

# **Response to TRAI Consultation Paper on**

## **ISSUES RELATED TO IMPLEMENTATION OF DIGITAL ADDRESSABLE**

### **CABLE TV SYSTEMS**

Our response to various issues raised for consultation is as under:-

#### ***Basic Service Tier for the Digital Addressable Cable TV Systems***

1. What should be the minimum number of free-to-air (FTA) channels that a cable operator should offer in the basic-service-tier (BST)? Should this number be different for different states, cities, towns or areas of the country? If so, what should be the number and criteria for determination of the same?

**Response:**

- (i) In the Tariff Order dated 21.07.2010 issued by TRAI, it has been provided vide Clause 6(4) that a service provider is entitled to charge a minimum monthly subscription of not exceeding Rs. 150/- plus applicable taxes towards the channel chosen by the subscriber either on a-la carte basis or on bouquet for availing the services of such service provider. Thus, it is clear that a Basic Entry Level Tier has been provided for in the said Tariff Order by the TRAI in order to ensure that not only the Doordarshan channels but also the other channels whether FTA or pay either in the form of package or a-la carte, are made available to the consumers of an addressable platform on the one hand and the service provider is also able to cover the basic cost of providing access to the consumer by charging the amount stipulated by TRAI in this behalf. Thus, the concept of Basic Tier as contemplated under the Amendment Cable TV Act, 2011 stands incorporated in the retail Tariff Order already issued by TRAI in this regard and therefore it is not necessary to stipulate any other tier at entry level as that would not only be a duplication but would also create lot of confusion, thereby leading to practical problems in implementing the same at the ground level.
- (ii) It may also be mentioned that prescription of any other Basic Tier consisting of purely FTA channels as contemplated under the amended Cable Act 2011 would be contradictory to the Entry Level Tier prescribed by the Authority in the Tariff Order dated 21/7/2010 and would create lot of confusion in the mind of subscribers as well. It may be noted that the said stipulation of Entry Level Tier has worked very well in the DTH sector which is substantiated by the fact that in DTH sector, different DTH operators are offering different monthly packs ranging from Rs. 90/- per month per subscriber for 132 channels pack to Rs. 150/- per month per subscriber for 186

channels pack. As observed by TRAI itself in Para 1.16 of the consultation paper that these packs also include a sizeable number of pay channels. It is therefore, suggested that no separate Basic Tier is required to be notified in this behalf and the provisions already made under the Tariff Order dated 21/7/2010 being applicable to all the addressable platforms including addressable digital cable are adequate.

- (iii) In this context, it is also pertinent to point out that the DTH service namely DD Direct Plus launched by the Prasar Bharati offers free of cost a package/bundle of about 58 number of FTA channels to the consumers. A consumer desirous of availing only FTA channels can subscribe to the said service by making one time investment of around Rs. 700-800. As pointed out hereinabove, there are no recurring charges which are required to be paid by a consumer to Prasar Bharati. It has been recently announced by the Prasar Bharati that the offering of channels on DD Direct Plus is going to be increased from the present level of 58 numbers of channels to 200 numbers of channels shortly. Thus, an alternative is available in the form of DD Direct Plus service to the subscribers who wish to view only FTA channels and are not interested in subscribing to pay channels.

Thus there is no need to provide any separate basic service tier in this regard. Each service provider would provide competitive and efficient service to the consumers with best offering and will accordingly take care of the consumer requirements while providing the services

2. In the composition of BST, what should be the genre-wise (entertainment, information, education etc.) mix of channels? Should the mix of channels and/or the composition of BST be different for different states, cities, towns? If so, how should it be?

**Response:**

In our view the composition of the BST should be left to the operators as the operators are sensitive to the requirement of the subscribers in their areas and thus will ensure that they cater to the tastes and likings of the subscribers of their areas, else they will be substituted by the alternate delivery platforms. Today the subscriber has a choice of 6 DTH operators, hopefully digitalisation will give further choices to the consumer. Thus we are of the firm opinion that the composition of the basic tier be left to the operators as they are best equipped to understand and meet the requirement of the subscribers of their areas.

3. What should be the price of BST? Should this price be different for different states, cities, towns or areas of the country? If so, what should be the price and criteria for determination of the same?

4. What should be a-la-carte rate of channels that form part of BST? Should there be a linkage between a-la-carte rate of channels in the BST to the BST price or average price of a channel in the BST? If so, what should be the linkage and why?

