

TRAI CONSULTATION PAPER

NO. 18/2011

DATED 22nd December 2011

ON

**ISSUES RELATED TO “IMPLEMENTATION OF
DIGITAL ADDRESSABLE CABLE TV SYSTEM”**

RESPONSE FROM

Media Network and Distribution (India) Ltd

TRAI Consultation paper No 18/2011 on issues related to “implementation of Digital Addressable Cable TV System

Introduction: At the outset we appreciate for the various steps taken by TRAI for the growth and regulation of Broadcasting and cable industry from time to time and particularly the issuance of present consultation paper. In response to the present consultation paper we place herewith our views on the Consultation paper as follows :

Issues for Consultation and our Reply :

Basic Service Tier for the Digital Addressable Cable TV Systems

Issue 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?

Our Reply :

We need to consider and analyse the present cable and DTH scenario to arrive at a logical conclusion with respect to number for the channels in BST. As the Cable Operator after digitization would have the direct competition with the DTH Operators and keeping in mind the present scenario where the DTH Operator offers 132 channels (which is a mix of pay and FTA) in such a case 66 channels (being half of the 132) may be kept in BST. In addition as it is evident from the various reports received by the Authority that the Cable Operators have been providing 50-80 channels in Notified CAS Areas in normal course . Considering both the above stated scenario and average of number of channels being offered in notified CAS areas) and DTH Operators 65 number of channels could be an appropriate number.

Further considering the TV viewing habits of the consumers, normally the consumer subscribers between 65-70 channels in DTH scenario and this is the approximate number of channel being supplied by the Cable Operators in analogue regime. By providing 65-70 number of channels would not create an extra on burden the cable operator also. It needs to be considered that by providing very low number or high number through BST , it may attract a higher placement fee for the BST, hence it should be a number which is mediocre. Further it also to be noted that 65 number close to the present scenario will be accepted by all the stake holders which would help the effective implementation of DAS.

With the above analysis we suggest the minimum number of Free to Air (FTA) channels that a cable operator should offer in the BST should between 65-70, which would be close to the present scenario of consumer subscription without adding an extra burden to the cable operator and would be optimally competitive with DTH platform.

Issue 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?

Our Reply :

In order to be an ideal BST and as depicts the name it self the BASIC Pack should cater the need of an average family nest and hence there should be General Entertainment (for all the age group), News and Information (for male and young viewers), Movie and Music (for young and ladies viewers), Religious (for old aged viewers) , kids and sports if available as FTA in BST. The said channels should be the mix of English, Hindi and local regional language channels.

As per our opinion the mix of channels and/or the composition of BST should be comprising of above stated genres but considering the need of the states, cities, towns, different channels may be opted. .

Issue 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?

Our Reply :

Considering the number of channels as suggested above we are of the opinion that Rupees one hundred is the optimum amount. By such amount the consumer will also not be burdened very high and the Operator would also be able to recover the cost of its basic services. This would not only be the competitive rates with DTH Platform but also would gain acceptance from the consumers in the market. The price should be same for all the state, cities and towns of the country.

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?

Our Reply :

Keeping in mind the price of Basic Tier as rupees hundred, we suggest the a-la-carte rate of channels forming part of BST should be in the rage of 0-2. With this price (suppose Rs. 2 is the price) a consumer can subscribe 50 number of channels of his choice, which would be less than the BST pack channel and he may maintain his budget also. We also suggest that there should be some amount should be fixed as minimum subscription amount which would help the cable operator to recover his cost also. It needs to be noted that if fix up the price which is generally and presently

accepted in the market this will help the successful implementation of DAS in the country.

We would like to draw the attention of the Authority that the a-la-carte channel should be offered in addition to the BST and not in lieu of BST, which otherwise could create a logistic problems for MSOs.

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?

Our Reply :

With the introduction of DAS there would be adequate competition, hence there would not be any need for price regulation, hence we suggest that the retail tariff be left to the market forces but with the following conditions.

(a) Yes we are of the strong opinion that there must a close nexus between the retail and whole sale price, which would otherwise give an unfettered rights to the Cable operators to charge the price which could be not only be detrimental to the channel owners but also affect the consumers adversely. We suggest that the Retail Price of the channel should not be more than 100% (mark up) of whole sale price. The operator should be allowed to retain a maximum margin of 100% on the whole sale price which would be an appropriate margin and highest of all the existing industry. By this the Operator would not be able to charge the unbridled and rampant price which other wise could not only affect the demand of the channel but also the interest of the consumer very adversely . For example in case the whole sale price of any channel is Rs. 10/- per subscriber per month the MSO should be allowed to charge maximum Rs 20/- for the said channel

(b) We suggest there should be a common ceiling across all genres for the pay channels which should be the same ceilings of maximum of 100 % mark up on whole sale price as stated above in reply to the issue (a), which would otherwise create a lot of disputes and confusion in the various markets.

