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Comments on the Consultation Paper on the Draft Tariff Order (Oct 2016)

We are thankful to the Authority for coming up with a very path breaking Regulation that aims to bring in a new method of consuming content on TV, especially now that the entire country will be off analogue transmissions. It is also a path breaking regulation that will redefine how content is sold to consumers and can be a trend setter across the world. However, there is need for the Regulation to clearly spell out what is the role of "DD Free Dish" in the proposed regulatory scenario. As at present DD Free Dish distributes unencrypted signals which can be accessed at will. When all platforms have become Digital and come under a common Tariff, QoS & Interconnect how would DD Free Dish be regulated in such a scenario ?

With a plethora of channels, it is absolutely important that the industry works transparently and we move to a market driven pricing model just as it works across different consumer products. With so many channels to choose from, it is necessary that consumers have enough choices to choose from. It is only after consumers exert their choices that true price discovery will happen and price elasticity gets tested.

The hallmark of this Tariff Order is that it treats all digital platforms as equal and clearly spells out to the consumer the cost of delivery, content costs and applicable taxes. To great extent it is CAS 2007 redefined except for the rates of channels and revenue sharing formula. As most of us Operators who went through this phase can recall, consumers never complained, as enough choices existed before them and a vast majority exercised the a la carte option which today is no option as a la carte rates are artificially inflated to make the packages very attractive and reasonable/attractively priced.

	CAS 2007	Proposed system
Basic Charge	Rs. 77/- further increased to 82/-	Rs.130/- for 100 channels If more than 100 channels chosen by subscriber, additional Rs.20/- payable for 25 channels selected 1 HD channel = 2 SD channels
Fixed Pay Channel cost	Rs.5/- further increased to Rs5.35	Free market pricing but with genre wise price caps
Taxes	As applicable	As applicable
FTA Channels	included as part of Basic No choice to choose for subscriber	Subscriber has to chose from a la carte or Bouquet created by Distributor of TV channels(DOTC) Only Mandated FTA channels available to every subscriber
Pay Channels	Subscriber had to select only PAY channels on either a la carte basis or package basis	Subscriber to choose from Broadcaster a la carte or bouquets Subscriber to choose from DOTC a la carte or bouquets
Premium channels	Did not exist	Premium channels out of price control
Revenue Share	Broadcaster : 45% of pay revenue MSO : 30% of pay revenue + carriage LCO : 25% of pay revenue + Basic Charge	Broadcaster : 65%-80% of pay channel revenue MSO : Share of Basic Rental + 20%-35% of pay channel revenue to be shared with LCO + Carriage + Placement + Marketing fees LCO : Share of Basic Rental + 20%-35% of pay channel revenue wiich is shared between MSO & LCO

The Proposed Tariff Order has given enough freedom to Broadcasters to price their Pay Channels as they wish with the onus to Distributors of TV Channels(DOTC) to announce the MRP transparently to customers on screen which is similar to the MRP printed on any consumer goods. Besides they have the ability to price it as a Pay or Premium Channel. They also have the ability to create Bouquets from within their own Pay Channels. They have freedom to price channels differently in different geographic areas. It is also good that HD channels have been brought under tariff regulations now that these numbers are increasing every day.

Broadcasters have many sources of revenue – advertising, subscription within the country/outside India, syndication and OTT revenues. Whilst full freedom has been provided to define a channel as a premium channel with no price cap, it would be better to clearly spell out if premium channels will also be permitted to follow the same 10+2 minutes per hour advertising code.

<u>Cap on MRP for Pay channels</u> : As per our reading of this section, premium channels do not fall under a price cap. Then under 5.5 why should a premium channel in HD have one ?

In short, Broadcasters should feel good now that they have the capability to get full value for their content as per their own pricing decisions.

There is no cap suggested by the Authority on the minimum period of subscription by a subscriber. It is our suggestion that there be prescribed a minimum one month subscription period for consumers so that it prevents frequent changes being made by consumers and also prevent the smarter ones who may demand activation only for a particular event for one/few days and then cancel subscription to that channel after the event is over.

