



Telecom Regulatory Authority of India



Consultation Paper
on
Review of Regulatory Framework
for
Broadcasting and Cable services

New Delhi, India

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Written comments on the consultation paper are invited from the stakeholders by 5th September 2023. Counter comments, if any, may be submitted by 19th September 2023.

The comments and counter comments may be sent, preferably in electronic form to Shri Anil Kumar Bhardwaj, Advisor (B & CS), Telecom Regulatory Authority of India, on the e-mail: advbcs-2@traigov.in and jtadvbcs-1@traigov.in.

Comments and counter comments will be posted on TRAI's website www.traigov.in.

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Content

| | | |
|-------------|---|----|
| | List of Acronyms | 1 |
| Chapter I | Introduction | 3 |
| Chapter II | Issues related to Tariff for Broadcasting and Cable services | 14 |
| Chapter III | Issues related to Interconnection for Broadcasting and Cable Services | 43 |
| Chapter IV | Issues related to Standards of Quality of Service (QoS) and Consumer Protection Regulations for Broadcasting and Cable Services | 63 |
| Chapter V | Financial Disincentive for violation of Tariff Order, Interconnection Regulations and Quality of Service Regulations | 83 |
| Chapter VI | Summary of Issues for Consultation | 89 |

Tables

| | | |
|-----------|--|----|
| Table 2.1 | Categorization and reserve prices of DD Free Dish Slots (MPEG 2) for E-auction | 34 |
| Table 2.2 | Pay channels available on DD Free Dish Platform | 40 |
| Table 4.1 | Prescribed charges of QoS | 70 |
| Table 4.2 | Illustration of calculation of subscription charges by DPOs | 76 |

Annexure

| | | |
|---------------------|---|-----|
| Annexure I | Salient features of the Regulatory Framework 2017 | 98 |
| Annexure II | Salient features of the Amended Regulatory Framework 2020 | 101 |
| Annexure III | Record of Discussions of Committee of Stakeholders dated 23.12.2021 | 103 |
| Annexure IV | Details of Meetings organised by TRAI with various stakeholders | 108 |
| Annexure V | Report of the Committee on issues related to New Regulatory Framework | 110 |
| Annexure VI | MIB reference dated 23rd May 2013 | 119 |

List of Acronyms

| Abbreviation | Description |
|--------------|---|
| AIDCF | All India Digital Cable Federation |
| BARC | Broadcast Audience Research Council |
| BISAG | Bhaskaracharya National Institute for space Application and Geo-Informatics |
| CAS | Conditional Access System |
| CPE | Customer Premise Equipment |
| CPI | Consumer Price Index |
| DAS | Digital Addressable Systems |
| DD | Doordarshan |
| DPO | Distribution Platform Operator |
| DRP | Distributor Retail Price |
| DTH | Direct To Home |
| EPG | Electronic Programme Guide |
| FTA | Free To air |
| GDP | Gross domestic product |
| GEC | General Entertainment Channel |
| GHz | Gigahertz |
| GST | Goods and Services Tax |
| HD | High Definition |
| HITS | Headend In The Sky |
| HQ | Headquarters |
| IA | Interconnection Agreement |
| IBF | Indian Broadcasting Foundation |
| IVRS | Interactive Voice Response System |
| IBDF | Indian Broadcasting & Digital Foundation |
| LCN | Logical Channel Number |
| LCO | Local Cable Operator |
| Mbps | Megabits per second |
| MHz | Megahertz |
| MIA | Model Interconnection Agreement |
| MIB | Ministry of Information and Broadcasting |
| MRP | Maximum Retail Price |
| MSO | Multi-System Operator |
| MSR | Monthly Subscription Report |
| NBA | News Broadcasters Association |
| NCF | Network Capacity Fee |
| NE Region | North-East Region |
| NTO | New tariff order |

| | |
|-------|--|
| OTT | Over-The-Top |
| PS | Platform Service |
| QoS | Quality of Service |
| RO | Regional Office |
| RIO | Reference Interconnect Offer |
| RoD | Record of Discussion |
| SD | Standard Definition |
| SIA | Standard Interconnection Agreement |
| SLP | Special Leave Petition |
| SMS | Short Message Service |
| SMS | Subscriber Management System |
| STB | Set-Top-Box |
| TDSAT | Telecom Disputes Settlement and Appellate Tribunal |
| TRAI | Telecom Regulatory Authority of India |
| VOD | Video on Demand |
| WPI | Wholesale Price Index |

Chapter I

Introduction

1.1 The Telecom Regulatory Authority of India (TRAI) on 3rd March 2017 notified the new regulatory framework after due consultative process. While designing the framework, the Authority was conscious of the implementation of Digital Addressable Systems (DAS). The framework strives to provide a level playing field and ensure orderly growth of the Broadcasting and Cable TV Sector. It comprises of the following:

- i. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (Tariff Order 2017);
- ii. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 (Interconnection Regulations, 2017);
- iii. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (QoS Regulations, 2017).

Salient features of ‘the Framework 2017’ are given in **Annexure I**.

1.2 In order to address the issues noted during implementation of the Framework 2017, the Authority, after due consultation, notified the following amendments to the Regulatory Framework 2017, on 1st January 2020:

- i. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020 (Tariff Amendment Order 2020)
- ii. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment)

Regulations, 2020 (Interconnection Amendment Regulations, 2020)

- iii. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Third Amendment) Regulations, 2020 (QoS Amendment Regulations, 2020)

Salient features of 'the amended Framework 2020'¹ are given in **Annexure II.**

- 1.3 Provisions of the amended Framework 2020 related to Network Capacity Fee (NCF), NCF for Multi TV homes and long-term subscriptions were challenged by All India Digital Cable Federation (AIDCF) and others in the High Court of Kerala. However, these were duly implemented in April 2020 after the interim orders of the Hon'ble High Court of Kerala. In its final judgement dated 12th July 2021, Hon'ble High Court upheld the amendments introduced by the Tariff Amendment Order, 2020.
- 1.4 Simultaneously, some broadcasters and other stakeholders challenged various provisions of Tariff Amendment Order 2020, Interconnection Amendment Regulations 2020 and QoS Amendment Regulations 2020 in various High Courts including in the Hon'ble High Court of Bombay vide Writ Petition (L) No. 116 of 2020 and other connected matters therewith.
- 1.5 Hon'ble High Court of Bombay, vide its Judgement dated 30th June 2021 upheld the validity of the amended Framework 2020 except for the condition of the average test provided in the third proviso to sub-clause (3) of clause 3 of the Tariff Amendment Order 2020.

¹ Some stakeholders and Media reports refer to 'the Amended Framework 2020' as NTO 2.0.

1.6 The petitioners in Bombay High Court filed Special Leave Petitions (SLPs) in the Hon'ble Supreme Court of India, challenging the judgement dated 30th June 2021 of the Hon'ble High Court of Judicature at Bombay. The matter was heard by the Hon'ble Supreme Court on 18th August 2021. However, no interim relief was granted by the Hon'ble Supreme Court.

1.7 Subsequently, on 15th February 2022 the petitioners submitted an affidavit in Hon'ble Supreme Court for withdrawal of SLPs. On the same day Hon'ble court was pleased to grant permission for the withdrawal of the SLP and passed the following order ²:

“The Special Leave Petitions are dismissed as withdrawn. All questions of law open are kept open.”

1.8 Meanwhile, considering that no interim relief was granted by Hon'ble Supreme Court on the judgement of Hon'ble Bombay Court, the Authority issued a letter dated 12th October 2021 to all broadcasters seeking compliance with all the provisions of amended Framework 2020 as upheld by Hon'ble Court of Bombay within 10 days. Consequently, most of the broadcasters submitted their Reference Interconnect Offer (RIOs) to TRAI in line with amended Framework 2020 and also published these on their websites in November 2021.

1.9 New tariffs announced by the major broadcasters reflected a common trend i.e., the prices of their most popular channels including sports channels were enhanced beyond Rs. 20/- per month. Complying to the extant provisions, as regards the inclusion of pay channels in a bouquet, all such channels priced beyond Rs. 12/- (per month) were kept out of bouquet and offered only on a-la-carte basis. The revised

² https://main.sci.gov.in/supremecourt/2021/15611/15611_2021_2_11_33436_Order_15-Feb-2022.pdf

RIOs as filed indicated a wide-scale changes in composition of almost all the bouquets being offered.

- 1.10 Immediately after new tariffs were announced, TRAI received representations from Distribution Platform Operators (DPOs), Associations of Local Cable Operators (LCOs) and Consumer Organizations. DPOs also highlighted difficulties likely to be faced by them in implementing new rates in their IT systems and migrating the consumers in bulk to the new tariff regime through the informed exercise of options, impacting almost all bouquets, due to upward revision in the rates of pay channels and bouquets declared by broadcasters.
- 1.11 To address the issues raised in the representations, TRAI started engaging with the stakeholders through formal/ informal interactions. The discussions aimed to facilitate smooth implementation of the pending provisions of the amended Framework 2020. It was incumbent upon TRAI to ensure that no major disruption occur in the pay television services.
- 1.12 The representations from LCOs also highlighted the adverse impact on subscription of linear TV due to the increasing popularity of Free Dish (no cost to the consumers except installations of dish antenna) and Video on Demand (VOD), popularly known as OTT (over-the-top) services.
- 1.13 The consumer organizations highlighted likely increase in their subscription due to the price rise of popular channels, consequent upon implementation of proposed RIOs filed by the broadcasters.
- 1.14 In view of above, the stakeholders requested TRAI to take immediate measures to address certain issues, arising due to the implementation

of pending provisions of Regulatory Framework for safeguarding the growth of the sector including those of viewership.

1.15 Almost all the stakeholders opined that the tariffs announced by the broadcasters will cause large-scale changes in consumer offerings. The DPOs/ LCOs will have to obtain revised choices possibly from every consumer. The stakeholders requested TRAI to enable smooth implementation of the amended framework 2020. Further, some stakeholders suggested that to avoid likely disruption for consumers, some provisions of the amended framework 2020 may be considered for revision.

1.16 To deliberate on the issues related to pending implementation of the amended framework 2020 and suggest a way forward, a committee consisting of members from Indian Broadcasting & Digital Foundation (IBDF), All India Digital Cable Federation (AIDCF) & DTH Association was constituted under the aegis of TRAI. The broad terms of reference of the Committee were as below:

- a) To look into process of smooth implementations of Amended Regulatory Framework 2020 keeping in view consumers convenience in exercising informed choices and suggest measures thereof (if any).
- b) To identify issues of concern and suggest measures for overall growth of the broadcasting sector.

1.17 The purpose of the committee was to provide a platform and facilitate discussions among various stakeholders to come out on a common agreed path for smooth implementation of Tariff Amendment Order 2020.

1.18 The committee held discussions on 23rd December 2022 (**Annexure III**). The Stakeholders' Committee requested TRAI to immediately address

critical issues which could remove the impediments for smooth implementation of Tariff Amendment Order 2020. Stakeholders also listed other issues for subsequent consideration by TRAI. All members of the stakeholders' committee observed that urgent action is required to manage smooth transition and to avoid inconvenience to consumers.

1.19 In order to address the critical issues as identified by the stakeholders' committee; TRAI issued the consultation paper on "Issues related to New Regulatory Framework for Broadcasting and Cable services" on 7th May 2022 for seeking stakeholders' comments on issues which were pending for full implementation of the amended Framework 2020.

1.20 Subsequently TRAI, on 22nd November 2022, notified the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Third Amendment) Order, 2022 and the Telecommunication (Broadcasting and Cable) Services (Addressable Systems) Interconnection Regulations (Third Amendment) Order, 2022 which covered the following issues:

- a) Continuance of forbearance on MRP of TV channels
- b) ceiling of Rs. 19/- on MRP of a TV Channel price for inclusion in bouquet
- c) Discount of 45% on sum of the price of individual channels while forming Bouquet
- d) Additional Incentives of 15% by broadcaster to be permitted on Bouquets also.

1.21 As mentioned in Record of Discussions (RoD) (**Annexure III**), the Stakeholders' Committee also listed other issues for subsequent consideration by TRAI. In addition, the Authority held multiple meetings with representatives of broadcasters, MSOs, DTH operators and LCOs. Several issues were put forward during these meetings.

1.22 A meeting with the representatives of IBDF was held on 23rd February 2023 to discuss the issues to be included in 2nd phase of consultation paper on Review of Regulatory Framework of Broadcasting and Cable Services. Representatives of IBDF highlighted that there is urgent need to move towards complete forbearance. In the meantime, they agreed with the proposed issues and suggested following additional issues for inclusion in the consultation paper:

- a. Removal of bundling restrictions, for example, offering of Pay and FTA channels in one bouquet.
- b. The minimum subscription period for a channel by a subscriber should be a month, as the published MRP are per month.
- c. Provide an effective solution to the problem of rampant under reporting. Need to include CAS, SMS & Mux vendors under the ambit of TRAI were raised by IBDF.
- d. Provision of DPO caused Subscriber Audit as per Regulation 15(1) of Interconnection Regulations 2017 should be scrapped and only Broadcaster Caused Audit as per Regulation 15(2) of Interconnection Regulations 2017 should be allowed.

1.23 A similar meeting with representatives of AIDCF was held on 17th March 2023. Representatives of AIDCF also highlighted the need to move towards complete forbearance while agreeing with the proposed issues and suggesting the following additional issues for inclusion in the consultation paper:

- a. When MSOs form bouquets, they are costlier as compared to bouquets formed by broadcasters as they get channels on a-la-carte price or MRP. Hence, there is no parity in bouquets formed by broadcasters and MSOs. It was suggested that the issue of 'Re-introduction of Multi Broadcaster Bouquet' may not be considered.
- b. Forbearance in Network Capacity fee.
- c. De-linking of DRP from MRP.

- d. The extent of discount (45%) permitted to broadcasters while forming bouquets provided should be reduced.
- e. RIOs between broadcasters and MSOs shall be standardised. RIOs between DPOs and LCOs are already standardised.
- f. Review of provisions relating to audit and cancellation of licenses of DPO not conducting audit.

1.24 An online meeting with the representatives of all four pay DTH operators was held on 21st March 2023 to also discuss the issues to be included in 2nd phase of consultation paper. Representatives of DTH sector also advocated for the need of moving towards larger picture of forbearance, in view of the declining numbers of DTH subscribers. They urged to bring level playing field with DD Free Dish and OTT platforms. They emphasized the need to review NCF keeping in mind the inflation. Other issues raised included:

- a. Different NCF for different regions/subscribers.
- b. Review of the relation between HD and SD channels.
- c. Removing the concept of itemised bill (i.e. split of NCF, price of pay channels price and GST).
- d. Difficulty in checking for Multi-TV homes.
- e. Forbearance on pricing, since it is already controlled due to enough competition in the market.

1.25 Several meetings were organised by TRAI and its regional offices with the purpose of obtaining valuable insights into the challenges experienced by LCOs and MSOs (**Annexure-IV**). The major concerns expressed by MSOs and LCOs during these meetings are summarized below:

- a. Consumer awareness programmes by Broadcasters are not being done as being done earlier. The revised rate of pay channels and Bouquets as per amended framework 2020, may be published by the

Broadcasters in public domain (especially in National and Regional Newspapers) so that the consumers/subscriber may be aware of the new rates/tariffs of pay channels/bouquets.

- b. Annual audits should not be mandatory for small MSOs, as audit agencies' charges are very high and not affordable for small MSOs. The MSOs who have only 300-500 consumers are facing difficulties to conduct annual Audit at the cost of Rs. 30K to 50K per audit. Many broadcasters do not accept the annual audit report from empanelled auditors and force them to get the audit done again at the MSO's expense.
- c. Need to frame regulatory framework for OTT services through which the OTT platform owners/ OTT Aggregators presently transmit broadcasters' pay channels at comparatively lower prices. The emergence of OTT apps is creating a heavy competition as a user of OTT app can use three or more devices at very low cost compared to Cable TV monthly subscription.
- d. Some pay channels in the MSO platform are available free of cost on the free dish, due to this, customers are migrating from the cable connection to the DD free dish. There must be parity in both the platforms. All general entertainment and news pay channels on the free dish must be made available free for cable TV. Also, the DD Channels are transmitted in 'C band instead of "Ku band which enhances the incremental cost at MSO Head End.
- e. The Licensing process should be made simpler and cheaper as small MSOs belong to small & medium scale industries.
- f. Most of the regional MSOs expressed their demand to implement the STB interoperability at the earliest to boost their market.
- g. Some MSOs expressed their concern about the lower price on DTH services as compared with MSO services which affects their business. It was stated that in DTH service, the NCF part is very low as compared to NCF charged by the regional MSOs.
- h. Smaller MSOs are not capable enough to comply with requirements such as maintaining website or toll-free number.

- i. Rate of monthly subscription is same in urban as well as in rural areas irrespective of paying capacity of subscribers. In the Covid pandemic situation, the economical divide among Urban and Rural belt was more visible. Different Subscription rates within a Panchayat or Municipal Area may benefit the low-paying subscribers.
- j. Some MSOs had raised the issues regarding strict 'Genre' wise distribution of channels.
- k. They requested TRAI to issue an order to all the MSOs for scrolling of messages related to consumer awareness & for their benefits (e.g., the consumers are advised to pay the cable TV rent on receipt of system generated bills only etc.).
- l. Discriminatory treatment by broadcasters between big and small MSOs. Broadcasters are verbally assuring Big MSOs that bouquet and package rates will be compensated by discount whereas for small MSOs (less than 10000 customers) no such assurance has been given in writing.
- m. LCOs raised issue of revenue sharing with MSOs. Current model needs to be revised to ensure viability of LCOs in the business.
- n. LCOs highlighted the concern that there should be freedom of fixation of the prices and should not be determined by TRAI. They should own the bargaining power.
- o. Issues related to content regularisation of OTT, cross media, license scrutiny of LCOs, RoW were also raised.
- p. Increased cost of putting equipment on pole by LCOs.

1.26 In order to address the remaining issues pertaining to Tariff, Interconnection and Quality of Service of Broadcasting and Cable services, as identified by the stakeholders' committee and suggested by other stakeholders, the Authority is issuing this consultation paper for seeking stakeholders' comments. The details of issues related to Tariff are deliberated in chapter 2. Issues related to Interconnection are discussed in Chapter 3 and issues related to Quality of Service are

discussed in chapter 4. Chapter 5 discusses issues related to financial disincentives for violation of the provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations. Chapter 6 provides a summary of issues for consultation.

