

**WITHOUT PREJUDICE**

**TIMES NETWORK'S COMMENTS ON THE  
CONSULTATION PAPER ON TARIFF RELATED ISSUES  
FOR BROADCASTING AND CABLE SERVICES DATED  
16<sup>TH</sup> AUGUST, 2019 ISSUED BY TRAI.**

**DATE OF SUBMISSION OF COMMENTS : 23<sup>RD</sup> SEPTEMBER, 2019.**

**INTRODUCTION :**

The Telecom Regulatory Authority of India (TRAI), recently implemented the following regulations governing the broadcasting and cable industry :-

The Telecommunications ( Broadcasting and Cable ) Services Interconnection ( Addressable Systems ) Regulations, 2017 ;

The Telecommunication ( Broadcasting and Cable ) Services ( Eighth ) ( Addressable Systems ) Tariff Order, 2017 ; and

The Telecommunications ( Broadcasting and Cable ) Services Standards of Quality of Service and Consumer Protection ( Addressable Systems ) Regulations, 2017.

These regulations were made after comprehensive review of the erstwhile regulations and these regulations replaced the earlier regulations including various amendments to the regulations. These are collectively & commonly referred to as New Regulations /NTO/New regime.

There was a very long drawn process of due consultation prior to making these regulations and the views / counter views of the various stakeholders were taken into account while framing these regulations. The Regulations were also subject to extensive legal challenge and scrutiny and there were also many concerns and apprehensions of the industry and the consumers on the new regulations and its proper implementation. The TRAI after holding numerous meetings, open house discussions in various parts of the country with all the stakeholders finally implemented the New Regulations with effect from 1<sup>st</sup> February, 2019.

There were lot of teething issues and the all the stakeholders including the broadcasters, distributors and the subscribers had a challenging time in implementing and adapting to the new regulatory framework. There was a good amount of transition cost incurred for implementing the new system. But after the concerted efforts of the regulator, industry and most importantly the consumers, the new regulations were finally implemented. There were many key provisions in the new regulations not only changed the revenue model of the broadcasters and distributors but they were aimed at enhancing the viewer choice and the regulatory regime was changed to MRP regime thereby the viewer would have complete visibility on the price of the channel/bouquet which is chosen and subscribed by him. Though the new regime brought in price forbearance, in order to see that the bouquets are carried in a fair manner in order to be beneficial to the consumer, there were lot of restrictions on how the bouquets could be offered like, the ceiling of MRP of Rs. 19/- on channel to be included in the bouquet, non-combination of FTA and PAY channels in the same bouquet, non-combination of HD and SD variant of the same channel in the same bouquet, non-breaking of the broadcaster bouquet by Distributor etc while forming the bouquet by broadcaster and/or DPO. All such restrictions ensured that the subscriber has the option to choose channels either on a-la-carte basis or in form of bouquets formed by the broadcasters and/or DPOs on the basis of his choice and requirement. There was also a proposal to put cap on the discount of the bouquet @ 15% which was held to be arbitrary and unenforceable by the courts. This fact that the discount on bouquet is not enforceable was very well known to TRAI and all the stakeholders well before the implementation of the new regulations and TRAI with full knowledge of this fact went ahead with implementation of the new regulations and ensured that the new regulations are adopted by the industry and the consumers. Infact in various OHD with the stakeholders, TRAI stated that they are going ahead with implementation of the regulations without the discount cap. There were extensive consumer awareness programs which were done by the Government and Industry to make consumer aware about the changes in the TV regulations and with concerted efforts, the subscribers were migrated to the new regime.

In the present regulations, the consumer interest is fully protected as there is a complete choice available to the consumer to select channels on a-la-carte basis or in the form of bouquets of the broadcasters/DPOs. Further the MRP based regime also protects consumer interest as the price payable by the subscribers for subscribing a particular TV channel is clearly known to him. The price comparison of a channel on a-la-carte / bouquet is also clearly made known. Then it is purely a consumer choice to pick a-la-carte or a bouquet of channels.

Further the consumer has full freedom to select or de-select any a-la-carte channel or any bouquet without any restrictions.

The Broadcasting sector is identified as Champion Sector by the Government of India which has the potential to become global champion and grow at double-digit rates and due to over-regulation, inconsistency and frequent changes in regulations by the sector regulator, this sector has already lost 10-12 million TV subscribers in the last five months (as per various industry estimates) post new regulations and industry experts fear that further regulations will give a fatal blow to this sector as distribution revenues will drop significantly at a time when advertising revenues are already under pressure due to the economic slowdown. Such frequent changes also invite consumer ire and angst against the system and takes them away to alternate mediums which are currently unregulated and lead to loss of revenue for stakeholders and government as well.

Now, with the present CP, barely within 6-7 months of the implementation of new regime, TRAI wishes to review and revisit the key issues of Tariff Order which can change the entire gamut of regulations and again put all stakeholders in the uncertain situation as witnessed at the time of implementing new regulations. Let us examine some of the issues in hand as given below :

**A. Is there any need to review the Tariff Order ? :**

The need and intent of TRAI to come out with present CP to amend the Tariff Order for ensuring viewers to get independence for selecting TV channels of their choice and the DPOs/ Broadcasters shall not be in a position to push unwanted channels on viewers, is not based on correct premise for introduction of this CP; There are no unwanted channels in the market. Channels are being viewed by the subscriber & hence they exist. If the Channels are not being viewed there is no point for Broadcaster to continue such channels and incurring continuous operations cost. There are niche channels which aim to meet the requirements of targeted customers, there are smaller channels which cater to some local viewer requirements. Such channels cannot be termed as “unwanted” channels. There is a viewership for these channels as well.

