MOTION PICTURE ASSOCIATION

MPA

September 20, 2019

Shri Arvind Kumar,
Advisor (B&CS)
Telecom Regulatory Authority of India

MPA Response to the Telecoms Regulatory Authority of India (TRAI) Consultation on Tariff related issues for Broadcasting and Cable Services

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Dear Sir,

The Motion Picture Association ("MPA") is a trade association representing six international producers and distributors of film, home entertainment and television programs. The MPA-represented companies are: Netflix Studios, LLC.; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Universal City Studios, LLC.; Walt Disney Studios Motion Pictures; and Warner Bros. Entertainment Inc.

Our member companies produce and distribute a wide range of film and television content in India and around the world. Our members have invested in the growth of the Indian broadcasting sector producing thousands of hours of locally sourced content for regional, national and global audiences. In doing so, they have been consistent contributors to India's "Make in India" and ''Invest India'' vision and are significant contributors of FDI inflow into the Indian Media and Entertainment sector. India's creative economy is already becoming a global hub for content production.

We were likewise encouraged that in 2018, the Indian media and entertainment (M&E) sector was recognized as a *champion services sector* by the Government of India as a key growth driver for the Indian economy.

We are therefore concerned over the recently proposed amendments to the New Tariff Order by TRAI in February 2019, via its Consultation paper on Tariff Related Issues for Broadcasting and Cable Services issued on August 16, 2019. The MPA appreciates the opportunity to comment on TRAI's latest consultation. Without going into the specifics of the consultation, we hope to offer the following comments in the spirit of our partnership and collaboration for the long-term development of India's broadcast and cable sector.

- **Market pricing and channel bundling** - In order to ensure that India's broadcast sector remains relevant and vibrant in an increasingly competitive global environment, we strongly urge TRAI to allow market pricing and channel bundling. Restrictions in these areas are not only out of step with international best practices, experiences have shown that consumers will end up paying more for fewer channels. Each broadcaster should have the flexibility to offer channels to cater to consumer demands, compete on a level playing field and maximize the true value of their diverse and unique offerings.

  We are concerned that further restrictions or changes proposed in TRAI's new consultation paper on capping of discounts on bouquets, ceiling on MRP of channels, and formation of bouquets by broadcasters could additionally impact returns on investment and the broadcasters' ability to create further content and employment. In fact, according to KPMG's latest "India Media and Entertainment Report 2019", the New Tariff Order has already reduced the number of active pay TV subscribers by 12-15 million. This will impact annualized revenue loss for the industry and inter-alia potential annualized loss to exchequer[1].

  Any attempt to force consumers to choose a-la-carte channels vs bouquet value deals in a market where 98% of TV households are single TV households will be tantamount to restricting / impacting consumer choice. Further, no empirical data or analysis has been provided by TRAI in categorizing channels as unpopular/ unwanted or to prove that a-la-carte channels increase consumer choice.

  A 2004 FCC report[2] concluded that mandating a- la-carte channels for cable consumers in the US would most likely harm new and niche channels and reduce consumer choice. An evaluation of a similar proposal in Canada in 2014 concluded that "unbundling" could have adverse effects for the broadcasting sector and could result in 26% of the current channels becoming unviable. The present environment in India also indicates the same trend that small and niche broadcasters will not be able to survive if the Authority follows an excessive regulatory approach.

  Furthermore, frequent regulatory interventions can undermine the eco system by disrupting business resulting in increase in piracy by "unofficial" bundling by LCOs as they do this locally bypassing the New Tariff Order. This can further affect upstream and downstream revenues for content, reduce taxes and eliminate jobs.

- **Foreign investments** – To India's credit, the Government has undertaken a number of initiatives in relaxing its Foreign Direct Investment (FDI) policies, a critical driver of economic growth. Indeed, India's media market is projected to reach $33.7 billion by 2020[3] according to Invest India. Consistent with its FDI policy, India should relax its tariff and restrictive broadcast policies to attract investment in high quality and innovative programming. The ability to innovate and experiment with business models to provide diverse content is the best guarantee that the broadcast sector will not be distorted to the detriment of consumers, creators and providers.

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1 According to Deloitte-MPA 2018 report, indirect taxes accounts for 17.2% of the industry revenues. The loss of exchequer is calculated based on this data.

2 https://www.fcc.gov/reports-research/reports/cable-industry-prices-reports/report-cable-industry-prices-2004

3 https://www.investindia.gov.in/sector/media

MPA submits that TRAI's consideration of regulatory approaches to broadcast services should not stifle the sector's true potential. For comparison, production and distribution of motion pictures and television programs in the US has benefitted from a forward-looking regulatory framework and as of 2016, supported 2.1 million jobs and $139 billion in total wages[4]. Due to this forward-looking regulatory framework, the industry contributed $134 billion in sales to the overall economy in 2016.

We look forward to our continued partnership in developing India's thriving creative industry. A business-friendly regulatory environment is essential to build investor confidence and foster the creation of high-value film and TV productions that will benefit India's consumers and its economy.

We thank the Authority for the opportunity to comment on this paper and remain available for further participation on this matter.

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Yours sincerely,

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4 The Economic Contribution of the Motion Picture & Television Industry to the United States, available at: https://www.mpaa.org/wp-content/uploads/2018/03/MPAA-Industry-Economic-ContributionFactsheet_2016-FINAL-2.pdf)