Chapter II

Issues related to Tariff for Broadcasting and Cable Services

2.1 In this chapter, following issues related to tariff have been discussed:

- a. Ceiling on Network Capacity Fee (NCF)
- b. Network Capacity Fee for multi-TV homes
- c. Ceiling of 15% on discount on sum of MRP of a-la-carte channels for fixing MRP of bouquets by DPOs
- d. Number of SD channels equivalent to One HD channel
- e. Mandatory FTA News Channels in all packs formed by DPOs
- f. Level playing field with DD Free Dish

A. Ceiling on Network Capacity Fee (NCF):

2.2 In the Tariff Order 2017, following provisions related to NCF were made:

“4. Declaration of network capacity fee and manner of offering of channels by distributors of television channels.--- (1) Every distributor of television channels shall declare network capacity fee, per month, payable by a subscriber for availing a distribution network capacity so as to receive the signals of television channels:

Provided that the network capacity fee, per month, for network capacity upto initial one hundred SD channels, shall, in no case, exceed rupees one hundred and thirty, excluding taxes:

Provided further that the network capacity fee, per month, for network capacity in the slabs of twenty five SD channels each, beyond initial one hundred channels capacity referred to in first proviso to sub-clause (1), shall, in no case, exceed rupees twenty excluding taxes:

.....

.....

(7) Within the distribution network capacity subscribed, in addition to channels notified by Central Government to be mandatorily provided to all the subscribers, a subscriber shall be free to choose any free-to-air channel(s), pay channel(s), or bouquet(s) of channels offered by the broadcaster(s) or bouquet(s) of channels offered by distributors of television channels or a combination thereof:

Provided that if a subscriber opts for pay channels or bouquet of pay channels, he shall be liable to pay an amount equal to sum of distributor retail price(s) for such channel(s) and bouquets in addition to network capacity fee.”

- 2.3 DPOs were permitted to charge a maximum amount up to Rs 130/- per month, excluding taxes, as Network Capacity Fee (NCF) from its subscribers for 100 SD channels including channels notified by Central Government to be mandatorily provided to all the subscribers and Rs 20/- excluding taxes for each slab of additional 25 SD channels.
- 2.4 In the Tariff Amendment Order 2020 notified on 01.01.2020, provisions related to NCF were amended as follows:

“4. Declaration of network capacity fee and manner of offering of channels by distributors of television channels.--- *(1) Every distributor of television channels shall declare network capacity fee, per month, payable by a subscriber for availing a distribution network capacity so as to receive the signals of television channels:*

Provided that the network capacity fee, per month, for network capacity upto initial two hundred SD channels, shall, in no case, exceed rupees one hundred and thirty, excluding taxes:

Provided further that the network capacity fee, per month, for network capacity for receiving more than two hundred SD channels, shall, in no case, exceed rupees one hundred and sixty, excluding taxes:

Provided also that a distributor of television channels shall be free to declare different network capacity fee for different regions within its service area, and shall report to the Authority, the details of such network capacity fee for each regions:

.....

.....

(9) All distributors of television channels shall provide all the channels notified by Central Government to be mandatorily provided to all the subscribers and all such channels shall be in addition to the number of channels which a subscriber is eligible to get for the network capacity fee paid by him.”

2.5 As per above provisions, DPOs were permitted to charge a maximum amount up to Rs 130/- per month, excluding taxes, as NCF from its subscribers for subscribing upto 200 SD channels excluding channels notified by Central Government to be mandatorily provided to all the subscribers. For subscribing more than two hundred SD channels the ceiling on NCF has been fixed at Rs. 160/-. As per the submission made, the DPOs have implemented the amended provisions related to NCF.

2.6 The Authority in the explanatory memorandum annexed to the Tariff Amendment Order 2020 mentioned the following:

“78. While implementing the new regulatory framework 2017, preliminary assessment based on the then available data was that average take up of channels will be less than 100 channels. The information submitted by the various DPOs, however, reveals that many subscribers are subscribing channels more than 100, one cause factor being the marketing of channels as bouquets over a-la-carte basis. As has been informed to the Authority, many DPOs are not charging additional NCF beyond 100 channels. There are DPOs who are offering

many FTA channels without charging any additional NCF. As per data reported to the Authority, the average NCF realized from the subscribers is less than Rs. 130/- and the number of channels provided to a subscriber is more than 200 (**Table**)

Table: Revenue realization from NCF and average number of channels provided to subscribers by some major DPOs

| DPO | Revenue realization from NCF (In Rs.) | Average number of channels provided to a subscriber by DPOs |
|------------|--|--|
| DPO 1 | 114 | 246 |
| DPO 2 | 98 | 222 |
| DPO 3 | 113 | 248 |
| DPO 4 | 85 | 235 |
| DPO 5 | 124 | 293 |
| DPO 6 | 77 | 200+ |

79. The digitization of cable network coupled with quality of data made available, has enabled the Authority to have a better visibility into the operations of MSOs. The Authority, therefore, decided to have an insight into the cost aspects of carrying channels. An analysis of data available in the annual reports / quarterly reports of DPOs and data made available by the them suggests that cost of distribution network capacity to provide the signals of television channels to a subscriber is not more than Rs. 130/-.

80. However, there are variation in the cost structure of TV services being provided through cable, depending upon the scale of operations, area of operations etc. and which can't be overlooked. The network cost for large MSOs could be lower compared to smaller MSOs. In DAS-III and DAS-IV areas, large number of smaller MSOs are providing services to small number of subscribers. There are cost variation in urban vs rural

areas. Similarly, there are cost variations in servicing multistory buildings vis-a-vis standalone houses. Therefore, the Authority has decided to continue with the existing uniform cap of Rs.130 per month on NCF, despite the cost variations existing across operators/areas of operations. This measure is required specially to protect the interest of MSOs, especially of smaller MSOs and the MSOs operating in rural/difficult areas. This amount being a ceiling, the MSOs are at liberty to declare lower NCF.

81. Accordingly, in order to protect the interests of consumers and in view of the fact that (a) many DPOs are already providing more than 200 channels for existing NCF of Rs. 130/- (b) Revenue realisation for major DPOs corresponding to NCF is also not more than Rs. 130/- (c) there is no incremental cost to DPOs for additional channels, the Authority has decided that DPOs shall offer 200 channels for NCF of Rs. 130/- in addition to such number of channels as may be mandated by the Government from time to time for mandatory provisioning.”

2.7 Several representation / suggestions have been received from stakeholders for revision in the ceiling of Rs 130/- on NCF. It has been suggested that an automatic, inflation linked yearly increment in NCF should be for incorporated, in view of the increased cost structure and expenditure requirement by the DPOs. Some stakeholders have suggested for removal of capping on NCF in order to move towards forbearance. Some stakeholders have suggested to consider differential NCFs for different bouquets/plans in place of different region based NCF.

2.8 The stakeholders’ committee had also identified the issue of revision of ‘Network Capacity Fee’ (NCF). Accordingly, comments are sought on following questions relating to NCF:

Issues for consultation:

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?

B. Network Capacity Fee (NCF) for multi-TV homes

2.9 In the Tariff Order 2017, there were no explicit provisions regarding tariff for multiple TV connections in a home. The Tariff Order 2017 defines a subscriber as follows:

“subscriber” for the purpose of this Order, means a person who receives broadcasting services relating to television from a distributor of television channels, at a place indicated by such person without further transmitting it to any other person and who does not cause the signals of television channels to be heard or seen by any

person for a specific sum of money to be paid by such person, and each set top box located at such place, for receiving the subscribed broadcasting services relating to television, shall constitute one subscriber;”

2.10 During the implementation of the regulatory framework of 2017, the Authority received several representations from the subscribers of Cable TV and DTH services seeking clarifications regarding tariff for multiple TV connections in a home. They alleged that DPOs were charging equal amount of network capacity fee for each TV connection in a home. Some subscribers mentioned that DPOs were providing same set of channels on all the TV connections and not allowing to choose different set of channels for different TV connections in a home.

2.11 In this regard, the Authority vide its press release No. 10/2019 dated 8th February 2019 has provided the following clarification:

“.....the Regulation provides a capping of Rs. 130/- as Network Capacity Fee (NCF) for 100 SD channels and Rs. 20/- for the slab of next 25 SD channels. Further, the regulation does not prohibit the service providers to offer discount or lower Network Capacity Fee for second/additional connections in same location/ home. However, it may be noted that such discount shall be uniform in the target market area of respective TV channel distributor and duly declared by the DPO (Distribution Platform Operator) on their website. Pursuant to the same now few service providers have started offering the discount/complete wave off of Network Capacity Fee (NCF) on second/additional TV connections in home.”

2.12 Subsequently, in order to deliberate on the issues raised by various stakeholders during implementation of the regulatory framework of 2017, a committee was constituted on 15th April 2019 under the aegis of TRAI consisting of representatives from IBF, NBA, AIDCF and DTH

operators. The scope of work of the committee was to deliberate on the following issues and provide its recommendations:

- a. Facilitate discount in NCF and DRP by DPOs on long term subscriptions
- b. Facilitate discount in NCF and DRP by DPOs for Multi TV connections in a household
- c. Placement of channels in EPG genre wise/language wise and issues related therein
- d. Limit on number of bouquets being formed by broadcasters

2.13 On the issue of Discount on NCF and DRP by DPOs, declared on monthly basis, for Multi TV connections in a household, the committee in its report (**Annexure V**) recommended the following:

- a. DPOs should be permitted to offer discount in NCF for 2nd TV onwards in case of Multi TV connections in a household and there should not be any limit on discount on NCF. Such discounts should be uniform and non-discriminatory. DPOs should ensure that this should not be misused for providing connection in commercial organisations like hotels, hospitals, shopping malls etc.*
- b. DPOs shall publish on their website, the tariff policy for multi TV connections in a household clearly indicating applicable discounts.*
- c. DPOs should not be permitted to offer discount on monthly DRP of channels and bouquet of channels for 2nd TV onwards for Multi TV connections in a household.*
- d. DPOs must ensure that subscribers have choice to select the channels for each TV in a given household individually.*
- e. DPO should publish and report to the Authority NCF for 2nd TV onwards in case of Multi TV connections in a household.*

2.14 The issue of NCF for Multi TV home was included in TRAI's consultation paper on 'Tariff related issues for Broadcasting and Cable services' dated 16th August 2019.

2.15 Subsequently, vide Tariff Amendment Order 2020, following proviso was added to the clause 4(1) of the Tariff order 2017:

“Provided also that the network capacity fee, per month, for each additional TV connection, beyond the first TV connection in a multi TV home shall, in no case, exceed forty percent of the declared network capacity fee.”

2.16 On the issue of NCF for Multi TV Homes, the Authority in the explanatory memorandum annexed to the Tariff Amendment Order 2020 mentioned the following:

“96. Earlier the Authority had constituted a committee of stakeholders to discuss the issue of discount on NCF for multiple TV connections in a household. The committee was of unanimous opinion that there is no harm in providing some discount on NCF for multi TV homes. Some DTH operators are already offering discount in NCF for 2ndTV onwards in multi TV homes. MSOs had also showed their willingness to offer discount on NCF for 2ndTV connection onwards in a multi TV home.

97. Existing provisions provides that every DPO shall declare network capacity fee, per month, payable by a subscriber for availing a distribution network capacity so as to receive the signals of television channels and “subscriber” means a person who receives broadcasting services relating to television from a distributor of television channels, at a place indicated by such person without further transmitting it to any other person and each set top box located at such place, for receiving the subscribed broadcasting services relating to television, shall constitute one subscriber. Relevant clause of the Tariff Order 2017 and definition of the subscriber are as follows:

“4. Declaration of network capacity fee and manner of offering of channels by distributors of television channels. --- (1) Every

distributor of television channels shall declare network capacity fee, per month, payable by a subscriber for availing a distribution network capacity so as to receive the signals of television channels:

Provided that the network capacity fee, per month, for network capacity upto initial one hundred SD channels, shall, in no case, exceed rupees one hundred and thirty, excluding taxes:.....”

“subscriber” for the purpose of this Order, means a person who receives broadcasting services relating to television from a distributor of television channels, at a place indicated by such person without further transmitting it to any other person and who does not cause the signals of television channels to be heard or seen by any person for a specific sum of money to be paid by such person, and each set top box located at such place, for receiving the subscribed broadcasting services relating to television, shall constitute one subscriber;”

98. *The Authority has noted that in case of a multi TV home, a person receives broadcasting services relating to television from a DPO, at a place (home) indicated by such person without further transmitting it to any other person. It is obvious that the channels are watched by one family only and they have installed multiple TVs and set top box in the house for convenience purpose only. In short, the cable /DTH services to a house is basically meant for family viewing or family product. Therefore, it would not be appropriate that a consumer is paying NCF of Rs. 130/- for every TV connection in a house specially when he has already paid STB price separately for each TV connection. Generally, one bill is generated for one multi TV home. The*

Authority also analyzed the cost structure and found that certain cost such as marketing, advertisement cost etc. cannot be attributed separately for each TV connection in a house. The cost which can be directly attributed to the second TV connection and onwards is not more than 40% of the cost incurred by a DPO for primary connection.

99. After careful consideration of all aspects relating to the issue and the views expressed by the stakeholders, the Authority has decided that DPOs shall not charge more than 40% of declared NCF for first TV connection, per additional TV for 2nd TV connection and onwards in a multi TV home. Suitable provision to this effect has been incorporated in the Tariff Order.”

2.17 Representations have been received from various stakeholder wherein it is mentioned that on one hand the broadcasters are free to decide the MRPs of their respective channels, on the other hand has placed an arbitrary cap on the DPOs with respect to NCF on multi TV and that too with an assumption on associated cost of providing services on second/multi TV. This is also discriminatory since the broadcasters are not subject to similar/any cap on the MRP of their respective channels for multi-TV homes. Stakeholders have suggested that the provision of 40% discount on NCF by DPOs should be reviewed, else the same provision should also be made applicable to broadcaster for pay channel prices for Multi TV homes.

2.18 The Committee of Stakeholders also raised the following issue regarding muti TV homes:

“k. “In case of multi-TV home, broadcaster should also offer MRP of their channels for each additional TV connection, beyond the first TV connection, @ 40% of the MRP declared for the first TV connection. This will help consumers in saving cost of subscribing pay channels on multiple televisions.”

Issues for consultation:

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?

C. Ceiling of 15% on discount on sum of MRP of a-la-carte channels for fixing MRP of bouquets by DPOs

2.19 The Tariff Order 2017 has following provisions related to offering of bouquets by DPOs:

“(4) It shall be permissible for a distributor of television channels to offer bouquet(s) formed from pay channels of one or more broadcasters and

declare distributor retail price(s) , per month, of such bouquet(s) payable by a subscriber:

Provided that such bouquet shall not contain any pay channel for which maximum retail price per month declared by the broadcaster is more than rupees nineteen:

Provided further that the distributor retail price per month of such bouquet of pay channels shall not be less than eighty five percent of the sum of distributor retail prices per month of a-la-carte pay channels and bouquet(s) of pay channels forming part of that bouquet:

Provided further that the distributor retail price per month of a bouquet of pay channels offered by a distributor of television channels shall, in no case, exceed the sum of maximum retail prices per month of a-la-carte pay channels and bouquet(s) of pay channels, declared by broadcasters, forming part of that bouquet:

Provided further that such bouquet shall not contain any free-to-air channel:

Provided also that such bouquet shall not contain both HD and SD variants of the same channel.”

2.20 DPOs are allowed to provide a maximum discount of 15% on sum of MRP of a-la-carte channels in a bouquet while fixing the MRP of that bouquet.

2.21 Representation have been received from DPOs suggesting the review of ceiling of 15 % on discount on sum of MRP of a-la-carte channels in a bouquet while fixing the MRP of that bouquet by DPOs. They have mentioned that the most critical and important issue is allowing broadcasters to give 45% discount on sum of a-la-carte channel prices

while DPOs are allowed to give only 15% discount. DPOs are seeking parity with broadcasters and flexibility in forming their bouquets.

2.22 The committee of stakeholders also raised the same issue.

2.23 Forbearance on this issue has not been discussed as same has not been provided to broadcasters while forming their bouquets in order to address perverse pricing of bouquets.

Issue for consultation:

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.

D. Number of SD channels equivalent to one HD channel

2.24 As per the provisions of the Tariff Order 2017, for the purpose of calculating number of channels within the distribution network capacity subscribed, one HD channel shall be treated equal to two SD channels.

2.25 The Authority in the explanatory memorandum annexed to the Tariff Order 2017 mentioned the following:

“82 . The issue will come as to how network capacity of HD channels will be counted. According to industry estimates, on average, one HD channel occupies a bandwidth that would otherwise accommodate 2 SD channels

with appropriate compression processes in place. Accordingly, the Authority has decided that in case a subscriber subscribes to an HD channel, it will be considered equivalent to two SD channels for the purpose of counting of channels capacity. For example, in case a subscriber opts for capacity of 100 SD channels and subscribes to 1 HD channel, then he will get maximum 98 SD channels and 1 HD channel (1HD channel = 2 SD channels) in subscribed capacity. In case a subscriber subscribes to 2 HD channels, then he will get 96 SD channels and 2 HD channels (2HD channels = 4 SD channels).”

2.26 Changing technology, such as advancements in compression and encoding parameters, provides DPOs with the opportunity to adopt different channel allocation procedures. For instance, one of the DTH operator treats one HD channel as equivalent to three SD channels. Therefore, stakeholders have represented that due to technological innovations and enhanced picture quality, there is a need to review the relationship between SD and HD channels for the purpose of counting the channels.

2.27 The total channel carrying capacity in terms of actual occupied bandwidth (in MHz) or channel bit rate (in Mbps) of a particular channel is not defined in the extant regulatory framework. This means that the current regulations do not provide a specific measurement for the capacity consumed by a channel in terms of MHz bandwidth. Channel carrying capacity is particularly important for platform service (PS) channels, as MIB guidelines impose a cap on the number of permitted PS channels for a Distribution Platform Operator. The cap limits the number of PS channels to 5% of the DPO's total channel carrying capacity. The total channel carrying capacity and spare channel capacity also becomes crucial while considering requests for new channels from broadcasters. When broadcasters seek to introduce new channels, it is essential to assess the available channel capacity of a DPO to accommodate them.

