

# TELECOM REGULATORY AUTHORITY OF INDIA

## NOTIFICATION

New Delhi, the 3<sup>rd</sup> March 2017

**F. No. 21-1/2016-B&CS.**----- In exercise of the powers conferred by sub-section (2) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), read with notification of the Central Government, 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. S.O. 44 (E) and 45 (E) dated 9<sup>th</sup> January, 2004 in the Gazette of India, Extraordinary, Part II, Section 3,-----

the Telecom Regulatory Authority of India hereby makes the following Order, namely:-

### **THE TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES (EIGHTH) (ADDRESSABLE SYSTEMS) TARIFF ORDER, 2017**

**(No. 1 of 2017)**

#### **PART I PRELIMINARY**

**1. Short title, extent and commencement.** --- (1) This Order may be called the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017.

(2) This Order shall be applicable to broadcasting services relating to television provided to subscribers, through addressable systems, throughout the territory of India.

(3) (a) Except as otherwise provided in sub-clause (b), this Order shall come into force after one hundred eighty days from the date of publication of this Order in the Official Gazette.

<sup>1</sup>[(b) clause 3 of this Order shall come into force after sixty days from the date of its publication in the Official Gazette;

(c) clauses 6 and 8 of this Order shall come into force after thirty days from the date of its publication in the Official Gazette.]

**2. Definitions.** --- (1) In this Order, unless the context otherwise requires, -

(a) “Act” means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(b) “addressable system” means an electronic device (which includes hardware and its associated software) or more than one electronic device put in an integrated system through which transmission of programmes including re-transmission of signals of television channels can be done in encrypted form, which can be decoded by the device or devices at the premises of the subscriber within the limits of the authorization made, on the choice and request of such subscriber, by the distributor of television channels;

(c) “a-la-carte” or “a-la-carte channel” with reference to offering of a television channel means offering the channel individually on a standalone basis;

(d) “Authority” means the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(e) “bouquet” or “bouquet of channels” means an assortment of distinct channels offered together as a group or as a bundle and all its grammatical variations and cognate expressions shall be construed accordingly;

(f) “broadcaster” means a person or a group of persons, or body corporate, or any organization or body who, after having obtained, in its name, downlinking permission for its channels, from the Central Government, is providing programming services;

(g) “broadcaster’s share of maximum retail price” with reference to a pay channel or a

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<sup>1</sup> Subs. by the First Amendment Order, 2017, cl. 2 (w.e.f. 30.03.2017), for the following:

“(b) Clauses 3, 6 and 8 of this Order shall come into force after thirty days from the date of publication of this Order in the Official Gazette.”

bouquet of pay channels means any fee payable by a distributor of television channels to a broadcaster for signals of pay channel or bouquet of pay channels, as the case may be, and for which due authorization has been obtained by such distributor from that broadcaster;

(h) “broadcasting services” means the dissemination of any form of communication like signs, signals, writing, pictures, images and sounds of all kinds by transmission of electromagnetic waves through space or through cables intended to be received by the general public either directly or indirectly and all its grammatical variations and cognate expressions shall be construed accordingly;

(i) “cable service” or “cable TV service” means the transmission of programmes including re-transmission of signals of television channels through cables;

(j) “cable television network” or “cable TV network” means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(k) “compliance officer” means any person designated so, who is capable of appreciating requirements for regulatory compliance under this Order, by a service provider;

(l) “direct to home operator” or “DTH operator” means any person who has been granted licence by the Central Government to provide direct to home (DTH) service;

(m) “direct to home service” or “DTH service” means re-transmission of signals of television channels, by using a satellite system, directly to subscriber’s premises without passing through an intermediary such as local cable operator or any other distributor of television channels;

(n) “distribution platform” means distribution network of a DTH operator, multi-system operator, HITS operator or IPTV operator;

(o) “distributor of television channels” or “distributor” means any DTH operator, multi-system operator, HITS operator or IPTV operator;

(p) “distributor retail price” or “DRP” for the purpose of this Order, means the price, excluding taxes, declared by a distributor of television channels and payable by a subscriber for a-la-carte pay channel or bouquet of pay channels, as the case may be;

(q) “free-to-air channel” or “free-to-air television channel” means a channel which is declared as such by the broadcaster and for which no fee is to be paid by a distributor of television channels to the broadcaster for signals of such channel;

(r) “head end in the sky operator” or “HITS operator” means any person permitted by the Central Government to provide head end in the sky (HITS)service;

(s) “head end in the sky service” or “HITS service” means transmission of programmes including re-transmission of signals of television channels---

(i) to intermediaries like local cable operators or multi-system operators by using a satellite system and not directly to subscribers; and

(ii) to the subscribers by using satellite system and its own cable networks;

(t) “internet protocol television operator” or “IPTV operator” means a person permitted by the Central Government to provide IPTV service;

(u) “internet protocol television service” or “IPTV service” means delivery of multi channel television programmes in addressable mode by using Internet Protocol over a closed network of one or more service providers;

(v) “local cable operator” or “LCO” means a person registered under rule 5 of the Cable Television Networks Rules, 1994;

<sup>1</sup>[(va) “long term subscription” means a subscription for a duration of six months or more, for which an advance payment has been made by the subscriber;]

(w) “maximum retail price” or “MRP” for the purpose of this Order, means the maximum price, excluding taxes, payable by a subscriber, for a-la-carte pay channel or bouquet of pay channels, as the case may be;

(x) “multi-system operator” or “MSO” means a cable operator who has been granted registration under rule 11 of the Cable Television Networks Rules, 1994 and who receives a programming service from a broadcaster and re-transmits the same or transmits his own programming service for simultaneous reception either by multiple subscribers directly or through one or more local cable operators;

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<sup>1</sup> Ins. by the Second Amendment Order, 2020, cl. 2(a) (w.e.f. 01.01.2020)

<sup>1</sup>[(xa) “multi TV home” means a household having more than one TV connection or set top box in the name of one person;]

(y) “network capacity fee” means the amount, excluding taxes, payable by a subscriber to the distributor of television channels for distribution network capacity subscribed by that subscriber to receive the signals of subscribed television channels and it does not include subscription fee for pay channel or bouquet of pay channels, as the case may be;

(z) “Order” means the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017.

(za) “pay channel” means a channel which is declared as such by the broadcaster and for which broadcaster’s share of maximum retail price is to be paid to the broadcaster by the distributor of television channels and for which due authorization needs to be obtained from the broadcaster for distribution of such channel to subscribers;

<sup>2</sup>[(zaa) “Platform Services” means programs transmitted by distribution platform operators exclusively to their own subscribers and does not include Doordarshan channels, registered TV channels and foreign TV channels that are not registered in India.]

(zb) “programme” means any television broadcast and includes -

- (i) exhibition of films, features, dramas, advertisements and serials;
- (ii) any audio or visual or audio-visual live performance or presentation,

and the expression “programming service” shall be construed accordingly;

(zc) “reference interconnection offer” or “RIO” means a document published by a service provider specifying terms and conditions on which the other service provider may seek interconnection with such service provider;

(zd) “Regulations” means the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 and the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017;

(ze) “service provider” means the Government as a service provider and includes a licensee as well as any broadcaster, distributor of television channels or local cable operator;

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<sup>1</sup> Ins. by the Second Amendment Order, 2020, cl. 2(b) (w.e.f. 01.01.2020)

<sup>2</sup> Ins. by the Fourth Amendment Order, 2024, cl. 2 (w.e.f. 08.07.2024)

(zf) “set top box” means a device, which is connected to or is part of a television receiver and which enables a subscriber to view subscribed channels;

(zg) “subscriber” for the purpose of this Order, means a person who receives broadcasting services relating to television from a distributor of television channels, at a place indicated by such person without further transmitting it to any other person and who does not cause the signals of television channels to be heard or seen by any person for a specific sum of money to be paid by such person, and each set top box located at such place, for receiving the subscribed broadcasting services relating to television, shall constitute one subscriber;

(zh) “television channel” means a channel, which has been granted downlinking permission by the Central Government under the policy guidelines issued or amended by it from time to time and reference to the term “channel” shall be construed as a reference to “television channel”.

(2) all other words and expressions used in this Order but not defined, and defined in the Act and rules and regulations made thereunder or the Cable Television Networks (Regulation) Act, 1995 (7 of 1995) and the rules and regulations made thereunder, shall have the meanings respectively assigned to them in those Acts or the rules or regulations, as the case may be.

## **Part II**

### **TARIFF**

**3. Manner of offering of channels by broadcasters.**--- (1) Every broadcaster shall offer all its channels on a-la-carte basis to all distributors of television channels.

(2) Every broadcaster shall declare ----

(a) the nature of each of its channel either as ‘free-to-air’ or ‘pay’; and

(b) the maximum retail price, per month, payable by a subscriber for each of its pay channel offered on a-la-carte basis:

Provided that the maximum retail price of a pay channel shall be more than ‘zero’:

Provided further that the maximum retail price of a channel shall be uniform for all distribution platforms.

<sup>1</sup>[Provided also that a channel, which has been granted downlinking permission by the Central Government and is available without any subscription fee on the direct to home platform of the public service broadcaster, shall not be declared as pay channel for addressable distribution platforms.]

(3) It shall be permissible for a broadcaster to offer its pay channels in the form of bouquet(s) and declare the maximum retail price(s), per month, of such bouquet(s) payable by a subscriber:

Provided that, while making a bouquet of pay channels, it shall be permissible for a broadcaster to combine pay channels of its subsidiary company or holding company or subsidiary company of the holding company, which has obtained, in its name, the downlinking permission for its television channels, from the Central Government, after written authorization by them, and declare maximum retail price, per month, for such bouquet of pay channels payable by a subscriber:

Provided that such bouquet shall not contain any pay channel for which maximum retail price per month is more than <sup>2</sup><sup>3</sup>[rupees nineteen]:

<sup>4</sup><sup>5</sup>[Provided further that maximum retail price per month of such bouquet of pay channels shall not be less than fifty five percent of the sum of maximum retail prices per month of a-la-carte pay channels forming part of that bouquet;]]

Provided further that the maximum retail price per month of such bouquet of pay channels shall be uniform for all distribution platforms:

Provided further that such bouquet shall not contain any free-to-air channel:

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<sup>1</sup> Ins. by the Fourth Amendment Order, 2024, cl.3 (w.e.f. 06.10.2024)

<sup>2</sup> Subs. by the Second Amendment Order, 2020, cl. 3(a) (w.e.f. 01.03.2020), for the following: “rupees nineteen”

<sup>3</sup> Subs. by the Third Amendment Order, 2022, cl. 2(a) (w.e.f. 01.02.2023), for the following: “rupees twelve”

<sup>4</sup> Subs. by the Second Amendment Order, 2020, cl. 3(b) (w.e.f. 01.03.2020), for the following:

“Provided further that the maximum retail price per month of such bouquet of pay channels shall not be less than eighty five percent of the sum of maximum retail prices per month of the a-la-carte pay channels forming part of that bouquet:”

<sup>5</sup> Subs. by the Third Amendment Order, 2022, cl. 2(b) (w.e.f. 01.02.2023), for the following:

“Provided further that maximum retail price per month of such bouquet and maximum retail price per month of a-la-carte pay channels forming part of that bouquet shall be subject to following conditions, namely: -  
(a) the sum of maximum retail prices per month of the a-la-carte pay channels forming part of a bouquet shall in no case exceed one and half times of the maximum retail price per month of such bouquet; and  
(b) the maximum retail price per month of any a-la-carte pay channel, forming part of such a bouquet, shall in no case exceed three times the average maximum retail price per month of a pay channel of that bouquet:  
**Explanation:** For the purpose of this order if the maximum retail price of a bouquet is Rs. ‘X’ per month per subscriber and there are ‘Y’ number of pay channels in that bouquet, then the average maximum retail price per month of a pay channel of the bouquet shall be Rs. ‘X’ divided by ‘Y’.”

<sup>1</sup>[Provided further that maximum retail price, per month, of a pay channel shall, in no case, exceed the maximum retail price, per month, of the bouquet containing that pay channel:

Provided further that the number of bouquets of pay channels offered by a broadcaster shall not be more than the number of a-la-carte pay channels being offered by such broadcaster:

Provided further that on the request of a broadcaster, the Authority may, in view of larger consumer interests, permit the broadcaster to offer number of bouquets more than the number of a-la carte channels being offered by such broadcaster.]

Provided also that such bouquet shall not contain both HD and SD variants of the same channel.

*Explanation:* For the purpose of this Order, the definition of “subsidiary company” and “holding company” shall be the same as assigned to them in the Companies Act, 2013 (18 of 2013).

(4) It shall be permissible for a broadcaster to offer promotional schemes on maximum retail price(s) per month of its a-la-carte pay channel(s):

Provided that period of any such scheme shall not exceed ninety days at a time:

Provided further that the frequency of any such scheme by the broadcaster shall not exceed twice in a calendar year:

Provided further that the price(s) of a-la-carte pay channel(s) offered under any such promotional scheme shall be considered as maximum retail price(s) during the period of such promotional scheme:

Provided also that the provisions of Regulations and Tariff Orders notified by the Authority shall be applicable on the price(s) of a-la-carte pay channel(s) offered under any such promotional scheme.

(5) Every broadcaster, before making any change in the nature of a channel or in the maximum retail price of a pay channel or in the maximum retail price of a bouquet of pay channels or in the

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<sup>1</sup> Ins. by the Second Amendment Order, 2020, cl. 3(c) (w.e.f. 01.03.2020)



composition of a bouquet of pay channels, as the case may be, shall follow the provisions of all the applicable Regulations and Orders notified by the Authority, including but not limited to the publication of Reference Interconnection Offer.

**4. Declaration of network capacity fee and manner of offering of channels by distributors of television channels.** - <sup>1</sup>[(1) Every distributor of television channels shall declare network capacity fee, per month, payable by a subscriber for availing a distribution network capacity so as to receive the signals of television channels:

<sup>2</sup>[\*\*\*\*\*]

<sup>3</sup>[Provided that a distributor of television channels shall be free to declare different network capacity fee for different:

- (i) number of channels offered by it;
- (ii) regions in its service area;
- (iii) classes of consumers; and
- (iv) any combination of (i) to (iii) above;

Provided also that every classification between consumers shall be based on intelligible eligibility criteria where such criteria shall have a rational nexus to the purpose of the said classification;]

<sup>4</sup>[Provided further that a distributor of television channels shall be free to declare network capacity fee, per month, for each additional TV connection, beyond the first TV connection in a

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<sup>1</sup> Subs. by the Second Amendment Order, 2020, cl. 4(a) (w.e.f. 01.03.2020), for the following:

“(1) Every distributor of television channels shall declare network capacity fee, per month, payable by a subscriber for availing a distribution network capacity so as to receive the signals of television channels: Provided that the network capacity fee, per month, for network capacity upto initial one hundred SD channels, shall, in no case, exceed rupees one hundred and thirty, excluding taxes: Provided further that the network capacity fee, per month, for network capacity in the slabs of twenty five SD channels each, beyond initial one hundred channels capacity referred to in first proviso to sub-clause (1), shall, in no case, exceed rupees twenty excluding taxes: Provided also that one HD channel shall be treated equal to two SD channels for the purpose of calculating number of channels within the distribution network capacity subscribed.”

<sup>2</sup> Deleted the following provisos by the Fourth Amendment Order, 2024, cl.4(a)(i) (w.e.f.06.10.2024):

“Provided that the network capacity fee, per month, for network capacity upto initial two hundred SD channels, shall, in no case, exceed rupees one hundred and thirty, excluding taxes: Provided further that the network capacity fee, per month, for network capacity for receiving more than two hundred SD channels, shall, in no case, exceed rupees one hundred and sixty, excluding taxes:”

<sup>3</sup> Subs. by the Fourth Amendment Order, 2024, cl.4(a)(ii) (w.e.f. 06.10.2024), for the following:

“Provided also that a distributor of television channels shall be free to declare different network capacity fee for different regions within its service area, and shall report to the Authority, the details of such network capacity fee for each regions:”

<sup>4</sup> Subs. by the Fourth Amendment Order, 2024, cl.4(a)(iii) (w.e.f. 06.10.2024), for the following:

multi-TV home and such capacity fee, in no case, shall exceed the fee declared for the first TV connection]

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(2) Every distributor of television channels shall offer all channels available on its network to all subscribers on a-la-carte basis and declare distributor retail price, per month, of each pay channel payable by a subscriber:

Provided that the distributor retail price, per month, payable by a subscriber to a distributor of television channels for subscribing to a pay channel shall, in no case, exceed the maximum retail price, per month, declared by the broadcasters for such pay channel.

<sup>2</sup>[(2A) Every distributor of television channels shall allow distinct choice of channels and bouquets of channels to each TV connection or set top box in a multi TV home.]

(3) Every distributor of television channels shall offer to all subscribers each bouquet of pay channels offered by a broadcaster, and for which interconnection agreement has been signed with that broadcaster, without any alteration in its composition and declare the distributor retail price, per month, for such bouquet payable by a subscriber:

Provided that the distributor retail price, per month, payable by a subscriber to a distributor of television channels for subscribing to a bouquet of pay channels offered by the broadcaster shall in no case exceed the maximum retail price, per month, declared by the broadcasters for such bouquet of pay channels:

Provided further that such bouquet shall not contain any pay channel for which maximum retail price per month declared by the broadcaster is more than <sup>3</sup>[<sup>4</sup>[rupees nineteen]]:

Provided further that such bouquet shall not contain any free-to-air channel:

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“Provided also that the network capacity fee, per month, for each additional TV connection, beyond the first TV connection in a multi TV home shall, in no case, exceed forty percent of the declared network capacity fee:”

<sup>1</sup> Deleted the following proviso by the Fourth Amendment Order, 2024, cl.4(a)(iv) (w.e.f.06.10.2024):

“Provided also that one HD channel shall be treated equal to two SD channels for the purpose of calculating number of channels within the distribution network capacity subscribed.”

<sup>2</sup> Ins. by the Second Amendment Order, 2020, cl. 4(b) (w.e.f. 01.03.2020)

<sup>3</sup> Subs. by the Second Amendment Order, 2020 cl. 4(c) (w.e.f. 01.03.2020), for the following: “rupees nineteen”

<sup>4</sup> Subs. by the Third Amendment Order, 2022 cl. 3(a) (w.e.f. 01.02.2023), for the following: “rupees twelve”

Provided also that such bouquet shall not contain both HD and SD variants of the same channel.

(4) It shall be permissible for a distributor of television channels to offer bouquet(s) formed from pay channels of one or more broadcasters and declare distributor retail price(s), per month, of such bouquet(s) payable by a subscriber:

Provided that such bouquet shall not contain any pay channel for which maximum retail price per month declared by the broadcaster is more than <sup>1</sup>[<sup>2</sup>[rupees nineteen]]:

Provided further that the distributor retail price per month of such bouquet of pay channels shall not be less than <sup>3</sup>[fifty five percent] of the sum of distributor retail prices per month of a-la-carte pay channels and bouquet(s) of pay channels forming part of that bouquet:

Provided further that the distributor retail price per month of a bouquet of pay channels offered by a distributor of television channels shall, in no case, exceed the sum of maximum retail prices per month of a-la-carte pay channels and bouquet(s) of pay channels, declared by broadcasters, forming part of that bouquet:

Provided further that such bouquet shall not contain any free-to-air channel:

Provided also that such bouquet shall not contain both HD and SD variants of the same channel.

*Explanation:* For the removal of doubt it is hereby clarified that a distributor of television channels while forming bouquet under this clause shall not break a bouquet of pay channels offered by a broadcaster to form two or more bouquet(s) at distribution level.

(5) It shall be permissible for a distributor of television channels to offer bouquet(s) formed from free-to-air channels of one or more broadcasters.

(6) No distributor of television channels shall charge any amount, other than the network capacity fee, from its subscribers for subscribing to free-to-air channels or bouquet(s) of free-to-air channels.

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<sup>1</sup> Subs. by the Second Amendment Order, 2020, cl. 4(d) (w.e.f. 01.03.2020), for the following: “rupees nineteen”

<sup>2</sup> Subs. by the Third Amendment Order, 2022 cl. 3(b) (w.e.f. 01.02.2023), for the following: “rupees twelve”

<sup>3</sup> Subs. by the Fourth Amendment Order, 2024, cl. 4(b) (w.e.f. 06.10.2024), for the following: “eighty five percent”

(7) Within the distribution network capacity subscribed, <sup>1</sup>[\* \* \* \*], a subscriber shall be free to choose any free-to-air channel(s), pay channel(s), or bouquet(s) of channels offered by the broadcaster(s) or bouquet(s) of channels offered by distributors of television channels or a combination thereof:

Provided that if a subscriber opts for pay channels or bouquet of pay channels, he shall be liable to pay an amount equal to sum of distributor retail price(s) for such channel(s) and bouquets in addition to network capacity fee.

(8) Subject to sub-clause (1) of clause 4, a distributor of television channels shall not increase the network capacity fee for a period of six months from the date of such notification:

Provided that a distributor of television channels, before making any change in the network capacity fee, shall at least thirty days prior to the scheduled change ---

(a) inform the Authority; and

(b) inform the subscribers by running scroll on the channel.

<sup>2</sup>[(9) All distributors of television channels shall provide all the channels notified by Central Government to be mandatorily provided to all the subscribers and all such channels shall be in addition to the number of channels which a subscriber is eligible to get for the network capacity fee paid by him.

(10) It shall be permissible for a distributor of television channels to offer long term subscriptions and declare respective network capacity fee, distributor retail price and duration of all such subscriptions:

(11) It shall be permissible for a distributor of television channels to offer promotional schemes on distributor retail price per month of a-la-carte pay channels available on its platform:

Provided that period of any such scheme shall not exceed ninety days at a time:

Provided further that the frequency of any such scheme by the distributor shall not exceed twice in a calendar year:

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<sup>1</sup> Del. the words “in addition to channels notified by Central Government to be mandatorily provided to all the subscribers” by the Second Amendment Order, 2020, cl. 4(e) (w.e.f. 01.03.2020).

<sup>2</sup> Ins. by the Second Amendment Order, 2020, cl. 4(f) (w.e.f. 01.03.2020)

Provided further that the price of a-la-carte pay channel offered under any such promotional scheme shall be considered as distributor retail price(s) during the period of such promotional scheme:

Provided also that the provisions of Regulations and Tariff Orders notified by the Authority shall be applicable on the price of a-la-carte pay channels offered under any such promotional scheme:]

<sup>1</sup>[(12) Every distributor of television channels shall declare maximum retail price, per month, for each platform service provided by it.]

<sup>2</sup>[\* \* \* \*]

### PART III

#### REPORTING BY SERVICE PROVIDERS

**6. Reporting requirement by broadcasters.**--- (1) Every broadcaster shall, within ninety days from the date of commencement of this clause, furnish the following information to the Authority <sup>3</sup>[in such manner, as may be specified], namely:-

- (a) name, nature, language of each channel offered by the broadcaster;
- (b) maximum retail price, per month, of each pay channel, if any, offered by the broadcaster;
- (c) list of all bouquets of pay channels, if any, offered by the broadcaster along with respective maximum retail prices, per month, of each bouquet and names of all the pay channels contained in each such bouquet:

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<sup>1</sup> Ins. by the Fourth Amendment Order, 2024, cl.4(c) (w.e.f. 06.10.2024)

<sup>2</sup> Del. the following words by the Second Amendment Order, 2020, cl. 5 (w.e.f. 01.03.2020):

**“5. Offering of basic service tier by distributors of television channels.**--- (1) Every distributor of television channels shall offer at least one bouquet, referred to as basic service tier, of one hundred free-to-air channels including all the channels to be mandatorily provided as notified by the Central Government to all the subscribers and such bouquet shall contain at least five channels of each genre as referred to in the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017:

Provided that in case sufficient number of free-to-air channels of a particular genre are not available on the network, the distributor of television channels shall be free to include the channels of other genres.

*Explanation:* For removal of any doubt it is hereby clarified that such bouquet shall be one of the options available to a subscriber. However, the subscriber, as per his requirement, shall have complete freedom to choose either bouquet of basic service tier or any other bouquet of pay channels or any other bouquet of free-to-air channels or a-la-carte pay channels or a-la-carte free-to-air channels available on the platform of the distributor of television channels or a combination thereof.”

<sup>3</sup> Ins. by the Fourth Amendment Order, 2024, cl.5(a)(i) (w.e.f. 08.07.2024)

Provided that first such report shall be simultaneously published on the website of the broadcaster:

<sup>1</sup>[Provided further that any change in name, nature, language, maximum retail prices, per month, of channels and maximum retail price, per month, or composition of bouquets due to the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff <sup>2</sup>[(Fourth Amendment) Order, 2024], shall be

- a) reported to the Authority on the portal as specified for this purpose at least forty-five days prior to such change;
- b) simultaneously published on the website of the broadcaster; and
- c) communicated to all the distributors of television channels, with whom it has entered into interconnection agreement.]

Provided further that any subsequent change in, name, nature, language, maximum retail prices, per month, of channels and maximum retail price, per month, or composition of bouquets, as the case may be,--

(a) shall be reported to the Authority at least thirty days prior to such change <sup>3</sup>[in such manner, as may be specified]; and

(b) shall also be simultaneously published on the website of the broadcaster.

<sup>4</sup>[<sup>5</sup>[\*\*\*\*\*]]

<sup>6</sup>[(1A) Every broadcaster shall report to the Authority and also communicate to all the distributors of television channels, with whom it has entered into interconnection agreement, details of all the promotional schemes offered by it including maximum retail price and duration of such schemes, at least fifteen days prior to date of launch of such schemes and shall simultaneously publish on its website.]

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<sup>1</sup> Ins. by the Third Amendment Order, 2022 cl. 4(a) (w.e.f. 01.02.2023)

<sup>2</sup> Subs. by the Fourth Amendment Order, 2024, cl.5(a)(ii) (w.e.f. 08.07.2024), for the following: “(Third Amendment) Order, 2022”

<sup>3</sup> Ins. by the Fourth Amendment Order, 2024, cl.5(a)(iii) (w.e.f.08.07.2024)

<sup>4</sup>Ins. by the Second Amendment Order, 2020, cl. 6(a) (w.e.f. 01.01.2020) the following:

Provided also that any change in name, nature, language, maximum retail prices, per month, of channels and maximum retail price, per month, or composition of bouquets due to the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020,

(a) shall be reported to the Authority at least forty-five days prior to such change; and

(b) shall also be simultaneously published on the website of the broadcaster

<sup>5</sup> Deleted by the Third Amendment Order, 2022, cl. 4(b) (w.e.f. 01.02.2023)

<sup>6</sup> Ins. by the Second Amendment Order, 2020, cl. 6(b) (w.e.f. 01.01.2020)

(2) Every broadcaster who, after the commencement of this Order,-----

- (a) introduces any new channel; or
- (b) introduces any new bouquet of pay channels ; or
- (c) discontinues any channel; or
- (d) discontinues any bouquet of pay channels;

shall, at least thirty days prior to such introduction or discontinuation, furnish to the Authority<sup>1</sup>[in such manner, as may be specified], the following information, namely:-

- (i) name, nature, language of the channel to be introduced or discontinued;
- (ii) the date on which such channel is to be introduced or discontinued;
- (iii) the maximum retail price, per month, of the pay channel;
- (iv) names of all the constituent pay channels of the bouquet to be introduced or discontinued along with maximum retail price, per month, of such bouquet:

Provided that such information relating to introduction or discontinuation of channel(s) or bouquet(s) shall be simultaneously published on the website of the broadcaster:

Provided further that any subsequent change in, name, nature, language, maximum retail prices of channels so introduced and maximum retail price or composition of bouquet so introduced, as the case may be,--

- (a) shall be reported to the Authority at least thirty days prior to the change<sup>2</sup>[in such manner, as may be specified]; and
- (b) shall also be simultaneously published on the website of the broadcaster.

**7. Reporting requirement by distributors of television channels.** --- (1) Every distributor of television channels shall, within thirty days from the date of commencement of this Order, furnish the following information to the Authority<sup>3</sup>[in such manner, as may be specified], namely:-

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<sup>1</sup> Ins. by the Fourth Amendment Order, 2024, cl.5(b)(i) (w.e.f. 08.07.2024)

<sup>2</sup> Ins. by the Fourth Amendment Order, 2024, cl.5(b)(ii) (w.e.f. 08.07.2024)

<sup>3</sup> Ins. by the Fourth Amendment Order, 2024, cl.6(a)(i) (w.e.f. 08.07.2024)

<sup>1</sup> [<sup>2</sup> [(a) network capacity fees declared based on number of channels, different regions, different customer classes or any combination thereof;]]

<sup>3</sup> [<sup>4</sup> [\*\*\*\*]]

(c) list of all channels along with their respective name, nature, language available on its distribution platform;

(d) distributor retail price, per month, of each pay channel available on its distribution platform;

(e) list of all the bouquets of pay channels formed by broadcasters which are available on its distribution platform, along with their respective distributor retail price, per month, and names of constituent pay channels thereof;

(f) list of all the bouquets of pay channels formed by it which are available on its distribution platform, along with their respective distributor retail price, per month, and names of constituent pay channels thereof;

(g) list of all the bouquets of free-to-air channels available on its distribution platform along with names of constituent free-to-air channels thereof;

<sup>5</sup> [(h) region-wise network capacity fee, per month, payable by a subscriber for each additional TV connection beyond first TV connection in a multi TV home;

(i) list of all the long term subscriptions offered by it, along with distributor retail price of pay channels, distributor retail price of bouquets of pay channels, duration of such subscriptions and discount offered in network capacity fee:]

<sup>6</sup> [(ia) list of all platform service channels along with their maximum retail price, available on its distribution platform;]

Provided that <sup>7</sup> [ information as required under this sub-clause] shall also be simultaneously published on the website of the distributor of television channels:

<sup>8</sup> [Provided further that any change in network capacity fee, name, nature, language, distributor retail prices of pay channels, distributor retail price or composition of bouquet of

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<sup>1</sup> Subs. by the Fourth Amendment Order, 2024, cl. 6(a)(ii) (w.e.f. 08.07.2024), for the following:

“(a) region-wise network capacity fee, per month, payable by a subscriber for 200 SD channels”

<sup>2</sup> Subs. by the Second Amendment Order, 2020, cl. 7(a)(i) (w.e.f. 01.01.2020), for the following:

“(a) network capacity fee, per month, payable by a subscriber for 100 SD channels”

<sup>3</sup> Subs. by the Second Amendment Order, 2020, cl. 7(a)(ii) (w.e.f. 01.01.2020), for the following:

“(b) network capacity fee, per month, payable by a subscriber for each additional 25 SD channels”

<sup>4</sup> Deleted by the Fourth Amendment Order, 2024, cl.6(a)(iii) (w.e.f. 08.07.2024)

<sup>5</sup> Ins. by the Second Amendment Order, 2020, cl. 7(a)(iii) (w.e.f. 01.01.2020)

<sup>6</sup> Ins. by the Fourth Amendment Order, 2024, cl. 6(a)(iv) (w.e.f. 08.07.2024)

<sup>7</sup> Subs. by the Fourth Amendment Order, 2024, cl. 6(a)(v) (w.e.f. 08.07.2024), for the following:

“first such report”

<sup>8</sup> Ins. by the Third Amendment Order, 2022 cl. 5(a) (w.e.f. 01.02.2023)



pay channels and composition of bouquet of free-to-air channels, network capacity fee for each additional TV connection beyond first TV connection in a multi TV home and long term subscriptions, as the case may be, due to the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff <sup>1</sup>[(Fourth Amendment) Order, 2024)], shall be -

<sup>2</sup>[(a) reported to the Authority in such manner, as may be specified, at least fifteen days prior to such change; and]

(b) simultaneously published on the website of the distributor.]

<sup>3</sup>[<sup>4</sup>[\*\*\*\*\*]]

<sup>5</sup>[Provided also that any subsequent change in the network capacity fee, name, nature, language, distributor retail prices of pay channels, distributor retail price or composition of bouquet of pay channels and composition of bouquet of free-to-air channels, network capacity fee for each additional TV connection beyond first TV connection in a multi TV home, long term subscriptions, maximum retail price of platform services and introduction or discontinuation of any channel on its platform, as the case may be,---

(a) shall be reported to the Authority, in such manner, as may be specified, at least fifteen days prior to such change, and

(b) shall also be simultaneously published on the website of the distributor.]

<sup>6</sup>[(1A) Every distributor shall report to the Authority <sup>7</sup>[in such manner, as may be specified] and also communicate to all its subscribers details of all the promotional schemes offered by it including distributor retail price and duration of such schemes, at least seven days prior to date

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<sup>1</sup> Subs. by the Fourth Amendment Order, 2024, cl. 6(a)(vi)(A) (w.e.f. 08.07.2024), for the following:  
“(Third Amendment) Order, 2022”

<sup>2</sup> Subs. by the Fourth Amendment Order, 2024, cl. 6(a)(vi)(B) (w.e.f. 08.07.2024), for the following:  
“(a) reported to the Authority on the portal as specified for this purpose at least thirty days prior to such change; and”

<sup>3</sup> Ins. by the Second Amendment Order, 2020, cl. 7(a)(v) (w.e.f. 01.01.2020) the following:  
“Provided also that any change in name, nature, language, maximum retail prices, per month, of channels and maximum retail price, per month, or composition of bouquets due to the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020,

(a) shall be reported to the Authority at least forty-five days prior to such change; and

(b) shall also be simultaneously published on the website of the broadcaster”

<sup>4</sup> Deleted by the Third Amendment Order, 2022, cl. 5(b) (w.e.f. 01.02.2023)

<sup>5</sup> Ins. by the Fourth Amendment Order, 2024, 6(a)(vii) (w.e.f. 08.07.2024)

<sup>6</sup> Ins. by the Second Amendment Order, 2020, cl. 7(b) (w.e.f. 01.01.2020)

<sup>7</sup> Ins. by the Fourth Amendment Order, 2024, cl. 6(b) (w.e.f. 08.07.2024)

of launch of such schemes and shall simultaneously publish on its website.]

(2) Every distributor of television channels who commences its services after coming into force of this Order shall submit to the Authority <sup>1</sup>[in such manner, as may be specified], the report containing the information as required under sub-clause (1) of this clause, before commencement of its services and thereafter any changes in respect of such information shall be reported at least fifteen days prior to the change.

## **PART IV**

### **MISCELLANEOUS**

**8. Designation of compliance officer and his obligations.** --- (1) Every broadcaster and distributor of television channels shall, within thirty days from the date of commencement of this clause, designate a compliance officer.

(2) Every broadcaster and distributor of television channels who commences its operations after the coming into effect of this Order shall, within thirty days from the date of commencement of its operations, designate a compliance officer.

(3) Every broadcaster or distributor of television channels, as the case may be, shall, within thirty days from the date of designation of the compliance officer under the provisions of this clause, furnish to the Authority the name, complete address, contact number and e-mail address of the compliance officer along with authenticated copy of the board's resolution authorizing the designation of such compliance officer:

Provided that the distributor of television channel, which is not a company, shall, within thirty days from the date of designation of the compliance officer under the provisions of this clause, furnish to the Authority the name, full address, contact number and e-mail address of the compliance officer along with authenticated copy of the authorization letter authorizing the designation of such compliance officer.

(4) In the event of any change in the name of the compliance officer so designated under provisions of this clause, the same shall be reported to the Authority by the service provider

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<sup>1</sup> Ins. by the Fourth Amendment Order, 2024, cl. 6(c) (w.e.f. 08.07.2024)

within thirty days from the date of occurrence of such change along with authenticated copy of the board's resolution or authorization letter, as the case may be.

(5) In the event of any change in the address or contact number or email address of the compliance officer, the same shall be reported to the Authority by the service provider within ten days from the date of occurrence of such change.

(6) The compliance officer shall be responsible for --

- (a) generating awareness for ensuring compliance with the provisions of this Order;
- (b) reporting to the Authority, with respect to compliance with this Order and directions of the Authority issued under this Order; and
- (c) ensuring that proper procedures have been established and are being followed for compliance of this Order.

(7) The provisions contained in the sub-clause (6) shall be in addition to the liability of the service provider to comply with the requirements laid down under this Order.

**<sup>1</sup>[(8A) Consequences for failure to comply with the provisions of this Order by the broadcaster or distributor.—** (1) If any broadcaster or distributor of television channels, as the case may be, contravenes the provisions of the Order, it shall, without prejudice to the terms and conditions of its license or permission or registration, or the Act or rules or regulations or order made or direction issued thereunder, be liable to pay the financial disincentive specified under Schedule-I, as the Authority or an officer authorized by the Authority, as the case may be, may by order direct:

Provided that in a calendar year the maximum financial disincentive, shall, in no case, exceed rupees two lakh for all the contraventions of clauses as mentioned under Group A in Table 1 of schedule-I:

Provided further that in a calendar year the maximum financial disincentive shall, in no case, exceed rupees five lakh for all the contraventions of clauses as mentioned under Group B in Table 1 of schedule-I:

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<sup>1</sup> Ins. by the Fourth Amendment Order, 2024, cl. 7 (w.e.f 06.10.2024)

Provided also that the maximum financial disincentives imposed on a service provider for all the contraventions in a calendar year shall not exceed rupees five lakh:

Provided also that no order for payment of financial disincentive shall be made by the Authority, or an officer authorized by the Authority, as the case may be, unless the broadcaster or the distributor, as the case may be, has been given a reasonable opportunity of representation against the contravention of the clauses observed by the Authority.

(2) The amount payable by way of financial disincentive under this Order shall be remitted to such head of account as may be specified by the Authority.

**(8B) Consequences for the failure of the service providers to pay financial disincentive within the stipulated time.**— (1) If a service provider fails to make payment of financial disincentive under clause 8A within the stipulated period, it shall be liable to pay interest at a rate which will be two per cent. above the one year Marginal Cost of Lending Rate (MCLR) of State Bank of India applicable as on the beginning of the Financial Year (namely 1st April) in which last day of the stipulated period falls and the interest shall be compounded annually.

*Explanation:* For the purposes of this Order, a part of the month shall be reckoned as a full month for the purpose of calculation of interest and a month shall be reckoned as an English calendar month.

### Schedule-I

**Table 1 : Quantum of Financial Disincentive for contravention of Provisions of the Tariff Order**

Clause	Details	Maximum amount of Financial Disincentive (Q) (in Rs.)	
		First Contravention	Subsequent Contravention
<b>Group A: Clauses for lower financial disincentive</b>			

3(2)(a)	Declaration of nature of channel as FTA or PAY	Advisory/ Warning	25,000
6	Reporting requirement by broadcasters	Advisory/ Warning	25,000
7	Reporting requirement by distributors	Advisory/ Warning	25,000
8	Designation of compliance officer	Advisory/ Warning	25,000
<b>Group B: Clauses for higher financial disincentive</b>			
3(1)	Offering of all channels on a-la-carte basis to all distributors	25,000	1,00,000
3(2)(b)	Declaration of MRP of pay channel offered on a-la-carte basis	25,000	1,00,000
2 <sup>nd</sup> Proviso to 3(2)(b)	MRP of a channel shall be uniform for all distribution platforms	25,000	1,00,000
3 <sup>rd</sup> Proviso to 3(2)(b)	Channels available on DD Free Dish to be FTA for addressable systems	25,000	1,00,000
3(3)	Formation of bouquet by broadcasters	25,000	1,00,000
4(1)	Declaration of NCF	25,000	1,00,000
4(2)	Offering of channels available on its network to the subscribers on a-la-carte basis	25,000	1,00,000
4(3)	Offering of bouquet of pay channels of broadcasters without alteration	25,000	1,00,000
4(4)	Offering of bouquets by distributors	25,000	1,00,000
4(6)	No distributor shall charge any amount, other than the NCF from its subscribers for subscribing to FTA channels or bouquets of FTA channels	25,000	1,00,000
4(8)	distributors shall not increase the NCF for a period of six months	25,000	1,00,000

- a) **Categorization in case of distributors of television channels for the purpose of imposing financial disincentive:** Distributors shall be categorized based on their subscriber base and the amount of financial disincentive payable by a distributor shall be determined based on the category of a distributor as given below (except where warning/ advisory is issued):

**Table 2 : Categories of distributors of television channels and financial disincentives for each category**

<b>Category of DPOs</b>	<b>Subscriber Base</b>	<b>Amount of Financial Disincentive Applicable</b>
Micro	Less than 30,000	10% of maximum FD amount i.e. 0.1Q
Small	Between 30,000 to 1,00,000	25% of maximum FD amount i.e. 0.25Q
Medium	Between 1,00,000 to 10,00,000	50% of maximum FD amount i.e. 0.5Q
Large	Above 10,00,000	100% of maximum FD amount i.e. Q

- b) **Categorization in case of television channels of broadcasters for the purpose of imposing financial disincentive:** In case of broadcasters, the financial disincentive shall be determined based on the nature of the television channels for which contravention is noticed i.e. whether it is Pay channel or an FTA channel, as given below (except where warning/ advisory is issued):

**Table 3: financial disincentives for broadcasters**

<b>Contravention in relation to</b>	<b>FD amount</b>
FTA channels	50% of maximum FD amount i.e. 0.5 Q
Pay channels	100% of maximum FD amount i.e. Q

- c) In case of more than three contraventions of the clauses mentioned under Group B in the Table 1 of schedule-I, in a block of three years counted back from the date of latest contravention, the Authority, besides imposing the financial disincentive referred to above, may recommend to the Central Government to take appropriate action without prejudice to any other action that the Authority may take as per provisions of the TRAI Act, 1997.

- d) In case of a continued contravention of a provision i.e. a contravention that is not rectified within the timeline given by the Authority for its rectification, an financial disincentive of two thousand rupees per day for first thirty days and five thousand rupees per day beyond thirty days, counted from the last date of compliance specified in the order, shall be imposed besides the financial disincentive already specified in the order for compliance.]

**9. Power of Authority to intervene.**--- (1) The Authority may, by order or direction made or issued by it, intervene in order to secure compliance of the provisions of this Order, or protect the interests of subscribers and service providers of the broadcasting services and cable services, or promote and ensure orderly growth of the broadcasting services and cable services, or facilitate competition and promote efficiency in the operation of broadcasting services and cable services so as to facilitate growth in such services.

**10. Repeal and Saving.**--- (1) The Telecommunication (Broadcasting and Cable) Services (Third) (CAS Areas) Tariff Order, 2006, along with all its amendments and directions issued there under are hereby repealed.

(2) All the provisions of the Telecommunication (Broadcasting and Cable) Services <sup>1</sup>[(Fourth)] (Addressable Systems) Tariff Order, 2010 and all its amendments and directions issued there under, except the provisions applicable to commercial subscribers are hereby repealed.

(3) The Telecommunication (Broadcasting and Cable) Services (Fifth) (Digital Addressable Cable TV Systems) Tariff Order, 2013 along with all its amendments and directions issued there under are hereby repealed.

(4) The repeal under sub-clause (1), (2) and (3) of this clause shall not affect-

- (a) the previous operation of the repealed order(s) or anything done or any action taken under the repealed order(s); or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the order(s) so repealed; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the order(s) so repealed; or,
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege,

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<sup>1</sup> Subs. by the First Amendment Order, 2017, cl. 3 (w.e.f. 30.03.2017), for the following: “(Second)”

obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture and punishment may be imposed, as if the aforesaid order(s) had not been repealed.

**(Atul Kumar Chaudhary)**  
**Secretary, TRAI**

**Note ----** The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (1 of 2017) was published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 21-1/2016-B&CS dated 3rd March, 2017 and subsequently amended vide notifications No. 1-2/2017-B&CS dated 30<sup>th</sup> March, 2017, No. 21-01/2019- B&CS dated 1<sup>st</sup> January 2020 and No. RG-8/1/(9)/2021-B AND CS(1 AND 3) dated 22<sup>nd</sup> November 2022.

**Note 2. ----** The Explanatory Memorandum at Appendix A to this Order explains the objects and reasons of the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Fourth Amendment) Order, 2024.



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## EXPLANATORY MEMORANDUM

### TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES (EIGHTH) (ADDRESSABLE SYSTEMS) TARIFF ORDER, 2017 DATED 03.03.2017

#### I. Background

1. Regulation of broadcasting and cable services was entrusted to the Telecom Regulatory Authority of India (hereinafter referred to as the Authority) in 2004. The sector then was analogue, *non-addressable*, and looked largely unregulated, without operational transparency, experienced price fluctuations and had conflict of interests amongst the stakeholders. Television channels were offered to subscribers in pre-determined bouquets of channels. TRAI issued the first tariff order for broadcasting and cable services on 15th January 2004 wherein the prices of TV channels and bouquets that existed in the non-addressable regime as on 26<sup>th</sup> December, 2003 were frozen.
2. The legacy analogue systems in the non-addressable era lacked transparency. While broadcasters were holding a view that distributors of television channels were under reporting the total number of subscribers viewing their channels, distributors of television channels argued that broadcasters demanded an unjustified hike in subscriber base year on year. Further their demand for charges per channel was unjustifiably high. These differences of opinion frequently turned in litigations adversely impacting smooth business resulting in adverse consumers experience. The distribution models were heavily skewed in favour of advertisement driven revenues due to difficulties in maintaining transparency in the flow of subscription revenues across the analog value chain. The major thrust by the broadcasters was to ensure that their channels reached the large number of viewers in order to maximize advertisement revenue. This approach encouraged broadcasters to provide their channels to MSOs/LCOs in a bouquet form. The bouquets were sometimes formed so as to contain only few popular channels, while rest of the channels in the bouquet did not offer value for money to the subscribers. The price of these not so popular channels was usually passed on by the MSOs/LCOs to the subscribers. While doing so, no consideration was given to subscriber choice. This skewed model was fraught with discrimination and non-transparent practices and resulted in a large number of disputes affecting growth of the broadcasting sector relating to television as a whole.
3. In view of limitations of analogue TV distribution platforms both in terms of channel carrying capacity and quality of the television signals vis-a-vis the advantages of digital

addressable platforms, TRAI initiated efforts towards digitalization of cable TV distribution networks. TRAI recommended in August 2010 that the process of digitisation may be executed in four phases for creating a conducive regulatory framework. The Government amended the Cable TV Act on 25<sup>th</sup> October 2011 and the rules made thereunder on 28<sup>th</sup> April 2012 which led to the implementation of the Digital Addressable Cable TV System in India. The digitalization process was envisaged to be completed in four phases. Of these, the first three phases have been completed to a large extent and the final phase is slated for completion by March 2017.

4. During the discussions in the Parliament on the motion for consideration of the Cable Television Networks (Regulation) Amendment Bill, 2011, the then Minister of Information and Broadcasting, Smt. Ambika Soni, *inter-alia* stated:

*“Digitalization will carry with it a large number of benefits for every stakeholder. The most important benefit flows to the common man, who is the most important stakeholder of course. **Digitalization will enable the consumer to exercise a la carte selection of channels, get better picture quality, access to Value Added Services like Triple Play, Video on Demand, etc.** For the Broadcasters and Cable Operators, who are both Service Providers, the system will ensure transparency, fairness and allow complete addressability, resulting in increase in subscription revenue and reducing their dependence on TRPs as also advertising revenue.”*(emphasis provided)

5. With digitalisation, though the addressability, capacity and quality of signal of cable TV networks have improved. However, the real benefits of digitalisation such as, choice of selecting channels on a-la-carte basis and availability of multimedia services have yet not reached the subscribers. Bundling of channels by broadcasters and pushing their channels to maximum number of subscribers continue even in the present digital addressable domain as the broadcasters continue to offer huge discounts on bouquets. Broadcasters very often provide incentives to distributors of television channels for carrying all their channels in a particular bouquet. MSOs, who did not agree to the conditions for availing such discounts, end up getting signals only on RIO rates, which are very high resulting in discrimination and non-transparency. As such the issues related to availability of channels on a-la-carte basis, transparency in pricing, non-discrimination and level playing field continued even after introduction of addressability.
6. Further there are concerns about maintaining transparency in the flow of subscription

revenues across the value chain. Collection of subscription revenue from subscribers is not reflected transparently in Subscriber Management System (SMS) resulting in non-transparent flow of revenue between LCOs, MSOs and broadcasters. Huge pendency of payments to different stakeholders results in disconnection of signals impacting quality of experience of viewers and resulting in litigations at various levels.

