

## **Preamble:**

We thank TRAI for undertaking the Review within such a short time of roll out of the NTO. The numerous acts of omission and commission by the Broadcasters and DPOs have necessitated this Review

*We wish that the Review had also covered the deficiencies related to MSO-LMO arrangements. We have made numerous representations and do hope that TRAI will soon look into these as well*

The Customer interests being paramount to us as well, we have compiled these submissions through consultation amongst our Members. This Document also reflects views of many Subscribers gathered during our interactions with them

Best regards

## Comments& Suggestions

Q1 Do you agree that flexibility available to broadcasters to give discount on sum of a-la-carte channels forming part of bouquets has been misused to push their channels to consumers. Please suggest remedial measures.

Response

### **Comments**

**Television is part of Media but seems to be marketed differently than its Print sibling**

**Print Media (Newspapers as well as Periodicals) and Entertainment options like Movies are sold individually. There is neither a practice nor compulsion on Buyer to pick them in bundled manner**

**Bouquets came into existence as a Selling Unit with DAS and have had a free run to kill A la carte sales**

**Bouquets that should serve the purpose of convenience to Subscribers and appear to be as predatory mechanism against everyone's interest with the misuse of flexibility Broadcasters enjoy**

The Bouquets put together by Broadcasters are flawed with following defects-

- × Most Bouquets are like the proverbial "old wine in new bottle" with only difference being marginal improvement in disclosures over earlier CPS deals with MSOs
- × Hard to distinguish one from the other with substantial overlap in Channels with token variation. Regrettably, the unique Channels are mostly peripheral Channels. The number of unique Channels within a Bouquet rarely exceeds 2

- × Bouquets appear to be designed to enable the less appealing Channels ride piggy back by hitching onto the Flagship Channel/s
- × Channel selection takes place at individual levels and need not be replicable across Inter-Zone Households. Most individuals prefer to consume Content in two languages while few add third language, latter being mostly for News. The Broadcasters have put together Multi-lingual Bouquets with Four or more Language Services.

The combined effect of this misuse is-

- Subscriber selection based on Price Tag rather than based on Viewer Connect with Content
- Broadcasters overstating reach in respect of bundled and sold but never tuned into Channels

### **Suggestions**

Broadcasters be directed to-

- ✓ Ensure that at least half the Channels in every Bouquet are unique
- ✓ Bouquet to avoid clubbing of more than 3 languages
- ✓ Number of bouquets that a Broadcaster can offer should not exceed 3 X of the Pay Channels it operates or 9 whichever is lower

Q2. Do you feel that some broadcasters by indulging in heavy discounting of bouquets by taking advantage of non-implementation of 15% cap on discount have created a non-level field vis-a-vis other broadcasters?

Response

### **Comments**

The Broadcasters with larger Bouquets and those who indulge in heavy discounting have an edge over those with fewer Channels since-

- The number of Channels an average domestic Subscriber would like to subscribe to is modest
- With over 25 years of Content Push acceptance led inertia and the lack of time with the Subscriber to hand-pick Channels, one large Bouquet stops him from probing further

Q3. Is there a need to reintroduce a cap on discount on sum of a-la- carte channels forming part of bouquets while forming bouquets by broadcasters? If so, what should be appropriate methodology to work out the permissible discount? What should be value of such discount?

Response

### **Comments**

Discounts at Consumer level are not unusual and are in fact a welcome practice provided the same are not predatory

The discounts should not eat into the entitlements of Marketing and Distribution Value chain. Incidentally at 20% of MRP being allocated on this count, any large discount would and does impact the LMO income drastically

### **Suggestions**

The maximum discount that a Broadcaster can offer in Bouquet pricing be capped at 25%

The rebate be applicable only to Subscriber pricing but the Marketing Fee entitlement be calculated on the sum total of MRP for all Channels

Q4. Is there a need to review the cap on discount permissible to DPOs while forming the bouquet? If so, what should be appropriate to work out the permissible discount? What should be value of such discount?