**Response:**

In the time span of last 7 years ample choices have been made available to the consumer to take services from the 6 DTH players, the MSO, LCO of his area or the IPTV. All the service providers have been providing the services which are competitive in pricing and offerings. The DTH segment has shown a way that it has offered best of the pricing and the services to the consumers and thus has been able to gain significant subscribers base. This has been possible only because of “light touch regulatory intervention” from the Regulator-TRAI. It may be mentioned that there has been no such issue so far that has forced Regulator to intervene for the retail level pricing. Accordingly, the provisions of Tariff Order dated 21.07.2010 are sufficient and adequate in this regard and be followed as it is in case of addressable digital cable as well. The way ala carte pricing has been given for the offering to the consumer in the tariff order of 21 July 2010 to the DTH operators, the same should be made applicable to the DAS, as both the systems are addressable systems and can technologically offer ala carte choices (with some constraints in DTH due to limited bandwidth). It has been observed that there are handfuls of subscribers who go for such an ala carte choices as the offering from the DTH operators has been very attractive and similar is going to be the case for DAS operators also.

Dish will thus suggest that ala carte and BST need not be linked. The operator should be free to price the ala carte channels to his consumers.

#### ***Retail Tariff for the Digital Addressable Cable TV Systems***

5. Should the retail tariff be determined by TRAI or left to the market forces? If it is to be determined by TRAI, how should it be determined?

**Response:**

Dish TV is of the opinion that regulator needs to give ample space to the operators to offer best of their schemes and offerings to the consumers. The Regulator should only intervene in case

of the retail pricing, if it is observed that market forces have failed to come up to the expectations of the consumers. The DTH has been an example where the operators have been offering best of the offerings to the consumers and consumer have no reason whatsoever to complain. The pricing of the products are done on various assumptions and especially when there are enabling devices like STB involved which also have a cost and it is an established fact that all the players have been subsidising it. Thus we are of the opinion that there is no need for the TRAI to prescribe the retail tariff and it should be left to the market forces to determine its own level.

(a) Should the a-la-carte channel price at the retail be linked to its wholesale price? If yes, what should be the relation between the two prices and the rationale for the same?

#### **Response**

As we have mentioned in the para above that Dish TV is of the opinion that retail tariff should be under forbearance and let market to determine its level, similarly the ala cart channel pricing also at the retail be left to the operators to decide. With the competition being available today from various service providers, no service provider will like to be out priced and thus will be offering the best to the consumers.

(b) Should there be a common ceiling across all genres for the pay channels or different ceilings for different genres? What should be the ceilings in each case and the reasons thereof?

#### **Response**

There cannot be any common ceiling based on genre as within genre also there can be huge cost differences due to the nature of the programming, content, rights bought and thus the same cannot be generalised. For example let us take Hindi Movie genre - two channels in that genre itself can be vastly different - one showing the recently launched movies and other showing the old. Both will have cost difference and thus it will be unfair to have genre based ceiling. We are of the opinion that let the channel pricing at the wholesale level be based on the tariff order of 21 July 2010, with the Hon'able Supreme Court judgement of 42% of Non CAS tariff for the digital addressable platforms like DTH, HITS, IPTV and DAS.

(c) Should there be a common ceiling across all genres for the FTA channels or different ceilings for different genres? What should be the ceilings in each case and the reasons thereof?

### **Response**

In case of FTA channels, since there is no cost to the service provider, the retail pricing is based upon the cost of distribution and managing the system. We are of the opinion that it should be left to the market forces and that will be best in the interest of the consumer.

(d) Any other method you may like to suggest?

### **Response**

We will suggest that the retail pricing be left to the market forces as there are no instances where there has been a market failure. In case Regulator ever observes such a scenario then it has all the statutory rights to intervene and take corrective action.

### ***Interconnection in the Digital Addressable Cable TV Systems***

6. Does any of the existing clauses of the Interconnection Regulations require modifications? If so, please mention the same with appropriate reasoning?

### **Response**

The interconnection regulations between the Broadcaster and DTH operator or Broadcaster and Headend ( It can be an MSO or an Independent Cable Headend Operator) is very much there and is working well.

In case there is a need to bring in the uniformity a Reference Interconnect agreement for draft purposes can be given for the agreement between MSO and LCO.

7. Should the subscription revenue share between the MSO and LCO be determined by TRAI or should it be left to the negotiations between the two?

### **Response**

Dish TV is of the opinion that it is best to leave the same to the market forces. However in case Regulator feels that there is a need to prescribe a minimum level, the same can be done. In a

**judgment dated 12<sup>th</sup> May 2009 of Hon'ble TDSAT in Wire and Wireless India Ltd. Vs. TRAI in Appeal No. 11(C) of 2006, it was held that the revenue share out of Basic Tier in notified CAS areas between MSO & LCO should be left to the mutual negotiations between the service providers and that it should not be specified by TRAI.**

8. If it is to be prescribed by TRAI what should be the revenue share? Should it be same for BST and rest of the offerings?