2.28 Additionally, Prasar Bharati has also raised concerns regarding the allocation of appropriate bandwidth to its mandatory channels compared to private TV channels. Prasar Bharti has contended that private channels receive more favourable bandwidth allocations than mandatory channels. Therefore, following questions arise to examine and ensure that all the similar television channel get similar treatment by the DPO.

Issues for consultation:

- Q7. Whether the total channel carrying capacity of a DPO be defined in terms of bandwidth (in MBPS) assigned to specific channel(s). If yes, what should be the quantum of bandwidth assigned to SD and HD channels. Please provide your comments with proper justification and examples.**
- Q8. Whether the extant prescribed HD/SD ratio which treats 1HD channel equivalent to 2SD channels for the purpose of counting number of channels in NCF should also be reviewed?**
- a. If yes, should there be a ratio/quantum? Or alternatively should each channel be considered as one channel irrespective of its type (HD or SD or any other type like 4K channel)? Justify with reasons.**
 - b. If no, please justify your response.**
- Q9. What measures should be taken to ensure similar reception quality to subscribers for similar genre of channels? Please suggest the parameter(s) that should be monitored/ checked to ensure that no television channel is discriminated against by a DPO. Please provide detailed response with technical details and justification.**

E. Mandatory FTA Channels in all packs formed by DPOs

2.29 As per the provisions of existing framework, DPOs have been mandated to offer all the TV channels available on their platform on a-la-carte basis. DPOs are also permitted to form bouquets from a-la-carte channels and bouquets of channels offered by broadcasters. At present, there is no mandate to a DPO to provide any kind of channels to all its subscribers except channels notified by Central Government.

2.30 Some Stakeholders, especially news broadcasters have represented that *'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'.*

2.31 One may argue that mandatory provisioning to all subscribers should not be limited to FTA news channels available on the platform of a DPO. Non-news and newly launched FTA channels available on the platform of a DPO may also be considered for mandatory provisioning to all subscribers by DPOs. It may also be argued that mandatory provisioning of all FTA channels available on the platform of a DPO to all its subscribers may affect the choice of subscribers to choose and view channels of their choice which is the cornerstone of regulatory framework of 2017.

Issue for consultation:

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.

F. Level playing field between DD Free Dish and other DPOs

2.32 DD Free Dish service is provided by the Public Service Broadcaster – Prasar Bharati in India. DD Free Dish reaches to millions of people especially in rural, remote, inaccessible and border areas having low income and is used as a tool not only for entertainment but also for promoting education, health, and agriculture.

2.33 Ministry of Information and Broadcasting (MIB) in 2003 granted permission to Prasar Bharti to use satellite distribution technology in the Ku-band frequency (12-18 GHz) for providing Direct to Home (DTH)

service for offering bouquet of TV channels consisting of 20 channels of Doordarshan and 10 channels of private broadcasters, in free-to-air mode.

- 2.34 Prasar Bharati started the DTH service named DD Direct+ in December 2004, which was re-named as DD Free Dish on 27th August 2013. Initially the coverage of DD Free Dish was confined to Himachal Pradesh, Chhattisgarh, Karnataka, Madhya Pradesh, Rajasthan, Uttaranchal, NE Region and Gujarat i.e., where the percentage of TV broadcasting services coverage was below national average. At present, coverage of DD Free Dish services is throughout the Indian territory except Andaman & Nicobar Islands.
- 2.35 Prasar Bharati does not charge any monthly or annual subscription fee from viewers for viewing DD Free Dish service. For availing DD Free Dish services, one requires only a small one-time investment in purchasing of Dish Receive System containing Set-Top-Box and small sized Dish Antenna.
- 2.36 The capacity of DD DTH platform from was enhanced from 30 to 40 TV channels on in 2004. The bouquet available on DD Free Dish consisted of 17 channels of Doordarshan and 23 channels of private TV broadcasters. The capacity of DD Free Dish platform further expanded from time to time and at present DD Free Dish platform has the capacity for 167 TV channels consisting of 94 MPEG2 channels, 22 MPEG4 channels, 51 educational channels of Bhaskaracharya National Institute for Space Application and Geo-Informatics (BISAG) and 48 Radio channels.
- 2.37 As per industry estimates, at the end of 2022 there were around 45 million DD Free Dish households. As of now Free Dish connections are non-addressable.

F.1 Process for allotment of slots of DD Free Dish

- 2.38 Initially private TV channels were chosen randomly for carrying on DD Free Dish platform and no fee was charged from private channels for initial two years.
- 2.39 In January 2007, a Core Group, consisting of senior officers of Prasar Bharati, was constituted to revamp the DD Direct Plus (now rebranded as DD Free Dish) DTH Platform and to decide the carriage fee to be charged from private broadcasters, whose channels are carried in the bouquet. The selection of private channels for placement on DD Free Dish was done by the Core Group amongst the applicant channels based on the genre of the channels.
- 2.40 Some broadcasters approached Telecom Disputes Settlement and Appellate Tribunal (TDSAT) contending that process of selection of channels on Free Dish platform is not transparent. The TDSAT vide judgment dated 16.12.2010 in Petition Nos. 407 (c) of 2010, 410 (c) of 2010 and 416 (c) of 2010 challenging the decision of core groups by some of the broadcasters, directed Prasar Bharati to frame a transparent policy for the placement of channels on DD DTH Platform.
- 2.41 Prasar Bharati, in 2011 adopted the e-auction policy for allotment of DD Free Dish slots to private broadcasters and from July 2011, e-auction was introduced for allotment of slots to private broadcasters with a reserve price of Rs. 1.50 Cr for channels of all genres. Private channels are given slots for a duration of one year.
- 2.42 Prasar Bharti, on 15th January 2019, notified the revised policy guidelines for allotment of slots of DD Free Dish Direct-To-Home platform to satellite TV channels which were amended subsequently from time to time. As per these policy guidelines, TV channels have been categorized in different buckets in accordance with the genres/language

of channels. Differential Reserve prices were fixed for different genre and language combination based on their commercial potential.

2.43 The different buckets of TV channels and their respective reserve price for allotment of MPEG-2 slots of DD Free Dish through e-auction are as below:

Table 2.1: Categorization and reserve prices of DD Free Dish Slots (MPEG 2) for E-auction

| S. No. | Bucket | Genre and Language of channels | Reserve Price (Rs. in Crore) |
|---------------|---------------|--|-------------------------------------|
| 1 | A+ | GEC (Hindi) | 15 |
| 2 | A | Movies (Hindi) | 12 |
| 3 | B | Music (Hindi), Sports (Hindi), Movies (Bhojpuri), GEC (Bhojpuri), Teleshopping (Hindi) | 10 |
| 4 | C | News & Current Affairs (Hindi), News& Current Affairs (English), News & Current Affairs (Punjabi) | 7 |
| 5 | D | All other remaining Genre and Language | 6 |
| 6 | R1 | Devotional (Spiritual/Ayush channels) | 3 |

2.44 Private satellite channels which are permitted by the MIB are allowed to participate in the e-Auction. Private satellite TV Channels desirous of placing their channels on DD Free Dish are allowed to bid only in e-auctions specific to the genre and language they belong to. For this purpose, Broadcasters are required to declare genre and language of their channel (s) to Prasar Bharati while applying for e-auction to be eligible to participate.

- 2.45 Initially only MPEG -2 technology was used by Prasar Bharti for providing DD Free Dish services. In 2019 Prasar Bharti introduced MPEG-4 technology for DD Free Dish and conducted e-auction for MPEG-4 slots also. Reserve price for MPEG-4 slots for channels of all genres was fixed at Rs. 5 lakh which were increased to Rs. 50 Lakh on 22nd February 2021.
- 2.46 As per information available on website of Prasar Bharti³, till now 68 e-auctions have been conducted by Prasar Bharti for allotment of DD Free Dish slots to private satellite TV channels.
- 2.47 Some stakeholders raised concerns that some channels declared as pay channels by broadcasters are available as free-to-air (FTA) on DD Free Dish platform which is resulting a non-level-playing field between DD free Dish and other DPOs. Some DPOs have represented that Prasar Bharti is a service provider as per provisions of TRAI Act, 1997 and all the Regulations and Orders notified by TRAI should be applicable to Prasar Bharti.

F.2 Applicability of Regulations and Orders notified by TRAI to Prasar Bharti

- 2.48 In this regard, TRAI Act, 1997 defines “service provider” and “licensee” as follows:

“ “service provider” means the Government as a service provider and includes a licensee;”

“ “licensee” means any person licensed under sub-section (1) of section 4 of the Indian Telegraph Act, 1885 (13 of 1885) for providing specific public telecommunication services;”

³ <https://www.freedish.in/2023/03/68th-e-auction-to-be-held-on-5-april.html>

2.49 Government on 09.01.2004 amended the TRAI Act, 1997 and included the proviso to section 2(1)(k) that enabled the Central Government to notify “Broadcasting Services” as a “telecommunication service”.

2.50 Central Government issued Notification S.O. 44 (E) dated 09.01.2004 notifying “Broadcasting Services” and “Cable Services” as telecommunication service.

2.51 Central Government vide Notification S.O. 45 (E) dated 09.01.2004 entrusted the following additional functions to TRAI in respect of broadcasting services and cable services:

“(1) Without prejudice to the provisions contained in clause (a) of Sub-section (1) of Section 11 of the Act, to make recommendation regarding

–

(a) the terms and conditions on which the “Addressable systems” shall be provided to customers

(b) the parameters for regulating maximum time for advertisements in pay channels as well as other channels.

(2) Without prejudice to the provisions of Sub-section(2) of Section 11 of the Act, also to specify standard norms for, and periodicity of, revision of rates of pay channels, including interim measures.”

2.52 Prasar Bharti came into existence subsequent to the passing of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 by the Parliament of India.

2.53 The preamble of the Prasar Bharati Act, 1990 is as follows:

“An Act to provide for the establishment of a Broadcasting Corporation for India, to be known as Prasar Bharati, to define its

composition, functions and powers and to provide for matters connected therewith or incidental thereto.”

2.54 Section 12 (1) of the Prasar Bharati Act provides following main function of Prasar Bharti:

“Subject to the provisions of this Act, it shall be the primary duty of the Corporation to organise and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television.

Explanation — For the removal of doubts, it is hereby declared that the provisions of this section shall be in addition to, and not in derogation, of the provisions of the Indian Telegraph Act, 1885.”

2.55 The Prasar Bharati Act defines the broadcasting as follows:

“broadcasting” means the dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variations and cognate expression shall be construed accordingly;”

2.56 Some broadcasters filed a petition before TDSAT in August 2008 challenging the carriage fees charged by Prasar Bharati as legally not valid and contesting that TRAI’s Regulations should be applicable to Prasar Bharti.

2.57 TDSAT in para 29 of its judgement dated 15th December 2008 mentioned the following:

“29.

Admittedly Prasar Bharati, through Doordarshan applied, in June 2004, to the Department of Telecommunications for the grant of a licence. The Wireless Planning and Coordination wing of the Department of telecommunications had, vide letter dated 19th October 2004, conveyed its in principle decision to grant the licence and had clearly indicated therein that the operation should not be commenced before grant of the operating licence, which is admittedly under section 4 of the Indian Telegraph Act. This itself indicates that Prasar Bharati is required to obtain a licence and has also acted in pursuance of this requirement. And they have obtained the in principle allocation of the frequency from the WPC wing of the Department of Telecommunications. The question whether an in principle decision would be akin to a licence has been settled by the Hon'ble Supreme Court in the case of Union of India v. Tata Teleservices (Maharashtra) Ltd. [(2007)7 SCC 517], where it held as follows:

“19. The thrust of the argument on behalf of the Respondent before us was, in a case where, a licence had not Actually been issued to a party by the Central Government, the dispute could not be said to be one between a licensor and a licensee, contemplated by Section 14(a)(i) or (ii) of the Act. It is submitted that only on the Actual grant of a licence, a person would become a licensee under the Central Government and only a dispute arising after the grant of a licence would come within the purview of the Act. The wording of the definition of licensee is emphasised in support. Considering the purpose for which the Act is brought into force and the TDSAT is created, we think that there is no warrant for accepting such a narrow approach or to adopt such a narrow construction.

It will be appropriate to understand the scope of Section 14(a)(i) of the Act and for that matter Section 14(a)(ii) of the Act also, as including those to whom licenses were intended to be issued and as taking in also disputes that commence on the tender or offer of

a person being accepted. In other words, a dispute commencing with the acceptance of a tender leading to the possible issue of a licence and disputes arising out of the grant of licence even after the period has expired would all come within the purview of Section 14(a) of the Act. To put it differently, Section 14 takes within its sweep disputes following the issue of a Letter of Intent pre grant of Actual licence as also disputes arising out of a licence granted between a quondam licensee and the licensor.”

Following this judgement, it is clear that having obtained an in principle allocation of Frequency (akin to a letter of intent), the Respondent, Prasar Bharati is, by this measure alone, a licensee u/s 4 of the Indian telegraph Act and hence a ‘service provider’ under the TRAI Act.”

2.58 As per information available, the matter is sub-judice with Hon’ble Supreme Court of India.

F.3 Availability of Pay channels as FTA channels on DD Free Dish Platform

2.59 As per information available on website of Prasar Bharti, at present total 65 private TV channels are available on DD Free Dish⁴, out of which 20 channels have been reported as pay channels to TRAI by 10 broadcasters (refer table 2.2).

⁴ <https://www.freedish.in/p/dd-direct-plus-tv-channels-list-updated.html>

Table 2.2: Pay channels available on DD Free Dish Platform

| S. No. | Name of the Broadcaster | Channel | Genre | Language | MRP (Rs.) |
|--------|--|--------------------------|--------|----------|-----------|
| 1 | Zee Entertainment Enterprises Limited | Big Magic | GEC | Hindi | 0.10 |
| 2 | Zee Entertainment Enterprises Limited | Zee Ganga | Movies | Bhojpuri | 0.50 |
| 3 | Zee Entertainment Enterprises Limited | Zee Anmol Cinema | Movies | Hindi | 0.10 |
| 4 | Zee Entertainment Enterprises Limited | Zee Biskope | Movies | Bhojpuri | 0.10 |
| 5 | Zee Entertainment Enterprises Limited | Zee Punjabi | Movies | Punjabi | 10.00 |
| 6 | Zee Entertainment Enterprises Limited | Zing | Music | Hindi | 0.10 |
| 7 | Zee Media Corporation Limited | Zee News | News | Hindi | 0.10 |
| 8 | Viacom 18 Media Private Limited | Cineplex Bollywood | Movies | Hindi | 0.10 |
| 9 | Viacom 18 Media Private Limited | MTV Beats | Music | Hindi | 0.10 |
| 10 | Viacom 18 Media Private Limited | Colors Cineplex Superhit | Movies | Hindi | 0.10 |
| 11 | TV 18 Broadcast Limited | News 18 India | News | Hindi | 0.10 |
| 12 | Sony Pictures Networks India Private Ltd | SONY Wah | Movies | Hindi | 0.50 |
| 13 | Star India Private Limited | Star Utsav Movies | Movies | Hindi | 0.50 |
| 14 | New Delhi Television Limited | NDTV India | News | Hindi | 1.00 |
| 15 | TV Today Network Limited | Aaj Tak | News | Hindi | 0.75 |
| 16 | TV Today Network Limited | Good News Today | News | Hindi | 0.25 |
| 17 | IN 10 Media Private Limited | Filmachi | Movies | Bhojpuri | 0.25 |
| 18 | IN 10 Media Private Limited | Ishara TV | GEC | Hindi | 5.00 |
| 19 | IN 10 Media Private Limited | Showbox | Music | Hindi | 0.10 |
| 20 | Star India Private Limited | Star Gold Thrill | Movies | Hindi | 2.00 |

2.60 TRAI has notified the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (Tariff Order 2017) as amended.

2.61 Clause 3(2) of Tariff Order 2017 is as follows:

“(2) Every broadcaster shall declare ---

(a) the nature of each of its channel either as ‘free-to-air’ or ‘pay’; and

(b) the maximum retail price, per month, payable by a subscriber for each of its pay channel offered on a-la-carte basis:

Provided that the maximum retail price of a pay channel shall be more than 'zero':

Provided further that the maximum retail price of a channel shall be uniform for all distribution platforms.”

2.62 According to above clause, a broadcaster is free to declare its channels as Pay or FTA. In case of a pay channel, the broadcaster is required to declare its MRP, which has to be uniform for all distribution platforms.

2.63 Clause 1(2) of the Tariff Order 2017 is reproduced below:

“(2) This Order shall be applicable to broadcasting services relating to television provided to subscribers, through addressable systems, throughout the territory of India.”

2.64 The above clause indicates that Tariff Order 2017 is applicable for addressable systems only. However, DD Free dish is a non-addressable platform, therefore provisions of Tariff Order 2017 are not applicable for it.

Issues for Consultation:

Q11. Should Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 be made applicable to non-addressable 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.

Chapter III

Issues related to Interconnection for Broadcasting and Cable Services

3.1 This chapter discusses the following issues:

- a. Amendment to Reference Interconnection Offer
- b. Listing of channels in Electronic Programme Guide (EPG)-
Language genre problem in EPG
- c. Revenue Share between LCO and MSO
- d. Carriage Fee
- e. Minimum subscription period for a channel by a subscriber
- f. Removal of a channel from the platform of a DPO after expiry of
existing Interconnection agreement

A. Amendment to Reference Interconnection Offer (RIO)

3.2 Regulation 7(9) of Interconnection Regulation 2017, mentions the following:

“In the event of any amendment to the reference interconnection offer by a broadcaster under sub-regulation (8), the broadcaster shall give an option to all distributors, with whom it has written interconnection agreements in place, within thirty days from the date of such amendment and it shall be permissible to such distributors to enter into fresh interconnection agreement in accordance with the amended reference interconnection offer, within thirty days from the date of receipt of such option, or continue with the existing interconnection agreement.”

3.3 Similarly, Regulation 8 (8) of Interconnection Regulation 2017, mentions the following:

“In the event of any amendment in the reference interconnection offer by a distributor of television channels under sub-regulation (7), the distributor shall be given an option to all broadcasters, with whom it has

written interconnection agreements in place, within thirty days from the date of such amendment and it shall be permissible to such broadcasters to enter into fresh interconnection agreements in accordance with the amended reference interconnection offer within thirty days from the date of receipt of such option or continue with the existing interconnection agreements”.