Manner of offering channels by the Distributor of TV Channels (DOTC) :

Whilst MRP is set by the Broadcaster, it is the Retail Price (RP) that is set by the Distributor of TV services that will be the effective price for consumers as this will be lower than the MRP and also the packages prepared by the Distributor of TV Services will offer far more value to consumers as they will contain channels of different Broadcasters.

However, it is here that we have the following major concerns.

1. Whilst the Distributor of TV Channels can create bouquets by combining a la carte pay channels of different broadcasters, the option to create bouquets of Free To Air channels is not spelt out at all in the Tariff Order though the same is spelt out in the Reporting requirement to the Authority and in the Explanatory Memorandum.

2. Going by our experience, we would recommend that the Basic Service Tier be done away with as this serves hardly any consumer benefit. Today in spite of more than the mandated 100 FTA channels in the BST, there are hardly any takers for this. The same will happen under the new Tariff Order for the simple reason that the moment a consumer opts for this, his quota of 100 channels under Basic Rental for the service gets exhausted, but his need for content will not be fulfilled. It is our

recommendation that the BST should be restricted to ONLY the mandated channels and all Distributor of TV Services (DOTC) should provide the BST to all their subscribers.

3. There is NO LOWER LIMIT on the Retail Price that can be set by a Distributor of TV Services. This is one major lacuna that we feel can be misused by integrated Broadcaster & Distributors of TV Channels.

   In this case there is a possibility that a Distributor Of TV Channels can pay the Broadcaster on the MRP less discounts to show transparency and receive the same back from the Broadcaster as Placement fees or marketing fees. Though the Authority has attempted to bring transparency and non discrimination, the vertical integration of stakeholders may still lead to a discriminatory price regime in view of what is stated above. The Authority should pursue with this in order to curb such misuse.

4. We list beneath our understanding of the Tariff Order based on the same example quoted by you. We have assumed only 2 Broadcasters providing 6 & 4 channels each. Broadcaster Bouquets and DOTC Bouquets have been formed and the earnings for each stakeholder calculated. In some cases we have taken the presumption that the DOTC will achieve the additional discounts of 15% and in a few cases they will not.

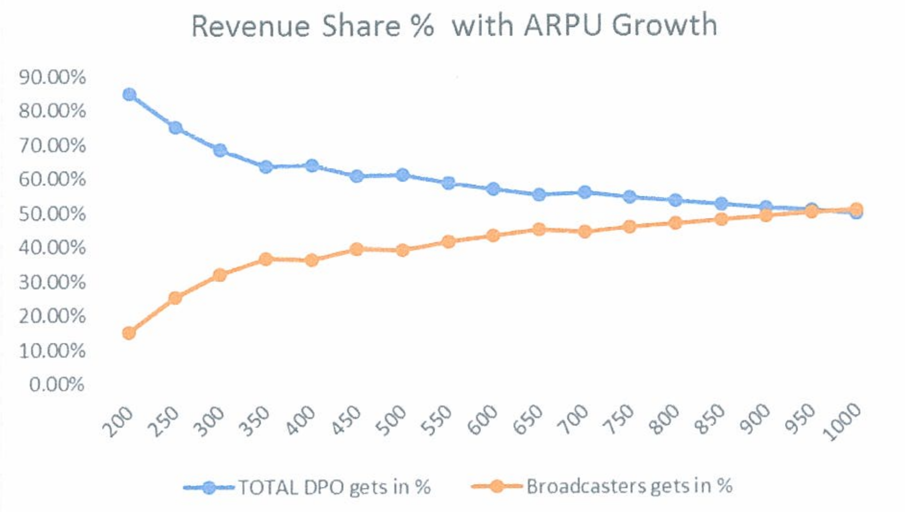
	MRP	Broadcaster	BC 'A" Packages	BC 'A" Packages	BC "B" Packages	RP	Distribution fee (20% of MRP)	Addn Discount (15% of MRP)	DPO Pack 1	DPO Pack 2	DPO Pack 3	BC payout for DPO - A	BC payout for DPO - B	BC payout for DPO - C
1	5	A	5			4.5	1	0.75	4.5		4.5	3.25		3.25
2	6	A	6	6		5.5	1.2	0.9		5.5			3.9	
3	8	A	8	8		7	1.6	1.2	7	7	7	6.4	6.4	6.4
4	6	A	6	6		5	1.2	0.9			5			3.9
5	7	A		7		6.5	1.4	1.05		6.5			5.6	
6	8	A		8		7	1.6	1.2	7			5.2		
7	10	B			10	9	2	1.5	9		9	6.5		6.5
8	12	B			12	10	2.4	1.8	10	10	10	7.8	7.8	7.8
9	9	B			9	8	1.8	1.35		8	8		5.85	5.85
10	4	B			4	3.5	0.8	0.6	3.5		3.5	2.6		2.6
TOTAL	75	0	25	35	35	66	15	11.25	41	37	47	31.75	29.55	36.3
Retail Package Rate (@85%)			21.25	29.75	29.75	56.1			34.85	31.45	39.95			
Discount to subscriber			3.75	5.25	5.25	9.9			6.15	5.55	7.05			
									As per Our Calculation					
Min DPO earnings (20%)			4.25	5.95	5.95				9.4	8.4	10.8			
Addn DPO Earnings (upto 15%)									5.85	4.05	6.9			
15% Discount given to subscriber by DPO									6.15	5.55	7.05	Discount should be borne by Broadcaster for reasons explained		
DPO Payout to Broadcaster									19.6	19	22.25			
TOTAL									41	37	47			
									As per TRAI					
Min DPO earnings (20%)									9.4	8.4	10.8			
Addn DPO Earnings (upto 15%)									5.85	4.05	6.9			
15% Discount given to subscriber by DPO									-6.15	-5.55	-7.05	discount is to be bourne from DPO earnings		
DPO Payout to Broadcaster									31.75	29.55	36.3			
TOTAL									40.85	36.45	46.95			

