

Comments on Trai's Consultation Paper

on

“Review of Regulatory Framework for Broadcasting and Cable Services” by SITI Vision Digital Media Pvt. Ltd.

Issues for Consultation

A. Tariff related issues

Q1. Should the present ceiling of Rs.130/- on NCF be reviewed and revised?

- a. If yes, please provide justification for the review and revision.
- b. If yes, please also suggest the methodology and provide details of calculation to arrive at such revised ceiling price.
- c. If not, provide reasons with justification as to why NCF should not be revised.
- d. Should TRAI consider and remove the NCF capping?

OUR Response: - As regards NCF, we wish to express our full support for the suggestion mentioned in suggestion 1 (d), which advocates the removal of the capping on NCF (Network Capacity Fee).

It is to be noted that NCF encompasses a wide array of operational expenses such as Rent for network and office, Employee Salaries, Network Repair and Maintenance and other Operating etc. These operational costs do not remain static but increase annually. This continuous escalation necessitates periodic adjustments to the NCF to ensure the sustainability and efficiency of the network.

It is erroneously assumed by the Authority that it is a one-time expense.

It is important to note that since 2017, MSOs (Multi-System Operators) have been constrained to charge only Rs. 130/- for 100 channels (subsequently increased to 200 channels in the 2020 amendment). While most of the DPOs carry 500 channels and carrying 500 channels only for Rs. 130 is commercially unviable for MSOs.

In light of the aforementioned factors, we strongly advocate for the removal of any limitations on NCF, and MSOs should be entitled fix the NCF as the freedom is also given to the broadcasters also.

Q2. Should TRAI follow any indices (like CPI/WPI/GDP Deflator) for revision of NCF on a periodic basis to arrive at the revised ceiling?

If yes, what should be the periodicity and index? Please provide your comments with detailed justification.

OUR Response: - There is no need to follow any indices if there is forbearance in NCF and it should be left to the market forces.

Q3. Whether DPOs should be allowed to have variable NCF for different bouquets/plans for and within a state/ City/ Town/ Village? If yes, should there be some defined parameters for such variable NCF? Please provide detailed reasons/ justification. Will there be any adverse impact on any stakeholder, if variable NCF is considered?

OUR Response: - Existing provisions should continue as introducing variable NCF could make the pricing structure more complex, leading to confusion among consumers and all stake holders. This complexity might undermine the transparency of pricing and make it harder for consumers to understand the true cost of their selected plans. Moreover the NCF is not determined on any city or town wise, charging different NCF as per towns would not only create complexity but disputes also.

Hence it is suggested to not to have variable NCF for different bouquet/city , towns etc. and existing practice to be continued.

Q4. Should TRAI revise the current provision that NCF for 2nd TV connection and onwards in multi-TV homes should not be more than 40% of declared NCF per additional TV?

- a. If yes, provide suggestions on quantitative rationale to be followed to arrive at an optimal discount rate.
- b. If no, why? Please provide justification for not reconsidering the discount.
- c. Should TRAI consider removing the NCF capping for multi TV homes? Please provide justification?

OUR Response: -

As mentioned above for forbearance of NCV and deciding the NCF based upon market forces, it is suggested that TRAI should consider removing NCF Capping on multi-TV homes. The discount to be offered or not should be left at the discretion of MSOs keeping in mind the market dynamics.

Q5. In the case of multi-TV homes, should the pay television channels for each additional TV connection be also made available at a discounted price?

- a) If yes, please suggest the quantum of discount on MRP of television channel/ Bouquet for 2nd and subsequent television connection in a multi-TV home. Does multi-TV home or single TV home make a difference to the broadcaster?

What mechanism should be available to pay-channel broadcasters to verify the number of subscribers reported for multi-TV homes?

b) If not, the reasons thereof?

OUR Response: -

it is to be stated that how can an MSO afford to offer discount on second TB unless some discount is given to the MSO by the Broadcaster. Without getting the discount from the broadcaster on the second TV, MSO cannot afford to offer from its own pocket, as it is bleeding and has no capacity to bleed further.

Hence if the discount is offered by the broadcaster, MSO can extend the discount to an extent to the subscribers on second TV.

Q7. Whether the total channel carrying capacity of a DPO be defined in terms of bandwidth (in MBPS) assigned to specific channel(s).

If yes, what should be the quantum of bandwidth assigned to SD and HD channels. Please provide your comments with proper justification and examples.

OUR Response: - All the channels have different bandwidth requirements, for example Some channels, like news or sports, might require more bandwidth due to fast-moving content, while others might require less. Hence defining capacity solely based on bandwidth may be the optimum situation for carrying the channels.

