SureWaves Suggestions Submitted to TRAI

In Response to Consultation Paper No. 8/2011Dated 22nd Dec, 2011 On

"Issues Related to Implementation of Digital Addressable Cable TV Systems"

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1. Introduction

TRAI through its Consultation Paper No. 8/2011 dated 22nd December has invited comments / suggestions from various stakeholders on specific issues identified by TRAI to enable smooth transition to Digital Addressable Cable TV System across the country by 2014.

SureWaves - a next generation technology and media Company is taking this opportunity to offer certain suggestions for consideration of TRAI which could contribute greatly to objective of smooth transition to Digital Addressable Cable TV Systems through a win-win relationship between Broadcasters and MSOs. These suggestions also have the potential to help Indian Television industry leapfrog and be a world leader in use of the latest advances in technology and thereby trigger significant growth of the Television Industry in India.

2. Specific Issues for Consultation by TRAI Being Addressed

2.1 Provision for Must Carry

Issues for Consultation on Provision for Must Carry

The suggestions outlined below refer to the following clauses of Chapter-III reproduced below which relate to the subject of 'Provision for Must Carry'.

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

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

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

iii. 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?

The above issues are also summarized in Chapter-VI clauses 9, 10 and 11.

Summary of SureWaves Suggestions on Provision for Must Carry

In relation to the above, we would like suggest the following mechanism for Must Carry Provision in the interest of the viewers, Broadcasters and MSOs:

i. In the interest of the viewers, 'Must Carry Provisions' may be mandated by TRAI for all FTA channels that command an average channel share of 2% or more in the past six months prior to the cut-off date mandated by TRAI for complete roll out of DAS in specific markets as per reports of an independent agency such as TAM in the specific state / geography where the MSO signals are distributed. The channel share of various channels may vary on a market by market basis. Hence, the list of Must Carry Channels may be decided on the basis of the channel share in the state / market where the MSO head-end is located.

ii. When a Broadcaster qualifying the above criteria, seeks a 'Must Carry Provision', it should be obliged to offer a 'local avail' of 2 minutes to the MSO as Free Commercial Time in lieu of the

Carriage Fee. This aspect is further dealt with in the subsequent section on Carriage Fee in greater detail.

iii. In case Must Carry Provision as above is mandated, the MSO may be asked to offer its network to all such qualifying Broadcasters on similar terms against a 'local avail' of 2 minutes as specified by TRAI and this will be seen as being non-discriminatory. Further, the MSO may be asked to offer all such qualifying channels on adjacent frequencies in the order of their past Channel Share as proximity of channels to each other could be an important factor in the DAS areas. MSO should also be asked to include all such channels in the Basic Service Tier (BST) offered to customers.

Rationale and Benefits of Suggestions made on Provision for Must Carry

The Rationale and benefits of the above suggestion are described below:

i. Must Carry Provision should primarily look into the popularity of the channels amongst viewers so that viewers are assured of being able to watch the channels that are most popular amongst them. Must Carry Provision is also closely linked to the issue of Carriage Fee and hence both need to be looked into together by TRAI.

ii. In the Digital Addressable Cable TV System, the available bandwidth will increase significantly but still it will not suffice for carrying all the 800 channels presently being aired. The number of channels may also go up in future. Hence, 'Must Carry' Provision may be mandated only for a select few FTA channels that meet a certain qualifying criteria.

iii. The popularity of channels as measured by Channel Share reports by independent agencies such as TAM are well accepted in the market amongst all stake holders and can serve as good non-discriminatory criteria to select the channels that should be included in the 'Must Carry' provisions.

iv. The channels included in the 'Must Carry' Provision based on the channel share criteria as above will also serve the greater public interest and a large majority of viewers will be assured of being able to view the most popular programs of their choice.

v. It is suggested that all FTA channels that command a channel share of 2% or higher in the past six months prior to the cut-off date mandated by TRAI for complete roll out of DAS in specific markets be included in the Provision for Must Carry. Typically, across different states in India, about 10 to 15 channels qualify this criterion of commanding a channel share of 2% or higher and the cumulative channel share of all such channels put together is in the range of 60% to 70%. Hence, this criterion would ensure that a reasonable number of channels are being covered in the 'Must Carry' Provision and together they would ensure that a reasonably large section of the viewers are assured of being able to watch programs of their choice.