All calculations have been made on the basis of MRP which is good so that disputes are lessened. A Broadcaster can give upto 15% discount whilst forming bouquets of his own content and the same is permitted to the Distributor of TV channels. **Since all payouts are calculated on the MRP, this 15% discount if given by the DOTC will be borne by the DOTC from his earnings.** With a maximum of upto 35% discount available to a DOTC, why should a DOTC create packages and promote them when 65% -80% revenue will go to a Broadcaster ? It is in a Broadcaster's interest to ensure that most relevant channels get chosen so that they can make more advertising revenues, so this discount should be borne by them. Secondly the fact that the subscriber is paying as per Retail Price is auditable in all addressable systems.

5. Subscribers are going to pay as per Retail Prices and not as per MRP's unless Retail Price offers no discount. In CAS also the Broadcaster retained 45% and when so many additional pay channels have been launched since then, including HD, why should the revenue share favour Broadcasters, especially since they also get uncapped advertising revenues.

No additional content cost for HD is being incurred by Broadcasters, the Regulations permit Broadcasters to charge 3 times the SD MRP. Not only that, Broadcasters are monetising the HD content separately by running different advertisements. Hence this can at best be only double the Standard definition rate.

As per this proposed T.O. the revenue sharing greatly favours Broadcasting Business as we can see from the below chart.



Subscriber ARPU	200	250	300	350	400	500	600	700	800	900	1000
GST @18% (assumed)	30.51	38.14	45.76	53.39	61.02	76.27	91.53	106.78	122.03	137.29	152.54
Avail to DOTC	169.49	211.86	254.24	296.61	338.98	423.73	508.47	593.22	677.97	762.71	847.46
Basic Rental for 100 chnls	130	130	130	130	130	130	130	130	130	130	130
Addn Rs20/- for addn 25 chnls	0	0	0	0	20	40	40	60	60	60	60
Avail for Content	39.49	81.86	124.24	166.61	188.98	253.73	338.47	403.22	487.97	572.71	657.46
Mandatory channels (approx)	30	30	30	30	30	30	30	30	30	30	30
Avail for Sub to purchase	70	70	70	70	95	120	120	140	140	140	140

This is clearly a disincentive for any DOTC to sell more content. With changes in technology happening very frequently, there should be sufficient profits being made by the distribution sector to keep reinvesting rather than scurrying for capital from loans and promoter funding. **It is important to realise that whilst all major Broadcasters are making Profits After Taxes (PAT), Distributors of TV channels only generate EBITDA even after being in the business for over 10 years.**

As a body of LCOs, we have a single source of revenue and that is subscription revenue from subscribers. We can see that in a city like Mumbai where we are from, we are going to be major loosers and on ARPUs of 400-500 the Broadcasters will get almost 50% of the Retail Price and this assumes that we achieve the 15% additional discounts targets ALWAYS. If we do not then its only the Broadcaster who gains. Currently we are told the average content cost for DTH is hovering around Rs.100/- p STB p.m. This windfall to Broadcasters is hence unjustified.

