

Consultation Paper
on
Distribution of TV Channels from Broadcasters to Platform Operators

1. In the broadcasting and cable TV sector, TV channels are distributed by the broadcasters themselves or through their authorized distribution agencies to the distribution platforms viz. cable TV, DTH, IPTV, HITS etc. Many such agencies operate as authorised agents for more than one broadcaster.
2. After obtaining the distribution rights from one or more broadcasters, such distribution agencies form bouquets, many of which also consist of channels of one or more broadcasters. They publish Reference Interconnect Offers (RIOs), negotiate the rates for these bouquets/channels with operators of various distribution platforms and enter into interconnection agreement(s) with them.
3. The broadcasting and cable TV services sector is a content driven market. Unless a distribution platform carries all the channels popular in the relevant market, it cannot be a viable distribution platform. As on date, the distribution business of around 73% of the total pay TV market, including high definition (HD) TV channels, is controlled by a few authorised distribution agencies. These channels include almost all the popular pay TV channels. These authorised distribution agencies wield substantial negotiating power which can be, and is, often misused leading to several market distortions.
4. The current regulatory stipulation for broadcasters and their authorised agencies and the current role and activities of authorised distribution agencies, prompts the need to review the present regulatory framework. While this was under examination, the Ministry of Information and Broadcasting (MIB) also sent a reference to TRAI stating that there have been several complaints from Multi system operators (MSOs) about the modus operandi of such entities, e.g. it has been highlighted that MSOs are forced to subscribe to certain packages. Concerns have been vehemently voiced by various MSOs and LCOs regarding the monopolistic practices of such major authorised distribution agencies of broadcasters, in view of their control over a large number of popular channels.
5. To address the issues that have arisen out of the present role assumed by the authorised distribution agencies of the broadcasters, it is essential to amend the regulatory framework by adding provisions that clearly demarcate the role and responsibilities that can be assigned by the broadcasters to their authorised

distribution agencies for distribution of TV channels to various platform operators. These roles and responsibilities can be summarised as under:

- (1) The Broadcaster (and not the authorised distribution agency) shall publish its Reference Interconnect Offer (RIO) and enter into Interconnection Agreements with the distribution platform operators.
- (2) If a broadcaster appoints a person as its authorised distribution agent, it shall ensure that---
 - (a) the authorised distribution agent does not change the composition of the bouquet formed by the broadcaster while providing it to the distributors of TV channels;
 - (b) the authorised distribution agent does not bundle bouquet or channels of the broadcaster with the bouquet or channels of other broadcasters. In other words, in case the authorised distribution agency represents more than one broadcaster, they shall not link offerings of the broadcasters they represent.
 - (c) while acting as an authorised distribution agent, such person acts for, on behalf and in the name of the broadcaster.
6. Three months time is proposed to be given for reworking the Reference Interconnect Offers (RIOs), entering into interconnect agreements and filing the same with the Authority.
7. Accordingly, draft amendments to the tariff orders, interconnection and register of interconnect regulations, applicable for both the addressable and non-addressable broadcasting and cable TV services along with a detailed draft explanatory memorandum are enclosed. **Written comments on these draft amendments are invited from the stakeholders by 27th August 2013. The comments may be sent, preferably in electronic form to Mr. Wasi Ahmad, Advisor (B&CS), Telecom Regulatory Authority of India, Mahanagar Doorsanchar Bhawan, Jawahar Lal Nehru Marg, New Delhi - 110002, (Tel No.011-23237922, Fax No.011-23220442; Email: traicable@yahoo.co.in). Comments will be posted on the TRAI's website www.traigov.in.**

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,

PART III, SECTION 4

THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES
(FOURTH) (ADDRESSABLE SYSTEMS) TARIFF (THIRLD AMENDMENT) ORDER,
2013

(NO. OF 2013)

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the August , 2013.

