

Bharti Telemedia / Bharti Airtel's Response to TRAI Consultation Paper on Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV systems & Tariff order applicable for Addressable Systems

A. Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems.

Carriage fee

(1) Whether the following proviso should be introduced in the clause 3(2) of the interconnection regulations for DAS and the clause 3(5) of interconnection Regulation for DAS should be deleted.

“provided that the provisions of this sub-regulation shall not apply in the case of a multi-system operator, who seeks signals of a particular TV channel from a broadcaster, while at the same time demanding carriage fee for carrying that channel on its distribution platform.”

(2) If no, the reasons thereof.

Airtel's Response

- If a particular channel has more popularity, there will always be a high demand from the customers to include such channels and in such a scenario; the Broadcasters may not be required to pay any carriage fee and instead earn subscription revenue.
- However, even after complete digitalization, capacity will always be a constraint to carry all channels. Therefore, the DAS operator shall have the freedom to choose the channels to carry and put suitable charge to less popular/saleable channels in order to recover its carriage costs.
- Presuming there will not be much demand for a less popular/saleable channel for which the carriage fee is being demanded by the DAS operator. Therefore, there will not be a situation when a popular/saleable channel required by the customer is not being carried by an operator because of high carriage fee. **Thus, the carriage fee should be left to the market forces.**
- Moreover, if there is no limit on advertisement rates, which is driven by demand & supply; there is no reason as to why there should be any limit on carriage / placement fee.
- Notwithstanding the above submission incase, any consideration is made to regulate the carriage/ placement fee then the Broadcasters should be directed to share a certain percentage of their advertisement revenues with the distributor of channels.

Minimum Channel Carrying Capacity of 500 Channels for MSOs

(3) Whether there is a need to specify certain minimum channel carrying capacity for the MSOs in the interconnection regulations for DAS.

AND

(4) If yes, what should be the different categories (example cities/town/rural area) of areas for which minimum channel carrying capacity should be prescribed and what would the capacity for each category.

Airtel's Response

MSO and DTH operators are using different technology platforms for providing the services to the end customers. Unlike MSOs, DTH operator has to cater to all their customers from different regions in order to stay competitive with the offerings of cable operators. As the Authority is aware of the capacity constraints faced by DTH operators, due to delays and unavailability of satellite bandwidth, we are of the view that DTH operators should have the freedom to choose the no. of channels to carry as per their respective technical feasibility.

Placement Fee

(5) Whether there is a need for regulating the placement fee in all the Digital Addressable Systems. If so, how it should be regulated. The stakeholders are requested to submit their comments with justifications.

Airtel's Response

As mentioned in our response to question no. 1, just like carriage fee, placement fee should also left to the market forces.

B. Issues related to amendments to the Tariff Order applicable for Addressable Systems.

Twin conditions at retail level

(6) The stakeholders are requested offer their comments on the following twin conditions, to prevent perverse a-la-carte pricing of the pay channels being offered as part of the bouquet(s).

“ a. The ceiling on the a-la-carte rates of pay channels forming part of bouquet(s) which shall not exceed three times the ascribed value# of the pay channel in the bouquet;

b. The a-la-carte rates of pay channels forming part of bouquet(s) shall not exceed two times the a-la carte rate of the channel offered by the broadcaster at wholesale rates for addressable systems.

#**ascribed value** of a pay channels in a bouquet is calculated in the following manner:

1. Proportionate Bouquet Rate for pay channels [A]=

$$\text{Bouquet Rate} \times (\text{Sum of a la carte rate of Pay channels}) / (\text{Sum of a la carte rate of Pay channels} + \text{Total no of FTA channels} \times \text{factor}^*)$$

2. Ascribed value of a pay channel in a bouquet = $[A] \times \text{a-la-carte rate of a pay channel} / (\text{sum of a-la-carte rate of all the pay channels})$

*factor=1 if uniform rate of free-to-air channel is less than or equal to Rupees three. The factor = uniform rate of free-to-air channel/ 3, if the uniform rate of free-to- air channel is greater than Rupees three.”

The stakeholders are also welcome to submit any other formulation that can achieve the same objective, along with its justification.