Response

### **Comments**

MSOs are yet to visibly offer discounts over and above those offered by Broadcasters

DTH Players seem to have built Packages with some element of discounting

### **Suggestions**

The maximum discount that a DPO can offer be capped at 15%

The rebate be applicable only to Subscriber pricing but the LMO's Marketing Fee entitlement be calculated on the sum total of MRP for all Channels

Q5. What other measures may be taken to ensure that unwanted channels are not pushed to the consumers?

### **Comments**

It has been noticed that-

Most MSOs do not allow changing of Channels within the Basic Bouquet

The 'Best Fit Plans' leave no option with the Subscribers

### **Suggestions**

MSO's be directed to –

- Open up the Basic Bouquet composition to the discretion of the Subscriber
- Discontinue the Best Fit Plans that were introduced as Interim measure
- Act only on specific confirmation from Subscribers rather than Deemed acceptance

Q 6. Do you think the number of bouquets being offered by broadcasters and DPOs to subscribers is too large? If so, should the limit on number of bouquets be prescribed on the basis of state, region, target market?

#### **Comments**

As stated earlier (Response to Q 1), Zonal Bundling and illusory distinction amongst Bouquets is undesirable

We understand that quite a few MSOs face technological constraints at CAS level in terms of number of Bouquets that can be configured

Too many options eventually lead to the first on list being ticked

Entertainment is a personal domain where choice is driven by combination of language and genre not by numbers

#### **Suggestions**

Bouquet to avoid clubbing of more than 3 languages

Number of bouquets that a Broadcaster can offer should not exceed 3 X of the Pay Channels it operates or 9 whichever is lower

Q7. What should be the methodology to limit number of bouquets, which can be offered by broadcasters and DPOs?

Response: Number of bouquets that a Broadcaster can offer should not exceed 3 X of the Pay Channels it operates or 9 whichever is lower

Q8. Do you agree that price of individual channels in a bouquet get hedged while opting for a bouquet by subscribers? If so, what corrective measures do you suggest?

#### **Comments**

Bouquet pricing currently marginalises a la carte selection as an option

#### **Suggestions**

The extreme deep discounts on Bouquets should be disallowed as suggested earlier on

Q.9 Does the ceiling of Rs. 19/- on MRP of a a-la-carte channel to be part of a bouquet need to be reviewed? If so, what should be the ceiling for the same and why?

#### **Comments**

We recognize and respect the Content Owner/Aggregator Rights as well as ROI expectations from high investment properties

At the same time numerous pseudo Pay Channels are operated by the same Broadcasters with Rerun of Premium Content

One or two flagship Channels bundled with multiple pseudo pay services result in mockery of the System

#### Suggestions

The highest priced Channel be kept out of the bouquet if it is priced above Re.9.99

Or

Gap between MRP of Channels within a Bouquet should not be more than 30%

Q10 How well the consumer interests have been served by the provisions in the new regime, which allows the Broadcasters/Distributors to offer bouquets to the subscribers?

#### Comments

The new regime is most laudable being consumer oriented yet taking into account basic viability needs of the distribution chain

India's diversity is aptly reflected by the linguistic choices of 16 Languages within which original content is available

The gross numbers (800 +licensed channels) do not matter for a viewer with interest limited to 2 or 3 languages. Therefore enabling him to exercise **NOTAC** (None of the above channels) is most welcome.

It is rather unfortunate that both Broadcasters and DPO seem to treat the customers as commodity and practical flexibility within Regulations as unfettered Rights to profit

Q.11 How this provision has affected the ability and freedom of the subscribers to choose TV channels of their choice?

Response

#### Comments

Bouquet as a concept is not against Subscriber interests. It does simplify selection process for the common consumer

The power to choose has been compromised through pricing, choices where differentiation is marginal and the user-unfriendly mechanism by MSOs

Q.12 Do you feel the provision permitting the broadcasters/Distributors to offer bouquets to subscribers be reviewed and how will that impact subscriber choice?

Response

We do not see any reason to abolish the Bouquets provided current Unfair Trade Practices are barred

Q.13 How whole process of selection of channels by consumers can be simplified to facilitate easy, informed choice?