- 3.4 In meetings with TRAI, few stakeholders have suggested that in the event of amendment to RIO, choice may not be given to other party to continue with old interconnection agreement (IA) or enter into new IA.
- 3.5 Non-discrimination and the level playing field amongst all service providers and furthering the interest of consumers are one of the fundamental principles of the New Regulatory Framework.
- 3.6 As per the existing provisions of Interconnection Regulation 2017, in the event of any amendment to RIO by a broadcaster/DPO, the broadcaster/DPO shall give an option to all distributors/broadcasters, with whom it has written interconnection agreements in place, within thirty days from the date of such amendment and it shall be permissible to such distributors/broadcasters to enter into fresh interconnection agreement in accordance with the amended RIO, within thirty days from the date of receipt of such option, or continue with the existing interconnection agreement. One may opine that it is desirable that in the event of amendment to RIO, choice may be given to other party to continue with old interconnection agreement or enter into new Interconnection agreement, in order to honor the existing IA and ensure that there is certainty and predictability in value chain. In the absence of the same one may opine that there would be lot of uncertainty in the broadcasting value chain as any service provider may change their RIO any time and the other party will be forced to sign a new IA even though they may have an existing valid IA. Another school of thought may

opine that giving choice to other party to continue with old IA or enter into new IA, may not be in consumer interest and it may lead to confusion in the market, as more than one price for a particular channel/bouquet will be operational in the market at a point of time. The option to choose between old interconnection agreement (IA) or enter into new IA, may lead to different terms and conditions of service prevailing in the market. This in turn affects the interest of consumers. Additionally, it has been put forth by certain stakeholders that it leads to ambiguity in the market and implementation issues and hence the said provisions, i.e., regulation 7(9) and regulation 8(8) need re-consideration.

- 3.7 One may opine that a possible solution could be that a period may be specified in the Interconnection Regulation 2017 before which a broadcaster or a DPO may not issue a new RIO or amend any RIO provided that the amendment in RIO becomes expedient due to amendment in extant Regulation/ Tariff order. In other words, whenever a broadcaster or DPO issues any RIO then the validity of that RIO may be for say 1 year and all the Interconnection agreement may end on a common date say 31st December every year.

Issues for Consultation:

Q14. In case of amendment to the RIO by the broadcaster, the extant provision provides an option to DPO to continue with the unamended RIO agreement. Should this option continue to be available for the DPO?

- a. If yes, how the issue of differential pricing of television channel by different DPOs be addressed?**
- b. If no, then how should the business continuity interest of DPO be protected?**

Q15. Sometimes, the amendment in RIO becomes expedient due to amendment in extant Regulation/ Tariff order. Should such amendment of RIO be treated in a different manner? Please elaborate and provide full justification for your comment.

Q16. Should it be mandated that the validity of any RIO issued by a broadcaster or DPO may be for say 1 year and all the Interconnection agreement may end on a common date say 31st December every year. Please justify your response.

B. Listing of channels in Electronic Programme Guide (EPG)- Language genre problem in EPG

3.8 According to regulation 18 of the Interconnection Regulation, 2017

“18. Listing of channels in electronic programme guide.—

(1) Every broadcaster shall declare the genre of its channels and such genre shall be either ‘Devotional’ or ‘General Entertainment’ or ‘Infotainment’ or ‘Kids’ or ‘Movies’ or ‘Music’ or ‘News and Current Affairs’ or ‘Sports’ or ‘Miscellaneous’.

(2) It shall be mandatory for the distributor to place channels in the electronic programme guide, in such a way that the television channels of same genre, as declared by the broadcasters, are placed together consecutively and one channel shall appear at one place only:

Provided that all television channels of same language within the same genre shall appear together consecutively in the electronic programme guide:

Provided further that it shall be permissible to the distributor to place a channel under sub-genre within the genre declared for the channel by the broadcaster.

(3) Every distributor of television channels shall assign a unique channel number for each television channel available on the distribution network.

.....”

3.9 Further, 18(2) regulation was amended in 2020 to read as follows:.

“(2) It shall be mandatory for the distributor to place all the television channels available on its platform in the electronic programme guide, in such a manner that all the television channels of a particular language in a genre are displayed together consecutively and one television channel shall appear at one place only.”

3.10 Similar clause exist in the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (as amended) [hereafter called QoS Regulation 2017.

3.11 The Authority has noted that DPOs have adopted different approaches for placement of channels in EPG. Some DPOs have arranged channels first language wise and then genre wise under each language. Whereas some DPOs have arranged channels first genre wise and then language wise under each genre. Furthermore, some DPOs have adopted a mixed approach where some combination of language-genre wise and genre-language wise has been used. To ensure ease of viewing channel listing for consumers while maintaining a balance between interests of broadcasters and DPOs a standard arrangement for listing the channels on the EPG is essential.

3.12 Therefore, Interconnection Regulation 2017 dated 3.3.2017 provided to put all television channels of one genre together with further classification within the genre on the basis of respective language of television channels. This classification methodology had been termed as genre language based listing. Furthermore, the distributor of the televisions channels may place a channel under sub-genre within the

genre declared for the channel by the broadcaster. In the first multi-stakeholders meeting held after the implementation of the new regime during February 2019, DPOs raised certain issues in adhering to the prescribed structure of EPG. The Authority constituted a stakeholders' committee in April 2019 to discuss issue and suggest possible alternatives. Pursuant to the recommendations of the said stakeholders' committee, further interactions were held with different DPOs.

- 3.13 Vide the consultation paper on 'Tariff related issues for Broadcasting and Cable services' dated 16th August 2019, stakeholders were asked to suggest suitable methodology for listing of the television channels in the EPG. In response stakeholders were divided in their opinion.
- 3.14 As per the framework prescribed in 2017, every distributor of television channels was required to list each channel under the respective genre of the channel as declared by the broadcaster and classify the channels under one genre into sub-genres based on language or region. Channels should be assigned unique logical channel numbers (LCN) within the subgenres. The Authority noted that in this arrangement, a consumer who understands specific language is required to jump across various genres to watch different channels (pertaining to different genres) in one language. For example if a DPO has listed GEC from LCN 100 to 300 & movies from LCN 300 to 400, a consumer choosing to shift from a Punjabi/ Tamil GEC to a Punjabi or Tamil Movies will require to shift a long list of channels. Therefore, vide the 2017 framework it was prescribed that putting together all the television channels of same language will be more consumer friendly.
- 3.15 However, in case a pure alternative of language-genre based LCN allocation is considered, some DPOs would have to revisit their current plan of LCN allocation. Based on area of operation DPOs prefer a mix

allocation where they may put all GEC channels together for two languages that may be popular in a given region.

- 3.16 The primary objective to regulate the EPG include the following:
- (a) To ensure ease of viewing the television channels by consumer.
 - (b) To provide flexibility to the distributors to arrange the television channels as per regional/local requirements.
 - (c) To ensure that fair treatment is given to broadcaster to place their channels appropriately in respective genre to get the viewership.
 - (d) To ensure that the DPOs wilfully do not place channel of few broadcasters out of genre to reduce their adoption by subscribers/viewership.
- 3.17 Considering these objectives, the Authority had decided in 2020 that the distributors should have flexibility to list the channels in the EPG to some extent to meet the requirement of the subscribers while broadly protecting the interest of broadcaster. Accordingly, the Authority had decided that DPOs will have flexibility to organise the channel on EPG based on Language(L) or Genre (G) ensuring that pair of a channel of the language and the genre remains together i.e., to say the combination of (LxGy) will remains together on the EPG. The authority was of the view that this framework will provide adequate flexibility to the DPOs in organising the channel in the EPG. To elaborate the provisions further, a DPO can assign language/genre on the LCN table with Language L1 to Lx. Similarly, genres can be assigned as genre G1 to G9. Any channel be classified into combination of language as LnGm or GnLm. Now depending upon LCN assignment plan the DPO is required to put all channels with assignment LnGm or GnLm together. The DPO can devise its own plan with a combination but should keep channels of same language & same genre together as a single group.
- 3.18 TRAI received several complaints regarding out of genre running of channels by DPOs. TRAI analysed data of many DPOs and all of them

were found to be in non-compliance with provisions of Interconnection regulation. Upon enquiring the reasons behind non-compliance, the DPOs informed TRAI that MIB gives permission to a channel in multiple languages. Sometimes, some television channels run programs in multiple languages. Therefore, DPOs find it difficult to comply with provisions of Interconnection Regulation 2017 (as amended).

Issues for Consultation:

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?

C. Revenue Share between LCO and MSO

3.19 The regulation 12(7) of the Interconnection Regulation mentions the following:

“(7) The settlement of service charges between local cable operator and multi-system operator shall be governed by mutual agreement:

Provided that in cases the multi-system operator and the local cable operator fail to arrive at a mutual agreement for settlement of service charges, then the network capacity fee amount and the distribution

fee amount shall be shared in the ratio of 55:45 between multi-system operator and local cable operator.”

3.20 The framework of MIA and SIA provides enough flexibility and ample freedom to the parties to the agreement to carry out their business. They may enter into an interconnection agreement, for provision of broadcasting services to subscribers, by mutually agreeing on distribution of responsibilities, respective settlement of service charges and billing. Further it was provided that in case of failure of mutual discussions, as a fall back option, the interconnection agreement will be signed in terms of SIA wherein TRAI had demarcated the responsibilities and fixed the corresponding settlement of service charges between DPO and LCO. In the SIA, LCOs have been given the consumer centric responsibilities whereas the MSOs have been given the responsibilities which are directly linked with the SMS including billing for the subscribers.

3.21 TRAI was of the view that DPO and LCO should settle the service charges, based on mutual discussions. To protect the interest of service providers and to ensure that signals are not disrupted due to dispute between the service providers, TRAI has prescribed a fall back arrangement between DPO and LCO, only for cases where the mutual discussions fail between DPO and LCO; and still they want to continue their relationship. Keeping in view the fact that in terms of the Interconnection Regulations, 2012, in a fall back arrangement, the service providers were required to share the subscription revenue in respect of FTA only subscriptions in the ratio MSO::LCO as 55::45, TRAI had decided to prescribe the same ratio for sharing of network capacity fee amount. In respect of pay channels also since in framework prescribed in 2017, the charges for services involved in the distribution of pay channel had been separated from the pay channel price, the distribution fee, which corresponds to the charges for services, of DPO and link LCO together, involved in the distribution of pay channels, had been distributed in the same ratio.

3.22 In this regard, LCOs are demanding to frame a new policy for pay channels sharing percentage.

Issues for Consultation:

Q19. Should the revenue share between an MSO (including HITS Operator) and LCO as prescribed in Standard Interconnect Agreement be considered for a review?

a. If yes:

i. Should the current revenue share on NCF be considered for a revision?

ii. Should the regulations prescribe revenue share on other revenue components like Distribution Fee for Pay Channels, Discount on pay channels etc.? Please list all the revenue components along-with the suggested revenue share that should accrue to LCO.

Please provide quantitative calculations made for arriving at suggested revenue share along-with detailed comments / justification.

b. If no, please justify your comments.

D. Carriage Fee

3.23 Regulation 8(2) of the Interconnection Regulation 2017 mentions the following:

“(2) The reference interconnection offer, referred to in sub-regulation (1), shall contain the technical and commercial terms and conditions relating to, including but not limited to, target market, rate of carriage fee per month, average active subscriber base of standard definition set top boxes and high definition set top boxes at the time of publication of the reference interconnection offer, discounts, if any, offered on the rate of

carriage fee, manner of calculation of carriage fee payable to the distributor and other necessary conditions:

Provided that the rate of carriage fee per standard definition channel per subscriber per month to be declared by a distributor of television channels shall not exceed twenty paisa:

Provided further that the rate of carriage fee per high definition channel per subscriber per month to be declared by a distributor of television channels shall not exceed forty paisa:

Provided also that a distributor of television channels shall calculate the carriage fee amount for television channels as per the provisions specified in the Schedule I, which shall change with the changes in monthly subscription percentage of such television channels.

3.24 As per sub-regulation (2) of regulation 8 of the Interconnection Regulation, 2017 the rate of carriage fee per standard definition channel per subscriber per month to be declared by a distributor of television channels shall not exceed twenty paisa while the rate of carriage fee per high definition channel per subscriber per month to be declared by a distributor of television channels shall not exceed forty paisa.

3.25 As per Schedule I of Interconnection Regulation 2017, the carriage fee amount, for each month or part thereof, during the term of the interconnection agreement shall be calculated as given below:

- a. If monthly subscription for a channel in the target market is less than five percent of the average active subscriber base of the distributor in that month in the target market, then the carriage fee amount shall be equal to the rate of carriage fee per channel per subscriber per month, as agreed under the

interconnection agreement, multiplied by the average active subscriber base of the distributor in that month in the target market

- b. If monthly subscription for a channel in the target market is greater than or equal to five percent but less than ten percent of the average active subscriber base of the distributor in that month in the target market, then the carriage fee amount shall be equal to the rate of carriage fee per channel per subscriber per month, as agreed under the interconnection agreement, multiplied by 0.75 times of the average active subscriber base of the distributor in that month in the target market.
- c. If monthly subscription for a channel in the target market is greater than or equal to ten percent but less than fifteen percent of the average active subscriber base of the distributor in that month in the target market, then the carriage fee amount shall be equal to the rate of carriage fee per channel per subscriber per month, as agreed under the interconnection agreement, multiplied by 0.5 times of the average active subscriber base of the distributor in that month in the target market.
- d. If monthly subscription for a channel in the target market is greater than or equal to fifteen percent but less than twenty percent of the average active subscriber base of the distributor in that month in the target market, then the carriage fee amount shall be equal to the rate of carriage fee per channel per subscriber per month, as agreed under the interconnection agreement, multiplied by 0.25 times of the average active subscriber base of the distributor in that month in the target market.
- e. If the monthly subscription for a channel in the target market is greater than or equal to twenty percent of the average active subscriber base of the distributor in that month in the target market, then the carriage fee amount shall be equal to 'Nil'.

3.26 Further, 8(2) of Interconnection Regulation 2017 was amended in 2020, as follows:

“In regulation 8 of the principal regulations,

(a) in first proviso to sub-regulation (2), after the words “twenty paisa”, the following words shall be inserted, namely:-

“and the total carriage fee payable for such television channel per month, by a broadcaster to a distributor of television channels, shall, in no case, exceed rupees four lakh”

(b) in second proviso to sub-regulation (2), after the words “forty paisa”, the following words shall be inserted, namely:-

“and the total carriage fee payable for such television channel per month, by a broadcaster to a distributor of television channels, shall, in no case, exceed rupees eight lakh””.

Carriage fee capping

3.27 In the Interconnection Regulations 2017 regime, the broadcasters were required to pay monthly carriage fee depending upon the average active subscriber base of the DPO in the target market declared by the DPO. The regulations provide flexibility to the DPOs to declare their target market for the purpose of ascertaining the carriage fee. The only guiding factor for target market is on the basis of the Head-end of a DPO. The target market should be confined to an area covered by a single head-end or a sub-set of such area covered by a single head-end. This in-turn meant that based on coverage of satellite footprint of their signals, DTH and HITS operators can declare whole of India as their target market.

3.28 Many regional broadcasters had represented to TRAI that several distributors have declared either ‘the whole country’ or ‘combination of some states together’ as their target market. As a result, they are required to pay exorbitant carriage fee since the active subscriber base of the DPO in entire India is taken into account for the purpose of determining carriage fee. In such cases, the Reference Interconnect Offer based carriage fee agreements become unviable for regional

channels. Accordingly, the regional channels are constrained to enter into negotiations for signing alternate agreements, terming these as placement or marketing arrangements. Such alternative agreements render the carriage fee regulations expendable.

3.29 In this regard, TRAI issued a consultation paper on 'Issues related to Interconnection Regulation, 2017' on 25th September 2019. The main objective of this consultation process was to consult all the stakeholders on issues related to charging of exorbitant carriage fee by the distributors of television channels (DPOs) amongst other issues. After taking into account comments received in the consultation process and the authority's own analysis, the Authority was of the view that there is a need to specify a capping on the maximum permissible carriage fee per channel per month for a DPO. Therefore, vide amendment dated 1.1.2020 the authority, specified carriage fee cap of Rs. four lakhs (Rs. 4 Lakh) per Standard Definition (SD) Channel per month for a DPO and Rs. Eight lakhs (Rs. 8 Lakh) per HD channel per month for a DPO.

3.30 An association has now suggested that the carriage fee capping at 4/8 lakhs should be removed. The association has represented that:

- a. *'TRAI vide its regulations has granted forbearance to Broadcasters for pricing of their channels. In addition, Broadcasters are free to collect advertising revenues, with no Regulatory capping. However, nearly all the revenue streams of the Licensed Operators are regulated/capped either under the tariff order, interconnection regulation or QoS regulation.*
- b. *One such Regulatory capping is on carriage fees, which prevents the Licensed Operators from earning revenue to recover the huge investments made by them on their networks and associated platforms.*
- c. *Furthermore, due to "Must carry" obligation, the Licensed Operators must invest in the network capacity to accommodate even the non-*

performing channels of the broadcasters. Thus, the capping on carriage fee distorts the market economics and exacerbates the financial situation of Cable TV Industry.

- d. Allowing bundling of unwanted channels with driver channels allowed broadcaster to turn FTA channels to Pay channels and push them with driver channels leading to not only loss of carriage fee but pay for the same channel as it is bundled in a bouquet. This has distorted the market as unwanted channels have become pay and are on a piggy ride with driver channels leading to higher burden on subscribers.*
- e. Moreover, the Broadcasters who are in dominant position do not enter into carriage agreement with the Licensed Operators.*
- f. Association has requested TRAI to grant unbundling of bouquets and allow forbearance on carriage fees, which will help in creating a level playing field between the Licensed Operators and Broadcasters.*
- g. Moreover, as highlighted above, Broadcasters misuse the forbearance granted to them to price their channels and push their non-performing channels to the Licensed Operators in Bouquets to maximize their advertising revenues.*
- h. Further, due to First Come First Service policy under the must carry guideline, more deserving channels do not get the carriage (capacity) while the leading broadcaster with few driver channels will continue to block the major capacity that too free of cost under the guise of a bouquet.*
- i. Therefore, the principle of Must Carry with first come first serve criteria works against the objective of promoting deserving channels (or channels that are often preferred by consumers) and this Must Carry principle in its current form hinder the best use of available network capacity.'*

Capping of carriage fee on HD channel

- 3.31 As mentioned earlier as per Interconnection Regulation 2017 as amended, the rate of carriage fee per high definition channel per subscriber per month to be declared by a distributor of television channels shall not exceed forty paisa and the total carriage fee payable for such television channel per month, by a broadcaster to a distributor of television channels, shall, in no case, exceed rupees eight lakh. Since the bandwidth consumed by HD channels was earlier, approximately double the bandwidth required for SD channels, therefore the Authority had kept the ceiling of carriage fee for HD channels as Rs. 0.40 with a cap of Rs. 8 lakh per month, which is double that for SD channels.
- 3.32 In this regard, one may opine that to promote penetration of HD channels, the rate of carriage fee and the cap on carriage fee on HD channels may be reduced.