- The NTO has been implemented recently from 1.2.2019 and while all the stakeholders i.e. Broadcasters, DPOs and Subscribers are just settling down after dealing with the challenges faced for on ground implementation, TRAI is planning to revise the same without understanding the adverse impact of the same on whole industry

including the consumers. Hence, coming out with the CP just after 6/7 months of its implementation is a very pre-mature action at the end of TRAI.

- It may be noted that there is a limitation at DPO level in terms of their CAS and SMS systems and it may be very difficult to manage the subscribers if bouquets are discontinued and channels are made available only on a-la-carte basis.
- There are limitations at MSO level for attaching beyond certain no of channels/bouquets)hence the DPO packs are provided and opted by subscribers.
- Planning to bring the revision in Tariff Order at this stage will create the chaos in broadcasters and DPOs system and also with subscribers who after great persuasion have moved to the new regime. There will again be unstability and uncertainty at consumer end.
- Revision in Tariff Order will ultimately demand the Broadcasters and DPOs to revise their channels rates, re-create their packs/ bouquets, if any etc. which in itself is a humongous task and which will further create various disputes amongst all the stakeholders apart from making consumers to once again go through the earlier hassles faced during implementation of New regime.
- Now, if TRAI contemplates further pricing restrictions, the channels may loose the ability to reinvest in premium content, especially when they are facing tough competition from alternate technologies.
- The TV services in India are one of the least expensive in the world and are affordable by all the sections of the society. In spite of this fact, TRAI has been experimenting with the industry with hit and trial method.
- In Explanatory Memorandum of Tariff Order Regulation of 2017, TRAI has itself said that it will review the present regulation only after 2 years.
- TRAI's analysis and interpretation of channel pricing post NTO is incorrect. TRAI itself wanted that channel prices should be reduced or realigned so that they can fit to be included in the bouquet.
- Consumer interest is fully protected and the broadcasting industry is not a monopolistic industry where any anti-competitive practices can be thought to be adopted by the players. Since there are about 900 TV channels belonging to about 350 broadcasting companies, the sector is highly competitive and customer is king for all the players in the broadcasting be it the broadcaster or the DTH company, MSO or LCO.
- TRAI's interpretation on conversion of channels from pay to FTA and vice a versa is not done in right perspective. Channels converted from pay to FTA is to ensure reach of their channels in the new regime, as they were largely dependent on ad sales model. They might have been fearing a drop in reach due to too many options and found it worth going FTA.

- Channels converting from FTA to pay are normally priced @ 10 paisa per subscriber per month and bundled by certain broadcasters, Subscriber still has a choice to opt for the channels they want rather than the Broadcaster/DPO bouquet and this doesn't increase the burden on subscriber any way if they don't take the bouquet. For eg. if a subscriber chooses 40-50 such channels also, his subscription charge would be just few rupees per month.
- Further nature of channels whether pay or FTA is not affecting in any terms to consumer choice of watching the channel.
- The Broadcasting industry as a whole, after great efforts has implemented the new regulations.
- The industry has had to face the consumer apathy and angst over the proposed changes.
- There has been a huge transition cost incurred by the industry in migrating to the new regime. A lot of investments were made in Consumer awareness and education programs
- There has been a drop in the multi-tv homes
- There is also a shift of viewers to digital platforms
- All Genres and stakeholders are adversely impacted due to the sudden transition and are still trying to reach out to the viewers who were lost in the transition

**B. The Issue of Cap on discounts :**

- Discounting and clubbing of product and services is a practice followed across all industries;
- There is no restriction on discounting or even offering freebies in the same industry. For eg. A company is offering free TV screen to subscribers of its triple play services i.e., broadband, voice and TV. Some offer free STB along with their services. They are directly in touch with their consumers and are free to offer the schemes as per the business requirement. The broadcasters are not in direct touch with their subscribers and are dependent on the distributors for making their signals available to the target consumers and they would be hard hit if their flexibility to give discount is attempted to be restricted.
- While TRAI believes that the NTO was envisaged as a policy to give power of selection and choice in the hands of end consumers and this kind of discounting is making MRP of individual channels illusory thereby impacting the a la carte choice of channels by consumers, the courts have held that the 15% discount cap arbitrary and set it aside.
- TRAI's contention of 70% discounting is a misnomer and a peak discounting of a particular bouquet of a broadcaster is generalized. The average discount as per TRAI's own analysis is between 40-50% which is a fair discounting if the bouquets are subscribed by the viewers vis a vis ala carte. If the discounts of upto 70% are given for

bouquet vis a vis the sum of ala carte channels forming the bouquet, then it is for the benefit of the end users/ viewers.