Response

#### Suggestions

We see two options-

A)MSO/LCO operating a Consumer Corner Channel that would carry in depth information on Channels available , pricing and order placement mechanism. Looped AV in Hindi and Local language to be run for easier understanding and choice evaluation

B) User friendly App cum Sales Portal where the Subscriber can easily navigate through the maze of options

The Portal should also have ability to suggest Channels based on Budget and preferences at Customer level

Q14 Should regulatory provisions enable discount in NCF and DRP for multiple TV in a home?

Response

#### Comments

DTH Players appear to be following different set of Rules as compared to MSOs

As far as the MSO is concerned, he has insignificant incremental costs but for the LMO each STB servicing means costs unique to Cables and Internal devices

#### Suggestions

NCF on second TV may be left to the discretion of the LMO and retainable in entirety by the LMO

Q15. Is there a need to fix the cap on NCF for 2nd and subsequent TV connections in a home in multi-TV scenario? If yes, what should be the cap? Please provide your suggestions with justification

Response

As above (Q 14)

Q 16 Whether broadcasters may also be allowed to offer different MRP for a multi-home TV connection? If yes, is it technically feasible for broadcaster to identify multi TV connection

#### Comments

Current Systems and Database is wanting on many respects. Customer KYC and Data authenticity is one of the weaknesses

Audit processes are too cumbersome even for routine checks

Probability of replicating majority of Channels on each additional TV is also low

### **Suggestions**

Review of this aspect may please be deferred until the Systems attain sophistication needed to eliminate likely conflicts

Q17. Whether Distributors should be mandated to provide choice of channels for each TV separately in Multi TV connection home?

Response

Yes, it should be mandatory

Q 18 How should a long term subscription be defined?

Response

Subscription period longer than 4 months be termed as Long term plan

Q.19 is there a need to allow DPO to offer discounts on Long-term subscriptions. If yes, should it be limited to NCF only or it could be on DRP also? Should any cap be prescribed while giving discount on long-term subscriptions?

Response

Long term plans would be patronized provided there is an element of saving to Subscriber.

The collections in advance result in savings on Finance cost to the DPO who may opt to share the benefits with the Subscriber

Q20 Whether Broadcasters also be allowed to offer discount on MRP for long term Subscriptions?

Response

Broadcasters operate on post-paid arrangements with the DPO and except for locking in the likely Viewer do not gain any financial benefits. It is therefore not anticipated that Broadcasters will sacrifice revenues If they do, that would be welcome

Q 21 Is the freedom of placement of channels on EPG available to DPOs being misused to ask for placement fees? If so, how this problem can be addressed particularly by regulating placement of channels on EPG?

Response

## Comments

Placement of Channels was highly relevant till the new regime came into force. It will lose its significance upon-

- ◇ The Best Fit Plans are discontinued
- ◇ Subscribers exercising their choice and restricting active Channels to 200 or less on their STB
- ◇ The placement fees are not shared by MSOs with the LCOs
- ◇ As of now, the Placement Fees appear to be subsumed within the Incentives that Broadcasters pay to the MSOs over and above the Marketing Fee

## Suggestions

No comments

Q 22 How the channels should be listed in the Electronic Program Guide (EPG)?

## Response

- We suggest that the Channels be listed Language-wise with sub-classification per genre for languages with more than ten Channels
- HD Channels be listed and placed separately since more than 90% Cable STBs are SD

Q 23. Whether distributors should also be permitted to offer promotional schemes on NCF, DRP of the channels and bouquet of the channels?

## Response

They may be allowed provided it does not affect the Income of the LMO i.e. the cost of the schemes be borne by the Distributors out of their Incentives

Q 24 In case distributors are to be permitted, what should be the maximum time period of such schemes? How much frequency should be allowed in a calendar year?

## Response

As above (Q 23)

Q 25. What safeguards should be provided so that consumers are not trapped under such schemes and their interests are protected?

## Response

Exit options with minimal foreclosure penalty be spelt out while pushing the Longer Duration Packs

Q 26 Whether DPOs should be allowed to have variable NCF for different regions? How the regions should be categorised for the purpose of NCF?