Q8. Whether the extant prescribed HD/SD ratio which treats 1HD channel equivalent to 2SD channels for the purpose of counting number of channels in NCF should also be reviewed?

a. If yes, should there be a ratio/quantum? Or alternatively should each channel be considered as one channel irrespective of its type (HD or SD or any other type like 4K channel)? Justify with reasons.

b. If no, please justify your response.

OUR Response: - In our opinion, there is no requirement for review of extant prescribed HD/SD ratio, as the HD:SD ratio was initially crafted, taking into account the bandwidth consumption characteristics of both Standard Definition (SD) and High-Definition (HD) content. We maintain that this ratio is still valid and enduring framework, obviating the need for any alterations.

10. Should there be a provision to mandatorily provide the Free to Air News / Non-News / Newly Launched channels available on the platform of a DPO to all the subscribers?

- a. If yes, please provide your justification for the same with detailed terms and conditions.**
- b. If not, please substantiate your response with detailed reasoning.**

OUR Response:

Carrying of any channel is already protected by Must Carry clause, then what is the need to bring a specific clause in this respect. Providing all the channels to all the subscribers not only exhaust the carrying capacity but also would limit the choice of customers.

It's crucial to acknowledge the shrinking cable TV subscriber base. Imposing unwanted channels may exacerbate this decline. The cable TV industry faces unfair competition from unregulated Free Dish and OTT players. Introducing additional mandates for carrying FTA channels, whether news, non-news, or newly launched, would be unjust. The industry already adheres to must-carry regulations.

Hence there should not be any provision to mandatorily provide the Free to Air News / Non-News / Newly Launched channels available on the platform of a DPO to all the subscribers.

Q11. Should Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 be made applicable to non-addressable distribution platforms such as DD Free Dish also?**OUR Response:**

We are surprised to see this question in this Consultation paper, since all the industry has been following addressability then why any stakeholder is being allowed to distribute the service in non-digital / analogue mode. Allowing the service to be distributed in non-digital mode would not only increase the piracy issue but also the under-declaration issue. We will go back to the old era and all the efforts of the Authority and all the stakeholders to establish digitization and addressability will go in vain.

Hence no player (even if it is DD Free Dish) be allowed to distribute the channel in non-digital/non addressable mode and Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 must be made applicable to non-addressable distribution platforms including on DD Free Dish also.

Q12. Should the channels available on DD Free Dish platform be mandatorily made available as Free to Air Channels for all the platforms including all the DPOs?**OUR Response:**

TRAI itself has brought the regulations, that once the channel is declared as FTA or PAY it should be declared as FTA or PAY on all the platforms. Distributing channel as FTA on one platform and Pay on other platform would not only create confusion but dispute also. Hence we should follow the existing provision and if the channel is available as FREE on DD Free Dish , it should be available free for on all platform.

Q13. Whether there is a need to consider upgradation of DD Free Dish as an addressable platform? If yes, what technology/ mechanism is suggested for making all the STBs addressable? What would be the cost implications for existing and new consumers? Elaborate the suggested migration methodology with suggested time-period for proposed plan. Please provide your response, with justification.

OUR Response: There is a dire need for upgrading DD Free Dish into an addressable platform if we want to bring parity among all the stakeholders. This transformation serves a dual purpose by mitigating non-discrimination among the platforms and would parity among them.

Numerous mechanisms, backed by Conditional Access System (CAS) and SMS vendors, are already in place to facilitate the addressability of Free Dish Set-Top Boxes (STBs).

The migration process can be executed systematically, adopting a region-wise, zone-wise, or state-wise approach, and has the potential to be completed within a one-year timeframe. This approach ensures a seamless transition to an addressable platform for DD Free Dish, aligning with industry standards and regulatory objectives.

B. Interconnection related issues

Q14. In case of amendment to the RIO by the broadcaster, the extant provision provides an option to DPO to continue with the unamended RIO agreement. Should this option continue to be available for the DPO?

a. If yes, how the issue of differential pricing of television channel by different DPOs be addressed?

b. If no, then how should the business continuity interest of DPO be protected?

OUR Response: - As per the law, any modifications to take effect in an executed agreement should be done with the consent of both parties. Therefore, any amendment proposed in the current Reference Interconnect Offers (RIOs) by broadcaster should be done with the mutual consent of both the parties. Hence the existing practice where Option has been given to DPO to continue with the unamended or amended RIO Agreement be continued as the same is as per law.