No. /2013- B&CS. ----- In exercise of the powers conferred by sub-clauses (ii), (iii), (iv) and (v) of clause (b) of sub-section (1) and sub-section (2) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunications), No.39 ,-----

(a) issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----

the Telecom Regulatory Authority of India hereby makes the following Order further to amend the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010 (1 of 2010), namely:-

1. (1) This Order may be called the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (Third Amendment) Order, 2013 (--- of 2013).

(2) This Order shall come into force from the date of publication of this Order in the Official Gazette.

2. In clause 2 of the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010 (1 of 2010) , (hereinafter referred to as the principal Tariff Order),-----,

For sub-clause (f), the following sub-clause shall be substituted, namely:---

“(f) “broadcaster” means any person including an individual, group of persons, public or private body corporate, firm or any organisation or body who or which is providing broadcasting services;”

3. After clause 9 of the principal Tariff Order, the following clause shall be inserted, namely:---

“9A. Engagement of distribution agencies by the broadcasters.---- (1) If a broadcaster appoints a person as its authorised distribution agent, it shall ensure that---

(a) there is no change in the composition of its bouquet provided by the authorised distribution agent to distributors of TV channels;

(b) its authorised distribution agent does not bundle its bouquet or channels with the bouquet or channels of other broadcasters;

(c) while acting as an authorised distribution agent, such person acts for and on behalf of the broadcaster.

(2) Every broadcaster shall ensure that the authorized distribution agent appointed by it under sub-clause (1) shall----

- (a) not publish Reference Interconnection Offer by itself or on the behalf of the broadcaster; and
- (b) not enter into interconnection agreement with the distributor of TV channels.”

Advisor (B&CS)

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,

PART III, SECTION 4

THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES

(SECOND) TARIFF (TENTH AMENDMENT) ORDER, 2013

(NO. OF 2013)

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the August, 2013.

No. /2013- B&CS. ----- In exercise of the powers conferred by sub-clauses (ii), (iii), (iv) and (v) of clause (b) of sub-section (1) and sub-section (2) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunications), No.39 ,-----

(a) issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----

the Telecom Regulatory Authority of India hereby makes the following Order further to amend the Telecommunication (Broadcasting and Cable) Services (Second) Tariff Order, 2004 (6 of 2004) , namely:-

1. (1) This Order may be called the Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Tenth Amendment) Order, 2013 (of 2013).
(2) This Order shall come into force from the date of publication of this Order in the Official Gazette.
2. In clause 2 of the Telecommunication (Broadcasting and Cable) Services (Second) Tariff Order, 2004 (6 of 2004) (hereinafter referred to as the principal Tariff Order), for the existing sub-clause (aaa), the following sub-clause shall be substituted, namely:---
“(aaa) “broadcaster” means any person including an individual, group of persons, public or private body corporate, firm or any organisation or body who or which is providing broadcasting services;”
3. In clause 3C of the principal Tariff Order, the following sub-clause shall be inserted,-----
“ (3) if for any reason, a bouquet comprising channels of more than one broadcaster is reconfigured in a manner to include channels of only a single broadcaster, the rate of such reconfigured bouquet shall be calculated in the following manner:-

Bouquet rate of the reconfigured bouquet= [rate of the bouquet being reconfigured]x[sum of a-la-carte rate of pay channels comprising the reconfigured bouquet/sum of a-la-carte rate of all the pay channels comprising the bouquet being reconfigured]

Provided that if after reconfiguration of a bouquet, there remains only one channel in such bouquet, the broadcaster shall be free to offer such channel at its reported a-la-carte rate; “
4. After clause 4D of the principal Tariff Order, the following clause shall be inserted, namely:---
“**4E. Engagement of distribution agencies by the broadcasters.**---- (1) if a broadcaster appoints a person as its authorised distribution agent, it shall ensure that---

- (a) there is no change in the composition of its bouquet provided by the authorised distribution agent to distributors of TV channels;
- (b) its authorised distribution agent does not bundle its bouquet or channels with the bouquet or channels of other broadcasters;
- (c) while acting as an authorised distribution agent, such person acts for and on behalf of the broadcaster.