## Response

## Comments



It is true that not all Subscribers have the same level of disposable money

However, such scenario is not Geography specific but SEC related. In fact, the Hilly Regions and Rural Pockets entail higher outlays on Infra and servicing by the LMO

Suggestions

It is suggested that NCF may be tweaked for Slum areas for those Subscribers who do not opt for any Pay Feed

Q 27 In view of the fact that DPOs are offering more FTA channels without any additional NCF, should the limit of one hundred channels in the prescribed NCF of Rs. 130/- to be increased? If so, how many channels should be permitted in the NCF cap of Re 130/-?

Response

### **Comments**

In all probability the waiver of NCF is a temporary promotional tool and/or subsidized out of Carriage and Placement Fees

Q 28 Whether 25 DD mandatory channels be over and above the One hundred channels permitted in the NCF of Rs. 130/-?

Response

### **Comments**

DD operates services in most of the Regional Services

Customers do not consume content in more than 2/ 3 languages

Blocking of 25% capacity within Basic Bouquet makes it expensive for average subscriber who has to cough out additional NCF if not Pay Channel fees as well

While DTH, IPTV and HITS have a single Head-end catering to Pan India footprint, most MSOs have limited reach

### **Suggestions**

It be made mandatory for all DPOs to make all the DD Channels available on their Network

However only 5 Services (National/Local/LS/RS and Sports) be included within basic bouquet

Any DD channel added beyond NCF quota would be free and not chargeable under NCF terms

Q 29 In case of Recommendations to be made to the MIB in this regard, what recommendations should be made for mandatory 25 channels so that purpose of the Government to ensure reachability of these channels to masses is also served without any additional burden on the consumers?

Response

As per (28) above

Q 30. Stakeholders may also provide their comments on any other issue relevant to the present consultation

Response

As stated in the covering Note, the effective implementation hinges on improved MSO-LCO relationships and so would the Standardization of processes would be essential

At present NTO is not serving the interests of Subscribers to the envisaged extent. It has also weakened the well-established, efficient Last Mile Networks under combined effect of MSO&BROADCASTERS pushing own Agenda. We anticipate some relief if suggestions in foregoing paragraphs are accepted and A La Carte gets the boost. However, this would not suffice since MSO-LCO sharing arrangements continue to be controlled by MSOs

#### A) SHARABLE REVENUES

Sir, as you are aware, that in the absence of clearly defined Revenues, the SIA /MIA mentioned Subscription Revenues only. In the pre-NTO era, the Carriage and Incentive terms were not disclosed and hence the LMOs did not make an issue out of their exclusion from sharable kitty

Under NTO, these Items are clearly computable and likely to exceed the Marketing Commission from Pay Channels. In case of FTA too, the MSO stands to gain much more than LMO who at best will get share of the 80 paisa per channel from the NCF

#### B) NCF COMPUTING

NCF weightage allocation needs to be worked upon. We once again enclose the Representation dated Jan 31, 2019 detailing the anomalies and ambiguities

Unless the NCF weightage is rationally reallocated, we are afraid that any reduction in NCF will sound the death-knell of LMO business

#### C) MANDATING MIA

Another area of non-compliance by MSO is discussing ICA terms with LMO. Some large Players like Hathway forcibly obtain their LMO consent to SIA by blocking Portal access to resisting LMOs

If we are not mistaken, SIA was an interim option created during DAS implementation. Its Objective was to lend legitimacy to the relationship until the MSO and LMO arrived at mutually acceptable MIA terms

We therefore believe that SIA needs to be discarded and MIA be made mandatory with well-defined Sharable Revenues and NCF allocation

#### D) PROCESS STANDARDIZATION

All LMOs are now on pre-paid B2B terms while most Subscribers continue to be on Post-paid basis

Each MSO defines and implements his set of Business Rules in respect of Grace period, Foreclosure fees, Order cancellation and Refunds

These aspects need to be standardized ASAP

The following Key Aspects need to be reviewed, rectified and need to be implemented