Issues for consultation:

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.

E. Removal of a channel from the platform of a DPO after expiry of existing Interconnection agreement

3.33 As per Interconnection Regulation 2017

“9. General provisions relating to interconnection agreements.—

(1) It shall be mandatory for service providers to reduce the terms and conditions of all their interconnection agreements to writing”...

“10. Interconnection agreement between broadcaster and distributor of television channels.— *(1) No broadcaster shall provide signals of pay channels to a distributor of television channels without entering into a written interconnection agreement with such distributor of television channels.*

(2) No distributor of television channels shall distribute pay channels of any broadcaster without entering into a written interconnection agreement with such broadcaster.”....

“10 (14) Every broadcaster shall enter into a new written interconnection agreement with distributor of television channels before the expiry of the existing interconnection agreement:

Provided that the broadcaster shall, at least sixty days prior to the date of expiry of the existing interconnection agreement, give notice to the distributor of television channels to enter into new written interconnection agreement:

Provided further that in case the parties fail to enter into new interconnection agreement before the expiry of the existing interconnection agreement, the broadcaster shall not make the signals of television channels available to the distributor of television channels on expiry of the existing interconnection agreement:

Provided also that the distributor of television channels shall, fifteen days prior to the date of expiry of its existing interconnection agreement, inform the subscribers through scrolls on the channels included in the said agreement—

*(a) the date of expiry of its existing interconnection agreement; and
(b) the date of disconnection of signals of television channels in the event of its failure to enter into new interconnection agreement.”...*

“10 (15) No distributor of television channels shall carry television channels, for which a request has been received from a broadcaster for distribution of television channels, without entering into a written interconnection agreement with such broadcaster.”

“10 (21) Every distributor of television channels shall enter into a new written interconnection agreement, for carrying television channels requested by a broadcaster, before the expiry of the existing interconnection agreement:

Provided that the distributor of television channels shall, at least sixty days prior to the date of expiry of the existing interconnection agreement, give notice to the broadcaster to enter into new written interconnection agreement:

Provided further that in case the parties fail to enter into new interconnection agreement before the expiry of the existing interconnection agreement, the distributor of television channels may not carry such television channels on expiry of the existing interconnection agreement:

Provided further that a distributor of television channels shall not discontinue carrying a television channel if the signals of such television channel remain available for distribution and monthly subscription percentage for that particular television channel is

more than twenty percent of the monthly average active subscriber base in the target market:

Provided also that if the distributor of television channels decides to discontinue carrying a television channel due to expiry of the existing interconnection agreement, it shall, fifteen days prior to the date of expiry of its existing interconnection agreement, inform the subscribers through scrolls on the channels included in the said agreement—

*(a) the date of expiry of its existing interconnection agreement; and
(b) the date of disconnection of signals of television channels in the event of its failure to enter into new interconnection agreement.”*

- 3.34 As per 10(14) of Interconnection Regulation 2017, every broadcaster shall enter into a new written interconnection agreement with DPO before the expiry of the existing interconnection agreement and if the parties fail to enter into new interconnection agreement before the expiry of the existing interconnection agreement, the broadcaster shall not make the signals of television channels available to the distributor of television channels on expiry of the existing interconnection agreement. However, 10(21) of Interconnection Regulation 2017 mentions that every DPO shall enter into a new written interconnection agreement, for carrying television channels requested by a broadcaster, before the expiry of the existing interconnection agreement. Regulation 10 (21) further mentions that in case the parties fail to enter into new interconnection agreement before the expiry of the existing interconnection agreement, the DPO may not carry such television channels on expiry of the existing interconnection agreement, however **DPO shall not discontinue carrying a television channel if the signals of such television channel remain available for distribution and monthly subscription percentage for that particular television channel is more than twenty percent of the monthly average active subscriber base in the target market.**

3.35 Recently, there was a case wherein an existing Interconnection agreement between a broadcaster and some DPO, which was based on broadcaster's RIO, expired and neither the broadcaster nor the DPOs entered into a new interconnection agreement with each other. In such a case one may opine that such a condition is not in the interest of the consumer and adversely affects business continuity. Further such a condition also disrespects the principle of 'Must carry' and 'Must provide' enshrined in the Interconnection Regulation 2017. Therefore, to protect consumer interest, ensure business continuity and respect principle of 'Must carry' and 'Must provide', there may be some condition in the Interconnection Regulation 2017, which ensures that the channel remain available to those consumers who have chosen the same, if the channel remains available on the platform.

Issue for consultation:

Q23. In respect of DPO's RIO based agreement, if the broadcaster and DPO fail to enter into new interconnection agreement before the expiry of the existing agreement, the extant Interconnection Regulation provide that if the parties fail to enter into new agreement, DPO shall not discontinue carrying a television channel, if the signals of such television channel remain available for distribution and the monthly subscription percentage for that television channel is more than twenty percent of the monthly average active subscriber base in the target market. Does this specified percentage of 20 percent need a review? If yes, what should be the revised prescribed percentage of the monthly average active subscriber base of DPO. Please provide justification for your response.

Chapter IV

Issues related to Standards of Quality of Service (QoS) and Consumer Protection Regulations

4.1 The prime objective of this chapter is to harmonise the 'QoS Regulations' issued by TRAI and holistically review the various provisions relating to QoS provided by the distributors and as perceived by the consumers. Quality of Service and Consumer Protection Regulations are designed to result in better awareness about the regulatory provisions amongst the consumers while improving the compliance and monitoring of the new regulatory framework by the service providers. This chapter envisages to figure out for an effective solution that would protect the interest of the stakeholders as well as the consumers at large accessing the different modes of broadcasting services.

4.2 In this chapter the following issues relating to QoS have been discussed:

- a. Review of prescribed charges
- b. Display of channels in EPG and LCN listing of channels
- c. Issues related to billing cycle
- d. Regulation of Platform Service Channels
- e. Review of mandatory provisions of Toll-Free Number, Consumer Corner, Subscriber Corner, Establishment of Website and Manual of Practice Etc.

A. Review of all prescribed charges in QoS:

4.3 In the extant 'QoS Regulations' there exist various charges for distribution services that are required to be borne by the subscribers. The ceiling of such charges has been defined, which could be prescribed by the DPOs. This includes installation and activation charges in the case of new connection, restoration and reactivation charges in case of

temporary suspension of broadcasting services. Also, visiting charges are prescribed in respect of registered complaint in the case of DTH (Direct To Home) services.

A.1 Installation and Activation charges

- 4.4 As per sub-regulation (5) and (6) of Regulation 4 of 'QoS Regulations', a distributor is permitted to charge a maximum amount of Rs 350 as a one-time 'Installation Charge' for providing a new connection. Further, an amount not more than Rs 100 may be charged as a one-time 'Activation charge' for activating the connection. The said provisions of Regulation 4(5) and 4(6) are reproduced below:

“4. Procedure for new connection.—

...

(5) A distributor of television channels or its linked local cable operator, as the case may be, may charge an amount not exceeding rupees three hundred and fifty as a one-time installation charge for installation of a new connection for providing the broadcasting services related to television.

(6) A distributor of television channels or its linked local cable operator, as the case may be, may charge an amount not exceeding rupees one hundred as a one-time activation charge for activating the broadcasting services related to television.”

- 4.5 While prescribing the above charges, the Authority had been of the view that the operator may charge the installation charge and activation charge from the consumers at the time of providing a new connection, subject to the ceiling. These charges were prescribed by the Authority after a detailed consultation with the stakeholders and obtaining inputs from the industry. It had been found that in some cases, the activation fee being charged for a STB is equal to the cost of the STB itself. It was also reported that different installation and activation fees are being charged under different schemes for provision of set top box.

Further different activation fee is being levied for SD and HD STB. The Authority was of the view that there cannot be such difference in the installation and activation fees as per type of scheme or type of STB, as the installation and activation process remain by and large same. Therefore, an amount upto Rs.350/- towards the installation charges and upto Rs.100/- towards the activation charges were permitted to be charged from the TV consumers. DPOs are free to charge lesser installation and activation fee if they so desire. It has been seen that most of the DPOs are charging 350/- towards the installation charges and Rs.100/- as activation charges.

A.2 Restoration and Reactivation charges

- 4.6 As per sub-regulation 1 and 4 of Regulation 12 of 'QoS Regulations', the distributors of television channels are required to temporarily suspend the broadcasting services upon receiving a request from a subscriber. In such a scenario, the subscriber request made at least 15 days before the desired date of suspension, and the temporary suspension period should be in multiple of months and for a minimum of one month at least.
- 4.7 Now if services have been suspended continuously for a period not exceeding three months, the distributor may charge a restoration fee not exceeding Rs. 25. However, if services have been suspended continuously for a period exceeding three months, the distributor may charge a re-activation fee not exceeding Rs. 100 for restoration of services. In both the cases, the distributor must restore services within 72 hours of receiving a request from the subscriber. No other charges are payable by the subscriber during the temporary suspension period, except the rental charges for the CPE, if it has been obtained under rental scheme. Further any subscriber who remains suspended beyond three months shall not be counted as an active subscriber of the DPO.

The sub-regulation 12(1) and 12(4) has been reproduced below for reference.

“12. Temporary suspension of broadcasting services related to television on request from a subscriber.— (1) *Every distributor of television channels or its linked local cable operator, as the case may be, shall, upon receiving a request from a subscriber, temporarily suspend the broadcasting services related to television of such subscriber:*

Provided that such request shall be made by such subscriber at least fifteen days prior to the date of such suspension:

Provided further that such temporary suspension shall be for a minimum period of one month and in the multiple thereof.

...

(4) *Every distributor of television channels or its linked local cable operator, as the case may be, shall, upon receiving a request from the subscriber, restore services within seventy two hours and may charge an amount-*

- (i) *not exceeding rupees twenty five as restoration fee from the subscriber for restoration of services if such services have remained suspended continuously for a period not exceeding three months, or*
- (ii) *not exceeding rupees hundred as re-activation fee from the subscriber for restoration of services if such services have remained suspended continuously for a period exceeding three months.”*

4.8 In reference to the above charges prescribed in the regulation for temporary suspension, the stakeholders were consulted for extending the existing provision relating to temporary suspension of service upon the request of subscribers to all addressable platforms. DPOs are of the view that they should be permitted to charge resumption fee varying from Rs. 50 to Rs. 100 on each occasion and such suspension may be

allowed twice in a year limited up to total 4 months period. Accordingly, the Authority has decided that subscribers should be empowered to suspend their services temporarily and that the existing regulatory framework should be extended to other platforms also. However, as the DPOs incur certain costs towards processing the request and temporarily suspending the subscribers from the SMS, they may charge a notional fee. As the work to be done in restoration of a temporary suspended connection is much lower than the work involved in activation of a new connection, a restoration fee of Rs. 25/-, one fourth of the activation fee (which is Rs 100/- as per existing regulation) is justified. If the temporary suspension continues for more than three months, it shall be open to the DPOs to de-activate such subscriber from the SMS. Thereafter reactivation of service in such a case will attract an activation fee, which may be upto Rs 100/- (the existing limit of activation fee). It may be clarified here that any subscriber who is not active for three months shall not be counted towards active subscriber while reporting such information to TRAI.

A.3 Visiting Charges

4.9 The Authority has also prescribed visiting charges in its regulation against registered complaint for carrying out repair and maintenance services. The distributors of DTH services are permitted to charge up to Rs. 250 as visiting charges for registered complaints that necessitate a visit to the subscriber's premises for repair and maintenance services. It should be noted, however, that no visiting charges will be imposed on complaints concerning the set-top box. Furthermore, these visiting fees cannot be deducted from the subscriber's pre-paid subscription account. Also, the distributor is required to issue a receipt for the payment of these charges to the subscriber. The same has been reproduced from sub-regulation 11 of Regulation 24 of 'QoS Regulations' below.

“24. Supply and installation of the customer premises equipment.—

...

(11) It shall be permissible for the distributor of television channels providing direct to home (DTH) services to charge an amount not exceeding rupees two hundred and fifty as visiting charge per registered complaint requiring visit of a person to subscriber’s premises for carrying out repair and maintenance services:

Provided that no visiting charges will be levied on the subscribers for any complaint relating to set top box:

Provided further that such visiting charge shall not be debited from the pre-paid subscription account of the subscriber:

Provided also that the receipt for payment for such charges shall be issued to the subscriber by the distributor.

...”

A.4 Relocation Charges

4.10 The Authority has prescribed in its regulations that if a subscriber requests for relocation of his connection from one location to another, the distributor of television channels, subject to technical and operational feasibility, shall relocate the connection within seven days of receiving the request. The distributor of the television channels is allowed to levy charges on the subscriber if the relocation process necessitates relocating the outdoor equipment of the customer premises from the old location and reinstalling it at the new location, the distributor of television channels may charge an amount not exceeding twice the installation charge (i.e., not more than Rs. 700) set by the distributor. Additionally, the distributor of television channels may levy a fee that does not exceed the installation fee (i.e., not more than Rs. 350) set forth by the distributor if the relocation process does not entail relocating the customer premises' outdoor

equipment from the previous location. The Regulation 14 of 'QoS Regulations' has been reproduced below for reference.

“14. Relocation of connection.— *In case a subscriber requests for relocation of his connection from one location to another location, the distributor of television channels or its linked local cable operator, as the case may be, shall, subject to technical and operational feasibility, relocate the connection within a period of seven days from the date of receipt of such request:*

Provided that it shall be permissible for the distributor or its linked local cable operator, as the case may be, to charge from such subscriber-

- (i) an amount, not exceeding, twice the amount of installation charge prescribed by the distributor, in case, such relocation work involves dismantling of the outdoor equipment of customer premises equipment from old location and reinstallation at new location, or*
- (ii) an amount, not exceeding, the installation charge prescribed by the distributor, in case, such relocation work does not involve dismantling of the outdoor equipment of customer premises equipment from old location.*

Explanation: For the purpose of this regulation, outdoor equipment means the dish-antenna, Low Noise Block Converter, connectors and other accessories fastened to the dish-antenna.”

- 4.11 For convenience and ease of understanding, the various charges under the present regulatory regime are summarised and has been shown in tabular format as under:

Table 4.1: Prescribed charges of QoS

| S. No | Reasons for Charging | Amount |
|--------------|--|---|
| 1. | Installation and activation charges for a new connection | Rs. 350 as one-time installation charge. |
| | | Rs. 100 as one-time activation charge. |
| 2. | Temporary suspension of broadcasting services related to television on request from a subscriber | Rs. 25 as restoration fee if services have remained suspended continuously for a period not exceeding three months. |
| | | Rs. 100 as re-activation fee if services have remained suspended continuously for a period exceeding three months. |
| 3. | Visiting charges in respect of registered complaint in the case of DTH Operators | Rs. 250 as visiting charge by distributor of television channels providing DTH services per registered complaint requiring visit of a person to subscriber's premises for carrying out repair and maintenance services. |
| 4. | Charges for relocation of connection | Rs. 700, if relocation involves dismantling outdoor equipment of the customer premises from the old location and reinstalling it at the new location. |
| | | Rs. 350, if relocation work does not involve dismantling outdoor equipment of the customer premises from the old location. |

4.12 These charges were prescribed way back in 2017. Whether the upper limit of these charges should be further increased in line with the inflationary factors or whether it is appropriate to reduce the prescribed ceiling to take off the burden from the subscribers. Other additional possibility could be to leave it to the discretion of service providers and allow the market forces to dictate whether or not to impose these charges based on their business model and the affordability of their subscribers. The methodology of discrete charging or any other strategy and measures that might be more effective, if any proposed by the service providers, should be substantiated with due

justification. Alternatively, what other option exists for addressing this issue.

Issues for consultation:

Q24. Whether the extant charges prescribed under the ‘QoS Regulations’ need any modification required for the same? If yes, justify with detailed explanation for the review of:

- a. Installation and Activation Charges for a new connection**
- b. Temporary suspension of broadcasting services**
- c. Visiting Charge in respect of registered complaint in the case of DTH services**
- d. Relocation of connection**
- e. Any other charges that need to be reviewed or prescribed.**

Q25. Should TRAI consider removing capping on the above-mentioned charges for introducing forbearance? Please justify your response.

B. Display of channels in EPG and LCN listing of channels:

4.13 Electronic Programme Guide (EPG) may be defined as a program guide where comprehensive listing of television channels and their respective programs, as well as scheduling and programming information is displayed. It is maintained by the distributors of television channels and may include an enhanced guide that enables subscribers to navigate and select from the available channels and programs. Essentially, a program guide serves as a directory for viewers to easily locate and access their preferred channels and programs. As per the definition mentioned in the regulation 2(v) of ‘QoS Regulations’, the exact definition of EPG is reproduced as under:

“2. Definitions.—

...

(v) “electronic programme guide” or “EPG” means a program guide maintained by the distributors of television channels that lists

television channels and programmes, and scheduling and programming information therein and includes any enhanced guide that allows subscribers to navigate and select such available channels and programmes;

...”

4.14 In the current regulatory framework, the distributors of television channels display all channels available on its platform in the EPG. The channels are listed under their respective genre and exhibits the MRP in the case of pay channel. For FTA channels, it is displayed as “Zero” or “Free” . The sub-regulation 1 and 2 of Regulation 38 is reproduced as under:

“38. Display of channels in EPG.— (1) *It shall be mandatory for the distributor of television channels to display all the television channels available on its platform in the electronic programme guide, in such a manner that all the television channels of a particular language in a genre are displayed together consecutively and one television channel shall appear at one place only.*

(2) *Every distributor of television channels shall indicate-*

- (a) **“Free”** in the electronic programme guide against each free-to-air channel available on its platform;
- (b) the respective maximum retail price in the electronic programme guide against each pay channel available on its platform with the Indian rupee sign “₹” such as **₹2, ₹5.5** etc.;

4.15 The existing provision requires distributors of television channels to display the MRP declared by the broadcasters in the EPG. TRAI's ‘Tariff Order’ further mandates that the DRP declared by DPOs should be less than or equal to the MRP declared by broadcasters. The clause 4(2) of the ‘Tariff Order’ has been reproduced below for reference.