7. Due to non transparent and discriminatory practices, a large number of disputes have taken place among the various stakeholders and channels are frequently blocked or discontinued from the platforms without any intimation to subscribers. This results in viewer dissatisfaction and in avoidable complaints.
8. TV has become an important entertainment tool and it has transcended across different social strata of society. While subscribers want freedom to choose affordable a-la-carte channels and bundled TV broadcast services as per their preferences and paying capacity, broadcasters generally want to ensure maximum eyeballs to ensure higher advertisement revenues. In order to address these complex and conflicting issues, a comprehensive review of the existing regulatory framework was undertaken by TRAI to create an enabling environment ensuring transparency, non-discrimination, subscriber protection and growth of the sector, which includes tariff, interconnection and quality of service. As a part of this exercise, TRAI issued a consultation paper on “Tariff issues related to TV services” on 29th January 2016. The objectives of the consultation were:-
  - i. To carry out a review of existing Tariff framework and developing a Comprehensive Tariff Structure for Addressable TV Distribution of “TV Broadcasting Services” across Digital Broadcasting Delivery Platforms (DTH/ Cable TV/ HITS/ IPTV) at wholesale and retail level.
  - ii. To ensure that the tariff structure is simplified and rationalized so as to ensure transparency and equity across the value chain.
  - iii. To reduce the incidence of disputes amongst stakeholders across the value chain encouraging healthy growth in the sector.
  - iv. To ensure that subscribers have adequate choice in the broadcast TV services while they are also protected against irrational tariff structures and price hikes.
  - v. To encourage the investment in the TV sector
  - vi. To encourage production of good quality channels across different genres.

9. In response, a total of 60 comments and 10 counter-comments were received from stakeholders including consumers. Subsequently, two Open House Discussions (OHDs) were held, first on 8th April 2016 in New Delhi and second on 21st April 2016 at Raipur, Chhattisgarh, where the issues were discussed at length with the stakeholders present.
10. TRAI issued the draft Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2016 (draft TTO) on 10<sup>th</sup> October 2016 to maintain complete transparency while bringing change in existing regulatory framework. Stakeholders were asked to offer their comments, if any, on proposed tariff framework by 24<sup>th</sup> October, 2016. However, on the request from stakeholders, last date for receiving comments was extended to 15<sup>th</sup> November 2016. In response a total of 135 comments were received from stakeholders. Based on the comments/views of the stakeholders and the analysis, various provisions of the Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2017 (hereinafter referred to as Tariff Order) have been finalised.
11. While finalising the tariff framework, the Authority noted that in the broadcasting service relating to television value chain, there are three main stakeholders – broadcasters, distributors of television channels including LCOs and subscribers/viewers. Broadcasters provide channels. Distributors of television channels including LCOs establish their networks for distributing TV signals obtained from broadcasters to their subscribers/viewers. Subscribers pay price for the TV services they get from distributors of television channels. Broadcasters tend to recover the price of their channels; distributors of television channels tend to recover the capital and operational expenditure on their networks and subscribers/viewers look for uninterrupted service, good quality of channels, affordable pricing and adequate choice in a transparent manner.
12. As discussed in para 2 above, existing tariff model has resulted in revenue of the broadcasters being heavily skewed from advertisements. Heavy dependence of broadcasters on advertisement revenue has influenced type of channels being developed for increasing eyeballs. This has resulted in minimal investments in niche channels having lesser eyeballs, and also bundling of not so popular channels in basic service tier package to widen its reach. While doing so, the subscriber choice has been greatly neglected.
13. In the current scenario (prior to notification of this TTO), the wholesale transactions

between broadcasters and distributors of television channels are being carried out in different modes such as:

- (a) Fixed fee (lump sum) deals in which either entire/all TV channels of the broadcaster (including its group companies) or for a part of their channels are taken at the fixed annual price irrespective of the number of subscribers viewing such channels.
  - (b) Cost per subscriber (CPS) deals in which a broadcaster gives all or a group of its channels to a distributor of television channels at a fixed charge per subscriber irrespective of the fact that whether subscribers opt for all or few of the channels.
  - (c) RIO based deals as per notified RIO by broadcasters. In these deals the broadcasters ask for the RIO price per channel notified by it. Such prices are pitched very high as compared to those offered under a CPS deal or a fixed fee deal. As a result distributors of television channels are generally forced to negotiate with the broadcasters, and/or settle for a CPS or a fixed fee deal which in effect translate into non transparent deals.
14. All these deals are generally non-transparent and discriminatory in pretext of mutual negotiations thus in a way flouting the regulatory framework. Further, hugely discounted prices under fixed fee deal or CPS deal ensure that most of the channels are pushed to the customers irrespective of their choice. It is due to this fact that a common basic bouquet presently consists of approximately 200 channels whereas a subscriber usually does not view/ flip through more than 30 to 40 channels. This scenario negates the very purpose and intent of the legislature placing the Broadcasting and Cable Service Industry in the hands of a Regulator with specific power to notify the rates at which Broadcasting Services are to be made available.
15. In view of above, the Authority envisions that the new regulatory framework must ensure-
- (i) transparency, non-discrimination, non-exclusivity for all stakeholders in value chain,
  - (ii) affordable TV services for subscribers/ customers,
  - (iii) adequate and real choice to subscribers/customers and,
  - (iv) alignment of commercial interests of broadcasters and distributors of television channels to enable the distributors of television channels to recover their network and distribution cost and the broadcasters to monetize their channel prices.
16. In response to the draft TTO, in addition to comments on the specific provisions,

stakeholders have provided some general comments on the overall tariff framework, which are discussed in the following section:

## **II. General comments of stakeholders on draft TTO**

17. In response to the draft TTO, most of the broadcasters including one of their associations mentioned that broadcasters are akin to broadcast organizations, which come under the purview of the Copyright Act. They further mentioned that the Copyright Act is a complete code and comprehensively covers all aspects of licensing, assignment, payment of royalties, tariff fixation, distribution schemes and other considerations by Copyright Societies. It also encompasses provisions for enforcement against infringements/piracy and implementation of technological protection measures in respect of works of authors and broadcasting reproduction rights (BRR) of broadcast organisations. They are of the opinion that various provisions of the draft TTO are in conflict with the provisions of the Copyright Act, 1957 as they impose limitations and restrictions on the nature of content, prices of channels, discounting, commissions, manner of offering, ability to classify subscribers (e.g. commercial establishments) and seek differential tariff, duration of license, the geographical territory of operation etc. They further suggested that any provision of draft TTO which impinge on the rights granted under the Copyright Act ought to be harmonised.
18. Some broadcasters have also argued that the draft TTO is in the nature of sub-ordinate legislation/delegated legislation and it should yield to the statute i.e. Copyright Act because they are violating the provisions of Copyright Act.
19. Having considered the aforesaid view, it appears that the aforementioned objectors seem to harbor a misconception that there is an overlap of the Copyright Act and the TRAI Act. The jurisdictions set out in both the Copyright Act and TRAI Act are completely different for the reasons stated in below paragraph.
20. TRAI is a statutory body established under sub-section (1) of Section 3 of the TRAI Act, 1997 and has been mandated to discharge the statutory functions prescribed under the said Act. The Act, as originally enacted, did not include “Broadcasting Services” within its ambit. However, the Parliament realizing the importance and the need to regulate this industry amended the TRAI Act and included the Proviso to section 2(1)(k) that enabled the Central Government to notify Broadcasting Services as a “telecommunication service”. Pursuant to the said amendment in 2004, the Central Government issued two Notifications both dated 09.01.2004 that, among other things, notified “Broadcasting Services” as

telecommunication service and affirmed the jurisdiction of the TRAI to regulate the said sector with regard to certain matters in addition to the powers available to it in terms of the Act. Moreover, S.O. 45 (E) issued as part of the Notification No. 39 dated 09.01.2004 in express terms entrusted the additional function to the TRAI of specifying standard norms for and periodicity of revision of rates of pay channels including interim measures.

21. The main functions entrusted to TRAI under the TRAI Act are to regulate tariff, interconnection and quality of service of telecommunications services. The regulations and orders to regulate tariff, interconnection and quality of service are issued after wide public consultations. The regulations, orders and directions to regulate tariff, interconnection and quality of service of “Broadcasting Services” sector are in place since 2004 and broadcasters are complying with the provisions contained therein.
22. Broadcasters are also required to obtain permission from Ministry of Information and Broadcasting (MIB) before broadcasting their channels in India in accordance with the Policy guidelines for downlinking of television channels dated 5<sup>th</sup> December, 2011 issued by MIB. The clause 5.10 of the said policy guidelines clearly states as under:

*“The company/channel shall adhere to the norms, rules and regulations prescribed by any regulatory authority set up to regulate and monitor the Broadcast Services in the country.”*

23. Further Rule 9 and Rule 10 of Cable Television Networks Rules, 1994 clearly empowers TRAI to specify the tariff, interconnection and quality of services standards for service providers which include broadcasters.
24. The regulatory measures taken by the TRAI have been tested time and again before the Hon’ble Courts. While, upholding the jurisdiction of the TRAI in the matter of fixation and revision of tariffs, the Hon’ble Courts have, however, thought it fit to remand the matter back to TRAI for fresh consideration in given cases. In this regard, some of the judicial pronouncements may be taken note of:-
  - (i) Shortly after the Notifications dated 09.01.2004 were issued, the TRAI in exercise of the powers conferred by section 11(2) as well as the said Notifications issued The Telecommunication (Broadcasting and Cable) Services Tariff Order 2004 freezing the rates of TV channels as on 26.12.2003. Subsequently, further orders were issued permitting hikes in the said rates. Section 2(1)(k) Proviso as well as the



aforementioned Tariff Orders came to be challenged before the Hon'ble Delhi High Court by M/s. Star India Pvt. Ltd. By a judgment dated 09.07.2007 reported as 146 (2008) DLT 455, the Hon'ble Delhi High Court was pleased to uphold the validity of section 2(1)(k) Proviso, the jurisdiction of the TRAI to regulate the "Broadcasting Services" sector and the impugned Tariff Orders themselves. The aforementioned judgment was challenged before the Hon'ble Supreme Court which rejected the challenge vide order dated 03.01.2008.

- (ii) Vide Notification dated 03.08.2006, the TRAI had prescribed a tariff ceiling of Rs.5 per pay channel per month per subscriber in the CAS Areas. Again, this was challenged before the Hon'ble TDSAT. By a judgment titled as SET Discovery Pvt. Ltd. v. TRAI & Ors. in Appeal No. 10(C) of 2006 dated 27.02.2007 in , the Hon'ble TDSAT was pleased to uphold the jurisdiction of the TRAI to fix tariff and prescribe a ceiling as well as lay down a ratio of 45:55 of distributing revenue between the broadcaster and the DPOs/LCOs. Subsequently, in Noida Software Technology Park vs. Media Pro Enterprises India Pvt. Ltd. in Petition No.295 (C) of 2014 dated 07.12.2015 – the Hon'ble TDSAT was pleased to reiterate the aforesaid pronouncement. A Statutory Appeal carried from the Hon'ble TDSAT judgment in Noida Software Technology Park vs. Media Pro Enterprises India Pvt. Ltd. was dismissed by the Hon'ble Supreme Court vide order dated 26.02.2016 in Civil Appeal No. 1446 of 2016.
- (iii) In certain other cases, the Hon'ble Courts while finding fault with the Tariff Orders issued by the TRAI have been pleased to remand the matter back to the TRAI for fresh consideration. In this regard, the judgment titled as MSO Alliance Industrial Area v. TRAI in Appeal No. 9(C) of 2006 dated 15.01.2009 and Centre for Transforming India vs. TRAI in Appeal No.1(C) of 2014 dated 28.04.2015 of the TDSAT as well as orders of the Hon'ble Supreme Court in TRAI vs. Set Discovery Pvt. Ltd. dated 28.02.2014 in Civil Appeal No.829-833/2009 and Indian Broadcasting Federation and Anr. vs. Center for Transforming India & Anr. dated 04.08.2015 in Civil Appeal No.5159-5164 / 2015 may be taken note of.

25. It is, therefore, apparent that there can be no doubt whatsoever that the TRAI has the jurisdiction to regulate the "Broadcasting Services" sector; in fact it is the stakeholders themselves who have pressed and obtained orders time and again from Hon'ble Courts

directing the TRAI to consider matters afresh including on aspects of fixation of pay channel tariff. In the circumstances, objections raised by various stakeholders to the jurisdiction of the TRAI to regulate the “Broadcasting Services” sector are clearly misconceived. This in fact is also affirmed by Rule 9 of the Cable Television Network (Regulation) Rules, 1994.

26. It has also been argued, that notwithstanding the authority of the TRAI as set out above, since the regulatory measures proposed to be undertaken would interfere with the exercise of their rights and entitlements under the Copyright Act, 1957, these measures to the aforesaid extent, therefore, are ultra vires the Act and, therefore, the powers of the TRAI. This objection has two distinct though connected heads :-

(i) The regulatory measures which mandate the provision of channels on a non-discriminatory basis to all DPOs are violative of the rights of Broadcasters under, inter alia, section 37 of the Copyright Act, 1957, as well as Article 19 (1)(g) of the Constitution. In other words, these regulatory measures unlawfully interfered with their “freedom to contract” as protected under section 37 and Article 19(1)(g).

(ii) Connected with this assertion is the contention on behalf of Broadcasters that the prescription of ceiling of tariff as well as the “must provide” regulatory measures prevents them from monetizing the content of their broadcast and the exercise of their broadcasting reproduction right under section 37 of the Copyright Act, 1957.

27. The authority has considered these objections, and after due consideration, has arrived at a conclusion that since the Copyright Act, 1957 and the TRAI Act operate in two different fields altogether, there is no question either of an overlap or a conflict as is being made out by some of the stakeholders. Whereas the Copyright Act, 1957 deals with “content” and the rights emanating from and associated with the same, the TRAI Act and the powers conferred on the authority thereunder operate in a completely distinct field inasmuch as by the regulatory measures, the authority is proposing to regulate the manner in which services are provided by the various entities in this sector and that ultimately must be for the benefit of the subscriber and growth of the industry.

28. Perhaps, the most crucial factor in the regulation of broadcasting services is the transparent declaration of rates of television channels and manner in which such services are made available to the end subscriber/viewer. Manner of offering of pay channels is, therefore,

central to effective and meaningful regulation of the Broadcasting Services. The TRAI is conscious, however, of the scope and ambit of its regulatory power is in relation to channel pricing (a-la-carte and bouquet pricing) and the correlation between pay channels being offered as a-la-carte and bouquet in order to ensure transparent and meaningful and not a forced or truncated choice to the end users/ subscribers. The TRAI does not, therefore, enter upon the domain of pricing individual components of content that comprise a pay channel, such individual components being the domain of content producers (including broadcasters) who may exploit their works under the Copyright Law, whether in the form of Broadcast Reproduction Rights or any other right.

29. With regard to the objections pertaining to 'must provide' it is relevant to mention, that these provisions that have been in existence since 2004 and in fact, were tested before the Hon'ble TDSAT in the context of various arguments of the Copyright Act, 1957 in Noida Software Technology Park vs. Media Pro Enterprises India Pvt. Ltd. The Hon'ble TDSAT was pleased to reject the aforementioned contentions and was pleased to hold that these "must provide" provisions are not in any way vitiated on account of any of the rights and entitlements of the Broadcasters under the Copyright Act, 1957 including Broadcasting Reproduction Rights under section 37 of the Act and as stated above the Statutory Appeal preferred against the Hon'ble TDSAT judgment in NSTPL was dismissed by the Hon'ble Supreme Court vide order dated 26.02.2016 in Civil Appeal No. 1446 of 2016 .
30. It has also been asserted that, notwithstanding all the above, with the amendment of Copyright Act, 1957 in 2012, the jurisdiction of the TRAI has been ousted in as much as the Copyright Act, 1957 now clearly occupies the areas that had previously been covered by the regulatory measures of TRAI i.e. by the introduction of section 33A and Rule 56 of the Copyright Rules, 2013, there is now the provision for a "tariff scheme". This arises from a flawed understanding of the distinct subject matters and areas of operation of the TRAI Act and the Copyright Act. A perusal of section 33A and Rule 56 of the Copyright Act clearly establishes that this "tariff scheme" deals with "royalty" payable to the actual owners of a copyright. This has nothing to do with the prescription of tariff of TV channels. At best, this is only another argument of monetization which, as explained above, operates in a different sphere altogether and does not in fact survive in the regulatory regime being introduced presently.
31. As such, there is no ambiguity as regards the powers entrusted to the Authority under the

TRAI Act to regulate the broadcasting and cable service providers in order to carry out the assigned mandate including that of protecting the interests of viewers of the sector. The issue of jurisdiction of the TRAI over broadcasters has been well settled by judgments of Hon'ble Courts from time to time. The power for fixation of tariff is well within the competence of the Authority with regard to broadcasters also.

32. Some stakeholders are of the view that the draft TTO does not meet the threshold of transparency mandated by Section 11(4) of the TRAI Act, 1997, as TRAI has in the past affirmatively concluded in its various prior papers and consultations that TV Channels are “esteemed” needs for viewers. According to them, the present draft TTO proceeds on the erroneous premise that Pay TV channels are essential services and there is no evidence of market failure.
33. The contention of the stakeholders is wrong and has no basis as there exist no such presumption that Pay TV channels are essential services either in the Consultation paper dated 29<sup>th</sup> January 2016 or in the draft TTO. Further it is not necessary that a regulator can regulate only essential services. There is no legal or constitutional bar or limit that only essential services can be regulated. The Parliament of India by its own wisdom has established TRAI under TRAI Act to regulate telecommunications services including broadcasting and cable services. In fact, a bare reading of Section 11(1) of the TRAI Act clears the position that TRAI has been given wide powers to regulate the Broadcasting industry without any limitation being imposed with respect to regulation of only essential services. Further, Hon'ble TDSAT in its judgment dated. 27<sup>th</sup> February 2007 in the case of Set Discovery Vs. TRAI & Others observed that:

*“Cable broadcasting may not be an essential commodity in the sense that it is not an item of food without which one cannot survive, yet looking to the figures of TV viewership in this country its importance cannot be underestimated. Available figures suggest a TV viewership of 68 million for the whole country. **This shows that television viewing has almost attained the status of an essential service in this country.**”* (emphasis provided)

34. As far as the market failure is concerned, it is a well established fact that the main purpose for which addressability introduced was to ensure transparency across the value chain and to ensure adequate choice and better quality services to subscribers at affordable rates. While the broadcasting industry has witnessed tremendous growth in the last decade in terms of increase in number of channels, exponential increase in revenues of broadcasters

and distributors of television channels but still the effective choice is not made available to the subscribers. Number of disputes among stakeholders has also grown. This indicates that all is not well within the industry. Even today, a-la-carte choice of TV channels for subscriber is illusory either because a-la-carte rates of TV channels are disproportionately high in comparison to bouquets which forces subscribers to opt for bouquets or they are simply denied the a-la-carte choice by distributors of television channels. The main reason for this cited by the distributors of television channels is the economic un-viability as they usually do not get a-la-carte channels from broadcasters simply because the wholesale a-la-carte rates of channels are too high and the bouquets are heavily discounted even to the extent of 90% of the sum of a-la-carte rates of channels. Even cursory reading of data submitted to TRAI under Register of Interconnection Agreement Regulations and RIOs by broadcasters reveals that there is a huge difference between the rates declared in RIO and the rates at which actual deals are taking place in the market. This is even acknowledged by Hon'ble TDSAT in NSTPL judgment that actual deals are happening at much lower prices than that of RIO prices, rendering the RIO as a meaningless exercise. Even after the NSTPL judgment, the RIOs submitted by broadcasters continues to have unrealistically high a-la-carte rates and heavily subsidized bouquet rates. This is forcing distributors of television channels to opt for bouquets for their economic survival and thus they are not offering a-la-carte choice of channels to the subscribers. Therefore it is evident that fruits of addressability have not been passed on to the subscribers and subscribers are not able to exercise their choice in subscribing to channels. This clearly indicates to market failure. Therefore, it was incumbent on TRAI to issue a tariff order which protects the interests of subscribers and service providers and at the same time ensures orderly growth of the sector. It is worth noting here that there is no legal bar that TRAI cannot make regulation or issue a tariff order without the evidence of market failure. Even in absence of market failure, TRAI can issue tariff orders and regulations for orderly growth of the sector and to ensure customer/ subscriber protection.

35. Some broadcasters have stated that the provisions of draft TTO will negatively impact their advertising revenues. No specific reasons as to how it will adversely impact the advertisement revenue have been indicated in the comments. As such, they wanted that TTO should be modified to protect their interests.
36. In order to understand the concerns of the broadcasters, it is important to understand the prevailing business model. Broadcasters get revenue from two streams viz advertisements

from advertisers and subscription revenue from the subscribers. The advertisement revenue directly depends on the eye balls linked with a given program. Broadcasters during discussions on tariff issue pointed out that they lack control on pricing of channels to customers. They argued that since retail level pricing remains with the distributors of television channels and they offer their channels at wholesale level to distributors of television channels, any reduction in price at wholesale level does not get passed on to subscriber impacting their power to maximize advertisement revenue. They requested the Authority to give them freedom so that broadcasters can maximize the revenue by optimizing their advertisement revenue and subscription revenue. Accordingly, the Authority, in the Tariff Order, has given flexibility to broadcasters to decide retail price directly to the customers/ subscriber in the form of maximum retail price of their channels, which is at present decided by the distributors of television channels. It will provide flexibility to broadcasters to optimise the retail price of their pay channels in such a way that they can maximise their sum of revenue from subscription and advertisements. This will also empower broadcasters to provide good quality channel or reduce the price of the channel if they so desire to enhance its viewership and get better advertisements revenues.

37. Most of the broadcasters and their associations have mentioned that in the definition of subscriber mentioned in the draft TTO differentiation between ordinary and commercial subscriber has been done away with. They have further mentioned that the TRAI has not undertaken any consultation on whether there is a need to completely do away with the distinction that legally exists between a 'commercial subscriber' and an 'ordinary subscriber'. Broadcasters have stated that the issue of commercial establishments is at odds with Copyright Laws in as much as the Copyright Act clearly provides Broadcast Organisations the right to charge differential rates of royalties and license fees on commercial establishments vis-à-vis domestic/residential subscribers.
38. The provisions relating to commercial subscribers are prescribed in Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010. However, the provisions applicable to commercial subscribers were challenged by some broadcasters in TDSAT. The petitions are pending before Hon'ble TDSAT. Accordingly the Authority has decided to continue with the provisions applicable for commercial subscribers specified in the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010. The present TTO does not deal with commercial subscriber.

39. Some stakeholders are of the view that definition of 'distribution platform' should include OTT and Doordarshan. They further suggested that definition of 'distribution platform operators' should include OTT operator, Doordarshan or any platform that distributes channels to the subscriber.
40. In this regard, this tariff order is applicable to only those distribution platforms and distribution platform operators for which any permission or license is granted by the MIB. Since OTT operators and Doordarshan are not covered under any permission or license granted by the MIB, the Authority is not in agreement with these suggestions of stakeholders as they are not covered under present framework.

### **III. Analysis of issues**

#### **A. Tariff models**

41. In chapter 4 of the consultation paper, possible tariff models were broadly categorized into three categories for a holistic re-examination of the existing business model of digital addressable TV broadcasting sector viz - Models at wholesale level, Models at retail level and integrated models. Comments of the stakeholders were solicited on these suggested models.

#### *Models at wholesale level*

42. At wholesale level, signals of TV channels are provided by the broadcasters to the distributors of television channels. Distributors of television channels receive the FTA channels free from broadcasters (Without any payment). Pay channels are provided to distributors of television channels at the wholesale prices declared by Broadcasters.
43. Various models for wholesale level tariff were suggested in the consultation paper. Most of the broadcasters favoured forbearance as their first choice as a tariff model at wholesale level. Some broadcasters favoured 'regulated RIO model' or a blend of 'regulated and flexible RIO model'. Most of the large distributors of television channels favoured 'integrated distribution model'. They further submitted that the option of bundling or packaging should not lie with the broadcasters and maximum discounts which can be provided by broadcasters on non-discriminatory basis should also be defined by TRAI. Majority of other distributors of television channels favoured 'regulated RIO model' while, a few of the DTH operators favoured 'cost-based model' at wholesale level.

### *Models at retail level*

44. At the retail level, TV channels are distributed to subscribers by the distributors of television channels either directly or through LCOs. The distributors of television channels aggregate TV channels from different broadcasters and provide them on a-la-carte and bouquets basis to the subscribers. At present the retail tariff in addressable system for both FTA and Pay channels is under forbearance i.e. the distributors of television channels are free to decide their price as per market conditions.
45. Various models for retail level tariff were suggested in the consultation paper. Most of the broadcasters favoured continuation of price forbearance at retail level. One of the broadcasters suggested exclusive a-la-carte model. Most of the distributors of television channels favoured price forbearance at the retail level. A few of the distributors of television channels have favoured integrated distribution model and exclusive a-la-carte model. One of the federations of the cable operators has favoured exclusive a-la-carte model with pay TV channels offered in different slabs and price each free-to-air channel at Re. 1/-. Consumer organizations, individuals and associations expressed mixed opinion regarding the tariff model at retail level favouring price forbearance or a-la-carte model or MRP based model.

### *Integrated model*

46. In the integrated model there are no separate wholesale and retail level tariffs. Broadcasters declare the price of their pay channels and bouquets of channels directly for customers.
47. Most of the broadcasters were not in favour of integrated distribution model. Majority of the MSOs and few DTH operators favoured integrated distribution models. They submitted that the broadcasters should provide all its pay channels on a-la-carte basis with rates of each channel directly prescribed for customers/ subscribers. They also opined that FTA channels should be bundled by the distributors of television channels and hence provided to the subscribers. Also, the option of bundling or packaging should lie with the distributors of television channels and not the broadcasters. The a-la-carte rate prescribed by the broadcasters should be consistent with the regulated genre-wise caps as decided by TRAI.

### *Manner of offering- Exclusive Pay and FTA bouquet*

48. In the consultation paper stakeholders were asked to suggest whether separation of FTA



and pay channel bouquets will provide more flexibility in selection of channels to subscribers and will it be more users friendly.

49. In response, majority of broadcasters suggested that flexibility to package channels should lie with the distributors of television channels and there should not be any separate bouquets for pay and FTA channels. They have pointed out that separate bouquets may result in higher subscription revenue to be paid by subscribers for same number of channels. Majority of distributors of television channels and associations of cable operators were in agreement with separate bouquets for pay and FTA channels for greater customer choice and transparency. A few distributors of television channels and an individual were of the opinion that it should be left to the distributors of television channels to decide.
50. After holistic examination of responses from the stakeholders, received in response to the consultation paper, the Authority proposed a tariff framework in the draft TTO. While doing so, Authority noted the concerns of all the stakeholders in the value chain expressed in written submissions in response to consultation paper or during OHD. The shortcomings of present framework were also analyzed. Accordingly, in the draft TTO it was proposed that broadcasters would declare maximum retail price (MRP) (excluding taxes) of their a-la-carte pay channels for subscribers. Broadcasters would also offer bouquets of their pay channels and declare MRP (excluding taxes) of bouquets for subscribers. However, MRP of such bouquets of pay channels would not be less than 85% of the sum of maximum retail price of the a-la-carte pay channels forming part of the bouquet. It was further proposed that distributors of television channels would charge a monthly rental amount of maximum Rs. 130/- (excluding taxes) per month from a subscriber for subscribing a network capacity of 100 SD channels. Distributors would be permitted to form their own bouquets by including only a-la-carte pay channels of different broadcasters. It was also proposed that within the capacity of 100 SD channels, in addition to channels mandatorily provided to subscribers as notified by the Central Government, a subscriber would be free to choose any free-to-air channel, pay channel, premium channel or bouquet of channels offered by the broadcasters or bouquet of channels offered by the distributor of television channels.
51. Some stakeholders mentioned that in some other countries, the Regulators take a lenient view on regulation of prices for ensuring active competition in the market and leave decisions like wholesale rates, packaging choice to market players. They further suggested that forbearance may be allowed at the wholesale level tariff as there is sufficient

competition at all levels of the pay TV industry and broadcasters should be permitted to price their channels as per market dynamics. Few stakeholders suggested that in case forbearance is offered, the rates of the channels will be market and competition driven, and actual demand and supply will control the pricing, which could lead to effective price reduction in the rates, with innovative offers.

52. The Authority has considered the views of stakeholders in this regard and is of the view that full freedom and business flexibility should be given to the broadcasters to monetize their channels. Accordingly, the Authority has decided not to prescribe genre wise ceiling on the MRP of pay channels. However, the Authority expects that the broadcasters will ensure complete transparency, non-discriminatory behavior and protection of subscriber interests while pricing their channels. It is also expected that broadcasters will price their channels reasonably and benefits of higher revenue realization due to digitisation and addressability shall be shared with subscribers also.
53. Some stakeholders suggested that TRAI should determine prices of channels on cost plus basis.
54. In this regard it is important to understand that generally a channel consists of number of the programs. The cost of the production of different programs drastically varies based on the actors, setup cost, script, copy rights, and other miscellaneous factors. The various programs in a given channel also frequently change based on their Television Rating Points (TRP), advertisement potential and other ground reports. Hence, determining the cost of production of a channel at all times is an extremely difficult process, perhaps almost impossible. Moreover, such determination of price would be dynamic in nature and may vary with change in programs in a channel. Programs on television channels change dynamically and as such it is impractical to determine the price of a television channel on cost plus basis.
55. The broadcasters have also flagged that many a times a given channel has been priced by distributors of television channels differently at different distribution platforms. It is alleged that distributors of television channels by having freedom to price a channel at retail level can influence the possibility of subscription to a channel by creating artificial price barrier whereas the broadcasters have no such control.

56. The distributors of television channels on the contrary are of the view that several channels are priced very high by the broadcasters which have no demand by subscribers at that price. However, broadcasters use their dominance or power of driver channels to force such channels to subscribers without them opting for such channels.
57. It is noticed that a broadcaster gets revenue for a channel from two visibly distinct streams, subscription and advertisements. Broadcasters usually provide popular channels for mass viewing to get large viewership of their channels and hence more revenue from advertisements. The Authority, after considering various issues, is of the view that regulatory framework should be such that a customer should be able to exercise his choice while selecting the channels at reasonable prices. While it is difficult to determine the real price of a channel, still a value perceived by a customer can be taken as true value of a channel.
58. It may not be out of place to mention that during the discussions in the Parliament on the motion for consideration of the Cable Television Networks (Regulation) Amendment Bill, 2011, the then Minister of Information and Broadcasting stated that **TRAI will establish a system wherein consumers will be free to choose a-la-carte channels of choice and they will not be required to subscribe to bouquets**. Hence, it will be in fitness of things if broadcasters prescribe the MRP of their pay channels to subscribers who should be free to choose channels of their choice. These rates will be platform agnostic i.e. uniform across the platforms (cable TV, DTH, HITS and IPTV).
59. Prescribing MRP by the broadcasters to subscribers will in a manner self regulate the pricing of pay channels as higher price will reduce the number of subscribers who will opt for such channels thereby impacting their advertisement revenue. It will provide flexibility to broadcasters so that they can optimise the price of pay channels in such a way that they can maximize their sum of revenue from subscription and advertisements. This will also give power to broadcasters to reduce the MRP of channels if they so desire to enhance its viewership.
60. In the draft TTO the broadcasters were permitted to declare different MRPs of their channels for different geographical areas. The broadcasters were also permitted to declare a channel as pay in one geographical market and as free-to-air in another geographical market.

61. On the above mentioned issue, some broadcasters are of the view that differential pricing would help broadcasters in giving discounts in the target geographical area while maintaining revenues from those geographical areas where a particular channel is popular. However, they have further mentioned that geographical area does not take into account inherent difference that exists within the same State owing to different language, preference of the subscribers in different parts of the State. They have also suggested that metro & big cities of Mumbai, Chennai, Kolkata, Hyderabad, Bangalore, Pune and Ahmadabad should be classified as separate geographical areas.
62. On the other hand, most of the distributors of television channels are of the view that MRP of a channel should be uniform across India instead of different prices across geographical areas. They have mentioned that variation in pricing on the basis of geographical area may result in discriminatory pricing. They have further stated that prescription of geographical areas in the draft TTO is not based on any study or data and these have been specified without giving any opportunity to the stakeholders to offer their comments on the same. Some MSOs are of the view that fixing of different tariff for different geographical areas will create system related issues since most of the distributors of television channels have single head-end catering to more than one different geographies. According to them it would not be possible to define and control movement of STBs from one location to another and pass on appropriate changes in tariff plans to the subscribers based on the geographical situation of the STB. They further stated that it will also be very difficult to manage and control the different rates of channels mentioned in the EPG for different geographies. DTH operators also mentioned that they do not have any mechanism to exactly know the location of the user. They are of the opinion that differential pricing on the basis of geographical areas can be misused and it may result in disputes relating to payment settlements among stakeholders.
63. The Authority noted the concerns of stakeholders regarding difficulties in providing differential pricing of channels based on relevant geographical areas. The programs of a channel across the country remain same and therefore may not be priced differently. Further, it may be difficult for DTH operators to keep differential tariffs based on geography as their all channels are transmitted throughout the country. The provisions of differential pricing of channels in different areas exists in present regulations. However, based on the reports submitted by the broadcasters to TRAI, very few broadcasters are using this provision. Accordingly, the Authority has decided to do away with the differential pricing of channels based on geographical areas. However if a broadcaster

wants to offer a lower price for a channel in a particular geographical area, he will be free to do so by offering similar discount to all the distributors of television channels in that area subject to ceiling on the discount prescribed in the interconnection regulations notified by the Authority.

64. The Authority has noted that at present the uptake of channels on a-la-carte basis is negligible as compared to the bouquet subscriptions. Analysis yields that the prime reason for such poor uptake of a-la-carte channels is that the a-la-carte rates of channels are disproportionately high as compared to the bouquet rates and further, there is no well defined relationship between these two rates. As per data available with TRAI, some bouquets are being offered by the distributors of television channels at a discount of upto 80% -90% of the sum of a-la-carte rates of pay channels constituting those bouquets. These discounts are based on certain eligibility criteria/conditions to be fulfilled by the distributor of television channels in order to avail those discounts from broadcasters. Such high discounts force the subscribers to take bouquets only and thus reduce subscriber choice. As a result, while technically, a-la-carte rates of channels are declared, these are illusive and subscribers are left with no choice but to opt for bouquets. Bouquets formed by the broadcasters contain only few popular channels. The distributors of television channels are often asked to take the entire bouquet as otherwise they are denied the popular channels altogether or given such popular channels at RIO rates. To make the matters worse, the distributors of television channels have to pay as if all the channels in the bouquet are being watched by the entire subscriber base, when in fact only the popular channels will have high viewership. In such a scenario, at the retail end, the distributors of television channels somehow push these channels to maximum number of subscribers so as to recover costs. This marketing strategy based on bouquets essentially results in 'perverse pricing' of bouquets vis-à-vis the individual channels. As a result, the customers are forced to subscribe to bouquets rather than subscribing to a-la-carte channels of their choice. Thus, in the process, the public, in general, end up paying for "unwanted" channels and this, in effect, restricts subscriber choice. Bundling of large number of unwanted channels in bouquets also result in artificial occupation of distributors' network capacity. This acts as an entry barrier for newer TV channels.
65. In order to facilitate subscribers to exercise their options in line with intention of lawmakers to choose individual channels, in the new framework the broadcasters will declare to customers/subscribers the MRP of their a-la-carte channels and bouquets of pay channels.

In order to ensure that prices of the a-la-carte channels are kept reasonable, the maximum discount permissible in formation of a bouquet has been linked with the sum of the a-la-carte prices of the of pay channels forming that bouquet. A broadcaster can offer a maximum discount of 15% while offering its bouquet of channels over the sum of MRP of all the pay channels in that bouquet so as to enable customer choice through a-la-carte offering and also prevent skewed a-la-carte and bouquet pricing (refer example 1). The bouquet(s) offered by the broadcasters to subscribers shall be provided by the distributors of television channels to the subscribers without any alteration in composition of the bouquet(s). In case a broadcaster feels that more discount can be provided in formation of the bouquet, it indirectly means that a-la-carte prices at the first stage has been kept high and there is a need to revise such a-la-carte prices downwardly. Full flexibility has been given to broadcasters to declare price of their pay channels on a-la-carte basis to correct such situations, if it may come.

66. Some stakeholders are of the opinion that limiting the discount to subscribers while forming bouquets is anti subscriber. In this regard, while the Authority wants to facilitate the availability of a-la-carte choice to customers/ subscribers, it does not intend to encroach upon the freedom of broadcasters and distributors to do business. During the discussions in the Parliament on the motion for consideration of the Cable Television Networks (Regulation) Amendment Bill, 2011, the then Minister of Information and Broadcasting emphasised the need to establish a system for subscribers to choose a-la-carte channels of choice. The Authority has also made several attempts in this regard, but for one or the other reason could not succeed. Here it is important to understand that the Authority has not been able to do pricing of channels in the absence of pricing of content. Present trends indicate that majority of channels are priced much below the prevailing ceiling, but higher ceilings were prescribed to give flexibility to broadcasters to monetise their channels and freedom to do business. Further, different channels even in the same genre may have varying cost of production and potential to monetise, but within the framework. A broadcaster may price even non-driver channels at a much higher value that they can command. Non-discovery of reasonable price of a channel in a market is one of the constraints that can be manipulated and misused to price a channel in a-la-carte from which is illusory. Such high a-la-carte prices permits broadcasters/distributors to provide high discounts to push non-drivers channels in form of bouquets to the subscribers while reducing the probability of choosing the a-la-carte channels of choice as required by the lawmakers in the Parliament. The

possibility to forcing bouquets over a-la-carte choice by using higher discounts can be further understood by following example, where a broadcaster has a total of 35 pay channels out of which only 5 are driver channels :

**Table 1: a-la-carte vs. Bouquet prices**

Channel	Discount 75%	Discount 60%	Discount 45%	Discount 30%	Discount 15%
Channel 1 a-la-carte price	19	19	19	19	19
Channel 2 a-la-carte price	10	10	10	10	10
Channel 3 a-la-carte price	12	12	12	12	12
Channel 4 a-la-carte price	5	5	5	5	5
Channel 5 a-la-carte price	4	4	4	4	4
Sum of a-la-carte prices of 5 driver pay channels	50	50	50	50	50
Sum of a-la-carte prices of 30 non-driver pay channels (@ Re 1)	30	30	30	30	<b>30</b>
Total price of 35 a-la-carte pay channels	80	80	80	80	<b>80</b>
Price of bouquet of 35 pay channels (with discount on sum of a-la-carte prices )	20	32	44	56	<b>68</b>

The above table clearly indicates that in case the amount of discount offered by the broadcaster, over the sum of a-la-carte prices of pay channels, while forming the bouquet of those pay channels is very high (75%), the price of bouquet becomes much lower than the sum of a-la-carte prices to the extent that it is almost equal to a-la-carte price of one driver channel. Such amount of discount is anti customer/subscriber as it discourages a-la-carte selection of channels. As the amount of discount on formation of bouquet decreases, the difference between the prices of bouquet and the sum of a-la-carte prices also decreases. In case the amount of discount is fixed at 15%, the price of bouquet becomes higher than the sum of a-la-carte prices of driver channels; thereby encouraging a subscriber to choose a-la-carte channels of his choice.

67. In the present regulatory framework incidences have come to the knowledge where discount upto 90% on the declared RIO prices has been given by broadcasters. Obviously such efforts kill competition and reduce a-la-carte choice which is anti-subscriber. Accordingly, the Authority has prescribed a discount of 15% to be provided by broadcasters

at wholesale level and further 15% to be provided by distributors at retail level. The net effect to subscribers at retail level will be a discount of approximately 30% on the bouquets of channels. Therefore, flexibility of formation of bouquet has been given to broadcasters and MSOs both to such an extent that total permissible discount does not kill the a-la-carte choice. The Authority has been careful in prescribing a framework which does not encourage non-driver channel to be pushed to subscribers against their choice. Non-driver channels which are provided as part of bouquets not only kill choice of the a-la-carte channels but also eat away the channel carrying capacity available with distributors which may result in artificial capacity constraints at distribution platforms for launch of new/competitive channels. Such restrictions are anti-subscriber and have to be carefully handled. Accordingly, the Authority has consciously decided the present framework of prescribing relationship between a-la-carte and bouquet prices to protect interest of customers/ viewers and as well as those of service providers. However, the Authority will keep a watch on the developments in the market and may review the maximum permissible discount while offering a bouquet, in a time period of about two years.

68. A broadcaster is free to offer its pay channels in the form of bouquet(s) to customers. While subscribing to bouquet, a customer may not be aware of the price of each channel forming the bouquet. Abnormal high price of a pay channel may result in higher price of a bouquet leading to adverse impact on subscribers' interests. It is an established fact that bundling of channels complicates and obscures their pricing. Prices are obscured because subscribers do not always understand the relationship between the bundle price and a price for each component. However, the bundling of channels offers convenience to the subscribers as well as services providers in subscription management. Keeping in view these realities and to protect the interests of subscribers, the Authority has prescribed a ceiling of Rs. 19/- on the MRP of pay channels which can be provided as part of a bouquet. Therefore, any pay channel having MRP of more than Rs. 19/- cannot become part of any bouquet. The amount of Rs. 19/- has been prescribed keeping in view the prevailing highest genre wise ceilings of Rs. 15.12 for all addressable systems between broadcaster & DPOs at wholesale level and further enhancing it 1.25 times to account for DPOs distribution fee. Broadcasters also have complete freedom to price their pay channels which do not form part of any bouquet and offered only on a-la-carte basis. Similar conditions will also be applicable to DPOs for formation of the bouquets. However, the Authority will keep a watch on the developments in the market and may review the manner in which a channel can be provided as part of a



bouquet, in a time period of about two years.

69. In the draft TTO it was proposed that a broadcaster can offer its pay channels on a-la-carte basis and in the form of bouquet also. A genre based ceiling for pricing of such channels was prescribed if such channels are proposed to be provided to subscribers as part of bouquet. In addition, in the draft TTO, it was also proposed to permit broadcasters to declare any of their channels under a separate category called Premium channels, which can be provided to subscribers only on a-la-carte basis and no ceiling was prescribed on the pricing of such channels.
70. In response some broadcasters are of the view that Premium channels and niche channels are different and only channels containing special type of content can be categorized under Premium channels. Some of them have suggested several criteria for categorization of channels under Premium channels.
71. After going through the comments of stakeholders, it appears that there is some misconception in the minds of stakeholders regarding the name of Premium channels. The intention of the Authority was to provide complete flexibility to a broadcaster to categorise any of its channel under Premium category irrespective of the genre of that channel. The only condition proposed for Premium channels was that such channels have to be provided only on a-la-carte basis throughout the value chain. This was decided to ensure that subscriber remained fully aware of price implication of such channels before opting for them. In order to overcome misconception, the Authority has decided to away with categorization of channels as Premium channels. Since broadcasters have already been given freedom to price their a-la-carte channels without any genre ceiling (refer para 52), removal of the concept of premium channel will not make any change as far as implementation on the ground is concern.
72. Some broadcasters suggested that they should be given complete flexibility to offer discounts on MRP based on subscriber demand and make promotional offers for newly launched channels.
73. The Authority, after considering the above mentioned demand of some broadcasters, has decided that broadcasters can offer promotional schemes on MRP of their a-la-carte pay channels. However, in order to prevent misuse of such schemes, the Authority has also

decided that the broadcasters are not allowed to offer any promotional scheme on bouquet of pay channels. Further, the duration of any such scheme shall not be more than ninety days at a time and such scheme shall not be offered by a broadcaster more than two times in a calendar year. The prices of a-la-carte pay channels offered under any such promotional scheme shall be considered as MRP of these channels during the period of such promotional scheme. Regulations and Tariff Orders notified by the Authority shall be applicable on the prices of a-la-carte pay channels offered under any such promotional scheme.

74. The Authority has considered the demand of distributors of television channels to let the price forbearance at retail level continue in the new framework also. The Authority has noted that distributors of television channels get channels or bouquets of channels from broadcasters within prescribed limits of discounts. In order to address this concern, the Authority has decided to continue the forbearance at the retail level and provided freedom to distributors of television channels to fix the distributor retail prices of a-la-carte pay channels for their customers by offering discount on the MRP of pay channels declared by the broadcasters. Distributors of television channels are also free to form and price the bouquets from a-la-carte pay channels of different broadcasters with a condition that the distributor retail price of such bouquet of pay channels shall not be less than eighty five percent of the sum of distributor retail prices of the a-la-carte pay channels and bouquet of pay channels formed by broadcasters forming part of that bouquet (refer example 2). Further, in order to protect customer/ viewer interests DPOs also have to ensure that any pay channel having MRP of more than Rs. 19/- cannot become part of any bouquet.
75. Some stakeholders mentioned that at the retail level no ceiling has been stipulated for distributor retail prices of the distributors of television channels vis-à-vis the MRP of the broadcasters. They are of the view that this will result in different distributor retail prices for the same channel in the same area. Some stakeholders further stated that distributors of television channels may price the channel much lesser than its MRP and thus indulge in predatory pricing to acquire market share which needs to be checked. As per them this will result in unhealthy competition in the sector and will defeat the purpose of defining prices at the broadcaster level.
76. The discount to distributors of television channels is to be given on the MRP of a channel declared by the broadcasters. Further, the Authority has prescribed a ceiling on discount that can be offered by broadcasters to distributors of television channels based on the

verifiable and nondiscriminatory parameters. Therefore, it may not be viable for a distributor of television channels to offer a discount on a channel more than the discount that it will get from the broadcaster on the MRP of that channel. The intention of the Authority while prescribing the cap on the discount is to ensure level playing field for all the DPOs and encourage competition. It is expected that DPOs while exercising forbearance will price the channels reasonably and will not indulge in predatory pricing. The Authority will keep a watch and will intervene, in case such a need arises. Next issue relates to monetization of investment in distribution networks.

77. Distributors of television channels have made significant investment in establishing and maintaining their networks which is independent of the broadcaster's requirements. Additional investment is further needed in the distribution networks to expand their reach and upgrade their capabilities to provide multi-media services including the broadband. In addition, distributors of television channels have to carry out various tasks such as subscriber management, billing, complaint redressal, collection of subscription revenue etc. In the present framework distributors of television channels do not have any fixed source of revenue and to a large extent depends on the revenue share earned from the pay channels of broadcasters distributed on their networks to subscribers. In order to recover network cost, distributor of TV channels also price the FTA channels to subscribers. The Authority has noted that in several cases the price of FTA channels notified to subscribers is higher than the prices of some pay channels. This is a wrong practice in principle. Broadcasters of FTA channels feel that such pricing to subscribers is detrimental to their business model which is totally dependent on advertisement revenue. Such prices to view FTA channels reduce the viewership, directly impacting the advertisement revenue. As a result, chances of mutual mistrust and litigations increase in value chain. Therefore, the Authority is of the view that the distributors of television channels should have dedicated sources of revenue, independent of revenue share from pay channels' subscription revenue. Accordingly, the Authority has decided to separate the charges for TV channels and network. This will ensure reasonable rate of return on investments in the existing distribution networks as well as ramp up further investment to ensure better quality of service to the subscribers.
78. In draft TTO it was proposed that distributors of television channels would charge a monthly rental amount of maximum Rs. 130/- (excluding taxes) per month from a subscriber for subscribing to a network capacity of 100 SD channels.

