



**Comments on TRAI Consultation paper  
No 8/2011 dated 22<sup>nd</sup> Dec 2011  
By Naseem & Associates**

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?

**Comment:** It has to be different for each locality. It should be left to be decided by the LCO as he knows what his subscriber want. He can pick & choose. TRAI should refrain from interfering in it. TRAI may off course fix a minimum number of channels (FTA) and the slab rate. For example for each 10 channels or part there of.

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 for different states, cities, towns? If so, how should it be?

**Comment:** It has to be different for each locality. It should be left to be decided by the LCO as he knows what his subscriber want. He can pick & choose. TRAI should refrain from interfering in it. It will ultimately benefit the consumer. In practice the competition would force the LCO to include all genres/ popular channels and keep on increasing the number of channels.

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?

**Comment:** The best way is to leave it to the market forces to decide. However it is advisable in the present circumstances for TRAI to fix it. The digitalization would impose a heavy burden on MSO/LCO and therefore there is a case for increase in the rate fixed earlier. For this increase to be fair to Consumer and other stake holder's intervention of TRAI is essential. Consumer also will have a feeling that his interests



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have been protected. MSO & LCO should be allowed to charge lesser than the MRP fixed by TRAI.

It is known that MSO & LCO subsidize the STB although they should not. The entire Head end undergoes a complete revamp. Network too has to be rehabilitated. The scientific method to fix this price is by undertaking a detailed techno commercial study and such study should be undertaken by a competent non governmental body to be chosen by TRAI. Since the geographical landscape, and period of implementation of the digitalization process is spread over years, the prices of hardware and software will remain volatile (variable) it may not be feasible to do a detailed study in a short period of time (earlier than June 31<sup>st</sup>2012.) It is only through a gut feeling that the price may be allowed to be increased by about 15-20%. 20% in Metros and 15% in the villages and in between for other towns and cities.

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

**Comment:** A la carte rate should be 10% higher than the average price worked out by dividing the BST price from the minimum number of channels prescribed for BST.

5. Should the retail tariff be determined by TRAI or left to the market forces? If it is to be determined by TRAI, how should it be determined?

**Comment:** For the period up to Dec 2014 TRAI should fix it. TRAI should however realize that GDP growth is greatly influenced by Broadband penetration and broadband penetration would largely depend on the Cable TV network once it is digitalized. The convergence of Internet and the Multimedia distribution over CaTV Networks will facilitate this goal in the fastest possible manner. Hence TRAI must be fair towards MSOs and LCOs and the huge investment that they will be making and if there is no proper and fair return the entire effort shall be jeopardized. The sector shall ultimately bring huge revenues, generate employment and provide all inclusive growth. TRAI is expected to advise Govt. that undue taxation, Licensing policies and Inspector Raj will kill it in the infancy. That will be a sad day.



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Lot of investment can be jeopardized by cut throat competition that will hamper further growth of digitalization and advance applications. Unscrupulous vested interest will throw every thing out of gear

- (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 the rationale for the same?

**Comment:** A la carte rate should be 10% higher than the average wholesale price. Wholesale price should be determined on the total number of channels offered by a broadcaster and not by a channel aggregator or so called Distributor. Unhealthy competition in any form by any one must be suppressed as it will harm the nation in the long run and the very purpose of the process will be defeated.

The fear is that any vested interest with lot of money can make an independent broadcaster / MSO but with little financial muscle disappear from the scene in no time.

- (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 reasons thereof?

**Comment:** The ceiling can be the same across the genre. Broadcaster if it so desires can reduce price for some and retain the ceiling price for the other. The content cost varies for the broadcaster for different contents even of the same genre. If TRAI feels Price for Mega Sports event can be fixed from time to time; however this may lead to avoidable controversies. Broadcaster earns huge sum from Advertisements when such an event takes place and makes profit rather than loosing.

- (c) Should there be a common ceiling across all genres for the FTA channels or different ceilings for different genres? What should be the ceilings in each case and the reasons thereof?

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



**Comment:** For FTA channels also the ceiling can be the same across all genres.

The ceiling price for the channels has to be based on a thorough study to be undertaken by a competent agency on the cost of content production, acquisition by the Indian Broadcasters in general and the income it generates for them including sources of Income other than this content

being part of broadcast channel.. Pending such study the prevalent ceilings fixed by TRAI must continue.

