



*By E-mail*

January 16, 2012

Mr. Wasi Ahmad  
Advisor (B& CS)  
Telecom Regulatory Authority of India  
Mahanagar Doorsanchar Bhawan,  
Jawahar Lal Nehru Marg,  
New Delhi

Dear Sir

Re: Consultation Paper No. 8 / 2011

We enclose herewith our comments on the Issues related to Implementation of Digital Addressable Cable TV Systems.

Should you require any clarifications / elucidations please do not hesitate to contact us. We shall be glad to assist.

Thanking You

Yours Faithfully

**For Hathway Cable & Datacom Limited**

A handwritten signature in black ink, appearing to read "Bhavik Palan", written over a white background.

**Bhavik Palan**

***Executive Vice President – Legal & Regulatory***

**Hathway Cable & Datacom Limited**

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**HATHWAYS COMMENTS ON THE ISSUES RAISED IN CONSULTATION**  
**PAPER NO. 8/2011**

*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?

Hathways comments : In our view the minimum number of FTA channels that a cable operator should offer in the BST is about 50 channels. This minimum number should include the mandatorily to be offered 8 (eight) Doordarshan Channels.

Reason : The introduction of DAS will provide the subscriber with a degree of choice, which they did not have so far in a Non addressable system. Given this, every consumer should be able to watch a larger number of channels in different genres at a reasonable and affordable price.

We are of the view that this minimum number must be uniform and apply across the country. The criteria for determining these channels should be their genres. Assuming that there are 10 broad genres such as entertainment, information sports, education, religion, lifestyle etc. a minimum number of channels should be taken from each genre and should make up the BST bouquet.

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?

Hathways comments : Assuming that there are 10 broad genres such as entertainment, information, sports, news, movies, music, education, regional, religion, lifestyle etc. there should be an equitable mix of channels from each

genre. This mix and composition of BST should be uniform across the country. This is subject to Free To Air channels being available in the respective genre.

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?

Hathways Comments : In our view given the unequal distribution of wealth between the rural and urban geographical areas and keeping the affordability objective in mind , the rate for cities which are notified in Phase I and II of the notification dated 11<sup>th</sup> November 2011 issued by the MIB for the rollout of DAS should be the same , and the rate for cities which are notified in Phase III and IV of the notification should be the same but proportionately lower than that of the price determined for Phase I and II. The price may be determined by an expert committee constituted by the Central Government and /or TRAI.

There should be revenue sharing in the BST also, as revenue sharing from pay channels alone is insufficient to meet the expenditure incurred by MSOs in setting up a digital head end, laying of optic fibre and operation and maintenance expenses and set top boxes.

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?

Hathways comments : While the consumer may want choice, an A la Carte price for BST channels is difficult to offer to the consumers as BST covers only the cost of service and hence the minimum BST price should remain even though the consumer chooses a la carte channels within the BST.

*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?

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

Hathways comments : Hathway is of the view that all retail tariff whether A La Carte or Bouquet should be left to market forces.

Comment on (a) - Yes there should be a link between A la Carte and wholesale. This link /formula should be decided by an expert committee but in any case the sum of the a la carte should not exceed 1.3 times of the wholesale /bouquet rate.

Comment on (b) - Hathway is of the view that all retail tariff whether A La Carte or Bouquet should be left to market forces.

Comment on (c) - Hathway is of the view that all retail tariff whether A La Carte or Bouquet should be left to market forces.

*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 reasoning?

Hathways comments: Clause 9 - Finalising Subscriber base at the time of the first agreement

Clause 10 -Variation of subscriber base during the validity of the agreement

Clause 11 – Finalising subscriber base at the time of renewal of the agreement.  
The above three clauses need to be modified. They all deal with scenarios in a Non addressable system. In a Digital Addressable System where the subscriber base will be calculated on the monthly average subscriber level, the concepts as embodied in these clauses will become non existant . Hence the need for modification.