(c) Yes there should be a common ceiling across all genres for the FTA channels which should be the same ceilings of maximum of 100 % mark up on whole sale price as as stated above in reply to issue (a) . The price for FTA should be taken as suggested in Reply to the Issue 2 (i.e. the price between Rs. 0-2) and above it there could be a margin upto 100%.

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?

Our Reply :

It is really appreciable that the Authority has taken various steps to streamline the industry but considering the present and new market dynamics and past experiences, we suggest that there are certain areas which are to be re-considered on which we would like to draw the attention of the Authority from the Broadcaster point of view. These issues requires modification in the Inter connection regulations. Some of the issues are as follows :

A) Deactivation notice :

We are of the opinion that there should be different period for disconnection of signals for Commercial Reasons (Such as non payment of dues, non submission or reports etc.) and other criminal Actions (involving Signal Theft, Piracy, and misuse of any supplied encryption equipment). The present regulations prescribe a period of 21 days notice for disconnection of signals for all the above reasons and the said period was introduced considering the need of the consumer to take action for getting the relief. This period of 21 days is misused by the LCOs and no benefit has been availed by the Consumers . The defaulting Operators are taking advantage of said 21 days period and is mis-using the said period as they continue to commit the breach for 21 days.

We suggest that there should be more than one notice period as it was introduced earlier vide Inter connect Regulation dated 10th December 2004. The old provision of 2 days deactivation notice in case of unauthorized distribution to be re-introduced and deactivation for other reasons to be allowed for 7 days the Defaulter operators should not be allowed to continue the breach for more than 7 days and thereby mis use of law . We are of the opinion that in case of normal commercial breach 7 days notice is sufficient while there should be 2 days notice for area crossing, piracy and unauthorized distribution.

Further in case the broadcaster is having the evidence of piracy and unauthorized distribution in such a case the notice period should be similar to DTH regulation which is two hours and the steps should be taken by the Distributor to stop the unauthorized distribution in tow hours: as criminal acts involving piracy or unauthorized distribution should not be permitted for 21 days which will lead to high revenue losses.

B) Deactivation mode :

It is also suggested that the old system of intimating the Subscribers either by News paper or Scroll/OSD to be introduced. By such system not only the cost of publication can be saved but on the other hand message by Scroll is an effective way to intimate all of the concerned consumers as the consumer may or may not read the notice but will definitely watch the scroll on the channel. In addition the purpose of the giving notice is to inform the concerned customers who have subscribed the Channel and not the whole of the city, therefore the intimation of deactivation by Scroll / OSD should also be re-introduced

C) Defaulted Operators :

Piracy/unauthorized distribution of the content has become the primary concerns of the industry. The Authority is requested to take stand in this areas strictly. We suggest that in case a person is engaged/involved in piracy or unauthorized distribution of channel the “Must Provide” clause should not be applied to such Operators. In addition the Authority should also take a serious stand against these chronicle defaulters and make some stringent regulation to curb the continuity of defaults including recommending the suspension of License.

Further in case the operators commits three defaults or breaches in any year in such a case “Must Provide” clause should not be allowed to such chronicle Defaulters. Also in case of **consecutive defaults** of outstanding with any broadcaster; the other broadcaster should be allowed to say no to the said operator.

D) Reports : It has been observed that monthly reports of subscribers (in CAS and DTH Platform) are sent either in an excel sheet or manually and not derived from the SMS, which provides any opportunity to the Operator to play upon with the reports. Though the provisions of audit is there but conducting audit at a regular (say 3-4 times in a year) interval is neither practical nor allowed. We suggest that the monthly subscriber report should be derived directly from the SMS (duly signed by the appropriate senior officer) which would give lesser chance to unscrupulously modify the report. The said repot may be annexed with a summary thereof to be carved out manually as agreed by the parties. Beside this a quarterly return of its subscriber should also be sent to the Authority which will create transparency and a feed back and road-map for effective implementation of DAS.

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?

Our Reply :

We are of the opinion that the subscription revenue share between the MSO and LCO should be determined by TRAI for the BST and for the other packages the same should be shared between MSOs and LCOs based upon at the agreement entered into between them.