79. In response to the draft TTO some broadcasters have mentioned that no rationale has been given for fixing a price for Rs. 130 /- as the price for basic tier. They are of the view that the rental amount should be reduced because cost of transmission reduces with increase in number of subscriber and also the cost of other activities like subscriber management, billing, complaint redressal, call centre, etc., will reduce over time. On the other hand most of the distributors of television channels have supported the prescription of rental amount. Some of them have suggested that instead of prescribing a ceiling rental amount, it should be fixed at Rs. 130/-. Few distributors of television channels have suggested that rental amount should be fixed at Rs. 130/- and a maximum discount of 15% may be allowed. Some distributors of television channels have suggested a rental amount should be Rs. 200/- . One stakeholder has suggested for changing the term rental amount to Minimum Subscription Fee or Basic Subscription charges or Basic Tier Fee as the term rental creates confusion with the rental amount for STB.
80. The Authority agreeing with the demand of stakeholders decided to rename the Rental amount as 'Network Capacity Fee' because the distributor provides a network capacity which a subscriber utilises to receive the signals of subscribed television channels. As per data available, the Authority noted that the cost of carrying 100 SD channels by a distributor of television channels comes to approximately Rs 80/- per month and cost of other activities like subscriber management, billing, complaint redressal, call center etc comes out to be approximately Rs. 50/- per month. Accordingly, the Authority has permitted the distributors of television channels to charge a maximum fixed amount of upto Rs 130/- per month, excluding taxes, from its subscribers towards its distribution network cost to carry 100 SD channels. A subscriber may request for additional network capacity in bundles or lots of 25 SD channels at a rate of Rs 20/- per month, excluding taxes, for subscribing to distribution network capacity for carrying more than 100 channels. This accounts for additional bandwidth cost by distributors of television channels.
81. The Authority has further noted that the Average Revenue Per User net of payments made to broadcasters for their pay channels per month for some distributors of television channels at present is approximately Rs 100/-. The Authority in the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010 has mandated the MSOs to offer a package of a minimum of one hundred free-to-air channels as basic service tier (BST) and specify a minimum monthly subscription, not exceeding one hundred rupees (excluding taxes) per subscriber. The price of BST has never been

questioned by any stakeholder so far. If we estimate the current price of BST applying the GDP deflator prepared by the World Bank, it comes out to be Rs. 110/-. The Authority has further noted that in Phase-III and Phase-IV areas, large number of small MSOs are providing services who have smaller networks and cater to small number of subscribers. In order to protect the interests of such MSOs, the amount of Rs. 130/ has been prescribed for Network Capacity Fee for the capacity of initial one hundred channels. In order to provide flexibility to distributors of television channels and protect the interests of customers/viewers the ceiling of Rs. 130/- has been prescribed. Distributors of television channels are free to fix Network Capacity Fee below this ceiling. However, the Network Capacity Fee will be agnostic to the type of the channel carried over the network. It cannot vary based on the channels subscribed by a subscriber. The Authority will keep a watch on the developments in the market and may review the ceiling on the Network Capacity Fee in a time period of about two years.

82. Now the issue will come as to how network capacity of HD channels will be counted. According to industry estimates, on an average, one HD channel occupies a bandwidth that would otherwise accommodate 2 SD channels with appropriate compression processes in place. Accordingly, the Authority has decided that in case a subscriber subscribes to an HD channel, it will be considered equivalent to two SD channels for the purpose of counting of channels capacity. For example, in case a subscriber opts for capacity of 100 SD channels and subscribes to 1 HD channel, than he will get maximum 98 SD channels and 1 HD channel (1HD channel = 2 SD channels) in subscribed capacity. In case a subscriber subscribes to 2 HD channels, than he will get 96 SD channels and 2 HD channels (2HD channels = 4 SD channels).
83. The flexibility of packaging of channels at retail level is presently given to distributors of television channels. However, it is primarily being influenced by the broadcasters. The entry level bouquets are formed by distributors of television channels with both FTA and pay channels. Such formation of bouquets and restricted availability of a-la-carte channels due to higher prices has worked against the interest of the subscribers. Further, subscribers are not able to choose channels according to their choice. Here it is important that one of the primary objectives of digitalization is to serve the subscriber interest better, giving them better quality signals and more choice of the channels at a reasonable price. In view of above, the Authority has decided that subscribers should have freedom to choose the channels, both FTA and pay channels or combination of pay channels and FTA, of their

choice other than mandatory channels of Prasar Bharti.

84. In the present framework customers are generally provided with bouquets of channels. They do not have adequate information about all the channels available on distributors of television channels network and their prices. As a result customers are not able to take an informed decision and exercise their choice in selecting the channels of their choice. In order to protect the interest of customers/ subscribers, the Central Government enacted the Consumer Protection Act 1986, the clause 6 of which lists out the six basic rights the consumers. The clause 6 of the Consumer Protection Act 1986 is reproduced below.

*“6. **Objects of the Central Council.**—The objects of the Central Council shall be to promote and protect the rights of the consumers such as,—*

*(a) the right to be protected against the marketing of goods and services which are hazardous to life and property;*

*(b) the **right to be informed** about the quality, quantity, potency, purity, standard and **price of goods or services**, as the case may be so as to protect the consumer against unfair trade practices;*

*(c) the **right to be assured**, wherever possible, **access to a variety of goods and services at competitive prices**;*

*(d) the right to be heard and to be assured that consumer's interests will receive due consideration at appropriate forums;*

*(e) the right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers; and*

*(f) the right to consumer education.” (emphasis provided)*

85. In order to ensure that consumers get adequate information about all the channels available on the network of distributors of television channels and their prices enabling them to make informed choice, the Authority has decided that broadcasters shall publish the MRP of their pay channels on their website, report to the Authority and also inform to all the distributors of television channels. It is also decided that such MRP will be visible to all the subscribers in the Electronic Program Guide (EPG), details of which are discussed in the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017.

86. It may be possible that some customers/subscribers may not find it convenient to choose channels of their choice. Distributors of television channels interact with customers/subscribers either directly or through LCOs and are aware about their choices and interests. Therefore, distributors of television channels will be able to form bouquet(s) from the a-la-carte pay channels obtained from different broadcasters which suit the

requirement of customers/subscribers. Distributors of television channels are also permitted to package bouquet(s) of the pay channels from different broadcasters to form a bigger bouquet of pay channels. The Authority has also permitted the distributors of television channels to form their bouquets containing a-la-carte pay channels and bouquets of pay channels offered by broadcasters. However, a distributor of television channels shall not break a bouquet of pay channels, offered by a broadcasters in any condition either while offering bigger bouquet, or to make two or more smaller bouquet(s) of pay channels at distribution level for subscribers.

87. Many a times a subscriber does not know that FTA channels are given to distributors of television channels free of cost whereas subscription fee has to be given for pay channels only. When a bouquet contains both pay and FTA channels, customers/subscriber may not be able to appreciate the price difference due to lack of information. This need to be addressed. Accordingly, the Authority has decided that bouquets of pay channels and FTA channels have to be provided separately i.e. there can be no bundling of pay and FTA channels together both at the broadcaster as well as at the distributor of television channels level.
88. A subscriber will be free to choose any channel on a-la-carte basis out of the pay and FTA channels of different broadcasters available on the network of the distributor of TV channels. In addition to such a-la-carte choice, a subscriber will also be free to choose any bouquet of pay channels offered by a broadcaster or any bouquet of pay channels formed by distributor of TV channels from pay channels of different broadcasters or any bouquet formed by distributor of TV channels from FTA channels of different broadcasters or a combination thereof. This will ensure increased choice at effective prices. Here it is important to mention that subscribers will not be charged, other than the Network Capacity Fee, either by the broadcaster or distributors of TV channels for subscribing to any a-la-carte FTA channel or bouquet of FTA channels available on the network of the distributors of TV channels.
89. Some DTH operators have raised the issue of non-level playing field and mentioned that the draft TTO effectively proposes to equalize all distributors of television channels, while overlooking their varied investments, scales of operation, QoS, service levels, costs, regulatory levies & taxation, innovation, efficiency of operation, categories of products, etc. They have also stated DTH operators due to high input costs will only result in losses. They suggested that the DTH operators ought to have flexibility to fix their tariffs for their

network in such a way that they can plan the recovery of the capex/opex they have made.

90. In this regard it is mentioned that the DTH operator while making the argument that the input cost is higher to them compared to MSOs, had ignored the fact that MSO also incurs cost of developing ground infrastructure and engaging with LCOs and handles manpower on the ground infrastructure. Moreover, every technology is having its own advantages and disadvantages. It is pertinent to mention that while DTH operators use expensive transponder space then they also get the advantage of coverage and acquire subscriber base in any part of country whereas MSOs require to deploy and maintain the ground infrastructure that caters subscribers across the length and breadth of its service area involve huge efforts. At the end of the day both systems are addressable systems and they serve the same purpose. Further, it is observed that no DTH operator furnished cost figures in support of their argument at the stage of consultation on draft TTO despite specifically appealed in it. The Authority has given enough flexibility to distributors of television channels to innovate while protecting the interest of the customers. As such the prescribed ceilings have taken into consideration the cost of both the systems and leave enough margins to compete.
91. Though the Authority has prescribed the ceiling on network capacity fee, it expects that such ceilings will be in operation for a limited period. The Authority will keep a watch on the developments in market and once there is effective competition, it may consider deregulation and do away with the ceilings on network capacity fee in a time period of 3 to 4 years.

#### **B. Rationalization of genres**

92. The Authority in the draft TTO proposed to retain the following seven genres for the purpose of fixation of genre price cap:
- (i) General Entertainment
  - (ii) News and Current Affairs
  - (iii) Infotainment
  - (iv) Sports
  - (v) Kids
  - (vi) Movies
  - (vii) Devotional
93. In response to the draft TTO some stakeholders are of the view that provision of genre will kill innovation and will force the broadcasters to develop channels only in limited areas as



defined in given genre. Some other stakeholders submitted that Music should be retained as separate genre as Music has a huge viewership share which is bigger than news and sports. Some other stakeholders suggested that there should be more additions in the categories of genre list such as Music, Regional, Business News and International etc.

94. The Authority has prescribed different genre to facilitate broadcasters to classify their channels in appropriate genre so that subscribers can scroll such channels easily. However, considering the view of the stakeholders against prescribing any genre in tariff framework, the Authority has decided to do away prescription of the genre in TTO.

#### **C. Ceiling on Genre price**

95. As discussed earlier in para 52, the Authority, after considering the comments of stakeholders in response to draft TTO, has decided not to prescribe any ceiling on the prices of pay channels.

#### **D. Premium channels & pricing**

96. As already discussed in para 71, the Authority, after considering the comments of stakeholders in response to draft TTO, has decided to do away with the categorization of pay channels as Premium channels.

#### **E. HD channels pricing**

97. As discussed earlier in para 52, the Authority has decided not to prescribe any ceiling on the prices of pay channels including HD channels. The Authority has prescribed that any channel having MRP more than Rs 19/- will not be permitted in any bouquet made by either broadcasters or the DPO to take care of obliquely pushing any high price channel into the bouquet. As such, price of the HD channels will get regulated as per the market demands and based on the subscriber choice.

#### **F. Channel visibility on Electronic Program Guide (EPG)**

98. Provisions related to channel visibility on EPG are prescribed in detail in QoS and Interconnection Regulations.

#### **G. Variants or Cloned Channels**

99. In the consultation paper comments of stakeholders were sought on the issue of definition

and need for regulation of variant or cloned channels.

100. Majority of broadcasters are not in favour of regulating variant or cloned channels. They have opined that variant or cloned channels does not hamper subscriber interests as they have been introduced to cater different mass/class of population and to increase the reach of channels of broadcasters. They have further suggested that by regulating variant or cloned channels, TRAI would thereby be regulating content of channel which falls outside the purview of TRAI. On the other hand, some of the broadcasters are in favour of regulating variant or cloned channels with no separate charges for the channels having same content but multiple audio feed. One has suggested that the HD channels may however be exempted from the provisions of any such clause.
101. Distributors of television channels have submitted that variant or cloned channels should be clearly defined and it should definitely encompass two channels offering same or almost similar content in multiple languages. They believe that the subscribers should be able to make choice based on his preference of region, language, SD or HD mode and thus, variant or cloned channels may not be placed in the same bouquet.
102. One individual has suggested that two or more channels which has 60% of the same content and two or more channels offering same or almost similar content but in multiple languages should be categorized as a 'cloned channel'. Customers/subscribers should have the freedom to subscribe to any one variant of the cloned channels and should not be forced in same bouquet.
103. Presently variant or cloned channels are placed in the same bouquet of channels as original channel, thereby burdening the subscribers with additional tariffs. At present, no regulatory framework exists to check such activities. The Authority does not want to regulate the cloned or variant channels at present. However, it is desirable that broadcaster or distributor of TV channels should not bundle a cloned channel with the original channel in the same bouquet and, the customers/subscribers should have the option to select language based on his/her preference.

#### **H. Pay-per-program viewing and tariff options**

104. In the consultation paper, stakeholders were asked to suggest whether the option of Pay-

per-program viewing (PPV) be made available to the subscribers and if so, whether the tariff of such viewing be regulated.

105. In response most of the stakeholders including broadcasters and distributors of television channels are not in favour of pay-per-viewing option. They suggested that it is not feasible to implement PPV because it will be difficult for the broadcasters and the MSOs to keep track in reference to such volatile changes.
106. While, some stakeholders believe that pay-per-program viewing should be allowed as it gives subscribers better choice and flexibility and, it may be an innovative way of introducing new programs. Distributors of television channels favouring pay-per-program viewing have suggested that it is technically feasible to implement and the price will be less than the monthly a-la-carte price of the channel. These stakeholders suggested that the PPV service should be left on forbearance and the Authority may intervene on case-to-case basis.
107. Digitalization has enabled implementation of value-added services (VAS) such as video-on-demand (VOD), pay-per-view, pay-per-program etc. Pay-per-program viewing will enable greater subscriber choice and flexibility. This may be conducive for a subscriber who wishes to selectively view only a particular program of his choice on a particular channel, which he may not have otherwise subscribed either on a-la-carte or as a part of a bouquet. This may also enable distributors of television channels and broadcasters to derive higher ARPUs.
108. Presently, the value-added-services are not very popular among the customers/ subscribers. Hence, pay-per-programming seems a forward looking approach for ensuring greater customers/subscribers choice. Moreover, as pointed out by majority of the stakeholders, there will be an additional cost associated with it for increased investments in technology and manpower. In view of the above, the Authority is of the view that there is no need to regulate pay-per-program viewing at present as it is at a nascent stage and, the industry may provide option to customers/ subscribers at an appropriate time when the stakeholders including subscribers and the infrastructure are ready to implement pay-per-program viewing.

## **I. Significant Market Power**

109. In the consultation paper stakeholders were asked to suggest whether there is a need to identify significant market power. The stakeholders were also asked to suggest the criteria for classifying an entity as a significant market power.
110. Most broadcasters aver that the issue of identifying SMP's is in the purview of Competition Commission of India (CCI) and there is no need for TRAI to do so. Further that CCI provides adequate safeguards for preventing anti-competitive behavior. A few broadcasters however do favour the idea of SMP identification and have suggested criteria to identify SMPs. A few distributors of television channels submitted that there is no need to identify SMPs while the others do believe that such a distinction be made. Some distributors of television channels have suggested that vertically integrated entities in the distribution sector be subjected to additional regulation.
111. Apart from regulating the broadcasting and cable services, protecting the interest of service providers and customers/ subscribers, it is also duty of TRAI to facilitate competition, promote efficiency and ensure a level playing field. It must be borne in mind that one of the many objectives and purposes of TRAI and its various Regulations is to promote competition. The Authority has noted that the monopolistic behavior of significant market power is well demonstrated both by few broadcasters as well as few distributors of television channels. However, the Authority is prescribing a new framework for broadcasting sector relating to television and therefore does not want to indentify and regulate the significant market power at present. The Authority will keep a watch on the developments after implementation of new framework and in case any monopolistic behavior of significant market power is observed or brought to its notice, the Authority may intervene in future.

### **Example 1**

**(Refer para 65 of explanatory memorandum)**

#### **Determination of maximum retail price of Bouquet formed by the Broadcaster**

1. Suppose, there are 10 pay channels (Ch-1 to Ch-10) offered by a broadcaster.
2. Suppose, the maximum retail price (MRP) of the pay channels declared by the broadcaster for the subscribers are as under:-
  - Ch-1= Rs. 5/-
  - Ch-2= Rs. 3/-
  - Ch-3= Rs. 4/-
  - Ch-4= Rs. 6/-
  - Ch-5= Rs. 7/-
  - Ch-6= Rs. 2/-
  - Ch-7= Rs. 1/-
  - Ch-8= Rs. 3/-
  - Ch-9= Rs. 4/-
  - Ch-10= Rs. 5/-

Sum of MRP of these 10 channels is Rs. 40/-

3. In case the broadcaster offers a bouquet of these 10 pay channels then MRP of such bouquet will not be less than 85 % of the sum of MRP of these 10 channels i.e.  $Rs. 40 \times 85/100 = Rs. 34/-$

## Example 2

(Refer para 74 of explanatory memorandum)

### Determination of distributor retail price of bouquet formed by the distributor of television channels

1. Suppose, a distributor of television channels offers a bouquet of 10 pay channels (Ch-1 to Ch-10) offered by a broadcaster.
2. Suppose, the maximum retail price (MRP) of the pay channels declared by the broadcasters for the customers and their distributor retail price declared by the distributor of television channels are as under:-

S. No.	Maximum retail price of channels declared by broadcasters (in Rs.)	Distributor retail price of channels declared by the distributor of television channels (in Rs.)
1	5	4.50
2	6	5.50
3	8	7
4	6	5
5	7	6.50
6	8	7
7	10	9
8	12	10
9	9	8
10	4	3.50
<b>SUM</b>		<b>66</b>

3. In case the distributor of television channels forms a bouquet of these 10 channels then distributor retail price of such bouquet will not be less than 85 % of the sum of distributor retail prices of these 10 channels i.e.  $Rs. 66 \times 85/100 = Rs. 56.10$

## **EXPLANATORY MEMORANDUM**

### **TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES (EIGHTH) (ADDRESSABLE SYSTEMS) TARIFF (AMENDMENT) ORDER, 2017 DATED 30.03.2017**

1. The Telecom Regulatory Authority of India issued the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 on 3<sup>rd</sup> March, 2017 to provide the tariff framework applicable to broadcasting services relating to television provided to subscribers, through addressable systems, throughout the territory of India. Clause 3 of the principal Tariff Order was required to be implemented after thirty days from the date of its publication in the Official Gazette.
2. TRAI received representations from some stakeholders wherein it is mentioned that section (b) of sub-clause (3) of clause 1 of the principal Tariff Order stipulates that clause 3, which mandates that broadcasters have to declare the nature and MRP of pay channels, will come into effect after 30 days from the date of publication of this Order in the Official Gazette. They have also mentioned that on the other hand as per Regulation 7(1) of the Telecommunication (Broadcasting and Cable) Services (Addressable Systems) Interconnection Regulations, 2017, every broadcaster has to publish its RIO within 60 days from the date of publication of these regulations in the Official Gazette. They have further mentioned that it is not clear where will broadcasters declare the nature and rates of channels as RIOs are required to be published within 60 days. They have requested the Authority to remove the ambiguity with regards to schedule for declaration of nature and MRP of pay channels, and publishing of RIO.
3. Having considered the above mentioned facts and in order to harmonize the provisions relating to implementation of the clause 3 of the principal Tariff Order and regulation 7(1) of the Telecommunication (Broadcasting and Cable) Services (Addressable Systems) Interconnection Regulations, 2017, TRAI has found it necessary to re-determine the dates for implementation of the clause 3 of the principal Tariff Order.
4. In addition, in sub-clause (2) of clause 10 of the principal Tariff Order, the Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff Order, 2010 has been mentioned as the Telecommunication

(Broadcasting and Cable) Services (second) (Addressable Systems) Tariff Order, 2010 due to typographical error. The same error has been corrected.

5. Accordingly, sub-clause (3) of clause 1 and sub-clause (2) of clause 10 of the principal Tariff Order dated the 3rd March, 2017 have been amended.



## **EXPLANATORY MEMORANDUM**

### **TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES (EIGHTH) (ADDRESSABLE SYSTEMS) TARIFF (SECOND AMENDMENT) ORDER, 2020 DATED 01.01.2020**

#### **Introduction and Background**

1. TRAI on 3<sup>rd</sup> March, 2017 notified the new regulatory framework to ensure orderly growth of the Broadcasting and Cable TV Sector after a consultation process that lasted for more than one and a half year. This was necessitated by the complete digitization of Cable TV networks in India. The framework comprised of following Tariff Order and Regulations:
  - i. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (Tariff Order 2017)
  - ii. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 (Interconnection Regulations, 2017)
  - iii. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (QoS Regulations, 2017)
  
2. Collectively the three determinations completely overhauled the regulatory framework for the Sector of the analogue era. The process of implementation of this framework started on 29<sup>th</sup> December 2018. Given the size and structure of the Sector and the nature of changes that the new framework may warrant in the systems and business relations of the stakeholders, the Authority was well aware of the fact that there could be some transient problems for the new framework to settle for the gains from it to be fully visible. Therefore, in normal course, any relook of its working in a short term was not expected though rigorous monitoring was required. The Authority had extensive interactions with the stakeholders, especially, consumers and consumer organizations as a part of this monitoring process which indeed highlighted certain issues, mostly related to tariffs. The Authority felt that some of these issues need to be looked into on priority in the overall interest of consumer.

3. The Authority issued a Consultation Paper on ‘Tariff related issues for Broadcasting and Cable services’ on 16<sup>th</sup> August 2019, seeking comments and suggestions from different stakeholders, on certain tariff related issues which the Authority felt, may require some kind of ironing out and pivotal in achieving the overall objective of the framework notified in March 2017. Comments and counter comments received from stakeholders were placed on TRAI’s website. This was followed by an open house discussion in New Delhi on the 18<sup>th</sup> October 2019.
  
4. The Authority had broadly posed the following issues for consultation:
  - A. Discount structure on bouquet pricing
  - B. Ceiling price of a channel for inclusion in a bouquet,
  - C. Need to form bouquets by Broadcasters/Distributors
  - D. Number of bouquets offered by Broadcasters/Distributors
  - E. Number of channels in initial NCF of Rs 130
  - F. NCF for multi TV home
  - G. Discounts on Long term subscriptions
  - H. Promotional offers by DPOs
  - I. Flexibility in offering NCF
  - J. Placement of channels in EPG

### **Analysis of Issues**

#### **A. Discount structure on Bouquet pricing**

5. In the Tariff Order 2017, the Authority had prescribed a maximum discount of 15% that a broadcaster could offer while forming its bouquet of pay channels over the sum of MRPs of all the pay channels in that bouquet. The prime reason for prescribing the maximum permissible discount on the MRP of a bouquet was to enable consumer choice through a-la-carte offering and prevent skewed a-la-carte and bouquet pricing.
  
6. As mentioned in the consultation paper, the Hon’ble Madras High Court declared that the capping of price of bouquets at 85% of the sum of a-la-carte prices of the pay channels, as

provided for in the third proviso to clause 3(3) of the Tariff Order 2017, is arbitrary and un-enforceable. However, Hon'ble Madras High Court upheld the power of TRAI to regulate the broadcasting services. An appeal was filed in Hon'ble Supreme Court against the judgment of Hon'ble High Court of Madras in this matter. Hon'ble Supreme Court in its judgment dated 30.10.2018 while considering the limited question of TRAI's powers to regulate broadcasting services, inter-alia observed that subscribers are forced to take bouquets if the a-la-carte rates of the pay channels are much higher. In this regard, Para 37 of the judgment dated 30.10.2018 is reproduced below:

*“37. It can thus be seen that both the Regulation as well as the Tariff Order have been the subject matter of extensive discussions between TRAI, all stake holders and consumers, pursuant to which most of the suggestions given by the broadcasters themselves have been accepted and incorporated into the Regulation and the Tariff Order. The Explanatory Memorandum shows that the focus of the Authority has always been the provision of a level playing field to both broadcaster and subscriber. For example, when high discounts are offered for bouquets that are offered by the broadcasters, the effect is that subscribers are forced to take bouquets only, as the a-la-carte rates of the pay channels that are found in these bouquets are much higher. **This results in perverse pricing of bouquets vis-à-vis individual pay channels. In the process, the public ends up paying for unwanted channels, thereby blocking newer and better TV channels and restricting subscribers' choice. It is for this reason that discounts are capped. While doing so, however, full flexibility has been given to broadcasters to declare the prices of their pay channels on an a-la-carte basis. The Authority has shown that it does not encroach upon the freedom of broadcasters to arrange their business as they choose. Also, when such discounts are limited, a subscriber can then be free to choose a-la-carte channels of his choice. Thus, the flexibility of formation of a bouquet, i.e., the choice of channels to be included in the bouquet together with the content of such channels, is not touched by the Authority. It is only efforts aimed at thwarting competition and reducing a-la-carte choice that are, therefore, being interfered with.....”**(emphasis provided)*

7. While recognizing the need for prescribing a cap on the sum of the a-la-carte price of the channels forming part of the bouquet, Hon'ble Supreme Court did not pass any order in this regard. TRAI filed an SLP before the Hon'ble Supreme Court challenging the above said decision of the Hon'ble Madras High Court, however, the same was dismissed as withdrawn on 03.01.2018 by the Apex Court.

8. In view of the above, the present regulatory framework has been implemented without any cap on permissible discount on the sum of a-la-carte prices of pay channels forming a bouquet as provided for in the third proviso to clause 3(3) of the Tariff Order 2017. Though the Tariff Order 2017 was implemented without any cap on maximum permissible discount, it was expected that broadcasting industry would be adequately address the concerns of the subscribers while declaring the prices of their a-la-carte channels and bouquet of channels.
9. In order to ensure that prices of the a-la-carte channels remain reasonable, the maximum discount permissible in formation of a bouquet was linked to the sum of a-la-carte prices of the of pay channels forming that bouquet. A broadcaster was allowed to offer a maximum discount of 15% while forming its bouquet of channels over the sum of MRP of all the pay channels in that bouquet so as to enable customer choice through a-la-carte offering and also prevent skewed a-la-carte and bouquet pricing. In case the amount of discount offered by the broadcaster, over the sum of a-la-carte prices of pay channels, while forming the bouquet of those pay channels is very high, the price of bouquet becomes much lower than the sum of a-la-carte prices to the extent that it is almost equal to a-la-carte price of a single popular channel. As the amount of discount on formation of bouquet decreases, the difference between the prices of bouquet and the sum of a-la-carte prices also decreases.
10. However, the experience so far has demonstrated an altogether undesirable trend, that of a-la-carte rates of popular pay channels constituting the bouquet were kept at ceiling price by the broadcasters giving huge discounts on formation of bouquets with a view to force customers to subscribe bouquets only. This very disappointing tendency considerably reduced the legitimate right of consumers to choose channels on a-la-carte basis as well. One can say that while technically a-la-carte rates of channels are declared to comply with the regulatory provisions, these are illusive, and customers are left with no choice but to opt for bouquets. Huge discounts are offered on bouquets coupled with high a-la-carte prices of popular channels make it appealing to consumers to go for bouquets and making the a-la-carte choice of the popular channels a less attractive option. This marketing strategy has gone to the extreme of some broadcasters pricing some of their bouquets equal to or even less than the MRP of a single but popular channel present in that bouquet. **(Refer Annexure I)**

11. In order to find a suitable solution to this problem, the stakeholders were invited to express their views on whether there is a need to reintroduce a cap on discount that can be offered by the broadcasters on price of bouquet vis-a vis sum of a-la-carte prices of pay channels forming part of the bouquets of the broadcasters and if so to suggest the appropriate methodology to work out a permissible discount and the value of such discount.
  
12. In response, some stakeholders, mostly broadcasters, expressed that there is no need to reintroduce a cap on maximum permissible discount on sum of a-la-carte channels forming part of bouquets. Broadcasters and their Association have given detailed submissions in support of their views. Main arguments put forward by them are as follows:
  - (i) Bundling of TV channels creates economic value and higher operational efficiencies for broadcasters and has reduced monthly bills and given more choice to consumers
  - (ii) When a 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.
  - (iii) Provisions relating to cap on discount have already been subjected to judicial review, wherein it has been held that the cap on discount is arbitrary and unworkable.
  - (iv) The judicial finding on the provision was not on the quantum of the discount, but on the cap on the discounts on MRP of bouquet of channels.
  
13. On the other hand, some stakeholders, mostly MSOs, are in favor of reintroduction of cap on discount while forming bouquets by broadcasters. Main arguments put forward by them are as follows:
  - (i) Cap is to protect the interests of subscribers and distributors,
  - (ii) Cap on the discount on bouquets will drive the broadcasters to rationalize both a-la-carte prices and bouquet prices.
  - (iii) The maximum discount that a broadcaster can offer on bouquet pricing be capped at 25%, while some other stakeholders suggested a cap of 10% on sum of a-la-carte rates of channels forming the bouquet.

(iv) In order to ensure that the prices of the a-la-carte channels have a direct-correlation with the price of the bouquets being offered by the broadcasters, thereby leading to appropriate pricing of the a-la-carte channels, twin condition which was introduced by TRAI at wholesale level in 2007, should be introduced with suggested modification at retail level as given below:

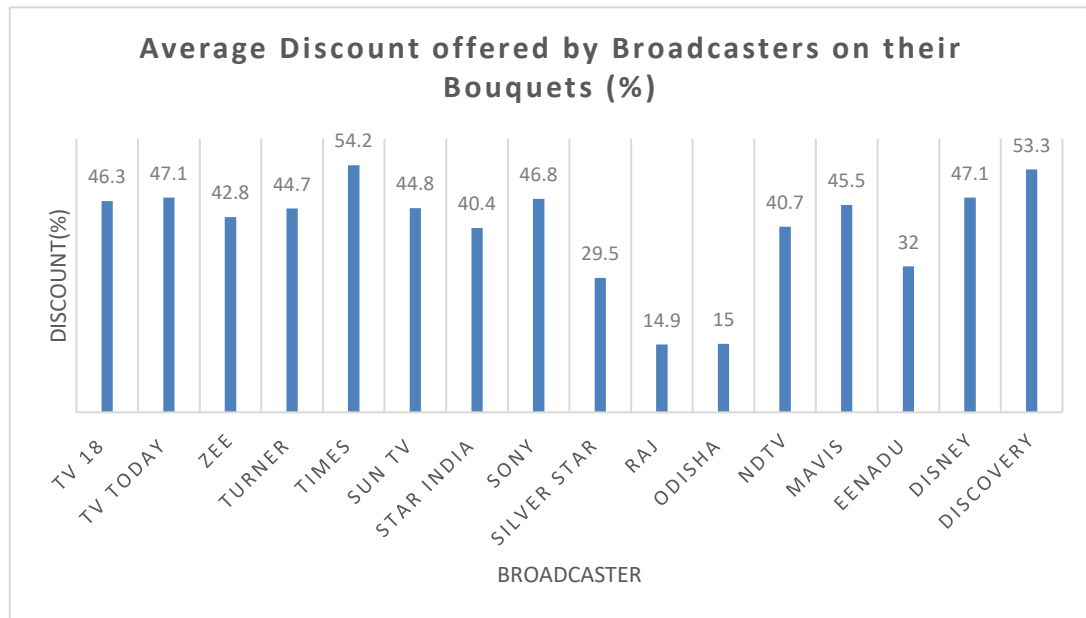
“a) the maximum retail price per month of such bouquet of pay channels shall not be less than eighty five percent of the sum of maximum retail prices per month of the a-la-carte pay channels forming part of that bouquet; and

b) the a-la-carte rates of each pay channel, forming part of such a bouquet, shall in no case exceed one and half times the average rate of a pay channel of that bouquet of which such pay channel is a part.”

14. One individual has also suggested reintroduction of following revised Twin Conditions:
  - i. The sum of a-la-carte rates of all channels comprising the bouquet should not be more than 1.25 times the MRP of the bouquet.
  - ii. The a-la-carte rate of each channel which comprises a bouquet should not be more than 2 times the average a-la-carte rate of the channels which are part of the bouquet.
15. Some stakeholders suggested that there is no need to change any of the provisions of the tariff order including the provision of discount on sum of a-la-carte channels forming part of bouquets offered either by the broadcaster or the DPOs.
16. One individual expressed the view that discounts should not be allowed either by broadcasters or by DPOs as these are being used to camouflage pushing of unwanted channels into bouquet and forcing consumers to cough up more money. Another individual suggested that all pay channels should preferably be offered to consumers on a-la-carte basis only without any discount, at least for an initial period of 1 year.
17. The Authority has analyzed the data submitted by the service providers post implementation of the new regime and has observed that the uptake of channels on a-la-carte basis continues to be low as compared to the bouquet subscriptions. Analysis yields that such poor uptake

of a-la-carte channels could be attributed to disproportionately high rates of a-la-carte channels in comparison to bouquet rates comprising these channels. No well-defined relationship between these two rates exists in the new framework. As per data available with TRAI, some bouquets are still being offered at a discount as high as 70% of the sum of a-la-carte rates of pay channels constituting these bouquets.

18. Figure 1 below shows that the average discounts being offered on various bouquets of major broadcasters are in the range of 40-54 percent:



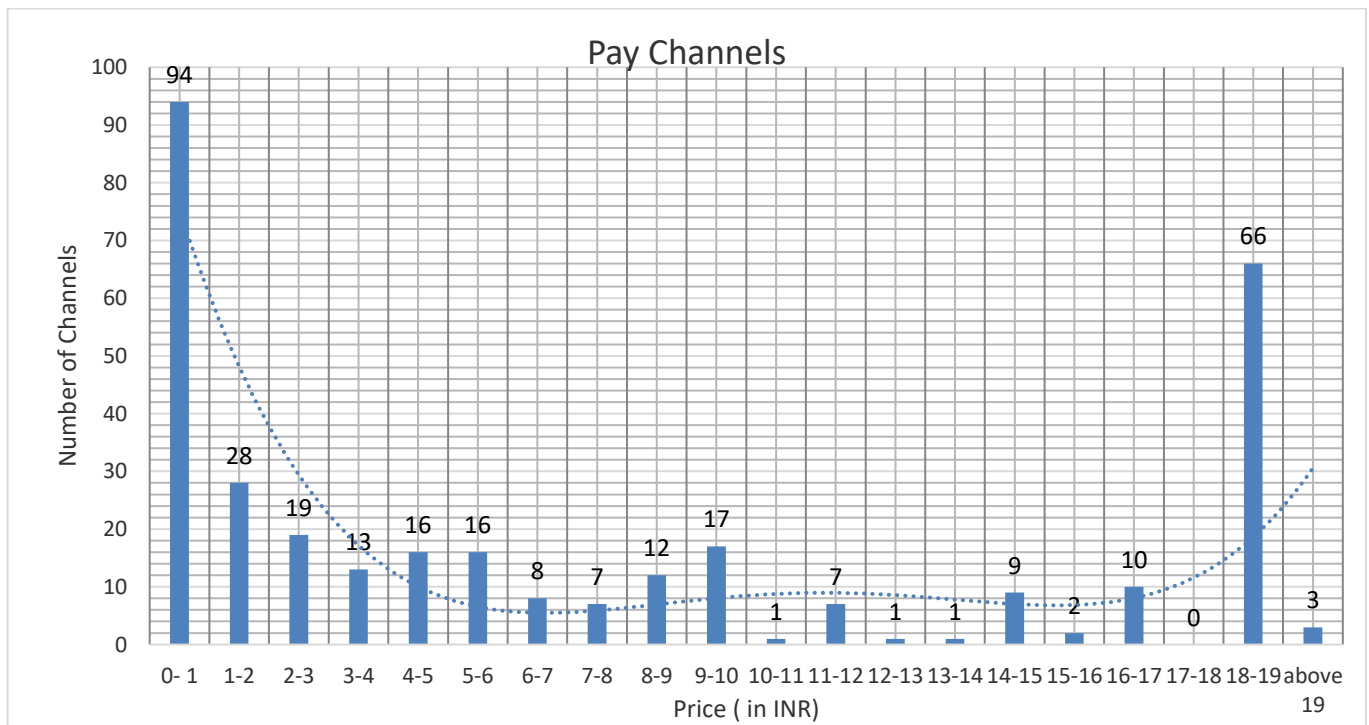
**Figure 1: Average discount offered by broadcasters on their bouquets**

19. The Authority also analyzed the viewership of the channels forming part of most popular bouquets subscribed by subscribers to find out whether subscribers are viewing all the channels in such bouquets. The viewership data obtained from Broadcast Audience Research Council (BARC) shows that only few popular channels in such bouquets are being viewed by subscribers and other channels have insignificant viewership in comparison, thus establishing the fact that not all channels even in popular bouquets are equally wanted or watched by subscribers. Apparently, the formation of bouquets by broadcasters is generally not based on consumer demands/choice.

20. In the new framework, broadcasters are given complete flexibility to decide prices of their a-la-carte pay channels and minimal conditions on formation of bouquets. The Authority did not place any cap on pricing of individual TV channels so that broadcasters could concentrate more on improving the content quality of TV channels. Table in **Annexure-II** provides the comparison of prices of channels under old regulatory framework (RIO rates of channels offered to DPOs) and new regulatory framework (MRP of channels) and percentage change therein. In the Table the wholesale prices (RIO rates of channels offered to DPOs) declared by broadcasters in the old framework have been multiplied by a factor of 1.25 in order to account for the 20% of MRP as mandatory distribution fee to be given by broadcasters to DPOs in the new framework. It may not be out of place to mention here that in the old regime broadcasters used to give 80-90 percent discount over RIO prices while offering their bouquets to DPOs. The data indicates that though prices of several channels have been reduced, some of the SD channels, notably the popular ones, have seen multifold increase in prices. This has apparently been the part of the ploy to incentivize subscription of bouquets, over a-la-carte subscriptions and hurt consumer interests.
21. Broadcasters have declared MRP of the popular channels at the maximum permissible limit of Rs19/- so that these qualify to be the part of a bouquet and then bundle such channels along with number of other channels, mostly low priced and less demanded channels. By following this business model, the broadcasters gain in maximizing their reach even for not so popular channels, while also increasing their subscription revenues. On the flipside, this perverse pricing strategy renders the a-la-carte subscription of the channels meaningless for the consumers. Consumers end up subscribing to channels not of their choice, but as a compulsion and even paying for those channels which they are not inclined to watch or may even take note of. This in effect results in increase in their monthly payout for subscription of TV channels, apart from losing out on choice with free will.
22. The Authority noted that the marketing and business strategies of the broadcasters in general, have failed to give due consideration to overall objective of the new tariff regime, the spirit of the judicial decision upholding the regime, and the consumer interests that they are bound to respect.



23. Some small broadcasters during discussions have also expressed their concerns about heavy discounts being given on the sum of prices of a-la-carte channels while forming the bouquets, by broadcasters offering large number of channels. They stated that broadcasters offering large number of channels use the power of their popular channels and resort to heavy discounts to push their not so popular channels as a part of bouquets to subscribers, resulting in a non-level playing field. The ability of some broadcasters, offering large number of channels, to form bouquets and offer huge discounts on such bouquets is forcing small broadcasters either to exit from the market or convert their pay channels to FTA channels for survival. This fact has been substantiated to some extent by the data available with the Authority. While broadcasters offering large number of channels have converted their FTA channels to pay channels at token prices, generally less than a rupee per month in many cases whereas some smaller broadcasters have converted their pay channels to FTA during same period.



**Figure 2: Range of prices of Pay channels**

24. As may be observed from the figure 2, out of the existing 330 pay channels, 94 pay channels have been priced lower than or equal to INR 1.00. However, these channels are being clubbed with the popular channels of Rs. 19/-, so that these can be pushed to the subscribers.

As there is no restriction on the spread of prices of channels in a bouquet as of now, broadcasters are tactfully forming their bouquets which comprise many low priced but less popular channels and very few very high priced but popular channels. Thus channels having wide variation in their a-la-carte prices are being clubbed together in a bouquet resulting in illusory pricing of pay channels to subscribers.

25. Authority recognizes that bundling of services and products in various forms are widely practiced across sectors and markets. It is also accepted that bundling of products and services, if done in a fair manner, can create economic efficiencies, reduce operational expenses, provide consumers with wider choice and access to products and services. However, overall analysis of the present scenario leads to the conclusion that the offering of bouquets by broadcasters, as is being done now, is generally depriving the consumers of their basic right to choose channels and have been designed to better serve the commercial interests of the broadcasters.
26. The Authority further observed that broadcasters are also offering discount of 15% as an incentive on subscription of certain minimum subscription of bouquets of pay channels to DPOs. As DPOs are getting this additional incentive, their commercial interests too are aligned with the broadcasters to push such bouquets over the a-la-carte choice to subscribers. While these incentives are available to DPOs and help in pushing broadcasters' bouquets to consumers, the benefit is not being passed on to the consumers. The Authority is not against the offering of bouquets. However, it cannot be at the cost of the freedom of consumers to choose channels in a manner which they may like.
27. Many of the above concerns were shared with the stakeholders by the Authority in the consultation paper. Broadcasters and their Associations, who have significant interests in the Sector and key industry players, have submitted well-articulated views, mostly countering concerns expressed by consumers and their groups. They have also expressed disagreements with some of the inferences drawn by TRAI from the analysis of data, as indicated in the consultation paper. The Authority has carefully considered their submissions with an open mind. The Authority appreciates and is in general agreement with their submissions on the need to have regulatory stability and continuity, the importance of having access to diverse

views given the plurality of our society, irrespective of popularity or widely acceptance, economic benefits of bouquets, consumer behaviour, parallel with other information/entertainment mediums, ease of doing business etc. However, consumers right to choose is paramount and TRAI as a body mandated by a Statute cannot allow a situation where a business practice takes precedence over that right.

28. Broadcasters sometimes argue that discounts offered by them on bouquets are in the interests of consumers and any intervention by TRAI restricting them from offering such discounts will go against consumer interests. This argument looks very appealing on the face of it. Regulator should not be objecting to any measure serving the best interests of the consumers. However, the market reality does not lend credibility to this stand of the broadcasters. The data relating to pricing of channels post implementation of the new framework establish that the leading broadcasters have inflated a-la-carte prices of their popular channels first, and then the so called discounts are offered in bouquets on these inflated prices, as a larger business strategy to maximise their revenues. Had the real intention of such players was to offer fair prices and choice to subscribers, they should have adopted a fair a-la-carte pricing for their popular channels as well. Therefore, the most pressing argument of broadcasters in support of their pricing strategy for bouquets belies the facts and market reality.
29. The Authority has carefully assessed the situation and the submissions/suggestions by the stakeholders. For addressing the consumer concern, the possible options could be (i) to regulate or cap a-la-carte prices of channels; or (ii) to place reasonable restrictions on the formation of bouquets, without affecting the flexibility of the market players, either on pricing of channels or packaging channels in bouquets.
30. Prescribing a cap on discount while forming bouquets is in line with the observation of the Hon'ble Supreme court in para 37 of its judgement dated 30.10.2018, which is already reproduced in para 6. Here it is worth noting that prescribing cap on discount while forming a bouquet is not anti-consumer. A cap can be prescribed to ensure that a-la-carte prices declared by the broadcasters are reasonable on one hand and protect the consumers' right to choose channels of their choice on a-la-carte basis on the other hand. However, the Authority has decided not to reintroduce the cap of fifteen percent at this juncture for two reasons.

Firstly, the Authority also agree with the views expressed by stakeholders including broadcasters about the need for having regulatory stability, allowing flexibility in pricing, wider choice of channels for consumers etc. Secondly, so are the complexity of factors involved, it is extremely difficult, if not impossible, to arrive at an ideal number as cap on discounts on bouquets offered by the broadcasters. None of the stakeholders, including those who supported a cap, could suggest a scientific method to arrive at that single figure, so as to ward off or to stand the test of a legal challenge, on the ground of arbitrariness.

31. In the absence of a scientific method to arrive at a single figure to operate as a cap on discounts and it's possible impact on the regulatory framework already rolled out as expressed by the stakeholders, the other option before the Authority is to identify a method that can establish a link between bouquet prices and a-la-carte prices, that can strike a balance between the right of broadcasters to price the channels and right of consumers to choose channels as a bouquet or on a-la-carte basis. As pointed out by certain stakeholders, the Authority noted that there has been an industry accepted method, linking prices of individual channels and bouquets which was in vogue for a considerable time.
32. In the analogue era, broadcasters were making channels available at wholesale level to DPOs, and not directly to customers as at present. During that period, the tariff order dated 4<sup>th</sup>October 2007 had prescribed a relationship, between a-la-carte rates of TV channels forming part of bouquet and bouquet rates provided by the broadcasters to the distributors at the wholesale level, in the form of following 'Twin Conditions':
  - a) the sum of the a-la-carte rates of the pay channels forming part of such a bouquet shall in no case exceed one and half times of the rate of that bouquet of which such pay channels are a part; and
  - b) the a-la-carte rates of each pay channel, forming part of such a bouquet, shall in no case exceed three times the average rate of a pay channel of that bouquet of which such pay channel is a part.
33. The above conditions were prescribed to ensure that an effective a-la-carte choice was available to distributors without being handicapped by perverse pricing of bouquets by broadcasters at the wholesale level. The present situation is similar, with individual

subscribers taking the place of DPOs. This methodology was well accepted to the industry, they adhered to the twin conditions and this was in vogue till the Tariff Order 2017 came into effect. This being a tested and accepted method by the stakeholders and the problem at hand is of similar nature, the Authority has decided to adopt these twin conditions to link the prices of broadcaster bouquets and its constituent channels.

34. Adoption of the above conditions will not affect the flexibility of broadcasters to form bouquets as the flexibility to decide MRP of channels and bouquets continue to rest with them.
35. Accordingly, in the Tariff Order it has been prescribed that the broadcasters shall ensure that
  - (a) the sum of maximum retail prices per month of the a-la-carte pay channels forming part of a bouquet shall in no case exceed one and half times of the maximum retail price per month of such bouquet; and
  - (b) the maximum retail price per month of any a-la-carte pay channel, forming part of such a bouquet, shall in no case exceed three times the average maximum retail price per month of a pay channel of that bouquet:

It has been clarified that if the maximum retail price of a bouquet is Rs. 'X' per month per subscriber and there are 'Y' number of pay channels in that bouquet, then the average maximum retail price per month of a pay channel of the bouquet shall be Rs. 'X' divided by 'Y'.

36. Further, as noted above, in some cases, the price of a bouquet is less than the price of a single channel in that bouquet. No subscriber will opt to subscribe a channel on a-la-carte basis when a bouquet inclusive of that channel is on offer at a price below the MRP of that single channel. This clearly indicates that the price of single channel has been fixed higher to manipulate choice of such channels on a-la-carte basis. Therefore, in order to curb such practices, apart from twin conditions, it is also necessary that broadcasters should not be allowed to price a bouquet at less than the a-la-carte price of any of the constituent channels of such a bouquet. A suitable provision to this effect has been incorporated in the Tariff Order.

37. Now by the virtue of twin conditions, the Authority expects that there will be a rational relationship between the prices of the bouquets and channels and choice of consumers between these two options will be a real and informed one. There cannot be a case for existence of any provision for artificial incentivising of bouquets. Hence, broadcasters shall not be permitted to give any discount for adoption of bouquets to DPOs in 15% category as permitted in Interconnection Regulations 2017. This will pave way for the DPOs to play a neutral facilitator's role to ensure that consumers get real choice to choose channels, either on a-la-carte-basis or on bouquet basis. The requisite modification to this affect will be carried out in relevant interconnection regulations. Discount of 15% as incentive will continue to be available to DPOs for a-la-carte channels.
38. The Authority expects that bringing in a time tested and industry accepted methodology will strike a reasonable balance between the interests of all stakeholders as:
- (i) The broadcasters retain the flexibility to devise and offer innovative and attractive packages/bouquets of channels.
  - (ii) The flexibility to notify MRP of channels rests with broadcaster. The broadcaster has the flexibility to reduce MRP of channels at any point of time to facilitate lower rates for a bouquet consisting of such a-la-carte channels.
  - (iii) The 'Twin Conditions' oblige the broadcaster to extend a proportionate reduction in MRP of pay channels offered in the bouquet if it wants to reduce the bouquets rates further. Such reduction in the MRP of channels shall be applicable across all bouquets and would benefit the consumers at large.
39. The Authority will continue to keep close watch on the formation of bouquets after application of twin conditions, its impact on the market, and will take further suitable measures if situation so warrants.
40. On the review of cap on discount permissible to DPOs while forming the bouquet, some stakeholders suggested that cap should be reviewed and DPOs should be free to offer

discount while forming the bouquet depending on ground situations and business requirement.