(2) Every broadcaster shall ensure that the authorized distribution agent appointed by it under sub-clause (1) shall----

- (a) not publish Reference Interconnection Offer by itself or on the behalf of the broadcaster; and
- (b) not enter into interconnection agreement with the distributor of TV channels.”

Advisor (B&CS)

TO BE PUBLISHED IN THE GAZETTE OF INDIA,
EXTRAORDINARY,
PART III, SECTION 4

THE TELECOMMUNICATION (BROADCASTING AND CABLE
SERVICES) INTERCONNECTION (SEVENTH AMENDMENT)
REGULATIONS, 2013

No. of 2013

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi, the August, 2013

F. No. / 2013 - B&CS.-- In exercise of the powers conferred by section 36, and by sub-clauses (ii), (iii), (iv) and (v) of clause (b) of sub-section (1) and sub-section (2) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39,

(a) issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----

the Telecom Regulatory Authority of India hereby makes the following regulations further to amend the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004), namely:-

1. (1) These regulations may be called the Telecommunication (Broadcasting and Cable Services) Interconnection (Seventh Amendment) Regulations, 2013.

(2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. In regulation 2 of the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004 (13 of 2004), (hereinafter referred to as the principal regulation), for sub-clause (e), the following sub-clause shall be substituted, namely:----

“(e) “broadcaster” means any person including an individual, group of persons, public or private body corporate, firm or any organisation or body who or which is providing broadcasting services;”

3. After regulation 13 of the principal regulations, the following regulation shall be inserted, namely:-

“ **13A. Engagement of distribution agencies by the broadcasters.**---- (1) if a broadcaster appoints a person as its authorised distribution agent, it shall ensure that----

- (a) there is no change in the composition of its bouquet provided by the authorised distribution agent to distributors of TV channels;
- (b) its authorised distribution agent does not bundle its bouquet or channels with the bouquet or channels of other broadcasters;
- (c) while acting as an authorised distribution agent, such person acts for and on behalf of the broadcaster.

(2) Every broadcaster shall ensure that the authorized distribution agent appointed by it under sub-regulation (1) shall----

- (a) not publish Reference Interconnection Offer by itself or on the behalf of the broadcaster; and

(b) not enter into interconnection agreement with the distributor of TV channels.”

Advisor (B&CS)

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,

PART III, SECTION 4

THE TELECOMMUNICATION (BROADCASTING AND CABLE SERVICES)
INTERCONNECTION (DIGITAL ADDRESSABLE CABLE TELEVISION SYSTEMS)
(SECOND AMENDMENT) REGULATIONS, 2013

No. of 2013

TELECOM REGULATORY AUTHORITY OF INDIA

NOTIFICATION

New Delhi the August, 2013

F. No. /2013- B&CS - In exercise of the powers conferred by section 36, read with sub-clauses (ii), (iii), (iv) and (v) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39,-----

(a) issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----

the Telecom Regulatory Authority of India hereby makes the following regulations to amend the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations 2012 (9 of 2012), namely:-

1. (1) These regulations may be called the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) (Second Amendment) Regulations, 2013.

(2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. In regulation 2 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 (9 of 2012), (hereinafter referred to as the principal regulations), for sub-clause (g), the following sub-clause shall be substituted, namely:----

“(g) “broadcaster” means any person including an individual, group of persons, public or private body corporate, firm or any organisation or body who or which is providing broadcasting services;”

3. After regulation 9 of the principal regulations, the following regulation shall be inserted, namely:----

“ **10. Engagement of distribution agencies by the broadcasters.**---- (1) if a broadcaster appoints a person as its authorised distribution agent, it shall ensure that----

- (a) there is no change in the composition of its bouquet provided by the authorised distribution agent to distributors of TV channels;
- (b) its authorised distribution agent does not bundle its bouquet or channels with the bouquet or channels of other broadcasters;
- (c) while acting as an authorised distribution agent, such person acts for and on behalf of the broadcaster.