Clause 2 (a) Definition of “addressable system” – It should be in sync with the definition as amended by the Amendment Act 2011

Clause 2 (q) Definition of SLR – It should be modified / amended to be in sync with the concept of digital addressability.

Clause 13 – Reference Interconnect Offer – The clause should be suitably modified to incorporate RIOS for digital addressable cable TV systems.

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?

Hathways comments : The subscription revenue share should be left to the negotiations between the MSO and LCO and left to market forces.

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?

Hathways comments : As stated above it should be left to negotiations and market forces

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

Hathways comments : Hathway is of the view that what is to be carried and the terms and conditions on which it is to be carried must be left to market forces and the commercial arrangements between service providers .i.e. in the realm of private contract with no regulatory interference. Only channels of the public broadcaster – Doordarshan may be mandated as must carry, as notified from time to time across platforms.

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

Hathways comments : In case it is mandated downlinking registration must be made compulsory. A survey should be undertaken by a certified and qualified entity and that survey should indicate that there is a minimum demand amongst the not less than 15% of the cable subscribers in each area. If this minimum threshold limit is not achieved then the "must Carry " provision cannot be made enforceable and the MSO shall be under no obligation to carry that particular channel.

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?

Hathways Comments : The Manner of access should be determined by market forces and based on the negotiations between the broadcasters and the MSO.

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

Hathways comments : Carriage fee should not be regulated. Carriage fee and its terms and conditions are components which are in the realm of private contract between parties.

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?

Hathways comments: If carriage fee is to be regulated then the parameters for determining quantum should be left for the service providers to decide at the time when the contract of carriage fee is being negotiated.

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

Hathways comments : There should be no Cap .It should be left to market forces.

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?

Hathways Comments: Yes TRAI should. There is a need for standardization of terms and conditions (excluding commercial terms) in a DAS regime so as to foster the spirit of non - discrimination between Broadcasters & MSOs as also MSOs and LCOs.

*Quality of service standards for the digital addressable cable TV systems*

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 disagreement, please give your proposed norms alongwith detailed justifications.

Hathways Comments : On the proposed norms annexed as Annexure VI to the Consultation Paper are as follows:

Section 1 : Based formats for registration of a subscriber are acceptable with a single change that the same be also permitted through web based applications. Procedure for channel selection, reconnection, disconnection, reconnection, transfer and shifting should also be permitted through electronic media, online and through registered mobile numbers of the subscriber.

Section 2 : Disconnections are permitted for a period of max three months and reconnections cannot be charged. This should be amended to permit levy of reconnection charges if period of disconnection exceeds three months.

Section 3 : Manual of practice should not be made mandatory as in DTH but should be made available online on MSO website or provided within 7 days of written request.

Section 5 : Cable being a networked service, should be permitted to run multiple local call centres for better service. If a local area has a power outage, the centralised call centre will only be noting the complaint and forwarding the complaint.

In addition to Call Centre, SMS and emails may also be permitted for consumers to register complaints. Smaller town MSOs may not have capability to run professional call centres.

Ensuring that No call charges be levied for calls made to helpline /call centres is not feasible unless it is a toll free number.

Section 6.3 :Response time for 80% voice calls answered by operator should be 90 seconds and for 95% voice calls it should be 120 seconds.

Section 12.1 : For DTH it is specified that charges are payable for repairs and maintenance of STB as long as it is under hire purchase/rental agreement. This needs to be qualified that the same is applicable during warranty period only.

Section 12.4 : Commercial interoperability should be permitted in case of subscribers who shift to locations where existing MSO service is not available after deduction towards depreciation (25% per annum)

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

Hathways Comments : It should be made mandatory for MSOs to run unutilized analog carriers (without any video or audio) in DAS for 2 reasons - it will prevent piracy from being done at local levels .

All Broadcasters should be mandated to switch off services of those MSOs/ICOs who run unlicensed channels on their network in spite of not heeding to complaints from the Nodal Officer/TRAI.

