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Subject: Consultation Paper No.8/2011 dated December 22, 2011 on Issues related to Implementation of Digital Addressable Cable TV Systems ("Consultation Paper ")

Dear Sir

Enclosed is our **preliminary response** to and recommendations regarding the above referenced Consultation Paper.

Yours truly,

For MEDIA PRO ENTERPRISE INDIA PRIVATE LIMITED



V. SHYAMALA
Head – Legal & Regulatory

Enclosure : As Above



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**TRAI's CONSULTATION PAPER ON
ISSUES RELATED TO IMPLEMENTATION OF DIGITAL ADDRESSABLE
CABLE TV SYSTEMS**

DATED DECEMBER 22, 2011

RESPONSE OF MEDIA PRO ENTERPRISE INDIA PRIVATE LIMITED

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Preamble

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The Ministry of Information and Broadcasting (MIB) keeping in mind the recommendations of The Telecom Regulatory Authority of India (“the Authority”) has taken a historical step towards the transformation of the entire non-addressable analogue Cable system into digital addressable system (DAS) by the December 2014. In order to successfully implement the proposed plans, it is equally important on the part of the Authority to ensure that a clear tariff and interconnection framework be put in place at the earliest, to enable the service providers and various stakeholders in the value chain to structure their business model accordingly and make arrangements for the necessary resources and investment.

The Authority in its various Consultation Papers and Recommendations had earlier noticed and recognized the problems of rampant under-declaration, inequitable distribution of subscription revenue and evasion of taxes, as has been faced by the Broadcasting and Cable TV industry over the years. The Authority at the same time had also acknowledged that the same cannot be encouraged or ignored. The Authority recognized that the key objective of DAS is to bring in complete transparency in the working of the sector to ensure that the interests of all the service providers are protected.

In view of the above, at the outset, we wish to submit that The Telecommunication (Broadcasting and Cable Services) Interconnection Regulations (“Interconnection Regulations”) and The Telecommunication (Broadcasting and Cable Services) Addressable Systems Tariff Order 2010 (“Addressable Tariff Order”) dated 21.07.2010 provide the essential framework to implement Digital Addressable Systems (“DAS”), which is working well in the DTH sector.

In order to ensure smooth implementation of DAS, it is submitted that the Authority makes bare minimum modifications in the Interconnection Regulations and the Addressable Tariff Order. These modifications are primarily suggested with a view to restructuring/re-aligning the existing Regulations in line with the Cable Television Networks (Regulation) Amendment Ordinance, 2011 (“CTN Act”) and create a uniform regulatory framework for all Digital Addressable Systems. This is also in line with paragraph 15 & 47 of the Explanatory Memorandum to the Addressable Tariff Order dated 21.07.2010 which clearly states that the provisions of the Tariff Order shall apply to all Addressable Systems including those in the CAS Notified areas after necessary amendments are carried out in Rule 10 of the Cable Television Network Rules. The attention in this regard is invited to Para 15 & 47 of the Explanatory Memorandum to the said Tariff Order which read as under:

Quote

- “15. Having decided to regulate the tariff for addressable systems, the next issue is regarding the framework of tariff regulation. It is felt that within a single tariff framework, the different addressable systems can be accommodated with suitable provisions. Thus, the tariff dispensation can follow two frameworks – one meant for addressable systems and other meant for non-addressable systems. This approach is further supported by the extant Interconnection Regulations which deal with the overall TV market on single distinction basis. This Tariff Order is meant for addressable systems.

47. *As already indicated in paragraph 15 supra, the Authority is of the view that the tariff dispensation for broadcasting and cable services can follow two broad frameworks, one for addressable systems and the other for non-addressable systems. The general principles of tariff determination under the present tariff order are, thus, intended to be applicable to all addressable systems, including cable services provided through conditional access systems (CAS) in areas notified by the Central Government under section 4A of the Cable Television Networks (Regulation) Act, 1995. However, the immediate application of the present tariff order to cable services in such notified areas may lead to an anomaly as regards specification of wholesale and retail rates for pay channels. This is on account the fact that there are certain existing provisions in the Cable Television Networks Rules, 2004 relating to fixation of prices of channels. Rule 10 of the said Rules provides, inter alia, that every broadcaster shall declare the nature of each of its channels as "pay" or "free-to-air" as well as the maximum retail price of each of its pay channels to be charged by the multi system operators or local cable operators from the subscribers in areas notified by the Central Government under section 4A. The tariff dispensation provided in the present order for addressable systems, on the other hand, mandates that a broadcaster shall specify its "wholesale" rates for addressable platforms. In case, the tariff dispensation in the present tariff order is immediately extended to cable services in such CAS notified areas, it may result in a situation where a broadcaster would be required to define retail price as well as wholesale price of its channels in respect of such notified areas. In order to prevent this anomaly, a separate recommendation is being made to the Government for amending Rule 10 of the Cable Television Networks Rules. Till the required amendment is carried out by the Government, the existing tariff dispensation for cable services in areas notified by the Central Government under section 4A of the Cable Act, i.e., under the Telecommunication (Broadcasting and Cable) Services (Third) (CAS Areas) Tariff Order, 2006 (6 of 2006) and the revenue sharing arrangements under the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004" (13 of 2004), as they stand at present, shall continue to apply. The tariff dispensation under the present tariff order will be extended, mutatis mutandis, to cable services in such CAS notified areas after the Central Government makes requisite amendments in the relevant provisions of the Cable Rules.*