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?

Our Reply :

In our opinion MSOs and LCOs should share the revenue for BST in the ration of 60:40 respectively and for the rest of the offerings the arrangement should be arrived between them mutually

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

Our Reply :

Yes , of course the “Must Carry” provision must be mandated for the MSOs operating in the DAS Areas.

The sole objective of introduction of DAS is to bring transparency and to remove the capacity constraints, hence after DAS the carrying capacity of the Operators would be approx 10 times more than that of the existing capacity hence the issue of capacity constraints would be resolved to a great extent. With the introduction of Must Carry provisions not only the new broadcaster would be benefited but the small entrepreneur entering into the broadcasting industry would also be motivated, this will give impetus to the growth of broadcasting industry. In addition with the introduction of DAS there would be a steep down fall in the carriage fee which would decrease the extra burden on the broadcasters which could be utilized for producing other quality programmes and which will bring all the new and old players at par and at level playing field

In addition as rightly specified in the consultation paper that the ‘Must Carry’ provision will ensure carriage of channels of rival broadcasters as presently most of the channels are being launched from already established players therefore with ‘Must Carry’ provisions the competition amongst broadcasters would increase which will benefit not only the growth of the industry but also to the consumers. Else it may lead to the monopolistic regime and cartelization of the Broadcaster and thereby preventing the new players.

So far as the investment by MSOs is concerned for carrying a large number of channels; It would be a one time cost to the MSOs but would benefit them along with all the stake holders as with the more number of channels the demand of their network would be more and moreover investment in the equipment would be the increasing the assets base of the MSOs.

Introduction of “Must Carry” provisions will also balance out the “Must Provide” provision.

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’?

Our Reply :

In our opinion the following could be the qualifying conditions, in the following conditions the Broadcasters should not be given the benefit of “Must Carry” provision :

- In case any channel does not subscribe at least 3-5 % of the total subscriber base of the MSO (which is to be calculated on the basis of total boxes seeded by MSOs, for a period of 12 months.
- There is continuous defaults by the Broadcaster with respect to Prgramming and advertisement codes for which the broadcasters have been punished by the Ministry for three times or more.

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 nondiscriminatory terms to the broadcasters?

Our Reply :

Execution of the Agreement between the Broadcaster and MSO should be sine-qua-non for “Must Carry” with an warranty from the Broadcaster to provide the requisite Equipment for decrypting the channels once the commercial terms are finalized and agreement is signed.

In addition the MSO shall provide the access to the Broadcaster in non discriminatory terms including the terms related to package and pricing of the channel, so that it could not take undue advantage of its position and discriminate any channel. Further there should be monthly report from the MSO (derived from the SMS) to be sent to the Broadcasters duly signed by some senior persons and the broadcaster should be entitled to conduct two financial and two technical audits as provided in the similar Interconnection regulations.

Also the listing of the channel in EPG should be on non discriminatory basis; which could be alphabetical or other non discriminatory manner.

The “Must Carry” provisions should be applicable for C Band frequency only and not for KU Band.

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

Our Reply :

We are of the opinion that with the introduction of DAS the issue of Carriage would be reduced to a great extent though not eliminated completely. However it may increase the issue of placement fee. Considering that we suggest that **the carriage fee and placement fee** may be left to the negotiation between the parties and market forces but with the conditions as enumerated hereinafter.

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?

Our Reply :

We feel the parameters for deciding the **carriage or placement fee** may be linked with the number of subscriber base of the network of MSO (which may be decided on the basis of Set Top boxes seeded by them), it could also be fixed up as per genre wise, package wise etc

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

Our Reply :

Yes we suggest there must be a cap on the quantum of **Carriage / Placement Fee**. One of the ways could be that :

The MSO should not be allowed to charge more than 25% of the subscription fee being generated/earned by the Broadcaster from the network of the concerned MSO. If the reach of any channel is 100% of the universe of the MSO in such a case MSO to charge 25% of subscription Fee (which is whole sale price of the channel multiplied by the number of subscribers opted the channel). In case of FTA it should be the a-la-carte retail price) and in case it is between 75% to 99% he should charge 20%, if less than 75 but more than 60 he may charge 15% less than 60 but more than 50 10% and if less than 50% of its universe no carriage to be charged.

Alternatively the same may be charged on the basis of boxes seeded by the MSO. And for FTA Channels the carriage/placement fee could be a fix amount (say Rs. 5 per box per month)

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?