6. Does any of the existing clauses of the Interconnection Regulations require modifications? If so, please mention the same with appropriate reasoning?

**Comment:** There is a need to have legally vetted draft Agreements for interconnection between the following entities:

1. Broadcaster and MSO
2. MSO and LCO
3. LCO and the Subscriber

It is obvious that RIO in Annexure V can not be applied without appropriate modification in the language replacing the words DTH operator wherever it appears, by MSO. Secondly in case of Cable TV business there also is a third party involved unlike in case of DTH. This third party is the LCO. There must be an interconnect agreement between MSO and LCO which should have a stamp of approval by TRAI for it being fair to both.

The agreement between LCO and subscriber should include KYC (know your customer) information and the QOS terms being fixed under these guide lines. This agreement must provide for intellectual property protection. A digital Set Top Box can leave an indelible mark on the content it delivers and if the subscriber copies it in full or part and distribute it for profit and no profit it can be traced and if it is found infringing the copy rights of the content owner / broadcaster it is the subscriber of this STB who should be held responsible. All others in the chain Broadcaster/ MSO/ LCO should be indemnified.



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TRAI may please put these draft agreements on its web sites quickly, give wide publicity and then invite comments. It should be mandatory for Broadcaster, MSO and LCO to submit the signed copies of the agreements to TRAI, while the agreements between LCO & Subscriber should be available for audit by TRAI as and when needed.

TRAI should only recognize a licensed entity. For example broadcaster who have been licensed to broadcast the channel should be recognized for signing and inter connect agreement with a Licensed MSO.

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?

**Comment:** TRAI should determine. Even if the existing arrangement is desired to be changed by the consenting parties TRAI intervention is essential. Since if a couple of parties agree on something it should not become a general rule/precedent for others. This will be necessary to avoid disputes.

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?

**Comment:** The present ratio of 45:30:25 appears to be reasonable. It should be the same across the board.

9. Should the 'must carry' provision be mandated for the MSOs, operating in the DAS areas?

**Comment:** It is a vexed issue. While a broadcaster can be asked to offer all his channels on TRAI approved rates, MSO operates through an LCO and he can not be forced to a "must carry" clause for the technical (capacity on his and/ or his LCO's RF Cable Network)) and for commercial reasons. For example if there is no taker for the channel in his area due to language barrier or for any other reason his capacity can not be wasted. It is the subscriber / group of the subscribers who can demand and the LCO should not refuse.



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10. In case the 'must carry' is mandated, what qualifying conditions should be attached when a broadcaster seeks access to the MSO network under the provision of 'must carry'?

**Comment:** MSO can not carry each and every channel of all the Licensed Broadcasters on an RF Cable network. Only those MSOs who along with his LCO are having an FTTH based access network and/ or have implemented IPTV system for content distribution can be subjected to a must carry clause but with TRAI intervention only. TRAI in each case should examine whether such a demand is genuine and not frivolous and that LCO can genuinely accept the demand.

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 broadcasters?

**Comment:** His Networks end to end capacity.

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

**Comments:** Carriage fee is likely to disappear gradually with digitalization. If at all it has to appear it will appear in those areas where the Network capacity is limited and the numbers of channels asking for this capacity are more, TRAI should then leave it to the concerned parties to decide the modus operandii.

13. Should the quantum of carriage fee be linked to some parameters? If so what are these parameters and how can they be linked to the carriage fee?
14. Can a cap be placed on the quantum of carriage fee? If so, how should the cap be fixed?

**Comments:** TRAI should leave it to the market forces to decide.

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?



**Comments:** Kindly peruse the comments against clause 6 above. Standard Interconnect Agreements between various entities involved should be provided by TRAI as suggested in clause 6 above. It will eliminate coercion of all types and kind by the mighty and provide safeguards to the weaker party. Only a level playing field can make the larger aim achievable.

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.

**Comment:** The procedural matters and the quality standards of providing a Service are two different things. These need to be handled separately. QOS for a service need to be defined and then Service Level Agreement can be signed between the service provider and the service receiver. Each level of Service has a cost associated to it. SLAs should normally be part of Interconnect agreements. TRAI while drafting standard interconnects

Agreements may include certain minimum standard of service which the service provider should ensure.