- Practice of giving higher discount and making more number of channels available to viewers to suit their budget cannot be termed as “practices not in consumer interest”. The broadcasters try to create different products for the sake of consumer interest and choice and thereby makes the channel available to viewers for sampling at a negligible or nil incremental cost in Bouquet. Eventually, the choice of watching the channel or not is in consumer’s hand only.
- Further nature of channels whether pay or FTA is not affecting in any terms to consumer choice of watching the channel.

**C. The Issue of placing restriction on maximum number of bouquets to be offered by Broadcasters and DPOs:**

- The purpose of bouquet is to provide varied content to the consumers and is not only a commercial concept as assumed by TRAI. A large broadcaster, to meet the varied requirements of its viewers, would offer a wide variety of channels having a wide program mix of different genre/language so that when the channels are distributed, it is able to offer the complete package to the viewer at a competitive cost. Such bundling of services also helps in optimizing the operational costs through combined marketing, promotion activities and revenue generation through ad sales etc.
- Removing the option of forming bouquets is against the basic principles of doing business. This would amount to putting artificial restrictions in carrying on the business. It is also against the consumer interest wherein a consumer right is restricted in receiving benefits which he is entitled and is being offered as option in addition to the individual pricing.
- Putting restriction on number of bouquets is against the fair trade practice. Broadcaster/DPO are creating bouquets keeping in mind the consumer demand and thereby making relevant channels available to the relevant consumers.
- Further, if any of the bouquet is not being opted, it will become redundant with time and finally be eliminated from the ecosystem. Hence TRAI should give a reasonable time frame to the system to settle and should not tinker with the regulations frequently.
- TRAI has not appreciated the fact that the viewers are not happy with just subscribing to 25-30 channels. The growth in number of channels in India have made the consumers more demanding and they wish to have access to a large number of channels even if they generally watch lesser no. of channels e.g. a viewer may surf many movies channels and finally watches a particular movie being played on a channel from among the various channels subscribed by him.

- Discounting of channels and clubbing popular channels with niche channels is a practice followed across all industries for sampling of lesser demand products at a much lower price point;
- Putting unreasonable restriction on the broadcasters may result in situation wherein many channels will be forced to shut operations and there will be unemployment of the skilled and specialized workforce who are generally not employable in other industries;

**D. The Issue of ability and freedom of the subscribers to choose the channels of their choice:**

- The analysis of TRAI that there is higher uptake of bouquet vis a vis the ala carte channels is due to “perverse” pricing is incorrect. The higher uptake of bouquet is in fact due to the natural choice of the consumers who likes to avail additional channels at marginally higher cost than to subscribe to single ala carte channels. This is due to the marketing & promotion activities done by broadcasters and/ or DPOs to educate customers about the value proposition of bouquets.
- In none of the industry, the discounting is restricted. Even in case of medicines or airlines, it is not prescribed and the operators can give discount as per their business model.
- TRAI’s contention of “Unwanted channels” is not correct. For a viewer, there are preferred channels and there are less preferred channels, but even the less preferred ones are surfed and watched by the viewer as per his choice. For example- If a viewer is asked question that how many Hindi news channels he would like to see, he will name atleast 5-6 channels and will not mind even having access to more channels as he wishes to get the plurality of views and different news stories. Whenever there is some major breaking news, a viewer surfs many news channels to get a glimpse of the latest news or different video footage or a different perspective on such news story which is breaking. If the bouquets meet this aspirational demand of the viewers without burning a hole in the viewers’ pocket, there is nothing wrong in that. There is only an incremental cost for additional channel and consumers selects after evaluating the cost and his requirements.
- Popular and non-popular are the words coined by TRAI and are misnomers. A certain channel may be a favourite channel or not so favourite channel of a particular subscriber. It does not mean that a not so favourite channel is not watched by subscriber or he does not like to have access to it.
- This will result in pushing the sector backwards and the investment in state of the art technology such as HD, 3D, 4K and other technologies which greatly enhance TV viewing experience of the viewers will not come forward. The broadcasting industry, which is a shining example of the liberalized economic era will be pushed

backwards and there will be no major capital investments by the companies. This may also deter foreign companies from investing in the broadcasting space, in spite of the fact that higher FDI is allowed in this sector by the Government.

**E. Why the Consumer in India prefers a wide variety of TV channels?**

- The consumer behaviour is ignored in the CP and it is assumed that a consumer is happy and content with just few channels. However, an Indian viewer, due to various reasons generally likes to have access to a large no. of TV channels, even when he is actually spending viewing time on fewer channels. But these fewer channels keep on changing as the consumer loyalty is generally not towards the channel per se but towards the program or the content being available on a channel at the time when the particular viewer watches the TV.
- TRAI has assumed viewer to be a passive stakeholder. In today's age of technology and information, the consumer is well aware about the choices available to him and takes a conscious decision after examining the pros and cons. With many alternate mediums available to him, the broadcasting industry or for that matter any industry cannot take consumer for granted or cannot assume that consumers are unaware. Hence when free choice is available to consumer with full information on the price on both a-la-carte basis or bouquet basis, it is not correct to assume that if 75% of the viewers have opted for bouquet, it is due to perverse pricing. This is definitely due to the consumer choice and preference to opt bouquets which apart from offering more value also takes away the burden of selecting 200-300 channels individually.
- In view of the multi-lingual society, family system, large no. of genres, different socio-economic-educational strata, consumers generally likes to have a large number of channels in their TV package so that they can surf and choose the content e.g. the viewer who is not a regular viewer of Discovery channel may like to watch PM with Bear Gyrill on discovery channel, may like to watch KBC on Sony, IPL matches on Star etc. and may like to see various news channels to get different perspective and not just subscribe to a single news channel and hence does like to have access to large no. of channels, than just a few 25-30 channels as assumed by TRAI. Even a kid at home is not satisfied with 1-2 kids channels and demands that maximum kids channels are available. Similarly an elderly person in the family watching devotional channel will be frustrated if only one such channel is subscribed by the family. When the country has already built the capacity both in terms of number of home-grown TV channels and the