So far as the pricing is concerned, the freedom has been given to the broadcasters and DPOs have no choice but to accept the same. It is proposed that whenever there is a change in the pricing of the channels, sufficient time be provided to implement the same on the ground as per the provisions of the Regulations. In addition, the incentive plans to be discussed accordingly.

To enhance fairness and consistency in the industry, an ideal solution would involve the publication of a standardized RIO by TRAI. This would ensure that all DPOs have access to channels on equitable terms, fostering a level playing field within the industry.

Q15. Sometimes, the amendment in RIO becomes expedient due to amendment in extant Regulation/ Tariff order. Should such amendment of RIO be treated in a different manner? Please elaborate and provide full justification for your comment.

OUR Response: - As stated above, once the Reference Interconnect Offer (RIO) is executed, any amendments should only occur with the mutual agreement of both parties involved.

However, in cases where changes are necessitated by regulatory adjustments, the same be incorporated as per revised Regulation but sufficient time be given to the DPOs to implement the same.

Q16. Should it be mandated that the validity of any RIO issued by a broadcaster or DPO may be for say 1 year and all the Interconnection agreement may end on a common date say 31st December every year. Please justify your response.

OUR Response: - We suggest that the duration of the agreement should be valid for a period of 3 years or determined by the parties involved in the agreement. Imposing a uniform expiration date may not be advantageous, especially given the variable signing dates for Distribution Platform Operators (DPOs).

Additionally, mandating an end date could encroach upon the parties' freedom of contract as outlined in the Contract Act. Moreover, a common date would bring burden on the system of any DPO and implementation of the change would get delayed unnecessarily. Hence the existing system of renewal of agreement be continued.

17. Should flexibility be given to DPOs for listing of channels in EPG?

- a. If yes, how should the interest of broadcasters (especially small ones) be safeguarded?**
- b. If no, what criteria should be followed so that it promotes level playing field and safeguard interest of each stakeholder?**

OUR Response: - Flexibility must be given to the Distribution Platform Operators (DPOs) for listing of channels in EPG, as they possess a profound understanding of consumer preferences related to language, preference, taste etc. of channel selection by the subscribers.

Given the existing regulations governing the listing of channels on Electronic Program Guides (EPGs), there is no inherent bias or prejudice. DPOs are well-equipped to discern subscriber choices and preferences, making it advisable to allow market forces to determine channel placement without undue interference from regulatory authorities. The same may be listed as per sub-genre and language also.

In addition, since the practice has been well established – it should not be disturbed unnecessarily.

Q18. Since MIB generally gives permission to a channel in multiple languages, how the placement of such channels may be regulated so that interests of all stakeholders are protected?

OUR Response: - We wish to draw the Authority's attention to a concerning issue where certain broadcasters offer multiple language feeds for the same channel and compel DPOs to carry these channels across all target markets. Such conditions indirectly lead to the demand for multiple Logical Channel Numbers (LCNs) for a single channel in different states, which significantly affects DPOs with a multi-state presence.

In light of this, we urge the Authority to consider mandating that broadcasters declare the primary language of transmission and prohibit them from imposing such conditions in their Reference Interconnect Offers (RIOs). This would address the challenges faced by DPOs/LCOs and subscribers with regard to managing/viewing channels listing across various states and promote fairness in channel distribution.

Q19. Should the revenue share between an MSO (including HITS Operator) and LCO as prescribed in Standard Interconnect Agreement be considered for a review?

a. If yes:

i. Should the current revenue share on NCF be considered for a revision?

ii. Should the regulations prescribe revenue share on other revenue components like Distribution Fee for Pay Channels, Discount on pay channels etc.? Please list all the revenue components along with the suggested revenue share that should accrue to LCO.

Please provide quantitative calculations made for arriving at suggested revenue share along-with detailed comments / justification.

b. If no, please justify your comments.

OUR Response: - In the current challenging circumstances, where MSOs and LCOs are collectively striving to bolster their revenues, retain subscribers and have worked hard to adapt to the provision of Regulations which inter-alia includes the provisions of Revenue shares.

As the existing revenue share is well established and all the stakeholders are satisfied with the existing share, it would be unwarranted to review any aspect of the same. As the revenue-sharing arrangement between these parties is already well-established, and there is no dispute regarding the revenue-sharing framework, any changes would rather create a hassle and complication in the system.

In our perspective, there exists a mutually agreed-upon revenue-sharing arrangement between LCOs and MSOs, and any alterations to this arrangement could potentially disrupt the equilibrium within the market. This, in turn, may give rise to new disputes during a period of considerable industry adversity.

Therefore, we suggest that existing revenue share agreements between LCOs and MSOs need not be reviewed, and existing practice be continued.