41. Another view put forward is that, in order to maintain a level playing field both broadcasters and DPOs should be allowed to offer the same level of discounts while forming the bouquets. According to them at present, since the linkage/discount formula has not been implemented at the broadcaster level, the corresponding linkage/discount formula at the DPO level should also be done away with. Some other stakeholders suggested that there is no need to review the cap on discount by DPOs while forming the bouquet in order to avoid any predatory pricing.
42. The Authority has noted that in the new framework DPOs have flexibility to fix the DRP of pay channels with a condition that DRP of a channel should not be more than the MRP of that channel declared by the broadcaster. In case DPOs want to offer further discount on the bouquets, they can meet this objective by reducing the DRPs of pay channels forming the bouquet. Accordingly, the Authority has decided to continue with the cap of 15 % on maximum discount permissible to DPOs while forming their bouquets of pay channels.

**B. Ceiling price of channels for inclusion in bouquet,**

43. In the consultation paper, stakeholders were asked to provide their comments whether the ceiling of Rs. 19/- on MRP of an a-la-carte channel to be part of a bouquet need to be reviewed and in case they support review of ceiling, they were also asked to suggest an appropriate ceiling.
44. In response, broadcasters, in general, are not in favor of review of the ceiling of Rs. 19/- on MRP of an a-la-carte channel to be part of a bouquet. They are of the view that it is a reasonable amount which a broadcaster can expect as subscription charges in view of very high content cost and other operational expenses. Some of them suggested that any such review should be carried out at least two years after implementation of new framework as mentioned in the Explanatory Memorandum of Tariff Order 2017. They stated that the prices of all a-la-carte channels declared by broadcasters result from complex interplay of

consumer preferences and demand. They further mentioned that consumers have exercised a-la-carte options for all channels priced between INR 0.1 and INR 19/-.

45. Some other stakeholders are also not in favour of any ceiling on MRP and have mentioned that a price ceiling or price control of any nature is abhorrent to a free and competitive economy. They are of the opinion that so long as the bouquet price correctly reflects the a-la-carte pricing of channels, the channels can be priced at whatever rate the broadcasters feel that their content is valued at.
46. On the other hand, some stakeholders, mostly DPOs, are in favor of review of the ceiling of Rs. 19/-. They mentioned that there should be reasonable parity between a-la-carte and bouquet pricing and the ceiling on the MRP of a-la-carte channels to be part of a bouquet serves the purpose of controlling the unreasonable pricing of the bouquets as well as of a-la-carte channels.
47. They further submitted that post implementation of DAS, when the broadcasters were given freedom to price their a-la carte channels under 2012 Regulations, , most of the channels, with the exception of few sports channels, were priced below Rs.10/-. They suggested that the appropriate ceiling should be a maximum of Rs. 10/- as there has been no change which necessitated such drastic jump/change in the price of channels by the broadcasters.
48. Some stakeholders suggested that the current ceiling may be reduced to Rs. 12/-, as it will harmonize bouquet prices and will offer even more value to the consumers. While some other stakeholders are of the view that from historical data the rates for most popular channel works out to be less than Rs.15/-.
49. The Authority in the Tariff Order 2017 prescribed a ceiling of Rs. 19/- on the MRP of pay channels which can be included in a bouquet. The amount of Rs. 19/- was prescribed, considering that in the previous regime, the highest genre wise ceiling on wholesale price was Rs. 15.12 between broadcaster & DPOs. This price was enhanced by 1.25 times to account for DPOs distribution fee in the new regime. It was expected that the prices would be regulated by the market forces based on the demand of channels or Television Rating



Points (TRP). However, as explained in detail earlier, broadcasters in general have declared the MRP of their most popular channels (mainly GEC and sports) at the ceiling price of Rs. 19/- which is much higher than prices declared in earlier regime. Prices of many SD channels which were much below Rs.19 in the previous regime have been increased to the ceiling price of Rs.19 so that they can be part of a bouquet in order to maximize their revenue (**refer Annexure II**). These channels have further been bundled with several low priced channels in a bouquet and bouquets have been priced in such a way that consumers prefer to opt for a bouquet instead of opting for a high priced popular channel on a-la-carte basis thereby rendering a-la-carte choice of a consumer meaningless. This fact is reflected in the subscription data of pay channels on a-la-carte basis and as a part of bouquets provided by the DPOs to the Authority. It indicates that subscription of most popular channels on a-la-carte basis is less than 10% compared to bouquet based subscription. This yet again brings out the impact of artificial disparity created by the broadcasters in a-la-carte channel and bouquets prices misusing their freedom to price. On one hand, the a-la-carte prices have been increased, but on the other hand huge discounts on bouquets have been given to ensure that consumers choose only bouquets. This clearly worked against the interests of consumers as a-la-carte choice has been reduced and thereby increasing the effective cost to the consumers.

50. Presently there are 330 pay channels out of which prices of 66 pay channels have been declared at Rs 19/- by the broadcasters. Recently, prices of 28 pay channels have been reduced to Rs 12/- from Rs 19/- by four broadcasters under the promotional schemes. The fact remains that large number of channels are still priced at Rs 19/- in the new regime ostensibly not because of cost factors, but to take undue advantage of a flexible regulatory provision. This is evident from the comparison of prices in new regime vis a vis previous regime.
51. In this context, it is relevant to recall that in the earlier framework, while declaring their RIO rates, broadcasters were required to declare genre of a channel, from amongst the ones defined by TRAI. The Authority had prescribed a genre-based ceiling on prices of pay channels subject to inflation linked hikes. All the broadcasters were required to declare the rates of pay channels to DPOs in accordance with the applicable genre-ceilings. The broadcasters were adhering to these ceilings while declaring rates of their pay channels. The

price of most of the popular channels, barring sports channels, declared by the broadcasters under that regime was below Rs. 10/-.

52. While framing the existing regulatory framework, the Authority had issued a draft Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2016 on 10<sup>th</sup> October 2016. In order to have continuity, the Authority in the said draft order had proposed that the then prevailing genre ceiling should be continued. Accordingly, the Authority, after accounting for the distribution fee of 20% on the MRP, proposed the following genre-based ceiling for MRP of pay channels to customers.

**Table 1: Genre-based ceiling for MRP of pay channels proposed in the Draft Tariff Order 2016**

<b>S. No.</b>	<b>Genre of Channel</b>	<b>Proposed ceiling on maximum retail price</b>
1.	GEC	12.0
2.	Infotainment	9.0
3.	Movies	10.0
4.	Kids	7.0
5.	News and Current Affairs	5.0
6.	Devotional	3.0
7.	Sports	19.0

53. Thus, the ceiling of Rs. 19/- was for sports channels only. Maximum ceiling for other genres including GEC was Rs. 12/-. However, in the final tariff order, the Authority did not prescribe genre wise ceiling on the MRP of pay channels with a bonafide expectation that broadcasters would price their channels reasonably and benefits of higher revenue realization due to digitization and addressability would be shared with subscribers. Instead, the broadcasters raised the prices of their popular channels, in utter disregard to consumer interests, to Rs 19/- even for non-sports genre, so that such channels could still become part of a bouquet and simultaneously their revenue could also be maximized. This has caused severe adverse impact on consumer interests. Figure 2 given above indicates how channels have been priced by the broadcasters in the new framework.

54. As may be observed, out of the existing 330 pay channels, 94 pay channels have been priced lower than or equal to Rs. 1/-. The MRP of 66 channels which are generally popular (mainly GEC and sports) have been declared at the ceiling price of Rs. 19 by the broadcasters. It may not be out of place to mention that price of 55 channels have been increased manifold. The Authority also noted drastic reduction in prices of HD channels, yet again, with the sole intention that these channels could be included in bouquets (**Annexure II**). This indicates that the channel prices on a-la-carte basis are being fixed with a view to push more and more channels in the bouquets in complete disregard to consumer interests and the overall objective of the new regime.
55. The Authority noted that allowing Rs. 19/- as ceiling on MRP for a channel to be part of a bouquet did not work well, as Rs. 19/- (Rs. 15.12\*1.25) was the maximum price of any SD channel in the previous regime. Rs. 19/- should be considered as a price for niche/premium channels and such niche/premium channels should not at all be allowed to be the part of any bouquet. Consumers choice should be taken for subscription of such channels. The Authority is of the view that bouquet should be formed by bundling channels which are affordable and are in similar price brackets. If high value channels are allowed to be the part of the bouquets, the basic objective of the framework that the niche channel should only be given to the consumer on his free will, will be defeated. As all top 4-5 broadcasters have priced their niche channels at Rs 19/-, the consumers are compelled to subscribe to either the bouquet or the niche channels, resulting in more payout from consumers in either case.
56. It has also been observed that many channels that were FTA in the earlier framework have been converted into pay channels and priced at token amounts for the simple reason that under the new regulatory framework FTA channels are not allowed to be part of a bouquet of pay channels. Few examples of such channels are given in table 2 below:

**Table 2: Channels converted from FTA to PAY**

<b>S.No</b>	<b>Name of the Channel</b>	<b>MRP (Rs.)</b>
<b>1</b>	Living Travelz	0.1
<b>2</b>	NDTV India	1.0
<b>3</b>	Big Magic	0.1
<b>4</b>	Big Ganga	0.5

5	SONY Wah	1.0
6	Star Utsav	1.0
7	Star Utsav Movies	1.0
8	News 18 Tamil Nadu	0.1
9	News 18 Kerala	0.1
10	News 18 Assam / North East	0.1
11	News 18 India	0.1
12	Rishtey	1.0
13	Zee Anmol Cinema	0.1
14	Zee Anmol	0.1
15	Zee Hindustan	0.1
16	Zee Bihar Jharkhand	0.1
17	Zee News	0.1

57. The unfair pricing strategy of the broadcasters has lent credibility to a viewpoint that Rs.19/-, the present ceiling, should be brought down to control the unfair market behavior in order to protect the interest of consumers. It is a fact that niche channels are watched by a limited number of subscribers, while GEC channels are generally popular and watched by most of the families in the country along with other channels. Rs.12 was the ceiling price for GEC channels in the previous regime and therefore the Authority finds merit that Rs.12/- would be a more logical ceiling price for a pay channel to be part of any bouquet. If a channel is carrying premium program, it can be priced higher by the broadcasters, and leave it to the discretion of the customers to opt for it or not. For example, the sports channels, which are generally priced high, have a very different class of viewership and viewing patterns and are generally episodic and event specific. The clubbing of such channels with GEC, coupled with pricing flexibility given in the Tariff Order 2017, gives manipulative edge to the broadcasters to influence consumers choice against their interests.
58. Accordingly, in view of the above and to protect the interests of consumers, the Authority decided that (a) the ceiling on the MRP of any channel to be part of a bouquet should be Rs. 12/- and (b) the freedom of broadcasters to declare MRP of their channels should continue.

**C. Need to form bouquets by Broadcasters/Distributors**

59. On the issue of need to form bouquets by broadcasters / distributors, some stakeholders including broadcasters and DPOs are of the view that formation of bouquets should be left to market without any regulatory intervention. The main arguments made out in favour of this view are listed below:
- (i) restriction on the formation of bouquets would be akin to restrictions imposed on newsprint which were held to be unconstitutional and in violation of fundamental rights protected under Article 19(1)(a) and 19(1)(g).
  - (ii) the number of bouquets reflects the vibrancy of the Indian populace, the diversity of Indian cultures and languages leading to diversity of content preference and tastes of TV households in India. Therefore, putting a limit on the number of bouquets may not be practically viable and would amount to putting a limit on the choice of consumer.
  - (iii) restriction on the number of bouquets will restrict entry of new channels, channels of a smaller broadcaster.
  - (iv) broadcasters have already formed appropriate number of bouquets as they were mindful that creating more complex bouquets to choose from, would be to their own peril, as it could lead to consumer confusion and subsequent dropping of channels.
  - (v) for convenience of consumers, bouquets could be made as per target market vis-à-vis geography, language, age mix etc.
60. On the other hand, some stakeholders including individuals and LCOs and their association are of the view that formation of bouquets should be done away with. The main arguments made out in favor of this view are listed below:
- (i) Very purpose of introducing DAS (which is empowering the customers to choose channels of their choice and ushering in transparency in the business ecosystem) is negated by allowing bouquets.
  - (ii) Bouquet formation inadvertently stymies competition, as the channel/s of smaller and independent broadcaster gets edged out of the channel line-up.
  - (iii) Broadcasters' & Distributors' bouquets have made the consumer feel helpless in selecting specific channels of their choice.

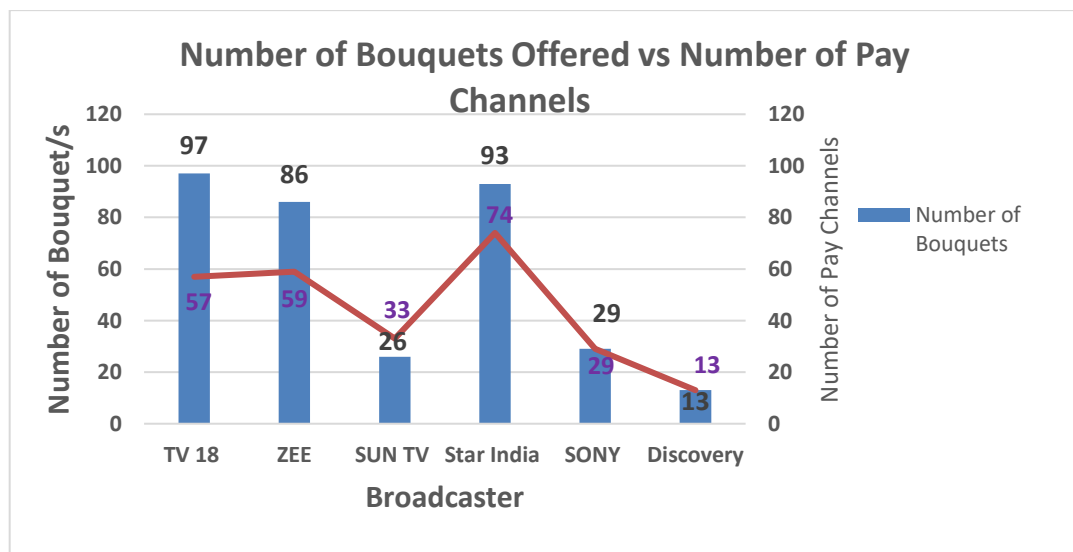
61. It may be recalled that purpose of allowing the bouquets was to reduce the burden on subscribers in selecting individual channels and also give reasonable discount over the sum of prices of a-la-carte channels while they were selecting bouquets. While the Authority wants to facilitate the availability of a-la-carte choice to consumers, in order to protect their interests, it does not intend to encroach upon the freedom of broadcasters and distributors to do business in a fair manner. Having mandated couple of new measures to provide effective choices to consumers, as explained in the preceding paras, the Authority at present does not want to bar offering of bouquets either by broadcasters or distributors. However, the Authority will keep a watch on the developments in the market and may review this decision, if a need arises in future.

**D. Number of Bouquets offered by Broadcasters/ Distributors**

62. On the issue of limit on number of bouquets offered by broadcasters / distributors, some stakeholders are of the opinion that there is a need to limit the number of bouquets in proportion to the number of channels of a broadcaster. They suggested that no two bouquets should have more than 60-70% similarity in terms of composition and that no channel should form part of more than 30% of the bouquets in the relevant market. In their view channels of different genres and different languages should not be placed in one single bouquet.
63. Some stakeholders suggested that the broadcasters should not be allowed to form bouquets more than 20% of the total number of channels offered by them and the same formula should be applicable to the DPOs. While some other stakeholders suggested that number of bouquets that a broadcaster and a DPO can offer should not exceed 25% of the number of channels. Some stakeholders have pointed out that apart from making the consumer choice difficult, a large number of bouquets also cause unnecessary burden on IT and billing systems of the DPOs. Offering of large number of bouquets by broadcasters defeats the very purpose of ensuring consumer choice as envisaged in the new regulatory framework and also results in inconvenience to consumers as well as to the DPOs.
64. A few stakeholders suggested that in order to ensure that unwanted channels are not pushed to the consumers, formation of bouquets should be based on the a-la carte price of the

channels forming part of the bouquet e.g. channels with a-la-carte price between Rs. 0.01 to Rs. 7/- should be kept in one bouquet; channels with a-la-carte price between Rs. 7.01/-- Rs. 12/- should be kept in a separate bouquet; and channels with a-la-carte price between Rs. 12.01/- Rs. 19/- should be kept in a separate bouquet.

65. The primary aim of the new framework was to facilitate consumer choice and provide them freedom as to what they want to choose for their viewing and pay only for those channels. As the number of channels are very large, it was envisaged that consumers may not be very comfortable initially in selecting the channels of their choice, due to large scale disparity in consumer awareness, their ability to use IT systems, understanding of new framework etc. Therefore, the Authority permitted formation of bouquets of channels both by broadcasters and DPOs so that considering the normal requirement of the consumers these bouquets can be formed which will facilitate choice of the consumers, reduce the burden of subscribers in selecting individual channels and in some cases can also give reasonable discount over the sum of prices of a-la-carte channels if they select bouquets.
66. The Authority analyzed present offerings of bouquets by the broadcasters, it has been observed that broadcasters are offering large number of bouquets of their channels. Figure 3 indicates the number of a-la-carte pay channels and bouquets of channels being offered by major broadcasters including their group companies.



**Figure 3: Number of Bouquets offered vs. number of Pay channels**

67. Major broadcasters have declared 97, 86, 26, 93 & 29 bouquets while number of pay channels offered by them are 57, 59, 33, 74 & 29 respectively. It is evident from above that the number of bouquets offered by broadcasters is large and such offerings are bound to create confusion in the minds of consumers. It will be difficult for any consumer to make an informed and prudent choice from amongst such a large number of bouquets and a-la-carte channels.
68. There are already around 900 a-la-carte channels and having no restriction on number of bouquets could encourage broadcasters to continue with formation of more and more new bouquets. Mathematically  $2^n$  bouquets can be formed by n available channels. Apart from making the consumers' choice difficult, a large number of bouquets also cause unnecessary burden on IT and billing systems of the DPOs. It will create huge complications and make consumer choice extremely difficult. For these reasons, there is a need to have some reasonable restrictions on number of bouquets that can be formed by broadcasters. without taking away their flexibility to offer customized packages catering to needs of all sections of the Society.
69. There could be several yardsticks for devising suitable control – bouquets based on markets/ regions; review and withdrawal of bouquets based on subscriptions; cap on number of bouquets based on number of channels offered by broadcasters.
70. Formation of a bouquet is nothing but bundling of a number of channels together and offering value for money for the consumers. Therefore, it does not make much sense if number of bouquets of pay channels offered by a broadcaster exceeds the number of pay channels offered by a broadcaster. Hence, the Authority is of the considered opinion that the number of bouquets of pay channels offered by a broadcaster at any given point of time should not be more than the number of pay channels offered by that broadcaster on a-la-carte basis. In case any broadcaster desires to offer higher number of bouquets, they may approach the Authority with a detailed proposal giving cogent reasons for doing so. The Authority may consider it on case to case basis, keeping in view the consumer interests. The Authority would like the broadcasters to undertake periodical review of their bouquets based on the subscriber uptake to avoid a situation of too many bouquets on offer without any value proposition to consumers.



71. Now the question arises whether there is a need to restrict the number of bouquets offered by DPOs to subscribers. It is important to understand that DPOs are required to make the bouquets from large number of a-la-carte channels/bouquet of channels, offered by different broadcasters, on the basis of taste and preference of millions of their subscribers. Prescribing any restriction on number of bouquets may not be desirable in the larger consumer interest and may hinder the innovative ways of offerings to subscribers. Therefore, The Authority is not prescribing any cap on the number of bouquets offered by DPOs to subscribers. This is in line with the consistent stand of the Authority not to intervene, as long as the consumers interests are not adversely affected by any action of Service Providers.

**E. Number of channels for NCF of Rs 130/-**

72. In the Tariff Order 2017, the NCF of maximum Rs. 130/- was prescribed for carrying 100 SD channels. It has been observed that some DPOs are offering a large number of FTA channels free of cost to the subscriber without taking any additional NCF. Accordingly, in the consultation paper, comments of stakeholders were invited on whether the limit of one hundred channels for the prescribed NCF of Rs. 130/- to be increased and, If so, how many channels should be permitted for the NCF of Rs. 130/-.

73. In response, Authority has received a wide range of views as below:

- (i) Create consumer awareness so that all TV households know they can create combination of FTA and Pay channels within the NCF of Rs. 130 charged by DPOs. Enforce the QoS regulations in letter and spirit to avoid misuse of NCF. (Broadcasters)
- (ii) existing limit of 100 channels in the prescribed NCF of Rs. 130/- is good enough for an average household. (Broadcasters, DPOs)
- (iii) It should be left to the DPOs to decide as to how many channels in addition to one-hundred channels, they wish to provide in the NCF cap of Rs 130/-. (Broadcasters, DPOs)
- (iv) maximum of 150 channels can be allowed within the NCF of Rs 130/-. (MSOs)

(v) no limit on the number of channels should be prescribed as the prevailing competition will always force the DPO's to provide more channels or charge less NCF from the customers, which is ultimately beneficial to the customers. (DTH operators)

74. Most of the stakeholders are of the view that all the DD channels mandated by the Government to be provided to all the subscribers should be excluded from the 100 channels permitted within the NCF of Rs. 130/-. This shall ease the burden on the consumers who will then be able to subscribe to additional channels of their own choice, besides the mandatory channels. Some stakeholders suggested that under the current law, it is illegal for DPO to charge any NCF for mandatory DD channels. Some stakeholders are of the view that TRAI has no jurisdiction or power to recommend in relation to these channels since the legislature has already mandated that these channels must be carried by all DPOs.
75. Some stakeholders mentioned that though the NCF has been fixed for the amount of bandwidth and resources being used to deliver the signals at subscriber's home. Further the type of channels does not make any difference on the utilization of such resources and as the DD channels are mandatory, in the best interest of the state and consumers, the DD channels should be taken out of the ambit of NCF.
76. Some stakeholders are of the view that requiring the DPOs to carry additional mandatory DD channels over and above the 100 channels within the NCF of Rs. 130/- would be additional burden on the DPOs and it should be left to DPOs to decide.
77. In the Tariff Order 2017, a network capacity fee (NCF) of maximum Rs 130/- has been prescribed for subscribing 100 channels. The government has made it obligatory for all the DPOs to provide 24 channels of Doordarshan, one Lok Sabha Channel and one Rajya Sabha channel to the subscribers, irrespective of any bouquet(s) or a-la-carte channel(s) being subscribed by them. Accordingly, sub-clause (7) of clause 4 of the Tariff Order prescribes that:

*“Within the distribution network capacity subscribed, in addition to channels notified by Central Government to be mandatorily provided to all the subscribers, a subscriber shall be free to choose any free-to-air channel(s), pay channel(s), or*

*bouquet(s) of channels offered by the broadcaster(s) or bouquet(s) of channels offered by distributors of television channels or a combination thereof.....”*

78. While implementing the new framework, preliminary assessment based on the then available data was that average take up of channels will be less than 100 channels. The information submitted by the various DPOs, however, reveals that many subscribers are subscribing channels in excess of 100, one cause factor being the marketing of channels as bouquets over a-la-carte basis. As has been informed to the Authority, many DPOs are not charging additional NCF beyond 100 channels. There are DPOs who are offering many FTA channels without charging any additional NCF. As per data reported to the Authority, the average NCF realized from the subscribers is less than Rs. 130/- and the number of channels provided to a subscriber is more than 200 (**Table 3**).

**Table 3: Revenue realization from NCF and average number of channels provided to subscribers by some major DPOs**

<b>DPO</b>	<b>Revenue realization from NCF (In Rs.)</b>	<b>Average number of channels provided to a subscriber by DPOs</b>
DPO 1	114	246
DPO 2	98	222
DPO 3	113	248
DPO 4	85	235
DPO 5	124	293
DPO 6	77	200+

79. The digitization of cable network coupled with quality of data made available, has enabled the Authority to have a better visibility into the operations of MSOs. The Authority, therefore, decided to have an insight into the cost aspects of carrying channels. An analysis of data available in the annual reports /quarterly reports of DPOs and data made available by the them suggests that cost of distribution network capacity to provide the signals of television channels to a subscriber is not more than Rs. 130/-.
80. However, there are variation in the cost structure of TV services being provided through cable, depending upon the scale of operations, area of operations etc. and which can't be

overlooked. The network cost for large MSOs could be lower compared to smaller MSOs. In DAS-III and DAS-IV areas, large number of smaller MSOs are providing services to small number of subscribers. There are cost variation in urban vs rural areas. Similarly, there are cost variations in servicing multistory buildings vis-a-vis standalone houses. Therefore, the Authority has decided to continue with the existing uniform cap of Rs.130 per month on NCF, despite the cost variations existing across operators/areas of operations. This measure is required specially to protect the interest of MSOs, especially of smaller MSOs and the MSOs operating in rural/difficult areas. This amount being a ceiling, the MSOs are at liberty to declare lower NCF.

81. Accordingly, in order to protect the interests of consumers and in view of the fact that (a) many DPOs are already providing more than 200 channels for existing NCF of Rs. 130/- (b) Revenue realisation for major DPOs corresponding to NCF is also not more than Rs. 130/- (c) there is no incremental cost to DPOs for additional channels, the Authority has decided that DPOs shall offer 200 channels for NCF of Rs. 130/- in addition to such number of channels as may be mandated by the Government from time to time for mandatory provisioning.
  
82. Accordingly, a DPO shall offer 200 channels for the NCF of upto Rs. 130/- in addition to channels mandated by the Government. Effectively, a subscriber will get 226 channels for Rs. 130/-. Now the Authority has further deliberated on the existing slab based system for applicability of NCF over and above the channels given to subscribers for the initial NCF. As mentioned above, now the subscriber will get 226 channels for NCF of Rs. 130/- only which will be sufficient for an average TV viewer and therefore the Authority is of the view that there is no point of continuing the slab system. A single slab for more than 200 channels will simplify the offerings to consumers. Now the question arises what the ceiling on NCF should be for offering more than 200 channels by a DPO. The Authority has noted that on any platform generally on an average 300 relevant channels are available for viewing by a consumer. Therefore, it will be sufficient to prescribe a ceiling of Rs 160 as a ceiling on NCF for more than 200 channels. As it is a ceiling, DPOs will be free to declare NCF lower than Rs. 160 for more than 200 channels. These two ceilings one for less than 200 channels and another for more than 200 channels will not only protect the interests of DPOs but also simplify the process for consumers. Accordingly, it has been decided that a DPO cannot

charge NCF more than Rs. 160/- for more than 200 channels. Consequently, the existing provision for additional NCF of Rs.20 for every slab of 25 channels is being dispensed with.

83. In line with provisions of the Cable TV Act, in the Tariff Order 2017, DPOs have been mandated to offer at least one bouquet, referred to as basic service tier, of one hundred free-to-air channels as one of the options to its subscribers. The Cable TV Network (Regulation) Act, 1995 has following provisions relating to offering of basic service tier by DPOs:

*“(3) If the Central Government is satisfied that it is necessary in the public interest so to do, and if not otherwise specified by the Authority, it may direct the Authority to specify, by notification in the Official Gazette, one or more free-to-air channels to be included in the package of channels forming basic service tier and any one or more such channels may be specified, in the notification, genre-wise for providing a programme mix of entertainment, information, education and such other programmes and fix the tariff for basic service tier which shall be offered by the cable operators to the consumers and the consumer shall have the option to subscribe to any such tier:*

*Provided that the cable operator shall also offer the channels in the basic service tier on a la carte basis to the subscriber at a tariff specified under this subsection.*

*(4) The Central Government or the Authority may specify in the notification referred to in sub-section (3), the number of free-to-air channels to be included in the package of channels forming basic service tier for the purposes of that sub-section and different numbers may be specified for different States, cities, towns or areas, as the case may be.”*

84. This tariff order empowers consumers to choose any 200 channels i.e. pay or FTA channels or bouquet(s) of pay channels or bouquet(s) of pay channels or any combination of their choice apart from mandatory channels of government, there is no need to continue with a bouquet of basic service tier which requires DPOs to offer a bouquet of 100 FTA channels of different genres. This will also address the concerns of some small broadcasters who have informed the Authority that some DPOs are making a bouquet of BST of their preferred channels denying them a level playing field. The Tariff order reflects these changes. As such there will be no package called BST bouquet giving wrong impression as if such bouquet has to be mandatorily provided to all the subscribers.

#### **F. NCF for multi TV home**

85. During the implementation of new framework, the Authority received several representations from the subscribers of Cable TV and DTH services seeking clarifications regarding tariff for multiple TV connections in a home. In the present framework, there are no explicit provisions regarding multiple TV connections in a home. Accordingly, in the consultation paper, comments of stakeholder were invited on the following issues:

- Regulatory provisions for enabling discount on NCF and DRP for multiple TV connections in a home.
- The need to fix a cap on NCF for 2nd and subsequent TV connections in a multi-TV home scenario and if yes, the amount of cap.
- Need to allow broadcasters to offer different MRP for a multi-TV home connection.
- Need to mandate DPOs to provide choice of channels for each TV separately in a Multi TV home.

86. In response, most of the DPOs are in favour of enabling regulatory provisions for offer of discount on NCF and DRP to a subscriber having multiple TVs in a home. On the other hand, most of the broadcasters and some DPOs are of the opinion that present regulatory provisions prescribe only a ceiling on NCF and DRP and DPOs are free to offer discount. Some DPOs are of the view that regulatory provisions should not be enabled for mandatory discount on NCF and DRP to a subscriber having multiple TVs in a home. One DTH provider mentioned that it may not be possible to provide discount by DTH service provider on NCF and DRP to a subscriber having multiple TVs in a home as the incremental cost of providing a second TV connection onwards in a given home is same as that for providing the first TV connection.

87. Several stakeholders including broadcasters and DPOs are not in favour of prescribing any cap on the NCF for 2nd and subsequent TV connections in a multi TV home and these are briefly summarised below:

- (i) NCF is a Carriage related fee as per the Tariff Order, and continue to be determined by the distributor

- (ii) Existing regulations already provide flexibility to the DPOs to fix NCF and DRP and it should be left to the DPOs to offer discount for 2<sup>nd</sup> TV connection onwards in a multi TV home based on their business requirement and ground situation.
  - (iii) Freedom to offer discounts on NCF and DRP should be allowed to DPOs provided that such discounts do not directly / indirectly result in broadcasters being compelled to give discount on MRP of their channels / bouquets.
  - (iv) The new regulatory framework is still in its infancy and some more settling down time is required.
  - (v) Regulating NCF for Multi-TV homes will be an isolated exercise and will not be a holistic decision and would end up further hurting the sustainability and revenues of the DPOs. Moreover, it will not be economically viable for the DPOs to provide the service of Multi TV
88. Some stakeholders suggested that any cap on NCF should be guided by the number of TV connections in a home. More the number of TV connections, higher the discount on NCF on subsequent connections. One stakeholder suggested that for multi TV home discount of 50% on NCF should be offered when STB is under same consumer id as there is no additional cost to carry the signals or collect the charges from same home. Another stakeholder suggested that the discount percentage should be standardized across all DPOs to ensure consistency of service charges.
89. One stakeholder is of the view that provision of discount for a multi TV home is prone to misuse as often owner and tenant of the building can misrepresent themselves as one subscriber just to avail the discount. Another stakeholder suggested that DPOs should be restricted from arbitrarily charging the full NCF from one household having multiple connections and charging discounted NCF from another household.
90. Most of the broadcasters and few DPOs are not in favour of provision of different MRPs for multi TV homes. Some of them mentioned that it is not an economically sound practice to have multiple MRPs for the same product. According to them any such provision will take the new framework back to the analogue era where DPOs would never reveal the true numbers. They further suggested that unless the issue pertaining to verifiable identification

of multi-TV home connections is not addressed, the issue of offering different MRP in respect of multi-TV connection homes should be kept in abeyance.

91. Some stakeholders mentioned that in case broadcasters are permitted to offer different MRP for multi TV homes, it should be ensured that broadcasters don't use this provision to differentiate the pricing and discount to DPOs.
92. Some stakeholders mentioned that broadcasters should be allowed to offer different MRP for multi TV homes in addition to the discount of 15% prescribed in existing provisions. According to them, offering of discounts by the broadcasters for the multi-TV connections has been an industry practice and technical feasibility of operationalizing such discounts should be left to mutual negotiation. Some stakeholders suggested that in order to address the concerns of broadcasters DPOs should declare the multi TV connectivity in the monthly subscriber report to the broadcasters so that the same can be verified by the auditors at the time of audit.
93. Most stakeholders including broadcasters and DPOs are in favor of provision of different set of channels for different connection in a multi TV home. Some stakeholders mentioned that in the light of addressability, each STB is considered as a separate connection and is technically capable of receiving a different set of channels meaning thereby that each STB can be configured as per individual consumers choices.
94. A few stakeholders mentioned that in multi TV home viewers of each of the TV set have different choice of channels and therefore each multi TV connection should also be considered as a separate and distinct additional subscriber for reporting in the Monthly Subscriber Report by the DPO.
95. Some stakeholders suggested that it should be left to the market forces / discretion / prerogative of DPOs whereas some other stakeholders are of the view that it should be mandated keeping in view the overall objective of effective consumer choice.



96. Earlier the Authority had constituted a committee of stakeholders to discuss the issue of discount on NCF for multiple TV connections in a household. The committee was of unanimous opinion that there is no harm in providing some discount on NCF for multi TV homes. Some DTH operators are already offering discount in NCF for 2<sup>nd</sup>TV onwards in multi TV homes. MSOs had also showed their willingness to offer discount on NCF for 2<sup>nd</sup>TV connection onwards in a multi TV home.
97. Existing provisions provides that every DPO shall declare network capacity fee, per month, payable by a subscriber for availing a distribution network capacity so as to receive the signals of television channels and “subscriber” means a person who receives broadcasting services relating to television from a distributor of television channels, at a place indicated by such person without further transmitting it to any other person and each set top box located at such place, for receiving the subscribed broadcasting services relating to television, shall constitute one subscriber. Relevant clause of the Tariff Order 2017 and definition of the subscriber are as follows:

*“4. Declaration of network capacity fee and manner of offering of channels by distributors of television channels. --- (1) Every distributor of television channels shall declare network capacity fee, per month, payable by a subscriber for availing a distribution network capacity so as to receive the signals of television channels:*

*Provided that the network capacity fee, per month, for network capacity upto initial one hundred SD channels, shall, in no case, exceed rupees one hundred and thirty, excluding taxes: .....*”

*“subscriber” for the purpose of this Order, means a person who receives broadcasting services relating to television from a distributor of television channels, at a place indicated by such person without further transmitting it to any other person and who does not cause the signals of television channels to be heard or seen by any person for a specific sum of money to be paid by such person, and each set top box located at such place, for receiving the subscribed broadcasting services relating to television, shall constitute one subscriber;”*

98. The Authority has noted that in case of a multi TV home, a person receives broadcasting services relating to television from a DPO, at a place (home) indicated by such person without further transmitting it to any other person. It is obvious that the channels are watched by one family only and they have installed multiple TVs and set top box in the house for convenience purpose only. In short, the cable /DTH services to a house is basically meant for family viewing or family product. Therefore, it would not be appropriate that a consumer

is paying NCF of Rs. 130/- for every TV connection in a house specially when he has already paid STB price separately for each TV connection. Generally, one bill is generated for one multi TV home. The Authority also analyzed the cost structure and found that certain cost such as marketing, advertisement cost etc. cannot be attributed separately for each TV connection in a house. The cost which can be directly attributed to the second TV connection and onwards is not more than 40% of the cost incurred by a DPO for primary connection.

99. After careful consideration of all aspects relating to the issue and the views expressed by the stakeholders, the Authority has decided that DPOs shall not charge more than 40% of declared NCF for first TV connection, per additional TV for 2nd TV connection and onwards in a multi TV home. Suitable provision to this effect has been incorporated in the Tariff Order.
  
100. The Authority noted the comments regarding likely misuse of mandatory provision for discount on NCF in case of a multi TV home and is of the view that a clear definition of multi-TV home will help in preventing such misuse. The Authority noted that in a multi-TV home, TV connections are provided in different rooms/places in a household as an extension of the first/primary TV connection and therefore all such connections in a multi TV home should be provided in the name of a single person under single ID and a single bill should be generated for all such multiple connections in a home. Therefore, the Authority decided to define a multi-TV home as a household having more than one TV connections in the name of a single person. DPOs may be well within their rights to satisfy themselves before treating any connection as a multi-TV home connection. DPOs may also ask such subscribers to furnish relevant documents before offering any discount on multi TV homes.
  
101. The Authority has noted that in a multi TV home there are family members who are in of different age groups e.g. grandparents, parents, kids. Each age group has different viewing preferences. In such a scenario, same package, with large number of channels, may not be required for all the TV connections in a home. Different set of channels, can be subscribed for each connection according to the viewing preference of grandparents, parents, kids etc. This may reduce overall TV viewing cost of the multi TV homes. Accordingly, DPOs should allow multi TV home subscriber to choose different set of channels for each TV connection.

## **G. Discount on long term subscriptions**

102. As per provisions of Tariff Order 2017, DPOs are required to declare NCF and DRPs of channels and bouquet of channels on monthly basis. There are no explicit provisions for long duration subscriptions and discount thereon in the new regulatory framework. A number of DPOs represented to TRAI that they want to offer long term subscriptions and as subscribers pay amount of subscription in advance, they would like to offer discount to such subscribers. Accordingly, in the consultation paper, comments of stakeholders were solicited on the following issues:

- definition of long term subscription
- need to allow DPO to offer discounts on NCF and DRP for long term subscriptions
- prescribing a cap on discount on long term subscriptions
- Allowing broadcasters to offer discount on MRP for long term subscriptions

103. On the issue of definition of long term subscription, stakeholders have proposed different durations, varying from minimum 3 months to 1 year to be considered as long term subscription. Some stakeholders suggested that any subscription duration of one year should be considered as long term subscription since the interconnect agreement between DPOs and broadcasters is for a one year period.

104. On the issue of discount on long term subscriptions some stakeholders mentioned that existing framework only prescribes a ceiling on NCF and DPOs are free to provide discount on NCF to consumers according to their business plan. They further suggested that the DPOs should be given flexibility to give discount on DRP, however, there should not be any cap on discounts on DRP. Some stakeholders suggested that the DPOs as well as the broadcasters should be permitted to offer discounts as they may deem fit for long term subscriptions.

105. Some stakeholders are in favour of prescribing a cap on the discount for long term subscriptions. Some of them suggested a maximum discount of 12% while some other stakeholders suggested a cap of 15% on discount. One stakeholder suggested that the discount should be on whole package but may be capped to 2 months for a year. Another

stakeholder suggested that discounts on long term subscriptions should be limited to one month free for annual pack and on pro-rated basis for packs of lesser duration.

106. One stakeholder suggested that it should be left to the discretion / prerogative of DPOs, provided that such discounts, do not directly / indirectly result in broadcasters being compelled to give discount in MRP of their channels / bouquets.
107. Some stakeholders including broadcasters and DPOs mentioned that subscribers are identified by active set top boxes and the possibilities of manipulations cannot be ruled out. They further mentioned that consumer's choice is always subject to change on month to month basis. Accordingly, they are of the view that allowing DPOs to offer discounts on long term subscription cannot be a possible option.
108. Some broadcasters mentioned that they may give discount on MRP for long term subscribers only if the DPOs duly report such subscribers and make the payment for these subscribers in advance. Some of them also mentioned that discounts for long term subscribers should be permitted only on a voluntary basis by broadcasters provided that broadcasters and DPOs are able to agree to additional stipulations for verification process of such plans. Some DPOs suggested that broadcasters should be allowed to offer discounts for long term subscription in coordination with the DPOs and this discount should be outside the 15% cap that is already prescribed.
109. Some stakeholders including broadcasters and DPOs mentioned that broadcasters should not be permitted to offer additional discount on long term subscriptions as it may encourage DPOs to force such subscriptions on their subscribers and discriminate against subscribers who have opted for a monthly subscription. According to some other stakeholders offering of discount on MRP for long term subscriptions by broadcasters may give rise to disputes between broadcasters and DPOs regarding details of subscribers who are under such subscriptions and may also lead to issue with regard to invoicing by broadcasters.
110. In case of long term subscription, a subscriber pays the applicable NCF and DRP in advance for entire duration of subscription and expects discount on NCF and DRP. Earlier, a

committee of stakeholders was also formed by the Authority to discuss the issue of discount on NCF and DRP for long term subscription. Members of the committee were of the view that there is no harm in providing reasonable discount for long term subscriptions. NCF is entirely in the domain of DPOs. Hence, they should be given complete freedom to offer discount on the NCF part in the long term subscriptions. However, unreasonable discount on the DRP may distort the market or some unfair practices may start in the market. Therefore, the committee was of the view that there should be a reasonable cap on the discount on DRP of channels and bouquet of channels for long term subscriptions.

111. The Authority also noted the comments of the stakeholders who have supported discount on long term subscriptions by the broadcasters. However, it is very important to note that in case of long term subscription, a subscriber pays the subscription amount in advance and therefore it makes sense to allow DPOs to extend some discount to such subscribers. However, payment settlement between a DPO and a broadcaster is done on the basis of interconnection agreement entered between them and therefore it does not make any difference to broadcaster that a subscriber is on long term subscription or on monthly subscription.
112. On the issue of minimum duration, which can be considered for long term subscription, the Authority noted that a very short period may be misused by the service providers by giving heavy discount on long term subscription, which in turn, may compromise the sanctity of monthly DRP and NCF. On the other hand, making this duration very long will not attract many subscribers and the very purpose of offering long term subscription will be defeated. Accordingly, the Authority, after considering the comments of stakeholders, has decided that any plan with a minimum duration of six months shall be treated as a long term subscription. DPOs can provide discount on NCF and DRPs for long term subscriptions and quantum of discounts are left to the DPOs subject to the conditions that the discount offered on NCF and DRPs on a long term subscription should be filed with the Authority from time to time.

#### **H. Promotional schemes by DPOs**

113. The Tariff Order 2017 permit broadcasters to offer promotional scheme on MRPs of their a-la-carte channels. But there is no provision for DPOs to offer similar promotional schemes. During the discussions, DPOs requested that Authority would consider permitting DPOs to offer promotional schemes as such schemes may enable DPOs to attract customers in a new market. Accordingly, in the consultation paper comments of stakeholders were sought on whether DPOs should also be permitted to offer promotional schemes and if so, suggest the maximum time period and frequency of such schemes.
114. In response, opinion has been divided on the issue of allowing DPOs to offer promotional schemes. The supporting and opposing views expressed by stakeholders are summarized below:
- (i) Promotional offers by DPOs will create further confusion among the consumers.
  - (ii) The manner of marketing, promotion, advertising and in general micro-managing the way DPOs run their businesses must be kept outside regulations.
  - (iii) allowing DPOs to provide promotional schemes on NCF would hamper its ability to augment and upgrade its systems in line with the demand of subscribers and broadcasters.
  - (iv) Provisioning of promotional offers should be left to the discretion/prerogative of DPOs, as within these prescribed limits as per existing regulations, the DPOs are free to charge NCF/DRP as per their schemes. Such schemes do not directly/indirectly result in broadcasters being compelled to give discount in MRP of their channels/bouquets.
  - (v) the concept of promotional schemes is a very common phenomenon in almost all the industries and generally correspond with important events, festivals or as a sales driver.
  - (vi) promotional schemes should have the flexibility to permit innovative segmentation, e.g. District-wise segmentation; City -wise; Area wise, DAS area wise segmentation, Acquisition segmentation, Recharge based segmentation, Age or Network based segmentation, Multi TV based segmentation, ARPU based segmentation, Pack-wise segmentation.
  - (vii) there should be no regulations on the level of discounting or the types of promotional schemes that can be offered by DPOs as this simply impacts the customers adversely.

115. On the duration of promotional offers some stakeholders are of the view that it should be in parity with what is being allowed to a broadcaster with regards to promotional schemes. Some stakeholders suggested that DPOs should be allowed to offer promotional offers maximum 2 times in a calendar year and for a period not exceeding 30 days at a time.
116. Some stakeholders suggested that DPOs should be allowed to offer promotional schemes as per their business requirements. However, it can be mandated that such schemes shall be on transparent and non-discriminatory basis.
117. The Authority, after duly considering the comments of stakeholders and keeping in view the interests the consumers and in order to provide a level playing field to DPOs vis a vis broadcasters has decided that DPOs should also be allowed to offer promotional schemes. The duration of any such scheme shall not be more than ninety days at a time and such scheme shall not be offered by a DPO more than two times in a calendar year. However, DPOs shall communicate to TRAI as well as to their subscribers, details of all such promotional schemes offered by them along with distributor retail price and duration of such schemes, at least seven days prior to date of launch of such schemes.

#### **I. Flexibility in offering NCF**

118. The present tariff order does not permit DPOs to offer different NCFs in the different geographical regions. During interactions DPOs requested the Authority to allow them to charge different NCF on the basis of regions. Accordingly, in the consultation paper comments of stakeholders were invited on whether DPOs should be allowed to have variable NCF for different regions and if so, the criteria for categorisation of regions for the purpose of NCF.
119. In response, some stakeholders were not in favor of allowing DPOs to offer variable NCF for different regions. They are of the opinion that DPOs are free to structure their business at their convenience within the ceiling prescribed in the current regulations. However, any micro-management of flexibility in offering NCF defeats the intent of the regime of uniform pricing. It will result in different prices in different markets and will only cause more extortion from consumers. Some stakeholders are of the view that the cost of carrying of

channels in all locations is same hence variable NCF for different locations should not be allowed to DPOs. A few stakeholders are of the view that offering of variable NCF for different regions by DPOs will adversely impact LCOs and DPOs ability to stay in the industry with serious feasibility issues.

120. Some stakeholders were of the opinion that DPOs should be allowed to offer variable NCF for different regions. Some of these stakeholders suggested that the criteria for categorization of regions for the purpose of NCF may be based on population of various cities/towns/villages which are being served by a DPO along with criteria like urban, rural, plains or hilly terrains. Some stakeholders suggested that the variants of NCF can be designed based on many criteria's including but not limited to regions, ARPU, category of customers, DAS area wise or any other category. Such category /classification can be formulated by the DPOs based on the needs of the customers.
121. Few stakeholders suggested that NCF and its composition should be left entirely to the discretion of DPOs and the local LCOs who are best placed to understand choice and requirements of their consumers and will accordingly formulate their NCF composition.
122. One stakeholder suggested that the target market should be the criteria for having variable NCF. Another stakeholder suggested that the regions may be classified as urban, sub-urban and rural. It was also suggested that for urban areas NCF for 100 channels may be fixed at Rs. 130/-, for sub-urban areas it should be Rs. 150/- and Rs. 170/- for rural consumers. One stakeholder has suggested that NCF for 100 channels should be limited to 150/- in metros and 130/- in rest of India.
123. The Authority analyzed the comments of the stakeholders and is of the view that DPOs should be given flexibility of declaring varying NCF for different regions/areas. The Authority also noted that offering of different NCF for different markets will not distort the whole scheme if it is offered in non-discriminatory manner to all the subscribers. Accordingly, the Authority has decided that the DPOs should be permitted to declare different NCF for different regions/areas, such as State, district, town within its service area. However, NCF for each region/areas shall be reported to the Authority from time to time.



124. The Authority noted that it is clearly mentioned in the para 81 of the EM of Tariff Order 2017 that the NCF will be agnostic to the type of the channel carried over the network and it cannot vary based on the channels subscribed by a subscriber. The Authority reiterates that NCF should be agnostic to the type of the channels carried over the network. Giving flexibility of offering different NCF based on channel/bouquet chosen will compromise the basic principle of new regulatory framework. Therefore, DPOs are not allowed to vary NCF on the basis of channels/bouquets selected by the subscribers.

**J. Placement of channels in EPG**

125. The issue of placement of channels in EPG was also part of the instant consultation paper. Stakeholders have provided their comments/ counter-comments on this issue as well. However, this matter is covered by the Interconnection Regulations 2017 and the QoS Regulations 2017 and decision of the Authority on this issue will be conveyed separately through the amendments to the respective regulations.

