

MOTION PICTURE ASSOCIATION – INTERNATIONAL

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Under license from Motion Picture Association



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MOTION PICTURE ASSOCIATION SUBMISSION
IN RESPONSE TO THE CONSULTATION PAPER ON "ISSUES RELATED TO
IMPLEMENTATION OF DIGITAL ADDRESSABLE CABLE TV SYSTEMS"

BY EMAIL: advbcs@traf.gov.in, traicable@yahoo.co.in

Shri Wasi Ahmad
Advisor (B&CS)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan,
Jawaharlal Nehru Marg,
New Delhi 110 002

Dear Sir,

The Motion Picture Association ("MPA") is a trade association representing the interests of six international producers and distributors of films, television programs, home videos, and digital representations of moving images and sounds. Companies represented globally through the MPA are:

Paramount Pictures Corporation
Sony Pictures Entertainment Inc.
Twentieth Century Fox International Corporation
Universal City Studios LLC.
Walt Disney Studios
Warner Bros. Pictures International

MPA appreciates the opportunity to respond to the Telecom Regulatory Authority of India ("TRAI") Consultation Paper on Issues relating to implementation of Digital Addressable Cable TV Systems dated December 22nd, 2011 ("Tariff Consultation"). As a preliminary statement, MPA commends the TRAI for consulting stakeholders and generating discussion on the appropriate tariff approach. As a trade association representing "content providers" of

filmed entertainment and television programming for different markets around the world, we are well aware of the importance of continual review of tariff regulation to ensure its relevance. Not all of the matters referenced in the Tariff Consultation are directly related to our studios' core business interests, so our comments below are tailored accordingly. At the same time, we note that certain other matters that are of related concern to the studios we represent and that have been discussed with TRAI, such as ensuring adequate and effective content protection in connection with certain other national initiatives (including the National Broadband Policy and the further implementation of the Cable TV Regulation Bill), have not been addressed within the context of the present consultation. We look forward to engaging with TRAI on these important issues at the appropriate time.

Key Comments:

Given the selective degree of relevance of the matters now being considered, MPA wishes merely to offer the following key comments in relation to the Tariff Consultation:

- TRAI should forbear wherever possible from regulating cable TV tariffs.
- The collective global experience of the studios we represent is that market forces, rather than government regulation, best promote competition and consumer interests. It should be left to the operators to determine retail offerings based on regional tastes, preferences and aspirations. Historically operators have always enjoyed the freedom of packaging and this has worked well for addressable platforms like DTH. TRAI should be platform agnostic and should not skew the level playing fields between Cable and DTH.
- Relevant markets including the supply of cable TV are subject to strong competition in response to continually evolving circumstances. India is a diverse country and any such micromanagement of retail offerings can lead to litigation among disgruntled players.
- Since the availability of content is not a relevant issue in the context of the Indian market, an issue restricting numbers/genres/mix shall unnecessarily prompt carriage and placement concerns. Anti-competitive packaging can result in new entrants being denied carriage/placement.
- Identifying genres/mix would be tantamount to predetermination and would therefore pre-empt creativity. There can never be an exhaustive list of genres for governments to determine any 'mix', as broadcasters always strive for innovative and radically differentiated content. There is no international precedent for doing this either.
- À la carte requirements should not be imposed between broadcasters and MSOs. It is vital to the effective operation of the industry that the current practice of broadcaster led bouquets be permitted to continue. À la carte mandates are very rarely resorted to by governments in any industry/context and are used in cases and instances of proven anti-competition/abuse of dominance.
- Market forces best promote competition and consumer interests and should therefore always be the starting point for any regulatory review. Regulation should be imposed only where there is clear systemic market failure. Such regulation should then be subject to constant review and adjustment/elimination when there is the opportunity for market forces to again prevail.
- Must carry provisions should not be mandated for MSO's operating in the DAS areas.

In response to the question "Does any of the existing clauses of the interconnection Regulations require modifications?" MPA further submits that TRAI implement the following:

- A "Qualified Must Provide" by inserting appropriate provisos to the existing regulations such that Must Provide will not apply to operators (i) who have failed to switch over to digital addressable systems within the stipulated timelines or (ii) who have not obtained registration in terms of the rules laid down in this regard or (iii) who have engaged in unauthorized retransmission or area transgressions or (iv) who have not disclosed their subscriber base or (v) who seek signals for retransmission through non addressable digital set top boxes (vi) who have not entered into legitimate licensing agreements or (vii) who have not otherwise complied with Regulations.
- Audit Requirement: Effective and comprehensive auditing rights should be given to the broadcaster. This is common practice in other markets and will of course help get to the chronic problem in India of under-reporting.
- Disconnection of Signals: In the event of copyright infringement/breach of addressable system by the MSO/LCO the broadcaster should be free to switch off without notice. And for disputes, since there will be addressability and the kind of disputes, which resulted in deactivation will decrease rapidly and especially since disputes may be of such nature that may challenge addressability we recommend that 7 days notice (not current 30) is sufficient to be given.
- Anti Piracy Obligation & Fingerprinting: Original finger printing of the channel, both overt and covert should be passed through to the end subscriber by the MSO's system. MSOs should have separate facility of frequent finger printing system & OSD messaging in their CAS system to combat copyright infringement.

The conclusion that should be reached is that market forces will be more effective in promoting cable TV competition and consumer interests than any of the proposals put forward for price regulation, and are more likely to result in a commercially viable and developed Cable TV system in India.

We thank you for the opportunity to have submitted these comments and remain available and interested for further participation in TRAI's continued consideration of these and other important issues.

With kind regards,



Frank S. Rittman