vi. All such FTA channels that meet the 'Must Carry' provision criterion may also be recommended to be included in the 'Basic Service Tier' which is expected to be basket of about 30 channels and can easily accommodate about 10-15 FTA channels that may be include under Provision of Must Carry.

vii. Provision for Must Carry Provision can be mandated only if the MSOs interest is suitably taken care of. Hence, a uniform arrangement for offering 'local avails' by broadcasters to MSOs in lieu of carriage fee may also be recommended by TRAI. This is further described in following sections on Carriage Fee.

2.2 Carriage Fee

Issues for Consultation on Carriage Fee

The suggestions outlined below refer to the following clauses of Chapter-III reproduced below which relate to the subject of Carriage Fee.

3.31 A propos the above, issues for consultation are:

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

ii. 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?

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

The above issues are also summarized in Chapter-VI clauses 12, 13 and 14.

Summary of SureWaves Suggestions on Carriage Fee

In relation to the above, we would like suggest the following mechanism be adopted for channels that fall in the Provision for Must Carry in the mutual interest of the Broadcasters and the MSO:

i. In the overall interest of the Broadcasters, MSOs and Advertisers TRAI could recommend that Broadcasters that qualify for 'Must Carry' criteria provide two minutes of FCT (free commercial time) as local avail to MSOs in every block of one hour in lieu of the carriage fee and the MSOs will be free to sell and market to any advertiser who wishes to place advertisements in the respective channel within the geographic territory covered by the MSO's cable distribution system. In the interest of standardization and better co-ordination between Broadcasters and MSOs, TRAI could recommend the local avails to be provided by splitting the FCT offered to one minute of FCT close to the 15^{th} and one minute of FCT close to the 45^{th} minute of the hourly clock. MSOs will be responsible to use appropriate technology to seamlessly use the 'local avails' for insertion of local / regional advertisements and also completely fill the two minute FCT so offered by high telecast quality commercials from advertisers or with promos and fillers of MSO for its own services. The carriage fee for all other channels that are not mandated by TRAI under 'Provision of Must Carry' may be left to Broadcasters and MSOs to negotiate as per market forces and can be based on either the monetary value or in terms of local avails in lieu of carriage fee at mutually agreeable terms.

ii. Value of FCT (free commercial time) offered in lieu of carriage fee is directly linked to the market success of the channel and hence no other parameters may be necessary for determination of the carriage fee for channels covered under Provision for Must Carry.

iii. Since the value of FCT is representative of market success of the channel there is also no necessity of determining the quantum of maximum monetary cap that should be put on the carriage fee for channels covered under Provision for Must Carry.

Rationale and Benefits of Suggestions made on Carriage Fee

The Rationale and benefits of the above suggestions are described below:

i. Presently, the broadcasters have to pay carriage fee to MSOs which seems to be severely affecting their profitability. Many channels in fact are not able to break even due to high distribution costs. The alternate mechanism as suggested above will help them to save significantly on their monetary expenses and thus run the operations more profitably. This will also allow them to invest in higher quality of programming.

ii. Presently, MSOs do not have a way of benefiting from the advertising revenues and are financially constrained to charge carriage fee as a way of meeting their costs. With the suggested arrangement, MSOs will benefit as they will be able to generate advertising revenues through sale of air-time on broadcaster's channel for local / regional advertising and thus will be able to participate equitably in the success of the channel. The arrangement will also allow MSOs to confidently invest in the infrastructure and roll out of set-top-boxes and thus realize TRAI and Government's vision for smooth transition to Digital Addressable Cable TV System.

iii. Such a practice of offering air-time for regional / local advertisements has been followed successfully in other parts of the world. As an example, in United States a typical 30-minute block of time includes 22 minutes of programming and eight minutes of commercials - six minutes for national advertising and one to two minutes for local / regional advertising.[1] In such an arrangement, bulk of the commercial inventory is reserved for the national advertising slots which are sold by the Broadcaster to national advertisers, while a small part of the commercial inventory is offered as free commercial time to the cable MSO who distributes the signal in the region for selling the local / regional advertising. The mechanism is also known as 'local avails' whereby the broadcaster makes the commercial air-time available to cable MSO by insertion of certain pre-determined cue-tones or marker tones in its studio feed which can be detected by appropriate equipment placed at the MSO head-end for seamless insertion of local / regional advertisements sold by the MSO or its associates.

