the channels in bucket B, A and A+, they should have been promoted to bucket A. This principle would also be in sync with the principle adopted for Religious / Devotional Channels who have been upgraded to bucket D from R1. Further, in round 2 of the auctions, the other Buckets should not be permitted to bid in other buckets unless the slot gets exhausted.
5. Earlier, 5 slots were auctioned in each round in a bucket, and now 6 slots will be auctioned [essentially this would result in eligibility of superior buckets to bid and pocket one more extra slot and thus it can result in increase of cost and a bloodbath auction to secure place / slot in the first round itself and may result in unrealistic bidding by channels in junior buckets].
6. Increase in base price by INR 1 Cr for each bucket from second round onwards [this can mean the automatic increase of reserve/base price bucket wise].
7. Teleshopping channels have been downgraded from A+ to A and thus the base price will be INR 12 Cr now from the earlier price of INR 15 Cr [while the guiding principles include the object of public interest and reservation of slots which are deemed to be in public interest, it is not understood as to how a teleshopping channel qualifies the criteria of "public interest"].
8. In Annexure 2 B of the E-Auction document, we have come across a new requirement of giving an undertaking that news broadcasters shall not be showing any program of teleshopping content. In this regard it is submitted that the exact intent and object of the said clause is not understood. It neither serves the public interest nor in any manner directly contributes to the newly introduced revenue maximisation objective of Prasar Bharti. On the other hand, it directly impacts the revenue generation potential of news broadcasters who would be paying a high bid price to participate in the auction like they have always done. In fact, such a requirement appears to be targeted to ensure revenue minimisation at the end of news broadcasters. It may kindly be appreciated that the news broadcasters in late/watershed hours do run some teleshopping related content and therefore should not be made to suffer and forego such revenue options as advertisement revenue is the sole means of revenue for all the news broadcasters. The omnibus language provided which is an undertaking that *"it shall not carry any programming content pertaining to teleshopping and/or tele sales marketing or product/services or call to action to viewers to buy a specific product at specific price through information shared during the program"* must be amended/deleted as the same severely hampers the revenue making options of news broadcasters.

Lastly the overall methodology of the e-auction whether it is in relation to the number of slots put to auction for each bucket i.e. an increase from 5 to 6 or increase of reserve price of INR 1 Crore in the second round or the mode and manner of determining the bucketing of genres or whether the new requirements of integrity pact signing of furnishing of undertaking with unwarranted clauses, all of them deserve to be re-looked and re-examined. The Prasar Bharti must seriously consider in bringing transparency in the number of slots

getting auctioned and focus more on the enshrined objectives of Prasar Bharti Act rather than the newly found objectives of “revenue maximisation” which are outside the ambit of the Act.

**Q17. Should flexibility be given to DPOs for listing of channels in EPG? a. If yes, how should the interest of broadcasters (especially small ones) be safeguarded? b. If no, what criteria should be followed so that it promotes level playing field and safeguard interest of each stakeholder?**

**Q18. Since MIB generally gives permission to a channel in multiple languages, how the placement of such channels may be regulated so that interests of all stakeholders are protected?**

**Ans:** TRAI may prescribe a fair, reasonable, and non-discriminatory basis for allocation of EPG and LCN in such a manner that there is no discrimination or arbitrariness being exercised by the DPO. While doing so, the existing broadcasters should be allowed to continue on same EPG and LCN since it would be disturbing viewer’s experience which has started recognising presence of such channels in such EPG/LCN.

**Q20. Should there be review of capping on carriage fee? a. If yes, how much it should be so that the interests of all stakeholders be safeguarded. Please provide rationale along with supporting data for the same. b. If no, please justify how the interest of all stakeholders especially the small broadcasters can be safeguarded?**

**Q21. To increase penetration of HD channels, should the rate of carriage fee on HD channels and the cap on carriage fee on HD channels may be reduced. If yes, please specify the modified rate of carriage fee and the cap on carriage fee on HD channels. Please support your response with proper justification. Q22. Should TRAI consider removing capping on carriage fee for introducing forbearance? Please justify your response.**

**Ans:** In response to Q20. To Q22., we reiterate our submissions made on mandatory carriage of FTA channels. It must further be appreciated that capping of Carriage Fee is not implemented in its true letter and spirit because of MSOs being conglomerate of multiple MSOs and LCOs. Each of these MSOs are seeking cap of Carriage Fee and if the said provisions are implemented in a manner to unjustly enrich the MSOs, the same is likely to fail. Thus, TRAI must bring more clarity and also reduce caps of Carriage Fee and must also clarify that the said Carriage Fee to be determined to be an all inclusive one to combine placement, marketing or any other arrangement in any other name which is entered into by MSO with the broadcaster.

At the same time, the FTA Channels especially FTA News Channels must be mandatorily carried and offered in the base pack.