**K. Other issues**

126. In October 2019 some broadcasters offered promotional schemes reducing MRP of some a-la-carte channels as per provisions of Tariff Order 2017. However, some DPOs represented to TRAI that broadcasters did not give any intimation to them regarding reduction in MRP of some a-la-carte channels under promotional schemes. It was also intimated by DPOs that they got information about promotional schemes offered by broadcasters only through media reports and as a result they could not pass on the benefits of promotional schemes to their subscribers from the date of declaration of promotional offers. Accordingly, the Authority has decided that broadcasters shall report to TRAI as well as to all the DPOs, with whom they have entered into interconnection agreements, details of all the promotional schemes offered by them along with respective MRP and duration of such schemes at least fifteen days prior to date of launch of such schemes.

## L. Summary

127. With the notification of this Tariff Order, the consultation process initiated on 16<sup>th</sup> August 2019 stands concluded. The new regulatory framework has been in place for almost one year. The Authority believes in providing a stable and consistent regulatory framework while allowing fair play of market forces for the benefit of all stakeholders. Therefore, the initiation of this consultation process was perceived as an unusual step by stakeholders who are familiar with the functioning of the Authority. Some of the stakeholders have even expressed their reservation and called it a premature exercise that is likely to have adverse consequences on the Sector. The Authority had made it clear that the consultation process is in no way intended to disrupt or destabilize the existing framework but has been initiated to sort out certain issues that were brought out to its notice by the stakeholders. These issues were of urgent nature, affecting consumers at large, the most vulnerable set of stakeholders. Ignoring the interests of consumers is not in the interest of the Industry as well.
128. As may be seen from the amendments carried out through this tariff order, the consultation process has left the basic contours of the new regime untouched and the Broadcasters/DPOs will continue to enjoy the flexibility in carrying out their businesses. The outcome of this exercise has been limited to certain consumer friendly measures, required to ensure that the objectives of the existing framework are fulfilled. A quick summary of these new measures mandated by the Authority are summarized below:
- (i) Provision of a time tested and industry accepted method to ensure that there is a reasonable relationship between the a-la-carte prices of pay channels and bouquet prices, declared by broadcasters. While forming the bouquets, the broadcasters have to comply with the following twin conditions:
    - (a) the sum of the a-la-carte rates of the pay channels (MRP) forming part of a bouquet shall in no case exceed one and half times the rate of the bouquet of which such pay channels are a part; and
    - (b) the a-la-carte rates of each pay channel (MRP), forming part of a bouquet, shall in no case exceed three times the average rate of a pay channel of the bouquet of which such pay channel is a part.

- (ii) MRP of a channel should not be more than the MRP of any bouquet containing that channel in order to bring further reasonableness in the bouquet formation and pricing
- (iii) Reduction of ceiling price of pay channel for inclusion in bouquet from Rs. 19/- to Rs. 12/- so as ensure fair packaging of bouquets, without altering the flexibility of broadcasters to price their channels.
- (iv) Reasonable restrictions on number of bouquets offered by broadcasters - Number of bouquets of pay channels not to be more than number of pay channels offered by a broadcaster.
- (v) Increasing the number of SD channels that can be provided within the NCF of Rs. 130/- per month from 100 to 200 and capping the NCF for more than 200 SD channels at Rs. 160/- per month.
- (vi) Flexibility to DPOs to declare different NCFs for different geographical regions/areas within its service area
- (vii) Flexibility to DPOs to offer promotional schemes at par with Broadcasters.
- (viii) Flexibility to DPOs to offer discounts on NCF and Distributor Retail Prices (DRP) on long term subscriptions with duration of 6 months and above.
- (ix) Provision of discounts on NCFs for multi TV homes. DPOs shall not charge more than 40% of declared NCF per additional TV for 2nd TV connection and onwards in a multi TV home.
- (x) DPOs should allow multi TV home subscriber to choose different set of channels for each TV connection.

**Annexure I****Bouquet price less than or equal to a channel price within the bouquet**

<b>Bennett, Coleman &amp; Company Limited (Times Network)</b>					
5	<b>BOUQUET-5</b>	1	Movies Now	10.00	<b>10.00</b>
		2	Romedy Now	6.00	
		3	MNX	6.00	
		<b>Total Sum of MRP</b>		<b>22.00</b>	

<b>Turner International Pvt Ltd.</b>					
<b>S. No.</b>	<b>Bouquet Name</b>	<b>S.NO.</b>	<b>Channels in Bouquet</b>	<b>A la Carte MRP of Channel (in Rs.) (excluding taxes)</b>	<b>MRP of Bouquet (in Rs.) (excluding taxes)</b>
1	<b>Turner Kids Pack</b>	1	Cartoon Network	4.25	<b>4.25</b>
		2	POGO	4.25	
		<b>Total Sum of MRP</b>		<b>8.50</b>	
2	<b>Turner Family Pack</b>	1	Cartoon Network	4.25	<b>10.00</b>
		2	CNN International	0.50	
		3	HBO	10.00	
		4	POGO	4.25	
		5	WB	1.00	
		<b>Total Sum of MRP</b>		<b>20.00</b>	

<b>Sony Pictures Networks India Private Limited</b>					
<b>S.No</b>	<b>Bouquet Name</b>	<b>S.NO.</b>	<b>Channels in Bouquet</b>	<b>A-la-carte MRP of Channel (in Rs) (excluding taxes)</b>	<b>MRP of Bouquet (in Rs.) (excluding taxes)</b>
1	<b>Happy India South 19</b>	1	Sony YAY!	2.00	<b>19.00</b>
		2	SONY BBC EARTH	4.00	
		3	SIX	15.00	

		4	Ten 1	19.00
			<b>Total Sum of MRP</b>	<b>40.00</b>

<b>Mavis Satcom Limited</b>					
<b>S. No.</b>	<b>Bouquet Name</b>	<b>S.No.</b>	<b>Channels in Bouquet</b>	<b>A la Carte MRP of Channel (in Rs.) (excluding taxes)</b>	<b>MRP of Bouquet (in Rs.) (excluding taxes)</b>
1	<b>Bouquet</b>	1	Jaya TV HD	6.00	<b>6.00</b>
		2	Jaya Plus	0.50	
		3	Jaya Max	2.25	
		4	J Movies	2.25	
			<b>Total Sum of MRP</b>	<b>11.00</b>	

<b>New Delhi Television Limited (NDTV)</b>					
<b>S. No.</b>	<b>Bouquet Name</b>	<b>S.No.</b>	<b>Channels in Bouquet</b>	<b>A la Carte MRP of Channel (in Rs.) (excluding taxes)</b>	<b>MRP of Bouquet (in Rs.) (excluding taxes)</b>
1	<b>NDTV North INFO</b>	1	NDTV 24*7	3.00	<b>3.00</b>
		2	NDTV India	1.00	
		3	NDTV Profit	1.00	
			<b>Total Sum of MRP</b>	<b>5.00</b>	
2	<b>NDTV SOUTH INFO</b>	1	NDTV 24*7	3.00	<b>2.50</b>
		2	NDTV Profit	1.00	
			<b>Total Sum of MRP</b>	<b>4.00</b>	
3	<b>NDTV SOUTH LIFE</b>	1	NDTV 24*7	3.00	<b>2.75</b>
		2	Good Times	1.50	
			<b>Total Sum of MRP</b>	<b>4.50</b>	
<b>TV Today Network Ltd.</b>					

S. No.	Bouquet Name	S.No.	Channels in Bouquet	A la Carte MRP of Channel (in Rs.) (excluding taxes)	MRP of Bouquet (in Rs.) (excluding taxes)
1	Hindi News Bouquet	1	Aaj Tak	0.75	0.50
		2	Aaj Tak Tez	0.25	
			<b>Total Sum of MRP</b>	<b>1.00</b>	
2	TVTN News Bouquet	1	Aaj Tak	0.75	1.00
		2	Aaj Tak Tez	0.25	
		3	India Today	1.00	
			<b>Total Sum of MRP</b>	<b>2.00</b>	
3	Hindi News HD Bouquet	1	AAJ Tak HD	1.50	1.00
		2	Aaj Tak Tez	0.25	
			<b>Total Sum of MRP</b>	<b>1.75</b>	
4	TVTN News HD Bouquet	1	AAJ Tak HD	1.50	1.50
		2	Aaj Tak Tez	0.25	
		3	India Today	1.00	
			<b>Total Sum of MRP</b>	<b>2.75</b>	

STAR India Private Limited					
S.No	Bouquet Name	S.No.	Channels in Bouquet	A-la-carte MRP of Channel (in Rs) (excluding taxes)	MRP of Bouquet (in Rs.) (excluding taxes)
1	SVP Lite Hindi	1	Star Bharat	10.00	9.00
		2	Star Utsav	1.00	
		3	Movies OK	1.00	
		4	Star Sports First	0.10	
			<b>Total Sum of MRP</b>	<b>12.10</b>	

<b>Zee Entertainment Enterprises Limited</b>					
<b>S.No</b>	<b>Bouquet Name</b>	<b>S.NO.</b>	<b>Channels in Bouquet</b>	<b>A-la-carte MRP of Channel (in Rs) (excluding taxes)</b>	<b>MRP of Bouquet (in Rs.) (excluding taxes)</b>
1	<b>Zee Prime pack English SD</b>	1	Living foodz	1.00	<b>15.00</b>
		2	Zee Café	15.00	
		3	&flix	15.00	
		4	WION	1.00	
			<b>Total Sum of MRP</b>	<b>32.00</b>	
2	<b>Zee Prime Pack Tamil SD</b>	1	Zee Action	1.00	<b>10.00</b>
		2	Zee News	0.10	
		3	Zee Hindustan	0.10	
		4	Living Foodz	1.00	
		5	Zee ETC	0.10	
		6	WION	1.00	
		7	Zee Tamil	10.00	
		8	Zee Keralam	0.10	
		9	Zee Salaam	0.10	
			<b>Total Sum of MRP</b>	<b>13.50</b>	

**Annexure II****Comparison of Prices of channels declared by broadcasters in Old framework and New framework**

S.No	Name of the channel	Genre	Wholesale rates as per Old Regulatory Framework (in Rs) (A)	Normalised equivalent wholesale prices (B = A*1.25)	MRP as per New Regulatory Framework (in Rs) (C)	% change	Declared as SD or HD
1	Prarthana	Devotional	2.10	2.63	2.00	-23.81	SD
2	Asianet	GEC	5.23	6.54	19.00	190.63	SD
3	Asianet HD	GEC	25.00	31.25	19.00	-39.20	HD
4	Star Suvarna	GEC	5.04	6.30	19.00	201.59	SD
5	Star Suvarna HD	GEC	25	31.25	19.00	-39.20	HD
6	Vijay HD	GEC	25.00	31.25	19.00	-39.20	HD
7	ETV HD	GEC	40.00	50.00	19.00	-62.00	HD
8	ZEE Sarthak	GEC	3.99	4.99	19.00	280.95	SD
9	SAB	GEC	6.17	7.71	19.00	146.35	SD
10	SAB HD	GEC	25.00	31.25	19.00	-39.20	HD
11	SET HD	GEC	25.00	31.25	19.00	-39.20	HD
12	SONY Entertainment Channel (SET)	GEC	8.99	11.24	19.00	69.08	SD
13	MAA HD	GEC	25.00	31.25	19.00	-39.20	HD
14	MAA TV	GEC	5.25	6.56	19.00	189.52	SD
15	Star Bharat HD	GEC	25.00	31.25	19.00	-39.20	HD
16	Star Jalsha	GEC	5.04	6.30	19.00	201.59	SD
17	Star Jalsha HD	GEC	25.00	31.25	19.00	-39.20	HD
18	Star Plus	GEC	7.87	9.84	19.00	93.14	SD
19	Star Plus HD	GEC	25.00	31.25	19.00	-39.20	HD
20	Gemini TV	GEC	4.63	5.79	19.00	228.29	SD
21	Gemini TV HD	GEC	40.00	50.00	19.00	-62.00	HD
22	SUN TV	GEC	5.25	6.56	19.00	189.52	SD
23	Sun TV HD	GEC	40.00	50.00	19.00	-62.00	HD
24	Surya TV HD	GEC	20.00	25.00	19.00	-24.00	HD
25	Udaya TV HD	GEC	20.00	25.00	19.00	-24.00	HD
26	Colors	GEC	8.99	11.24	19.00	69.08	SD
27	Colors HD	GEC	30.00	37.50	19.00	-49.33	HD
28	Colors Kannada	GEC	4.67	5.84	19.00	225.48	SD



29	Colors Kannada HD	GEC	25.00	31.25	19.00	-39.20	HD
30	& TV HD	GEC	30.00	37.50	19.00	-49.33	HD
31	Zee Bangla	GEC	3.64	4.55	19.00	317.58	SD
32	Zee Bangla HD	GEC	30.00	37.50	19.00	-49.33	HD
33	Zee Café HD	GEC	30.00	37.50	19.00	-49.33	HD
34	Zee Kannada	GEC	3.35	4.19	19.00	353.73	SD
35	Zee Kannada HD	GEC	30.00	37.50	19.00	-49.33	HD
36	Zee Marathi	GEC	3.60	4.50	19.00	322.22	SD
37	Zee Marathi HD	GEC	30.00	37.50	19.00	-49.33	HD
38	Zee Tamil HD	GEC	30.00	37.50	19.00	-49.33	HD
39	Zee Telugu	GEC	4.67	5.84	19.00	225.48	SD
40	Zee Telugu HD	GEC	30.00	37.50	19.00	-49.33	HD
41	Zee TV	GEC	5.83	7.29	19.00	160.72	SD
42	Zee TV HD	GEC	30.00	37.50	19.00	-49.33	HD
43	Vijay TV	GEC	1.80	2.25	17.00	655.56	SD
44	ETV	GEC	4.49	5.61	17.00	202.90	SD
45	Udaya TV	GEC	5.17	6.46	17.00	163.06	SD
46	Colors Marathi HD	GEC	25.00	31.25	17.00	-45.60	HD
47	Star Pravah HD	GEC	25.00	31.25	15.00	-52.00	HD
48	Zee Café	GEC	3.60	4.50	15.00	233.33	SD
49	Colors Bangla HD	GEC	25.00	31.25	14.00	-55.20	HD
50	Disney International	GEC	25.00	31.25	12.00	-61.60	HD
51	Surya TV	GEC	5.17	6.46	12.00	85.69	SD
52	& TV	GEC	9.02	11.28	12.00	6.43	SD
53	Zee Tamil	GEC	5.25	6.56	12.00	82.86	SD
54	Tarang	GEC	4.49	5.61	10.00	78.17	SD
55	Star Bharat	GEC	9.21	11.51	10.00	-13.14	SD
56	Colors Marathi	GEC	4.67	5.84	10.00	71.31	SD
57	Star Pravah	GEC	5.04	6.30	9.00	42.86	SD
58	Star World HD	GEC	20.00	25.00	9.00	-64.00	HD
59	Star World Premiere	GEC	25.00	31.25	9.00	-71.20	HD
60	SUN Life	GEC	5.25	6.56	9.00	37.14	SD
61	Colors Infinity HD	GEC	25.00	31.25	9.00	-71.20	HD
62	Comedy Central (HD )	GEC	20.00	25.00	9.00	-64.00	HD
63	Star World	GEC	2.05	2.56	8.00	212.20	SD
64	ETV Plus	GEC	4.67	5.84	7.00	19.91	SD
65	AXN HD	GEC	25.00	31.25	7.00	-77.60	HD
66	Colors Bangla	GEC	4.67	5.84	7.00	19.91	SD
67	Colors Tamil HD	GEC	25	31.25	7.00	-77.60	HD

68	Jaya TV HD	GEC	40.00	50.00	6.00	-88.00	HD
69	Colors Oriya	GEC	4.67	5.84	6.00	2.78	SD
70	Asianet Plus	GEC	2.94	3.68	5.00	36.05	SD
71	AXN	GEC	6.52	8.15	5.00	-38.65	SD
72	Gemini Life	GEC	4.67	5.84	5.00	-14.35	SD
73	Colors Gujarati	GEC	4.67	5.84	5.00	-14.35	SD
74	Colors Infinity	GEC	6.52	8.15	5.00	-38.65	SD
75	Comedy Central	GEC	6.51	8.14	5.00	-38.56	SD
76	AATH	GEC	4.20	5.25	4.00	-23.81	SD
77	Raj TV	GEC	4.62	5.78	3.00	-48.05	SD
78	Mega TV	GEC	2.10	2.63	3.00	14.29	SD
79	Colors Super	GEC	5.00	6.25	3.00	-52.00	SD
80	Colors Tamil	GEC	5.25	6.56	3.00	-54.29	SD
81	Vijay Super	GEC	5.25	6.56	2.00	-69.52	SD
82	Discovery Jeet HD	GEC	30.00	37.50	2.00	-94.67	HD
83	ETV Abhiruchi	GEC	4.67	5.84	2.00	-65.74	SD
84	Discovery Jeet	GEC	8.98	11.23	1.00	-91.09	SD
85	ETV Life	GEC	4.20	5.25	1.00	-80.95	SD
86	UTV Bindass	GEC	4.20	5.25	1.00	-80.95	SD
87	Mega 24	GEC	2.10	2.63	1.00	-61.90	SD
88	PAL	GEC	9.21	11.51	1.00	-91.31	SD
89	Zee Yuva	GEC	5.04	6.30	1.00	-84.13	SD
90	Zoom	GEC	3.51	4.39	0.50	-88.60	SD
91	Vissa TV	GEC	1.96	2.45	0.50	-79.59	SD
92	Living Foodz HD	Infotainment	4.00	5.00	10.00	100.00	HD
93	SONY BBC EARTH	Infotainment	25.00	31.25	10.00	-68.00	HD
94	National Geographic	Infotainment	16.00	20.00	10.00	-50.00	HD
95	Histry TV 18 HD	Infotainment	20.00	25.00	7.00	-72.00	HD
96	Discovery HD World	Infotainment	21.00	26.25	6.00	-77.14	HD
97	Nat Geo Wild HD	Infotainment	30.00	37.50	5.00	-86.67	HD
98	Discovery Channel	Infotainment	6.74	8.43	4.00	-52.52	SD
99	Discovery Channel – Tamil	Infotainment	6.74	8.43	4.00	-52.52	SD
100	SONY BBC EARTH	Infotainment	6.72	8.40	4.00	-52.38	SD
101	The History Channel	Infotainment	6.72	8.40	3.00	-64.29	SD
102	Animal Planet World	Infotainment	24.15	30.19	3.00	-90.06	HD
103	TLC HD world	Infotainment	24.15	30.19	3.00	-90.06	HD
104	Animal Planet	Infotainment	2.25	2.81	2.00	-28.89	SD

105	TLC	Infotainment	4.04	5.05	2.00	-60.40	SD
106	EPIC TV	Infotainment	20.00	25.00	2.00	-92.00	SD
107	National Geographic Channel (NGC)	Infotainment	2.58	3.23	2.00	-37.98	SD
108	FY1 TV18	Infotainment	30.00	37.50	1.00	-97.33	HD
109	Discovery Science	Infotainment	5.04	6.30	1.00	-84.13	SD
110	Discovery Turbo	Infotainment	4.20	5.25	1.00	-80.95	SD
111	Nat Geo Wild	Infotainment	6.72	8.40	1.00	-88.10	SD
112	Food Food TV	Infotainment	7.56	9.45	1.00	-89.42	SD
113	Living Foodz	Infotainment	6.72	8.40	1.00	-88.10	SD
114	Living Zen	Infotainment	6.72	8.40	0.10	-98.81	SD
115	NICKS HD+	Kids	25.00	31.25	10.00	-68.00	HD
116	The Disney Channel	Kids	4.00	5.00	8.00	60.00	SD
117	Hungama TV	Kids	3.51	4.39	6.00	36.75	SD
118	Chintu TV	Kids	5.62	7.03	6.00	-14.59	SD
119	Chutti TV	Kids	5.62	7.03	6.00	-14.59	SD
120	NICK	Kids	2.70	3.38	6.00	77.78	SD
121	Kochu TV	Kids	5.62	7.03	5.00	-28.83	SD
122	Cartoon Network HD+	Kids	25.00	31.25	5.00	-84.00	HD
123	Cartoon Network	Kids	5.62	7.03	4.25	-39.50	SD
124	POGO	Kids	5.62	7.03	4.25	-39.50	SD
125	Disney Junior	Kids	5.62	7.03	4.00	-43.06	SD
126	Marvel HQ	Kids	4.00	5.00	4.00	-20.00	SD
127	Kushi TV	Kids	5.62	7.03	4.00	-43.06	SD
128	Discovery Kids Channel	Kids	5.56	6.95	3.00	-56.83	SD
129	Sony YAY!	Kids	5.62	7.03	2.00	-71.53	SD
130	SONIC	Kids	5.46	6.83	2.00	-70.70	SD
131	Baby TV HD	Kids	30.00	37.50	1.00	-97.33	HD
132	NICK JR	Kids	5.62	7.03	1.00	-85.77	SD
133	Travel XP HD	Lifestyle	40.00	50.00	9.00	-82.00	HD
134	Travel XP Tamil	Lifestyle	3.75	4.69	1.50	-68.00	SD
135	Good Times	Lifestyle	4.04	5.05	1.50	-70.30	SD
136	Fox Life	Lifestyle	1.98	2.48	1.00	-59.60	SD
137	Fox Life HD	Lifestyle	30.00	37.50	1.00	-97.33	HD
138	Topper TV	Miscellaneous	60.00	75.00	59.32	-20.91	SD
139	Jalsha Movies HD	Movies	25.00	31.25	19.00	-39.20	HD
140	MAA Movies HD	Movies	25.00	31.25	19.00	-39.20	HD
141	Star Movies HD	Movies	25.00	31.25	19.00	-39.20	HD

142	Gemini Movies HD	Movies	25.00	31.25	19.00	-39.20	HD
143	KTV	Movies	6.75	8.44	19.00	125.19	SD
144	KTV HD	Movies	40.00	50.00	19.00	-62.00	HD
145	& Pictures HD	Movies	30.00	37.50	19.00	-49.33	HD
146	&Prive HD	Movies	30.00	37.50	19.00	-49.33	HD
147	Zee Cinema HD	Movies	30.00	37.50	19.00	-49.33	HD
148	MAX HD	Movies	25.00	31.25	17.00	-45.60	HD
149	Gemini Movies	Movies	7.64	9.55	17.00	78.01	SD
150	Udaya Movies	Movies	6.47	8.09	16.00	97.84	SD
151	Zee Cinemalu HD	Movies	30.00	37.50	16.00	-57.33	HD
152	Asianet Movies	Movies	7.46	9.33	15.00	60.86	SD
153	PIX HD	Movies	25.00	31.25	15.00	-52.00	HD
154	SET MAX	Movies	7.64	9.55	15.00	57.07	SD
155	Zee Cinema	Movies	5.83	7.29	15.00	105.83	SD
156	Movies Now HD	Movies	149.00	186.25	12.00	-93.56	HD
157	Star Movies	Movies	7.42	9.28	12.00	29.38	SD
158	HBO HD	Movies	35.00	43.75	12.00	-72.57	HD
159	Surya Movies	Movies	7.64	9.55	11.00	15.18	SD
160	MN +	Movies	149.00	186.25	10.00	-94.63	HD
161	PIX	Movies	5.39	6.74	10.00	48.42	SD
162	MAA Movies	Movies	7.77	9.71	10.00	2.96	SD
163	Star Gold HD	Movies	25.00	31.25	10.00	-68.00	HD
164	Star Gold Select HD	Movies	25.00	31.25	10.00	-68.00	HD
165	Star Movies Select HD	Movies	25.00	31.25	10.00	-68.00	HD
166	HBO	Movies	7.01	8.76	10.00	14.12	SD
167	Zee Cinemalu	Movies	7.64	9.55	10.00	4.71	SD
168	Movies Now	Movies	10.42	13.03	10.00	-23.22	SD
169	MNX HD	Movies	30.00	37.50	9.00	-76.00	HD
170	Romedy Now HD	Movies	30.00	37.50	9.00	-76.00	HD
171	Adithya TV	Movies	7.64	9.55	9.00	-5.76	SD
172	Star Gold	Movies	7.42	9.28	8.00	-13.75	SD
173	Star Gold Select	Movies	7.77	9.71	7.00	-27.93	SD
174	MNX	Movies	7.42	9.28	6.00	-35.31	SD
175	Romedy Now	Movies	7.42	9.28	6.00	-35.31	SD
176	ETV Cinema	Movies	7.77	9.71	6.00	-38.22	SD
177	Jalsha Movies	Movies	7.77	9.71	6.00	-38.22	SD
178	Udaya Comedy	Movies	6.75	8.44	6.00	-28.89	SD
179	& Picture	Movies	7.56	9.45	6.00	-36.51	SD
180	Suvarna Plus	Movies	5.25	6.56	5.00	-23.81	SD
181	Gemini Comedy	Movies	2.38	2.98	5.00	68.07	SD

182	Alankar	Movies	5.04	6.30	4.00	-36.51	SD
183	Surya Comedy	Movies	4.50	5.63	4.00	-28.89	SD
184	Colors Cineplex	Movies	7.64	9.55	3.00	-68.59	SD
185	J Movies	Movies	2.52	3.15	2.25	-28.57	SD
186	UTV Movies	Movies	6.30	7.88	2.00	-74.60	SD
187	UTV Action	Movies	4.20	5.25	2.00	-61.90	SD
188	MAA Gold	Movies	5.25	6.56	2.00	-69.52	SD
189	Zee Bollywood	Movies	1.35	1.69	2.00	18.52	SD
190	Zee Bangla Cinema	Movies	6.80	8.50	2.00	-76.47	SD
191	Zee Talkies	Movies	6.96	8.70	2.00	-77.01	SD
192	Raj Digital Plus	Movies	3.24	4.05	1.50	-62.96	SD
193	MAX 2	Movies	7.64	9.55	1.00	-89.53	SD
194	Movies OK	Movies	7.14	8.93	1.00	-88.80	SD
195	WB	Movies	2.77	3.46	1.00	-71.12	SD
196	Zee Action	Movies	4.49	5.61	1.00	-82.18	SD
197	Zee Talkies HD	Movies	30.00	37.50	19.00	-49.33	HD
198	Gemini Music HD	Music	20.00	25.00	19.00	-24.00	HD
199	Sun Music HD	Music	25.00	31.25	19.00	-39.20	HD
200	Sun Music	Music	3.15	3.94	6.00	52.38	SD
201	Udaya Music	Music	3.15	3.94	6.00	52.38	SD
202	MTV HD+	Music	25	31.25	5.00	-84.00	HD
203	Gemini Music	Music	3.15	3.94	4.00	1.59	SD
204	Surya Music	Music	3.15	3.94	4.00	1.59	SD
205	MTV	Music	3.15	3.94	3.00	-23.81	SD
206	Jaya Max	Music	2.52	3.15	2.25	-28.57	SD
207	Tarang Music	Music	2.10	2.63	2.00	-23.81	SD
208	Mega Musiq	Music	2.10	2.63	2.00	-23.81	SD
209	VH 1	Music	20.00	25.00	2.00	-92.00	HD
210	Raj Musix	Music	2.10	2.63	1.00	-61.90	SD
211	MIX	Music	3.15	3.94	1.00	-74.60	SD
212	MAA Music	Music	3.15	3.94	1.00	-74.60	SD
213	MTV Beats HD	Music	25	31.25	1.00	-96.80	HD
214	VH 1	Music	1.35	1.69	1.00	-40.74	SD
215	Raj Musix Kannada	Music	2.31	2.89	0.25	-91.34	SD
216	MTV Beats	Music	3.15	3.94	0.10	-97.46	SD
217	Zing	Music	2.25	2.81	0.10	-96.44	SD
218	JAN TV PLUS	News	1.00	1.25	50.00	3900.00	SD
219	Times Now World	News	15.00	18.75	5.00	-73.33	HD
220	CNBC TV 18	News	3.82	4.78	4.00	-16.23	SD
221	ET NOW	News	3.57	4.46	3.00	-32.77	SD

222	Times Now	News	3.82	4.78	3.00	-37.17	SD
223	NDTV 24*7	News	3.82	4.78	3.00	-37.17	SD
224	Mirror Now	News	3.57	4.46	2.00	-55.18	SD
225	BBC World News	News	2.25	2.81	1.00	-64.44	SD
226	ETV - Telangana	News	2.52	3.15	1.00	-68.25	SD
227	ETV Andhra Pradesh	News	2.52	3.15	1.00	-68.25	SD
228	NDTV Profit	News	2.70	3.38	1.00	-70.37	SD
229	Sun News	News	0.62	0.78	1.00	29.03	SD
230	CNBC Awaaz	News	2.02	2.53	1.00	-60.40	SD
231	CNBC Bazaar	News	3.82	4.78	1.00	-79.06	SD
232	CNBC TV 18 Prime	News	15.00	18.75	1.00	-94.67	HD
233	India Today	News	1.35	1.69	1.00	-40.74	SD
234	WION	News	3.86	4.83	1.00	-79.27	SD
235	AajTak	News	3.15	3.94	0.75	-80.95	SD
236	Jaya Plus	News	1.68	2.10	0.50	-76.19	SD
237	CNN International	News	0.67	0.84	0.50	-40.30	SD
238	CNN News 18	News	2.25	2.81	0.50	-82.22	SD
239	Raj News	News	1.68	2.10	0.25	-88.10	SD
240	AajTakTez	News	0.90	1.13	0.25	-77.78	SD
241	News 18 Lokmat	News	3.30	4.13	0.10	-97.58	SD
242	News 18 Bangla	News	3.82	4.78	0.10	-97.91	SD
243	News 18 Bihar Jharkhand	News	4.67	5.84	0.10	-98.29	SD
244	News 18 Gujarati	News	3.82	4.78	0.10	-97.91	SD
245	News 18 Kannada	News	3.82	4.78	0.10	-97.91	SD
246	News 18 Madhya Pradesh / Chattisgarh	News	4.67	5.84	0.10	-98.29	SD
247	News 18 Odia	News	3.86	4.83	0.10	-97.93	SD
248	News 18 Punjab / Haryana / Himanchal Pradesh	News	3.82	4.78	0.10	-97.91	SD
249	News 18 Rajasthan	News	4.67	5.84	0.10	-98.29	SD
250	News 18 Urdu	News	4.67	5.84	0.10	-98.29	SD
251	News 18 Uttar Pradesh/ Uttaranchal	News	4.67	5.84	0.10	-98.29	SD
252	Gemini News	News	3.37	4.21	0.10	-97.63	SD
253	Udaya News	News	3.03	3.79	0.10	-97.36	SD
254	Zee 24 Kalak	News	3.82	4.78	0.10	-97.91	SD
255	Zee 24 Taas	News	3.82	4.78	0.10	-97.91	SD

256	Zee Business	News	2.16	2.70	0.10	-96.30	SD
257	Zee Madhya Pradesh Chattisgarh	News	3.82	4.78	0.10	-97.91	SD
258	Zee Odisha	News	4.67	5.84	0.10	-98.29	SD
259	Zee Punjab Haryana Himachal	News	0.67	0.84	0.10	-88.06	SD
260	Zee Rajasthan News	News	4.62	5.78	0.10	-98.27	SD
261	Zee Salaam	News	3.86	4.83	0.10	-97.93	SD
262	Zee Uttar Pradesh Uttrakhand	News	3.86	4.83	0.10	-97.93	SD
263	Zee 24 Ghanta	News	2.70	3.38	0.10	-97.04	SD
264	SIX HD	Sports	35.00	43.75	19.00	-56.57	HD
265	Ten 1	Sports	6.74	8.43	19.00	125.52	SD
266	Ten 1 HD	Sports	35.00	43.75	19.00	-56.57	HD
267	Star Sports HD 1	Sports	35.00	43.75	19.00	-56.57	HD
268	Star Sports 1	Sports	14.89	18.61	19.00	2.08	SD
269	Star Sports 1 HD Hindi	Sports	35.00	43.75	19.00	-56.57	HD
270	Star Sports 1 Hindi	Sports	12.58	15.73	19.00	20.83	SD
271	Star Sports HD 2	Sports	35.00	43.75	19.00	-56.57	HD
272	Star Sports Select 1	Sports	15.12	18.90	19.00	0.53	SD
273	Star Sports Select HD1	Sports	35.00	43.75	19.00	-56.57	HD
274	Ten 2 HD	Sports	35.00	43.75	17.00	-61.14	HD
275	Ten 3	Sports	15.12	18.90	17.00	-10.05	SD
276	Ten 3 HD	Sports	35.00	43.75	17.00	-61.14	HD
277	Star Sports 1 Tamil	Sports	14.89	18.61	17.00	-8.66	SD
278	SIX	Sports	14.70	18.38	15.00	-18.37	SD
279	Ten 2	Sports	14.70	18.38	15.00	-18.37	SD
280	Star Sports Select HD2	Sports	35.00	43.75	10.00	-77.14	HD
281	SONY ESPN HD	Sports	35.00	43.75	7.00	-84.00	HD
282	Star Sports Select 2	Sports	15.12	18.90	7.00	-62.96	SD
283	Star Sports 2	Sports	15.12	18.90	6.00	-68.25	SD
284	SONY ESPN	Sports	15.12	18.90	5.00	-73.54	SD
285	Dsport	Sports	12.60	15.75	4.00	-74.60	SD
286	Star Sports First	Sports	15.12	18.90	1.00	-94.71	SD

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## **EXPLANATORY MEMORANDUM**

### **TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES (EIGHTH) (ADDRESSABLE SYSTEMS) TARIFF (THIRLD AMENDMENT) ORDER, 2022 DATED 22.11.2022**

#### **Introduction and Background**

1. The Telecom Regulatory Authority of India (TRAI) on 3<sup>rd</sup> March, 2017 notified the new regulatory framework to ensure orderly growth of the Broadcasting and Cable TV Sector after a consultation process that lasted for more than one and a half year. This was necessitated by the complete digitization of Cable TV networks in India. The framework comprised of following Tariff Order and Regulations:
  - i. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (Tariff Order 2017);
  - ii. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 (Interconnection Regulations, 2017);
  - iii. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (QoS Regulations, 2017).

Hereinafter, the above two Regulations & the Tariff order are collectively referred to as ‘the Framework.’

2. However, the framework could not be implemented as per the proposed timelines due to legal challenges. After passing legal scrutiny in Hon’ble High Court Madras and Hon’ble Supreme Court, ‘the framework’ came into effect from 29th December 2018. Collectively the three determinations completely overhauled the regulatory framework for the Sector. Given the size and structure of the Sector and the changes that ‘the framework’ entailed, it was imminent that there could be some transient issues.
3. TRAI carried out a consumer survey during July and August 2019 through an agency. The survey results reflected some inadequacies resulting in issues for the consumers. TRAI also received quite a few consumer representations during this period. ‘the Framework’ changed quite a few business processes. As a result, many positives emerged. Consumers could exercise their choices like never before. All the stakeholders in the television distribution value chain were assured of their distinct revenue stream(s). The trust-based audit regime



through third party empaneled auditors started functioning. These measures helped in enabling orderly growth of the sector. Yet, it was observed that a few service providers were making unfair use of the available flexibility of the framework. The Authority took up a consultative exercise to address these issues. After due consultation in the last quarter of 2019, TRAI notified the following amendments to the Regulatory Framework 2017, on 1st January 2020:

- A. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2017 (Tariff Amendment Order 2020)
- B. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment) Regulations, 2017 (Interconnection Amendment Regulations, 2020)
- C. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Third Amendment) Regulations, 2017(QoS Amendment Regulations, 2020)

Hereinafter, the above amendments are collectively referred to as ‘the amended Framework 2020’<sup>54</sup>

- 4. Important amendments as per ‘the amended Framework 2020’ are as follows:
  - a) Increase in number of SD channels from 100 to 200 in the NCF of maximum Rs. 130/- per month.)
  - b) More than 200 SD channels in the NCF of maximum Rs. 160/- per month.
  - c) NCF for 2nd TV connection and onwards in multi TV homes not more than 40% of declared NCF per additional TV.
  - d) Subscribers can choose a different set of channels for each TV connection in a multi TV home
  - e) Broadcasters’ freedom to fix the price of their channels continued
  - f) Reduction of ceiling price on MRP of pay channels for inclusion in bouquet from Rs. 19/- to Rs. 12/-.
  - g) Reasonable restrictions on number of bouquets offered by broadcasters - Number of bouquets of pay channels not to be more than number of pay channels offered by a broadcaster.

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<sup>54</sup> Some stakeholders and Media reports refer to ‘the Amended Framework 2020’ as NTO 2.0

- h) MRP of a channel should not be more than the MRP of any bouquet containing that channel in order to bring further reasonableness in the bouquet formation and pricing.
  - i) Flexibility to DPOs to declare different NCFs for different geographical regions/areas within their service areas
  - j) DPOs may offer discounts on NCF and DRP on long term subscriptions of duration of 6 months and above.
  - k) Reduced amount of carriage fee - 20 paise per subscriber per month for SD channels with a cap of Rs. 4 lakh per month payable by a broadcaster to a DPO in a month for carrying a channel in the country.
5. Some stakeholders challenged the amendments framework 2020. Provisions related to Network Capacity Fee (NCF), multi-TV homes and long-term subscriptions were challenged by All India Digital Cable Federation (AIDCF) and others in the High Court of Kerala. Provisions related to cap on MRP of a channel to be part of a bouquet, relationship between a-la-carte channels and bouquet pricing etc. were challenged by the Indian Broadcasting & Digital Foundations (IBDF) and others in the High Court of Bombay.
6. After interim orders of the Hon'ble High Court of Kerala, the provisions related to Network Capacity Fee (NCF), multi-TV homes and long-term subscriptions contained in 'the amended Framework 2020' have been implemented. The consumers are availing due benefits of these amendments. Every consumer now gets 228 TV channels instead of 100 channels earlier, in a maximum NCF of Rs. 130/-. This resulted in a reduction of consumers' NCF for availing a similar number of channels by estimated Rs. 40/- to Rs. 50/. In addition, the amendment in NCF for multi-TV homes has enabled further savings to the tune of 60% on second (and more) television sets.
7. As mentioned in para 5 some broadcasters and other stakeholders challenged 'the amended Framework 2020' in the Hon'ble High Court of Bombay vide Writ Petition (L) No. 116 of 2020 and other connected matters therewith.
8. Hon'ble High Court of Bombay, vide its Judgement dated 30<sup>th</sup> June 2021 upheld the validity of New Regulatory Framework 2020 except for the condition of the average test provided in the third proviso to sub-clause (3) of clause 3 of the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020 (herein after referred as Tariff Amendment Order 2020).

9. The petitioners in the said case at High Court of Bombay filed Special Leave Petitions (SLPs) in the Hon'ble Supreme Court of India, challenging the judgement dated 30<sup>th</sup> June 2021. No interim relief was granted by the Hon'ble Supreme Court. On 15<sup>th</sup> February 2022, the petitioners submitted an affidavit in Hon'ble Supreme Court for withdrawal of SLPs. Hon'ble Supreme court was pleased to grant permission for the withdrawal of the SLP and passed the following order on the same day:  
*“The Special Leave Petitions are dismissed as withdrawn. All questions of law open are kept open.”*
10. Meanwhile, considering that no interim relief was granted by Hon'ble Supreme Court on the judgement of Hon'ble Bombay Court, the Authority issued a letter dated 12<sup>th</sup> October 2021 (Annexure III) to all the broadcasters seeking compliance with the provisions of New Regulatory Framework 2020 as upheld by Hon'ble Court of Bombay, within 10 days. Consequently, most of the broadcasters submitted their Reference Interconnect Offer (RIOs) to TRAI in compliance with 'the amended Framework 2020'. As per extant provisions, these RIOs were also published on their websites in November 2021.
11. New tariffs announced by the major broadcasters reflected a common trend. The prices of their most popular channels, including the sports channels, were increased beyond Rs. 19/- per month. In compliance with the extant provisions, all such channels that are priced higher than Rs. 12/- (per month) have been kept out of bouquet. Accordingly, all the channels with maximum retails price above Rs. 12/- have been offered only on a-la-carte basis. The revised RIOs indicated wide-scale changes in composition of almost all the bouquets being offered.
12. As soon as the new RIOs were announced, TRAI started receiving representations from Distribution Platform Operators (DPOs), Associations of Local Cable Operators (LCOs) and Consumer Organizations. In General, the representations reflected that the new RIOs would entail hardships on distribution ecosystem, as service offerings for every consumer will require obtaining of new choices. Consumer organizations also raised the issue of impending rise in monthly bills. DPOs also highlighted difficulties likely to be faced by them in implementing new rates in their IT systems and migrating the consumers in bulk to the new tariff regime.
13. On the basis of the representations, TRAI extended the timelines for implementation and also started engaging with the stakeholders for facilitating the smooth implementation of the pending provisions of 'the amended Framework 2020'. It was impressed upon all the

stakeholders that the migration to the amended Framework 2020 should not cause disruption of service to the consumers.

14. Through various representations and during the discussions of different associations (including LCO groups) held with TRAI, stakeholders raised various issues, inter-alia, as below:
  - Every Distributor of the television channel would require to make major changes in their service offerings to align with new RIOs declared by broadcasters.
  - Due to changes in composition of bouquets, almost every consumer would need to submit new choices to the distributor concerned through LCOs/ directly.
  - The way new tariffs are structured, implementation entails wide scale changes in service configuration of the IT Systems by distributors.
  - The transition would entail huge effort on the part of Local Cable Operators and consumers as well as on IT systems.
15. The stakeholders requested TRAI to take appropriate steps and ensure that consumers do not face hardships due to impending changes, including rise in monthly bills, caused by revised RIOs. In general, there was a view that TRAI may consider appropriate consultation to review certain provisions that are necessary for smooth implementation and consumers convenience.
16. To deliberate on the issues related to pending implementation of New Regulatory Framework 2020 and suggest a way forward, a committee consisting of members from Indian Broadcasting & Digital Foundation (IBDF), All India Digital Cable Federation (AIDCF) & DTH Association was constituted under the aegis of TRAI (Annexure IV). The broad terms of reference of the Committee were as below:
  1. To look into the process of smooth implementation of New Regulatory Framework 2020 keeping in view consumers convenience in exercising informed choices and suggest measures thereof (if any).
  2. To identify issues of concern and suggest measures for overall growth of the broadcasting sector.
17. The purpose of the committee was to provide a platform and facilitate discussions among various stakeholders to come out on a common agreed path for smooth implementation of Tariff Amendment Order 2020. Stakeholders were advised to come up with an implementation plan with minimum disruptions or hassles to the consumers.

18. The committee held discussions on 23<sup>rd</sup> December 2021. Stakeholders listed the following issues which, in their opinion, required review:
- a. The proposed tariffs by broadcasters through their RIOs submitted in compliance to NTO 2.0 Tariff Orders would cause a significant increase in the tariffs to consumers. The consumer price rise, if any, is required to be limited to a reasonable limit.
  - b. The proposed RIOs by Broadcasters may cause significant changes in the packages, especially due to keeping popular channels at higher a-la-carte prices, not being part of bouquets. This enjoins DPO to make very large number of plans and package offerings. Therefore, the DPOs require support from broadcasters so that they do not have to make large number of plans/ bouquets.
  - c. Considering the facts mentioned above, there is a need to simplify the process of exercising choices by consumers so that no channel should be provided to consumers without explicit consent. Consumers should have the facility to remove any channel.
  - d. The same product (television Channel) should be offered at the same price whether on Linear Television, Free Dish or Subscription based Video on Demand.
  - e. Stakeholders suggested that more than two years have passed since NTO 2.0 amendments and more than three years have passed with NTO 1.0 implementations, since then, there is no change in prices of bouquet or a-la- carte channels. This has kept industry under stress in terms of providing quality products to the end consumers. As such restoring the MRP ceiling for bouquet inclusion to unamended tariff order level of Rs. Nineteen (19/-) would be appropriate.
  - f. The above provision shall also help in maintaining bouquet structure by ensuring all popular channels are within ceiling limits of bouquet. Additionally, this will also create bare minimum hassles to consumers in exercising their choices under new tariffs, as most of the tariffs may continue in their current form.
  - g. Allowing additional fifteen (15 %) percent incentive to DPOs for bouquets as well, as has been provided for a-la-carte channel (It was pointed by the chair that the said provision pertains to Interconnection regulations and is not part of Tariff Order).
  - h. The second twin condition may be reviewed to enhance the discount on sum of MRP of a-la-carte of pay channels forming part of the bouquet to fifty percent. This will enable the broadcasters to cross-subsidize the packages.
  - i. Revision in the ceiling of Network Capacity Fee (NCF) of Rs 130/-.

- j. In case of multi-TV homes, broadcasters should also offer MRP of their channels for each additional TV connection, beyond the first TV connection, @ 40% of the MRP declared for the first TV connection. This will help consumers in saving cost of subscribing to pay channels on multiple televisions.
  - k. Review of ceiling of fifteen percent (15%) on discount on sum of a-la- carte channels of MRP of that bouquet available for DPOs.
  - l. Stakeholders suggested that TRAI should take immediate corrective measures and implement revised tariff by 1st April 2022. All DPOs present insisted that to properly implement new tariffs they will require sufficient time as prescribed.
19. The Stakeholders' Committee, however, requested TRAI to immediately address critical issues so that minimum hardship is caused to the consumers in implementation of Tariff Amendment Order 2020. Stakeholders also listed other issues for subsequent consideration by TRAI. All the members of the stakeholders' committee observed that urgent action is required to manage a smooth transition and to avoid inconvenience to consumers.
  20. In order to address the issues as identified by the stakeholders' committee; TRAI issued the consultation paper on 'Issues related to New Regulatory Framework for Broadcasting and Cable services' on 7<sup>th</sup> May 2022 for seeking stakeholders' comments on points / issues which are pending for implementation of 'the amended Framework 2020'. Comments and counter comments received from stakeholders were placed on TRAI's website. This was followed by an open house discussion in New Delhi on 8<sup>th</sup> September 2022.
  21. The following issues were placed for consultation:
    - A. Ceiling on MRP of TV Channels
    - B. Condition(s) for inclusion of a television channel in a bouquet
    - C. Discount structure on Bouquet pricing
    - D. Additional discount offered by broadcasters to DPOs

### **Analysis of Issues**

22. Before undertaking the issues wise analysis, it is important to review the sector at a macro-level. The television distribution sector is served by a value chain comprising of three sets of stakeholders, namely: 1: Broadcasters; 2: Distribution Service Providers (DPO) (includes

DTH, MSOs, IPTV & HITS); 3: Local Cable Operators (LCOs). The subscription revenues are divided amongst these three sets of stakeholders.

23. The broadcasters also earn revenue from advertising, events etc. More than 60% (sixty percent) of television channels are 'Free to Air' (FTAs), meaning they do not charge any subscription fee. Rather, many of these channels pay Carriage fee (including Marketing / placement fee) to the DPOs. Even among the pay channels, in general, the receipts from advertising revenue are more than the subscription revenue.
24. Similarly, DPOs also have multiple sources of revenue. In general, the streams of revenue of a DPO include Network Capacity Fee, Carriage Fee (including fees in form of Placement/ Marketing), subscription revenue from Platform channels<sup>55</sup>, advertising revenue from platform channels etc.
25. Keeping the above broad observations in view, it is important to analyse the comments and counter-comments of stakeholders. In general, the different sets of players in the value chain have submitted contrasting comments. The views of stakeholders are sometimes diametrically opposite.
26. One set of stakeholders are suggesting that TRAI should provide full forbearance in pricing of television channels/ bouquets which will facilitate growth of the broadcasting sector. The other group of stakeholders have suggested that strict control by TRAI on all tariffs, including the price of channels, is required for ensuring growth of the sector.
27. Similarly, on the issues of available flexibility in formation of bouquets, distribution fee, discounts, incentives etc. the stakeholders' views are at two ends of the spectrum.
28. The LCOs, especially, are seeking higher revenues citing increasing costs of operations and maintenance coupled with declining consumer base.

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<sup>55</sup> Some DPOs charge for their platform channels. Few other DPOs provide platform channels on active services basis, sometimes charging on pay per view basis.