[1] http://www.thecab.tv/main/cablenetworks/localavailtimes/index.shtml - This link has details of 'local avail' time offered by nearly 100 top satellite channels in USA. Average of 2-3 minutes of local avail is per hour is the norm.

iv. The beauty of the arrangement is that it offers a self-regulated mechanism whereby MSOs will benefit more from the channels that command higher advertising rates for air-time and vice-versa. Presently, MSOs charge a higher amount of carriage fee from channels that are more successful in garnering advertising revenues and also provide them preferred frequencies but the process of negotiations is difficult and not so scientific due to lack of information and knowledge. In the suggested arrangement, air-time becomes the currency between Broadcasters and MSOs which is directly linked to success of the channels in the market.

v. The arrangement will ultimately help Television evolve as a more effective medium for advertisers and thus attract higher revenues to the medium. Presently, the cost of advertising on satellite television is prohibitive for many advertisers and satellite television does not offer a way of targeting the advertisements to specific markets at lower costs while alternate mediums such as print, radio and billboards offer the capability to target specific markets at lower costs. If television is able to offer local avails for each market, it is quite likely that many advertisers would prefer to use the television for their local / regional advertising and television will be able to attract significant amount of local / regional advertising which does not come to television as of now. Television will also become a more effective medium for National advertisers who can make a national buy with the broadcasters directly or make a local buy from the MSO when they want to target only a subset of markets in the country and not the whole country. The viewers will also benefit by being able to watch relevant and localized advertisements on their favorite channels.

vi. With the latest advances in Technology, it is now possible to aggregate the regional inventories of air-time available with different MSOs and allows national and regional advertisers to easily buy air-time on regional inventory of any of the channels based on their market preferences. The technology is already being used in India for many of the MSO regional channels and allows automated insertion of advertisements in each of the individual channels during the scheduled local 'avails' in a seamless manner under centralized web based control and provides online telecast report to advertisers for their ad insertions across different channels for local buys. Thus Indian Television industry can leapfrog and be a world leader in use of the latest advances in technology at the same time when it transitions to the Digital Addressable Cable TV system in the coming days.

vii. As can be seen, all parties stand to benefit from such a mechanism – Broadcasters save on direct monetary expenses towards carriage fee and achieve greater profitability; MSOs are able to benefit equitably from advertising revenues and thus create an alternate source of revenue in place of carriage fee as the transition happens towards completely Digital Addressable Cable TV System; existing television advertisers are able to better target their audiences through television and thus can optimize their expenses; new local / regional advertisers will be able to use television at affordable cost points; television as a medium will be able to attract advertising revenues from local / regional advertisers and thus command a greater share of overall advertising revenues.

3. Summary

The suggestions above provide a reasonable and implementable criterion based on channel shares measured by 3rd party independent agencies for Provision for Must Carry which will benefit the viewers across the country by making sure that they would be able to watch channels that are highly popular in their respective states. The suggested criteria will also help select a good basket of FTA channels that can be included in the Basic Service Tier (BST).

The suggestions above also provide a mechanism for using the 'local avails' in lieu of Carriage Fee for the channels selected under Provision for Must Carry. Such a mechanism has been practiced very successfully in other parts of the world and has the potential to offer a huge benefit to all stake holders including broadcasters, MSOs, advertisers and the viewers. This also has the potential of making television a more effective medium for advertisers by allowing them to better target their audiences on a market by market basis and thus grow the market share of television medium in the overall advertising spends in India.

SureWaves will be more than happy to provide further clarifications on the above and engage in further discussions with TRAI officials on the business and technology aspects related to above suggestions.