**Response**

**There should be minimum level of the revenue share between the MSO and LCO for the BST as the transmission is done by the MSO and the carriage is done by LCO, the investment on the boxes is from MSO and there are technology costs of the CAS, SMS, Headend operations, Middleware etc. which are required to be covered. Similarly for the LCO there are network maintenance costs and the cost of the maintenance of the network.**

9. Should the 'must carry' provision be mandated for the MSOs, operating in the DAS areas?

**Response**

**The must carry need not be mandated as there may not be a need to carry all the channels in a particularly geography. The operator will ensure that he is able to cater to the requirements of the subscribers of his areas and would accordingly, source the channels from the Broadcasters. Must carry may not be a realistic situation.**

10. In case the 'must carry' is mandated, what qualifying conditions should be attached when a broadcaster seeks access to the MSO network under the provision of 'must carry'?

**Response**

**Dish TV is of the opinion that must carry should not be mandated and the carriage of the channels should be left to the mutual negotiations and the agreements between the service providers and the Broadcasters.**

11. In case the 'must carry' is mandated, what should be the manner in which an MSO should offer access of its network, for the carriage of TV channel, on non-discriminatory terms to the broadcasters?

12. Should the carriage fee be regulated for the digital addressable cable TV systems in India? If yes, how should it be regulated?

13. Should the quantum of carriage fee be linked to some parameters? If so what are these parameters and how can they be linked to the carriage fee?

14. Can a cap be placed on the quantum of carriage fee? If so, how should the cap be fixed?

#### **Response**

As already pointed out herein above, the carriage is best left to the market forces. The TRAI also at various times has observed that it is difficult to prescribe/evolve a formula for the carriage fee, as it is a factor of demand and supply and now with digital regime, the supply will increase in terms of the capacity of the networks. Accordingly, with the increase in the capacity to carry the number of channels, the carriage fees may have own new levels. Thus we feel that there is no need to regulate the same and it should be left to the market forces to decide

15. Should TRAI prescribe a standard interconnection agreement between service providers on similar lines as that for notified CAS areas with conditions as applicable for DAS areas? If yes, why?

#### **Response**

The RIO methodology is working well in DTH Sector. The same methodology be extended to digital addressable systems at both the levels at the Broadcaster to the Headend/MSO level and from the MSO/Headend to the LCO level.

#### ***Quality of Service Standards for the Digital Addressable Cable TV System***

16. Do you agree with the norms proposed for the Quality of Service and redressal of consumer grievances for the digital addressable cable TV systems? In case of is agreement, please give your proposed norms along with detailed justifications.

#### **Response**

There needs to be again light touch regulations pertaining to issuance of the bills, rectification of the complaints in the time bound manner, appropriate accounting entries pertaining to subscriber accounts, servicing of STB and provisioning of the channels and discontinuance of the channels so that consumer is aware of his rights and obligations and the networks are also

aware of the rights and obligations. Having too much of regulations are counterproductive and does not help the business and consumer service.

17. Please specify any other norms/parameters you may like to add with the requisite justifications and proposed benchmarks.

## **Response**

Dish TV feels that there are certain stipulations in the quality of service regulations which are required to be reviewed as it is not practicable to follow them;

(i) **No change in package for the first six months of the subscription by the consumer:**

- (a) There are many cases where certain channels become pay within the 6 months period and additional cost is required to be incurred for such channels by the operator. It would be unreasonable to expect the operator to continue to provide the said pay channel (s) free to the consumers.
- (b) There may be a situation wherein a consumer may default on the payment to the service provider in the second month itself and still an obligation has been imposed on the service provider to provide the channels to such consumer which is not justifiable.

(ii) **Clause 12.7 is not practical as inter operability is not mandated in cable and STB's even if enabled cannot be used elsewhere.**

(iii) **No reconnection or disconnection charges:**

The operators/service providers are required to pay for their technology costs, royalties on the boxes to the conditional access providers, middleware providers, MPEG LA etc. irrespective of the customer being on their platform or not. If there is no disincentive to the customer for delayed payment, we are of the view that there should be an administrative charge, in case the consumer defaults on the timely payment. All service industries like electricity supply, Telecom, Piped Gas have such a concept then why Cable and Satellite distribution companies be prevented from having the same?

(iv) **In the QOS there are clauses which mandate that the STB provided under hire purchase or lease are to be repaired by the operator at no cost or a replacement be given at no cost to the consumer. This tantamount to a lifelong warranty, which is not justifiable. There has to be a limit of 6 months for such a support. It may be**



**mentioned that there have been instances where such clauses have been misused against the operators.**

- (v) In case of refund to the subscribers for the rental of the STB etc., there has to be a provision for the deduction of the taxes as they form a substantial part of the cost of STB and cannot be recovered/refunded.**

18. Who should (MSO/LCO) be responsible for ensuring the standards of quality of service provided to the consumers with respect to connection, disconnection, transfer, shifting, handling of complaints relating to no signal, set top box, billing etc. and redressal of consumer grievances?