6. The second dimension that the Authority has brought in the proposed Tariff Order is the Billing as per the number of channels availed. We feel adding this dimension at this juncture is going to make things very difficult for all and even consumers to calculate. The market has to first mature to choosing channels and packages which we feel is more important than the count of channels availed of. This complicates billing even for the SMS to handle. We have doubts if every small licensed MSO will be able to comprehend these changes and make changes in their SMS **in such short durations**. It can be implemented at a later date when maturity has set in.

7. The additional 15% discounts that can be offered by Broadcasters will have standard discounting terms that are specified in the RIO and available for all of us to view. But how will we ever come to know if our MSO has achieved the terms and hence is eligible for the additional discounts. It is hence likely that very little of this will get passed on to us as this information is privy to only MSO & Broadcaster. **This remains an additional source of revenue only for the DOTC.** This has been recognised by the Authority whilst framing the Revenue Sharing formula in the SIA which we have commented upon in the Interconnect Regulations response.

In the light of all that is mentioned above **we are proposing a simpler business model that will be easier for industry and consumers to understand and easy to implement.**

1. We are not recommending any change in the Basic rental of Rs.130/-. However there will be no additional charge for transport if no of channel exceeds 100 channels.
2. There is no change recommended in the Broadcaster choice of FTA/Pay/Premium as well as genre classification.
3. The Distribution fee that is currently set at upto 20% should be revised to minimum of 35% of MRP.
4. The additional discounts which is common for all platforms should be upto 20%.
5. Distribution fee + Additional discounts cannot exceed 55% of MRP. Ie. Broadcasters are assured of 45% which can go upto 65% if additional discount targets are not met.
6. Retail Price cannot be lower than 45% of MRP.
7. The DOTC can then set Retail Price from these discounts available to them.
8. The higher margins to DOTC compensates for the additional Basic revenue that he would have got from the sale of additional no. of channels to subscribers.
9. DOTC can then declare different discounts for ala carte and packages (see example)
10. Since payout is on MRP, the DPO will wisely choose to give discounts
11. All Broadcaster schemes should be uniform across Distributors of TV channels.

Based on the same database, below we have worked out the economics for each stakeholder.

	MRP	Broadcaster	BC 'A" Packages	BC 'A" Packages	BC "B" Packages	Disc to MRP that DPO for A la carte	Retail Price for A la carte set by distributor	Disc to MRP that DPO for Bouquets	RP = MRP * Discount (0-55%)	Distribution fee (min 35% of MRP, max 55%)	Addn Discount (max 15% of MRP)	DPO Pack 1	DPO Pack 2	DPO Pack 3	BC payout for DPO - A	BC payout for DPO - B	BC payout for DPO - C
1	5	A	5			10%	4.5	15%	4.25	1.75	1	4.25		4.25	2.25		2.25
2	6	A	6	6		12%	5.28	30%	4.2	2.1	1.2		4.2			2.7	
3	8	A	8	8		6%	7.52	10%	7.2	2.8	1.6	7.2	7.2	7.2	5.2	5.2	5.2
4	6	A	6	6		15%	5.1	25%	4.5	2.1	1.2			4.5			2.7
5	7	A		7		6%	6.58	10%	6.3	2.45	1.4		6.3			4.55	
6	8	A		8		9%	7.28	15%	6.8	2.8	1.6	6.8			3.6		
7	10	B			10	7%	9.3	12%	8.8	3.5	2	8.8		8.8	4.5		4.5
8	12	B			12	3%	11.64	8%	11.04	4.2	2.4	11.04	11.04	11.04	5.4	5.4	5.4
9	9	B			9	8%	8.28	15%	7.65	3.15	1.8		7.65	7.65		4.05	4.05
10	4	B			4	15%	3.4	35%	2.6	1.4	0.8	2.6		2.6	1.8		1.8
TOTAL	75	0	25	35	35		68.88		63.34	26.25	15	40.69	36.39	46.04	22.75	21.9	25.9
Package Rate (@85%)			21.25	29.75	29.75				63.34			40.69	36.39	46.04			
Discount to subscriber			3.75	5.25	5.25			Discount to subscriber to A La Carte				2.95	2.91	3.7			
								Discount to subscriber to MRP				6.31	5.61	7.96			
MRP of chosen channels								Total cost of RP of Bouquet + Sub Discount				47	42	54			
Min DPO earnings (35%)			7.44	10.41	10.41			DPO earns as distribution fee				16.45	14.7	18.9			
Addn DPO Earnings (upto 20%)								DPO earns as additional discount				7.8	5.4	9.2			
DPO Payout to Broadcaster								MSO earns				22.75	21.9	25.9			