Airtel's Response

- The twin conditions at the retail level propose to levy price sanctions on digital distribution media like DAS enabled cable operators and DTH operators without putting any checks on broadcaster prices.
- DTH and DAS enabled cable operators are required to enter into an agreement with broadcasters for offering their channel/content to DTH/Cable subscribers. The agreement is governed under the Broadcasting and Cable Services Interconnection Regulations, 2009. The prices are determined under mutual negotiations with DTH operators. The basis, though not defined under regulation, is subscriber numbers. However, prices are mostly led by broadcasters given the fact that they can withdraw their channel content with a notice of 21 days. In case of any price negotiation, broadcasters have the flexibility of withdrawing any channel exposing a DTH operator or DAS enabled cable operator to price controls at the retail level in the form of price protection for 6 months.
- Any random or substantial increase in content pricing by broadcasters leads to either withdrawal of a channel from a customer's bouquet or increasing the a- la- carte prices at the retail level in as short as 15-21 days. This anomaly needs to be corrected. Price protection should exist in parity with wholesale and retail markets. The retail price protection should either be reduced to 21 days to match the wholesale price protection or the Wholesale (Broadcaster) should be asked to offer the same price as per the signed Interconnection agreement and any withdrawal of price should be at a 3 months formal notice with a copy of the same to the Authority and the retail price protection should also be reduced then to a 3 months' time period.
- The above issue should be addressed by the Authority on immediate basis as this anomaly has put a lot of stress on the business of DTH Operators.
- The twin conditions at the retail level may aim to reign in abnormally high channel prices in a bouquet offering to the customer. The fundamental base for such pricing though aim to set

a ceiling for channels which are priced differently by broadcasters. Both are not linear and create a conflict between retail pricing of various channels in a bouquet.

- A bouquet offers multifarious channels of different genres under one package to the Indian customer. For a DTH operator the offering is to all subscribers of all regions and sections of India which is much different from a cable operator that serves specified localities. And popularity of a bouquet would vary from region/ state to region/ state.
- Fixing of twin conditions takes a gargantuan effort at dealing with various channels offered by various broadcasters and their prices and bringing them under one ceiling. Also, subscriber numbers of a bouquet containing hundred(s) of channels could depend on a variety of genres and channels; hence, ascribing a value to pay channels should be free of dependence on other channels. To elaborate, since a channel may be placed in more than one bouquet and also it may be added or deleted from the bouquet frequently, therefore, ascribing a value to pay channel would lead to the frequent changes in the bouquet prices.
- In our view, price control and ceiling would better apply on broadcasters and their channels on offer as control on the content lies with them and not with the distribution media like DTH.
- Further, Analysis of above twin condition can be done through below trial Calculation for finding a la carte value of Star Plus channel having Broadcasters wholesale a la carte rate as per RIO, Rs 7.87 .

Super Gold Pack	New Gold Sports Pack
<p>Bouquet Rate = INR 178 (w/o tax).</p> <p>No. of PAY channels = 83.</p> <p>No. of FTA channels = 104.</p> <p>Uniform rate of FTA channels = INR 5.</p> <p>Hence, Factor = $5/3 = 1.67$.</p> <p>Sum of a-la-carte rate of all pay channels in Super Gold pack = INR 367.</p> <p>So, Proportionate Bouquet Amount = $(178 \times 367) / (367 + 104 \times 1.67) = 121$.</p> <p>So, Ascribed Value (e.g. for Star Plus) = $(7.87 \times 121) / 367 = 2.59$.</p> <p>As per Condition (a), max. a-la-carte rate for</p> <p>Star Plus = $3 \times 2.59 = \text{INR } 7.77$.</p> <p>As per Condition (b), max. a-la-carte rate for</p> <p>Star Plus = $2 \times 7.87 = \text{INR } 15.74$.</p> <p>Hence, the lowest value as per the Regulation, (maximum a-la-carte rate) for</p> <p style="text-align: center;">Star Plus = INR 7.77</p>	<p>Bouquet Rate = INR 236 (w/o tax).</p> <p>No. of PAY channels = 92.</p> <p>No. of FTA channels = 104.</p> <p>Uniform rate of FTA channels = INR 5.</p> <p>Hence, Factor = $5/3 = 1.67$.</p> <p>Sum of a-la-carte rate of all pay channels in Gold Sports pack = INR 487.</p> <p>So, Proportionate Bouquet Amount = $(236 \times 487) / (487 + 104 \times 1.67) = 174$.</p> <p>So, Ascribed Value (e.g. for Star Plus) = $(7.87 \times 174) / 487 = 2.81$.</p> <p>As per Condition 1, max. a-la-carte rate for</p> <p>Star Plus = $3 \times 2.81 = \text{INR } 8.44$.</p> <p>As per Condition 2, max. a-la-carte rate for</p> <p>Star Plus = $2 \times 7.87 = \text{INR } 15.74$.</p> <p>Hence, the lowest value as per the Regulation, (maximum a-la-carte rate) for</p> <p>Star Plus = INR 8.44.</p>

