NDTV

30th September, 2014

To,
Dr. Rahul Khullar,
Chairperson
Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan
Jawahar Lal Nehru Marg (Old Minto Road)
New Delhi 110002

Subject: Civil Appeal Nos 829-833 of 2009, namely Telecom Regulatory Authority of India Vs. Set Discovery before the Hon'ble Supreme Court of India.

Dear Sir,

While disposing off the above appeals, the Hob'ble Supreme Court vide its order dated September 17, 2014 has stated that in *"In case any of the stakeholders intend to make representations to the TRAI, they may do so positively within ten days and in any case on or before 30.09.2014"*.

Please find enclosed our submissions.

Thanking You,

For **New Delhi Television Limited**

Authorised Signatory

Enclosure(s): as above.

कार्यालय प्रधान सलाहकार (बी. एवं सी.एस.)
डायरी सं. 1653
दिनांक 9/10/14

अध्यक्ष, ट्राई
डायरी सं. 969
दिनांक 7-10-14

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Outline of Submissions to TRAI

1. At the outset, it is necessary to exercise forbearance so that tariff (i.e. retail sale price of channels) can be left to market forces like in the telecom sector. The first Tariff Order was issued in 2007 and since then the market has undergone a complete change. In today's scenario, there is substantial competition in the market and therefore the tariff rates can be decided by the market.

2. However, if tariff is regulated and there is a cap placed on the prices charged by broadcasters, it is necessary to regulate carriage and placement fees charged by MSOs in order to maintain level playing field conditions.

3. Carriage and placement charges are imposed by the MSOs on the broadcasters. These are input costs for the broadcasters, which have to be considered while imposing any price control on the charges fixed by the broadcasters.

4. The basic issue is that if there is a price control on how much the broadcasters can charge the MSOs for content, reverse controls should also be applied i.e. control on how much MSOs can charge the broadcasters for carriage and placement. This is necessary to maintain level playing field conditions.

5. Permitting carriage and placement charges to be determined by market forces, while regulating the prices charged by the broadcasters leads to regulation of one stakeholder without regulating the other within the same regulatory regime. This is arbitrary and discriminatory.

6. Carriage and placement fees charged by the MSOs from the broadcasters have increased exponentially. The charges paid by MCCS have increased by 300 % in over the years. It is estimated that the total amount of carriage and placement fee paid by the broadcasters is between Rs. 1200 – 1500 crores.

7. Ground realities show that commercial balance has shifted in favor of the MSOs while broadcasters are compelled to work within the constraints of price ceiling of the channels. Due to exponential increase in the high costs of distribution, operational costs have increased for the broadcasters.

8. That there is no mechanism for auditing the number of household serviced. The Distributors make under declarations and keep substantial margins with themselves. The MSOs increase the carriage and placement fees without any demonstrable increase in the reach or the viewership offered by such cable network operators.

9. Broadcasters are being compelled to divert money from content investment to distribution. This apart from being detrimental to the consumer interests and rights under Article 19 (1) (a) as they are deprived of receiving content that matches global standards, is also violative of Article 19(1) (g) as it hampers the business models of the broadcasters.