

23 September 2019

*By Email and Hand*

Telecom Regulatory Authority of India  
Mahanagar Doorsanchar Bhawan  
Jawahar Lal Nehru Marg  
New Delhi - 110002

**Kind Attn:** Shri Arvind Kumar, Advisor (B&CS)

**Subject:** TRAI's Consultation Paper on Tariff related issues for Broadcasting and Cable services dated August 16, 2019

Dear Sir,

Please find enclosed our response to your Consultation Paper dated August 16, 2019 on Tariff related issues.

Thanking you.

Yours sincerely,



**Himavat Chaudhuri**  
Chief Legal and Regulatory Affairs Officer

Enclosed: As above

**TATA SKY RESPONSE DATED SEPTEMBER 23, 2019 TO THE TRAI CONSULTATION PAPER ON TARIFF RELATED ISSUES FOR BROADCASTING AND CABLE SERVICES ISSUED ON AUGUST 16, 2019**

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- At the outset it is stated that our participation in the present consultation process and response hereunder to the various issues arising from the Consultation Paper No. 10/2019 dated August 16, 2019 (Consultation Paper) is without prejudice to our rights and contentions in the WP No. 4135 of 2017 pending before the Hon’ble Delhi High Court. The present response to the Consultation Paper does not constitute a waiver of any rights, claims or defenses, all of which we reserve.
- The fact that TRAI had to come out with another consultation for amending the new Regulations vindicates our consistent stand that the New Regime (comprising of the Tariff Order, Interconnection and QoS Regulations, 2017) has several misgivings leading to an adverse impact on all stakeholders most importantly, our subscribers. While we are glad that TRAI has finally acknowledged these misgivings, however, to our disappointment, TRAI, instead of conducting a holistic exercise of revisiting the New Regime in entirety, has chosen to selectively focus only on few issues thereby limiting the scope of the exercise. Having acknowledged the serious misgivings in the Regulations, the current consultation is a piece-meal and isolated effort and not the appropriate way forward.
- Tata Sky and other stakeholders have raised numerous other concerns regarding the New Regime during the earlier consultation process, during the initial period of implementation and also before the Hon’ble Delhi High Court in the pending writ petition. However, TRAI has not considered and addressed those concerns and also has not found place in the current consultation.
- It is now widely known that the subscribers, who were the focus of the New Regime, have expressed severe dissatisfaction against the New Regime. This is corroborated from the following:
  - (a) Repeated extension of timelines for implementation – The ‘migration cut-off date’, was repeatedly extended by TRAI. The first cut-off date of December 28, 2018 was subsequently extended to January 31, 2019, and thereafter to March 31, 2019.
  - (b) TRAI’s directions to the distribution platforms to forcefully migrate the subscribers, who had not exercised choices of channels, to Best Fit Plan – TRAI vide its Press Release bearing No. 11 of 2019 dated February 12, 2019 directing all DPO’s to do the following: *“9. In view of the larger public interest, the Authority directs all DPOs that those subscribers who do not exercise their options shall be migrated to a ‘Best Fit Plan.’ The subscriber’s old plan shall continue till either subscriber exercise his/her option, or he/she is migrated to the ‘Best Fit Plan’.* The Authority hereby, vide this press release, extends time up to 31st March 2019 for exercising the option by such subscribers who have not exercised option yet. Subscribers will be free to change their ‘Best Fit Plan’ at any date and time on or before 31st March 2019 and DPOs shall convert their “Best Fit Plan’ into the desired pack (channel/Bouquet) within 72 hours from the time choice exercised by the Subscriber. It is clarified that there will be no ‘lock-in-period for the subscribers till 31st March 2019 who has been migrated to ‘Best Fit Plan’ by DPOs ”
  - (c) TRAI’s own admission that the uptake of channels on a-la-carte basis continues to be very low – (i) TRAI in the Consultation at paragraph 3.15 conceded that the uptake of a-la-carte channels under New Regime continues to be very low. For easy of reference the relevant portion of paragraph 3.15 is extracted as follows: *“The Authority has analyzed the*

data submitted by the service providers post implementation of the new regime and has observed that the uptake of channels on a-la-carte basis still continue to be very less as compared to the bouquet subscriptions (refer Annexure II). . . . .”; (ii) TRAI’s Press Release dated February 12, 2019 wherein it is inter-alia stated that approximately only 65% of the subscribers of the cable services (which seems to be a highly exaggerated claim made by the MSOs to TRAI) and 35% subscribers of the DTH services have exercised their options.