The mechanism of redressal of grievances for the parties involved will also depend on who is involved. If the Broadcaster fails to uplink the channel, if the problem is between Broadcaster & MSO; MSO fails to provide the feed to LCO etc, the redressal mechanism has to be different and each party must establish a way with prior approval of TRAI as to how the complaints would be handled and how these would be escalated and how the consumer would be compensated and by whom and to what extent each in the value chain would be responsible.

In our humble opinion Annexure 6 to this consultation paper has to be broken down to the following topics and be separately handled.

1. Procedural; that includes Forms and Formats



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2. Minimum Standard of Service. It should be part of the interconnect Agreement between the entities. (B'caster, MSO, LCO and Subscriber)
3. Mechanism for redressal of grievances and relief to be provided for non compliance to SLA
4. Compliance Mechanism: How TRAI will ensure that the Recommended QOS is being complied with? Telecom Service Providers example is before public. They have been getting away with impunity and TRAI accepts data provided by them. Cable operators are very small players as compared to Telecom service Providers. Norms therefore need to be simple to monitor and there should be an effective way to enforce them.

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

**Comments:** QOS norms should also include the basic minimum Audio & quality of the content. Benchmarks will be discussed separately.

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?

**Comments:** LCO is the first and last point of contact for the subscriber. But LCO can not be held responsible for all acts if omissions and commissions of other players in the chain. Each one is responsible for its part. Hence the mechanism will depend on who is playing what part. For example if LCO is responsible for billing all complaints should on billing should be addressed by him but in case the billing is by MSO then MSO should handle it. Either system can exist. In our opinion LCO must be responsible for billing. The mechanism should for example be:

1. Connection & Disconnection: by LCO
2. Transfer: by MSO in case the subscriber moves to an area served by the same MSO but by a different LCO provided LCO allows the STB to be carried by the Subscriber.
3. Shifting: by LCO as long as it is in the area served by him
4. No Signal: by LCO who should escalate it to MSO if it is not due to his fault. MSO should further escalate it to Broadcaster if it was not due to his Head end/ Network.
5. Set Top Box: By LCO
6. Billing: by LCO/ MSO as the case may be.



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7. Authentication issues/ SMS related issues: by MSO
8. Redressal of grievances; by LCO for the subscriber, by the MSO for the LCO, by the broadcaster for the MSO if it pertains to the broadcaster. For example if a subscriber complains for an offensive content the grievance has to be escalated up to the broadcaster.
9. Maintenance of records for complaints and grievances of consumers and the redressal of such complaints shall be maintained by LCO. These records will be accessible to LCO, Broadcasters and TRAI for their view as and when they want to. In case TRAI wants to do an audit, all expenses shall have to be borne by TRAI. Maintenance of records and making them available to the authorities is the responsibility of all concern i.e. Broadcaster, MSO and LCO, but whosoever wants to audit their record should bear the expenses.

Please do not open the flood gate of corruption by making the auditor to get his fee from those whom he is going to audit.

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.

**Comments:** Billing should be done by LCO. The records will be maintained through SMS which shall be transparent to Broadcaster, LCO and to TRAI if it so desired. Based on the records through a computerized secure access provided to the LCO. The bills shall be generated and delivered to the Subscriber, either electronically or by hard copies. Where the scale of operation is small and operations can be easily managed manually and both MSO and LCO agree it can be done as per the prevalent practice. However when the operations are large say each LCO has more than 5000 Subscribers a bank can be involved by the parties concerned i.e. Broadcaster/ MSO/ LCO. All payments are then received by the bank through a debit card/ Credit card/ cheque/ cash in a designated account. Bank then disburses the money to the parties involved in a predetermined/ Pre-agreed ratio. Benefit of Mobile banking can also be availed. The parties involved should agree to the mechanism and TRAI should leave it to them to decide by giving them framework or setting the guide line. In case of prepaid system the prepaid cards shall also be distributed/ delivered by the LCO. For his area he will be responsible. MSO will deposit the card to the designated bank and LCO will buy the cards from the bank. Bank will disburse the sale money to the broadcaster and MSO as per the ratio advised to him. LCO will buy

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the card at the discounted price so that LCO does not pay that part of subscription which he would have received otherwise for his share. Topping up of prepaid card should be possible through the same bank or

through the inter-bank arrangements that the designated bank may organize. Money received on topping up should be disbursed by the bank as per the predetermined ratio.