Unquote

We further submit that the Authority with a clear objective to achieve uniformity in the Broadcasting & Cable sector must de-notify/withdraw the following Regulations/Tariff Orders applicable to the CAS Notified Areas, since these will become infructose in the light of amendments to the CTN Act.

- (i) The Telecommunication (Broadcasting and Cable) Services (Third) CAS Areas Tariff Order, 2006 (6 of 2006) dated 31st August 2006.
- (ii) The Telecommunication (Broadcasting and Cable) Services Interconnection Regulation 2004 (13 of 2006) dated 24th August 2006



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- (iii) The Standards Of Quality Of Service (Broadcasting and Cable Services – CAS Areas)
Regulation dated 23.08.2006

We further submit that our response to this effect is without prejudice to the rights and contentions of the Broadcasters in Civil Appeal No's 2847 to 2854 of 2011 and D-8827/2011 pending adjudication before the Hon'ble Supreme Court or any other legal proceedings initiated by any other Broadcasters/entities in relation to the Addressable Tariff Order (including in relation to the wholesale rates applicable to Add-On Packages) and Civil Appeal Nos 829-833 of 2009 pending adjudication before the Hon'ble Supreme Court or any other legal proceedings initiated by any other Broadcasters/entities inter alia in relation to the Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Eighth Amendment) Order 2007 dated 4th October 2007.

Issues for Consultation :

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?
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?
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 to 1,2,3 & 4

At the outset we submit that the DAS Tariff Order, already provides for a "minimum subscription charge " at an MRP of INR 150/-, which is akin to a BST and has been fixed taking into account the prevailing market dynamics and ARPU. Despite the fact that the DTH operators have complete freedom in packaging and pricing at the retail level, they have not introduced any FTA packages and are providing basic entry packs comprising both FTA and Pay Channels ranging from INR 90 per month per subscriber for 132 channel pack to INR 150/- per month per subscriber for 186 channels pack. The fast paced growth of DTH especially in the rural areas and cable dark areas clearly



establishes that market forces (subject to the minimum subscription charges of Rs 150/-) has worked extremely well at the retail both in terms of packaging and pricing.

Moreover, a significant feature of India's television landscape is its large and successful public service broadcaster. Doordarshan, like any public service broadcasters in other countries, is funded to provide an essential public service available to all citizens without charge. It meets the public's needs for basic television services across the nation with great effectiveness by offering an array of FTA Channels through its terrestrial service and DTH platform (DD Direct). Therefore, careful conceptual distinctions should be drawn between the necessary public service, provided by the public service broadcaster, and the discretionary entertainment products which make up the pay-TV industry.

It is further submitted that today, television in general and pay-TV specifically, is an entertainment product distributed in a highly competitive marketplace. Television competes with a wide range of alternative media delivery systems for consumer rupees and "eyeballs", including programming on DVDs, print media, internet delivery systems, and emerging new media technologies such as mobile broadcasting. Within the television industry, there is avid competition among free-to-air and pay-TV systems and inter se pay systems. The implementation of DAS will eliminate the existing CAS regime where FTA channels were being transmitted in analog mode, thereby creating the much wanted level playing field, which will intensify competition among addressable pay-TV delivery systems. Indeed, with thousands of cable operators, six operating DTH systems in the private space, DD Direct, IPTV offerings and open internet, India has the makings of one of the most diverse and competitive pay-TV sectors in the world.