- As we see in the above calculation, a-la-carte rate for any channel varies from pack to pack. To finalize on a-la-carte rate for a channel, minimum value coming out of considering calculation for all packs needs to be taken in order to satisfy proposed formula.

- If we choose minimum value of all then final Retail a la carte value of “Star Plus” channel cannot be more than 7.77 (presuming of presence of the channel in only above two bouquet, however in reality all DTH operator will have more than one bouquet, containing such channel) , admittedly the same is lesser than a la carte price of Rs. 7.87 ,offered by broadcaster.
- A channel in a bouquet will be present in one or more bouquet and hence as per condition (a) value of channel will have to vary in every bouquet, however there cannot be two a la carte value to a single channel depending on presence of channel in different bouquets.
- DTH operator will have to provide different bouquets to its consumers, all of which may contain one or more channel, then as per proposed condition (a) a la carte value of such channel will be different, all the time and minimum of all will be lesser than the RIO price of such channel.
- In view of above, considering the practical difficulties we are not in favour of condition (a).
- In relation to condition (b) considering the additional expenditure and burden incurred on DTH operators in serving channel on a la carte basis, the condition (b) be modified to the extent of “3 times” instead of “2 times” a-la-carte rates offered by broadcasters to DTH operator.
- **We propose the formula can be simplified by deleting condition (a) being impractical and making condition (b), (with above suggested modification) alone applicable to determine a la carte price of channel.**

Minimum Subscription Period

(7) The stakeholders are requested to offer the comments, if any, on the proposed deletion of the word ‘pay’ in clause 6 and 6(2) of the principal tariff order dated 21.07.2010.

Airtel’s Response

We recommend that the word “Pay” be deleted from clause 6.2 of the tariff Order of 21.7.2010. As this has been already mandated, the use of the word “Pay” has become redundant and hence the provisions of the clause are applicable to all channels, subject to the other requirements mandated in the clause remaining the same.

Freedom to choose the channel(s) on a-la-carte and/or bouquet(s)

(8) The stakeholders are requested to offer their comments, if any, on the proposed inclusion of the following provision after sub-clause 6(4) in the tariff order dated 21.07.2010, as amended.

“It shall be open to the subscriber of the addressable systems to subscribe to one or more pay channel or only free to air channels or only pay channels or pay channels and free to air channels.”

Airtel’s Response

- Service Providers form bouquets based on the requirements of their subscriber base. Bouquets are also created to cater to the regional demands, giving the subscriber an opportunity to opt for a bouquet carrying channels of the region he chooses to view. Bouquets created may consist of both Pay and Free channels, only pay or only free channels. Thus, it is up to a DTH operator to form a bouquet based on customer demand.
- In addition to this, since a subscriber already has a choice to opt for any channel on a-la-carte basis, therefore, subscriber choosing a bouquet offered by the DTH operator should not be permitted to opt for only select channels in a retail bouquet offered to the subscriber.
- Any channel chosen on a-la-carte basis by a subscriber and offered by a broadcaster can be provided by the DTH operator subject to condition 6(4) of the Tariff Order dated 21st July 2010.
- Thus, inclusion of the proposed addition after 6(4) of the tariff order dated 21st July 2010 is not required since, subscribers already have a choice to opt for channels on a-la-carte basis.

Offerings of Bouquet(s) of channels which require special Set Top Boxes (STBs) such as High Definition Television (HDTV) or Three Dimensional Television (3D TV) channels etc.

(9) Whether the channels that require special type of STB be offered only on a-la-carte basis or as part of separate bouquets that consists of only those channels that require a particular type of specialised STB.

