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**Date : 10-01-2013**

To,

The Chairman,  
Telecom Regulatory Authority of India,  
Mahanagar Door Sansar Bhavan,  
Jawaharlal Nehru Marg,  
New Delhi – 110 002.

Sir,

Sub : Comments to “consultation paper on Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems & Tariff Order applicable for Addressable Systems dated 20-12-2012.

Ref : Consultation Paper No. 18/2012

I hereby render my comments on the aforesaid consultation paper. Your Authority may kindly go through the same and consider the contentions therein in the larger interest of consumers.

Thanking you

Yours truly

R.L.Saravanan

**A. Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems.**

**Carriage fee**

- (1) Whether the following proviso should be introduced in the clause 3(2) of the interconnection regulations for DAS and the clause 3(5) of interconnection Regulation for DAS should be deleted.

“provided that the provisions of this sub-regulation shall not apply in the case of a multi-system operator, who seeks signals of a particular TV channel from a broadcaster, while at the same time demanding carriage fee for carrying that channel on its distribution platform.”.

**COMMENT:**

*The proposed proviso clause is in line with the proviso clause to Regulation 3.2 of the Non-CAS interconnect regulations as inserted by “The Telecommunications (Broadcasting and Cable Services) Interconnection (fifth Amendment) Regulations-2009” dated 17<sup>th</sup> March 2009. The proposed proviso shall bring the equity of regulative environment to all platforms which was otherwise the apprehension of the hon’ble TDSAT in its judgment in appeals bearing nos. 3, 5 11, 12 & 15 of 2011. Hence the said proviso is welcomed to be inserted in Regulation 3(2) of the DAS interconnect regulations.*

*As the hon’ble TDSAT has set aside the very sub- regulation 3(5) of the DAS interconnection regulations 2012 in its judgment in appeal no. 5 © of 2012 and in an absence of an appeal on the said judgment before the Supreme Court, it is otiose to call for a suggestion to delete the said clause. Since the hon’ble TDSAT has already set-aside 3(5) clause and the same is already deemed to be deleted from the statute book, a fresh question on deleting the same doesn’t arise.*

- (2) If no, the reasons thereof.

**Minimum Channel Carrying Capacity of 500 Channels for MSOs**

- (3) Whether there is a need to specify certain minimum channel carrying capacity for the MSOs in the interconnection regulations for DAS.

**COMMENT:**

*In the absence of any specific territory or category of area, the above query need to be construed as the minimum channel carrying criteria for PAN India. As the hon’ble TDSAT has already set aside the clause mandating 500 channel minimum carrying*

*capacity and by opining the same need to be left to market forces, the present query on examining the need to specify the minimum channel carrying capacity may be an attempt to circumvent the above said ruling of the hon'ble TDSAT, such an attempt need to be given up by the Authority. Hence, considering the ruling of the hon'ble TDSAT it would not be fit for the Authority to consider specifying the minimum channel carrying capacity for PAN India.*

- (4) If yes, what should be the different categories (example cities/town/rural area) of areas for which minimum channel carrying capacity should be prescribed and what would the capacity for each category.

**COMMENT:**

*In the above referred Judgment, the hon'ble TDSAT has given an option to the Authority to consider the channel carrying capacity for different categories of area.*

*India being a country with diversified languages and in fact divided as linguistic states, the language of the State plays a prominent role in determining the minimum channel carrying capacity. For the sake of reducing the complexity, the areas may be primarily divided into the areas in Hindi Speaking Market and Non-Hindi Speaking Market (Regional market).*

*Considering the number of channels in Hindi and Regional channels based on the language, we may have around 450 Channels speaking Hindi. This is not the case of regional channels, for example there are around 50 Tamil speaking channels and the appetite towards the Hindi Channels in Tamil Nadu is negligible. A set of Tamil speaking channels and in addition to that a set of English NEWS channels, Science, English movies channels and sports channels are the end of the requirement for a common man in the State of Tamil Nadu. Be it so, even a Channel capacity of 200 would solve the requirement of the region.*

*Hence on the foregoing, I suggest that the best thing to happen is to allow channel capacity to the market forces and still if TRAI is keen on regulating the same, in that event may I propose a minimum carrying capacity of 300 channels for Hindi Speaking Market and 200 channels for Regional market.*

## Placement Fee

- (5) Whether there is a need for regulating the placement fee in all the Digital Addressable Systems. If so, how it should be regulated. The stakeholders are requested to submit their comments with justifications.