While we share the Authority's concerns for the consumer interest, it has to be borne in mind that the very purpose of addressability is to provide choice to the consumers to opt for channels of their choice, and not lower charges to consumers. In the DAS regime since all channels FTA and Pay have to go through the Set Top Box ("STBs"), there is a cost of delivery associated in delivery each channel to the consumers. Therefore, consumer has to incur some additional expenditure to receive quality digital content and freedom of choice. The objective of DAS is to create a system which allows consumers an array of diverse content to choose from depending upon his needs and financial budgets.

The Authority has to recognize that Indian consumers pay the lowest charges for content which at the current Average Revenue Per User ("ARPU") of Rs 165/- (followed by the Authority) works out to Rs 5.00 per day for a minimum of 90 channels. If this were to be compared with print medium which is synonymous to the broadcasting sector in terms of working model, a consumer on an average pays Rs 4/- per newspaper per day for just one news paper.

To sum up, we submit that BST should not be mandated by the Authority since the existing provisions of "minimum subscription charge of Rs 150/-" as stipulated in the Addressable Tariff Order is adequate to safeguard consumer interests. Distributor of TV Channels should be given complete freedom in packaging and pricing at the retail level.



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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?

We recommend complete forbearance of retail tariff. In this regard we submit in the DTH sector Retail Tariff has been always under forbearance and has worked very well. In fact DTH has outperformed cable in the over regulated CAS notified areas which clearly establish that market prices have worked well. The Authority has consistently held and found competition to be adequate at the retail level particularly in addressable platforms and had accordingly kept retail tariff outside the purview of tariff controls in the Addressable Tariff Order notified in 2010. We therefore see no reason for the Authority to shift from its position in less than two years as intermittent tweaks to the regulatory regime are best avoided as it creates uncertainty.

In support of our above submissions we would like to draw Authority's attentions towards relevant portions of the affidavit dated 21/7/2010 filed before Hon'ble Supreme Court with respect to non-CAs Tariff Order:

3.80 The de novo exercise conducted by the TRAI has re-evaluated the current price regime at the wholesale level . As explained earlier, a number of practical issues were faced in developing a robust model for tariff determination due to the lack of addressability. At the same time, this lack of addressability also creates difficulties in successfully implementing forbearance at the wholesale level. The Authority is of the view that effective resolution of the wholesale tariff issue can only come through the introduction of digital addressability, which is an important long term goal.

A perusal of the above would reveal that TRAI itself has acknowledged that forbearance at wholesale level cannot be introduced because of lack of addressability. In other words, wherever the addressable systems are in place, there is a strong case for introduction of forbearance.



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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?

We propose the following amendments to the Interconnection Regulations with a view to align the same with CTN Act and also bring in uniformity, equity and transparency amongst all stakeholders in the distribution chain to create a level playing field:

- **Definitions:** Aligning definitions in Interconnect Regulations like “addressable systems”, “cable operator”, “free to air channel” with that of the CTN amendments,
- **Amendment to Clause 3.2 relating to Must Provide:** Insert appropriate provisos to Clause 3.2 of the Interconnect Regulations to exclude distributor of TV Channels who have
 - (i) failed to switch over to digital addressable systems within the stipulated timelines, or
 - (ii) not obtained registration in terms of the rules laid down in this regard or
 - (iii) have engaged in unauthorized retransmission or area transgressions or
 - (iv) sought signals for retransmission through non addressable digital set top boxes or
 - (v) not otherwise complied with Regulations from the seeking channels from Broadcasters under “Must Provide”
- **Amendment to Clause 4 :** Make necessary amendments to reduce the notice period for disconnection of signals from the existing three weeks to one week. Provided that any distributor of TV channels who retransmits signals of the channels in analog mode or through non-addressable STBs can be deactivated without any notice.
- **Amendments to 13 2A and 2B :** Necessary amendments must be carried out to ensure that
 - (i) MSOs also file their Rate Card and RIO to LCOs with the TRAI and upload the same on their websites.
 - (ii) the agreements between MSOs and LCOs must be on a principal to agent basis
 - (iii) all distributor of TV channels file with the TRAI their standard agreement with end subscribers and upload the same on their website.



(iv) Audit Provisions:

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- Broadcasters must be entitled to carry out technical and financial audit through any independent auditor. In case of audit of addressable systems, the Regulations currently provide for audit only by M/s Broadcast Engineering Consultants India Ltd. This should be amended to allow any entity to inspect, audit and certify addressable systems of distributor of TV channels including DTH operators.
- The Scope of audit must be defined and be made part of the Regulations
- The Regulations should mandate distributor of TV channels to upload on their website the subscriber numbers of all packages offered by them to subscribers as well as the subscriber numbers of channels offered by them on a-la-carte basis on a quarterly basis.
- In so far as the SMS management is outsourced by an MSO to the LCOs, broadcasters must be allowed to audit the premises of the LCOs to ensure compliance of Regulations/Agreements.