Channels that require special STBs like HDTV or 3D TV, should be offered by the Service Provider based its business model that is adopted, be it a-la-carte which the service provider has to any way offer or in the form of bouquet.

We would like to draw the kind attention of the Authority and request for intervention in the below issues:

1. Payment of Pay channels on A-la-carte basis by DTH Operators:

- As per the schedule III of the Telecommunication (Broadcasting and Cable Services) interconnection (Fifth Amendment) regulation 2009 interalia , provides for the licence fees payable depending on the choice of a la carte channels and /or bouquet(s) exercised by the

DTH operator. The relevant portion of the schedule III of the interconnection Regulation, titled Licence fee is extracted below:

Quote:

Calculation of License Fee:

I. In case a DTH operator avails one or more Bouquet(s) of _____ (name of the Broadcaster):

(a) If the DTH operator is providing the Bouquet(s) as a whole to its DTH subscribers, the Monthly License Fee for such Bouquet(s) shall be equal to the Bouquet rate as set out in the Annexure multiplied by the number of monthly average number of subscribers availing the Bouquet(s).

*(b) if the DTH operator does not offer such opted bouquet(s) as a whole to its direct to home subscriber but offers only certain channels comprised in such bouquet or packages the channels comprised in such opted bouquet in a manner resulting in different subscriber base for different channels comprised in such opted bouquet, then the payment to _____ (name of the Broadcaster) for such entire opted bouquet by the DTH operator, shall be calculated on the basis of subscriber base for **the channel which has highest subscriber base amongst the channels comprised in the bouquet.***

II In case a DTH operator avails one or more or all channels of _____ (name of the Broadcaster) on ala carte rate basis:

(a) If the DTH operator is providing the channels on ala carte basis to its DTH subscribers, the Monthly License Fee for such ala carte channels shall be equal to the ala carte rate as set out in the Annexure multiplied by the number of monthly average number of subscribers availing the channels on ala carte basis.

(b) if the DTH operator does not offer such opted ala carte channel(s) as ala carte to its direct to home subscriber but offers the ala carte channel (s) in packages, then the payment to _____ (name of the Broadcaster) for each of the ala carte channels, shall be calculated on the basis of subscriber base of the package in which such opted ala carte channel has been placed.

III In case a DTH operator avails one or more channels on ala carte rate basis and also opts for different Bouquet(s) not comprising of channels opted on ala carte basis of _____ (name of the Broadcaster):

(a) For bouquet(s), the monthly license fee shall be calculated on the basis of sub clause I above.

(b) For ala carte channels, the monthly license fee shall be calculated on the basis of sub clause II above.

- Therefore, if we avail one or more channel bouquet(s) but, do not offer such opted bouquet (s) as a whole to our subscribers but, only certain channels comprised in such bouquet or package the channels comprised in such opted bouquet in a manner resulting in different

subscriber base for different channels, then the payment is currently calculated on the basis of subscriber base for the channel which has the highest subscriber base amongst the channels comprised in the bouquet.

- TRAI vide its Telecommunication (Broadcasting and Cable) services (fourth) (Addressable systems) Tariff order, 2010 has mandated the offering of channels on a-la-carte basis and the same has been effective w.e.f Jan 01, 2011.
- We are now offering the channels as per the customer choice i.e. bouquet, a-la-carte and bouquet plus a-la carte basis. However, there is a cost differential to DTH operators while paying the LF to the broadcasters in the cases where the customer is opting for both bouquet and ala-carte for one or more channels as a separate package.
- To exemplify:

Scenario 1(Payment demanded by the Broadcaster):

DTH operator is offering a package/bouquet comprised of ESPN and Star sports and priced at Rs 19.85 and is also offering these channels at a-la-carte rate of Rs 14.89 for each channel. The viewers of bouquet for ESPN and Start sports are 2256874 and 2256874 respectively and for ala-carte are 20737 and 1344 respectively. Then, as per the (Broadcasting and Cable Services) interconnection (Fifth Amendment) regulation 2009 dated March 17, 2009 the payment to the broadcaster would be the bouquet rate multiplied by the subs base of the channels having higher Subs count. i.e. ESPN having total subs base (Bouquet+Alacarte) of (2277611). Total payment would be $Rs\ 19.85 * 2277611 = Rs.\ 45218322$. **Although the ala-carte rate of the channels were lower than the bouquet price, the payment to the broadcaster has been made based on bouquet rate combining the total subs base for bouquet and Alacarte.**