Local insertions of channels should be permitted but MSO must take full responsibility that only channels registered under downlink guidelines are shown on network, other than local cable channels.

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? Please elaborate with reasons.

Hathways Comments : Licensing provisions as per “Recommendations on restructuring of Cable TV services dated 25<sup>th</sup> July 2008 for LCOs and MSOs” should be implemented. If LCO wishes to act as franchisee of MSO, responsibility on adhering of QoS falls on MSO. If LCO wishes to act independently, all QoS norms applicable will be adhered by LCO and same would be monitored by TRAI.

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.

Hathways Comments : MSO should set up billing system for LCO as long as they act as franchisee of MSO. To elaborate, MSO billing will indicate correct gross billing per month as per channels/packages selected, for consumers including taxes and the LCO will be at liberty to offer discounts as deemed fit.

20. Should pre-paid billing option be introduced in DAS. Please justify your answer.

Hathways Comments : All DTH players have prepaid systems. Most mobile services are pre paid too, so consumer awareness exists. Pre paid billing should be permitted in addition to post paid billing and it will lead to better QoS as LCOs will get more time and resources to devote towards service and marketing, if they do not have to chase collections. Consumers will also benefit from discounts offered for pre payments.

It is clarified that billing will be on a calendar month basis.

In CAS we have seen that monthly billing for a subscriber can change if he adds/deletes channels during the month. Such channels get billed in

subsequent months and lead to disputes in billing between MSO – LCO or LCO – Subscriber. Also CAS has a provision to charge 15% simple interest on delayed payments. It is better if same is replaced with a fixed delayed payment charge of Rs.25/- permonth .

21. Whether an ad-free channel is viable in the context of Indian television market? Please elaborate with appropriate reasoning.

Hathways Comments : Yes, ad free channels are viable especially in the DAS scenario/environment because in a DAS environment, the broadcaster will get 100% declaration / transparency and therefore his subscription revenue will increase.

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

Hathways comments : Yes there should be a separate prescription of tariff both at the wholesale and retail level. However the tariff at the wholesale level should be brought down from the current level , as the current wholesale tariff is linked to an analogue / under declaration regime whereas in a DAS regime such a situation does not arise. At the retail level the pricing of channels should be left to market forces.

23. What should be the provisions in the interconnection regulations in respect of ad-free channels? Please elaborate with appropriate reasoning.

Hathways comments : There need not be any specific provision for ad free channels in the Interconnection Regulations. However the provisions relating to non discrimination , must provide must be specifically applicable to Ad free channels.

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

Hathways comments : The revenue sharing between the Broadcasters and Distributors in respect of Ad free channels should be in accordance with The Telecommunications ( Broadcasting and Cable ) services ( Fourth ) ( Addressable Systems ) Tariff Order 2010 read with the interim order passed by the Supreme Court on April 18, 2011.

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

Hathways comments : There should be no prohibition of Non addressable STBs in areas where the sunset date is at a later date but the quality of service regulations must include a provision that vanilla STBs should not be permitted . The STBs should be mandated to be capable of being addressable/ encryption.

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? Please elaborate with details.

Hathways comments: As non addressable systems would cease to exist , there should be a composite and rational Digital Tariff Order in lines of the Non CAS Tariff Order where rates should be specified in terms of numbers and not a vague and arbitrary percentile, Non CAS RIO rates being the benchmark. We are of the view that the current RIO rates may fall since the RIO rates are anyway on the higher side in the Non CAS regime, reason being, legacy. After 31<sup>st</sup> Dec 2014, the relevance of wholesale channel rates does not exist . This is because the wholesale rates declared by the broadcasters were under the analogue system. Therefore after 2014 when the entire country adopts a fully DAS system, the channel rates (A la Carte or bouquet) between the broadcaster and the MSO should be left to market forces subject to non – discriminatory, must provide, non arbitrary and so on.

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