(v) **Enforcement of QOS:** The Interconnection Regulations should be aligned with the Quality of Service Regulations; Accordingly broadcasters and MSO's should be allowed to review and enforce the Quality of Service Regulations through their Reference Interconnect offers that are published under the Interconnect Regulations.

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?**
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?**

At the outset, we submit that the revenue share arrangements between MSOs and LCOs must be left to market forces.

In this context it is important to understand the role of a LCO which is that of an agent/dealer of the MSO, primarily responsible for seeding STBs at consumer homes and collecting subscription charges. This is akin to the role of any dealer as is prevalent in other service sectors like DTH/telecommunication etc. In fact, LCOs are globally recognized as dealers/franchisees of the MSOs (principal to agent relationship).

On the other hand, the MSOs will be making huge capital investments to implement digitization (currently estimated at Rs. 22,000 to 25,000 crores) and assume the risks associated with such capital outlays/ investments. The MSOs will own and control each subscriber connection.

Given the construct of the distribution structure, the MSOs are best placed to negotiate the commission payable to the LCOs depending on several factors like responsibilities entrusted with the LCO, area of operation, no of homes serviced by LCOs etc, which in



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our view should be in the range of 15 to 20% (for FTA and Pay Channels combined). This will also ensure fair and equitable distribution of the subscription revenue amongst all stake holders and reduce the MSO's over dependence on carriage/placement as the main source of revenue for sustenance and pave the way for a robust Pay TV model in India.

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

At the outset we submit that the distributor of TV Channels being the best judge in respect of the choice and preferences of the consumers in their respective operational areas would definitely carry all such channels which are in demand. In this regard, it is pertinent to mention that given the intense competition amongst alternate delivery platforms, it would be in the interests of the MSOs to ensure visibility and carriage of all popular channels to effectively compete with other MSOs and distributor of TV channels of alternate delivery platforms. In other words market dynamics will eliminate the need for "must carry" and hence not required to be mandated.

Even if we were to recommend "must carry", it will be difficult to implement on ground, since the carriage capacity of a cable network even in digital regime depends upon the kind of infrastructure established by the MSO. Once we suggest "Must Carry", then the basis thereof must also be suggested as otherwise the stipulation even if it is there, may not be practically implementable. Even in case of Regional channels, how a network would accord priority to various available channels, what kind of criteria is required to be laid down in this behalf are issues which may be difficult to address.

Moreover, the provisions of the Interconnection Regulations which stipulate that any distributor of TV channels who demands carriage/placement fee from Broadcasters in respect of some channels cannot demand such channels under "must provide" is adequate safeguard for 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?



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

We recommend total forbearance on all the issues related to Carriage Fee and submit that the same must be left to negotiations between the parties based on market realities.

In this regard, additionally we would like to draw Authority’s attentions to relevant paras of the affidavit dated 21.7.2010 filed before Hon’ble Supreme Court in Appeal No. 829-833 of 2009 TRAI Vs. SET Discovery Pvt. Ltd. & Others reiterated that carriage & placement fee are directly related to earning of advertisement revenue by the broadcasters.

CHAPTER IV: CARRIAGE AND PLACEMENT FEE

“

4.3 For a broadcaster dependent on advertising revenue, ensuring reach is critical. This is because higher reach implies greater access to the subscriber base – thereby providing an opportunity for the channel to improve its ratings. Carriage and placement fee provides the broadcaster access to an MSO’s network. Due to the bandwidth constraints in the analog transmission mode, the MSO “allocates” certain frequencies to the highest paying channels. This phenomenon can be interpreted in simple economic terms as a “demand-supply” mismatch. With supply remaining unchanged at 80 channels and the total number of channels having risen steadily to around 550 – carriage fee reflects the entry barrier posed by analog transmission and will continue to rise until the capacity constraint is addressed through digital services.

4.30 Finally, it is observed that carriage fee in India is largely driven by the advertising potential of various markets. This is demonstrated by the fact that carriage fee is only paid in markets covered by the viewership agency TAM - as large advertisers allocate a majority of their marketing spend according to ratings published by TAM. Thus it can be argued that carriage fee should not be regulated if there are no controls on advertising revenue. This point has been made by a large number of stakeholders.