Our Reply :

Prescribing the Standard Interconnection Agreement by TRAI will reduce the dispute between the Broadcasters and MSOs for the clauses of the agreements of various broadcasters which may affect positively the implementation of DAS. The standard Interconnection Agreement would be a successful tool to reduce the dispute relating to the interconnection agreement and will bring uniformity for making available the channel and distributing the same. Hence we are of the opinion that TRAI must prescribe a standard Inter connection agreement for DAS Areas.

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 disagreement, please give your proposed norms alongwith detailed justifications.

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

Our Reply :

We agree with the norms proposed for the Quality of Services and redressal of consumer grievances for the digital addressable cable TV systems as provided in Annexure VI of the Consultation Paper.

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?

Our Reply :

In our opinion MSO & LCO both to provide the quality service and should 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

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.

Our Reply :

As the SMS would be maintained by the MSO hence the billing should be done by MSO but clearly specifying the name of the LCO who will be responsible for delivery the invoices to the Consumers and collecting the subscription fee from them. The LCO should be deemed as an agent of the MSO in all respect.

The LCO should facilitate the new connection and providing all the information from consumer to MSO and vice versa with respect to the service.

After subscription of service from a particular MSO the LCO connected to said MSO to deliver the bill on the agreed interval and collect the money from the consumers .

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

Our Reply :

Yes of course Pre-paid billing option should be introduced in Digital Addressable Cable TV systems, this will not only reduce the dispute between the MSO and consumers but also reduce the collection and debt cost of the MSO. Since this system has been proved successful in telecom and DTH sector it will surely facilitate and be successful in DAS cable system.

Miscellaneous Issues

Broadcasting of Advertisement free (ad-free) channels

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

Our Reply :

In our opinion an ad-free channel is viable in the context of Indian television market.

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

Our Reply :

It should be treated as niche segment and there should be forbearance at all level (whether whole sale or retail and whether at the broadcaster or MSO level). Also the “Must Carry” provisions should be applicable on Ad free channels also.

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

Our Reply :

The add free channels to be treated under niche segment and hence there should be forbearance at all level. However the provisions of must carry, must provide, execution of the agreement in writing and provisions related to piracy may be made applicable to this segment.

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

Our Reply :

As suggested above the forbearance; hence the revenue sharing should be left at the market force and on the basis of agreed terms between the broadcasters and the MSOs.

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.

Our Reply :

In our opinion Non-addressable STBs, should not be allowed otherwise this will not only create a lot of dispute in the markets but also would hold back the transparency in system. By allowing Non-addressable STBs the objective of DAS which is transparency would be squarely defeated as these boxes would not be connected to CAS of the MSO hence the right number of subscribers would not be calculated, which will bring us back to the analogue system and all the existing issue would remain unresolved.

In addition the Non-addressable STBs should not be allowed to go out of DAS areas which would otherwise create a hybrid (analogue and digital) system which would increase the piracy and dispute between the broadcasters and MSOs.

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?

Our Reply :

We suggest that once the digitization is implemented through out the country then there should be forbearance, as there would be optimum competition in the market and hence the market forces would create the equilibrium in the price.

As the price freeze provision was introduced by the Authority as a temporary measures till there is enough competition in the market and after introduction of DAS there would be large number of broadcasters and channels there would be not only sufficient competition but the market would be matured enough to balance its equilibrium. Price regulation & controls at that stage will not only distort the market but also will lead to down gradation of quality of services and also reduction of investment in the industry. It is to be noted that selling the channels at low prices will discourage any further investment in new channels and new/quality programming which will surely affect the consumer choice and creating a shortage of quality channels and programming, which means control of pricing will lead to a limitation of the quality and variety of their programming content.

In fact, under the free market conditions of competition, the cable television market has grown rapidly and presently provides to the consumer a wider choice approx 90 channels of different genres at less than Re. 1 per day per household, which is cheaper than a newspaper. Price controls will distort the market's ability to reach equilibrium price levels that balance out supply and demand. In recent years most countries have moved to deregulate their cable television industries, choosing to remove any restrictions on pricing. In addition the Tele-communication is the live example of the forbearance where there was no price freeze and due to competition the market price has been slashed down to its equilibrium and all the stake holders including consumers are in gaining position.

We are, therefore, of the opinion that let the market forces play its own role and price to be determined by the law of demand and market forces after the sunset date i.e. 31st Dec 2014,

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

Our Reply :

We suggest that the Authority should also have their regional offices in metropolitan cities and strive to act as a conciliator also.

We may however would like present our views at the appropriate time in person.