large channel carrying capacity of the distributors and correspondingly meeting the aspirations of its people and when the habit of people have developed to have large number of TV channels, there is no point in going back and restrict the choice of consumers and also give jolt to the industry. In its hit and trial approach and not analysing the things in right perspective, TRAI is causing the greatest harm to the Indian viewers apart from giving a death-blow to the industry;

- TRAI's contention on capacity constraint is not correct as with digitization, there is no space crunch with the DPOs and any network can easily carry 300-400 channels. Post digitization, the channel carrying capacity of the distributors have increased multi-fold. In this situation, if the channel offerings are envisaged to be restricted to 25-30 channels, there will be a gross under-utilization of the capacity already created and will harm the stakeholders such as MSO, LCO, DTH operators etc. The gains of the large efforts of making the TV distribution services in digital technology will be reversed.

The Authority while making reference to the "Must Carry" provisions has itself acknowledged under Para 91 of EM to the Interconnection Regulations 2017 that there is enough capacity with distributors by stating that –

*"There are six private DTH operators which are having capacity of carrying around 400-600 channels on their platform. The majority of MSOs are having capacity ranging from 300-600 channels".If a broadcaster who has mix of channels across genres/languages and it offers discount on bouquet, there is no harm caused to the consumer. The viewer is actually getting more services for less. It also makes business sense for the broadcaster as he can bundle his services even at the time of advertisement sales.*

- In no other industry, even in the critical industry such as pharmaceuticals, there is no cap on the discount. There can be a cap on the MRP but there cannot be a cap on discount in a free economy model adopted by India. If such caps are introduced, then the entire booming online industry will collapse. Discounts and attractive prices to consumers have become norm of trade in India and drives the economy. The right of one industry in bundling its services and offering a better value proposition to the consumers cannot be taken away just because a regulatory authority has not perceived the things in right perspective or has based its analysis on assumptions and presumptions. Let us ask ourselves one question, if the discount capping is done and then channel prices does not come down as assumed by TRAI, then what will happen? If such situation arises will TRAI roll back again on its policy of forbearance or it will scrap the entire regulations or will

undertake another consultative process? There may be genuine business difficulties on the part of the broadcasters not to reduce price beyond a certain level due to very high costs of operations. The problem is that TRAI has based its premise entirely on the assumptions that higher discounts offered in case of bouquet is not good. It has failed to appreciate that if the consumer is getting a better value proposition by subscribing to bouquets, where he also has complete choice to select a-la carte channel, how this issue is hurting consumer interest. TRAI has started with an incorrect premise and to uphold its views, it is further aggravating and damaging the situation. To look into the specifics :-

- a. TRAI has not provided the source of data and/or authenticity of data relied upon by TRAI for proposing the drastic changes which have been enumerated in the Consultation Paper.
- b. In the Explanatory Statement to the new tariff order, TRAI itself had mentioned that it would observe developments for 2 years in respect of the following:
  - maximum permissible discount while offering a bouquet (Refer Para 67 of the Explanatory Statement).
  - manner in which a channel can be provided as part of a bouquet. (Refer Para 68 of the ES)
  - ceiling on the Network Capacity Fee. (Para 81 of the ES)

However by way of this Consultation Paper, TRAI has attempted to undertake drastic changes within 7 months from the date of implementation of the new regulatory regime itself.

TRAI's entire premise in bringing about this consultation paper seems to be not correct and founded on assumptions and presumptions without having any backing of empirical data or the study of consumer behaviour. TRAI has conveniently assumed that the viewers are happy with only 15-25 TV channel and has miserably failed to understand the consumer behaviour. TRAI has ignored the growth of TV services in India and the consumer behaviour. Lets go back to 1980s decade, wherein only one TV channel i.e., Doordarshan was available to certain limited fortunate people in the country. With the economic liberalization process started in early 1990s, the private TV services in the form of satellite TV also started in the country. Over the next two decades, there was a great boom in this industry and the TV services grew by leaps and bounds. The Indian viewers got the taste of live coverage of events during the Gulf War. When an industry and particularly the service industry grows at such astronomical rate, it is actually due to the fulfilment of a gap which exists. With the economic prosperity and the rising income level of the people, the aspirations of people also rose and they wanted to have entertainment in their homes. There was

a great penetration of TV services in homes of the people in all strata of society. After the Government of India allowed uplinking of TV channels from India, there was exponential growth in the number of TV channels in India. There was a huge growth in the news and current affairs channels which offered plurality of views. The growth of channels in different genres were started, for example a GEC channel which used to offer movies as part of GEC started a separate movie channel. The regional language picked up and many mainstream broadcasters introduced their TV channels in many regional languages and there was growth of number of regional broadcasters which offered regional language channels. All along this growth path, basically the aspirations of the viewers to watch TV services propelled the growth of the industry.