“4. Declaration of network capacity fee and manner of offering of channels by distributors of television channels.--

...

(2) Every distributor of television channels shall offer all channels available on its network to all subscribers on a-la-carte basis and declare distributor retail price, per month, of each pay channel payable by a subscriber:

Provided that the distributor retail price, per month, payable by a subscriber to a distributor of television channels for subscribing to a pay channel shall, in no case, exceed the maximum retail price, per month, declared by the broadcasters for such pay channel.

...”

- 4.16 Most of the DPOs are offering DRP (Distributor Retail Price) equivalent to MRP, while some have set their DRP lower than the MRP. From a consumer's perspective, only the MRP of channels is visible in the EPG, making it difficult for them to make informed decisions. To address this issue, would it be appropriate to display the DRP alongside the MRP in the EPG for consumer transparency.
- 4.17 Additionally, it has been observed that sometimes a channel number displayed in the EPG is different to where it is actually placed in the LCN (Logical Channel Numbers) listing. So, it is essential to ensure that the channel number displayed in the EPG and placement of channels in the actual LCN list are properly mapped and synchronized for seamless viewing experience.

Issues for consultation:

- Q26. Whether the Electronic Programme Guide (EPG) for consumer convenience should display**
- a. MRP only**
 - b. MRP with DRP alongside**
 - c. DRP only?**

Justify your response by giving appropriate explanations.

C. Billing cycle for pre-paid payment option shall be thirty days from the date of activation of services

4.18 In accordance with the existing regulatory regime, the DPOs may offer broadcasting services to subscribers either on pre-paid basis or post-paid basis or both. In both the cases, as per the regulatory framework the subscribers are billed generally on a monthly basis and the entries in the bill are itemised. The itemised bills have to indicate the price of individual channels or bouquet of channels, the name of channels in the bouquet, the Network Capacity Charges (NCF) and the charges for Consumer Premise Equipment (CPE) and applicable taxes including value added services. For pre-paid system, the existing regulatory framework provides that subscribers can obtain his usage details of at least six preceding months on demand and the DPOs are mandated to provide bills to the subscribers. Most of the DPOs provide services to the consumers on pre-paid billing system.

4.19 The sub-regulation 2 of Regulation 23 mentions that the billing cycle in the case of pre-paid billing method is thirty days from the date of activation of the services. But it is silent on the periodicity of the billing cycle in case a subscriber intends to recharge for the services for an entire year. The sub-regulation reads as under:

“23. Pre-paid billing and payment.—

...

(2) The billing cycle for pre-paid payment option shall be thirty days from the date of activation of services.

...”

4.20 Currently, the pre-paid billing recharge system is based on a validity period of 30 days from the date of activation of services. For instance, if

a subscriber recharges their pre-paid connection on the 20th of a particular month, the next recharge date will be displayed as the 19th of the following month, assuming that month has 30 days. However, if the month has 31 days, the next recharge date will be displayed as the 18th of the following month, taking into account the extra day in the month. In other words, the pre-paid connection recharge period is always for a fixed duration of 30 days, regardless of the number of days in the month, and the next recharge date is adjusted accordingly.

4.21 Various consumers have also raised concerns and complaints regarding the current pre-paid billing provision, which only allows for a billing cycle of 30 days from the date of activation of services. This has resulted in issues for the subscribers who wish to recharge on a long-term basis. For instance, if a customer wishes to recharge for one year from the activation date, the billing cycle would be counted as 30 x 12, i.e., 360 days, leaving a gap of 5 days or 6 days (in the case of a leap year).

4.22 Meanwhile, some broadcasters have expressed concerns that they are not receiving accurate data of the viewership of their channels. The broadcasters informed that the DPOs offer their subscribers the choice to recharge/choose a channel only for a day/few days and pay only for the days that they have viewed the channel. To determine the charging for a channel, the DPOs divide the total MRP declared by the Broadcaster for a given month by the number of days in that month (i.e., 30) to get the average cost per day for that channel. Currently, the DPOs as per the 'Interconnection Regulations' send data relating to viewership of a channel to the concerned broadcasters on the 7th, 14th, 21st and 28th of each month. However, any fluctuations in the number of subscribers between these dates are not reflected in the final data provided to the broadcasters. There might be a scenario where the subscriber opts for a channel on days other than dates 7th, 14th, 21st and 28th which means that the subscriber base might not get reflected

in the subscriber report and broadcasters lose revenue on account of this.

4.23 For instance, if a subscriber subscribes to a channel on the 9th day of a month and removes the channel on the 12th day of the same month, the broadcaster would remain unaware of this subscription of the channel by the subscriber. This would not be reflected in the data sent to the broadcaster on the 14th day of the month since DPOs billings are generally calculated on a daily churn basis. So, referring to the example, if a customer subscribes a channel for 2 days where the channel MRP/month is Rs 19, then on pro rata basis the subscriber will be charged for accessing the channel for 2 days. **Table 4.2** has been provided for ease of understanding of the concern raised by the broadcasters. For example, a DPO subscriber recharges for a channel from 1st Mar 2023 to 6th March 2023 for a particular event/programme:

Table 4.2: Illustration of calculation of subscription charges by DPOs

| | | |
|--|---------|--|
| MRP as declared by Broadcaster in RIO | Rs 19 | |
| MRP per day as calculated by DPO | Rs 0.63 | Rs 19/30 days |
| Subscription pay-out to DPO | Rs 3.8 | 0.63*6 days the channel was subscribed for |
| Subscription pay-out to Broadcaster | 0 | As it was not captured in the subscriber report used for billing |

Issues for consultation:

Q27. What periodicity should be adopted in the case of pre-paid billing system. Please comment with detailed justification.

Q28. Should the current periodicity for submitting subscriber channel viewership information to broadcasters be reviewed to ensure that the viewership data of every subscriber, even those who opt for

the channel even for a day, is included in the reports? Please provide your comments in detail.

D. Regulations on Platform Services Channels

4.24 Platform Service (PS) channels are the channels where the programmes are exclusively transmitted by the DPOs excluding channels like Doordarshan, registered TV channels and foreign TV channels that are not registered in India. The Ministry of Information and Broadcasting (MIB) has issued operational guidelines for platform service channels in respect of DTH operators on 16th September 2022⁵ and guidelines for Multi System Operators (MSOs) on 30th November 2022⁶. The guidelines are formulated considering most of the TRAI recommendations on platform channels. The subsequent paras provide the brief detailing of the guidelines prescribed by the Ministry in respect of DTH and MSOs.

4.25 These guidelines outline the framework for platform services channels. This *inter-alia* includes capping the total number of permitted PS channels to 5% of the total channel capacity, labelling all PS channels as "Platform Services" to differentiate them from linear channels, and ensuring that the content is exclusive to the platform and not shared with other distribution operators. The guidelines also require all PS channels to be grouped together under the genre "Platform Services" in the EPG, with their MRP and an option for activation/deactivation in accordance with applicable regulations set by TRAI.

4.26 The Ministry has also mandated that MSOs in India must ensure that no registered TV channel is waitlisted due to lack of carrying capacity. To ensure this, MSOs are permitted to offer a maximum of 5% of their

⁵<https://mib.gov.in/sites/default/files/%28English%20Version%29%20Operational%20Guidelines%20for%20Direct-To-Home%20%28DTH%29%20Broadcasting%20service%20in%20India%20dated%2016.09.2022.pdf>

⁶<https://mib.gov.in/sites/default/files/Guidelines%20for%20Platform%20Services%20offered%20by%20Multi%20System%20Operators..pdf>

total channel capacity as Platform Services (PS) channels, including those of Local Cable Operators (LCOs). If an LCO intends to provide its PS channels, the MSO must register them at its level. MSOs are responsible for registering all PS channels, including those of LCOs. To cater to the specific needs of local language and culture, the cap of 5% will be calculated at the level of each State/Union Territory. Furthermore, MSOs are allowed to telecast up to two additional PS channels at each District level.

4.27 Further to ensure exclusivity, if the same programme is found available on the PS of any other DPO, the MIB may issue a direction to immediately stop the transmission of such programmes. MIB also reserves the right to cancel the registration of the PS of the DPO in such cases. However, sharing of live feed taken from religious places among DPOs has been allowed.

4.28 According to the guidelines, if a DPO offers platform services, then the number of platform channels it provides should not exceed 5% of its total channel carrying capacity. It is important to note that one HD (High Definition) channel is not considered equivalent to two SD (Standard Definition) channels for this purpose. For instance, if a DPO's network has a total channel carrying capacity of 100 channels, then it can offer a maximum of 5 platform channels, while the remaining 95 channels will be a combination of HD and SD channels.

4.29 Now, since the guidelines for the PS channels has been issued for MSOs and DTH operators, they will fall in the ambit of the TRAI regulations as well. Accordingly, the stakeholders may provide comments on the following question.

Issues for consultation:

Q29. MIB in its guidelines in respect of Platform Services has *inter-alia* stated the following:

- a. **The Platform Services Channels shall be categorised under the genre ‘Platform Services’ in the EPG.**
- b. **Respective MRP of the platform service shall be displayed in the EPG against each platform service.**
- c. **The DPO shall provide an option of activation /deactivation of platform services.**

In view of above, you are requested to provide your comments for suitable incorporation of the above mentioned or any other provisions w.r.t. Platform Services channels of DPOs in the ‘QoS Regulations’.

- E. Review of mandatory provisions of toll-free number, Consumer Corner, Subscriber Corner, establishment of website and Manual of Practice etc.**

4.30 As per the ‘QoS Regulations’, television channel distributors are required to set up a customer care centre before offering broadcasting services to subscribers. The centre should have a toll-free customer care number with sufficient lines and resources to efficiently handle subscriber queries. It must be accessible every day from 8:00 am to 10:00 pm and provide customer service in regional languages, in addition to English and Hindi. Furthermore, the centre should have an Interactive Voice Response System (IVRS) to facilitate complaint registration, along with a web-based complaint management system. The relevant sub-regulation 25(1) for the same has been reproduced below for reference.

“25. Customer care centre.— (1) Every distributor of television channels shall, before providing broadcasting services related to television to its subscribers, establish a customer care centre, for addressing their service requests and redressal of complaints and the distributor shall ensure that such centre:

- (a) has a toll free “customer care number” having sufficient number of lines or connections and human resources to efficiently service the subscriber base of the distributor,
 - (b) is accessible, at least, between 08:00 hrs and 22:00 hrs on all days of the week,
 - (c) provides the services in the regional language of the service area in addition to Hindi and English,
 - (d) has an Interactive Voice Response System (IVRS) with provision for complaint registration and
 - (e) has a web based complaint management system.
- ...”

4.31 According to the said regulations, television channel distributors must create and maintain a website for broadcasting services related to television and to promote consumer awareness. Distributors may hire an agency to set up and manage the website, but they are responsible for ensuring compliance with regulations. The distributor's website must include a ‘Consumer Corner’ hyperlink on the home page, which must be clearly visible without scrolling. This hyperlink should direct visitors to a web page that provides information on regulatory provisions. Additionally, the webpage should have a provision for subscriber login termed as ‘Subscriber Corner’, which will allow them to access specific information. The regulation 31 of ‘QoS Regulations’ has been shown as under.

“31. Establishment of website.— (1) Every distributor of television channels shall establish and maintain a website for the purpose of publicity of information related to broadcasting services related to television offered by the distributor and for consumer awareness:

Provided that it shall be permissible for a distributor of television channels to engage any agency for establishing and operating such website:

Provided further that the responsibility for compliance of the provisions of these regulations shall rest with the distributor of television channels.

(2) Every distributor of television channels shall provide a hyperlink for “consumer corner” on the home page of the website which shall be clearly visible and noticeable to visitors without scrolling the page.

(3) The consumer corner hyperlink referred to in sub-regulation (2) shall point to another web page where the information in accordance with Schedule II of these regulations shall be made available.

(4) The web page referred in sub-regulation (3), shall also have a provision for login to the subscribers to access information specific to such subscriber in accordance with Schedule III of these regulations.”

4.32 Further, according to regulations, it is mandatory for every distributor of television channels to make available a manual of practice on their website. This manual must comprise the distributor's name and address, service terms and conditions, contact details for the Nodal Officer, and specifics about consumer protection provisions such as service disruptions, price protection for advance subscription payments, temporary discontinuation of service, disconnection of services, and billing and payment terms. Additionally, the manual must include information about the procedure and benchmarks for resolving complaints, as well as any other pertinent information. The following has been stated as mentioned in regulation 37 of ‘QoS Regulations’.

“37. Manual of Practice.— *Every distributor of television channels shall publish a manual of practice on its website which shall contain information in accordance with Schedule IV to these regulations:*

Provided that it shall be permissible for the distributor of television channels, to publish and provide the manual of practice in printed

form and in Hindi, English or Regional language as per the requirements of service area.”

4.33 These provisions are important from consumer perspective; however, it also adds to the substantial cost for the DPOs, especially the smaller MSOs. In this context, whether there is a need to relax some of these provisions, without dissolving the intent of the requirement to be met. Accordingly, the question follows.

Issues for consultation:

Q30. Is there a need to re-evaluate the provisions outlined in the ‘QoS Regulations’ in respect of:

- a. Toll-free customer care number**
- b. Establishment of website**
- c. Consumer Corner**
- d. Subscriber Corner**
- e. Manual of Practice**
- f. Any other provision that needs to be re-assessed**

Please justify your comments with detailed explanations.

Chapter V

Financial Disincentive for violation of Tariff Order, Interconnection Regulations and Quality of Service Regulations

- 5.1 TRAI has notified the Tariff Order 2017, the Interconnection Regulation 2017 and the QoS regulations 2017 for Broadcasting and Cable Services which have been amended from time to time. The service providers are required to comply with various provisions of the Tariff Order and Regulations.
- 5.2 It has been observed that that in a number of cases the service providers are not complying with the provisions of the Tariff Order and Regulations. Non-compliance may result in inferior quality of service to subscribers and disputes among service providers.
- 5.3 TRAI has been levying financial disincentives on the telecom service providers for lapses which have had a significantly positive impact on the level of compliance of prescribed regulations.
- 5.4 There are provisions for financial disincentives for broadcasting and cable services also.
- 5.5 The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and consumer Protection (Addressable Systems) Regulations, 2017 as amended from time to time, stipulate following regarding financial disincentive:

“22. Delivery of post-paid bills and payment. — (1) Every distributor of television channels shall, either directly or through its linked local cable operator, as the case may be, deliver to every post-paid subscriber, the post-paid bill within fifteen days from the end of billing cycle:

Provided that the distributor or its linked local cable operator, as the case may be, shall deliver such bill to the subscriber either in printed form or electronic form, as may be opted by the subscriber.

.....
.....

(5) Every distributor of television channels or its linked local cable operator, as the case may be, shall, issue a receipt to every post-paid subscriber for every payment made by him and shall enter the details of the receipt including the date, serial number of the receipt, and amount paid by the subscriber management system against the name of the subscriber, within seven days of the payment made by the subscriber:

Provided that the distributor or its linked local cable operator, as the case may be, shall deliver such bill to the subscriber either in printed form or electronic form, as may be opted by the subscriber.

.....

(7) If any distributor of television channels contravenes the provisions of the of the sub-regulation (1) or sub-regulation (5), it shall, without prejudice to the terms and conditions of its registration or the provision of the Act or rules or regulations or orders made , or, directions issued there under , be liable to pay an amount, by the way of financial disincentive, not exceeding rupees twenty per subscriber in respect of whom such contravention is observed, as the Authority may by order direct.

(8) No order for payment of an amount by way of financial disincentive under sub- regulation (7) shall be made by the Authority unless the distributor of television channels has been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority.

(9) The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by order by the Authority.”

5.6 The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable System) Regulation 2017, as amended from time to time, stipulate following regarding financial disincentive:

“4A. Compliance to requirements of Addressable System by distributors of television channels. —

.....

(2) If a distributor fails to obtain the certification of the conditional access system and/or subscriber management system deployed in its network within the stipulated timelines, as specified by the Authority under sub-regulation (1), it shall, without prejudice to the terms and conditions of its license or permission or registration, or the Act or rules or regulations or orders made, or directions issued, thereunder, be liable to pay, by way of financial disincentive, an amount of rupees one thousand per day for default up to thirty days beyond the due date and an additional amount of rupees two thousand per day in case the default continues beyond thirty days from the due date, as the Authority may, by order, direct:

Provided that the financial disincentive levied by the Authority under this sub-regulation shall in no case exceed rupees two lakhs:

Provided further that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the distributor has been given a reasonable opportunity of representation against the contravention of the regulations, observed by the Authority:

Provided also that the Authority may direct the broadcasters to disconnect the signals of its television channel after giving written notice of three weeks to the distributor in case the default continues beyond sixty days from the due date.”

5.7 The Telecommunication (Broadcasting and Cable) Services Register of Interconnection Agreements and all such other matters Regulations, 2019 stipulate following regarding financial disincentive:

“4. Consequences for failure to report or verify the reported information by the broadcaster or distributor.— (1) *If any broadcaster or distributor fails to furnish the information or certificate or fails to verify the reported information, as required under regulation 3, by the due date, it shall, without prejudice to the terms and conditions of its 8 license/permission/registration, or the Act or rules or regulations or order made or direction issued thereunder, be liable to pay, by way of financial disincentive, an amount of rupees one thousand per day for default up to thirty days beyond the due date and an additional amount of rupees two thousand per day in case the default continues beyond thirty days from the due date, as the Authority may, by order, direct.*

Provided that the financial disincentive levied by the Authority under this sub-regulation shall in no case exceed Rupees Two Lakhs.

Provided further that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the broadcaster or the distributor, as the case may be, has been given a reasonable opportunity of representation against the contravention of the regulations observed by the Authority.

(2) The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by the Authority.”

- 5.8 Provisions related to financial disincentives in QoS Regulations 2017 and Interconnections regulations 2017 are applicable to limited provisions only. There are no provisions regarding financial disincentives in the Tariff Order 2017. Further, there are no provisions for levying interest on delayed payment of financial disincentive.
- 5.9 In view of the foregoing, in order to ensure compliance of the provisions of the Tariff Order 2017, Interconnection Regulation 2017 and QoS regulations 2017, the Authority intends to amend the Tariff Order and Regulations.