Other comments on the Draft Tariff Order

Under the Reporting requirement in Part III of the Tariff Order, our recommendation would be that each Broadcaster be asked to report to the Authority the advertising revenue ***per channel*** and not as a Company so that correct analysis can be drawn by the Authority. **Traditionally the carriage and placement fee is being paid to ensure viewership and reach of its channels. Same are reported by BARC and in turn get sold to advertising agencies by Broadcasters for securing advertising revenues. Hence carriage and placement have never had any linkage to the subscription fees being generated by any Broadcaster.**

Additional Comments by us

1. Currently there is a discount being given to consumers on additional TVs in the same household. Some allow 1 + 3 additional STBs and some follow 1 + 2 additional STBs. A leading DTH platform does not charge for HD & premium services on additional STBs whilst other DTH & MSOs charge per STB. Additionally we have doubts if they are reporting all the STB numbers to the Broadcasters and Entertainment Tax authorities or only the Main TV numbers. We would like to know if discounts are permissible for Child TV connections in the new Tariff Order and if so will there be common regulations for the same. If that is permitted how will stakeholders revenue shares be calculated or will it be like our mobile billing where each unit is billed as one unit and no discounts offered ?

2. Like the current demonetization rollout, which is leading to chaos at Banks we need to have a well-structured implementation plan to ensure smooth rollout. Simply put, good intentions alone will not make a successful rollout.

Currently the Authority has given till 1st March 2017 as the date for Broadcasters & DOTC to announce their MRPs and packages. If a Broadcaster does not publish their Tariff until the last date, how will any DOTC be in a position its Retail Prices on the same date. This is an anomaly which needs to be changed. Also time will need to be provided to DOTC to reset their SMS & CAS and market the same to their dealers and subscribers.

Similar to the education videos currently to encourage installation of STBs in homes, we need to run similar videos across channels and other media to educate consumers of the choices available to them.

Since it is anticipated that subscribers will now choose from a no. of packages and a la carte choices, the no. of transactions per STB will increase. This is because each a la carte transaction will be a single command, whereas each package command is also a single command but gives entitlements to many channels within the same command. This will lead to huge queues in the systems and the speed of activations will drop leading to consumer angst.

If we are going to stop all old packages on a single date and then force consumers to make their choices we are simply going to follow the chaos of demonetisation. Hence it is better if the Authority permits old packages to continue to run till a defined period which is well advertised to consumers. This will reduce the strain during the first activation in the new regime. During the interim period the subscriber can be billed as per the package chosen (new or old).

We have given below our schedule of events and their estimated time periods for implementation.

Item	Activity	Date
1	TRAI to announce final notification	x
2	Broadcasters to announce MRP & their packages & RIOs	y = x + 30 days
3	DOTC to announce the Retail Prices and Bouquets	y + 45 days
4	Backend reconfiguration of CAS & SMS	x + 120 days
5	DOTC to sign Broadcaster RIOs	y + 60 days
6	Announcement of the schemes to consumers by DOTC & Br	y + 60 days
7	Website, customer care, Apps creation, LCO training	y + 90 days
8	MSO LCO RIO negotiations	y + 90 days
9	Entry of subscriber requests in SMS	y + 270 days
10	Deletion of all OLD packages from CAS & SMS	y + 271 days

We thank the Authority once again for some out of the box thinking.

Thanking you

For DOCAM

Mayekar
15/11/16

Authorised Signatory