.....”

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?

We do not support the concept of standard interconnection agreement (SIA) between service providers on similar lines as that for notified CAS areas with conditions as applicable for DAS areas.





The existing regime of RIOs as stipulated in the Interconnection Regulations for DTH and other Addressable Systems provides a framework and basis for commercial negotiations between stakeholders which finally culminates into mutually negotiated contracts. This has worked very well in the DTH sector and should be replicated in DAS as well.

The very essence of an agreement is free flow of negotiations. A contract per se is a consensual act and the parties are free to settle any terms as they please. Mutual negotiations between the parties before entering into contracts form an essential part of the contracting procedure. The freedom of parties to contract cannot be taken away or done with. If regulatory authorities were to regulate agreements it will frustrate the essential element/pre-requisite of any contractual relationship. In the absence of freedom in making of the contract, the relationship cannot be described as a contract at all.

In fact even the TRAI Act, recognizes the importance of freedom to contract and does not empower the Authority to mandate SIAs. In exceptional circumstances if any distributor of television channels has any issues/disputes with respect to any clause imposed by the broadcasters in the agreements, the TRAI Act provides for an appellate mechanism for resolution of such disputes.

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

We are in agreement with the uniform Quality of Service and Redressal of Consumer grievances for the Digital Addressable Cable TV Systems proposed by the Authority except that the minimum subscription period provided for in the DTH QOS should also be made applicable to Digital Addressable Cable TV systems .

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?
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.

We strongly recommend that billing should be done by MSOs only, as they are the it is the MSO who would be owning and operating the subscriber connection, CAS/SMS and doing the relevant encryption.



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

Yes and the same should be allowed across the value chain subject. By way of appropriate amendments in the Interconnect and Quality of Service Regulations, TRAI should grant explicit permission for prepaid subscription revenue models between Broadcasters/MSOs/LCOs. This will also result in reductions of disputes between service providers and consumers pertaining to outstanding dues and reconciliation of accounts etc.

Miscellaneous Issues

Broadcasting of Advertisement free (ad-free) channels

- 21. Whether 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?**
- 23. What should be the provisions in the interconnection regulations in respect of adfree channels?**
- 24. What should be the revenue sharing arrangement between the broadcasters and distributors in respect of ad-free channels**

At the outset, we submit that viability or otherwise of any product/service is purely driven by market forces of demand and supply. Similarly, the viability of an ad-free channel is purely a business proposition and is dependent on the consumer acceptability of the same which again is a factor of demand and supply theory. Hence, we see no reason for the Authority to get into a viability analysis of ad-free channels in the Indian television market and the Broadcasters must be given complete freedom to decide the launch of ad-free channel.

We further submit that since ad-free channels are purely subscription driven, it must be completely outside the purview of Regulatory and Tariff controls at both wholesale and retail level, including “must provide”, pricing and/packaging restrictions. Broadcasters should have total freedom to negotiate retail rates, minimum guarantees and percentage share.

Further, in this regard, we also would like to draw Authority’s attentions to relevant portions/paras of the Explanatory Memorandum to The Telecommunication (Broadcasting and Cable Services) Addressable Systems Tariff Order 2010 (“Addressable Tariff Order”) dated 21.07.2010:-



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Quote

“.....”

G. Niche channels requiring specialized set top boxes:

- 44. *In recent times, the market has witnessed the emergence of a number of niche channels such as HD and 3D TV channels that require special set top boxes. An issue that was posed for comments during consultation was whether tariff for niche channels requiring specialized set top boxes should be regulated.*
- 45. *In case of niche channels requiring specialized set top box e.g. HDTV channels, the stakeholders are generally of the view that such channels have recently appeared in the market and all equipment relating to HD programs including the set top box and TV set are relatively costly as compared to standard definition TV sets etc. Therefore, no regulation is necessary.*
- 46. *The niche TV channels can only be viewed in an addressable environment and that too with the help of specialized set top boxes. These channels which have been recently introduced employ advanced technology and therefore, can be considered premium in nature. As these channels are viewed by an elite section, the Authority is of the view that there is no general public interest involved and the tariff dispensation for niche channels requiring specialized set top box TV channels should be left to market forces. The Authority will review the position at an appropriate time.*

.....”