Similar the distribution ecosystem also witnessed major growth. From analog, the system moved to Digital Addressable System and the TV services to subscribers are managed through CAS and SMS systems enabling servicing of the exact requirement of the subscriber. There was huge growth in the channel carrying capacity of distribution platforms which moved from analog to digital.

Today, with the abundance of choice, the viewer has developed a habit of watching or surfing different TV channels before settling to watch a particular program. For eg. If a viewer in Sunday afternoon, with a wish to watch a Hindi Movie will surf many Hindi movies channels and will then finally settle on to watch a particular movie being played on a particular channel at that point of time. It may not be out of context here to mention that there is a great demand from viewers for newly released movies and the viewership for such movies is very high. However a viewer cannot with certainty subscribe to one particular movie channel to fulfil this particular viewing preference as the movie rights for broadcast of such movies on TV are bagged by different broadcaster. Hence if a viewer has subscribed to only one or two movie channels as assumed by TRAI, then the viewer is losing out on watching many new releases if he is so interested. Then the TV viewing experience of the consumer is being compromised primarily due to the regulatory restrictions.

If a bundled service offers value, a consumer generally chooses that. The fact of “Combos” is prevalent in other industries to offer value to consumer while at the same time increasing sales and operational efficiencies for the businesses. The consumer choice is only restricted if the offering is made only in form of “Combo” and not individually. However when both options are available and with a clear indication on the pricing and the components forming the combo/bouquet, comparative price analysis etc. there cannot be any illusion regarding misleading the consumer. There are remarks in the

Consultation Paper ( CP ), where TRAI has given data regarding the higher uptake of bouquets by the consumers vis a vis a lower uptake of ala-carte channels. Again the TRAI has without any empirical data to support the analysis has inferred that this is due to “Perverse” pricing of bouquets by the broadcasters, whereas this could be a genuine consumer preference. When a consumer whether on its own, or being facilitated by the DPOs is choosing options for TV channels, may like to pick bouquets of leading broadcasters which generally offers a mix of content like GEC, Movies, News, Kids etc. rather than just selecting one GEC or movie channel of that broadcaster. Some viewer may just choose of one of the channel if he so desires. Hence the higher uptake of bouquet cannot be assumed to be the forced choice, it is due to the natural choice of the consumer as he is likely to pick bouquet as it offers context mix and a better value proposition.

TRAI should in act in a responsible manner which is for the benefit of the different stakeholders and should protect the interest of the consumers. Frequent and numerous changes in the key regulatory provisions which have far reaching consequences not only disturbs the working of the industry but also results in consumer angst and ire towards the players in the industry and the consumer frustration may also result in migration of consumers to alternative medium or technology.

**With the above preface and without prejudice to our rights, we submit our responses to the Issues for Consultation :**

**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.**

As stated above, the Authority has based its notions on the premise which is not correct. There is no question of misuse of flexibility by broadcasters for offering discount on bouquets as assumed by TRAI. The flexibility of offering discount on MRP is a valuable right of the business and cannot be taken away by some fanciful imagination or theories. Such discounts also help consumer in getting a better value proposition for the money being spent by them while helping business to achieve operational efficiencies and cost-optimization.

The capping of discount has also been held to be arbitrary and unenforceable by the courts during the judicial scrutiny of the New Regulations. Any such restriction on discount is also anti-consumer as the consumer will be deprived of the attractive pricing available in case of bouquets and may be forced to go for a-la-carte channel vis a vis the

bouquet, which the consumer wants due to the content mix and the affordable prices.

Further, it may be noted that the consumer interest is fully protected under the new regulations which allow a consumer to choose a-la-carte channel or the bouquet of channels as per his choice and the price of both a-la-carte and bouquets is made available to the consumer. Also the alternative media for watching the content is available to the subscriber by not subscribing to these bouquets. These bundling options are used by broadcasters to also allow subscribers to sample the lesser known channels at a very low price point. TRAI has assumed that higher discounts are anti-consumers whereas this is not so and the consumers are getting better value for money.

**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?**

There is no question of creation of non-level playing field as every broadcaster having multiple channels have formed bouquets and has offered discount on the bouquet as the per their business model and to make a value proposition to the consumer. There is no harm which is caused to the other broadcasters by offering discount on bouquet or even for that matter pricing its channel on a-la-carte basis as all the broadcasters are allowed to price their channels or even revise prices of their channels as and when they like after following the compliances as required in the regulations. Further a broadcaster is also free to convert its pay channel to FTA or vice a versa as per the business requirement. When such conversion does not disturb the level playing field, there is no possibility that discounting can disturb the level playing field

**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?**

The question is attempting to do what has been held to be arbitrary and unenforceable by the Courts.