29. Comments of each set of stakeholders seem to be based on the premise that the other stakeholders are extracting more benefits from the extant revenue sharing structure.
30. In general, the television channels are driven by the contents and the programs on offer. The subscribers of a television channel decide on subscription of a particular channel on the basis of programs offered. Therefore, a television channel on its own is a distinct product and is not substitutable in simple terms.
31. It is in the light of the above-mentioned issues and contrasting views/ demands of stakeholders that TRAI as a regulator has to intervene in the market and prescribe a set of regulations in the sector. This is necessary to balance the interests of the different set of service providers as well as the consumers for ensuring orderly growth of the sector. However, TRAI continues to engage with stakeholders with the objective of bringing-in fair practices among stakeholders.

#### **A. Ceiling on MRP of television channels**

32. In the consultation paper, stakeholders were asked to provide their comments on whether there should be a ceiling on the MRP of pay channels.
33. In response, broadcasters, DTH operators and some other stakeholders (including some research firms and individuals) have submitted that they are not in favour of any ceiling on MRP of pay channels. These stakeholders have mentioned that TRAI should exercise tariff forbearance in broadcasting sector also given the success of such approach in the telecom sector. They have substantiated their submission with the following arguments:
  - a) Setting appropriate tariffs and robust methodologies to calculate the same requires complex analysis of diverse data points, including information on consumers' willingness to pay for different types of content, costs of production and delivery, break-up of revenues from advertising and subscriptions, etc. The absence of information on these aspects and also the efficiency gains accruing from bouquets (of different sizes and values), makes it difficult to assess whether a price cap is necessary for permitting inclusion of a channel in a bouquet, and if so, what should be the quantum of such price cap.



- b) Any price ceiling on channel or bouquet prices curtails the fundamental rights guaranteed to the creator of the content.
  - c) In a free market economy, the price of any commodity should be left to the market forces.
34. On the other hand, some stakeholders, mostly MSOs and their association, are in favor of a ceiling of Rs. 12/- on the MRP of a-la-carte channels and have put forward the following arguments in favour of their opinion:
- a. The channels, irrespective of their popularity, should be capped to make it affordable and keep it within the reach of a consumer.
  - b. If the price of the driver channels is not capped, consumers who are accustomed to such driver channels will have to shell out more money to get access to such driver channels.
  - c. Barring a few channels, across all genres, the MRP of most of the channels are below Rs. 12/-. This indicates that the MRP of a channel has an insignificant role in the overall business model of the channel.
  - d. India is very price sensitive market. Industry cannot afford price hike, as any price hike will further erode the subscriber base as at present also due to such high price the churn rate is 2.5% per month.
35. One stakeholder has suggested a ceiling of Rs. 14/- on MRP of SD channels and Rs. 22/- for MRP of HD channels.
36. The Authority has considered the comments of stakeholders for prescribing a ceiling on the MRP of channels. In this regard, while prescribing no ceiling on MRP of a TV channel, the Authority in its Explanatory Memorandum to the Tariff Order, 2017 (para 52 to 54), observed as under:
- “52. The Authority has considered the views of stakeholders in this regard and is of the view that full freedom and business flexibility should be given to the broadcasters to monetize their channels. Accordingly, the Authority has decided not to prescribe genre wise ceiling on the MRP of pay channels. However, the Authority expects that the broadcasters will ensure complete transparency, non-discriminatory behavior and protection of subscriber interests while pricing their channels. It is also expected that*

*broadcasters will price their channels reasonably and benefits of higher revenue realization due to digitisation and addressability shall be shared with subscribers also.*

53. *Some stakeholders suggested that TRAI should determine prices of channels on cost plus basis.*

54. *In this regard it is important to understand that generally a channel consists of number of the programs. The cost of the production of different programs drastically varies based on the actors, setup cost, script, copy rights, and other miscellaneous factors. The various programs in a given channel also frequently change based on their Television Rating Points (TRP), advertisement potential and other ground reports. Hence, determining the cost of production of a channel at all times is an extremely difficult process, perhaps almost impossible. Moreover, such determination of price would be dynamic in nature and may vary with change in programs in a channel. Programs on television channels change dynamically and as such it is impractical to determine the price of a television channel on cost plus basis.”*

37. The above proposition is still valid. The Authority is of the view that broadcasters should be given full freedom and business flexibility to monetize their channels. Moreover, there can be some channels with unique content for niche category of viewers. Such niche category channel desire freedom for pricing their channel as their target audience segment may be small. Similarly, the cost of production of the program varies in many different aspects. Therefore, the Authority considers that defining a ceiling price of television channel may impinge on ability to produce better content, more so for niche category of channels. Accordingly, continuing its light touch approach regarding pricing of channels, the Authority has decided not to prescribe a ceiling on the MRP of pay channels as of now. However, the Authority expects that the broadcasters will ensure complete transparency, non-discriminatory behavior and protection of subscriber interests while pricing their channels. It is expected that broadcasters will price their channels reasonably, ensuring to pass the benefits of digitisation to the subscribers.

**B. Condition(s) for inclusion of a television channel in a bouquet**

38. In the consultation paper, stakeholders were asked to provide their comments on the following:

- a. Should channel prices in bouquet be homogeneous? If yes, what should be an appropriate criteria for ensuring homogeneity in pricing the channels to be part of same bouquet?
  - b. If no, what measures should be taken to ensure an effective a-la-carte choice which can be made available to consumers without being susceptible to perverse pricing of bouquets?
39. In response, broadcasters, DTH operators and some other stakeholders including some research firms and individuals are not in favour of homogeneity of channel prices in bouquets. The main arguments made out in favour of this are:
- a. A channel bouquet is an array of diverse channel offerings which could be a mix of multi genre and/or multi language offerings comprising of either a single or multi broadcasters' channels.
  - b. To stipulate homogenous pricing would mean treating all channels in the bouquet as equals which itself is fallacious as each channel is an exclusive and distinct offering and cannot be treated as the same.
  - c. Any mathematical formula/model for price fixation will only cause market distortions and prevent real price discovery which is not in the interests of the end consumers.
  - d. Requirement for homogeneity could result in an increase in the a-la-carte prices of channels (which would otherwise be lower) because consumers demand the inclusion of such channels in the bouquet.
  - e. There is no empirical basis to suggest that the choice between á-la-carte channel and bouquets has any basis in the price of the channel as opposed to the composition of the bouquet and diversity of content of the channels
  - f. Heterogeneity is the basic nature of a bouquet; hence price homogeneity is neither possible nor desirable.
  - g. Pricing of channels and pricing of bouquets involves a complex economic and financial exercise taking into consideration multiple factors of which, the cost of content is only one of the factors.
  - h. Multiple a-la-carte choice of channels by consumers, and their repeated change would result in increased cost of service for DPOs. It would create burden on IT, billing systems and collection process of DPOs

- i. Bundling diverse content also creates sampling opportunities for consumers, enabling scenarios where consumers are exposed to content they may not have opted for in a pure a-la-carte setting. Bundling allows consumers to experiment with consuming new types of content at minimal additional marginal cost.
40. On the other hand, some stakeholders, mostly MSOs and their association, are in favor of of homogeneity of channel prices in bouquets and have made following suggestions:
- a) Homogeneity in a bouquet should not only seen as homogeneity in prices, but more importantly homogeneity in content – considering the India’s social, cultural and demographic diversity.
  - b) There is a requirement for Ad-Cap as the consumer who is already paying for the channel is still subjected to advertisement when accessing the content on DPOs platforms.
  - c) To ensure that such premium/popular channels are not unnecessarily clubbed with unpopular channels, a price range/band(s) should also be introduced and adhered to for inclusion of channels in a bouquet as shown in the table below:

<b>Sr. No.</b>	<b>Bands for inclusion of a channel in a Bouquet</b>	<b>Lower Range (In Rs.)</b>	<b>Upper Range (In Rs)</b>
<b>1</b>	Band 1	0.01	1.00
<b>2</b>	Band 2	1.01	4.00
<b>3</b>	Band 3	4.01	8.00
<b>4</b>	Band 4	9.01	12.00

41. In addition to above, a method for ensuring similar priced channels in a bouquet was also put up for consultation. Stakeholders were also asked to provide their comments whether the maximum retail price of an a-la-carte pay channel forming bouquet be capped with reference to average prices of all pay channels forming the same bouquet and if so, the relationship between capped maximum price of an a-la-carte channel forming the bouquet and average price of all the pay channels in that bouquet.
42. In response, broadcasters, DTH operators and some other stakeholders including some research firms and individuals are not in favour of capping the maximum retail price of an a-la-carte pay channel forming bouquet with reference to average prices of all pay channels forming the same bouquet. The main arguments made out in favour of this are:

- a) Bouquet composition is primarily driven by content composition and not by price of channel forming part of bouquet
  - b) Consumer choice distortion is prevented by the rule wherein the price of a bouquet cannot be less than price of any channel forming part of the bouquet
  - c) It is not open to TRAI to raise the issue, as the same has been set aside by the Hon'ble Bombay High Court.
  - d) Maintaining the homogeneity of price of the channels in a bouquet under the MRP regime is neither feasible nor practical, since the same will only discourage investment in broadcasting sector
43. On the other hand, some stakeholders, mostly MSOs and their association, are in favor of capping the maximum retail price of an a-la-carte pay channel forming bouquet with reference to average prices of all pay channels forming the same bouquet and have given following suggestions:
- (c) The twin conditions methodology prescribed in the current regulation is sufficient to define the relationship between pricing of a la carte and bouquet price of a channel.
  - (d) Homogeneity should not be seen in absolute amount but rather in a small band of prices.
  - (e) A single channel should not be part of more than 10 bouquets offered by the Broadcasters.
44. The Authority has considered the comments of stakeholders on the issues of homogeneity of channel prices in bouquets. The capping of MRP of an a-la-carte pay channel forming bouquet with reference to average prices of all pay channels forming the same bouquet was considered as one way of ensuring homogeneity in the amended framework 2020. The Authority, however, has noted that the purpose of forming bouquets is to have channels of all the genres which are required for family viewing in a TV household. Such channels in a bouquet may have varying prices from the lowest priced channel to the highest priced channel. The industry practice of forming bouquets is based on providing adequate options for a family with different viewership interests, including in a multi-TV home. The Authority has in the past acknowledged that different genres will have differing prices. This was reflected in genre-wise price ceilings that were in vogue prior to digitization. Therefore, the

authority has considered the two factors: a) A bouquet is formed with different channels from different genres to cater to viewing requirements of a family; b) Different genre of channels will have different pricing. Keeping in view these two factors, the Authority is not specifying any condition to maintain homogeneity of television channels while forming bouquets. This will also enable the prevailing market since no such condition is operating currently.

45. Further, a question was also raised as to whether a ceiling or price cap on the a-la-carte price of a television channel may be prescribed if it is to be included in a bouquet. In case any stakeholder supported prescription of such a ceiling, they were also requested to suggest such ceiling or the price cap. It may be noted that in the extant tariff order of 2017 as-well-as the amended framework 2020, the Authority had prescribed a ceiling on a-la-carte price of a television channels for including the same in a bouquet.
46. The broadcasters, in general, suggest that they are not in favour of any ceiling on MRP of a channel for inclusion in a bouquet. Some other stakeholders including research firms and individuals have also echoed similar views. These stakeholders have mentioned that any price ceiling or other measure in formation of bouquet will restrict broadcasters' ability to form bouquets. Primary arguments submitted by these stakeholders are:
  - a) Bundling of channels offers several advantages and is adversely affected by price ceilings.
  - b) Ceilings imposed on MRP of pay channels result in broadcasters pulling out their popular/ driver channels from the bouquets. This causes inconvenience of subscription. Such a situation also results in higher consumer payout because such channels are then available to consumers only on a-la-carte basis.
  - c) Evidence from research, including the Economic Survey indicates that price ceiling impacts the quality of content on TV channels.
  - d) Majority of Indian TV households prefer bouquets because of their family size and diverse preferences.
  - e) No empirical evidence to establish that the consumer is perversely/ adversely affected because of bouquets.
  - f) Discovery of price and combination of Bouquet vis-à-vis a-la-carte offerings should be left for market discovery.

- g) There is no proven case of market failure in the broadcasting sector.
  - h) A price ceiling is obsolete in the digitalized MRP-based regime because consumers can freely choose channels.
  - i) A channel or bouquet is not similar to a commodity product. For commodity marketing, more demand fuels more production thereby bringing economies of scale. Same approach does not fit for a TV channel. Here the product is not static, but dynamic. The price of a TV channel may not necessarily follow the demand v/s price trends.
  - j) Content industries are ill-served by fixed pricing models. They constrain the producer in using the returns from successful content to offset the losses from unsuccessful content.
  - k) Avoid any ex-ante regulations, pricing mandates and follow tariff forbearance, permit market forces to prevail and follow the same light touch regulatory approach as applied in the Telecom sector.
47. One stakeholder has suggested that for quick implementation of the new regulatory framework an interim ceiling of Rs. 21/- to Rs. 22/- should be imposed with provision for review and revision every year basis inflation and prevailing market conditions.
48. On the other hand, some stakeholders, mostly MSOs and their association, are in favor of a ceiling of Rs. 12/- on the MRP of a-la-carte channels to be part of a bouquet. They have mentioned that there should be reasonable parity between a-la-carte and bouquet pricing. These stakeholders have made the following contentions supporting their opinion:
- a) The ceiling on the MRP of a-la-carte channels to be part of a bouquet serves the purpose of controlling the unreasonable pricing of the bouquets as well as of a-la-carte channels.
  - b) The major revenue by a channel is drawn through other means (advertisement, partnership for content, funding and objective of the channel presence etc.). Furthermore, the expenses on channels are less as there is telecast of retro/repeat content.
  - c) The channels, irrespective of their popularity, should be capped to make it affordable and keep it within the reach of a consumer.

- d) If the price of the driver channels is not capped, consumers who are accustomed to such driver channels will have to shell out more money to get access to such driver channels.
  - e) India is very price sensitive market. Industry cannot afford price hike, as any price hike will further erode the subscriber base as at present also due to such high price the churn rate is 2.5% per month.
49. Some DPOs are of the opinion that driver channels should be provided mandatorily under bouquets. Such channels that operate as ad-free channels should only be allowed to operate without a price cap. Such advertisement free channels can be provided only on a-la-carte basis.
50. The Authority in the Tariff Order 2017 prescribed a ceiling of Rs. 19/- on the MRP of pay channels which can be included in a bouquet. The amount of Rs. 19/- was prescribed, considering that in the previous regime, the highest genre wise ceiling on wholesale price was Rs. 15.12 between broadcaster & DPOs. After accounting for 20% distribution fee on MRP the figure of Rs, 19/- was calculated. While prescribing a ceiling of Rs. 19/- on MRP of a TV channel for inclusion in bouquets, the Authority in explanatory memorandum to the Tariff Order, 2017 (para 68), mentioned the following:

*“68. A broadcaster is free to offer its pay channels in the form of bouquet(s) to customers. While subscribing to bouquet, a customer may not be aware of the price of each channel forming the bouquet. Abnormal high price of a pay channel may result in higher price of a bouquet leading to adverse impact on subscribers’ interests. It is an established fact that bundling of channels complicates and obscures their pricing. Prices are obscured because subscribers do not always understand the relationship between the bundle price and a price for each component. However, the bundling of channels offers convenience to the subscribers as well as services providers in subscription management. Keeping in view these realities and to protect the interests of subscribers, the Authority has prescribed a ceiling of Rs. 19/- on the MRP of pay channels which can be provided as part of a bouquet. Therefore, any pay channel having MRP of more than Rs. 19/- cannot become part of any bouquet. The amount of Rs. 19/- has been prescribed keeping in view the prevailing highest genre wise ceilings*



*of Rs. 15.12 for all addressable systems between broadcaster & DPOs at wholesale level and further enhancing it 1.25 times to account for DPOs distribution fee. Broadcasters also have complete freedom to price their pay channels which do not form part of any bouquet and offered only on a-la-carte basis.”*

51. While prescribing the ceiling of Rs. 12/- on MRP of a TV channel for inclusion in a bouquet, the Authority in explanatory memorandum to the Tariff Order, 2020 (para 52 and 53), mentioned the following:

*“52. While framing the existing regulatory framework, the Authority issued a draft Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2016 on 10<sup>th</sup> October 2016. In order to have continuity, the Authority in the said draft order had proposed that the then prevailing genre ceiling should be continued. Accordingly, the Authority, after accounting for the distribution fee of 20% on the MRP, proposed the following genre-based ceiling for MRP of pay channels to customers.*

**Table 1: Genre-based ceiling for MRP of pay channels proposed in the Draft Tariff Order 2016<sup>56</sup>**

<i>S. No.</i>	<i>Genre of Channel</i>	<i>Proposed ceiling on maximum retail price</i>
<i>1.</i>	<i>GEC</i>	<i>12.0</i>
<i>2.</i>	<i>Infotainment</i>	<i>9.0</i>
<i>3.</i>	<i>Movies</i>	<i>10.0</i>
<i>4.</i>	<i>Kids</i>	<i>7.0</i>
<i>5.</i>	<i>News and Current Affairs</i>	<i>5.0</i>
<i>6.</i>	<i>Devotional</i>	<i>3.0</i>
<i>7.</i>	<i>Sports</i>	<i>19.0</i>

*53. Thus, the ceiling of Rs. 19/- was for sports channels only. Maximum ceiling for other genres including GEC was Rs. 12/-. However, in the final tariff order, the Authority did*

<sup>56</sup> This genre-based ceiling was not prescribed in final Tariff Order issued in March 2017 and therefore the reference here-in is from Draft Tariff order only.

*not prescribe a genre wise ceiling on the MRP of pay channels. It was expected that broadcasters would price their channels reasonably.....”*

52. While amending the Tariff Order 2017, the Authority had noted that Rs.12/- was the ceiling price for GEC channels and all other genres except the sports channels in the previous regime. Further, during the said consultation it was also noted that since no cap on discounts on MRP of bouquets was operating, the broadcasters misused the ceiling of Rs.19/- for a channel to be in a bouquet by inflating the a-la-carte price of a TV channel and then giving heavy discounts on MRP of a bouquet on sum of a-la-carte price of channels forming the bouquet. The aforesaid practice adopted by the broadcasters led to skewed choice of consumers in favour of bouquets in comparison to choice of a-la-carte channels, the Authority, therefore, decided that Rs.12/- would be a more logical ceiling price for a pay channel to be part of any bouquet so that a consumer could have a fair balance of choice between a-la-carte channel and a bouquet of channels. If a channel is carrying premium program, it can be priced higher by the broadcasters. In such cases the channel price would be transparently available to consumers. It will be their choice whether to opt for such high price channels or not. Accordingly, Rs. 12/- was prescribed as the ceiling on the MRP of any channel to be part of a bouquet.
53. Now, whether there should be a price cap on the television channels for including the same in any bouquet has been reviewed. It is further noted that while subscribing to a bouquet that contains many channels, a consumer may not be specifically able to focus on the price of each individual channel forming a bouquet. A subscriber may be looking at the price of only the bouquet while subscribing including his/her choice of channels. This affirms that the a-la-carte price of every television channel included in a bouquet may not be of immediate interest to a subscriber. Therefore, the Authority after due consideration of the above and the reasons mentioned in explanatory memorandum to the Tariff Order, 2017, proposes to continue with prescribing a ceiling for the a-la-carte price of television channels for inclusion in any bouquet.
54. An analysis has been carried out on the prevailing prices of the television channels. The prevailing prices of the television channel have been categorized and listed in table 1 below. As may be observed, out of 893 TV channels (permitted by MIB for downlinking in India)

563 are Free-to-Air (FTA) and 330 are pay channels. Out of these 330 pay channels, only 67 pay channels have been priced at Rs 19/-. Balance around 80% of the pay channels are priced at Rs. 18/- or below.

**Table 1: Number of channels according to prevailing Price range**

S. No.	Price Range (Rs.)	Number of channels
1.	FTA	563
2.	<1	51
3.	1 – 5	119
4.	6-12	68
5.	13-15	10
6.	16-18	12
7.	19	67
8.	>19	03

55. The RIOs published by the broadcasters in compliance with the amended Framework 2020, reflect new combinations of pay-channels as per following table:

<b>Table 2: Price-Range wise Analysis of Pay Channels as per RIOs declared by Broadcaster in November 2021</b>		
S. No.	Price range	Number of channels
1.	FTA	519
2.	Less than 1	59
3.	1 to 5	127
4.	5 to 11	58
5.	12	37
6.	13 to 19	19
7.	>19	53

56. A further analysis of declared prices by Broadcasters as in compliance with the amended Framework 2020 reflects that MRP of seventy-two (72) television channels has been fixed above Rs 12/-. Forty-five (45) such television channels belong to the GEC genre. Nineteen (19) such television channels belong to the Sports genre and six (6) television channels belong to the Movies genre. One channel each belongs to News and Miscellaneous Genre. It has been observed that almost all the DPOs form bouquets/ subscription packages in such a way that every subscriber gets television channels of most of the genres. As per revised RIO the above-mentioned seventy-two channels cannot be included in a bouquet owing to the extant tariff order clause cap of Rs. 12/-.
57. As a result, prima facie it is felt by all the industry stakeholders, including consumers, that subscribers who prefer bouquets will not be able to watch these channels and would necessarily be required to choose all such popular channels on a-la-carte basis only. Moreover, quite a few representations expressed apprehensions that the revised RIOs, if implemented, will cause a rise in consumer charges. As the channels priced above Rs. 12/- belong to popular genres of GEC, Sports and Movies, subscribers' choice will be skewed in favour of a-la- carte channels. It is important to note that the new regulatory framework aims to provide options for consumers to exercise their choice in a non-discriminate manner. The framework intends to be unbiased towards any type of offerings, whether a-la-carte or the bouquets. The revised RIOs seem to push consumers to opt certain channels on a-la-carte basis as those will not be available in bouquets. A consumer should be given complete freedom to select channels on a-la-carte or in bouquet(s) as per his/her choice. The regulatory framework should facilitate such freedom to consumers.
58. The Authority has noted that as per the prevailing offers (in compliance with the framework of 2017), the bouquets contain most of the television channels. Currently almost all the television channels (except two television channels) are priced at the MRP of Rs. 19/- or below. Therefore, currently, bouquets comprise of television channels of all genres including the sports genre.
59. Further, another way of analyzing the price cap may be by offering a reasonable indexing to the prescribed value of Rs. 12/-. There are a few indices that can be applied like Consumer Price Index, Wholesale Price Index etc. Department For Promotion of Industry and Internal

Trade (DPIIT) is also preparing specific services related indices<sup>57</sup> for Transportation, Railways, Telecommunications, Postal, Banking etc. There is no specific index for television broadcasting services. TRAI also undertook an exercise to estimate a Consumer Price Index for Transport and Communication services. A comprehensive application of different indices at the current prescribed price ceiling of Rs 12/- reflects a revised price cap in the range of Rs. 16/- to Rs. 17/-. However, there is a possibility that in case such price is prescribed then all the television channels may not be included in bouquets. If one examines the RIOs published by broadcasters' some genres like the sports channels may not be included in bouquets at all.

**Table 3: Indexed Value of Rs. 12/- based on Wholesale Price Index (WPI)<sup>58</sup>**

	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23(P)</b>
<b>WPI Index</b>	119.8	121.8	123.4	139.4	159.0
<b>Value (Rs.)</b>	12	12.20	12.36	13.96	15.93

**Table 4: Indexed Value of Rs. 12/- based on Consumer Price Index (CPI) Transport and Communication**

<b>Year</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>CPI Inflation (%)</b>		7.35%	10.75%	7%	6%
<b>Value (Rs.)</b>	12	12.88	14.26	15.25	16.16

60. Furthermore, if one examines the prices of television channels published by Broadcasters in November 2021, fifty-one television channels have been priced between Rs. 20/- to Rs. 25/- only. Out of these fifty-one television channels, twenty-five channels have been offered at Rs.25/- only. Four television channels have prices beyond Rs. 25/-. These price points are indicative for a-la-carte offerings. The revenue of a television channel is a combination of

<sup>57</sup> [https://eaindustry.nic.in/experimental\\_sp\\_index.asp](https://eaindustry.nic.in/experimental_sp_index.asp)

<sup>58</sup> Office of the Economic Adviser, Department for Promotion of Industry and Internal Trade, available at [https://eaindustry.nic.in/download\\_data\\_1112.asp](https://eaindustry.nic.in/download_data_1112.asp)

advertising revenue and subscription revenue. Availability of a television channel in a bouquet offering enhances the number of consumers subscribing such a channel. The enhanced subscription has a positive correlation with the possible advertising revenue of the channel. Therefore, broadcasters tend to fix price of television channels in such a way that maximum number of television channels are offered in bouquets (as-well-as on a-la-carte basis). Therefore, it is natural that if a reasonable price-cap, taking into account aforementioned factors, for including a channel in a bouquet is fixed, the broadcasters will reduce the prices of most of these high-priced channels for enabling these to be part of bouquets. The price-cap, therefore, should not be too high or too low. In case the price-cap is too low more and more channels will not be part of bouquet offerings. In case the price-cap is too high, there may be a tendency to enhance a-la-carte price near to the maximum permissible limit. The regulatory framework should be neutral to the choice of a consumer on selecting channels on a-la-carte basis or in bouquet. The consumers who prefer bouquets, should not be deprived of viewing channels of their choice for not being available in bouquets.

61. Ease of implementation is another important consideration while arriving at the ceiling of television channel price for including it in any bouquet. In case the ceiling on the MRP of a channel to be part of a bouquet is below reasonable level, then some television channels may not be included in the bouquets at all. Such offerings may result in a change of current plans for a very large section of consumers. Such a situation may entail huge efforts in obtaining revised choices from consumers. Large number of consumers still exercise their choices manually and therefore such consumers may face inconvenience and service blackout owing to non-submission of fresh choices.
62. It is noted that the prevailing market in terms of offerings and availing of consumer choices is reasonably implemented and settled as of now.
63. Therefore, on a comprehensive consideration, with a view to avoid large-scale changes and the reasons given in the preceding paras, applying the currently operating ceiling for inclusion of a channel in a bouquet seems a reasonable option. The currently operating limit is within fifteen percent of the index-based calculations considering the extant price ceiling of Rs. 12/- as prescribed under the amended framework 2020. Accordingly, balancing the interests of service providers (broadcasters and DPOs) and consumers, the Authority has

decided that the ceiling of Rs. 19/- on the MRP of a channel to be part of a bouquet will be in-order. This is expected to create minimum hassles to consumers. The Authority expects that Broadcasters will adjust the price of the television channels to benefit from the revised price ceilings and include all popular channels and sports channels in the bouquets. A consumer would have a fair balance of choice of channels and subscription of getting any channel either on a-la-carte basis or in a bouquet. The Authority also expects that the revised ceiling will entail minimal changes in bouquet configurations.

64. The Authority will keep a watch on the developments in the market and may review the manner in which a channel can be provided as part of a bouquet.

### **C. Discount structure on Bouquet pricing**

65. In the consultation paper, stakeholders were asked to provide their comments whether there should be a ceiling on the discount on sum of a-la-carte prices of channels forming part of bouquets while fixing the bouquets price. In case stakeholders considered that there should be a ceiling, they were requested to suggest the appropriate methodology to calculate as-well-as the recommended value of such ceiling.
66. In response, broadcasters, DTH operators and some other stakeholders including some research firms and individuals have submitted that they are not in favour of any ceiling on the discount on sum of a-la-carte prices of channels while fixing MRP of bouquets. These stakeholders have mentioned that a complete forbearance on bundling or removing all economic restrictions on the formation of bouquets will ensure that all the channels are accessible for all consumers at affordable prices. The main arguments made out in favour of this are as below:
  - a) Bouquets and a-la-carte channels are different offerings catering to different classes of consumers. Therefore, a cap on discounts on bouquets is nothing but a “floor price” on bouquets
  - b) 80% of TV households subscribe to bouquets and hence imposing a “floor price” or a cap on discounts will be against the interest of 80% of TV households or 98% of cable TV households.

- c) Any discount is in the consumer interest as it delivers better value for money and lowers the price at which consumers may avail services. Curtailing discounts would be irrational.
  - d) Perverse pricing is occurring due to the existing price restrictions on bouquets offered.
  - e) Capping of discounts and price capping, where applicable, directly interferes with broadcasters' freedom of speech and expression under Article 19(1)(a) of the Constitution of India.
67. One stakeholder has suggested that as an interim measure TRAI may allow a maximum of 33.33% discount on sum of a-la-carte prices of channels with a provision for review and revision every year on the basis of prevailing market condition.
68. On the other hand, some stakeholders, mostly MSOs and their association, have commented in favor of a ceiling on the discount on sum of a-la-carte prices of channels forming part of bouquets while fixing MRP of bouquets by broadcasters. These stakeholders have made following arguments in favour of their opinion:
- a) Capping of 33% discount may be applicable for broadcasters as-well-as the DPOs.
  - b) Twin conditions as prescribed under the amended Framework may be continued.
  - c) Bouquet discounts of as high as 50% - currently in force -over the sum of a la carte prices also point to the fact that broadcasters are operating with prices with very high profit margins and hence there is a scope for steep reduction in channel prices.
  - d) the maximum discount on DPO packages, who are in a better position to analyse and cater to the subscriber preferences, should also be capped at 33% (instead of existing 15%), so that the DPOs can pass on such benefit to the subscribers
69. Two stakeholders are of the opinion that there should be no discount on sum of a-la-carte prices of channels forming part of bouquets while fixing MRP of bouquets by broadcasters, as level playing starts there.
70. The Authority does not agree with the stakeholders favoring no discount while forming bouquets. The bundling discount is a norm across all the products including consumer goods, white goods etc. It provides flexibility to service providers in their offerings. Sometimes, bundles offer better value proposition to consumers.



71. In the Tariff Order 2017, the Authority had prescribed a maximum discount of 15% that a broadcaster could offer while forming its bouquet of pay channels over the sum of MRPs of all the pay channels in that bouquet. The prime reason for prescribing the maximum permissible discount on the MRP of a bouquet was to enable consumer choice through a-la-carte offering and prevent skewed a-la-carte and bouquet pricing.
72. The Hon'ble Madras High Court declared that the capping of price of bouquets at 85% of the sum of a-la-carte prices of the pay channels, as provided for in the third proviso to clause 3(3) of the Tariff Order 2017, is '*arbitrary and un-enforceable*'. However, Hon'ble Madras High Court upheld the power of TRAI to regulate the broadcasting services. An appeal was filed by petitioners (M/s Star and others) in Hon'ble Supreme Court against the judgment of Hon'ble High Court of Madras. Hon'ble Supreme Court in its judgment dated 30.10.2018 upheld the Framework and powers of TRAI. Inter-alia while considering the limited question of TRAI's powers to regulate broadcasting services, Hon'ble Supreme Court observed that the subscribers are forced to take bouquets if the a-la-carte rates of the pay channels are much higher. In this regard, Para 37 of the judgment dated 30.10.2018 is reproduced below:

*“37. It can thus be seen that both the Regulation as well as the Tariff Order have been the subject matter of extensive discussions between TRAI, all stake holders and consumers, pursuant to which most of the suggestions given by the broadcasters themselves have been accepted and incorporated into the Regulation and the Tariff Order. The Explanatory Memorandum shows that the focus of the Authority has always been the provision of a level playing field to both broadcaster and subscriber. For example, when high discounts are offered for bouquets that are offered by the broadcasters, the effect is that subscribers are forced to take bouquets only, as the a-la-carte rates of the pay channels that are found in these bouquets are much higher. **This results in perverse pricing of bouquets vis-à-vis individual pay channels. In the process, the public ends up paying for unwanted channels, thereby blocking newer and better TV channels and restricting subscribers' choice. It is for this reason that discounts are capped. While doing so, however, full flexibility has been given to broadcasters to declare the prices of their pay channels on an a-la-carte basis. The Authority has shown that it does not encroach upon the freedom of broadcasters to arrange their business as they choose. Also, when such discounts are limited, a subscriber***

*can then be free to choose a-la-carte channels of his choice. Thus, the flexibility of formation of a bouquet, i.e., the choice of channels to be included in the bouquet together with the content of such channels, is not touched by the Authority. It is only efforts aimed at thwarting competition and reducing a-la-carte choice that are, therefore, being interfered with.....”(emphasis provided)*

73. Therefore, Hon’ble Supreme court recognized the need for prescribing a cap on the sum of the a-la-carte price of the channels forming part of the bouquet. The reasons are twofold. Firstly, an unregulated high rate of discounts on bouquets distorts the choice of consumers heavily in favour of bouquets only, thereby allowing the broadcasters to push unwanted channels to the consumers. Secondly, the broadcaster is able to artificially inflate the a-la-carte price of a TV channel thereby discouraging the consumer to opt for channels on a-la-carte basis and making it impossible for the consumer to discover the real a-la-carte price of a channel.
74. However, Hon’ble High Court of Madras had declared the prescribed limit of 15% on the permissible discount on the sum of the a-la-carte price of constituent channels for a bouquet as ‘*arbitrary and un-enforceable*’. Therefore, the regulatory framework was implemented without any cap on permissible discount on the sum of a-la-carte prices of pay channels forming a bouquet as provided for in the third proviso to clause 3(3) of the Tariff Order 2017. It was expected that the service providers would be sensitive to their subscribers while declaring the prices of their a-la-carte channels and the bouquets and would not exploit the freedom on discount as means to alter consumer choices by inflating the a-la-carte price of a channel and lowering the bouquet price.
75. The Authority, in 2019, analyzed the data submitted by the service providers post implementation of the new regime and observed certain practices that distorted the choice of consumers. As per data available with TRAI, some bouquets are offered at a discount as high as 60% of the sum of a-la-carte rates of pay channels constituting these bouquets. The Authority noted that the business strategies of the broadcasters, in general, haven’t accorded due consideration to the objectives of the new tariff regime, the spirit of the judicial decision (that upheld the regime) and the consumer interests.

76. It was in this background that the authority considered prescribing conditions for broadcasters' for forming bouquets. The Authority, as per suggestion of stakeholders, prescribed twin conditions that existed prior to implementation of the new framework. While prescribing twin conditions as the relationship between pricing of a-la-carte channels and bouquets, the Authority in explanatory memorandum to the Tariff Order, 2020, mentioned the following:

*“30. Prescribing a cap on discount while forming bouquets is in line with the observation of the Hon'ble Supreme court in para 37 of its judgement dated 30.10.2018, which is already reproduced in para 6. However, the Authority noted that in the absence of a scientific method to arrive at a single figure to operate as a cap on discounts and it's possible impact on the regulatory framework already rolled out as expressed by the stakeholders, the other option before the Authority was to identify a method that could establish a link between bouquet prices and a-la-carte prices, that could strike a balance between the right of broadcasters to price the channels and right of consumers to choose channels as a bouquet or on a-la-carte basis. As pointed out by certain stakeholders, the Authority noted that there has been an industry accepted method, linking prices of individual channels and bouquets which was in vogue for a considerable time. Accordingly, in the Tariff Order 2020, the Authority prescribed a relationship between sum of a-la-carte price of channels and bouquet prices in form of the twin conditions:*

*“ ...*

*2.1 the sum of maximum retail prices per month of the a-la-carte pay channels forming part of a bouquet shall in no case exceed one and half times of the maximum retail price per month of such bouquet; and*

*2.2 the maximum retail price per month of any a-la-carte pay channel, forming part of such a bouquet, shall in no case exceed three times the average maximum retail price per month of a pay channel of that bouquet:*

*It has been clarified that if the maximum retail price of a bouquet is Rs. 'X' per month per subscriber and there are 'Y' number of pay channels in that bouquet, then the average maximum retail price per month of a pay channel of the bouquet shall be Rs. 'X' divided by 'Y'.”*

77. Hon'ble High Court of Judicature at Bombay, vide its Judgement dated 30<sup>th</sup> June 2021 upheld the validity of New Regulatory Framework 2020 except one of the twin conditions. Hon'ble Court ascertained that the condition of average test provided as the second condition of the Twin Conditions is severable from other provisions of the amended framework 2020. Hon'ble Court observed:

*97. Thus, while eliciting comments on the cap on discount on the sum of à-la-carte channels forming part of bouquet i.e. the 1st twin condition (Aggregate Test) which was proposed for consultation, the Authority has categorically used the expression "whether there is a need to reintroduce...". However, we find that there is no question posed in the Consultation Paper for the 2020 Tariff Order Amendment seeking comments on the 2nd twin condition (Average Test). The twin conditions were not something new. As a matter of fact the "twin conditions" find a mention in Chapter-2 of the Consultation Paper itself under the title "Evolution of Tariff Orders for Broadcasting and Cable services" which gives the brief history of how the Tariff Orders for Broadcasting and Cable services had evolved. If the Authority wanted to introduce the 2nd twin condition (Average Test), in our view, it ought to have been candid and ought to have posed the question whether there was a need to "introduce" or "reintroduce" the 2nd twin condition (Average Test) at the retail level i.e. whether there was a need to "introduce" or "reintroduce" a cap on the average price per month of an à-la-carte pay channel which forms part of a bouquet and how many times should that average be fixed. It needs to borne in mind that the impugned 2020 Tariff Order was only an amendment to the principal 2017 Tariff Order and the questions posed for consultation in the Consultation Paper therefore ought to have more intelligible to elicit proper responses and in that sense the consultation must be an effective and meaningful consultation.*

.....

.....

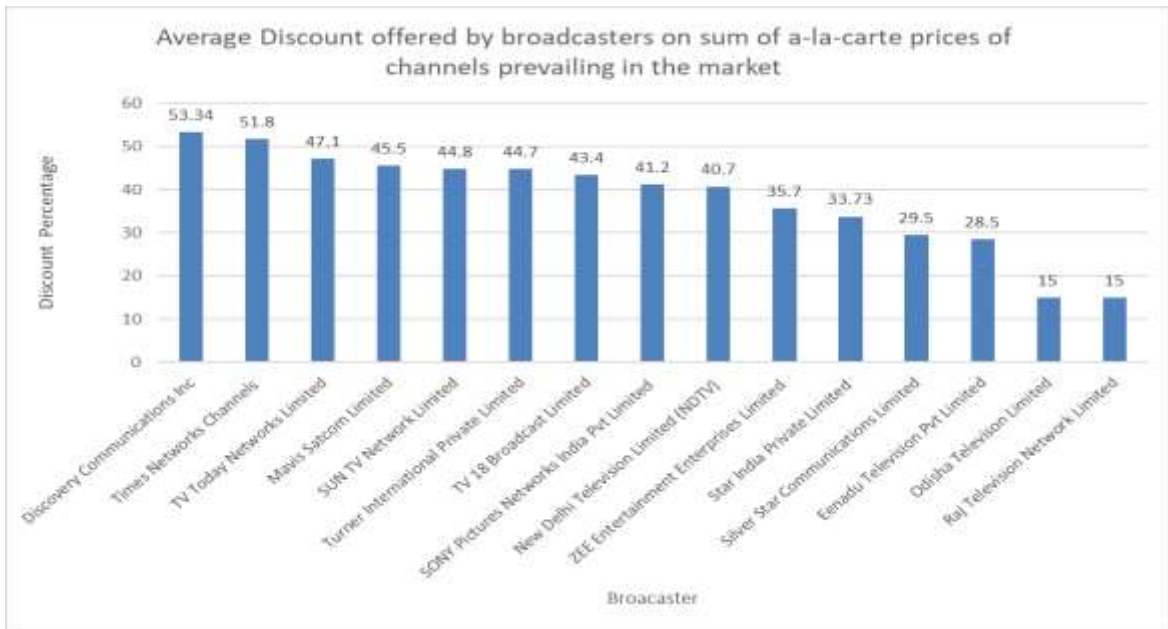
*100. We therefore hold that 2nd twin condition (Average Test) contained in the proviso to clause (3)(b) of the 2020 Tariff Order Amendment viz- the maximum retail price per month of any à-la-carte pay channel, forming part of such a bouquet, shall in no case exceed three times the average maximum price per month of a pay channel of that bouquet - is manifestly arbitrary and infringes the Petitioners' fundamental rights under Article 14 of the Constitution. The 2nd twin condition (Average Test) is contrary to clause 11(4) of the TRAI Act which mandates the Authority to ensure transparency, and is liable to be*

*set aside and accordingly set aside. The fact that the said 2nd twin condition (Average Test) was not proposed by the Authority even in the principal 2017 Tariff Order shows that the 2nd twin condition (Average Test) is severable from the rest of the provisions of the impugned 2020 Tariff Order Amendment.*

78. On the issue of discount on the sum of a-la-carte channels while forming bouquets by broadcasters, stakeholders have provided divergent views. The Authority recognizes that bundling of services and products in various forms is widely practiced across sectors and markets. It is also accepted that bundling of products and services, if done in a fair manner, can create economic efficiencies, reduce operational expenses, provide consumers with wider choices and access to products and services.
79. The Authority considered the views of stakeholders favoring forbearance on discount on the sum of a-la-carte channels while forming bouquets by broadcasters. In this regard, the Authority, in light of the judgement dated 30.10.2018 of the Hon'ble Supreme Court (Refer para 71) is of the view that though higher discounts may seem to favour the consumers, it should not result in perverse pricing of bouquets impacting a-la-carte choices of consumers. Byford and King in their Paper titled 'Capping Bundled Discounts: Two Regulatory Rationales'<sup>59</sup> suggest that, "*A cap on the bundled discounts can raise the welfare of consumers who are harmed by the bundle discounts*". They further aver that *potential harm to other independent retailers* (broadcaster in case of our analysis) is another rationale for regulatory intervention. Therefore, Authority considers that there has to be a reasonable limit on the discount on the sum of a-la-carte channels while forming bouquets by broadcasters.
80. The Authority analyzed the data submitted by the broadcasters prior to Tariff Amendment Order 2020. Figure 1 below shows that the average discounts being offered on various bouquets of major broadcasters are in the range of 33-54 percent:

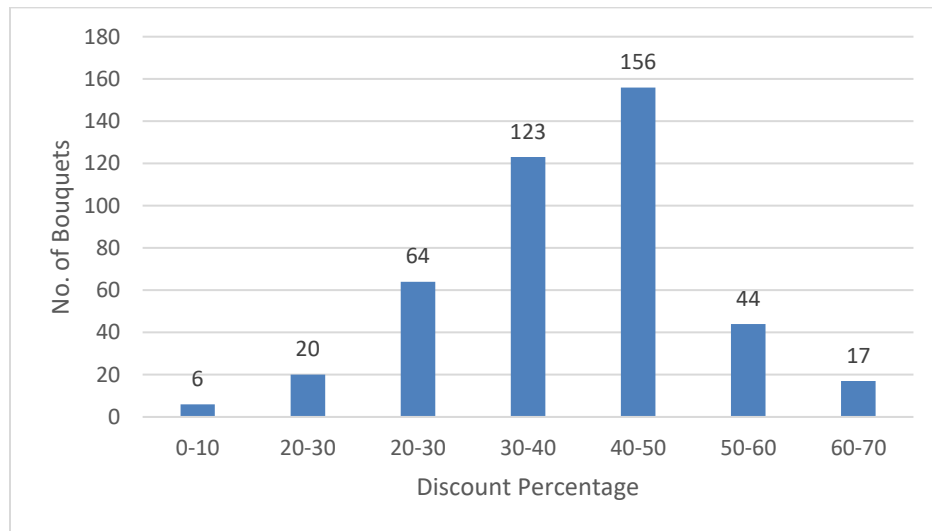
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<sup>59</sup> Martin C. Byford and Stephan King, November 2019, 'Capping Bundle Discounts: Two Regulatory Rationales', Working Paper, November 2019, Electronic copy available at: <https://ssrn.com/abstract=3446896>



**Figure 1: Average discount offered by broadcasters on their bouquets**

81. The Authority observed that there are approximately 435 bouquets offered by broadcasters. The mean and median of the discounts offered on these bouquets comes out to approximately 39 %. The mode however falls between 45 to 50% range. Figure 2 below indicates the number of bouquets in different discount bands:



**Figure 2: Number of bouquets in different discount range**

82. The above figure 2 clearly indicates that maximum number of bouquets falls under the discount range of 40-50%. Further, as per data available with TRAI, discounts offered by

broadcasters on sum of MRP of a-la-carte channels in top 5 broadcasters bouquets subscribed by DTH subscribers is given in Table 5 below:

**Table 5: Discount offered by broadcasters in the top 5<sup>60</sup> broadcasters' bouquets subscribed by DTH subscribers**

<b>Sl. No.</b>	<b>Name of Broadcaster</b>	<b>Name of the Bouquet</b>	<b>Discount (%) offered on the sum of MRP of a-la-carte channels</b>
1	TV Today Network Ltd	TV Today Hindi News	<b>50.0</b>
2	Turner International	Turner Kids Pack	<b>50.0</b>
3	ZEE Entertainment	Zee Family Pack Hindi SD	<b>24.4</b>
4	Discovery	Discovery Bouquet 1 Basic Infotainment Pack	<b>55.56</b>
5	Star India	Disney Kids Pack	<b>45.5</b>

83. One can observe that the average discount offered on sum of MRP of a-la-carte channels in top five broadcasters' bouquet is around 45%.
84. The Broadcasting market of India is quite diverse with multiple regional language markets. Even within the market of Hindi Channels, there are wide variations in viewership interests in different states. Therefore, distinct analysis of different markets reflects disparate strategies and discounting structure. An Article<sup>4</sup>, 'Preference between Individual Products and Bundles: Effects of Complementary, Price, and Discount Level in Portugal' by Mr. Paulo Martins and others seems quite relevant. As per the article<sup>61</sup>, in case of discounts upto 20% on bundling, individual products are preferred. However, at a discount level of 45%, bundles are preferred over individual products. One may consider that for markets to function perfectly, the discount structure may be within these limits.

<sup>60</sup> As per the data provided by the Service Providers to TRAI.

<sup>61</sup> Preference between Individual Products and Bundles: Effects of Complementary, Price, and Discount Level in Portugal available at <https://www.mdpi.com/1911-8074/14/5/192/htm>

85. Therefore, from the data in Figure 2 (para 84) one can consider that the average discount on bouquets is around 39 %. The highest frequency of data (mode) is between 45 to 50%. If one considers top 5 subscribed bouquets amongst 67 million<sup>62</sup> pay DTH subscribers, the discount on sum of a-la-carte prices of constituent channels varies between 24.4 to 55.5%. The mean discount of top five bouquets is 45%. Analysing these details after due consideration to hypothesis provided in the research paper<sup>4</sup> on bundling, the Authority is of the view that ceiling on the discounts is necessary. Furthermore, the analysis suggests that the discount on sum of a-la-carte prices of television channels can be between 45 to 50%. The Authority considers that such ceiling will enable semblance in television broadcasting Pay Television market. This would also curb the tendency of the broadcasters to inflate the a-la-carte price of channels and push unwanted channels to the subscribers of bouquets thereby allowing the consumers a fair balance of choice to choose between a channel on a-la-carte basis or a bouquet.
86. Another important factor to be considered while prescribing a regulations is the implementability. The Authority notes that the prescribed limit should not cause wider changes in the current composition of most of the bouquets. Furthermore, a prescribed ceiling is maximum possible discounting option made available to market players. The ceiling does not mean that every bouquet would be formed on the basis of maximum permissible discount. One look at current discount structure of bouquets (Figure 2) reflects that more than two hundred bouquets are offered with discounts lower than 40% value of the sum of a-la-carte prices of constituent television channels.
87. The Authority after due consideration of all these factors has prescribed a maximum discount of 45% on the sum of a-la-carte channels for arriving at the bouquet prices. A careful analysis of existing bouquets reflects that the prescribed maximum discount will cover almost 70% of existing bouquet offerings. In effect broadcasters will not be required to alter their bouquet composition or prices. It is only outlier bouquets which are offering much higher discount, perhaps leading to perverse pricing, will require recalibration as per revised discount cap. While keeping a check on higher amount of discounts on certain bouquets, it will provide sufficient flexibility to broadcasters while forming bouquets.

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<sup>62</sup> Total number of active DTH subscribers. As per the data provided by all the four DTH operators.



88. The Authority will continue to keep close watch on the formation of bouquets, its impact on the market, and will take further suitable measures if the situation warrants.

**B. Additional discount offered by broadcasters to DPOs**

89. The issue of Additional discount offered by broadcasters to DPOs was also part of the instant consultation paper. Stakeholders have provided their comments/ counter-comments on this issue as well. However, this matter is covered by the Interconnection Regulations 2017 and the decision of the Authority on this issue is being dealt with separately through the amendments to the respective regulations.