Issues for consultation:

Q31. Should a financial disincentive be levied in case a service provider is found in violation of any provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?

a. If yes, please provide answers to the following questions:

- i. What should be the amount of financial disincentive for respective service provider? Should there be a category of major/ minor violations for prescription of differential financial disincentive? Please provide list of such violation and category thereof. Please provide justification for your response.**
- ii. How much time should be provided to the service provider to comply with regulation and payment of financial disincentive. and taking with extant regulations/tariff order?**
- iii. In case the service provider does not comply within the stipulated time how much additional financial disincentive should be levied? Should there be a provision to levy interest on delayed payment of Financial Disincentive?
 - 1. If yes, what should be the interest rate?**
 - 2. In no, what other measures should be taken to ensure recovery of financial disincentive and regulatory compliance?****
- iv. In case of loss to the consumer due to violation, how the consumer may be compensated for such default?**

b. If no, then how should it be ensured that the service provider complies with the provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?

Any other matter related to the issues raised in present consultation

Q32. Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in present consultation.

Chapter VI

Summary of Issues for Consultation

A. Tariff related issues

- 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?**
- 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.**

- Q8. Whether the extant prescribed HD/SD ratio which treats 1HD channel equivalent to 2SD channels for the purpose of counting number of channels in NCF should also be reviewed?**
- a. If yes, should there be a ratio/quantum? Or alternatively should each channel be considered as one channel irrespective of its type (HD or SD or any other type like 4K channel)? Justify with reasons.**
 - b. If no, please justify your response.**
- Q9. What measures should be taken to ensure similar reception quality to subscribers for similar genre of channels? Please suggest the parameter(s) that should be monitored/ checked to ensure that no television channel is discriminated against by a DPO. Please provide detailed response with technical details and justification.**
- 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.**
- Q11. Should Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 be made applicable to non-addressable 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.

B. Interconnection related issues

Q14. In case of amendment to the RIO by the broadcaster, the extant provision provides an option to DPO to continue with the unamended RIO agreement. Should this option continue to be available for the DPO?

- a. If yes, how the issue of differential pricing of television channel by different DPOs be addressed?**
- b. If no, then how should the business continuity interest of DPO be protected?**

Q15. Sometimes, the amendment in RIO becomes expedient due to amendment in extant Regulation/ Tariff order. Should such amendment of RIO be treated in a different manner? Please elaborate and provide full justification for your comment.

Q16. Should it be mandated that the validity of any RIO issued by a broadcaster or DPO may be for say 1 year and all the Interconnection agreement may end on a common date say 31st December every year. Please justify your response.

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?

Q19. Should the revenue share between an MSO (including HITS Operator) and LCO as prescribed in Standard Interconnect Agreement be considered for a review?

a. If yes:

- i. Should the current revenue share on NCF be considered for a revision?**
- ii. Should the regulations prescribe revenue share on other revenue components like Distribution Fee for Pay Channels, Discount on pay channels etc.? Please list all the revenue components along-with the suggested revenue share that should accrue to LCO.**

Please provide quantitative calculations made for arriving at suggested revenue share along-with detailed comments / justification.

b. If no, please justify your comments.

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.

Q23. In respect of DPO's RIO based agreement, if the broadcaster and DPO fail to enter into new interconnection agreement before the expiry of the existing agreement, the extant Interconnection Regulation provide that if the parties fail to enter into new agreement, DPO shall not discontinue carrying a television channel, if the signals of such television channel remain available for distribution and the monthly subscription percentage for that television channel is more than twenty percent of the monthly average active subscriber base in the target market. Does this specified percentage of 20 percent need a review? If yes, what should be the revised prescribed percentage of the monthly average active subscriber base of DPO. Please provide justification for your response.

C. Quality of Service related issues

Q24. Whether the extant charges prescribed under the 'QoS Regulations' need any modification required for the same? If yes, justify with detailed explanation for the review of:

- a. Installation and Activation Charges for a new connection**
- b. Temporary suspension of broadcasting services**
- c. Visiting Charge in respect of registered complaint in the case of DTH services**
- d. Relocation of connection**

e. Any other charges that need to be reviewed or prescribed.

Q25. Should TRAI consider removing capping on the above-mentioned charges for introducing forbearance? Please justify your response.

Q26. Whether the Electronic Programme Guide (EPG) for consumer convenience should display

- a. MRP only
- b. MRP with DRP alongside
- c. DRP only?

Justify your response by giving appropriate explanations.

Q27. What periodicity should be adopted in the case of pre-paid billing system. Please comment with detailed justification.

Q28. Should the current periodicity for submitting subscriber channel viewership information to broadcasters be reviewed to ensure that the viewership data of every subscriber, even those who opt for the channel even for a day, is included in the reports? Please provide your comments in detail.

Q29. MIB in its guidelines in respect of Platform Services has *inter-alia* stated the following:

- a. The Platform Services Channels shall be categorised under the genre 'Platform Services' in the EPG.
- b. Respective MRP of the platform service shall be displayed in the EPG against each platform service.
- c. The DPO shall provide an option of activation /deactivation of platform services.

In view of above, you are requested to provide your comments for suitable incorporation of the above mentioned or any other provisions w.r.t. Platform Services channels of DPOs in the 'QoS Regulations'.

Q30. Is there a need to re-evaluate the provisions outlined in the ‘QoS Regulations’ in respect of:

- a. Toll-free customer care number**
- b. Establishment of website**
- c. Consumer Corner**
- d. Subscriber Corner**
- e. Manual of Practice**
- f. Any other provision that needs to be re-assessed**

Please justify your comments with detailed explanations.

D. Financial Disincentive

Q31. Should a financial disincentive be levied in case a service provider is found in violation of any provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?

- a. If yes, please provide answers to the following questions:**
 - i. What should be the amount of financial disincentive for respective service provider? Should there be a category of major/ minor violations for prescription of differential financial disincentive? Please provide list of such violation and category thereof. Please provide justification for your response.**
 - ii. How much time should be provided to the service provider to comply with regulation and payment of financial disincentive. and taking with extant regulations/tariff order?**
 - iii. In case the service provider does not comply within the stipulated time how much additional financial disincentive should be levied? Should there be a provision to levy interest on delayed payment of Financial Disincentive?**
 - 1. If yes, what should be the interest rate?**

- 2. In no, what other measures should be taken to ensure recovery of financial disincentive and regulatory compliance?**
- iv. In case of loss to the consumer due to violation, how the consumer may be compensated for such default?**
- b. If no, then how should it be ensured that the service provider complies with the provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?**

E. Any other issue

Q32. Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in present consultation.

Salient features of the Regulatory Framework 2017

For Consumers

- A consumer becomes real decision maker of what she/he views and has complete freedom to choose what he/she wishes to watch and pay only for that. It is mandated that all channels have to be offered on a-la-carte basis and the MRP has to be declared. Same way, the MRP of the Bouquet has to be published.
- Flexibility has been given to the DPOs to drop such channel which do not command reasonable subscription thereby increasing the capacity to carry more channels of consumer choice.
- Consumer is not required to pay any subscription fee for a FTA channel if he subscribes to one.
- The service providers have been mandated to give full information regarding channel prices on Electronic Program Guide.
- Consumer gets clarity of the product offered and is not fleeced by smart packaging. It has been mandated that FTA channels can't be clubbed with Pay channels in a Bouquet. Further, HD channels can't be clubbed with the SD version of the same channel, so that the consumer has complete clarity with respect to what is on offer.

For Broadcasters

- For the first time since 2004, Broadcaster has become master of their channels, with full price forbearance. Broadcaster can now fix maximum retail price (MRP) of a pay channel for consumers. The concept of broadcaster giving channels to DPO on wholesale price and DPO retailing it to consumer is given a go by.
- All price caps which operated since 2004 in the analogue mode and fixing of rates of channels by broadcasters keeping frozen analogue

rates as the basis in the addressable system has been removed. Broadcaster can price its channels and fix MRP for the consumer under complete forbearance.

- Flexibility has also been provided to broadcaster to offer bouquet of channels for the consumers and prescribe MRP of the same.
- The bouquet(s) offered by the broadcasters to consumers shall be provided by the DPOs to the consumers without any alteration in composition of the bouquet(s).
- For Channels a “Must carry” provision has been prescribed for all types of distribution platforms, thereby removing entry barrier for any broadcaster. All DPOs are required to publish an RIO giving details of carriage fee. Transparent and slab-wise pricing of channel carriage fee is mandated, thereby benefitting any broadcaster who gets more eyeballs.
- Mandatory provision of Electronic Program Guide (EPG) to ensure that all channels are available to the consumers transparently.
- To ensure the smooth revenue flow in the value chain and thereby reducing the disputes, a provision of mandatory and transparent third party audits of DPOs to ensure true reporting of subscriber base has been provided.
- Automated system generated subscriber reports to be made available by DPOs to all broadcasters, thereby improving transparency has been provided for.

For DPOs

- Broadcasters have been mandated to publish an RIO giving transparent and non-discriminatory terms including discounts (if any) based on measurable parameters. This would enable DPOs in getting non-discriminatory deals on a transparent basis and scope of disputes would be reduced.

- Broadcasters have to enter into agreements with DPOs on the basis of RIO only. No mutual negotiations de hors the RIO is permitted.
- DPOs are empowered as they can now sign and send the RIO published by any broadcaster and it is treated as binding agreement.
- Standard format for subscription reports by DPOs and Audit mechanism has been provided.
- Independent source of revenue for DPOs in form of Network Capacity fee so that they can upgrade their network and services.
- Cost of channel and cost of network has been made independent of each other.

Salient features of the amended Framework 2020

Benefit for Consumers

- Increase in number of SD channels from 100 to 200 in the NCF of maximum Rs. 130/- per month.)
- More than 200 SD channels in the NCF of maximum Rs. 160/- per month.
- NCF for 2nd TV connection and onwards in multi TV homes not more than 40% of declared NCF per additional TV.
- Subscribers can choose different set of channels for each TV connection in a multi TV home
- Reduction of ceiling price on MRP of pay channels for inclusion in bouquet from Rs. 19/- to Rs. 12/-.
- Reasonable restrictions on number of bouquets offered by broadcasters - Number of bouquets of pay channels not to be more than number of pay channels offered by a broadcaster.
- MRP of a channel should not be more than the MRP of any bouquet containing that channel in order to bring further reasonableness in the bouquet formation and pricing.

Benefit for Broadcasters

- Reduced amount of carriage fee - 20 paise per subscriber per month for SD channels with a cap of Rs. 4 lakh per month payable by a broadcaster to a DPO in a month for carrying a channel in the country.
- More channels will be pushed in same NCF hence additional revenue to them (200 Channels in Rs 130 and unlimited in Rs 160)
- Broadcasters' freedom to fix price of their channels continued
- Certainty in placement of channel ((EPG regulated)

- More consumption of TV services as NCF for multi TV regulated

Benefit for DPOs

- Flexibility to DPOs to declare different NCFs for different geographical regions/areas within their service areas
- DPOs may offer discounts on NCF and DRP on long term subscriptions of duration of 6 months and above.
- Flexibility in Display of TV channels on Electronic Program Guide (EPG) – however channels of a particular language in a genre are to be displayed together consecutively and one television channel shall appear at one place only

Record of Discussions of Committee of Stakeholders dated
23.12.2021

1. The committee comprising of representatives of Indian Broadcasters' Digital Association, AIDCF, DTH Association and TRAI officials with Secretary TRAI as Chairman was formed vide letter No RG-8/1/(9)/2021-B & CS dated 22.12.2021.
2. A meeting with all the three stakeholders that is Broadcasters (IBDF), MSOs (AIDCF) and DTH Association was held on 23 December 2021. Following were present in this meeting:

A. TRAI-

- | | |
|------------------------------|---------------------|
| i. Mr V. Raghunandan, | Secretary, |
| ii. Mr Mahendra Srivastava, | Pr. Advisor (B&CS), |
| iii. Mr Anil Kumar Bhardwaj, | Advisor (B&CS), |
| iv. Mr V. K. Agarwal, | Jt. Advisor(B&CS), |
| v. Mr Devendra Dwivedi, | Jt. Advisor(B&CS), |

B. IBDF Representatives

- | | |
|-----------------------|-------------|
| i. Mr Rajesh Kaul, | SONY |
| ii. Mr Gurjeev Singh, | Disney Star |
| iii. Mr Amit Arora, | TV 18 |
| iv. Mr Atul Das, | ZEEL |
| v. Mr Siddarth Jain, | IBDF |

C. AIDCF Representatives

- | | |
|----------------------------|-----------------|
| i. Mr Anirudh Sinh Jadeja, | GTPL Hathway |
| i. Mr Anil Malhotra, | SITI |
| ii. Mr Ajay Singh, | Hathway Digital |
| iii. Mr Peeyush Mahajan, | Fastway |

- iv. Mr Yatin Gupta, GTPL Hathway
- v. Mr Manoj Chhangani, AIDCF

D. DTH Representatives

Mr Harit Nagpal, DTH Association

3. Secretary TRAI, in the beginning, explained the purpose of constituting the purpose of this committee, by the Authority. The idea is to:
 - a) Look into process of smooth implementations of New Regulatory Framework 2020 keeping in view consumers convenience in exercising informed choices and suggest measures thereof (if any).
 - b) Identify issues of concern and suggest measures for overall growth of the broadcasting sector.
4. Secretary, TRAI further informed that the stakeholders can present their issues and challenges which require resolution by the Authority. It was suggested that they should also bring out ways and means which may be considered by the authority. The stakeholders should present common set of solutions in this meeting after due deliberation among themselves.
5. Based on the deliberations and discussions among the three stakeholders, the following points were put forward by the representatives of service providers:
 - a) The proposed tariffs by broadcasters through their RIOs submitted in compliance to NTO 2.0 Tariff Orders would cause significant increase in the tariffs to consumers. The consumer price rise, if any is required to be limited to a reasonable limits, say not exceeding 5% of current applicable tariffs.
 - b) The proposed RIOs by Broadcasters may cause significant changes in the packages, especially due to keeping popular channels at higher a-la-carte prices, not being part of bouquets. This enjoins DPO to make

very large number of plans and package offerings. Therefore, the DPOs require support from broadcasters so that they do not have to make large number of plans/ bouquets.

- c) Considering facts mentioned above, there is a need to simplify the process of exercising choices by consumers so that no channel should be provided to consumers without explicit consent. Consumers should have facility to remove any channel.
- d) Same product (television Channel) should be offered on same price whether on Linear Television, Free Dish or Subscription based Video on Demand.
- e) Stakeholders suggested that more than two more years have passed since NTO 2.0 amendments and more than three years have passed with NTO 1.0 implementations, since then, there is no change in prices of bouquet or ala- carte channels. This has kept industry under stress in terms of providing quality product to the end consumers. As such restoring the MRP ceiling for bouquet inclusion to unamended tariff order level of Rs. Nineteen (19/-) would be appropriate.
- f) The above provision shall also help in maintaining bouquet structure by ensuring all popular channels within ceiling limits of bouquet. Additionally, this will also create bare minimum hassles to consumers in exercising their choices under new tariffs, as most of the tariffs may continue in its current form.
- g) Allowing additional fifteen (15 %) percent incentive to DPOs for bouquets as well, as has been provided for a-la-carte channel (It was pointed by the chair that the said provision pertains to Interconnection regulations and is not part of Tariff Order).
- h) The second twin condition may be reviewed to enhance the discount on sum of MRP of a-la-carte of pay channels forming part of the bouquet to fifty percent. This will enable the broadcasters to cross-subsidize the packages with advertisement revenue.

- i) Free To Air (FTA) channels may be allowed to be part of the bouquet of Pay channels.
 - j) Revision in the ceiling of Network Capacity Fee (NCF) of Rs 130/-.
 - k) In case of multi-TV home, broadcaster should also offer MRP of their channels for each additional TV connection, beyond the first TV connection, @ 40% of the MRP declared for the first TV connection. This will help consumers in saving cost of subscribing pay channels on multiple televisions.
 - l) Review of ceiling of fifteen percent (15%) on discount on sum of a-la-carte channels of MRP of that bouquet available for DPOs.
6. The stakeholders opined that review of all the issues is required. The stakeholders, however, requested TRAI to address critical issues mainly related to implementation of NTO-2.0 Tariff Orders immediately by appropriate action. Other issues may be considered by TRAI later-on. Urgent action is necessary to manage steep rise in tariffs due to proposed RIOs and also to avoid inconvenience for consumers arising out of impending new tariff offers.
7. Stakeholders agreed with TRAI that consumers benefits are of prime importance. Stakeholders suggested that, for this, popular channel of the broadcasters need to be included in the bouquets offered to consumers by broadcasters as well as DPOs.
8. All the stakeholder requested that to include all the channels in bouquets, there is a need to review the two most critical issues that require immediate attention and resolution. These two issues are:- i) the a-la-carte price ceiling of pay channels for inclusion of that channel in bouquet; and, ii) the ceiling on discount as prescribed by the second twin condition.
9. Representatives of IBDF assured that in case the ceiling of Rs. 12/- on MRP of a pay channel for including that channel in a bouquet is revised

upwardly, broadcasters will include all the popular channels below the new ceiling so that these channels can be provided in bouquets.

10. Representatives of IBDF, AIDCF and DTH association were asked to give in writing the issues discussed identifying critical issues for immediate attention and other issues.