(2) Every broadcaster shall ensure that the authorized distribution agent appointed by it under sub-regulation (1) shall----

- (a) not publish Reference Interconnection Offer by itself or on the behalf of the broadcaster; and
- (b) not enter into interconnection agreement with the distributor of TV channels.”

Advisor (B&CS)

TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,

PART III, SECTION 4

THE REGISTER OF INTERCONNECT AGREEMENTS
(BROADCASTING AND CABLE SERVICES) (FIFTH
AMENDMENT) REGULATIONS, 2013

(OF 2013)

TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION

New Delhi, the August, 2013

F. No. - /2013- B&CS.-- In exercise of the powers conferred by section 36, read with sub-clauses (iv), (vii) and (viii) of clause (b) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Government of India, in the Ministry of Communication and Information Technology (Department of Telecommunication) No.39,

(a) issued, in exercise of the powers conferred upon the Central Government by proviso to clause (k) of sub-section (1) of section 2 and clause (d) of sub-section (1) of section 11 of the said Act, and

(b) published under notification No. 39 (S.O. 44 (E) and 45 (E)) dated the 9th January, 2004 in the Gazette of India, Extraordinary, Part II- Section 3- Sub-section (ii), ----

the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation 2004 (15 of 2004) , namely:-

1. (1) These regulations may be called the Register of Interconnect Agreements (Broadcasting and Cable Services) (Fifth Amendment) Regulations, 2013.

(2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. In regulation 2 of the Register of Interconnect Agreements (Broadcasting and Cable Services) Regulation 2004 (15 of 2004), (hereinafter referred to as the principal regulations), for sub-clause iii, the following sub-clauses shall be substituted, namely:---

“iii. “broadcaster” means any person including an individual, group of persons, public or private body corporate, firm or any organisation or body who or which is providing broadcasting services;”

Advisor (B&CS)

Explanatory Memorandum

Background

1. The value chain in the distribution of television channels comprises the broadcaster, the distribution platform operator, the last mile operator and the end consumer. The business of distribution of TV channels from the broadcaster to the consumer has two levels - i) bulk or wholesale level - wherein the distribution platform operator obtains the TV channels from the broadcasters, and ii) retail level - where the distribution platform operator offers these channels to the consumers, either directly or through the last mile operator. Amongst the distribution platform operators, the Direct to Home (DTH) operator and the Internet Protocol Television (IPTV) operator serve the consumer directly, while the Multi System Operator (MSO) and the Headend in the Sky (HITS) operator generally serve the consumer through its linked Local Cable Operator (LCO).
2. At the wholesale level, as per the regulatory framework prescribed by TRAI, broadcasters are mandated to enter into interconnection agreements with the distribution platform operators for the carriage of their TV channels. The broadcasters are to offer their channels on a non-discriminatory basis to all the platform operators in the form of Reference Interconnect Offers (RIOs). These RIOs provide details on the commercial as well as technical terms and conditions.
3. Many broadcasters, especially the larger ones, appoint authorised distribution agencies as intermediaries. Many such agencies operate as authorised agents for more than one broadcaster. These authorised distribution agencies have come to be popularly known as 'aggregators'.
4. The 'aggregators', after obtaining the distribution rights from one or more broadcasters, form bouquets, many of which consist of channels of a number of broadcasters. They publish the RIOs, negotiate the rates for these bouquets/channels with distribution platform operators and enter into interconnection agreement(s) with them.
5. The distribution business of around 73% of the total pay TV market available today is controlled by the top four aggregators. These channels include