90. Sub regulation (1) of Regulation 19 of the Interconnection Regulations 2017 empowers the Authority to specify website for the purpose of reporting of the details by service providers. At present the portal for the purpose of reporting tariff is <https://bips.trai.gov.in>. All the broadcasters and DPOs are required to report the compliance with Tariff Orders and Regulations notified by TRAI on this website.

91. TRAI in the present Tariff Amendment Order, addressed only those critical issues which were suggested by the Stakeholders' Committee for immediate consideration to avoid inconvenience to consumers. As mentioned earlier in para 20, the Stakeholders' Committee also listed other issues for subsequent consideration by TRAI. In addition, the Authority held multiple meetings with representatives of LCOs including an online meeting which was attended by more than 200 LCOs from across the country. Several issues were put forward during these meetings. TRAI has noted the suggestions and may take further suitable measures if the situation warrants.

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**Annexure-I**

<b>Discount offered by Broadcasters in prevailing bouquets</b>			
<b>S. No.</b>	<b>Name of the broadcaster</b>	<b>Name of Bouquet</b>	<b>Discount (%)</b>
1	Discovery Communications	SD BOUQUET 1 - BASIC INFOTAINMENT PACK	55.56
2	Discovery Communications	SD BOUQUET 2 - INFOTAINMENT + SPORTS PACK	53.3
3	Discovery Communications	SD BOUQUET 3 - INFOTAINMENT PACK	36.4
4	Discovery Communications	SD BOUQUET 4	45.5
5	Discovery Communications	SD BOUQUET 5 -	63.6
6	Discovery Communications	SD BOUQUET 6	63.2
7	Discovery Communications	SD BOUQUET 7 - INFOTAINMENT (TAMIL) PACK	53.3
8	Discovery Communications	SD BOUQUET 8	60.0
9	Discovery Communications	HD BOUQUET 1	63.0
10	Discovery Communications	HD BOUQUET 2 -	56.5
11	Discovery Communications	HD BOUQUET 3 -	52.6
12	Discovery Communications	HD BOUQUET 4 -	43.8
13	Discovery Communications	HD BOUQUET 5 -	46.7
14	Eenadu Television Pvt Ltd	Bouquet 1	31.4
15	Eenadu Television Pvt Ltd	Bouquet 2	32.6
16	Eenadu Television Pvt Ltd	ETV HD Mini Family Pack	21.6
17	Mavis Satcom Limited	Bouquet 1	45.5
18	NDTV	NDTV Ultra	46.2
19	New Delhi Television Limited (NDTV)	UDTV North Info	40.0
20	New Delhi Television Limited (NDTV)	NDTV North Life	40.9
21	New Delhi Television Limited (NDTV)	NDTV South	40.9

22	New Delhi Television Limited (NDTV)	NDTV South Info	37.5
23	New Delhi Television Limited (NDTV)	NDTV South Life	38.9
24	Odisha Television Limited	Bouquet 1	15.0
25	Raj Television Network	Bouquet 1	15.0
26	Silver Star Communications	Bouquet 1	40.0
27	Silver Star Communications	Bouquet 2	31.0
28	Silver Star Communications	Bouquet 3	17.5
29	SONY Pictures Networks	Happy India 31	32.6
30	SONY Pictures Networks	Happy India 31A	26.2
31	SONY Pictures Networks	Happy India 31B	22.5
32	SONY Pictures Networks	Happy India Bangla 31	32.6
33	SONY Pictures Networks	Happy India 39	41.8
34	SONY Pictures Networks	Happy India Bangla 39	41.8
35	SONY Pictures Networks	Happy India 39A	38.1
36	SONY Pictures Networks	Happy India Platinum 69	49.3
37	SONY Pictures Networks	Happy India Platinum bangla 69	49.3
38	SONY Pictures Networks	Happy India Platinum 69A	47.7
39	SONY Pictures Networks	Happy India South 19	52.5
40	SONY Pictures Networks	Happy India Football 17	52.8
41	SONY Pictures Networks	Happy India Platinum South 35	50.0
42	SONY Pictures Networks	Happy India South Football 33	50.0
43	SONY Pictures Networks	Happy India Sports 31	42.6
44	SONY Pictures Networks	Happy India Sports 39	45.1
45	SONY Pictures Networks	Happy India English 12	36.8
46	SONY Pictures Networks	Happy India Sports + English 47	47.8
47	SONY Pictures Networks	Happy India HD 59	25.3
48	SONY Pictures Networks	Happy India Sports HD 48	22.6
49	SONY Pictures Networks	Happy India Sports HD 59	25.3
50	SONY Pictures Networks	Happy India English HD 20	37.5
51	SONY Pictures Networks	Happy India Sports + English HD 50	47.9

52	SONY Pictures Networks	Happy India Platinum HD 90	48.9
53	SONY Pictures Networks	Happy India Platinum Bangla HD 90	48.9
54	SONY Pictures Networks	Happy India Platinum HD 90 A	47.7
55	SONY Pictures Networks	Happy India Platinum HD 93	48.3
56	SONY Pictures Networks	Happy India South 25	54.5
57	SONY Pictures Networks	Happy India HD 70	27.1
58	Star India Private Limited	SVP Hindi	23.68
59	Star India Private Limited	SPP Hindi	42.42
60	Star India Private Limited	SVP Marathi	41.81
61	Star India Private Limited	SPP Marathi	45.96
62	Star India Private Limited	SPP Marathi (A)	41.57
63	Star India Private Limited	SVP Bengali	38.83
64	Star India Private Limited	SVP Bengali (A)	26.97
65	Star India Private Limited	SPP Bengali	42.80
66	Star India Private Limited	SPP Bengali (A)	36.85
67	Star India Private Limited	SVP Bengali-Hindi	37.96
68	Star India Private Limited	SVP Bengali-Hindi (A)	26.30
69	Star India Private Limited	SPP Bengali – Hindi	42.65
70	Star India Private Limited	SPP Bengali - Hindi (A)	37.41
71	Star India Private Limited	SVP Tamil	34.38
72	Star India Private Limited	SPP Tamil	33.72
73	Star India Private Limited	SVP Kannada (A)	19.14
74	Star India Private Limited	SVP kannada (B)	38.90
75	Star India Private Limited	SVP kannada (B)(1)	38.90
76	Star India Private Limited	SVP kannada (B)(2)	38.90
77	Star India Private Limited	SVP kannada (B)(3)	34.92
78	Star India Private Limited	SVP kannada (C)	46.52
79	Star India Private Limited	SPP kannada	33.07
80	Star India Private Limited	SVP Malayalam	30.48
81	Star India Private Limited	SPP Malayalam	33.07
82	Star India Private Limited	SVP Telugu	25.14
83	Star India Private Limited	SPP Telugu	41.57

84	Star India Private Limited	SVP Hindi -Malayalam	36.70
85	Star India Private Limited	SPP Hindi-Malayalam	42.84
86	Star India Private Limited	SVP Hindi - Kannada	33.96
87	Star India Private Limited	SPP Hindi- Kannada	35.46
88	Star India Private Limited	SVP Hindi- Telugu	38.34
89	Star India Private Limited	SPP Hindi- Telugu	41.43
90	Star India Private Limited	SVP Hindi-Tamil	28.76
91	Star India Private Limited	SVP Hindi-Tamil (A)	26.86
92	Star India Private Limited	SPP Hindi- Tamil	27.59
93	Star India Private Limited	SPP Hindi- Tamil (A)	35.90
94	Star India Private Limited	SVP Marathi- Kannada	41.11
95	Star India Private Limited	SVP Marathi- Kannada (A)	36.53
96	Star India Private Limited	SPP Marathi- Kannada	39.18
97	Star India Private Limited	SPP Marathi- Kannada (A)	36.75
98	Star India Private Limited	SVP Kannada- Malayalam	39.49
99	Star India Private Limited	SPP Kannada- Malayalam	32.63
100	Star India Private Limited	SVP Tamil- Malayalam	26.97
101	Star India Private Limited	SVP Tamil- Malayalam (A)	29.09
102	Star India Private Limited	SPP Tamil- Malayalam	33.13
103	Star India Private Limited	SVP Tamil- Telugu	28.68
104	Star India Private Limited	SVP Tamil- Telugu (A)	30.88
105	Star India Private Limited	SPP Tamil- Telugu	38.81
106	Star India Private Limited	SPP Tamil- Telugu (A)	39.74
107	Star India Private Limited	SVP Telugu- Kannada	37.20
108	Star India Private Limited	SPP Telugu- Kannada	38.33
109	Star India Private Limited	SVP Kannada- Tamil	40.12
110	Star India Private Limited	SVP Kannada- Tamil (A)	37.63
111	Star India Private Limited	SPP Kannada- Tamil	31.96
112	Star India Private Limited	SPP Kannada- Tamil (A)	30.76
113	Star India Private Limited	SVP All South	27.95
114	Star India Private Limited	SVP All South (A)	26.54
115	Star India Private Limited	SPP All South	35.33

116	Star India Private Limited	SPP All South (A)	34.56
117	Star India Private Limited	Star English Special Pack	28.57
118	Star India Private Limited	SPP English	33.87
119	Star India Private Limited	SVP Lite Hindi	25.62
120	Star India Private Limited	SVP HD Hindi	27.47
121	Star India Private Limited	SPP HD Hindi	45.99
122	Star India Private Limited	SVP HD Marathi	39.37
123	Star India Private Limited	SPP HD Marathi	49.41
124	Star India Private Limited	SVP HD Bengali	45.23
125	Star India Private Limited	SVP HD Bengali (A)	40.23
126	Star India Private Limited	SPP HD Bengali	46.93
127	Star India Private Limited	SPP HD Bengali (A)	43.69
128	Star India Private Limited	SPP HD Bengali – Hindi	48.12
129	Star India Private Limited	SPP HD Bengali - Hindi (A)	45.39
130	Star India Private Limited	SVP HD Tamil	-4.02
131	Star India Private Limited	SVP HD Tamil (A)	-18.86
132	Star India Private Limited	SPP HD Tamil	34.95
133	Star India Private Limited	SPP HD Tamil (A)	31.29
134	Star India Private Limited	SVP HD Kannada	-1.21
135	Star India Private Limited	SPP HD Kannada	35.71
136	Star India Private Limited	SVP HD Malayalam	16.76
137	Star India Private Limited	SPP HD Malayalam	34.56
138	Star India Private Limited	SVP HD Telugu	21.14
139	Star India Private Limited	SVP HD Telugu (A)	12.89
140	Star India Private Limited	SPP HD Telugu	42.74
141	Star India Private Limited	SPP HD Telugu (A)	39.92
142	Star India Private Limited	SVP HD Hindi- Malayalam	37.99
143	Star India Private Limited	SPP HD Hindi- Malayalam	47.71
144	Star India Private Limited	SVP HD Hindi- Kannada	30.76
145	Star India Private Limited	SPP HD Hindi- Kannada	46.33
146	Star India Private Limited	SVP HD Hindi- Telugu	39.95
147	Star India Private Limited	SVP HD Hindi- Telugu (A)	36.33

148	Star India Private Limited	SPP HD Hindi- Telugu	48.71
149	Star India Private Limited	SPP HD Hindi- Telugu (A)	46.89
150	Star India Private Limited	SVP HD Hindi - Tamil	30.76
151	Star India Private Limited	SVP HD Hindi - Tamil (A)	29.73
152	Star India Private Limited	SVP HD Hindi - Tamil (B)	25.90
153	Star India Private Limited	SVP HD Hindi - Tamil (C)	29.73
154	Star India Private Limited	SPP HD Hindi- Tamil	46.33
155	Star India Private Limited	SPP HD Hindi- Tamil (A)	43.77
156	Star India Private Limited	SPP HD Hindi- Tamil (B)	44.25
157	Star India Private Limited	SPP HD Hindi- Tamil (C)	45.88
158	Star India Private Limited	SVP HD Marathi- Kannada	37.58
159	Star India Private Limited	SVP HD Marathi- Kannada (A)	32.72
160	Star India Private Limited	SPP HD Marathi- Kannada	49.46
161	Star India Private Limited	SPP HD Marathi- Kannada (A)	47.20
162	Star India Private Limited	SVP HD Kannada- Malayalam	22.80
163	Star India Private Limited	SPP HD Kannada- Malayalam	42.06
164	Star India Private Limited	SVP HD Tamil- Malayalam	21.37
165	Star India Private Limited	SVP HD Tamil- Malayalam (A)	15.92
166	Star India Private Limited	SVP HD Tamil- Malayalam (B)	14.23
167	Star India Private Limited	SVP HD Tamil- Malayalam (C)	22.80
168	Star India Private Limited	SPP HD Tamil- Malayalam	41.49
169	Star India Private Limited	SPP HD Tamil- Malayalam (A)	38.81
170	Star India Private Limited	SVP HD Tamil- Telugu	24.85
171	Star India Private Limited	SVP HD Tamil- Telugu (A)	18.35
172	Star India Private Limited	SVP HD Tamil- Telugu (B)	26.15
173	Star India Private Limited	SVP HD Tamil- Telugu (C)	19.89
174	Star India Private Limited	SPP HD Tamil- Telugu	42.88
175	Star India Private Limited	SPP HD Tamil- Telugu (A)	40.33
176	Star India Private Limited	SPP HD Tamil- Telugu (B)	43.42
177	Star India Private Limited	SPP HD Tamil- Telugu (C)	40.92
178	Star India Private Limited	SVP HD Telugu- Kannada	26.15
179	Star India Private Limited	SVP HD Telugu- Kannada (A)	19.89

180	Star India Private Limited	SPP HD Telugu- Kannada	43.42
181	Star India Private Limited	SPP HD Telugu- Kannada (A)	40.92
182	Star India Private Limited	SVP HD Kannada- Tamil	9.67
183	Star India Private Limited	SVP HD Kannada- Tamil (A)	0.12
184	Star India Private Limited	SVP HD Kannada- Tamil (B)	7.71
185	Star India Private Limited	SVP HD Kannada- Tamil (C)	-2.29
186	Star India Private Limited	SPP HD Kannada- Tamil	37.21
187	Star India Private Limited	SPP HD Kannada- Tamil (A)	34.10
188	Star India Private Limited	SPP HD Kannada- Tamil (B)	36.54
189	Star India Private Limited	SPP HD Kannada- Tamil (C)	33.37
190	Star India Private Limited	SVP HD All South	41.39
191	Star India Private Limited	SVP HD All South (A)	44.48
192	Star India Private Limited	SVP HD All South (B)	43.82
193	Star India Private Limited	SVP HD All South (C)	40.66
194	Star India Private Limited	SPP HD All South	44.04
195	Star India Private Limited	SPP HD All South (A)	45.92
196	Star India Private Limited	SPP HD All South (B)	45.51
197	Star India Private Limited	SPP HD All South (C)	43.60
198	Star India Private Limited	Star English Special Pack HD	47.92
199	Star India Private Limited	SPP HD English	35.65
200	Star India Private Limited	SVP HD Lite Hindi GEC	25.60
201	Star India Private Limited	SVP HD Lite Hindi Sports	30.01
202	Star India Private Limited	SVP HD Lite Marathi GEC	42.33
203	Star India Private Limited	SVP HD Lite Marathi Sports	41.76
204	Star India Private Limited	SVP HD Lite Bengali GEC	42.33
205	Star India Private Limited	SVP HD Lite Bengali Sports	41.18
206	Star India Private Limited	SVP HD Lite Bengali Sports (A)	32.42
207	Star India Private Limited	SVP HD Lite Tamil	20.81
208	Star India Private Limited	SVP HD Lite Kannada	13.42
209	Star India Private Limited	SVP HD Lite Malayalam	21.22
210	Star India Private Limited	SVP HD Lite Telugu	15.81
211	Star India Private Limited	Disney Kids Pack	33.33



212	SUN TV Network Limited	Bouquet 1 - Tamil Basic	42.0
213	SUN TV Network Limited	Bouquet 2 - Tamil Prime	55.0
214	SUN TV Network Limited	Bouquet 3 - Tamil Super	60.9
215	SUN TV Network Limited	Bouquet 4 - Telugu Basic	44.5
216	SUN TV Network Limited	Bouquet 5 - Telugu Prime	56.6
217	SUN TV Network Limited	Bouquet 6 - Telugu Super	63.5
218	SUN TV Network Limited	Bouquet 7 - Kannada Basic	41.3
219	SUN TV Network Limited	Bouquet 8 - Kannada Prime	58.4
220	SUN TV Network Limited	Bouquet 9 - Kannada Super	61.9
221	SUN TV Network Limited	Bouquet 10 - Kerala Basic	44.4
222	SUN TV Network Limited	Bouquet 11 - Kerala Prime	61.5
223	SUN TV Network Limited	Bouquet 12 - Kerala Super	63.1
224	SUN TV Network Limited	Bouquet 13 - Sun Ultimate	69.1
225	SUN TV Network Limited	Bouquet 14 - Tamil Basic (HD)	14.6
226	SUN TV Network Limited	Bouquet 15 - Tamil Prime (HD)	33.6
227	SUN TV Network Limited	Bouquet 16 - Tamil Super (HD)	46.7
228	SUN TV Network Limited	Bouquet 17 - Telugu Basic (HD)	15.6
229	SUN TV Network Limited	Bouquet 18 - Telugu Prime (HD)	31.3
230	SUN TV Network Limited	Bouquet 19 - Telugu Super (HD)	51.0
231	SUN TV Network Limited	Bouquet 20 - Kannada Basic (HD)	5.8
232	SUN TV Network Limited	Bouquet 21 - Kannada Prime (HD)	36.4
233	SUN TV Network Limited	Bouquet 22 - Kannada Super (HD)	46.0
234	SUN TV Network Limited	Bouquet 23 - Kerala Basic (HD)	30.2
235	SUN TV Network Limited	Bouquet 24 - Kerala Prime (HD)	30.0
236	SUN TV Network Limited	Bouquet 25 - Kerala Super (HD)	44.4
237	SUN TV Network Limited	Bouquet 26 - SUN Ultimate Pack (HD)	55.9
238	Times Networks Channels	Bouquet 1	28.6
239	Times Networks Channels	Bouquet 2	55.2
240	Times Networks Channels	Bouquet 3	61.5
241	Times Networks Channels	Bouquet 4	50.0
242	Times Networks Channels	Bouquet 5	63.6
243	Turner International Pvt Ltd	Turner Kids Pack	50.0

244	Turner International Pvt Ltd	Turner Family Pack	50.0
245	Turner International Pvt Ltd	Turner HD Pack	26.5
246	Turner International Pvt Ltd	Turner Family HD Pack	43.2
247	Turner International Pvt Ltd	Turner Family HD Plus Pack	53.7
248	TV 18 Broadcast Limited	Colors Wala Hindi Budget	12.5
249	TV 18 Broadcast Limited	Colors Wala Hindi Budget Plus	25.8
250	TV 18 Broadcast Limited	Colors Wala Hindi Value	26.8
251	TV 18 Broadcast Limited	Colors Wala Hindi Value Plus	35.3
252	TV 18 Broadcast Limited	Colors Wala Hindi Family	38.3
253	TV 18 Broadcast Limited	Colors Wala North East Budget	13.5
254	TV 18 Broadcast Limited	Colors Wala North East Budget Plus	31.4
255	TV 18 Broadcast Limited	Colors Wala North East Value	29.2
256	TV 18 Broadcast Limited	Colors Wala North East Value Plus	51.4
257	TV 18 Broadcast Limited	Colors Wala Kerala Budget	43.1
258	TV 18 Broadcast Limited	Colors Wala Kerela Budget Plus	62.0
259	TV 18 Broadcast Limited	Colors Wala Kerela Value	51.7
260	TV 18 Broadcast Limited	Colors Wala Karanataka Budget	23.0
261	TV 18 Broadcast Limited	Colors Wala Karanataka Budget Plus	32.3
262	TV 18 Broadcast Limited	Colors Wala Karnataka Value	34.8
263	TV 18 Broadcast Limited	Colors Wala Karnataka Value Plus	48.4
264	TV 18 Broadcast Limited	Colors Wala Karnataka Family	59.3
265	TV 18 Broadcast Limited	Colors Wala Gujarat Budget	30.5
266	TV 18 Broadcast Limited	Colors Wala Gujarat Budget Plus	39.1
267	TV 18 Broadcast Limited	Colors Wala Gujarat Value	38.5
268	TV 18 Broadcast Limited	Colors Wala Gujarat Value Plus	44.6
269	TV 18 Broadcast Limited	Colors Wala Gujarat Family	46.3
270	TV 18 Broadcast Limited	Colors Wala Bengal Budget	40.3
271	TV 18 Broadcast Limited	Colors Wala Bengal Budget Plus	46.8
272	TV 18 Broadcast Limited	Colors Wala Bengal Value	45.5
273	TV 18 Broadcast Limited	Colors Wala Bengal Value Plus	50.3
274	TV 18 Broadcast Limited	Colors Wala Bengal Family	50.7
275	TV 18 Broadcast Limited	Colors Wala Maharashtra Budget	27.8

276	TV 18 Broadcast Limited	Colors Wala Maharashtra Budget Plus	43.8
277	TV 18 Broadcast Limited	Colors Wala Maharashtra Value	35.9
278	TV 18 Broadcast Limited	Colors Wala Maharashtra Value Plus	48.1
279	TV 18 Broadcast Limited	Colors Wala Maharashtra Family	49.0
280	TV 18 Broadcast Limited	Colors Wala Odia Budget	28.2
281	TV 18 Broadcast Limited	Colors Wala Odia Budget Plus	37.4
282	TV 18 Broadcast Limited	Colors Wala Odia Value	36.9
283	TV 18 Broadcast Limited	Colors Wala Odia Value Plus	43.4
284	TV 18 Broadcast Limited	Colors Wala Odia Family	45.3
285	TV 18 Broadcast Limited	Colors Wala Telegu Budget	46.5
286	TV 18 Broadcast Limited	Colors Wala Telegu Budget Plus	57.8
287	TV 18 Broadcast Limited	Colors Wala Telugu Value	48.2
288	TV 18 Broadcast Limited	Colors Wala Tamil Budget	52.8
289	TV 18 Broadcast Limited	Colors Wala Tamil Budget Plus	61.8
290	TV 18 Broadcast Limited	Colors Wala Tamil Value	51.5
291	TV 18 Broadcast Limited	Colors Wala Hindi Budget HD	27.4
292	TV 18 Broadcast Limited	Colors Wala Hindi Budget Plus HD	34.1
293	TV 18 Broadcast Limited	Colors Wala Hindi Value HD	39.4
294	TV 18 Broadcast Limited	Colors Wala Hindi Value Plus HD	48.8
295	TV 18 Broadcast Limited	Colors Wala Hindi Value Plus HD (A)	45.1
296	TV 18 Broadcast Limited	Colors Wala Hindi Family HD	36.9
297	TV 18 Broadcast Limited	Colors Wala Hindi Family Plus HD	41.4
298	TV 18 Broadcast Limited	Colors Wala North East Budget HD	30.5
299	TV 18 Broadcast Limited	Colors Wala North East Budget Plus HD	28.2
300	TV 18 Broadcast Limited	Colors Wala North East Value HD	42.1
301	TV 18 Broadcast Limited	Colors Wala North East Value Plus HD	52.3
302	TV 18 Broadcast Limited	Colors Wala Kerala Budget HD	35.2
303	TV 18 Broadcast Limited	Colors Wala Kerala Budget Plus HD	61.6
304	TV 18 Broadcast Limited	Colors Wala Kerala Value HD	54.8
305	TV 18 Broadcast Limited	Colors Wala Karnataka Budget HD	38.7
306	TV 18 Broadcast Limited	Colors Wala Karnataka Budget Plus HD	37.8
307	TV 18 Broadcast Limited	Colors Wala Karnataka Value HD	42.1

308	TV 18 Broadcast Limited	Colors Wala Karnataka Value Plus HD	48.3
309	TV 18 Broadcast Limited	Colors Wala Karnataka Family HD	45.8
310	TV 18 Broadcast Limited	Colors Wala Karnataka Family Plus HD	48.6
311	TV 18 Broadcast Limited	Colors Wala Gujarat Budget HD	35.1
312	TV 18 Broadcast Limited	Colors Wala Gujarat Budget Plus HD	40.5
313	TV 18 Broadcast Limited	Colors Wala Gujarat Value HD	43.8
314	TV 18 Broadcast Limited	Colors Wala Gujarat Value Plus HD	51.9
315	TV 18 Broadcast Limited	Colors Wala Gujarat Family HD	42.2
316	TV 18 Broadcast Limited	Colors Wala Gujarat Family Plus HD	45.9
317	TV 18 Broadcast Limited	Colors Wala Bengal Budget HD	44.3
318	TV 18 Broadcast Limited	Colors Wala Bengal Budget Plus HD	48.4
319	TV 18 Broadcast Limited	Colors Wala Bengal Value HD	44.7
320	TV 18 Broadcast Limited	Colors Wala Bengal Value Plus HD	56.8
321	TV 18 Broadcast Limited	Colors Wala Bengal Value Plus HD (A)	54.2
322	TV 18 Broadcast Limited	Colors Wala Bengal Family HD	47.1
323	TV 18 Broadcast Limited	Colors Wala Bengal Family Plus HD	50.2
324	TV 18 Broadcast Limited	Colors Wala Maharashtra Budget HD	46.0
325	TV 18 Broadcast Limited	Colors Wala Maharashtra Budget Plus HD	49.8
326	TV 18 Broadcast Limited	Colors Wala Maharashtra Value HD	46.1
327	TV 18 Broadcast Limited	Colors Wala Maharashtra Value Plus HD	52.9
328	TV 18 Broadcast Limited	Colors Wala Maharashtra Value Plus HD (A)	50.2
329	TV 18 Broadcast Limited	Colors Wala Maharashtra Family HD	48.2
330	TV 18 Broadcast Limited	Colors Wala Maharashtra Family Plus HD	51.2
331	TV 18 Broadcast Limited	Colors Wala Odia Budget HD	33.7
332	TV 18 Broadcast Limited	Colors Wala Odia Budget Plus HD	39.4
333	TV 18 Broadcast Limited	Colors Wala Odia Value HD	42.9
334	TV 18 Broadcast Limited	Colors Wala Odia Value Plus HD	51.3
335	TV 18 Broadcast Limited	Colors Wala Odia Family HD	41.5

336	TV 18 Broadcast Limited	Colors Wala Odia Family Plus HD	45.4
337	TV 18 Broadcast Limited	Colors Wala Telugu Budget HD	37.5
338	TV 18 Broadcast Limited	Colors Wala Telugu Budget Plus HD	55.1
339	TV 18 Broadcast Limited	Colors Wala Telugu Value HD	44.4
340	TV 18 Broadcast Limited	Colors Wala Telugu Value Plus HD	50.5
341	TV 18 Broadcast Limited	Colors Wala Tamil Budget HD	47.9
342	TV 18 Broadcast Limited	Colors Wala Tamil Budget Plus HD	60.7
343	TV 18 Broadcast Limited	Colors Wala Tamil Value HD	49.7
344	TV 18 Broadcast Limited	Colors Wala Tamil Value Plus HD	54.8
345	TV Today Networks Limited	Hindi News Bouquet	50.0
346	TV Today Networks Limited	TVTN News Bouquet	50.0
347	TV Today Networks Limited	Hindi News HD Bouquet	42.9
348	TV Today Networks Limited	TVTN News HD Boquet	45.5
349	ZEE Entertainment	Zee Family Pack Hindi SD	24.4
350	ZEE Entertainment	Zee All-in-One Pack Hindi SD	28.6
351	ZEE Entertainment	Zee Prime Pack English SD	53.1
352	ZEE Entertainment	Zee Family Pack Marathi SD	40.5
353	ZEE Entertainment	Zee All-in-One Pack Marathi SD	38.9
354	ZEE Entertainment	Zee Family Pack Bangla SD	39.5
355	ZEE Entertainment	Zee All-in-One Pack Bangla SD	38.2
356	ZEE Entertainment	Zee Family Pack Odia SD	37.6
357	ZEE Entertainment	Zee All-in-One Pack Odia SD	36.9
358	ZEE Entertainment	Zee Prime Pack Tamil SD	25.9
359	ZEE Entertainment	Zee Super Pack Tamil SD	21.6
360	ZEE Entertainment	Zee Family Pack Tamil SD	39.5
361	ZEE Entertainment	Zee All-in-One Pack Tamil SD	27.9
362	ZEE Entertainment	Zee Prime Pack Telugu SD	21.6
363	ZEE Entertainment	Zee Super Pack Telugu SD	30.7
364	ZEE Entertainment	Zee Family Pack Telugu SD	38.5
365	ZEE Entertainment	Zee All-in-One Pack Telugu SD	36.2
366	ZEE Entertainment	Zee Prime Pack Kannada SD	-9.7
367	ZEE Entertainment	Zee Super Pack Kannada SD	12.7

368	ZEE Entertainment	Zee Family Pack Kannada SD	28.8
369	ZEE Entertainment	Zee All-in-One Pack Kannada SD	29.4
370	ZEE Entertainment	Zee Prime Pack Tamil- Telugu SD	29.6
371	ZEE Entertainment	Zee Super Pack Tamil-Telugu SD	26.3
372	ZEE Entertainment	Zee Family Pack Tamil-Telugu SD	33.9
373	ZEE Entertainment	Zee All-in-One Pack Tamil-Telugu SD	33.0
374	ZEE Entertainment	Zee Prime Pack Tamil-Kannada SD	2.0
375	ZEE Entertainment	Zee Super Pack Tamil-Kannada SD	6.7
376	ZEE Entertainment	Zee Family Pack Tamil-Kannada SD	24.9
377	ZEE Entertainment	Zee All-in-One Pack Tamil-Kannada SD	26.6
378	ZEE Entertainment	Zee Prime Pack Telugu-Kannada SD	25.3
379	ZEE Entertainment	Zee Super Pack Telugu-Kannada SD	29.3
380	ZEE Entertainment	Zee Family Pack Telugu-Kannada SD	35.4
381	ZEE Entertainment	Zee All-in-One Pack Telugu-Kannada SD	34.2
382	ZEE Entertainment	Zee Prime Pack All South SD	28.4
383	ZEE Entertainment	Zee Super Pack All South SD	24.4
384	ZEE Entertainment	Zee Family Pack All South SD	31.7
385	ZEE Entertainment	Zee All-in-One Pack All South SD	32.3
386	ZEE Entertainment	Zee Prime Pack Odia-Telugu SD	30.2
387	ZEE Entertainment	Zee Family Pack Odia-Telugu SD	31.0
388	ZEE Entertainment	Zee All-in-One Pack Odia-Telugu SD	31.6
389	ZEE Entertainment	Zee Prime Pack Odia-Bangla SD	10.4
390	ZEE Entertainment	Zee Family Pack Marathi-Kannada SD	24.8
391	ZEE Entertainment	Zee All-in-One Pack Marathi-Kannada SD	27.2
392	ZEE Entertainment	Zee Family Pack Hindi HD	37.2
393	ZEE Entertainment	Zee All-in-One Pack Hindi HD	44.7
394	ZEE Entertainment	Zee Prime Pack English HD	63.2
395	ZEE Entertainment	Zee Family Pack Marathi HD	40.1
396	ZEE Entertainment	Zee All in One Pack Marathi HD	45.2
397	ZEE Entertainment	Zee Family Pack Bangla HD	39.4

398	ZEE Entertainment	Zee All-in-One Pack Bangla HD	45.2
399	ZEE Entertainment	Zee Family Pack Odia HD	39.0
400	ZEE Entertainment	Zee All-in-One Pack Odia HD	45.3
401	ZEE Entertainment	Zee Prime Pack Tamil HD	36.5
402	ZEE Entertainment	Zee Super Pack Tamil HD	40.1
403	ZEE Entertainment	Zee Family Pack Tamil HD	46.8
404	ZEE Entertainment	Zee All-in-One Pack Tamil HD	47.0
405	ZEE Entertainment	Zee Prime Pack Telugu HD	36.8
406	ZEE Entertainment	Zee Super Pack Telugu HD	39.5
407	ZEE Entertainment	Zee Family Pack Telugu HD	49.3
408	ZEE Entertainment	Zee All in-One Pack Telugu HD	48.8
409	ZEE Entertainment	Zee Prime Pack Kannada HD	36.5
410	ZEE Entertainment	Zee Super Pack Kannada HD	40.1
411	ZEE Entertainment	Zee Family Pack Kannada HD	42.7
412	ZEE Entertainment	Zee All-in-One Pack Kannada HD	44.3
413	ZEE Entertainment	Zee Prime Pack Tamil-Telugu HD	46.2
414	ZEE Entertainment	Zee Super Pack Tamil-Telugu HD	46.5
415	ZEE Entertainment	Zee Family Pack Tamil-Telugu HD	49.1
416	ZEE Entertainment	Zee All-in-One pack Tamil -Telugu HD	48.7
417	ZEE Entertainment	Zee Prime Pack Tamil-Kannada HD	31.5
418	ZEE Entertainment	Zee Super Pack Tamil-Kannada HD	35.4
419	ZEE Entertainment	Zee Family Pack Tamil-Kannada HD	43.3
420	ZEE Entertainment	Zee All-in-One Pack Tamil-Kannada HD	44.6
421	ZEE Entertainment	Zee prime pack Telugu-Kannada HD	46.2
422	ZEE Entertainment	Zee Super pack Telugu-Kannada HD	46.5
423	ZEE Entertainment	Zee Family pack Telugu-Kannada HD	49.1
424	ZEE Entertainment	Zee All-in-One pack Telugu-Kannada HD	48.7
425	ZEE Entertainment	Zee Prime Pack All South HD	46.5
426	ZEE Entertainment	Zee Super Pack All South HD	46.6
427	ZEE Entertainment	Zee Family Pack All South HD	48.9

428	ZEE Entertainment	Zee All-in-One Pack All South HD	48.6
429	ZEE Entertainment	Zee Prime Pack Odia-Telugu HD	28.3
430	ZEE Entertainment	Zee Family Pack Odia-Telugu HD	43.9
431	ZEE Entertainment	Zee All-in-One Pack Odia-Telugu HD	44.9
432	ZEE Entertainment	Zee Prime Pack Odia-Bangla HD	14.0
433	ZEE Entertainment	Zee Family Pack Marathi-Kannada HD	41.4
434	ZEE Entertainment	Zee All-in-One Pack Marathi-Kannada HD	43.0
		<b>Mean Discount</b>	<b>38.45%</b>
		<b>Median Discount</b>	<b>39.97%</b>
		<b>Mode of discount</b>	<b>40 – 50%</b>



**EXPLANATORY MEMORANDUM**  
**TELECOMMUNICATION (BROADCASTING AND CABLE) SERVICES**  
**(EIGHTH) (ADDRESSABLE SYSTEMS) TARIFF (FOURTH AMENDMENT) ORDER,**  
**2024 DATED 08.07.2024**

1. The Telecom Regulatory Authority of India (TRAI) on 3<sup>rd</sup> March, 2017 notified the new regulatory framework to ensure orderly growth of the Broadcasting and Cable TV Sector after a consultation process. This was necessitated by the complete digitization of Cable TV networks in India. The framework comprised of following Tariff Order and Regulations:
  - i. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (Tariff Order 2017);
  - ii. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 (Interconnection Regulations, 2017);
  - iii. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 (QoS Regulations, 2017).

Hereinafter, the above two Regulations & the Tariff order are collectively referred to as ‘the Framework.’

2. After passing legal scrutiny in Hon’ble High Court Madras and Hon’ble Supreme Court, ‘the framework’ came into effect from 29<sup>th</sup> December 2018. Collectively the three determinations completely revamped the regulatory framework for the Sector. Given the size and structure of the Sector and the changes that ‘the framework’ entailed, it was imminent that there could be some transient issues.
3. In order to address the issues noted during implementation of the Framework 2017, the Authority, after due consultation, notified the following amendments to the Regulatory Framework 2017, on 1st January 2020, TRAI notified the following amendments to the Regulatory Framework 2017, on 1st January 2020:

D. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2017 (Tariff Amendment Order 2020)

E. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment) Regulations, 2017 (Interconnection Amendment Regulations, 2020)

F. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Third Amendment) Regulations, 2017(QoS Amendment Regulations, 2020).

Hereinafter, the above amendments are collectively referred to as ‘the amended Framework 2020’

4. Some stakeholders challenged the amendments framework 2020. Provisions of the amended Framework 2020 related to Network Capacity Fee (NCF), NCF for Multi TV homes and long-term subscriptions were challenged by All India Digital Cable Federation (AIDCF) and others in the High Court of Kerala. However, these were duly implemented in April 2020 after the interim orders of the Hon’ble High Court of Kerala. In its final judgement dated 12th July 2021, Hon’ble High Court upheld the amendments introduced by the Tariff Amendment Order, 2020.
5. Simultaneously, some broadcasters and other stakeholders challenged various provisions of Tariff Amendment Order 2020, Interconnection Amendment Regulations 2020 and QoS Amendment Regulations 2020 in various High Courts including in the Hon’ble High Court of Bombay vide Writ Petition (L) No. 116 of 2020 and other connected matters therewith.
6. Hon’ble High Court of Bombay, vide its Judgement dated 30th June 2021 upheld the validity of the amended Framework 2020 except for the condition of the average test provided in the third proviso to sub-clause (3) of clause 3 of the Tariff Amendment Order 2020.
7. The petitioners in Bombay High Court filed Special Leave Petitions (SLPs) in the Hon’ble Supreme Court of India, challenging the judgement dated 30th June 2021 of the Hon’ble High Court of Judicature at Bombay. The matter was heard by the Hon’ble Supreme Court on 18th August 2021. However, no interim relief was granted by the Hon’ble Supreme Court.

8. Subsequently, on 15th February 2022 the petitioners submitted an affidavit in Hon'ble Supreme Court for withdrawal of SLPs. On the same day Hon'ble court was pleased to grant permission for the withdrawal of the SLP and passed the following order <sup>63</sup>:  
*“The Special Leave Petitions are dismissed as withdrawn. All questions of law open are kept open.”*
9. Meanwhile, considering that no interim relief was granted by Hon'ble Supreme Court on the judgement of Hon'ble Bombay Court, the Authority issued a letter dated 12<sup>th</sup> October 2021 to all the broadcasters seeking compliance with the provisions of the amended Framework 2020 as upheld by Hon'ble Court of Bombay, within 10 days. Consequently, most of the broadcasters submitted their Reference Interconnect Offer (RIOs) to TRAI in compliance with 'the amended Framework 2020' and also published these on their websites in November 2021.
10. New tariffs announced by the major broadcasters reflected a common trend i.e., the prices of their most popular channels, including sports channels, were enhanced beyond Rs. 20/- per month. Complying with the extant provisions, as regards the inclusion of pay channels in a bouquet, all such channels priced beyond Rs. 12/- (per month) were kept out of bouquets and offered only on an a-la-carte basis. The revised RIOs as filed indicated a wide-scale changes in composition of almost all the bouquets being offered.
11. Immediately after new tariffs were announced, TRAI received representations from Distribution Platform Operators (DPOs), Associations of Local Cable Operators (LCOs) and Consumer Organizations. DPOs also highlighted difficulties likely to be faced by them in implementing new rates in their IT systems and migrating the consumers in bulk to the new tariff regime through the informed exercise of options, impacting almost all bouquets, due to upward revision in the rates of pay channels and bouquets declared by broadcasters.
12. To address the issues raised in the representations, TRAI started engaging with the stakeholders through formal/ informal interactions. The discussions aimed to facilitate smooth implementation of the pending provisions of the amended Framework 2020. It was incumbent upon TRAI to ensure that no major disruption occur in the pay television services.

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<sup>63</sup> [https://main.sci.gov.in/supremecourt/2021/15611/15611\\_2021\\_2\\_11\\_33436\\_Order\\_15-Feb-2022.pdf](https://main.sci.gov.in/supremecourt/2021/15611/15611_2021_2_11_33436_Order_15-Feb-2022.pdf)

13. Representations from LCOs also highlighted the adverse impact on subscription of linear TV due to the increasing popularity of Free Dish (no cost to the consumers except installations of dish antenna) and Video on Demand (VOD), popularly known as OTT (over-the-top) services. The consumer organizations highlighted likely increase in their subscription due to the price rise of popular channels, consequent upon implementation of proposed RIOs filed by the broadcasters.
14. In view of above, the stakeholders requested TRAI to take immediate measures to address certain issues, arising due to the implementation of pending provisions of Regulatory Framework for safeguarding the growth of the sector including those of viewership.
15. Almost all the stakeholders opined that the tariffs announced by the broadcasters will cause large-scale changes in consumer offerings. The DPOs/ LCOs will have to obtain revised choices possibly from every consumer. The stakeholders requested TRAI to enable smooth implementation of the amended framework 2020. Further, some stakeholders suggested that to avoid likely disruption for consumers, some provisions of the amended framework 2020 may be considered for revision.
16. To deliberate on the issues related to pending implementation of New Regulatory Framework 2020 and suggest a way forward, a committee consisting of members from Indian Broadcasting & Digital Foundation (IBDF), All India Digital Cable Federation (AIDCF) & DTH Association was constituted under the aegis of TRAI. The broad terms of reference of the Committee were as below:
  3. To look into the process of smooth implementation of New Regulatory Framework 2020 keeping in view consumers convenience in exercising informed choices and suggest measures thereof (if any).
  4. To identify issues of concern and suggest measures for overall growth of the broadcasting sector.
17. The purpose of the committee was to provide a platform and facilitate discussions among various stakeholders to come out on a common agreed path for smooth implementation of

Tariff Amendment Order 2020. Stakeholders were advised to come up with an implementation plan with minimum disruptions or hassles to the consumers.

18. The committee held discussions on 23<sup>rd</sup> December 2021. Stakeholders listed the following issues which, in their opinion, required review:
  - a. The proposed tariffs by broadcasters through their RIOs submitted in compliance to NTO 2.0 Tariff Orders would cause a significant increase in the tariffs to consumers. The consumer price rise, if any, is required to be limited to a reasonable limit.
  - b. The proposed RIOs by Broadcasters may cause significant changes in the packages, especially due to keeping popular channels at higher a-la-carte prices, not being part of bouquets. This enjoins DPO to make very large number of plans and package offerings. Therefore, the DPOs require support from broadcasters so that they do not have to make large number of plans/ bouquets.
  - c. Considering the facts mentioned above, there is a need to simplify the process of exercising choices by consumers so that no channel should be provided to consumers without explicit consent. Consumers should have the facility to remove any channel.
  - d. The same product (television Channel) should be offered at the same price whether on Linear Television, Free Dish or Subscription based Video on Demand.
  - e. Stakeholders suggested that although more than two years have passed since NTO 2.0 amendments and more than three years have passed with NTO 1.0 implementations, since then, there is no change in prices of bouquet or a-la- carte channels. This has kept industry under stress in terms of providing quality products to the end consumers. As such restoring the MRP ceiling for bouquet inclusion to unamended tariff order level of Rs. Nineteen (19/-) would be appropriate.
  - f. The above provision shall also help in maintaining bouquet structure by ensuring all popular channels are within ceiling limits of bouquet. Additionally, this will also create bare minimum hassles to consumers in exercising their choices under new tariffs, as most of the tariffs may continue in their current form.
  - g. Allowing additional fifteen (15%) percent incentive to DPOs for bouquets as well, as has been provided for a-la-carte channel (It was pointed by the chair that the said provision pertains to Interconnection regulations and is not part of Tariff Order).

- h. The second twin condition may be reviewed to enhance the discount on sum of MRP of a-la-carte of pay channels forming part of the bouquet to fifty percent. This will enable the broadcasters to cross-subsidize the packages.
  - i. Revision in the ceiling of Network Capacity Fee (NCF) of Rs 130/-.
  - j. In case of multi-TV homes, broadcasters should also offer MRP of their channels for each additional TV connection, beyond the first TV connection, @ 40% of the MRP declared for the first TV connection. This will help consumers in saving cost of subscribing to pay channels on multiple televisions.
  - k. Review of ceiling of fifteen percent (15%) on discount on sum of a-la- carte channels of MRP of that bouquet available for DPOs.
  - l. Stakeholders suggested that TRAI should take immediate corrective measures and implement revised tariff by 1st April 2022. All DPOs present insisted that to properly implement new tariffs they will require sufficient time as prescribed.
19. The Stakeholders' Committee, however, requested TRAI to immediately address critical issues so that minimum hardship is caused to the consumers in implementation of Tariff Amendment Order 2020. Stakeholders also listed other issues for subsequent consideration by TRAI. All the members of the stakeholders' committee observed that urgent action is required to manage a smooth transition and to avoid inconvenience to consumers.
20. In order to address the issues as identified by the stakeholders' committee; TRAI issued the consultation paper on 'Issues related to New Regulatory Framework for Broadcasting and Cable services' on 7<sup>th</sup> May 2022 for seeking stakeholders' comments on points / issues, which were pending for implementation of 'the amended Framework 2020'.
21. After following the due consultation process, on 22<sup>nd</sup> November 2022, the Authority notified the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Third Amendment) Order, 2022 and the Telecommunication (Broadcasting and Cable) Services (Addressable Systems) Interconnection (Fourth Amendment) Regulations, 2022, which covered the following issues:
  - a) Continuance of forbearance on MRP of TV channels
  - b) Ceiling of Rs. 19/- on MRP of a TV Channel price for inclusion in bouquet
  - c) Discount of 45% on sum of the price of individual channels while forming Bouquet

- d) Additional Incentives of 15% by broadcaster to be permitted on Bouquets also.
22. The Stakeholders' Committee also listed several other issues for subsequent consideration by TRAI. In addition, the Authority held multiple meetings with representatives of broadcasters, MSOs, DTH operators and LCOs. Several issues were put forward during these meetings for inclusion in the proposed consultation paper<sup>64</sup>.
23. In order to address the remaining issues pertaining to Tariff, Interconnection and Quality of Service of Broadcasting and Cable services, as identified by the stakeholders' committee and suggested by other stakeholders, TRAI issued the consultation paper on "Review of Regulatory Framework for Broadcasting and Cable services" on 8<sup>th</sup> August 2023 for seeking stakeholders' comments. Comments and counter comments received from stakeholders were placed on TRAI's website. This was followed by an open house discussion in New Delhi on 18<sup>th</sup> April 2024.
24. As far as the issues related to Tariff for Broadcasting and Cable Services is concerned, the Authority had broadly posed the following issues for consultation:
- a. Ceiling on Network Capacity Fee (NCF)
  - b. Network Capacity Fee for multi-TV homes
  - c. Ceiling of 15% on discount on sum of DRP of a-la-carte channels for fixing DRP of bouquets by DPOs
  - d. Number of SD channels equivalent to One HD channel
  - e. Mandatory FTA Channels in all packs formed by DPOs.
  - f. Issues related to DD Free Dish
  - g. Financial disincentives

### **Comments of Stakeholders and Analysis of Issues**

#### **A. Ceiling on Network Capacity Fee (NCF)**

25. In the Tariff Order 2017, the NCF of maximum Rs. 130/- has been prescribed for carrying 200 SD channels. In the consultation paper, stakeholders were asked whether the present

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<sup>64</sup> Consultation paper on "Review of Regulatory Framework for Broadcasting and Cable services" dated 8<sup>th</sup> August 2023

ceiling of Rs.130/- for NCF should be reassessed and revised. Additionally, they were prompted to provide suggestions on whether the NCF ceiling should be removed altogether.

26. In response, several stakeholders including MSOs and their Association, DTH operators, association of news broadcasters, LCO associations, few industry associations and an individual are in favour of revising the present NCF upwards and have mentioned that the ceiling on NCF should be removed. They put forth following arguments in favour of their opinion:

- The determination of NCF should be left to market forces as there is enough competition prevailing in the market and capping on NCF should be removed.
- While fixing a ceiling, the Authority assumed that on an average, DPOs were providing 300 channels to customers, however, almost every DPO provides more than 450-550 channels. Carrying cost per channel of around 26 paisa is commercially unviable for DPOs.
- The decrease in subscriber base from 110 million in 2017 to 65 million has also led to a substantial increase in the cost per subscriber.
- NCF includes not only capital expenditure but also operational expenses such as rent of the premises, salary of employees, repair and maintenance of network and other expenses such as electricity, water, depreciation.
- NCF capping restricts the DPO's ability to carry out business operations in a fluent and competitive manner.
- The ceiling should be set Rs.170/-for SD channels and Rs.210/- for HD channels irrespective of number of channels.
- NCF is a part of the total MRP of cable TV. If NCF is not revised upwardly on yearly basis due to inflation, it will impact the net profit of DPOs and overall quality of service to consumers.
- Ceiling on NCF for the first 200 channels should be increased to Rs. 150/- to reflect the changing dynamic of the broadcasting and distribution sector and considering the impact of inflation over the years.