Having said that, there is no need to reintroduce a cap on discount on sum of a-la carte channels forming part of bouquets while forming bouquets by broadcasters. The premise taken by TRAI is that the broadcasters have kept the ala-carte prices higher and offers "Perverse" price for bouquets is not correct. TRAI should understand the business model of the broadcasters in the right perspective i.e., a broadcaster which has a number of channels in many genres and languages and when he is targeting the same consumer, would like to firstly package the bouquet in such manner so that a target

consumers need in the target market is met and secondly would like to offer such bouquet at an attractive price vis a vis the sum total of the a-la-carte prices of channels forming part of that bouquet. Such offering besides being beneficial to the consumer also helps the broadcaster in optimizing its costs and operational efficiencies.

TRAI has not attempted to study the business model of the broadcasters wherein a broadcaster has created multiple offerings to meet the varied requirement of a viewer and his family. Hence when the broadcaster offers its channel to a target viewer, it would like the viewer to not just take its one or two channels, but to take few channels so that the viewer can get the content/language/genre mix of programs. It also helps the broadcasters in achieving higher operational efficiencies and thereby the broadcaster is able to offer additional discounts in case of bouquets vis a vis the a-la-carte channels. The bouquets also helps the broadcaster to make his lesser known channels being sampled by the viewers. The viewer in turn gets benefitted by lesser price and the variety of programming. No viewer is content with subscribing to just few channels and would like to have access to a fairly large no. of TV channels without necessarily increasing the budget. This need is fulfilled in the form of bouquets which is beneficial for all the stakeholders including the viewers.

**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?**

A DPO should be free to offer discount while forming the bouquet depending on the on-ground situations and business requirement. We may look at an example from automobile industry. Each automobile distributor has its own discounts and offerings and the consumer picks the offers which suits him. Similarly the DPOs should be free to offer discounts and schemes while forming the bouquets.

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

The premise of the Authority in assuming that unwanted channels are pushed to the consumers is not correct and is made on assumptions and presumptions without proper analysis and without any empirical data. The Authority has not appreciated the fact that the viewers in India wishes to have access to a large no. of TV channels and their preferences keep changing. The viewers surf a lot of channels and then settle on to watch a particular program. The Authority is not right in believing that a consumer is content with watching just 25-30 channels and the other channels are “pushed” to him or are “unwanted” channels.

There may be preferred and less preferred channels but TRAI's classification of less preferred channels as Unwanted channels is not correct. TRAI has ignored the niche channels, smaller channels in its analysis and believes that only a few leading channels are being watched by viewers. A broadcaster having a variety of channels is well within its right to offer discount on its bundled offering after having complied with the mandatory regulation of providing the channels on a-la-carte basis. Now the consumer has both options and can choose the same as per his preference. There is no forced choice on the consumer. Again the surfing behaviour is totally not considered by TRAI while forming its opinion on the issue in a certain manner.

**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?**

In view of the multiplicity of languages, genres, regions, various age groups, family types, urban-rural fabric, socio-economic-educational strata of Indian society, there are a number of channels being offered by broadcasters to meet the specific needs or the aspirations of the different viewers. Further the broadcasters also with a view to offer better value to consumers and to enhance their choice and not in any manner restrict their choice offers a wide variety of combinations to suit different viewers. At the DPO stage, such number of bouquets gets added due to different bouquets of the broadcasters and formation of bouquets by the DPOs as per the likely preferences and tastes of their consumers.

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

We feel there is no need to limit the number of bouquets and the bouquets which will not be picked by the viewers will automatically be taken down from the system.

**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?**

We do not agree with the given views. The formation of bouquet has to be looked from the point of business model of the broadcaster. A broadcaster who is having a number of TV channels in different genres and languages would want his viewer to pick more TV channels from his network. Hence an incremental pricing is adopted wherein a consumer opting only for one or two channels has to pay the price as per the cost of the channel in form of MRP. However when the same viewer picks up additional channels of the same broadcaster, the broadcaster can afford to provide the additional

channels at a negligible incremental cost to him as it results in combined sale of his offering resulting in cost efficiencies. It is also beneficial to the consumer as he gets more services at less cost.

Hence the price of individual channels in a bouquet does not get hedged. On the contrary, it may so happen that if bouquets are restricted, the TV services may become costlier in the country and there is also an artificial restriction on the choice of the consumer.

**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?**

TRAI analysis of the prices of Pay Channels is not done in right perspective wherein TRAI has come to a conclusion that the broadcasters have kept the prices of channels around threshold rate. It may be noted that Only 66 TV channels out of the total 330 pay channels ( constituting just 20% ) are priced at the threshold price of Rs. 19/- and the balance 264 channels ( constituting 80% ) are much below the threshold rate. In this scenario, it cannot be said that broadcasters have kept the prices around the threshold rate and hence the consumer is being over-charged.

The TRAI itself after elaborate multi-year consultations and by adopting the scientific formula had arrived at the ceiling of Rs. 19/- on MRP of a-la-carte channel to be made part of a bouquet. There is no need to review the same as Rs. 19/- is a reasonable amount which a broadcaster can expect as subscription charges in view of very high content cost and other high operational expenses.

The other niche or premium channels which are priced above Rs. 19/- are automatically not made part of the bouquet as per the regulations introduced by TRAI after extensive and elaborate consultation process.