- almost all the popular pay TV channels. Further, study of the ownership structure of these aggregators reveals that the broadcasters, whose channels they distribute, own or control these entities. Also, some leading platform operators have cross holdings in the aggregators. This all the more accentuates the ill effects of vertical integration and misuse of dominant position.
6. The broadcasting and cable TV services sector is a content driven market. Unless a platform carries all the channels popular in the relevant market, it cannot be a viable distribution platform. Thus, these aggregators wield substantial negotiating power which can be, and is often misused and has led to several market distortions.
 7. There has been a number of complaints from the smaller MSOs and MSOs who are not vertically integrated, about abuse of market power by the aggregators. These include - forcing to accept all the channels of the aggregator, fixed fee deals, charging based on the entire subscriber base and not as per actual uptake of channels, insisting on minimum guarantee and other unreasonable terms and conditions.
 8. The present regulatory regime for broadcasters and their authorised agencies *vis-a-vis* the current role and activities of authorised distribution agencies as aggregators, has prompted the need to review the present regulatory framework. While this was under examination, the Ministry of Information and Broadcasting (MIB) also sent a reference to TRAI vide D.O. NO. 16/1/2013-BP&L dated 23rd May 2013, for reviewing the regulatory framework in this regard. It also highlighted the complaints from MSOs.

Analysis

9. The broadcasters, MSOs, cable operators, DTH, HITS and IPTV operators are recognised as entities in the policy guidelines and regulatory framework of MIB and TRAI respectively. Aggregators, as a separate entity, have not been specifically defined anywhere; neither in the law or the statutory Rules, nor in the regulatory framework for the broadcasting and cable TV services sector.
10. As per the provisions of the Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004 dated 10th December 2004, the broadcaster has been defined as:

“broadcaster” means any person including an individual, group of persons, public or body corporate, firm or any organization or body who/which is providing broadcasting service and includes his /her authorised distribution agencies;

In the Cable Television Networks (Regulation) Act 1995, and the rules made thereunder, the broadcaster has been defined on the same lines.

11. As on date there are around 233 pay channels (including HD and advertisement-free channels) offered by 59 pay broadcasters. These channels are distributed by 30 broadcasters/aggregators/ agents of broadcasters. Of these, the four main aggregators and the number of TV channels they distribute are: Media Pro Enterprise India Private Limited - around 75 channels, IndiaCast UTV Media Distribution Private Limited - around 35 channels, M/s Sun Distribution Services Private Limited - around 30 channels and MSM Discovery Private Limited - around 30 channels.
12. One of the prime drivers for the emergence of authorized distribution agencies of broadcasters could be the fact that the analog Cable TV distribution market is too fragmented with the presence of a very large number of MSOs and LCOs thereby, posing practical difficulties for the broadcasters to deal with them individually. However, the trend observed in this market is the entry of big broadcasting houses into the business of aggregation by forming joint venture companies. Interestingly, but not surprisingly, the major broadcasters whose channels are being distributed by such companies, control these companies, and so they are the direct beneficiaries from the process of aggregation. This also raises doubts as to why the broadcasters want to act as aggregators. Certainly it cannot be for helping the broadcaster to deal with the fragmented analog cable TV market.
13. In the absence of any regulatory framework for the aggregators (including possible restrictions on the authorised agencies), they started to bundle channels of more than one broadcaster and form bouquets. These bouquets, having popular channels of a number of broadcasters, provided a better marketing proposition. These bouquets grew larger and larger with time, as the aggregator started to piggy back more and more channels, especially those having lesser standalone market values. The strategy seems to have been to add such lower value channels to the popular bouquets, so that such channels could be pushed along with the popular channels. This fetched higher commission for the aggregators and better revenues to the broadcasters, especially advertisement revenue. This together with the misuse of market dominance by the aggregators has led to aberrations in the