**Response**

**The ultimate responsibility in this regard lies with the MSO. However in the reference interconnect agreement to be done between MSO and LCO, there should be adequate provisions to ensure that LCO will provide all the network support as it has network which is carrying the signals. It may be mentioned that since the provisioning of the services, billing and accounting etc are being done by the MSO, hence they are also having a significant role in the QOS.**

19. Whether Billing to the subscribers should be done by LCO or should it be done by MSO? In either case, please elaborate how system would work.

**Response**

**Billing of the subscriber should be with the MSO or the Headend Operator, which is providing the services as the SMS will be with him which is interfacing with the CAS. The billing can be generated at MSOs level and can be given to LCO to incorporate the taxes applicable at its level and then distribute the same to the end consumers.**

20. Should pre-paid billing option be introduced in Digital Addressable Cable TV systems?

**Response**

**Prepaid system has shown its efficacy in Telecom and DTH very well. It also takes care of many accounting issues and the revenue share issues with the dealers and distributors.**

**The prepaid system allows flexibility to consumers as it allows them pay at convenience and also in the denomination of their choice. It should be allowed as an option in the DAS.**

## ***Miscellaneous Issues***

### ***Broadcasting of Advertisement free (ad-free) channels***

21. Whether an ad-free channel is viable in the context of Indian television market?

#### **Response**

**Ad free channel will be another business model which would be subscription driven and thus it is to be left to the broadcasters to structure the same. The pricing of the same should be left to the market forces.**

22. Should there be a separate prescription in respect of tariff for ad-free channels at both the wholesale and retail level?

#### **Response**

**The product pricing is the prerogative of the broadcaster and it should be left to him to decide the price of such a channel and the broadcaster will keep in view that consumer may not take the channel if it is excessively priced.**

**We feel there is no need for intervention in the process.**

23. What should be the provisions in the interconnection regulations in respect of ad free channels?

#### **Response**

**There is already the must provide and the non-discriminatory access to the channels as per the interconnect regulations and that is sufficient for the time being, It has worked well in the case of HD channels and there is no reason it should not work in the case of ad free channels**

24. What should be the revenue sharing arrangement between the broadcasters and distributors in respect of ad-free channels?

#### **Response**

As in the case of the HD channels broadcasters have come out with their RIOs, in the similar manner they should come out with their RIO and thus will be able to provide the channels on a non-discriminatory manner to all the platforms. The platforms can then mark up their costs and provide the same to consumers. In order to retain their consumers, the platform will not have any excessive pricing on such channels.

Broadcasters also with the platforms will come out with innovative pricing to have maximum number of subscribers. Thus it should be under forbearance in our view.

***Non addressable digital Set top boxes***

25. In case you have any view or comment on the non-addressable STBs, you may please provide the same with details.

**Response**

As per the cable TV Act as amended in 2011, the channels have to be encrypted. Thus the deployment of un-addressable digital boxes is not in line with the requirement and should not be permitted. Since these will not be linked to any SMS, they are again likely to manifest the issue of under declaration in digital regime which will defeat the very purpose of digitalisation. For consumer also this will not be good as they will have to change the box which may entail them additional cost to watch the channels.

***Reference point for wholesale price post DAS implementation***

26. Would there be an impact on the wholesale channel rates after the sunset date i.e. 31st Dec 2014, when the non-addressable systems would cease to exist? If so, what would be the impact?

**Response**

On the final sunset date when the whole universe would become digital, hopefully the market would have moved to total forbearance with market forces creating a competitive environment, equilibrium and level playing field. If at that point in time it is observed by the Regulator that there is some need to intervene, the necessary measures can be taken to ensure the continuity and interruption free operations.

27. Any other relevant issue that you may like to raise or comment upon.

### **Response**

The control on the illegal distribution of the analogue channels is a must during the implementation period else the whole essence of the addressable digitalisation would be frustrated. Thus appropriate mechanism to control such kind of illegal transmission and immediate action on the same is warranted.

There needs to be a threshold notice period for conversion of a channel from Pay to FTA. It cannot say that it is going FTA overnight. In addition, it cannot be selective that in one territory it is FTA and in another it is pay. This will be discriminating the consumers and the platforms. We have seen during the CAS period certain channels declared themselves “free to air” in CAS areas only. How can that be if the feed is same? Why should a customer in non CAS be asked to pay for a channel which is available to another consumer in adjoining city as Free to Air? The Authority needs to come out with its clear mandate on the same.