**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?**

The beneficiary of the bouquets is the consumers who are able to get variety of content at a highly competitive and discounted bundled cost. Such offering does not make a hole in the pocket of the consumer while he aspires to have access to a large number of TV channels to watch different programs on different channels. The bouquet formation also helps the broadcasters in operational efficiencies and the DPOs in terms of managing their subscribers through SMS and CAS systems. There would be infinite combinations in the CAS and SMS systems if selection is done by consumers only on a-la-carte basis. The consumer interests are protected and in fact furthered by the bouquets or bundling of services. Bouquets offer



Variety of channels, Convenience of selection, Higher discount, Ease of operation by DPO, Sampling of products, besides catering to different kind of viewers in a particular home, who are interested in watching different channels etc.

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

Presently, the subscriber can choose from the following options or a mix of any :-

1. Bouquets offered by the DPO.
2. Bouquets offered by the Broadcasters.
3. A-la-carte channels.

The DPO who has signed agreement with broadcaster is mandated to carry the broadcasters' channels on a-la-carte basis and he is also not allowed to break the broadcaster bouquet. This ensures that the real choice of selection remains with the subscribers. In addition, a DPO can form his bouquets keeping in view the preferences of his target viewers. There is a clear information on the MRP and DRP of the channel and bouquets being made available to the consumer.

The subscriber has complete freedom to select and choose his package except the mandatory DD channels which are being carried in national interest. A subscriber choice is not affected rather his choice is widened as bouquets are also available to him along with a-la-carte and he can make his informed choice and selection on the basis of his requirement and costs.

A bouquet besides offering varied mix of content, also larger discounts. It offers convenience of selection and ease of operations in terms of activation and deactivation by the DPOs. It also helps in sampling of the product at nil or incremental pricing.

In a typical Indian home, there exists people in different age groups who have different viewing preferences. A bouquet caters to this need. In case, the channels are only subscribed on a-la-carte basis, the price of subscription will go up. The bundling of products helps in lowering down the prices.

Present mechanism of Broadcaster/DPO bouquet is for facilitating the consumer to avail choices at his favourable price points.

Consumers who do not want to pay more are already going with the lower price bouquet or ala-carte selection to keep their pay-out in control.

For example, as per the subscription information of one of the major MSO :

- 33% subscribers are on ala-carte.
- Only 3-4% subscribers are opting for bouquet priced above Rs. 400.
- 40% of the consumers are opting for packages priced in the range of Rs. 270-Rs 380
- Rest 25% subscriber have opted for packages priced at less than Rs. 250/-

The above example clearly indicates that the consumers, as per their preference and paying capacity are choosing the TV services in the form of a-la-carte and bouquets.

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

TRAI has mandated that all channels should be available on a-la-carte basis so that the consumer choice is not restricted and the consumer can select the channel which he wishes to watch without any artificial restrictions being placed in form of clubbing or grouping of channels. Further such channel's individual prices in the form of MRP of each channel is to be declared by the Pay Broadcaster is also mandated.

This is well accepted and implemented by the industry. Further TRAI has also placed certain restrictions in the formation of bouquets such as a ceiling of Rs. 19/- as MRP of the channel to be included in the bouquet, Non-combining of HD and SD variant of the same channel, non-combining of PAY and FTA channels in the same bouquet in the form of new regulations. All such conditions are duly complied by the service providers. Now TRAI's discussion to put cap on discount of bouquet is a very regressive step which will not only hit the consumers but will also cause a fatal blow to the industry as this will push back the broadcasting services to the earlier era where only few channels existed. It will reverse the enormous gains made by the broadcasting industry in last decades. TV is a powerful medium of communication in a country like India where the education level is still not high as TV is able to communicate to all alike irrespective of their socio-educational status. In fact the growth of TV services in India have immensely benefitted in the socio-economic upliftment of the people. Hence we should try to protect and promote the industry rather than taking steps which curtail its growth and take it backwards.

Such restrictions on formation of bouquet will adversely affect subscriber choice as he may be forced to select many number of separate a-la-carte offerings at a higher price rather to get a bundled offering at lower price.

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

TRAI could think of developing apps using digital medium wherein the channel / bouquet selection process becomes easier for the consumers. The subscriber may be able to select the packages through TRAI website. The various stakeholders on its part regularly also advertise their offerings through TV and other mediums.

TRAI has recently floated a proposal for developing a centralized app for selection/ de-selection of channels by subscribers. The proposal after consultation with all stakeholders should be carried forward and there should be ease of selection by the consumer by use of technology.

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

The question, though contradictory to the TRAI's perception about discounts in the sector, is relevant. The regulatory provisions should not curtail discounts in any manner. If a service provider is able to provide discount to the viewers on the basis of business requirement and ground situation, he should be allowed to do so. If a DPO is offering discount out of its margin, it should not be restricted.

The DPO should be allowed to offer discount on the NCF charges. The drop in subscribers of the multi TV homes and long term pack subscribers has been witnessed due to higher pricing only. Through discounts, the multi-TV homes and long term pack subscribers may see growth again.

**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.**

The Authority should not fix the cap on discount. However any such discount offered should be uniform and non-discriminatory in a target market.