- market. With time, consolidation has taken place in the aggregators' business and now the top four aggregators control around 73% of the total pay TV channel market and wield substantial negotiating power which can be, and is often misused.
14. The market distortions, arising out of the current role assumed by the aggregators, were amply reflected during the implementation of digital addressable cable TV systems (DAS), Phase I and Phase II. Several MSOs have complained that they were forced to accept unreasonable terms and conditions to obtain signals of the broadcasters through some of the major aggregators, that too at the fag end of the implementation deadline. According to the non-vertically integrated MSOs as well as smaller MSOs, they always get a raw deal. This impacted the smooth implementation of DAS. In the Open House Discussions (OHDs) held in various parts of the country on 'Issues related to Media Ownership', concerns have been vehemently voiced by various MSOs and LCOs regarding the monopolistic practices of the major aggregators.
 15. A scrutiny of the interconnection agreements for the DAS areas filed with the Authority by the broadcasters, reveals that fixed fee deals have been made by the aggregators with most of the leading MSOs. In such deals, the MSO is required to pay a fixed fee per month as the license fee, irrespective of the subscriber base of the MSO or the uptake of channels offered by the aggregator. In some cases, agreements have also been entered into on Charge per Subscriber (CPS) basis, based on the total number of active STBs and not on the actual uptake of the individual channels. In a few other cases, a minimum guarantee money is charged, up to a certain subscriber base, beyond which, an additional license fee per subscriber is charged by the aggregator.
 16. It has also been noted that even though the largest bouquets offered by the aggregators in their RIOs are in the range of 13 to 20 channels, the agreements entered into are for a package of channels consisting of almost all the channels they are authorised to distribute! This prima facie substantiates the allegation of the distribution platform operators that the large aggregators are virtually compelling them to enter into agreements to subscribe to all their channels. This manifests itself in the tendency of the platform operators, in turn, to force upon the subscriber, all the channels so subscribed by the platform operators. The overall impact is that the benefits of the addressable digitisation of the cable TV sector, as envisaged, are not accruing to all

stakeholders, especially to consumers. Further, these trends are restricting the growth of the broadcasting and cable TV services sector.

17. Recently it has come to the notice of the Authority that a leading aggregator is offering channels of a broadcaster as a part of certain bouquets only to platform operators of cable TV sector and not to DTH operators. The DTH platform is directly dealt with by the concerned broadcaster. On enquiry, it was clarified by the aggregator that the broadcaster has bestowed the right only to distribute the channels to platform operators of the cable TV sector. In effect, the situation is one where different distribution platforms are being treated differently leading to non-compliance of existing regulations. In other words, if the broadcaster was dealing with all distribution platforms directly, such a situation would not have arisen.
18. In the light of above discussions, the roles and responsibilities of the broadcasters and their authorised distribution agencies are being demarcated as discussed below.
19. Since the broadcasters are the recognised entity governed by a prescribed regulatory framework, they should be responsible for compliance of all the regulatory provisions, such as publishing of RIOs, signing of interconnection agreements, filing of details of interconnection agreements as per the register of interconnect regulations etc. However, broadcasters may utilize the services of their authorized distribution agencies to facilitate them in such activities and, to this extent, the role of such an entity should be clearly circumscribed by the broadcasters.
20. The roles and responsibilities that could be assigned by broadcasters to their authorised distribution agencies are summarised as under:
 - (1) if a broadcaster appoints a person as its authorised distribution agent, it shall ensure that----
 - (a) there is no change in the composition of its bouquet provided by the authorised distribution agent to distributors of TV channels;
 - (b) its authorised distribution agent does not bundle its bouquet or channels with the bouquet or channels of other broadcasters. In other words, in case the authorised distribution agency represents more than one broadcaster, they shall not link offerings of the broadcasters they represent.