- (d) Increase in subscription fee of the channels entailing higher subscription fee for the subscribers - TRAI at paragraph 3.38 and 3.39 of the Consultation Paper acknowledges steep rise in the channels price. The relevant extracts of the paragraphs 3.38 and 3.39 are as follows:

*“As mentioned above that quite a few of the FTA channels in previous regime have been converted into pay channels in the new regime and priced at less than Re.1 so that they can be included in the bouquet along with premium channels. Table given at Annexure-I provides the price of channels under old regulatory framework and new regulatory framework and percentage increase therein. Wholesale prices declared by broadcasters in the old framework have been multiplied by a factor of 1.25 in order to account for the 20% mandatory discount on MRP to be given by broadcasters to DPOs in the new framework. It may not be out of place to mention here that in the old regime broadcasters used to give 80-90 percent discount over RIO price while offering their bouquets to DPOs. This clearly indicates that prices of most of the SD channels have increased significantly. The flexibility given to broadcasters has been grossly misused and consumer interest has been seriously hurt. In fact, many SD channels which were much below Rs.19 in the previous regime have been increased to the threshold price of Rs.19 so that they can be part of a bouquet to maximize their revenue and at the same making it a choice on a-la-carte prices difficult. The detailed analysis of the price of channels of different broadcasters including HD channels clearly indicates that channel price of many of the HD channels has been reduced to be accommodated within the bracket of Rs.19 (refer Annexure III) so that they can be pushed in the form of bouquet. The flexibility to the broadcasters to price their channels was given on the premise that quality of the TV channels will be improved and consumers will be provided a high value channel only on their choice. However, the readjustment of the channel prices by the broadcasters clearly indicates that flexibility of the framework has not only been misused to increase the channel prices but also denied choice of the channels to the consumers.*

*3.39 Further analysis of channel prices in new regulatory framework indicates prevailing prices in 2017 of many SD channels have been increased multiple times while prices of HD channels have generally been reduced.”*

- The underlying theme/objective of the New Regime, as articulated by TRAI was ‘adequate/effective choice to the subscribers at affordable rates’. TRAI was concerned with the fact that non-driver channels were being pushed to subscribers against their choice by combining them with driver channels in a bouquet and that the subscribers were being made to pay more than what they would have paid for the channels they really wanted to watch.
- We are of the considered view that the underlying theme for the New Regime is dissociated from reality of Indian households. An Indian household generally comprises of family of persons of varying age groups and each age group has its own viewing preferences. Thus, while kids may want to see cartoon channels, elderly members of the family may be interested in news, entertainment channels, sports etc. Meaning thereby that while all these genres of channels along with certain other channels

were earlier available at lower price, now even for fewer channels the subscriber is having to pay much more.

- We do not see any reason behind continuing with such a regime where the subscribers have to pay more and that too for fewer channels. It would be in the interest of all that TRAI undertakes a comprehensive exercise of the Regulations in its entirety rather than going for a limited review which would surely lead to more chaos and inconvenience to operators like us and our subscribers.
- With this background, we now proceed with our comments on the questions raised in the Consultation Paper.

#### QUERIES:

**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.**

**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 broadcaster?**

**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?**

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

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

#### TATA SKY RESPONSE:

- In our response dated March 2016 to a TRAI's Consultation Paper on Tariff Issues related to TV services issued on January 29, 2016, Tata Sky had submitted that *TRAI should allow the price Forbearance Models at the wholesale and the retail level. Further, the channel pricing framework and methodologies should be left to the parties involved, allowing the market forces and negotiation between the parties to decide the same.* We stand by our earlier submission and we are opposed to any kind of caps on any of the stakeholders.
- In our submission dated November 15, 2016 to TRAI's Consultation Paper on the Draft Interconnection Regulations, 2016 dated October 14, 2016, we had also stated that *Prohibiting the rights of DPOs for a mutually negotiated agreement is unreasonable.* *A mutually negotiated agreement provides flexibility to the DPO to offer channels at a much lower rate to the consumers.* The experience, so far, has

corroborated our fears. The pay-out by the DPOs to the Pay broadcasters, has increased by 40 – 50% thus leading to higher costs. The subscribers have borne the brunt of these higher costs and hence the large number of grievances from the subscribers.