11. The meeting ended with thanks to the chair.

Annexure-IV**Details of Meetings organised by TRAI with various stakeholders**

| S. No. | Date | Organised by | Place | Stakeholders |
|---------------|-------------|---------------------|-------------------------|---|
| 1. | 23.12.21 | TRAI HQ | New Delhi | AIDCF, IDBF & DTH Association |
| 2. | 10.01.2022 | RO Kolkata | Video Conferencing Mode | MSOs |
| 3. | 25.02.22 | RO Hyderabad | Chennai | LCOs and MSOs |
| 4. | 28.03.2022 | RO Kolkata | Video Conferencing Mode | MSOs |
| 5. | 15.06.2022 | RO Kolkata | Guwahati | MSOs of Assam and North East |
| 6. | 30.06.22 | RO Jaipur | Jaipur | LCOs and MSOs |
| 7. | 20.07.22 | RO Kolkata | Patna | LCOs and MSOs of Bihar & Jharkhand |
| 8. | 06.10.22 | RO Kolkata | Siliguri | LCOs and MSOs of Northern part of West Bengal |
| 9. | 16.12.22 | RO Kolkata | Video Conferencing Mode | LCOs and MSOs |
| 10. | 23.12.22 | RO Bhopal | Bhopal | MSOs of Madhya Pradesh |
| 11. | 27.12.22 | RO Kolkata | Video Conferencing Mode | Regional MSOs |

| | | | | |
|-----|----------|-----------------|-------------------------------|---|
| 12. | 12.01.23 | RO Bangalore | Pune | LCOs and MSOs |
| 13. | 30.01.23 | TRAI HQ | New Delhi | AIDCF |
| 14. | 09.02.23 | RO Bhopal | Mussoorie | LCOs and MSOs of Uttarakhand |
| 15. | 10.02.23 | RO Bangalore | Mumbai | IBDF |
| 16. | 23.02.23 | TRAI HQ | New Delhi | IBDF |
| 17. | 23.03.23 | TRAI HQ | Video Conferencing Mode | DTH Association |
| 18. | 03.04.23 | TRAI HQ | Video Conferencing Mode | Association of LCOs |
| 19. | 10.04.23 | RO Kolkata | Guwahati | LCOs and MSOs |
| 20. | 27.04.23 | TRAI HQ | New Delhi | Digital Service Provider Federation |
| 21. | 12.05.23 | RO Kolkata | Video Conferencing Mode | MSOs |

Report of the Committee on issues related to New Regulatory Framework

1. The New Regulatory Framework, notified by the Telecom Regulatory Authority of India (TRAI) in March 2017, came into force from 29th December 2018. Migration of subscribers to new framework has been completed on 31st March 2019. During migration to new regulatory framework, certain issues were raised by various stakeholders. In order to deliberate on these issues, a committee was constituted on 15th April 2019 under the aegis of TRAI consisting of representatives from IBF, NBA, AIDCF and DTH operators.

2. The Committee consist of following members:
 1. Mr Arvind Kumar, Advisor (B&CS) - **Convener of the Committee**
 2. Mr K. R. Arora, News Broadcasters Association
 3. Mr Ankit Singh, News Broadcasters Association
 4. Mr Rajesh Kaul, Indian Broadcasting Foundation
 5. Mr Mihir Rale, Indian Broadcasting Foundation
 6. Mr Ajay Singh, All India Digital Cable Federation
 7. Mr Anil Malhotra, All India Digital Cable Federation
 8. Mr Vibhav Srivastava, All India Digital Cable Federation
 9. Mr Sukhpreet Singh, Dishd2H Limited
 10. Mr Prashant Dixit, Airtel DTH
 11. Ms Sayantani Gupta, Tata Sky
 12. Mr. Ramanathan V., SUN Direct
 13. Mr. Rupesh V., Independent TV

3. The scope of work of the committee was to deliberate on the following issues and provide its recommendations within 3 weeks from the date of its formation:
 - a. Facilitate discount in NCF and DRP by DPOs on long term subscriptions

- b. Facilitate discount in NCF and DRP by DPOs for Multi TV connections in a household
 - c. Placement of channels in EPG genre wise/language wise and issues related therein
 - d. Limit on number of bouquets being formed by broadcasters
4. The committee held its meetings on 16th April 2019, 24th April 2019, 2nd May 2019 and 31st May 2019. The deliberations during the meetings of the committee are as follows:

i. **Discount in NCF and DRP by DPOs on long term subscriptions**

- As per provisions of new regulatory framework, DPOs are required to declare network capacity fee (NCF) and distributor retail prices (DRPs) of channels and bouquet of channels on monthly basis. Subscribers when choose TV packs usually pay NCF and DRPs at the monthly rate declared by DPOs. A number of DPOs represented to TRAI that they want to offer long term subscriptions and as subscribers pay amount of subscription in advance, they would like to offer discount to subscribers. However, there are no explicit provisions for long duration subscriptions and discount thereon in new regulatory framework. TRAI has also received several complaints from subscribers on the discontinuation of the long term subscriptions by various service providers. Therefore, this committee was tasked to deliberate the issue with industry to work out an amicable solution.

Representatives of DPOs mentioned that as per new regulatory framework they are required to declare monthly NCF and DRP of channels and bouquet of channels. They further suggested that since a subscriber opting for a long-term subscription pays the amount of applicable NCF and DRP in advance for entire duration of subscription, he/she expects discount on NCF and DRP of channels and bouquet of channels. Members of the committee deliberated on pros and cons of allowing discount both on NCF and DRP. After detailed deliberation, members of the committee were of the view that there is no harm in providing reasonable discount for long term subscriptions. However, there should be a minimum duration to be

considered for long term subscription. Some members were of the view that recommending very short period may be misused by the service providers by giving heavy discount on long duration subscription. In turn, it may compromise the sanity of monthly DRP and NCF. However, making this duration long will not attraction the subscribers and very purpose will be defeated. Accordingly, it was decided that any subscription with a minimum duration of 6 months or above shall be treated as long term subscription. Representatives of some DTH operators mentioned that subscription with 3 months as minimum duration should be treated as long term subscription. Representative of one DTH operator further mentioned that existing long term subscriptions with 3 months should be allowed to continue till their expiry and new schemes to be announced henceforth will be in accordance with the decision of the committee.

- Some members of committee were of the view that there should not be any restriction on the discount on NCF as it may be required for attracting consumer in the market and DPOs should have full flexibility to offer NCF on Long duration plan. The committee unanimously was of the view that NCF is entirely in the domain of DPOs. Hence, they should be given complete freedom to offer any discount on the NCF part in the long-term subscriptions. However, issue of providing discount on DRP of channels or bouquets of channels declared on monthly basis require in-depth deliberations. IBF representatives stated that the broadcasters would have no objection to DPOs offering discounts on the DRPs. DRP primarily flows from the MRP of the channel or bouquet of channels for which interconnection agreements have been done between DPOs and broadcasters. Subscribers are identified by active set top boxes and it is difficult to identify long term subscription based on active subscriber base. While some methods can be worked out, but possibility of disputes and manipulations cannot be ruled out. As such, huge discounts on DRP may distort the market. In order to regulate such discounts members pointed out that DPOs may use permissible discount of upto 15% to encourage long term subscriptions, which can be passed on to subscribers by DPOs. DPOs are free to give further discount on the MRP in declaring DRPs. Accordingly, members felt that as far as discount on DRPs is concerned, heavy discount on the DRP may distort the

market or some unfair practices may start in the market. Therefore, there should be a reasonable cap on the discount on DRP of channels and bouquet of channels for long term subscriptions. Accordingly, the committee unanimously recommends that:

- a) **Any subscription with advance payment for a duration of 3months/6 months or more shall be treated as long term subscription.**
- b) **DPOs should be permitted to offer discount on NCF, declared on monthly basis, for long term subscriptions and there should not be any cap on such discounts on NCF offered to the subscribers, but such discounts should be uniform and non-discriminatory for all subscribers.**
- c) **DPOs should be permitted to offer a discount maximum upto 15% on declared monthly Distributor Retail Prices (DRP) of channels and bouquet of channels formed by DPOs as well as broadcasters for long term subscriptions. However, such discounts should be uniform and non-discriminatory for all subscribers.**
- d) **DPO should publish and report to the Authority the NCF and DRP for all long term subscriptions as per the extant Regulations and tariff order or as directed from time to time.**

ii. Discount on NCF and DRP by DPOs, declared on monthly basis, for Multi TV connections in a household

- Some subscribers of Cable TV and DTH services have raised the concerns that DPOs are charging equal amount of NCF for each TV connection in a household commonly termed as multi TV connections. Some subscribers have also mentioned that DPOs are providing same set of channels on all the TV connections and not allowing subscribers to choose different set of channels for different TV connections in a household. These subscribers have sought clarifications regarding tariff for multi TV connections in a household. At present there are no separate provisions regulating tariff for multiple TV connections in a household in the Tariff Order 2017.

Accordingly, the committee was tasked to look into various related issues and give its recommendations.

- Looking at the concerns raised by subscribers, the committee discussed the issue of discount in tariff for multiple TV connections in a household. Some members of the committee also mentioned that incremental cost and efforts required to provide 2nd TV connection onwards in a given home is less compared to that of providing 1st connection. Therefore, once it is allowed, they will be happy to provide discounts to the subscribers having multi TV connections in a household. Accordingly, the committee unanimously is of the view that there is no harm in providing some discount on NCF for Multi TV in a household, however, this should not be misused by DPOs to provide connections to commercial organisations like hotels, hospitals, shopping malls etc.
- DTH operators mentioned that they are already offering discount in NCF for 2nd TV onwards in a household. Representatives of MSOs mentioned that they are also willing to offer discount in NCF for 2nd TV onwards in a household. Representatives of DPOs mentioned that as per provisions of new regulatory framework broadcasters declare MRP of channels and bouquet of channels on per month per subscriber basis. They further mentioned that in new framework each set top box is considered as one subscriber and broadcasters also charge them for each subscriber. DPOs were of the view that they can provide discount in DRP of channels and bouquets of channels, in case broadcasters also offer discount in MRP of channels and bouquets of channels for 2nd TV onwards in a household subject to a robust system whereby DPO is able to authenticate the number of 2nd TV onwards in a home. Representatives of broadcasters mentioned that it may be very difficult to identify and authenticate the number of multiple TVs in a household. In such a situation it is not possible for them to provide discount on MRPs of their channels and bouquets of channels for 2nd TV onwards in a household at this stage. However, if a need arises, the issue may be deliberated through an open consultation process. All DPOs agreed that since each set top box is being considered as an active subscriber, complete flexibility should be given to

subscribers in selection of channels for each TV in a given household. Accordingly, the committee unanimously recommends that:

- a. **DPOs should be permitted to offer discount in NCF for 2nd TV onwards in case of Multi TV connections in a household and there should not be any limit on discount on NCF. Such discounts should be uniform and non-discriminatory. DPOs should ensure that this should not be misused for providing connection in commercial organisations like hotels, hospitals, shopping malls etc.**
 - b. **DPOs shall publish on their website, the tariff policy for multi TV connections in a household clearly indicating applicable discounts.**
 - c. **DPOs should not be permitted to offer discount on monthly DRP of channels and bouquet of channels for 2nd TV onwards for Multi TV connections in a household.**
 - d. **DPOs must ensure that subscribers have choice to select the channels for each TV in a given household individually.**
 - e. **DPO should publish and report to the Authority NCF for 2nd TV onwards in case of Multi TV connections in a household.**
- iii. **Placement of channels in EPG genre wise/language wise**
- In new regulatory framework, DPOs are required to display all channels available on its platform in the EPG under the respective genre of the channel as declared by the broadcaster. DPOs are permitted to divide the channels under one genre into sub-genres on the basis of language or region. The objective of such scheme is that consumers who knows a specific language is not forced to move across all channels to get TV channel of his choice. After examining details of existing practice of placement of channels in EPG submitted by some DPOs, it was observed that DPOs have adopted different approaches for placement of channels in EPG. Some DPOs have arranged channels first language wise and then genre wise under each language. Some DPOs have arranged channels first genre wise and then language wise under each genre. This issue was flagged by some DPOs during discussions on

implementation of new regulatory framework. Accordingly, the committee was tasked to look into various issues associated with it and give its recommendations.

- Representatives of DPOs mentioned that the present practice of placement of channels in EPG should be continued and reviewed after some time as any change in EPG at this point may cause inconvenience to subscribers. They further submitted that any change in existing practice of placement of channels in EPG adopted by them might result in change of LCN, which may further cause inconvenience to consumers in locating channels in EPG. There is no uniformity in the practice followed by different DPOs in respect of placement of channels in EPG. Some prefer classification first on language basis then genre, while some prefer genre and then language. Some other prefer mixed approach. No consensus could be achieved regarding placement of TV channels in EPG. In view of above, the committee recommends that:

- a) Present provisions of placement of TV channels in EPG as per new regulations should not be interfered with.**
- b) Issue of placement of channels in EPG may be revisited by TRAI after a detailed consultation process with the stakeholders.**

iv. Limit on number of bouquets by broadcasters

- In the new regulatory framework, broadcasters have been given freedom to offer their channels in form of bouquet in addition to a-la-carte offering. However, it has been observed that broadcasters are offering large number of bouquets of their channels. One broadcaster and its group companies are offering 97 bouquets of channels for its 57 channels. Another broadcaster and its group companies are offering 82 bouquets of channels for its 58 channels. Consumers are facing problems in making selection of the choice out of such large number of bouquet and a la carte channels. Offering of large number of bouquets by broadcasters defeats the very purpose of ensuring consumer choice as envisaged in the new

regulatory framework and also results in inconvenience to consumers as well as DPOs.

- Representatives of DPOs stated that large number of bouquets of channels offered by broadcasters are creating lot of problems in their IT systems. They further informed that some broadcasters put one channel in several bouquets, which creates technical problem for them as their Conditional Access System (CAS) have limitation that one channel cannot be part of more than certain number of bouquets. DPOs suggested that there should be a limit on the number of bouquets offered by a broadcaster. It was also discussed that there should be a reasonable limit on the number of bouquets offered by a broadcaster, as large number of bouquets create confusion for a subscriber while exercising choice of channels/bouquets. Representatives of broadcasters mentioned that they will be able to provide inputs on this issue only after evaluation of Monthly Subscription Reports (MSRs) provided by DPOs as per new regulatory framework. As no consensus was arrived among committee members, the committee recommends that:

Issue of limit on the number of bouquets offered by a broadcaster should be decided by TRAI after a detailed consultation process with the stakeholders.

v. Additional issues

- Some members raised certain additional issues during the various meetings of the committee. Representatives of broadcasters mentioned that the committee should restrict its report only to the terms of reference decided initially and any additional issue should be dealt separately.
- Following additional issues were raised:
 - a) DPOs stated that non implementation of cap of 15% on discount offered by broadcasters while forming bouquet of their channels has created a lot of problems in implementation of the new framework. They suggested that the TRAI should implement the cap of 15 % on the discount offered by

broadcasters on sum of MRPs of a-la-carte channels while forming the bouquets consisting of these channels. Such restriction will address number of issues such as formation of a large numbers of bouquets by broadcasters, unreasonable pricing of the individual channel etc.

- b)** Some DPOs mentioned that as per clause 7 of the Tariff Order 2017, they are required to report any subsequent change in network capacity fee, name, nature, language, distributor retail prices of pay channels, distributor retail price or composition of bouquet of pay channels and composition of bouquet of free-to-air channels, as the case may be, to the Authority at least fifteen days prior to the change. They suggested that the reporting should be required within 10 days from the date of effecting the change.

- c)** Some DPOs mentioned that broadcasters make frequent changes in configuration of their bouquets by altering number of channels which has implications on NCF charged to the subscribers and IT complications thereof. They stated that in some cases even if one channel is added to a bouquet, with or without any change in price, amount of NCF goes up by Rs 20/- for all subscribers who have subscribed such bouquet and sitting on maximum channel count for that NCF band.

MIB reference dated 23rd May 2013

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2

D.O.NO. 16/1/2013-BP&L

23rd May, 2013

Dear Dr. Khullar,

As you are aware two phases of cable TV digitization have been concluded recently. This has been a challenging exercise for the Ministry. Apart from the monitoring of procurement and installation of Set top boxes, operationalization of MSO head-ends, conducting consumer awareness campaign etc. the Ministry had to also constantly review the progress of signing of interconnect agreements between MSOs and broadcasters. During these reviews we have found that there is an inordinate delay in signing of agreements between MSOs and Broadcasters. Most Broadcasters take services of Aggregators for distribution of their signals. Towards this agreements are signed between MSOs and Aggregators on behalf of broadcasters.

2. There have been several complaints from MSOs about the Modus Operandi of aggregators. It has been highlighted that since Aggregators control several channels of different broadcasters, MSOs are forced to subscribe to certain packages. There are mainly 4-5 major Aggregators who deal with more than 80% of Pay Channels. This leads to monopolistic practices, thereby curbing competition and denying a fair play. Aggregators on the other hand complain that most MSOs do not provide correct data about their subscriber base. Further they allege that MSOs very often do not comply with mandatory requirements of DAS like Subscriber Management System and Conditional Access System etc, which leads to delay in signing of agreements.

3. It is pointed out that the entity of Aggregators has not been defined specifically either in the Cable Television Networks (Regulation) Act 1995 and Rules, as well as in any of the Regulations issued by the Telecom Regulatory Authority of India. However Section 2(aii) of the Cable Television Networks (Regulation) Act 1995 defines a broadcaster as "Broadcaster means a person or a group of persons, or body corporate, or any organization or body providing programming services and includes his or its authorized distribution agencies." This definition envisages that a Broadcaster can distribute channel(s) either by himself or through its authorized distribution agencies. It is to be examined whether such authorized distribution agencies as provided in the above definition should include Aggregators.

Issued on 23/5/13
 2013

1

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4. We have noticed that the authorized distribution agencies have taken the shape of Aggregators. These Aggregators have emerged as very important entities in the entire broadcasting value chain often working as separate companies/Joint Venture partners and bundling and distributing signals of various broadcasters as packages/ bouquets. It has also been noticed that the Aggregators sign agreements with MSOs in their own name rather than in the name of the Broadcaster on whose behalf they are distributing signals. This appears to be a separate business enterprise not falling in the definition of a Broadcaster. Therefore, there is a need to examine whether the entity of Aggregators/ distribution agencies be brought under a Regulatory Framework including permission for operation, terms and conditions of Modes Operandi etc.

5. Since Aggregators have come to play a very important role in the entire broadcasting value chain and have a significant impact on the ongoing digitization initiative, the Authority may look into the Definition, Role, and functioning of Aggregators/Distribution agencies and make recommendations on following:

- I) Given the fact that the Content Aggregators are functioning as authorized agents of a number of broadcasters in the present form of Aggregator, whether there is a need to put in place a regulatory framework for aggregators/ distribution agencies including their definition, role, scope of work, cross holding restrictions etc.
- II) The regulatory framework in the light of above.

6. It is requested that the Authority may consider the above issues and furnish their recommendations under Section 11(1)(a)(i)(ii)(iii) and (iv) of the TRAI Act, 1997.

Regards,

Yours sincerely,

Uday Kumar Varma
(Uday Kumar Varma)

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