Q20. Should there be review of capping on carriage fee?

- a. If yes, how much it should be so that the interests of all stakeholders be safeguarded. Please provide rationale along with supporting data for the same.**
- b. If no, please justify how the interest of all stakeholders especially the small broadcasters can be safeguarded?**

OUR Response: - There is a pressing need to reevaluate the capping on carriage fees, as it places significant constraints on the revenue streams of Distribution Platform Operators (DPOs). In contrast, where broadcasters enjoy the freedom to determine the Maximum Retail Price (MRP) of their channels and advertising slot rates hence putting any cap or regulation on DPOs is creating disparity. On the one hand the broadcasters are given complete freedom and on the other hand both the revenue streams of DPOs are strictly regulated, which is not only discrimination but putting DPO in a tight condition.

DPOs have made substantial capital investments in their networks but find themselves operating at heavy losses. Their primary sources of revenue are carriage and subscription fees, both of which are regulated by the Authority. If carriage fees are also capped, it becomes challenging for DPOs to sustain their operations.

Accordingly, we recommend for withdrawal of capping on carriage fee.

Q21. To increase penetration of HD channels, should the rate of carriage fee on HD channels and the cap on carriage fee on HD channels may be reduced. If yes, please specify the modified rate of carriage fee and the cap on carriage fee on HD channels. Please support your response with proper justification.

OUR Response: - Lowering carriage fees for HD channels will not necessarily boost their penetration.

Q22. Should TRAI consider removing capping on carriage fee for introducing forbearance? Please justify your response.

OUR Response: Yes, as proposed in our earlier responses, it is recommended that TRAI take the initiative to remove the capping on carriage fees and entrust this aspect to market forces. This approach will align with the principles of market-driven competition and allows Distribution Platform Operators (DPOs) the flexibility to adapt to evolving industry dynamics, thus fostering a more vibrant and competitive cable TV industry.

Q23. In respect of DPO's RIO based agreement, if the broadcaster and DPO fail to enter into new interconnection agreement before the expiry of the existing agreement, the extant Interconnection Regulation provide that if the parties fail to enter into new agreement, DPO shall not discontinue carrying a television channel, if the signals of such television channel remain available for distribution and the monthly subscription percentage for that television channel is more than twenty percent of the monthly average active subscriber base in the target market. Does this specified percentage of 20 percent need a review? If yes, what should be the revised prescribed percentage of the monthly average active subscriber base of DPO. Please provide justification for your response.

OUR Response : Providing services without an agreement is not only contrary to the Regulations but also against fair business practices and prudent commercial practices. The existing Regulations stipulate the necessity of a written interconnection agreement between broadcasters and Distribution Platform Operators (DPOs) for subscribing and distributing the channels. Absence of such an agreement shall give rise to disputes, especially when agreements expire and are not renewed.

In our perspective, if an agreement is not renewed, the DPO should not be obligated to carry the channel irrespective of the channel's viewership percentage or the availability of the channel's signal from the broadcaster, this will defeat the basic spirit of the Written Interconnection Agreement.

Q24. Whether the extant charges prescribed under the 'QoS Regulations' need any modification required for the same? If yes, justify with detailed explanation for the review of:

- a. Installation and Activation Charges for a new connection**
- b. Temporary suspension of broadcasting services**
- c. Visiting Charge in respect of registered complaint in the case of DTH services**
- d. Relocation of connection**
- e. Any other charges that need to be reviewed or prescribed.**

OUR Response:

Yes, these charges require modification and the cap imposed thereupon should be removed and DPOs be given freedom to determine the same, because of ongoing increases in operational expense such as staff salaries, unpredictable rises in fuel prices, and other operational cost escalations necessitate periodic adjustments in pricing by DPOs.

Imposing caps on these charges places an additional burden on DPOs, forcing them to cover these costs from their own limited profits, or in some cases, exacerbating their losses. Hence, it is strongly recommended that TRAI considers the removal of capping on these charges.

Q25. Should TRAI consider removing capping on the above-mentioned charges for introducing forbearance? Please justify your response.

OUR Response: Yes, we strongly recommend that TRAI should remove capping on the above-mentioned charges for introducing forbearance and the same should be open ended to be determined by the market forces.

Q26. Whether the Electronic Programme Guide (EPG) for consumer convenience should display
a. MRP only
b. MRP with DRP alongside
c. DRP only?

Justify your response by giving appropriate explanations.