- The principle of putting a cap of 15% to the discount on the MRP of a bouquet has been held to be arbitrary and unenforceable by the Hon'ble Madras High Court. It cannot be that once the principle of putting a cap of 15% to the discount on the MRP of a bouquet has been held to be arbitrary and unenforceable in law, TRAI can insist on the same vis-à-vis other service providers i.e. DPOs. Such insistence by TRAI is contrary to the letter and spirit of TRAI Act and the decision of the Hon'ble Madras High Court and has been interfered into by the Hon'ble Supreme Court.
- The subscribers should not be made to pay more for bouquet of channels offered by the DPOs on account of a cap which has been found to be arbitrary and unenforceable. In order for the subscribers, to get the maximum benefits of discounts, DPOs need to be permitted to mutually negotiate better terms for the content than currently permitted. As mentioned above we are against any kind of caps and therefore the following caps should also be abolished: -
  - Cap of 35% (distribution fee + discount) on MRP offered by Broadcaster to DPOs;
  - Cap of 15% discount on DRP of bouquets vis-à-vis the sum of DRP of the constituent a-la-carte channels;
  - Cap of 35% discount on carriage fee by DPOs to Broadcasters.

We would also like to highlight that TRAI has acknowledged in paragraph 3.38 of the consultation paper that the ultimate sufferer is the consumer who deserves a choice of channels at a reasonable cost. However, when the DPOs are attempting to provide services at a cheaper rate to the subscribers, the regulation is being quoted to be violated and such tariffs are being stopped. The DPO bouquet is much more subscriber friendly as it caters to the needs of the subscriber for availing channels from multiple broadcasters within a pack rather than having to subscribe to multiple bouquets/ or channels.

#### QUERY:

**Q6. 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?**

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

#### TATA SKY RESPONSE:

- At the outset, we are surprised that the Consultation Paper has chosen to question the bouquets being offered by the DPOs. Bouquets of DPO were never an issue even with the subscribers. In all our earlier discussions with TRAI, concerns were raised only against the large number of Broadcaster bouquets, on account of the fact there are severe capacity restrictions in the IT systems being faced by DPOs in order to accommodate so many bouquets.



- As mentioned above, we stand by the principle of Forbearance. Any restriction if applied, should only be based on the IT system limitations of the DPOs.
- We strongly suggest that no limitations may be placed on the DPOs on the number of bouquets being offered.

#### QUERY:

**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?**

**Q9. 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?**

#### TATA SKY RESPONSE:

- We stand by the principle of Forbearance. Therefore, we are not in agreement of any rules restricting the formation of bouquets. Fixing ceiling at Rs. 19/- has artificially inflated the prices of channels. We receive several requests from our subscribers for:
  - A single regional language bouquet (containing all channels available in that language)
  - A single genre bouquet (containing all channels available in that genre)However, we are unable to fulfil the demand on account of the restriction against placing Pay and FTA channels together.
- In fact, the consultation paper dated August 16, 2019, mentions that the flexibility has been misused and consumer interest has been seriously hurt. Many channels that were FTA in the earlier framework have been converted into pay channels and priced at token amounts (below Re.1/-) for the simple reason that under the new regulatory framework FTA channels cannot be part of a bouquet. Many SD channels which were much below Rs.19 in the previous regime have been increased to the threshold price of Rs.19, so that they can be a part of a bouquet to maximize their revenue and making a choice of a-la-carte channels difficult. The consultation paper states that detailed analysis of the price of channels of different broadcasters, including HD channels indicates that the channel price of many of the HD channels has been reduced to be accommodated within the bracket of Rs.19, so that they can be pushed in the form of bouquet. The flexibility of the framework has been misused to increase the channel prices, furthermore to deny choice of channels to the consumers.
- This phenomenon is on account of the restrictions placed in the Regulations. We believe that the same should be reviewed and removed in subscriber interest.