- **Scenario 2 (Actual Payment that should be due to the broadcaster):**

If the payment to the broadcaster for the bouquet and ala-carte customers would be made separately i.e. the bouquet rate multiplied by the subs base of the channels having higher Subs count. i.e. $Rs\ 19.85 * 2256874 = Rs.44806622$ and Ala-carte rate multiplied the different subs base for these channels i.e. $14.89*20737=308753$ and $14.89*1344= Rs.20011$. The total payment to the broadcaster would be $Rs\ 4480622+Rs\ 308753+Rs.\ 20011$ i.e. $Rs.\ 45135386$, which is lesser than the actual payment being made to the broadcaster.

	Channel	A-la-carte rate Rs/sub (DTH RIO)	Bouquet Rate- Rs/sub (DTH RIO)	Subscriber count for bouquet	Max out of bouquet	Bouquet payout (In Rs)	Ala-carte subs count	Ala-carte pay out (Rs)	Total Payout (In Rs)
Scenario 1	ESPN	14.89	19.85	2256874	2256874	44806622	20737	Not allowed	Bouquet rate *(total sub base for the channel having highest sub base for Bouquet + Ala-carte) i.e. 2277611
	Star sport	14.89		2256874					
	Total payout								45218322
Scenario 2	ESPN	14.89	19.85	2256874	2256874	44806622	20737	308753	
	Star sport	14.89		2256874					
	Total payout								45135386.

- It can be easily inference from above scenarios 1 & 2 that for the same sub base the payment to the broadcaster are different i.e. Rs. 45218322 and Rs 45135386, leading to the cost difference to the DTH operator. Whereas the correct payment should be basis Scenario 2.
- In view of the Mandatory offering of channels on a-la-carte basis to a subscriber it requires require a corresponding change in the Interconnection Regulation to clarify the payment mechanism to broadcaster for Bouquet as separate than in case of a-la-carte channels. We therefore request TRAI to do away with clause **II (b) of the Regulation (2009)** which mandates the payment to the broadcaster on package basis. We propose that:

The payment to the Broadcaster should be calculated on the basis of how the channel is offered to the subscriber i.e. where the channel is opted by the subscriber as part of the bouquet, the payment will be on the basis of the bouquet rate and wherever the channels is opted by the subscriber as a a-la-carte, the payment should be on the basis of the ala-carte rate.

2. HD Content on DAS/ DTH/ IPTV Platform:

- The Authority vide its TTO (ADDRESSABLE SYSTEMS) dated 21st July 2010 for Addressable System has left the wholesale tariffs for HD and 3D TV channels under forbearance considering them being niche channels requiring specialized set top box.

Quote:

*The niche TV channels can only be viewed in an addressable environment and that too with the help of specialized set top boxes. These channels which have been recently introduced employ advanced technology and therefore, can be considered premium in nature. As these channels are viewed by an elite section, the Authority is of the view that there is no general public interest involved and the tariff dispensation for niche channels requiring specialized set top box TV channels should be left to market forces. **The Authority will review the position at an appropriate time.***

- Since, last one and a half years, a large number of HD channels are now being offered by the DTH operators. It is estimated that around 5-10% of the channels on the DTH platform are HD and more than 5% of the set top boxes being sold are HD Therefore, the network already has a substantial number of HD customers.
- HD Channels are no more a niche segment. With implementation of Digital Addressable systems, the popularity of HD channel will increase manifold. The HD channels, in fact, are just other linear channels like the SD channels except for higher resolution using different technology.
- The absence of regulations governing the wholesale tariffs for HD channels make negotiations between the access operators and Broadcasters impossible and lead to opportunistic and arbitrary pricing, by abuse of the dominant position by the Broadcasters. Such unregulated wholesale tariff in a monopolistic market also gives undue advantage to the broadcasters to enter into a favorable agreement with such DTH/ IPTV operators in whose operation/ business they have a business interest, which creates the vertical monopolies. **It is therefore requested that the Authority should reconsider its earlier decision of keeping the wholesale tariff for HD channel under forbearance and should regulate the wholesale tariffs of HD channels on the basis of cost.**