

January 30, 2012

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

**Sub: Consultation Paper on "Issues related to Implementation of Digital Addressable Cable TV Systems"**

**Kind Attn: Mr Wasi Ahmad**

Dear Mr Ahmad,

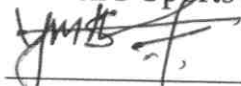
At the outset we appreciate the opportunity given by the authority to provide our comments on the Consultation Paper referred hereinabove. In this context, we wish to make the following submissions with respect to the consultation raised there under:

We are enclosing our comments in this respect for your reference and records and it may be noted that the above views/ recommendations/ submissions/ suggestions have been made by us without prejudice to our legal rights and contentions with regard to jurisdiction and other legal issues and we reserve our right to modify our response at any time.

Thanking You,

Yours Faithfully,

For NEO Sports Broadcast Private Limited



Mukul Sharma

(C.S. and Associate Vice President- Legal & Regulatory Affairs)

Encl: As above

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**TRAI CONSULTATION PAPER**

**No. 8/2011**

**ON**

**"ISSUES RELATED TO IMPLEMENTATION  
OF DIGITAL ADDRESSABLE CABLE TV  
SYSTEMS"**

**Dated 22<sup>nd</sup> December 2011**

**RESPONSE OF**

**NEO SPORTS BROADCAST PRIVATE  
LIMITED**

### 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?

NEO's Response: The Authority had prescribed a rate of Rs 150/- (Tariff Order dated 21.7.2010) as the ceiling for the addressable system (except cable), while the formation of various bouquets has been left to the platforms to be decided by. The same principle may now be extended for cable operators with addressable system.

However, in case BST is to be introduced then there should be an option to introduce simultaneously various BST packages to be relevant to different linguistic & cultural communities living in the area

- 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 states, cities, towns? If so, how should it be?

NEO's Response : What ever may the number/composition of channels in Basic Tier there should be no discrimination in the placement/composition of the same. Since many MSO's are vertically aligned with broadcasters there is a possibility that they may give priority to their channels vis-à-vis channels of other Broadcasters. Consequently the Regulator should define specific guidelines for the composition of Basic Tier depending upon the needs/demand/interest of a particular area.

- 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?

NEO's Response : Though we do not prefer a BST model but in the event a price needs to be set for BST , then we advocate the option of continuing with the existing regulation that allows a certain no.of channels reasonably priced inline with the current digital environment with the option of multiple BSTs to be introduced. The most subscriber friendly option is to have multiple BST options catering to different audiences and comprising of a common set of languages FTA channels together with a varying set of regional language FTA channels.

- 4) What should be a-la-carte rate of channels that form part of BST? Should there be any 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?

NEO's Response : *If there is only one single BST and if it is offered on a buy-through basis i.e. subscriber has to buy the BST before he can buy anything else like premium tiers or a la carte channels, then he will obviously have no interest in the price for any channel that is already included in the BST.*

*However, if there are multiple BST variants, and he has chosen a BST variant that does not include a particular channel that he wants then an A-la-carte price becomes relevant so that the subscriber has the option to buy the desired channel on A-la-carte basis. In this context the A-la-carte price can be whatever the channel has proposed and that has been approved by regulator.*

#### Basic Service Tier 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 it should be determined?

NEO's Response : *Our initial view is that there should forbearance in retail tariff only if wholesale prices are also under complete forbearance, alternatively, if wholesale prices have to be regulated, then retail tariff must also necessarily come under regulation or else the retail tariff can be abused to gain huge margins by the operators to the extent that it can threaten its business model or promote channels of vertically integrated companies in the same genre by providing the retail tariff in a non discriminatory manner.*

*When channels are sold on a-la-carte basis, vertically integrated distribution companies have the potential to significantly affect/ impact 3<sup>rd</sup> party channels by adding huge margins on their wholesale prices so that they are completely out-marketed on retail pricing levels and at wholesale levels too. To prevent the potential of such abuse when channels are sold on a-la-carte basis, we suggest that distribution platforms should be allowed to charge a maximum margin of 40% of the wholesale price set by the channel. Hence maximum retail price less 40% will be the wholesale price. This wholesale price which will uniformly apply to all the distribution companies, will be set by the channel and informed to the regulator*

*This uniform margin charging formula will ensure protection & transparency to subscribers at retail level and channels at wholesale level who are not aligned to the vertically integrated distribution companies.*

- 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 rationale for the same?

NEO's Response : Yes, if wholesale prices are regulated. For channels sold on a-la-carte basis, a distribution company cannot retail it for more than exceeding 40% of the wholesale price as in numerated in (a). The channels may be allowed to decide on their wholesale prices in consultation with the regulator, if required

- 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 reason thereof?