Unquote

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.**

At the outset, we submit that the non-addressable STBs are a huge deterrent/disincentive to digitization and is contrary to the intent and object of DAS. These STBs act merely as an equipment to convert analog signals to digital mode, thus enhancing the channel carrying capacity and does not provide addressability to the consumer despite being compatible to extend addressability.

The operators offering these non-addressable STBs, despite having full details of subscriber homes where these boxes are, do not share such details with the broadcasters and insist on negotiating deals with the Broadcasters for these subscribers on the basis of negotiated subscriber base on the ground that it is non –addressable. This frustrates the very purpose of DAS and encourages under declaration and evasion of taxes even in a



digital environment. Simply stated, despite having the infrastructure and facility to offer addressability to consumers/viewers, the cable operators deliberately do not extend the same to the consumers.

We submit that the increased deployment of the non-addressable STBs in the non-CAS markets will lead to creation of an inefficient delivery model i.e non-addressable digital which will replicate encourage the same chaos and inefficiencies of analog non-addressable. Moreover, it will become difficult to locate these boxes and migrate them to DAS regime as per the time schedule stipulated in the CTN Act, thereby effectively derailing DAS. This may ultimately lead to a situation where the Authority may have to contemplate formulating a road map for transitioning from digital non-addressable to digital addressable to move to the DAS regime.

In the light of the above, we recommend the following to deal with non-addressable STBs :

- (i) Transmission of signals to the non-addressable STBs from the Digital Headend of the cable operator catering to DAS subscribers/areas must be specifically prohibited;
- (ii) The Quality of Service Regulations (Non CAS) of 2009 should be amended to eliminate reference and recognition to digital decoder boxes .
- (iii) Must Provide should not apply to those Operators, who seek signals for retransmission through non-addressable STBs
- (iv) A notification/direction needs to be by the Authority to the effect that all non-addressable STBs should have to compulsorily enable conditional access systems and activate the subscriber management systems in any event not later than 30th June 2012.

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?**

Firstly, we believe that there is no rationale for regulation on wholesale tariff in digital environment when retail tariff is subject to forbearance. Therefore, we strongly believe that there will be no impact on the wholesale channel rates after the sunset date i.e 31st December 2014 as markets would have matured, the manner of television consumption and the nature of content would have changed together with multiple revenue streams opening up for operators through triple play thus infusing the required liquidity into the system. With consolidation and presence of serious players, the industry should be self propelling and coming of age. In fact, as the Authority has always maintained there is no justification for continuing tariff controls at the wholesale after the sunset date and must accordingly foster complete forbearance at the wholesale level after the sunset date.

In any event, we are of the view that it is too early to decide the wholesale rate regime after sunset date and it would be best if the Authority evaluated the position at the relevant point of time through a fresh consultation immediately before the sunset date.

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

In notified CAS areas, one of the major issues faced by the service providers is the piracy of the channels. In order to ensure that DAS is successfully implemented and achieves the purpose sought to be achieved, a suitable enforcement mechanism is required to be devised and implemented to check the piracy of channels.

We recommend suitable amendments in the Register of Interconnect Agreement (Broadcasting and Cable Services) Regulations 2004, so as to bring the MSOs and LCOs within the purview of the same. MSOs and LCOs should also be required to register the agreements executed between them with the TRAI. All the provisions that apply to Broadcasters must equally apply to all distributors of TV channels including MSOs and LCO

- Suitable amendments in the Addressable Tariff Order must be made requiring the all the Distributor of TV channels including the MSO to report to the Authority the retail rates and packages offered by them in their respective area of operations on a periodic basis and the same should be uploaded on their websites and also published by TRAI in its website in the same manner as the wholesale rates of the broadcasters.
- Every Cable TV operator should be required to maintain a register giving details of its subscribers, details of bills, details of tax collected and paid with date, in verifiable & auditable form. Cable Operator should also be mandated to furnish these information in prescribed form to TRAI on quarterly basis.
- Every MSO should be required to maintain a register giving details of its Local Cable Operators, their subscribers, subscribers directly served, details of bills, details of tax collected and paid with date, in verifiable & auditable form. MSO should also be mandated to furnish these information in prescribed form to TRAI on quarterly basis.
- Every Cable TV operator should submit an annual statement to the authorized officer giving details of its subscribers, specific area of operations, details of application forms received, connection provided, invoices raised, rates charged & UID issued etc.
- TRAI must on the basis of the data received from LCO's/MSO's upload on its website once in six months the names and addresses of LCO's connected to the MSO's, together with rates charged by such MSOs and LCOs which will enable greater transparency to deal with issues pertaining to migration of LCO's.