OUR Response: The Electronic Programme Guide (EPG) should feature only Maximum Retail Price (MRP) of channels. Since most of the DPOs are distributing the channels on MRP basis and if a few of them are selling them on discounted price for some time in that case mentioning both MRP & DRP would confuse the subscribers, as majority of the subscribers are not aware of the same. Displaying only the MRP on the EPG would help prevent any potential confusion among subscribers.

Q27. What periodicity should be adopted in the case of pre-paid billing system. Please comment with detailed justification.

OUR Response: The existing billing system of a 30-day cycle should be retained, as it has proven effective and is widely accepted by all stakeholders in the industry. This established practice and system have been functioning smoothly, and altering the billing cycle could disrupt its efficiency and create unnecessary complications.

Q28. Should the current periodicity for submitting subscriber channel viewership information to broadcasters be reviewed to ensure that the viewership data of every subscriber, even those who opt for the channel even for a day, is included in the reports? Please provide your comments in detail.

OUR Response: The existing and widely adopted practice should be maintained, as switching to a daily reporting system would create complexity and potentially lead to disputes and disturb the prevalent practices and system. The current system for sending the report on the 7th, 14th, 21st, and 28th of the month is deeply established and accepted by all the stakeholders. The deviation from the existing system and any significant changes would require substantial time and

investments that may not be easily feasible. In addition, diverging from the existing practice and system would definitely bring lot of complexity and confusion.

Therefore, it is prudent to continue with the prevailing practice.

Q29. MIB in its guidelines in respect of Platform Services has *inter-alia* stated the following:

- a. The Platform Services Channels shall be categorised under the genre 'Platform Services' in the EPG.
- b. Respective MRP of the platform service shall be displayed in the EPG against each platform service.
- c. The DPO shall provide an option of activation /deactivation of platform services.

In view of above, you are requested to provide your comments for suitable incorporation of the above mentioned or any other provisions w.r.t. Platform Services channels of DPOs in the 'QoS Regulations'.

OUR Response: We believe that there is no necessity to incorporate the mentioned provisions in the Quality of Service (QoS) Regulations. This is because such inclusion would amount to duplication of existing legal provisions that are already in effect. Adding these provisions to the QoS Regulations would not serve any additional purpose but would only create redundancy. Therefore, we propose that these provisions should not be included in the QoS Regulations.

Q30. Is there a need to re-evaluate the provisions outlined in the 'QoS Regulations' in respect of:

- a. Toll-free customer care number
- b. Establishment of website
- c. Consumer Corner
- d. Subscriber Corner
- e. Manual of Practice
- f. Any other provision that needs to be re-assessed

Please justify your comments with detailed explanations.

OUR Response: The provisions pertaining to the issues mentioned above have been carefully considered and were introduced after due deliberation with all the stakeholders. The existing systems have gained widespread acceptance among all stakeholders. Therefore, there is no need for a reevaluation of these provisions. They have effectively addressed the relevant aspects within the industry and are best left unchanged.

Q31. Should a financial disincentive be levied in case a service provider is found in violation of any provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?

- a. If yes, please provide answers to the following questions:

i. What should be the amount of financial disincentive for respective service provider? Should there be a category of major/ minor violations for prescription of differential financial disincentive? Please provide list of such violation and category thereof. Please provide justification for your response.

ii. How much time should be provided to the service provider to comply with regulation and payment of financial disincentive. and taking with extant regulations/tariff order?

iii. In case the service provider does not comply within the stipulated time how much additional financial disincentive should be levied? Should there be a provision to levy interest on delayed payment of Financial Disincentive?

1. If yes, what should be the interest rate?

2. In no, what other measures should be taken to ensure recovery of financial disincentive and regulatory compliance?

iv. In case of loss to the consumer due to violation, how the consumer may be compensated for such default?

b. If no, then how should it be ensured that the service provider complies with the provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?

OUR Response: - Financial disincentive may be imposed if there is willful default and the default is not cured after sending proper notices. The classification of a defaults may be divided as major and minor based upon its gravity. For instance, distributing signals in analog mode or entering subscription fee deals on a fixed fee basis should be considered major defaults.

Service providers should be given a period of 15-30 days to cure the default and if the same is not cured then only it may be punished financially.

In cases where a violation results in losses for consumers, appropriate compensation should be provided to the affected consumers, covering the extent of loss they have suffered.

E. Any other issue

Q32. Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in the present consultation.

OUR Response: -

- (i) TRAI should allow DPOs to conduct consolidated Audit along with its JVs under the Provision of DPO caused Subscriber Audit as per Regulation 15(1) of Interconnection Regulations 2017.
 - (ii) There should be content parity with OTT Platform.
 - (iii) Strict action to be taken for fixed deals and price cutting.
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SITI VISION COMMENTS