NEO's Response : No there should not be common ceiling as each channel owners out of their own business consideration will price their channels in the market accordingly. Also, since the content mix in each channel are quite subjective and so also their individual business model, common ceiling will inhibit growth and new experimentation that can add better entertainment value

Also, there must be separate pricing mechanism for channels to set their pricing models ie channels when sold as alacarte/ add on/ most widely distributed/ basic packages etc.

- c) Should there be a common ceiling across all genres for the FTA Channels or different ceiling for different genres? What should be the ceiling in each case and the reason s thereof?

NEO's Response : If the FTA channels are sold as a-la-carte, then the channels must be allowed to set their considerations (price and non price) on which it may be made available

- d) Any other method you may like to suggest?

NEO's Response : Let each channel set its own retail price – laissez faire. Margin to platform is fixed as decided by regulator. Tomorrow if there is any super premium channels – let them set their own price. Why would a subscription stock market interactive channel be the same price as a comedy channel?

#### 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?

NEO's Response : The following Clauses of the Interconnection Regulations require modifications:

- a. Notice period under Clause 4.3 needs to be brought down from 21 days to 3 to 7 days especially in the case of Sports Broadcasters as the events of a Sports Broadcasters normally lasts for 15 days or so and in such an event the MSO/LCO take the benefit of the 21 days window due to which we cannot deactivate them and once the event gets over they are deactivated. Such a thing benefits the MSOs/LCOs as they do not have to compulsary carry on the channel after the event gets over. Its only in case of piracy that the decoders are sealed immediately and does not require any notice period.
- b. Since the MSO's/LCO's to have likely to many headends through which they would be streaming out the signals of Broadcaster, hence the Broadcaster should be entitled to 4 (four) audit in a year on each head end and locations where the CAS is maintained and the dynamic nature of their integration and bifurcation of LCO is, hence we request atleast 4 (four) audits in a year
- c. A MSO should be liable to provide the complete SMS report to the Broadcaster on a monthly basis.
- d. The MSO/LCO should be obligated to comply with the obligations related to fingerprinting, Anti piracy and, CAS system.
- e. In the case of Sports Broadcasters the MSOs/LCOs under the regulations of must provide approach the Broadcasters for their Channel when a Live Event is to be showcased on their Channels but the moment the event gets over, they issue a Deactivation Notice citing financial constraints etc, to counter this menace it is proposed that the MSO/LCO be directed to carry the Channels of the Broadcasters for a minimum period of 6 months.
- f. It is obligatory on the part of the Broadcaster and the DTH Operator to report to TRAI about the rates, in the same way the MSOs/LCOs shall report to TRAI about their Area of Operation and no.of subscribers on a quarterly basis and the same should be published on the website of TRAI.

**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?**

NEO's Response : It could be market-driven as the dynamics change by geography. as a result, the cost of last-mile connectivity may be higher at some places and lower at other places given better or worse infrastructure. Infact the distribution chain as a whole is entitled to a slice of the pie. It should not increase or decrease depending on the layers. If there is a MSO and he distributes through a LCO then the slice of the pie must be enough for both – there is no justification for the subscriber to pay more.

**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?**

NEO's Response : Following revenues share must accrue to the channels - 50% for most genre; however for sports we recommend atleast 75% given their strong dependence on subscription business. Since the sports channels business rests on "live" content primarily, there is very limited scope for advertising & the self life of the content is extremely small unlike other channels, besides the nature of sports investment is such that it makes it necessary for sustained subscription business to offset the cost

*In BST an arbitrary price settled by regulator*

*For FTA channels in a-la-carte, the prices must be decided by the channels owner*

**9. Should the 'must carry' provisions be mandated for the MSO's operating in the DAS area?**

NEO's Response : Yes, since we are mandated by the must provide, the 'must carry' provision must be mandated for the MSO's. Considering the current 'must provide' obligation of broadcasters, there should be a parallel 'must carry' obligation on the part of MSOs. Otherwise, the enforcement of 'must provide' regulation without the corresponding 'must carry' obligations would be inequitable. This is in light of the fact that Clause 3.2 of The Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004 which sets out the "must provide upon request" obligation of broadcasters is couched in a language that suggests that MSOs can choose which channels to carry (i.e. no obligation to carry all) from among the channels provided or made available by broadcasters pursuant to such Interconnection Regulation.