It needs to be appreciated that after digitalization of cable TV systems there shall be several other services that will be delivered. The broadcaster may not be involved in all those services and hence different accounts will be necessary for different services. The prepaid card indeed could be a debit / credit card of a bank. Banks shall have to disburse the money in accordance with the service requirement and as per the agreed ratio as advised to them in advance by all the parties.

SMS portal would therefore be crucial and its records have to be safeguarded. Disaster recovery system must be in place. A system resiliency of 30 seconds should be in place.

Bank will disburse money to all concerned every week or as decided by the beneficiaries.

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

**Comments:** Both prepaid and postpaid system should be allowed. It should be left to MSO and LCO to determine as to what they want. Broadcaster should be paid by MSO as per the SMS records in the ratio determined by TRAI. Obviously it will be a postpaid arrangement. In the first week of the month the amount payable for the previous month shall be paid,

*Non addressable digital Set top boxes*

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

**Comments:** The use should be discouraged. Notwithstanding the sunset dates for the analog system If MSO and LCO want to set up the digital system earlier they are free to do so. Hence any one going digital must adopt DAS.



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5.5 A propos the above, the issues for consultation are:

- i. Whether an ad-free channel is viable in the context of Indian television market? Please elaborate with appropriate reasoning.
- ii. Should there be a separate prescription in respect of tariff for ad-free channels at both the wholesale and retail level? Please elaborate with appropriate reasoning.
- iii. What should be the provisions in the interconnection regulations in respect of ad-free channels? Please elaborate with appropriate reasoning.
- iv. What should be the revenue sharing arrangement between the broadcasters and distributors in respect of ad-free channels? Please elaborate with appropriate reasoning.
- v. Any other relevant issue that you may like to raise or comment upon.

**Comment:** Ad-free channel are possible but would certainly demand premium fee. Fee for such channels should be outside the purview of TRAI regulation and must be determined by market forces. For example movies, other entertainments. Live performing events etc will be best

enjoyed if there is no ad disruption. It is for the broadcaster to have to versions; one with Ad and another without. While with Ad can be

regulated so as price is concerned TRAI should leave it o Broadcaster and MSO for the no Ad version. Premiere of a movie can demand several thousand rupees for an Ad free show on the channel. TRAI should not attempt any cap on it.

Revenue share for Ad free channels should also be left to the stake holders.

For the sake of consumers TRAI must put a cap on content to an Advertisement ratio for each channel. It has become unbearable now. No more then 10-12% of the time that the advertisements should be broadcast on a channel. No more than three breaks be allowed in a 30 minute program. Exception to this rule are Telemarketers/ Advertisers who purchase the entire channel time and broadcasters widely announce the fact that from such and such time to such and such time they have sold it to advertiser for his product.



*Reference point for wholesale price post DAS implementation*

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?

**Comments:** It is too early to estimate. Let us wait and watch, The issue must be debated in early 2014. We must see the impact of inflation on the economy. We should also see the introduction of other application and services. We should encourage convergence of Internet and broadcasting over Cable TV Networks and penetration of OTT services. They will all have substantial impact on tariff.

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

**Comments:** There is an important issue of the standardization for STB. Instance on BIS certification should not be mandatory for the following reasons:

1. Digitalization has open the doors for a large number of applications and services.
2. STB of one type / one kind cannot meet all the requirements.
3. The technology is evolving everyday.
4. BIS standards do not cover all the state of art technology. There process is time consuming.
5. As a normal practice, non confirming products can remain in use up to 3 years, after the BIS standards are published.
6. CPE's for Cable TV Networks in use are :
  - A: MPEG II SD
  - B. MPEG IV SD
  - C. MPEG IV HD
  - D. MPEG IV Hybrid
  - E. MPEG IV with full internet capability
  - F. Home Gateway
  - G. IPTV boxes of different capabilities
  - H. STBs integrated inside the TVs
7. New 4K technology (resolution 7680x4080) is on the horizon. This high super vision box may be available by 2014 or even earlier.



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I wonder whether we can keep pace with the advancement of technology in this area. We can infect tell the MSO to maintain certain reliability standards and audio / video quality standards at the output of STB.