#### QUERY:

**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?**

**Q11. How this provision has affected the ability and freedom of the subscribers to choose TV channels of their choice?**

**Q12. Do you feel the provision permitting the broadcasters/Distributors to offer bouquets to subscribers be reviewed and how will that impact subscriber choice?**

**Q13. How whole process of selection of channels by consumers can be simplified to facilitate easy, informed choice?**

**TATA SKY RESPONSE:**

- The primary challenge that the subscriber is facing today is to choose from more than 600 A-la-carte channels. In fact, bouquets aide the subscriber in his choice making process.
- In our response dated November 15, 2016 to the Draft Eighth Tariff Order, 2016 issued on October 10, 2016, we had submitted the following:
  - *“The Draft Tariff Order is said to be customer oriented and focus’ on empowering the customers, by giving them the option to choose their own channels from FTA, pay channel(s), premium channel(s) or bouquet(s) of channels offered by the broadcasters or bouquet(s) of channels offered by the distributor of television channels. However, on a closer look of the regulation it instead appears to be a burden on the customer.*
  - *The Draft Tariff Order mandates that a customer can add additional channels within the 100 SD channels stipulated. This would mean that a customer would be required to call the DPO’s or log on to their website for making their selections on channels. There may be number of customers who are not technologically advanced or are in remote areas with limited or no access to internet service to log in and make the changes. It will be an inconvenience for customers to call the call centers to make such selections either from urban or rural areas as these calls take significant amount of time and come with a significant amount cost.*
  - *The customer will be forced to subscribe to numerous bouquets of different broadcasters, and at the same time end up subscribing to a-la-carte channels bringing the customers’ subscription cost much higher than it would currently be.”*
- All the concerns expressed above, which we had foreseen, are currently playing out and causing inconvenience to the subscribers. Neither was the previous regulation based on data collected through market research and surveys, not do we see any such exercise now to justify a further tweak to the regulations. This consultation paper is heading towards more micro-management, which will not only not provide relief to any of the stakeholders, especially the subscribers and instead will make matters worse.
- We strongly suggest that no limitations may be placed on the DPOs on the number of bouquets being offered.

**QUERY:**

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

**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.**

**Q16. 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 home?**

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

**TATA SKY RESPONSE:**

- The discounts on multi-TV were made possible by the DPOs, in the previous regulatory regime, because of the ability to negotiate a mutually beneficial agreement with the broadcaster. We are of the view that the subscribers are served best when free market principles come into play on the bedrock of mutually negotiated agreements between the stakeholders.
- The concerns being raised by the subscribers on Multi-TV pricing is a direct consequence of the new regulatory regime which prohibits mutually negotiated agreements.
- We therefore believe that this consultation process should review the strait-jacketed approach of the NTO and make way for negotiated agreements.
- The current regulation is prescriptive and narrow in its interpretation, that DPOs were unable to even provide voluntary discounts to their subscribers – be it Long Term or Multi-TV etc. In this regard, TRAI had set-up a multi-stakeholder committee which has recommended that DPOs should be allowed the flexibility of giving discounts on the NCF for Multi-TV.
- We are in agreement, to the limited extent, that this consultation process and the regulatory amendment thereafter should allow for a provision to DPOs to enable discounts on the NCF to their subscribers.
- However, we are strongly against any further move by the Authority to announce capping of NCF for Multi-TV subscribers for subsequent TV connections. The new regulatory framework is still in its infancy and some more settling down time is required. As it is, all the revenue stream of the DPOs has been capped, and DPOs are trying to still make sense of the revenues and sustainability. The DPOs have also been losing out on the higher content cost pay outs. We should wait for the market forces to start coming into play which would lead to voluntary discounts by DPOs leading to a sustainable equilibrium. Regulating NCF for Multi-TV will be an isolated exercise and will not



be a holistic decision and would end up further hurting the sustainability and revenues of the DPOs. Moreover, it will not be economically viable for DPOs to provide the service of Multi TV.

- We are of the view that the regulatory provision should enable NCF discount for Multi-TV. However, there is absolutely no need to fix any caps on NCF.
- We are of the view that the Broadcaster should also be allowed to offer discounts, (outside of the 15%), to Multi-TV, Corporate, Bulk subscribers in coordination with the DPOs. The technical feasibility of operationalizing those discounts should be left to mutual negotiation. The regulatory amendment should provide for an enabling mechanism. If TRAI is keen to create a special tariff for Multi-TV (i.e. for the 4% elite homes that have more than one TV), it should not force the DPO to bear this discount, as that would make the recovery of the incremental capital investment in a multi TV home, even more difficult and instead should come from the DRP discounts.
- Tata Sky is already providing complete choice to each subscriber to choose different channels/ bouquets for each of his Multi-TV STBs.
- While we are against capping of NCF, it goes without saying that any uniformity with respect to NCF across varied distribution platforms is itself against Article 14 of the Constitution of India. DTH platform cannot be compared with the MSO and other cable platforms.