*In sum, the current 'must provide' regulation needs counter balancing with 'must carry' obligations while taking into serious consideration their interplay with the application of the Sports Act and making sure that sports broadcasters' commercial flexibility is not stymied.*

*The consultation paper states that there is currently no regulation on 'must carry' of TV channels on cable networks. This is because in an analogue regime there are capacity constraint issues. As digitisation provides solutions to capacity constraint problems, it is imperative that rules are adopted in respect of must carry of feed by cable networks. Quality of service rules should be part of the 'must carry' rules (i.e. broadcasters' demand for a minimum of standard definition TV quality from LCOs and other data and picture quality standards). Quality of service rules are crucial because LCOs/MSOs who find the extra bandwidth unaffordable may be forced to downconvert some digital signals to an 'analogue like' resolution.*



**10. If the 'must carry' provision is mandated, what qualifying conditions should be attached when a Broadcaster seeks access to the MSO network under the provisions of 'must carry'?**

NEO's Response : *MSO's should not act in a discriminatory manner. As digitization provides solutions to capacity constraint problems, it is imperative that rules are adopted in respect of must carry of feed by cable networks. Quality of service rules should be part of the 'must carry' rules (i.e. broadcasters' demand for a minimum of standard definition TV quality from LCOs and other data and picture quality standards). Quality of service rules are crucial because LCOs/MSOs who find the extra bandwidth unaffordable may be forced to downconvert some digital signals to an 'analogue like' resolution. MSO's should be given an option not to carry regional channels which are not relevant for that region this will provide sufficient capacity to the MSO to carry all relevant channels for that region.*

**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 non-discriminatory terms to the Broadcaster?**

NEO's Response : *Since space constraint will no longer be an issue due to digitalization, atleast for the next 2/3 yrs, all channels must be carried on must carry basis*

*However in case the capacity constraint is found to be operative in the network, then network will be entitled to review and remove non serious channels that are squatting or seeking access to their network by asking the channels to demonstrate their relevance to the market or the group of customers being targeted or any other major considerations that can add value to the current market offering, however all such considerations of review must be undertaken on non discriminatory and results arrived at with, trade, public and governmental participation. It may be done at periodic intervals i.e., @ every quarter*

**12. Should the carriage fee be regulated for the addressable cable TV systems in India? If Yes, how it should be regulated?**

NEO's Response : *There should be no carriage monies since bandwidth is not a constraint in a Digital system. However the MSO may be free to negotiate for placement or EPG positions or any other considerations that does not affect the access of the channels to its subscribers*

**13. Should the quantum of carriage fee be linked to some parameters? If so what are these parameters and how they can be linked to the carriage fee?**



NEO's Response : As mentioned above in response to Query 12 there cannot be any carriage fee.

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

NEO's Response : A cap on carriage fees is not possible as it is not applicable in line to of our response to Query 12.

**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?**

NEO's Response : Not necessary, RIO is a better model, Further under clause 3.3. The Authority can always check the reasonableness of a clause.

#### 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 alongwith detailed justifications.**

NEO's Response : The DTH Quality of Service should be aligned with the CAS Quality of Service and there should be one addressable System QOS.

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

**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?**

NEO's Response : MSO as the larger organization must set the standard and provide training on the best practices. The relationship between MSO and LCO should be on Principal to Agent basis.

**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.**

NEO's Response : Billing must be from MSO and not from LCO to avoid/reduce chances of fraud.

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

NEO's Response : Yes, it will eliminate non-payment of dues and increase transparency in billings and improve predictability of business models for broadcasters, LCOs and MSOs. This practice is not very common internationally.

### Miscellaneous Issues

**21. Whether an ad-free channel is viable in the context of Indian television market?**

NEO's Response : Yes, for premium content channels especially in movies or sports, ad-free content with no price-ceiling offers value proposition to the high-end consumer.

**22. Should there be a separate prescription in respect of tariff for ad-free channels at both the wholesale and retail level?**

NEO's Response : Yes, there cannot be price ceiling for ad-free channel as the loss in advertising can only be made up through higher price

**23. What should be the provisions in the interconnection regulations in respect of ad-free channels?**

NEO's Response : The same Interconnect Regulation should be applicable for ad-free channels that is applicable for channels showing advertisements.

**24. What should be the revenue sharing arrangement between the broadcasters and distributors in respect of ad-free channels?**

NEO's Response : In absolute terms since ad-free channel in terms of input feed is the same for the distributors, their distribution cost for ad-free channel remains the same as a normal channel with ads. This should be left to mutual discussion for the revenue share.

**25. In case you have any view or comment on the non-addressable STBs, you may please provide the same with details.**

NEO's Response : The STBs without the addressable system should be barred not only from the areas prescribed in phase-I of digitization but also across the country and such

*STBs should not be used after the sunset date in order to achieve digitization within the time frame.*

**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?**

NEO's Response: *We do not feel there will be an impact on the wholesale channel rates after the sunset date i.e 31st December 2014 when the non-addressable systems would cease to exist, but having said that it is still felt that it will be premature to comment on this at this point of time.*

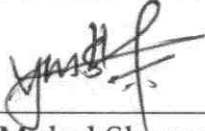
**27. Any other relevant issue that you may like to raise or comment upon**

NEO's Response: *No*

Thanking You,

Yours Faithfully,

**For NEO Sports Broadcast Private Limited**



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**Mukul Sharma**

**(C.S. and Associate Vice President- Legal & Regulatory Affairs)**

Encl: As above