- (c) while acting as an authorised distribution agent, such person acts for, on behalf and in the name of the broadcaster.
- (2) Every broadcaster shall ensure that the authorized distribution agent appointed by it shall----
 - (a) not publish Reference Interconnection Offer by itself or on the behalf of the broadcaster; and
 - (b) not enter into interconnection agreement with the distributor of TV channels.
- 21. To achieve this, the definition of 'broadcasters' would also be required to be modified and the term 'broadcaster' will not include its authorised distribution agencies.
- 22. Another aspect where clarity is required pertains to the bouquets that were being offered prior to 1.12.2007. In the first proviso to clause 3C (2) of the Telecommunication (Broadcasting and Cable) Services (Second) Tariff Order, 2004, as amended on 4.10.2007, it has been mandated that the composition and price of a bouquet existing as on the 1st day of December, 2007, in so far as pay channels are concerned in that bouquet, shall not be changed, except for inflationary increases permitted in the tariff orders issued by the Authority from time to time. It has also been provided in the said Tariff Order that in cases where the broadcaster ceases to make available a pay channel existing as on the 1st day of December, 2007 for broadcasting or for distribution, the rate of the bouquet containing such a pay channel existing on that date shall be reduced in the same proportion which the a-la-carte rate of the said pay channel bears to the aggregate sum of the a-la-carte rates of all pay channels comprised in the said bouquet. Besides this, similar provisions exist for cases where an FTA channel forming part of the bouquet is converted to a pay channel and vice-versa.
- 23. When broadcasters restrict their authorised distribution agencies to a role where they can act only as facilitators or authorised signatories of broadcasters, then the broadcasters alone will be able to form bouquets of their channels. In such a scenario, a bouquet that was being offered prior to 1.12.2007 and was having channels of more than one broadcaster will have to be reconfigured by the concerned broadcasters or their authorised distribution agencies on their behalf. For such cases, the same principle that was used in cases described in para 22 can be applied. An illustration of reconfiguration of bouquet can be seen at Annexure I.

24. Amendments have been made in the existing regulatory framework, applicable for both the addressable and non-addressable systems, to put to effect the restrictions discussed above with respect to the roles and responsibilities of the authorised distribution agencies of the broadcasters.
25. As the roles and responsibilities of the broadcasters and their authorised distribution agencies have been clarified and clearly demarcated, all the RIOs, interconnection agreements and the filings of register of interconnections will have to be re-done for which an appropriate time of 3 months has been given to all the concerned service providers.

Illustration of Reconfiguration of Bouquets

If there is a bouquet, comprising of 10 channels of 3 broadcasters as per the following details.

Name of the channel	Name of Broadcaster	Type of channel (Pay / FTA)	A-la-carte rate	Bouquet Rate
			Rs.	Rs.
Channel 1	Broadcaster A	Pay	2	30 (Sum of a-la-carte rates = 45)
Channel 2	Broadcaster B	Pay	5	
Channel 3		FTA	0	
Channel 4		Pay	7	
Channel 5		Pay	3	
Channel 6	Broadcaster C	Pay	5	
Channel 7		Pay	9	
Channel 8		Pay	7	
Channel 9		Pay	4	
Channel 10		Pay	3	

After the reconfiguration the bouquets to be offered by the individual broadcasters shall be as under:

Broadcaster B shall offer the bouquet as per the following details

Name of the channel	Name of Broadcaster	Type of channel (Pay / FTA)	A-la-carte rate	Bouquet Rate
			Rs.	Rs.
Channel 2	Broadcaster B	Pay	5	10 (=30 *15 / 45)
Channel 3		FTA	0	
Channel 4		Pay	7	
Channel 5		Pay	3	
		Sum of a-la-carte rates	15	

Broadcaster C shall offer the bouquet as per the following details:

Name of the channel	Name of Broadcaster	Type of channel (Pay / FTA)	A-la-carte rate	Bouquet Rate
			Rs.	Rs.
Channel 6	Broadcaster C	Pay	5	18.67 (=30 *28 / 45)
Channel 7		Pay	9	
Channel 8		Pay	7	
Channel 9		Pay	4	
Channel 10		Pay	3	
		Sum of a-la-carte rates	28	

While the Broadcaster A can offer channel 1 at a-la-carte rate of Rs. 2.”