#### **QUERY:**

**Q18. How should a long-term subscription be defined?**

**Q19. 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?**

**Q20. Whether Broadcasters also be allowed to offer discount on MRP for long term subscriptions?**

#### **TATA SKY RESPONSE:**

- Any tariff offer may be considered as a 'Long Term Subscription tariff offer' if its validity period is a minimum of 6 months.
- Large number of subscribers are accustomed to subscribing to Long Term Subscription tariffs on account of their convenience as well as the discounts available. This, in turn, is also advantageous to DPOs who receive the moneys up-front for a larger period and the number of transactions between the subscriber are reduced during the validity period.
- There should be no cap prescribed on the quantum of discounting.
- Yes, broadcasters should be allowed to offer discounts for long term subscription in coordination with the DPOs and this discount should be outside the 15% cap that TRAI has already prescribed.

TRAI should enact the enabling provision and thereafter allow for mutual agreements between DPO and Broadcaster to enable such discounts.

**QUERY:**

**Q21. 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?**

**Q22. How the channels should be listed in the Electronic Program Guide (EPG)?**

**TATA SKY RESPONSE:**

- The DPOs need freedom and flexibility on EPG. We request the TRAI to remove the mandate of fixing the LCN for a minimum period of a year as it gravely affects the commercial interests of the DPOs.
- Tata Sky is currently facing a space crunch in the LPG for certain genres where the number of channels have increased at a larger pace. However, to remain in compliance with the Genre/Language listing, we now need to forcibly shift a few LCN numbers which is also currently prohibited. This stalemate needs to be addressed by repealing either of the two regulations as explained above.

**QUERY:**

**Q23. Whether distributors should also be permitted to offer promotional schemes on NCF, DRP of the channels and bouquet of the channels?**

**Q24. 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?**

**Q25. What safeguards should be provided so that consumers are not trapped under such schemes and their interests are protected?**

**TATA SKY RESPONSE:**

- Yes, a DPO should be permitted to offer promotional schemes.
- We strongly believe no restriction on the frequency of any such scheme should be mandated.
- Such schemes should have the flexibility to permit innovative segmentation, e.g.-:
  - District-wise segmentation;
  - City-wise;
  - Area wise (for example – Dharavi vs. Lokhandwala; Geeta Colony vs. Sainik Farms);
  - DAS I, II, III, IV segmentation;
  - Acquisition segmentation;

- Recharge based segmentation;
- Age or Network based segmentation;
- Multi TV based segmentation;
- ARPU based segmentation
- Pack-wise segmentation

The above list are just a few examples of segmentation and is not an exhaustive list. The proposed regulations should enable innovation and flexibility and should not be prescriptive.

#### QUERY:

**Q26. Whether DPOs should be allowed to have variable NCF for different regions? How the regions should be categorized for the purpose of NCF?**

#### TATA SKY RESPONSE:

- Yes, the DPOs should be permitted to have variable NCF. The variations can be based on DAS I, II, III, IV areas (as suggested in the paper). In addition, NCF variation should be permitted on a District-wise/State-wise/ City -wise/ Area-wise basis as well.
- Taking this forward, the NCF variation should not just be restricted on geographical area basis, but should also be permitted for various other segmentation, e.g.-:
  - Acquisition segmentation;
  - Recharge based segmentation;
  - Age or Network based segmentation;
  - Multi TV based segmentation;
  - ARPU based segmentation;
  - Pack-wise segmentation

The above list are just a few examples of segmentation and is not an exhaustive list. The proposed regulations should enable innovation and flexibility and should not be prescriptive.