### COMMENT:

*The hon'ble TDSAT in its Judgment dated 19<sup>th</sup> October 2012 has termed 'demanding of placement fees' as bad in law citing the discrimination in restricting such fees only in DAS environment. Further it has opined in para 112 of the said judgment as follows:*

*....."Placement chares, if any, will depend upon the mutual agreement between the broadcasters and the MSO.".....*

*Applying the above ratio, I feel that the issue of placement fees may not be regulated.*

### B. Issues related to amendments to the Tariff Order applicable for Addressable Systems.

#### *Twin conditions at retail level*

- (6) The stakeholders are requested offer their comments on the following twin conditions, to prevent perverse a-la-carte pricing of the pay channels being offered as part of the bouquet(s).

“ a. The ceiling on the a-la-carte rates of pay channels forming part of bouquet(s) which shall not exceed three times the ascribed value# of the pay channel in the bouquet;

b. The a-la-carte rates of pay channels forming part of bouquet(s) shall not exceed two times the a-la carte rate of the channel offered by the broadcaster at wholesale rates for addressable systems.

#**ascribed value** of a pay channels in a bouquet is calculated in the following manner:

1. Proportionate Bouquet Rate for pay channels [A]=

$$\text{Bouquet Rate} \times (\text{Sum of a la carte rate of Pay channels}) / (\text{Sum of a la carte rate of Pay channels} + \text{Total no of FTA channels} \times \text{factor}^*)$$

2. Ascribed value of a pay channel in a bouquet = [A] x a-la-carte rate of a pay channel/ (sum of a-la-carte rate of all the pay channels)

\*factor=1 if uniform rate of free-to-air channel is less than or equal to Rupees three. The factor = uniform rate of free-to-air channel/ 3, if the uniform rate of free-to- air channel is greater than Rupees three.”

The stakeholders are also welcome to submit any other formulation that can achieve the same objective, along with its justification.

### **Comment:**

*A close view of the bouquet packages would reveal that the bouquets are designed with one popular channels attached to a set of unpopular channels and the a-la-carte pricing of the popular channel is very high. The authority should have the yardstick on pay channels only from a-la-carte point of view and the bouquets may be as incentives to those prefer it. The present system exploits the consumer by inducing non-preferred channels on him and indirectly compels a consumer to opt bouquets only.*

*In my opinion the offering should only be on a-la-carte mode and a discount of about 20% may be given to the consumers opting for more than one channel from a-la-carte list, from the same broadcaster/content aggregator. The choice of such channels should also lie with the consumer.*

### **Minimum Subscription Period**

(7) The stakeholders are requested to offer the comments, if any, on the proposed deletion of the word ‘pay’ in clause 6 and 6(2) of the principal tariff order dated 21.07.2010.

### **COMMENT:**

*Deletion of the word “Pay” would bring the FTA channel, too, under the ambit of such restriction.*

*Considering the complexity in handling an keying in the SMS/CAS the re-planning of the channels and the lock in period of three months are acceptable. However, the service providers may be allowed to charge a nominal amount, not exceeding Rs 20/- as re-planning charges if a consumer wants to migrate to a new plan within three months.*

### **Freedom to choose the channel(s) on a-la-carte and/or bouquet(s)**

(8) The stakeholders are requested to offer their comments, if any, on the proposed inclusion of the following provision after sub-clause 6(4) in the tariff order dated 21.07.2010, as amended.

“It shall be open to the subscriber of the addressable systems to subscribe to any bouquet(s) or any bouquet(s) and any channel(s) (pay or free to air) or only free to air channels or only pay channels or pay channels and free to air channels”.

**COMMENT:**

*I would welcome such proviso which would give clarity on channel offerings to the consumer.*

**Offerings of Bouquet(s) of channels which require special Set Top Boxes (STBs) such as High Definition Television (HDTV) or Three Dimensional Television (3D TV) channels etc.**

- (9) Whether the channels that require special type of STB be offered only on a-la-carte basis or as part of separate bouquets that consists of only those channels that require a particular type of specialised STB.

**COMMENT:**

*Yes, it is desirable to have such niche channels in a-la-carte mode only. However, the Authority shall ensure that such channels do not cost more than twice of the SD channels.*

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