

## Response to Consultation Paper dated 20<sup>th</sup> December 2012.

1. **Carriage Fees** - Clause 3(5) of the interconnection regulation for DAS states that an MSO who seeks the signals of a broadcaster cannot claim carriage fee for carrying that channel on its distribution platform. This provision, as per the consultation paper has been replicated from the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004. The consultation paper states that the original provision of 2004 (inserted into the 2004 Regulation in 2009) was not challenged and therefore the challenge of the same before the TDSAT comes as a surprise. The amendment now proposed by the TRAI asks whether this provision should be deleted from the interconnection regulation for DAS.

### **NDTV Response**

Our opinion is that the clause should not be deleted.

If an MSO is willfully accepting to subscribe a channel then he should not have the right to demand carriage for the said channel from the broadcaster. Simultaneous demand of carriage would be like saying that **“You are buying a Car & the same time asking the dealer to meet the running cost of the car”**. While we accept that there is a cost in initiating the said channel on the MSOs network, but that is just limited to downlinking equipment, like a decoder/CAM module, which anyways is being provided by the broadcaster in most of the cases. If an Operator invokes a **“Must Provide”** order against a Broadcaster then there must be a reciprocal **“Must Carry”** as well in favour of the broadcaster. In the earlier analogue regime, there was a big capacity constraint, where MSOs may have justified levy of carriage fee, but in a DAS environment where the capacity constraint is not applicable, we strongly believe that there should be no carriage in cases where the MSO has agreed to subscribe that channel. However, if at all it is decided by the regulators that Carriage fee has to be paid, the same should have a **lower limit and an upper limit like TRAI had proposed earlier i.e. Rs. 3 to Rs. 5 per box/channel/year**. This needs to be regulated in the same way as the whole sale prices of the broadcaster to the operator. If Carriage fee is not regulated and is left to market forces then the wholesale price should also left to the broadcaster to decide, depending upon the prevailing scenario. If carriage fee is not capped/ controlled there is very little motivation for the MSO to increase his focus on the ground and maximize the subscription collection. He will also not look at upgrading his technology or quality of service, his sole objective would be minimal investment and maximum returns from the ground. LCO will also continue in his free ride, since the MSO is not putting any pressure on him. **This would defeat the whole purpose of Digitization,**

**which was to improve Quality of Services, Choice of subscription to Consumer & transparency in systems.** The bad practices from the Analogue regime will continue, it will benefit none but the MSO/LCO and the consumer will continue to suffer.

**2. Minimum Channel Carrying Capacity of 500 Channels for MSOs –**

Clause 8(3) of the Interconnection Regulations prescribes that every MSO operating in DAS shall have the capacity to carry a minimum of 500 channels by a specified date.

As per the TDSAT’s ruling, if the TRAI deems it fit, it may consider making provision for MSOs to have capacity to carry a specific number of channels based on different categories of areas, i.e. city/towns/rural areas etc. in which MSO will be operating.

The rationale for keeping a minimum requirement for the number of channels that an MSO is to carry is stated as being the requirement for MSOs to follow the “must carry” provision.

The consultation paper now asks whether a minimum channel carrying capacity should be specified and as to what the basis for prescribing the same should be.

**NDTV Response**

Yes there should be a Minimum Channel Carrying Capacity set in as a rule. This would help in implementing the must provide and the must carry provisions. This can be linked to MSO Type (Big, Small, Medium) depending upon the subscriber base he is catering to. As soon as his subscriber base moves to the next level he should increase the headend capacity, as he would be catering to a wide variety of audience with different requirements with each increase. A typical example of the same could be as below

<b>Subscriber Base</b>	<b>Limit</b>
<b>Upto 25,000</b>	250
<b>25,001 to 50,000</b>	300
<b>50,000 +</b>	500

This should be standard across all major cities. For rural areas (Phase III onwards) this limit could be lowered.

### **3. Placement Fee**

Clause 11A of the interconnection regulation for DAS prescribes that no MSO shall demand from a broadcaster any placement fee.

Clause 3(11) of the Interconnection Regulation also provides that if an MSO, before providing access to its network, insists on placement of the channel in a particular slot or bouquet, such precondition amounts to imposition of unreasonable terms.

The consultation paper seeks to find out whether regulation of placement fee is required, and if so how the same is to be made.

#### **NDTV Response**

In DAS the technology provides for an Electronic Programme guide (EPG) wherein the said channel can be carried on a MSO's network in the genre the channel belongs to. It also allows the subscriber an easy access to the said channel, rather than flipping through a long list of channels as in the analogue regime. The display of channels is arranged genre wise here, so the question of Placement fee also gets ruled out. In the analogue regime there was a capacity constraint plus a technology constraint wherein the quality of the channel also used to go deteriorate as one moved up the frequency spectrum and the channels used to jostle for prime frequencies due to which the issue of placement came up. So in DAS regime there is no justification of charging a placement fee. The cost of carrying the channel remains the same whether it is offered as a package or a la carte.

### **4. Minimum Subscription Period and Freedom to choose the channel(s) on a-la-carte and/or bouquet(s)**

As per the TRAI's tariff order in 2010, only pay channels were to be offered to the subscriber on an a-la-carte basis. However, now all channels are to be offered on such basis, so that the subscriber can have complete freedom on what channels they wish to watch.

However, since subscribers may change their choice of channels frequently and cause operational problems for the service providers, therefore the Authority has now amended the provision to provide for a minimum commitment period of 3 months, i.e. for a period of 3 months, no changes in the choice of channels shall be made.

Comments on these changes have been invited.

## **NDTV Response**

Yes it makes business sense to offer both Pay and Free to Air Channels in the a la carte offerings of the addressable platform. This would ensure that the consumers are given full freedom to exercise his choice of channels, but at the same time, in order to maintain the balance, there should be a **“Minimum Subscription Period”** for any a la carte channel subscribed by a consumer. Otherwise it would be an operational nightmare for both the Platform and the broadcasters to make frequent changes in their billing system. This is very critical for the pay channels, since that involves revenue share between the broadcaster and the platform. Therefore the option given to the consumer to subscribe to the channels of his choice should continue, though with the minimum 3 month commitment as already prescribed.