#### QUERY:

**Q27. 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 Rs 130/-?**

#### TATA SKY RESPONSE:

- We stand by our stand of Forbearance and are of the opinion that there should be no price caps on NCF. The capping of NCF at Rs.130/- per month for initial 100 SD channels is flawed and without basis. Each distribution platform is unique and non-comparable (e.g.-DTHs, HITs- these are satellite-based distribution services, whereas IPTV and MSO- these are airwaves and wire-based services). The said four operations have total distinct and separate cost, infrastructure, supply base and expenses. Our infrastructure and other costs are much higher, in comparison to the other four operators. Further each of these businesses are subject to different tax structures.

DTH operators, like ourselves are taxed comparatively higher. License fee at the rate of 10% of the gross revenue is paid by us, which is the highest. **Moreover, TRAI by not considering 10% License fee arbitrage between DTH Operators and the other DPOs is victimizing the DTH Operators.** Therefore, there is no logic for fixing one Network Capacity Cost for different service providers.

- The new regulatory framework is still in its infancy and some more settling down time is required. As it is, all the revenue stream of the DPOs has been capped, and DPOs are trying to still make sense of the revenues and sustainability. The DPOs have also been losing out on the higher content cost pay outs. We should wait for the market forces to start coming into play which would lead to voluntary discounts by DPOs leading to a sustainable equilibrium. Further regulating NCF will be an isolated exercise and will not be a holistic decision and would end up further hurting the sustainability and revenues of the DPOs.
- Any additional discounts that the DPOs are currently offering should not be viewed negatively and is part of innovations and the market forces playing out. To further subsume the existing voluntary discounts into hard-coded regulation by increasing the channel carrying capacity beyond 100 channels is unwarranted and should not be done.
- If the Authority is not increasing the scope of this consultation and consider the removal of all tariff caps including on NCF, then we suggest that the NCF cap should be linked to the inflation and allow for a periodic correction by way of a Direction instead of having through a full-fledged consultation process.

#### QUERY:

**Q28. Whether 25 DD mandatory channels be over and above the One hundred channels permitted in the NCF of Rs. 130/-?**

**Q29. In case of Recommendation 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?**

#### TATA SKY RESPONSE:

- DTH Operators, who are using expensive and scarce satellite transponder space, there is a substantial cost of carrying any channel including the mandatory channels. Precisely for this reason, DTH Operators charge a carriage fee from FTA channels to cover the DTH Operators' cost. While the license condition mandates carriage, waiving off of the NCF on these mandatory channels is unfair and unjust.
- Furthermore, the DTH License clause 7.8 mandates carriage of mandatory channels on most favorable financial terms i.e. in a non-discriminatory manner.

- We are therefore not in agreement to the proposal of waiving off the NCF charges, of the mandatory DD channels.
- DPOs may want to voluntarily waive off the NCF on the mandatory DD channels as a marketing offer. Such innovative tariffing should remain in the control of the DPO and should not become mandatory as a part of the regulation.

#### QUERY:

**Q30. Stakeholders may also provide their comments on any other issue relevant to the present consultation.**

#### TATA SKY RESPONSE:

- Tata Sky submits that almost all the queries raised by the TRAI in the present Consultation Paper are from amongst the grounds of challenge made by Tata Sky in the pending Writ Petition No. 4135 of 2017. One of the basis of challenge by Tata Sky is that a more thorough market research and analysis ought to have been conducted, before enforcing the new Regime. The market scenario and the consumer angst post implementation of the new regulation is there for all to see. We urge the Authority to start a fresh consultative process and review the entire regulation in its entirety.

#### Reporting Requirement

- The reporting requirement in the current Tariff Order, 2017 [Regulation 7(1) 2nd Proviso] mandates the DPOs to report to Authority and publish on website, any change of the listed regulatory parameters, 15 days in advance to the change.
  - This is a massive and unnecessary culture shift from the previous regime of a quarterly reporting. There are several challenges and complexities leading to all DPOs constantly struggling to remain within compliance. Such clauses lead to deterioration in the ease of business.
  - We would strongly recommend that we revert back to the earlier requirement of quarterly reporting. This will be a huge relief in the Regulatory operations that any DPO needs to perform.
  - Notwithstanding the above-mentioned ideal solution, if the Authority still maintains the view that filings are required on a case by case basis, then we would recommend that the Authority follow the same principle as in the Telecom sector i.e. filing within 7 days of launch/ change.
  - Due to the existing competitive landscape, it is impossible to plan for and share in the public domain, any of our marketing strategies and initiatives a good 15 days in advance.