**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?**

Under the new regulations, each STB is considered as a separate subscriber. It is very difficult to identify multi-TV connection on the part of the broadcaster and any change in the definition may again result into disputes among different service providers which is not healthy for the growth of the industry. Hence each STB should continue to be recognised as a separate subscriber. Moreover, the saving is in the form of operational cost of the

DPO only as the DPO will be able to serve a multi tv home with a single set of resources.

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

Since each STB is considered as a separate subscriber under the regulations, it should be mandated that choice of channels on each TV separately in Multi TV connection is provided to the consumer.

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

A subscriber availing the services for a period of 3 months or more may be considered to be defined as a long term subscriber.

**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?**

A DPO should be allowed to offer discount on long term subscriptions as he collects the money in advance from the subscribers.

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

Presently, the money towards long term subscriptions is collected by DPOs in advance whereas the broadcaster does not get the advance subscription money from DPOs. Hence the discount on account of long term subscriptions may be given by the DPOs.

Broadcaster should be allowed to give prepayment discount on long term packs as and when they are paid in advance for such long term pack subscribers. Separate Long Term Plan should be allowed, DPO should report to Broadcasters separately and pay it accordingly in advance.

**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?**

Placement has been specifically excluded from the new regulations and it should continue to be so. .

Placement of channels has been mandated by Genre and Language and further it has to remain unchanged for one year. These conditions are sufficient in the current scheme of things.

Further, SD and HD counterparts should be mandated to be placed next to each other. Further the Platform Services may also be placed separately.

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

The new regulations i.e., Regulation 18 of the Interconnection Regulations 2017, as stated below already provide in detail that in what manner the channels should appear on the EPG.

*18. Listing of channels in electronic programme guide.—*

*(1) Every broadcaster shall declare the genre of its channels and such genre shall be either 'Devotional' or 'General Entertainment' or 'Infotainment' or 'Kids' or 'Movies' or 'Music' or 'News and Current Affairs' or 'Sports' or 'Miscellaneous'.*

*(2) It shall be mandatory for the distributor to place channels in the electronic programme guide, in such a way that the television channels of same genre, as declared by the broadcasters, are placed together consecutively and one channel shall appear at one place only:*

*Provided that all television channels of same language within the same genre shall appear together consecutively in the electronic programme guide:*

*Provided further that it shall be permissible to the distributor to place a channel under sub-genre within the genre declared for the channel by the broadcaster.*

*(3) Every distributor of television channels shall assign a unique channel number for each television channel available on the distribution network.*

*(4) The channel number once assigned to a particular television channel shall not be altered by the distributor for a period of at least one year from the date of such assignment:*

*Provided that this sub-regulation shall not apply in case the channel becomes unavailable on the distribution network:*

*Provided further that if a broadcaster changes the genre of a channel then the channel number assigned to that particular television channel shall be changed to place such channel together with the channels of new genre in the electronic program guide.*

These are detailed provisions and do not require further regulations which may result into micro-management.

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

The distributors can be permitted to offer promotional schemes on NCF, DRP of the channels and bouquets of the channels from out of their margin depending on their business requirement.

**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?**

The distributors shall be allowed to offer the same as per their business requirements. However, it can be mandated that such schemes shall be on transparent and non-discriminatory basis in a target market.

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

Any offer should have complete details, clear terms and conditions of the offer. All the fine details of the offer and alternatives shall be informed to the consumer beforehand so that he takes an informed decision. This will ensure that the consumer is not trapped into misleading schemes by some unscrupulous players.

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

The DPOs should be allowed to offer variable NCF for different regions depending on their business requirement.

**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/-?**

No change is required in this regard.

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

The Doordarshan channels are important channels and they should be included in the basic tier. A consumer would not mind watching these channels/ having access to these channels or paying small amount of NCF charges for the same keeping the national interest in mind,

**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?**

No recommendation is required to be made in this regard as the matter is of national importance and every TV subscriber should have access to view the important TV services which also includes the channels on Indian Parliament and its proceedings. Also, these channels are available on DD Freedish and the consumers can always opt for the same, if he wants to.

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

The present consultation paper is brought about by the TRAI without evaluating the effects of such frequent discussions / proposed changes on the entire ecosystem of the industry. TRAI has to appreciate that there has been significant pain and transition cost which has been faced by all the stakeholders including consumers while adopting the new regime. A fresh discussion on the same key issues like ceiling of Rs. 19/-, formation of bouquet and discounting, abridging the right of broadcasters to form bouquets etc. is not in the interest of any of the stakeholders. The regulator should not put the industry and its consumers to frequent inconveniences just for furtherance of views formed from some incorrect analytical interpretations, assumptions and presumptions.

It seems TRAI has assumed that broadcasters are responsible for the perceived “higher costs” whereas it should be understood and appreciated that there is a cost involved in carrying broadcasting operations and such cost of operations are very high and they have to be recovered in a fair manner by generating legitimate revenue. No business will survive if it is not able to recover its costs. Every business has its own model of operations and if the same is not anti-consumer, anti-competitive, is fairly contributing to the exchequer etc., it should be respected and artificial restrictions should not be imposed which can severely damage the entire ecosystem.

TRAI itself had stated that they would like to review the system after two years, hence it should give some reasonable time to the stakeholders and consumers to settle down before thinking of tinkering with the recently implemented regulations for which the ground work took more than 2 years. It is requested that this consultation process be called back or kept on hold and deferred.