27. One DTH operator opined that regulating different platforms with a blanket approach doesn't account for their diverse cost structures and business models. They also suggested that DPOs should be permitted to review NCF every six months until reaching forbearance, allowing market analysis and adjustment.



28. Some stakeholders including few broadcasters, association of broadcasters and an individual were in favour of revising the present NCF downwards and put forth the following arguments to support their opinion:
- NCF is a substantial part of consumer price which contributes more than 50% of average end-consumer payout and any increase in NCF will burden the end consumer. It will lead to their migration to other platforms which is detrimental for the entire broadcasting industry.
  - In addition to NCF, a DPO also receives a fixed distribution fee of 20% from the MRP price of each channel, revenues from carriage fee, discounting/ incentives and placement fee. So, reducing the NCF would make sense and be justified.
  - A high NCF, deters consumers from subscribing to more channels, thus missing out to complete universe of entertainment.
  - Expenditure/cost incurred by any DPO for carrying channels on its platform is a one-time capital expenditure and non-recurring in nature and therefore, ideally there should no rationale for revision of NCF.
  - It has created an arbitrage opportunity for DPOs to charge carriage fees from smaller broadcasters and disincentivizes the DPOs from carrying pay TV channels.
29. One stakeholder opined that with digitization, it is not practical to prescribe slabs of NCF based on the number of channels. They suggested that there should be a common NCF irrespective of the channels being opted by the consumer whether such number is 200 or more than 200.
30. Further, a couple of stakeholders opined that most products available offline/online have the fixed and variable cost accounted for in the price of the product. NCF can be assumed as a part of the channel price itself. To accommodate NCF in the channel pricing, they suggested that TRAI can increase the ceiling on the cap of channel price.
31. Some stakeholders are of the view that that there is no need for revision of the present NCF. They put forth the following arguments to support their opinion:
- The present ceiling of Rs.130 had arrived after due deliberations and seems to be a fair rate, therefore it should not be revised.

- NCF is an important component of subscription revenue that recognizes the cost of infrastructure and its maintenance and offers a fair compensation to the distribution entities (LCO/LMO and the DPOs).
  - Frequent revision of NCF would create confusion at the subscriber levels and leads to misrepresentation by the DPO/LCO. Average NCF is lower than that currently stipulated and hence market forces are at work.
  - In CAS and initially in DAS the LCO used to get all the NCF. Now, it has been reduced to a minority revenue share, which is unfair and unjust to small businesspeople like the LCO.
  - Present ceiling of NCF should remain the same and gradually it should move towards forbearance. Further, one individual opined that NCF/ Channel/Bouquet MRP capping is required so that TV Channels may be available at affordable prices.
32. Further, the stakeholders were also asked if TRAI should follow any indices (like CPI/WPI/GDP Deflator) for revision of NCF on a periodic basis to arrive at the revised ceiling. Some stakeholders suggested that the Consumer Price Index (CPI) should be used for revision of NCF and to support their arguments, they provided the following reasoning and comments:
- CPI is a widely used index for gauging consumer price inflation and could serve as a suitable benchmark.
  - Capping on NCF should be removed and linked to number of channels as was prescribed in 2017 Regulation for the incremental NCF along with its linkage to CPI index.
  - CPI is a holistic index which also considers services and since the inputs primarily consist of services, use the same as base instead of WPI.
  - There should be an inbuilt and automatic mechanism in such regulation to allow an increase in NCF linked to WPI/CPI for capping purposes, and these revisions should be carried out every two years.
  - Inflation rates in India have been 5.13% and 6.70% in the past two years respectively.
  - It has already been more than 4 years since the time NCF has been capped. The NCF rate needs to be revised periodically bearing in mind the inflation rates.
33. Some stakeholders have suggested that GDP Deflator should be used to arrive at the revised ceiling, and they provided the following arguments to support their argument:

- The most logical and reliable basis to apply is only the average GDP Deflator on yearly basis as this index is calculated and published by the National Statistical Office under the ministry of Statistics and Programme Implementation, Govt. of India.
  - The other two indices, that is, CPI and WPI should not be taken into consideration as those may vary too frequently.
  - It is a more comprehensive measure of inflation and considers a much wider range of products that also includes services and isn't based on a fixed basket of goods alone.
  - Using GDP deflator or other economic indices might provide a broader perspective on economic changes that could impact the pricing of the services.
  - The chosen index should be updated at a frequency that aligns with the desired revision cycle for NCF.
34. A couple of stakeholders have suggested that the NCF should be increased by 40% immediately and thereafter be revised on a periodic basis according to CPI index since the operational costs in maintaining the cable television infrastructure have also significantly increased by 40%.
35. One stakeholder is of the opinion that the periodicity of revision should be once every 5 years. The group advocated for WPI, which is a better measure of inflation than the CPI.
36. Another stakeholder has opined that TRAI should undertake a study to map the impact of such dynamic factors on the costs that are incurred by the DPOs for providing signals to the subscriber's homes.
37. In addition, stakeholders were also asked to comment whether DPOs be allowed to have variable NCF for different bouquets/plans for and within a state/ city/ town/village along with detailed justifications of the views.
38. In response, some stakeholders, mainly DTH operators are in favour of allowing DPOs to have a variable NCF for different bouquets/plans within a state/city/town/village. They put forth the following arguments to support their opinion:
- Implementing variable NCF would promote market competition, cater to diverse consumer needs, and enable greater consumer choice.

- To cater to customers with different preferences - a regulated/fixed NCF poses a challenge as DPOs are unable to curate their plans which meet customer expectations.
- The same amount of NCF may act as an undesirable higher package for customers who have subscribed to a lower value pack with less content, compared to customers who may have taken higher value packs.
- Flexibility should be allowed to have a differential NCF based on a segment or class of customers created based on a justifiable, reasonable and non-discriminatory yardstick.
- A consumer located in a particular geographical location should only have to pay for the actual cost of NCF incurred by the DPO in its regard instead of paying a uniform fee which cross subsidises the variable costs incurred by DPOs.
- Allowing flexibility in pricing of NCFs basis bouquets/plans chosen by the consumer fosters and promotes consumer choice and the principle that a consumer should only have to pay for it has chosen.
- For variable NCF, the regions can be categorized as DAS-I, DAS-II, DAS-III and DAS-IV areas as the affordability and demographics of subscribers in these regions are different. Such categorization will help DPOs to better serve the subscribers.

39. Some stakeholders are not in favour of variable NCF and provided the following justifications to support their point of view:

- The costing of NCF is not much dependent on bouquets/plans regarding any state/city/town/village.
- NCF is a culmination of all the operational expenditure, which are majorly standardized for all the MSOs basis the capacity and infrastructure it has deployed.
- Variable NCF will create discrimination within the same set of subscribers, which will lead to further litigation by subscriber with DPOs.
- Variable NCF will likely be misused by one set of industry players against others, considering their deeper pockets and high spending capacity.
- It may also create law and order situation on ground that may lead to piracy as well as to disputes between the broadcasters and DPO(s).
- This may also create difficulty for the auditors to verify location details during audit.
- Variable NCF could make the pricing structure more complex, leading to confusion among consumers and all stake holders. This complexity might undermine the

transparency of pricing and make it harder for consumers to understand the true cost of their selected plans.

- Since the MRP of the channel price have been fixed across the country, the NCF too should be same throughout to keep the packaging simpler.
- With the density of the population and with the increasing vertical growth of housing like apartments, the DPOs have a lower cost of installation and maintenance.
- The impact of such variable pricing is on many factors, such as building different products in CAS and SMS, call centre, call handling, which is prone to confusion as one customer moves from one place to another. Customer may have his or her own linguistic preferences and this may impact his or her NCF bundle.

40. Some stakeholders, particularly LCOs and a few broadcasters while supporting variable NCF for different state/city/town are against any variability based on the plan/bouquet subscribed. They have suggested that differential, but a set of standard NCF rates should be prescribed for different classification of locations such as metro cities, urban cities, towns and villages or rural areas. One stakeholder has suggested that DPOs should file such variable NCFs with the Authority at least 30 days before making such modifications.

**Analysis:**

41. Regarding comments of some stakeholders suggesting a reduction in the ceiling of NCF, the Authority is of the opinion that it is not required. The Authority is of the view that Rs. 130/- is the ceiling and DPOs are free to decide a NCF lower than this amount. A comprehensive review of market data has revealed that many DPOs are presently charging NCF rates below the prescribed ceiling of Rs.130. This observation underscores the existence of adequate competition among service providers, resulting in market-driven pricing strategies that ultimately benefit consumers.
42. The Authority analysed the comments of the stakeholders and the discussions held during the open house discussion and noted the level of competition in the market due to the presence of multiple Broadcasters, DPOs (MSO/DTH/HITS/IPTV) and LCOs. Accordingly, the Authority is of the view that there is a need to provide flexibility to the service providers for enabling them to adopt to the dynamic market conditions while at the same time safeguarding the interest of consumers and small players through transparency, accountability and equitability. Following an analysis of stakeholders comments and a

thorough examination of current market data regarding prevalent NCF rates, the Authority is of the view that bringing NCF under forbearance is the most prudent course of action.

43. The Authority is of the considered view that within the framework of forbearance, DPOs will have the liberty to fix NCF according to their individual business models and operational costs. One may argue that in case forbearance is given, DPOs may increase NCF. However, DPOs contemplating increase in NCF have to carefully weigh the potential risk of customer attrition in a competitive market. Therefore, the decision to maintain NCF under forbearance is deemed mutually beneficial for both DPOs and consumers. This approach allows NCF rates to be determined by market forces, facilitating flexibility in pricing strategies to align with competitive pressures and consumer demand effectively.
44. Regarding choosing a inflation index for changing the NCF at an given interval, the Authority is of the view that deciding index is not required since NCF has been brought under forbearance, allowing DPOs the flexibility to decide NCF based on their operational needs.
45. In the amended Tariff Order of 2020, the Authority allowed flexibility to DPOs in offering NCF based on geographical location and provided the following justifications in support of its decision:

*“123. The Authority analysed the comments of the stakeholders and is of the view that DPOs should be given flexibility of declaring varying NCF for different regions/areas. The Authority also noted that offering of different NCF for different markets will not distort the whole scheme if it is offered in non-discriminatory manner to all the subscribers. Accordingly, the Authority has decided that the DPOs should be permitted to declare different NCF for different regions/areas, such as State, district, town within its service area. However, NCF for each region/areas shall be reported to the Authority from time to time.”*
46. The Authority analyzed the comments of the stakeholders and is of the view that DPOs should be given complete forbearance of declaring varying NCF based on number of channels, regions/areas, and class of subscribers. The Authority also noted that offering of different NCF will not distort the whole scheme if a particular NCF is offered in non-discriminatory manner to all the subscribers who meet the criteria of same number of

channels, region/area, class of subscriber etc, declared by the DPO for that NCF. Accordingly, the Authority has decided that the DPOs should be given full flexibility to declare different NCF for different number of channels, different regions/areas, and different class of consumers or a combination thereof within its service area.

47. To ensure transparency, all NCF offerings along with their respective criteria have to be mandatorily published by the service providers and communicated to the consumers besides reporting to the TRAI.
48. It is expected that the DPOs will extend the benefit of forbearance allowed to them to their subscribers by innovative offerings. The Authority will continue to keep a close watch on NCF offering by DPOs, its impact on the market, and will take further suitable measures if the situation warrants.

**B. Network Capacity Fee for multi-TV homes:**

49. In the Tariff Amendment Order 2020, a ceiling of 40% on the NCF for each additional TV connection, beyond the first TV connection in a multi TV home has been prescribed. In the consultation paper, stakeholders were asked whether TRAI should revise the current provision that NCF for 2nd TV connection and onwards in multi-TV homes should not be more than 40% of declared NCF per additional TV. Suggestions were also sought regarding quantitative rationale to be followed to arrive at an optimal discount rate, in case the revision of the NCF takes place. It was also asked if TRAI should consider removing the NCF capping for multi-TV homes altogether.
50. In response, some stakeholders, that primarily included MSOs, DTH operators, LCOs, and consumer advocacy groups, have suggested revising the discount structure and eliminating the cap on NCF for subsequent TVs in multi-TV households. They justified their stance with the following rationales:
  - NCF cap of Multi TV is not justified since subscribers with multi-TV are affluent subscribers and subsidizing NCF at the cost of the DPOs is only an unjust enrichment of such subscribers.
  - Giving discounts on NCF may not be possible at all since the incremental cost of providing a 2nd TV connection in each home is the same as that of providing the 1st TV connection.

- Examples of similar product which are essential, and yet no discount is being given on second connection are electricity connection, gas pipeline, etc.
  - Any discount that are offered for 2nd TV connection onwards in a multi-TV home should be the prerogative of the DPOs based on their business requirements and ground realities.
  - To move to a less regulated market and light touch regulation as a policy, the NCF capping for multi-TV homes can be removed.
  - Cap should be revised to 60% on declared NCF for first additional connection (of it 20% to be allocated for MSOs and 40% to be allocated for LCOs/LMOs).
51. Some stakeholders were against the idea of removing the NCF capping on multi-TV homes. One broadcaster opined that in multi-TV homes, the infrastructure which is provided by a DPO is common and only a STB and additional wiring are required for additional connections which is a one-time cost. Hence, any discount on NCF ought to be justified and more than 40% of declared NCF ought not be allowed. Another broadcaster opined that any NCF on 2nd TV will further accelerate cord cutting in terms of cancelling their subscriptions to multi-channels.
52. A few LCOs were of the view that 40% discount on declared NCF for 2nd and more TV sets in a household is acceptable.
53. Additionally, stakeholders were also asked if the pay television channels for each additional TV connection be also made available at a discounted price. Suggestions were also sought regarding the quantum of discount on MRP of television channel/bouquet for 2nd and subsequent television connection in a multi-TV home, in case the discounted price becomes available.
54. Most of the stakeholders argued that if NCF discounting is continued then, the Broadcasters should also be made to discount content similarly for multi-TV connections. They provided the following justifications and comments for their stance:
- Some LCOs opined that if the discount for pay TV channels are introduced for multi-TV homes the customers' MRP should also be reduced which will relief the customers from a comparatively higher cable bill.



- Without getting the discount from the broadcaster on the second TV, MSO cannot afford to offer from its own pocket, as it is bleeding and has no capacity to bleed further.
- The broadcasters need to align their wholesale price in such a way that there is a price for the first TV and the reduced price for additional TV sets to facilitate consumers to use their subscription on multiple TV sets.
- It should be compared to delivery of content on non-linear mode (OTT), wherein they allow consumers to watch the content on multiple devices at different places within the same subscription (be it the consumer's home, office or even at a third-party locations).
- If NCF discounting is continued then, the Broadcasters should also be made to discount content similarly for multi-TV secondary connections.

55. A few DTH providers and an individual were of the view that the discounting idea should be left to the broadcasters. They provided following justifications for their opinion:

- The question of broadcasters being allowed to offer different MRP for multi-TV homes in addition to the 15% discount provided should, basis the industry practice and technical feasibility of operationalising such discounts, be left up to mutual negotiations between broadcaster and DPOs.
- Only the broadcasters have the right to fix and publish MRP while the role of the DPOs is limited only to the extent of pipe/network through which the channels/bouquets are offered to the consumers.

56. Stakeholders were also asked to provide mechanism to verify the number of subscribers reported for multi-TV homes. In response they provided the following measures:

- One DTH provider opined that since the DPOs offer discount on multi-TV, the same mechanism can be relied upon by the broadcasters to verify the multi-TV homes. Another DTH provider further opined that the provision yearly audit in the Interconnection Regulation sufficiently caters this aspect, and no further regulation/mechanism is required w.r.t the same.
- One of the stakeholders opined that each and every digital addressable system deployed by DPOs is compliant to the specification prescribed under the extant regulations and regular audit is being conducted of such systems so as to verify compliance of the systems. And in order to identify multi-TV homes the SMS should be capable enough to generate report area/locality wise with installation address of each STB mentioned therein with

unique consumer ID provided therein to identify multi-TV homes. With the current advancement in technology, every set top box can be equipped with location tracing mechanism so as to ascertain multi-TV home connections.

57. Many broadcasters totally opposed the idea of the discounted price. They provided the following justifications for their stance:

- As per the terms of Broadcaster Agreement, each TV/STB is being considered as individual subscriber and billed accordingly.
- In a multi-TV home, viewers of each of the TV sets have different choice of channels and therefore, each multi-TV connection should continue to be considered as a separate and distinct additional subscriber for reporting in the MSR by the DPO.
- It is not technically feasible for broadcasters to identify the true and correct subscriber numbers for a multi-TV connection home even by way of audit.
- The distributor does not share the details of the customers with the broadcasters. It is very difficult for the broadcaster to verify the multi-TV connections as the SMS-CAS systems are at the distributor level.
- Discounts can be passed to Hospitals/Hotels etc and same can be misused by unscrupulous DPOs. This is going to lead to disputes between broadcasters and DPOs.
- The second TV connection is bought only by affordable households who can afford paying the subscription fees.

**Analysis:**

58. After reviewing comments and suggestions from stakeholders and analyzing market data, the Authority noted that multi-TV households account for only 2-3 % of the total TV users in the country. In line with the forbearance provided to DPOs to declare NCF, the Authority is of the view that forbearance should also be extended to NCF declared by DPOs for the 2<sup>nd</sup> TV onwards in a multi-TV home. Therefore, in case of NCF for the 2<sup>nd</sup> TV onwards in a multi-TV home, the ceiling of 40% of the NCF declared for the first TV has been done away with. However, DPOs have the option to offer different NCF rates through promotions or discounts for additional TVs, based on their business models. This approach aims to increase competition and provide customers with a range of choices.

59. The Authority noted that in a multi-TV home, TV connections are provided in different rooms/places in a household as an extension of the first/primary TV connection and therefore

is of the view that the NCF for the 2<sup>nd</sup> TV onwards in a multi-TV home should not be more than the NCF declared for the first TV in the same household.

60. The Authority considered the comments of stakeholders that broadcasters should also offer their channels at a reduced rate for every additional TV in multi-TV homes. Looking at the challenges likely to be faced by broadcasters in accurately verifying multi TV homes, the Authority do not intend to mandate broadcasters to offer their channels at a reduced rate for every additional TV connection in multi-TV homes.

**C. Ceiling of 15% on discount on sum of DRP of a-la-carte channels for fixing DRP of bouquets by DPOs:**

61. In the consultation paper, comments were sought from stakeholders if there was a need to review the ceiling on discount on sum of DRP of a-la-carte channels in a bouquet (as prescribed through the second proviso to clause 4 (4) of the Tariff Order 2017) while fixing the DRP of that bouquet by DPOs.
62. In response, some stakeholders including DPOs, consumer advocacy groups and a few news broadcasters were of the view that the provision needed revising and the discount ceiling on the sum of MRP of a-la-carte channels in a bouquet while fixing the MRP of that bouquet by DPOs should be increased to 45%. They provided the following arguments to support their views:
- The discount ceiling for DPOs (45% discount on sum of a-la-carte channels in a DPO bouquet) should be the same as the discount ceiling provided to broadcasters.
  - A flexibility in terms of discounting the DPO's bouquets is necessary to cater to the choices of the subscribers and offer better plans and offerings to them. A complete forbearance on discounts will benefit all stakeholders viz. customers, DPO's and broadcasters.
  - Subscription of DPO's bouquets by subscribers is far greater than the bouquets provided by the broadcasters (70% of subscribers on DPO compared to only 10% subscribers on broadcasters' bouquets).
  - Removal of the ceiling will lead to further competition between the DPOs leading to better and more efficient business practices while ensuring that the subscribers receive better rates for the bouquet(s) being offered.

- By restricting the discount given by the DPOs for the bouquet made and offered by the DPOs, the consumer is affected adversely with the price being higher than what is determined by the marketplace.
  - The DPO business is constrained by the lack of freedom in deciding the price of their services. This could lead to the closure of DPOs, as consumers are already moving to other alternatives like streaming services.
  - Complete forbearance should be allowed in pricing of channel by broadcasters and DPOs without any capping and ceiling to effectively compete with OTTs and with others vertically integrated broadcasters.
  - In a hypercompetitive market, no DPO can afford to procure channels on a-la-carte basis and make it a part of consumer's subscription at the a-la-carte price when the same channel is available in bouquets at 45% of the a-la -carte price.
  - The discrepancy in discounting has created an imbalance between DPOs and broadcasters and does not allow DPOs to compete effectively in the market.
  - The license granted by MIB to the TV channel operator neither allows them to sell their channels to consumer directly nor allow the creation of bouquets.
  - The broadcasters push the FTAs (by converting them into pay channels) and/or the less popular pay channel in the network of DPOs and forces them to carry such channels without paying any carriage charges to earn advertisement revenue.
63. Some MSOs and an association opined that the discount of 45% should be reduced to zero as it would help the broadcaster to reduce the a-la-carte price by 45% and also it would provide flexibility to DPOs and consumers to opt for either a-la-carte or bouquets without being worried about the huge price difference between the two.
64. Some stakeholders like few broadcasters, some individual and a LCO association argued no changes in the current provisions is required. They provided the following justifications for their views:
- Any increase in discount by distributors is not logical as distributors act as resellers and are not expected to sell the services below cost.
  - If a distributor is really interested in passing on more discount to the consumer, it can offer first level discount on the DRP followed by second level discount in terms of offering up to 15% discount on the bouquets.

- Most of the DPOs do not mention their packs on their website providing break-up of cost of content, NCF and discount on MRP of broadcaster's channels/ bouquets. Therefore, it is not possible to ascertain if the DPOs are offering any discount on the MRP of broadcaster's channels/ bouquets.
- Some foreign entities may also enter the space and uproot the local players by initially offering deep discounts and capturing market by burning cash.

**Analysis:**

65. In the Tariff Order 2017, the Authority had prescribed that while forming bouquet of pay channels, a broadcaster or a DPO could offer a maximum discount of 15% on the sum of MRPs/DRPs of all the pay channels in that bouquet. The prime reason for prescribing the maximum permissible discount on the MRP/DRP of a bouquet was to enable consumer choice through a-la-carte offering and prevent skewed a-la-carte and bouquet pricing.
66. In a case filed by broadcasters, the Hon'ble Madras High Court declared that the capping of the price of bouquets by broadcasters at 85% of the sum of a-la-carte prices of the pay channels in the bouquet, as provided for in the third proviso to clause 3(3) of the Tariff Order 2017, is '*arbitrary and un-enforceable*'. However, there was no challenge to the discount of 15% permitted to DPOs while forming bouquets.
67. In Tariff Amendment Order 2020, the Authority prescribed twin conditions as the relationship between pricing of a-la-carte channels and bouquets offered by broadcasters. The first conditions provided a discount of 33% that a broadcaster could offer while forming its bouquet of pay channels over the sum of MRPs of all the pay channels in that bouquet. The second condition provided that MRP of a channel in a bouquet cannot be more than three times the average price of a channel in that bouquet. In a case file by broadcasters, the High Court of Bombay struck down the second twin condition, as a result first condition could not be implemented. However, there was no change in the discount of 15% permitted to DPOs while forming bouquets.
68. In the Tariff Amendment Order 2022, a maximum discount of 45% on the sum of price of a-la-carte channels in a bouquet has been permitted to broadcasters when forming bouquets. However, there was no change in the discount of 15% permitted to DPOs while forming

bouquets. Now DPOs have demanded that in order to maintain parity with broadcasters, they should also be permitted a maximum discount of 45% while forming the bouquets.

69. In the Tariff Amendment Order 2022, while prescribing a discount of 45 % the Authority referred to an Article<sup>4</sup>, ‘Preference between Individual Products and Bundles: Effects of Complementary, Price, and Discount Level in Portugal’ by Mr. Paulo Martins and others seems quite relevant. As per the article<sup>65</sup>, in case of discounts upto 20% on bundling, individual products are preferred. However, at a discount level of 45%, bundles are preferred over individual products.
70. To ensure level playing field across various service providers, the Authority has decided to extend this provision to DPOs as well. Consequently, DPOs are now permitted to offer a maximum 45% discount on the total prices of a-la-carte channels when assembling their own bouquets. This would enable flexibility for them in forming bouquets and offer attractive deals to the consumers.
71. There may be concerns regarding the feasibility of such discounts, given that DPOs currently receive maximum 35% discount (20% fixed + 15% variable) on channel prices from broadcasters. However, it should be noted that DPOs also generate revenue from other sources such as carriage fees, placement fees, and marketing fees. Therefore, if a DPO can sustain it based on their business strategies and profit margins, they may offer a maximum 45% discount.
72. The Authority will continue to keep a close watch on bouquets offered by DPOs, their impact on the market, and will take further suitable measures if the situation warrants.

**D. Number of SD channels equivalent to One HD channel:**

73. Stakeholders were asked if the total channel carrying capacity of a DPO be defined in terms of bandwidth (in MBPS) assigned to specific channel(s) and what should be the quantum of bandwidth assigned to SD and HD channels in that case.

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<sup>65</sup> Preference between Individual Products and Bundles: Effects of Complementary, Price, and Discount Level in Portugal available at <https://www.mdpi.com/1911-8074/14/5/192/htm>

74. In response, many stakeholders including MSOs, LCOs, an organization, a few DTH providers, a few associations were opposed to the idea of the total channel carrying capacity of a DPO be defined in terms of bandwidth. They put forth the following arguments to support their stance:

- There is a high degree of heterogeneity in terms of technologies deployed by DPOs for compression and transmission of TV channels. Thus, defining channel capacity in terms of MBPS would not yield any benefits.
- Advancements in compression technologies in future may allow even more channels within the same bandwidth.
- Bitrate requirements for encoded channels vary depending on content type; entertainment channels typically require lower bandwidth compared to sports channels due to the frequency of frame changes and on-screen information.
- DPOs have the liberty to accommodate channels based on their channel capacity and they undertake the required expenditure for maintaining such capacity. If channels were to be defined in terms of bandwidth, it will lead to some channels receiving preference due to the type and volume of content leading to an adverse effect on content diversity.
- The total channel carrying capacity of a DPO is based on the procurement of transponders and the bandwidth provided by the Department of Space which is satellite based as compared to TSPs and ISPs.

75. On the other hand, some broadcasters and LCOs supported the suggestion of defining the total channel carrying capacity of a DPO be defined in terms of bandwidth and provided the following reasons and comments:

- The quality of a channel is directly dependent upon bandwidth allocated to the respective channel when all other parameters are defined, and they remain constant.
- The bandwidth allocation of a channel should be categorized based on the type of content or genre.
- Quantum of bandwidth assigned to any channel depends on the type of channel. Ideally 2 to 3 MBPS bandwidth is required for SD channels. Minimum requirement of bandwidth for HD channels is around 6 to 8 MBPS.
- TRAI should, in consultation with BECIL propose a standard encoding / bit rate for each of the QAM (64 or 256) in which the channels of a particular genre are being distributed, to ensure uniform quality parameters for all the channels falling under a particular genre.

- As HD channels require higher bandwidth than that of needed for SD channels carrying capacity of a DPO particularly of an MSO should be defined in terms of bandwidth assigned to specific channels.

76. Stakeholders were also asked to comment on whether the extant prescribed HD/SD ratio which treats 1HD channel equivalent to 2SD channels for the purpose of counting number of channels in NCF should also be reviewed.

77. In response, in response many stakeholders that included MSOs, DTH operators, some associations and a few broadcasters were supportive of the idea of revising the existing provisions of 1HD=2SD. They provided the following comments and justifications for their opinion:

- SD and HD channels can be compressed to different levels depending upon the technology that a DPO uses to retransmit the channels. Therefore, an SD channel cannot be the basis for defining the amount of space (in terms of number of channels) that an HD channel would take on a DPO's network.
- The bitrate ratio of SD to HD content can be variable and they depend on the specific encoding settings, codec, and the content being encoded (whether it is a fast moving or an entertainment channel).
- The only reason, this ratio is defined is to help determine the NCF and carriage fees. Forbearance and empowering DPOs to decide all retail related will obviate the need to micro regulate the aspects pertaining to SD/HD channel capacity.
- The bandwidth allocated to such category of channels is the following: SD = 1.2 MBPS|HD = 4.5 MBPS|4K = 16 MBPS. One HD channel should be equivalent to 4 SD Channels and one 4K channel should be equivalent to 4 HD Channels or 15 SD Channels.
- Some DPOs have adopted MPEG 2 for SD channels and MPEG 4 for HD channels, in such a scenario bandwidth used by HD channel is not even close to 2 times of bandwidth use of SD channel.
- If the HD channel is priced high, there is greater margins with the distributors, hence treating one HD channel equal to 2 SD channels stifles the growth of better transmission to the viewer.
- With advancements in technology, the distinction between HD and SD content may become less relevant as more channels migrate towards higher resolution.



- Each channel should be considered as one channel irrespective of its type.
78. While a few stakeholders were opposed to making any changes in the extant HD/SD ratio giving the following arguments:
- The bandwidth requirement of SD and HD stands at 2 to 3 Mbps and 6 to 8 Mbps respectively for SD and HD, the review of the prescribed HD/SD ratio doesn't arise.
  - HD:SD ratio was designed based on consumption of bandwidth by the Standard definition content and High-definition content. That ratio is well established and the same is not required to be changed.
  - During a scan of the DPO feed at the user's end, one can obtain a list of all encoders along with their frequencies used by the DPO. Average uplink bitrate for SD channels: 2.5 Mbps and average uplink bitrate for HD channels: 5 Mbps.
79. In order to ensure similar reception quality to subscribers for similar genre of channels, stakeholders were asked to provide measures and parameters to be monitored/ checked to ensure that no television channel is discriminated against by a DPO. In response stakeholders provided the following measures:
- DPO should be mandated to retransmit signals of broadcasters' channels in the quality as received by the DPO from the broadcasters, without any variance (i.e. input quality = output quality).
  - DPOs' registration as the primary distribution operator ought to be evaluated against an enhanced channel carrying capacity to ensure that all registered TV channels can be carried by the DPO on its platform.
  - Genre-wise, standardized Bit-rate allocation should be pre-defined (the min-max range be defined), so that all DPOs conform to the set standards.
  - Have a penal mechanism in place so as to ensure that any DPO unfairly discriminating against a television channel, should face consequences inter alia affecting their MSO license.
  - Regular QoS audits as laid by the Authority to be carried out by a competitive agency and submit the reports to all the stake holders. Monthly compliance reports with parameters to be submitted by DPOs to TRAI.

- Frequent checks on the given parameters like signal strength in decibel, bitrate etc to be measured at different locations by the competitive agencies and keep the record of the same to decide the compliance.
- The reports should be put on TRAI's website, which can be accessed by Broadcasters. If Broadcaster observes any discrepancy at the time of checking the parameters on ground, they should intimate TRAI and TRAI should have provision to penalise the DPO for each such instance.

80. On the other hand, some stakeholders debated that there doesn't seem to be any concrete evidence suggesting that a DPO has engaged in practices to degrade the reception quality of any channel. They argued that given the hyper-competition within the DPO industry, no DPO would risk alienating its customer base by engaging in discriminatory practices.

### **Analysis:**

81. As stakeholders have noted, the bit rate of a TV channel varies due to factors such as content type, compression techniques, and transmitting equipment. The Authority firmly holds the view that in the digital era, consumers want better quality of viewing. Therefore, establishing a uniform bit rate for all SD, HD, or 4K channels would not serve any purpose.

82. With the Authority's decision to place NCF under forbearance, the rule where one HD channel equaled two SD channels for NCF calculation purposes now seems irrelevant. Each channel, whether SD, HD, 4K, or otherwise, can be considered individually when determining the NCF charged by a DPO.

### **E. Mandatory FTA Channels in all packs formed by DPOs:**

83. In the consultation paper, the stakeholders were asked if there should be a provision to mandatorily provide the Free to Air News / Non-News / Newly Launched channels available on the platform of a DPO to all the subscribers.

84. In response, various stakeholders including many broadcasters and an association agreed with the idea of mandatorily providing the Free to Air News / Non-News / Newly Launched channels available on the platform of a DPO to all the subscribers. They provided the following comments and justifications to support their stance:

- News and current affairs channels are critical for disseminating news and information. They enable the public to form opinion on various issues of national importance.
- Most news channels are FTA channels, which earn their revenues solely through advertisements. The survival of such channels will be jeopardized if they are not given the opportunity to reach viewer's homes.
- Distributors already have a guaranteed source of revenue in the form of NCF of Rs. 130/- , which covers their cost of operations and profit margin. Therefore, it should be the duty of the DPOs to upgrade the platform to carry all news channels.
- It will benefit all the stakeholders involved: DPOs being able to offer more variety to the consumers at the same cost, the consumers being able to receive diverse and multiplicity of viewpoints by watching different news channels, and the broadcaster being able to expand its reach.
- There will also be less cord-cutting by consumers.
- With the development of compression technologies which enables enhancing the capacity of the distributor's network, mandatory placing of all FTA news channels on the distributor platform should not be a distant dream.
- The consumer has already paid a NCF and deserves to be compensated by ensuring that all FTA channels are being available for the said fee.
- In case of other free channels, customer should be given a choice to select the said channels. This would limit the consumption of unnecessary bandwidth and make the consumer viewing experience better.

85. On the other hand, a few LCOs and a consumer advocacy group supported mandatorily adding only the newly launched channels in all packs for a certain amount of time. They came up with the following comments:

- 1 - 2% of channels on any DPO platform should be kept for newly launched channels. This capacity can be used for any channel for a maximum period of three months only as a sampling for consumers to experience.
- Broadcasters can submit their applications where FIFO rules are applicable in case of excess capacity at that moment. In case there is no demand for this, the DPO can utilise the channel for any other purposes.
- It would encourage new content providers to come forth which is something the cable industry needs in the days of OTT.

- It would encourage innovation and promote competition in the marketplace by lowering the barrier to entry. Consumers will benefit due to increased choice and lower prices.
- A maximum of 5 % of the minimum number of channels, that is 10 (5 % of 200) should be reserved. The period should for a year from the date of launch, after which the market forces will be in play.
- MSOs should provide Free to Air channels from all genres of channels into the bouquet of Free to Air channels and always maintain the number of channels they are supposed to mandatorily provide. But after that they should not be mandated to provide extra newly launched channels whether it is News/ Non-News to all the subscribers.

86. While most of the stakeholders, particularly all the DPOs were not in favour of allowing all the FTA channels to be provided mandatorily. They provided the following reasoning and comments to justify their stance:

- Broadcasters operate channels for commercial purposes to earn revenue from various sources such as advertising, etc and cannot be called public service.
- The proposal is completely contrary to the basic tenant of consumer choice and places further financial burden on DPOs.
- It will lead to blocking and hoarding of the network capacity irrespective of the uptake of such channels amongst the viewers.
- No commercial organization can be asked to provide their product/service to customers free of cost without adequate compensation. Therefore, any such a proposal would be viewed negatively by the investors in this sector and will be against the growth of the sector.
- Any channel having unique and attractive content will automatically catch eyeballs and would generate the demand in case it is required.
- A plethora of channels will suddenly witness being launched by the big broadcasters using content from their old library as they will automatically get carried on network and push small broadcasters out of business.
- The DPOs are already carrying the mandatory channels as prescribed by the Central Government free of cost and without any incentive.
- It will interfere with the market dynamics and will lead to a situation where even unpopular channels are being kept afloat at the expense of other channels, which are more

popular but could not be carried by DPOs due to network constraints and bandwidth limitations.

- DPOs will have to strain/augment their technical infrastructure which can either raise the costs for all the consumers or may lead to degraded quality of service for all channels.
- It's crucial to acknowledge the shrinking cable TV subscriber base. Imposing unwanted channels may exacerbate this decline.
- Channels carried by DPOs are based on must provide on a first come first basis and is heavily influenced by quality of content and consumer choice. Making any channel mandatorily available in a scenario where DPOs have limited bandwidth will impact consumer choice.
- There are channels which are regional and via this they can ask to be carried on the networks where they may not be even required by the consumers.
- DPOs operate within tight economic constraints, balancing bandwidth costs, content acquisition charges, and consumer subscription fees. Forcing them to carry channels without appropriate compensation would further strain their already delicate financial balance.

**Analysis:**

87. Clause 7(4) of the Tariff Order 2017 empowers a subscriber to choose channels of its choice be it in a-la-carte or in bouquets as below:

*“(7) Within the distribution network capacity subscribed, in addition to channels notified by Central Government to be mandatorily provided to all the subscribers, a subscriber shall be free to choose any free-to-air channel(s), pay channel(s), or bouquet(s) of channels offered by the broadcaster(s) or bouquet(s) of channels offered by distributors of television channels or a combination thereof:*

*Provided that if a subscriber opts for pay channels or bouquet of pay channels, he shall be liable to pay an amount equal to sum of distributor retail price(s) for such channel(s) and bouquets in addition to network capacity fee.”*

88. The Authority acknowledges that mandating the inclusion of every FTA channel available on a DPO's platform in all packs goes against consumer choice. Moreover, there's a risk of a surge in number of FTA channels launched by major broadcasters, which could act as entry barrier for smaller broadcasters. With over 500 FTA channels accessible nationwide, mandating inclusion of all the FTA channels for each subscriber might diminish user satisfaction, as navigating preferred channels could become challenging. Currently,

consumers already possess the right to select their preferred FTA channels from those available on the DPO's platform. Stakeholders have highlighted that deserving channels will naturally attract viewers and thrive. Moreover, mandating DPOs to carry all FTA channels could strain their financial models and potentially disrupt the free market. Therefore, the Authority does not endorse mandatory provision of all FTA News / Non-News / Newly Launched channels available on a DPO's platform to all its subscribers.

#### **F. Issues related to DD Free Dish:**

89. In the consultation paper, stakeholders were asked to suggest whether the channels available on DD Free Dish platform should be mandatorily made available as Free to Air Channels for all the platforms including all the DPOs.

90. In response, most stakeholders were supportive of the idea of the channels available on DD Free Dish platform to be mandatorily made available as Free to Air channels for all the platforms including all the DPOs. They put forth the following comments and justifications for their stance:

- According to current regulations, once, a channel is declared as FTA or Pay, it must be provided as FTA or Pay uniformly to all DPOs.
- The continuation of carriage of pay channels by DD Free Dish is leading to situation where broadcasters on one hand, are charging subscription free for their pay channels from licensed DPOs but are paying DD free dish for the carriage of the same channels.
- Broadcasters have been raising issues about demand for carriage/placement of their channels but can pay Free Dish hefty fees in an open auction.
- Parity in channels across distribution platforms will serve to make the market more competitive and provide a level playing field for all the players involved.
- A subscriber of other DPO should not be made to pay for the same channel which is being enjoyed for free by the subscribers of DD Free Dish. Uniform pricing across DPOs and DD Free Dish needs to be promoted.
- Dichotomy between the nature of channels can lead to a situation where such channels may end up becoming exclusive to certain platforms.
- Most "pay channels" are mostly minimally priced pay channels and indeed if TRAI removes the restriction relating to FTA channels not being permitted to be part of bouquet, it is quite possible that these channels are also offered on FTA basis.

- To maintain the integrity of the broadcasting sector, fair competition should be ensured, and consumer interests should be upheld, it is imperative that channels maintain their designated status (be it "pay" or "FTA") consistently across all DPOs.

91. On the other hand, a few stakeholders were against the idea of the channels available on DD Free Dish platform to be mandatorily made available as Free to Air channels for all the platforms including all the DPOs. They provided the following arguments to justify their point of view:

- Any mandate to provide channels which are available on DD Free Dish platform to private DPOs on an FTA basis would be erroneous and unfounded.
- There is nothing wrong with a channel being a Pay channel on pay and addressable platforms and being a free to air channel on DD Free Dish. It does not result in a non-level playing field.
- It facilitates the interest of viewers, especially those with limited incomes, who thereby get access to an otherwise 'pay channel' free of cost.
- There is no element of discrimination, since having regard to the different nature of the platforms, in one case the broadcaster pays DD Free Dish and in the other the private platforms pay the broadcaster.
- Even if a consumer opts for say same FTA channels as available on DD Free Dish from a DPO, still the consumers must pay NCF charges. Hence, both systems are not comparable.
- This restricts the freedom of the broadcaster and in turn the reduction in inter platform competition, which is detrimental to consumer choice.
- The number of pay channels that use DD Free Dish is a minuscule number of 20, which does not warrant any intervention by the regulator.
- Prasar Bharti is a distinct entity vis-a-vis other private distribution platform operators since it is not similarly placed either under law or regulatory regime.

**Analysis:**

92. According to the e-auction guidelines set by Prasar Bharati, broadcasters participate in an e-auction to secure placement for their channels on the DD Free Dish Platform. These channels are classified into different groups based on their genre and language. Currently, 75 private television channels that are permitted by MIB, are available on the DD Free Dish platform. Out of these, 20 channels are declared as 'pay' channels by their respective

broadcasters under the provisions of the Tariff Order 2017. However, these 20 channels are accessible to DD Free Dish consumers without any monthly subscription fees.

93. Stakeholders have mentioned that the current price gap for pay TV channels between private DPOs and DD Free Dish. Further, on DD Free Dish both free-to-air and pay channels are accessible to viewers without any monthly fees. Due to which increasing numbers of consumers are moving to the DD Free Dish platform. As a result, private DPOs are facing a decline in the subscribers number. This also results in discrimination among customers of DD Free Dish vis-à-vis private DPOs, as the same product is available at different prices.

94. The Authority is of the view that price of a pay channel should be uniform across all the distribution platforms in order to ensure the level playing field among DPOs and non-discrimination among customers. Accordingly, the Authority has decided that a channel, which is permitted by MIB and is available at no subscription fee on DD Free Dish platform, shall not be declared as pay channel for addressable distribution platforms. Suitable provisions to this effect have been incorporated in the Tariff Order 2017.

95. Stakeholders were also asked to comment if Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 should be made applicable to nonaddressable distribution platforms such as DD Free Dish also.

96. Additionally, stakeholders were asked to comment if there is a need to consider upgrading DD Free Dish as an addressable platform. Suggestions were also sought regarding the mechanism/technology and migration methodology for making all the STBs addressable.

97. The Authority, after analyzing the comments of stakeholders and its own analysis, has separately sent its detailed recommendations to the Government on the above two issues.

#### **G. Financial Disincentive:**

98. In the consultation paper, stakeholders were asked if a financial disincentive be levied in case a service provider is found in violation of any provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations. They were also asked to specify the amount of financial disincentive for different violations along with the time for



compliance and any additional financial disincentive to be levied in case the service provider does not comply within the stipulated time.

99. In response, some stakeholders agreed with the idea of levying financial disincentive in case of violation of any provision. They provided the following arguments and justifications to support their stance:

- Financial disincentives can be in the nature of substantial amounts to be payable as penalties to be imposed upon DPOs for non-compliance of Schedule III requirements, QoS and data manipulation / deletion of data.
- TRAI should look at imposing financial disincentives including cancelation of the license and the same can be weighed depending on the nature of violation and frequency of such violation and the rectification concerned DPO.
- It is essential to provide for financial disincentives and blacklisting, without prejudice to any rights that the broadcaster may have (including the Broadcaster's right to disconnect under the Interconnect Regulations).
- Financial disincentives can be introduced in those areas where there is no dependency of the MSO with other stakeholders.
- The default should be decided in major or minor on the basis of its gravity, e.g. distributing signals in analogue mode be treated as major default, entering the subscription fee deal on fixed fee basis be treated as major default.
- Authority should impose suitable financial disincentive for non-compliance by DPOs of the provisions of extant regulation which shall inter-alia include non-signing / timely renewal of interconnection agreement, non-compliance with provision of placement of channel in applicable genre/language, non-submission of timely audit report, non-submission of monthly subscriber report, etc.

100. While suggesting the amount of financial disincentive one stakeholder recommended that for first default an explanation be sought from the DPO and be forgiven for his bonafide mistake and for continuous default, the financial punishment may be imposed to the tune of 25,000/- for minor kind and Rs. 50,000/- on the first default of major kind. Another stakeholder suggested that a small DPOs with fewer than 500 customers may face financial disincentives of no less than INR 1 Lakh per month for non-compliance or

piracy, escalating to INR 1 Lakh per day until resolution, with penalties set at a minimum of 50% of the actual loss incurred.

101. For compliance time and additional disincentive beyond that, the stakeholder made the following different suggestions:

- The time for the payment of the financial disincentive can be fixed as 15 days from the date of intimation to the service provider. There should be a penalty of 50% of the financial dis-incentive for non-compliance beyond the time period. The interest rate as mentioned in the regulations of 2 % above SBI base rate for loans should be levied.
- Service provider should be required to make payment within 7 days along with interest and penal provision. Interest should be levied @18% P.A. calculated from date of violation till date of payment of interest. In case the DPOs do not comply within the stipulated time the penalty amount should be doubled and interest @18% p.a. should be continued, and the service provider should not be allowed to continue the business.

102. In case of loss to the customer one stakeholder recommended that the consumer may be adequately compensated to the tune of the loss suffered by consumer. While the other stakeholder suggested that the compensation should be twice the loss to the customer.

103. However, majority of the stakeholders majorly DTH operators, MSOs and some associations and few news broadcasters were against the idea of levying any financial disincentive and provided the following arguments to support their stance:

- The implementation of regulatory financial disincentives can lead to higher compliance costs and diversion of resources away from productive activities and innovation.
- The regulatory financial disincentives might encourage businesses to prioritize short-term compliance over long-term sustainable practices.
- Rising subscription costs, primarily driven by broadcasters' pricing strategies, have caused a significant decline in their subscriber base. Financial disincentives would exacerbate the decline of the industry rather than fostering better compliance.
- These are anti-consumer, as this cost will be eventually passed onto consumers only. Therefore, no financial disincentives should be imposed on service providers.
- Any deficiency in services can be addressed through the general laws of the country relating to consumer rights.

- In a highly competitive market such as the broadcasting sector, any deficiency in service will result in a loss of business to competitors.

104. Stakeholders recommended the following measures to ensure compliance without applying financial disincentive:

- TRAI may direct broadcasters to not to provide their signals to DPOs who don't undergo technical audit, as mandated under the regulations, for a consecutive period of two years.
- Any DPO found engaging in piracy should also be denied access to broadcaster channels.
- Provisions under the TRAI Act, 1997 are sufficient to ensure regulatory compliance.
- The policy of positive encouragement should be deployed to ensure compliance.

**Analysis:**

105. There exist provisions related to financial disincentives in QoS Regulations 2017 and Interconnections regulations 2017.

106. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and consumer Protection (Addressable Systems) Regulations, 2017 as amended from time to time, stipulate following regarding financial disincentive:

*“22. Delivery of post-paid bills and payment. — (1) Every distributor of television channels shall, either directly or through its linked local cable operator, as the case may be, deliver to every postpaid subscriber, the post-paid bill within fifteen days from the end of billing cycle:*

*Provided that the distributor or its linked local cable operator, as the case may be, shall deliver such bill to the subscriber either in printed form or electronic form, as may be opted by the subscriber.*

.....

.....

*(5) Every distributor of television channels or its linked local cable operator, as the case may be, shall, issue a receipt to every postpaid subscriber for every payment made by him and shall enter the details of the receipt including the date, serial number of the receipt, and amount paid by the subscriber management system against the name of the subscriber, within seven days of the payment made by the subscriber:*

*Provided that the distributor or its linked local cable operator, as the case may be, shall deliver such bill to the subscriber either in printed form or electronic form, as may be opted by the subscriber.*

.....

*(7) If any distributor of television channels contravenes the provisions of the of the sub-regulation (1) or sub-regulation (5), it shall, without prejudice to the terms and conditions of its registration or the provision of the Act or rules or regulations or orders made , or, directions issued there under , be liable to pay an amount, by the way of financial disincentive, not exceeding rupees twenty per subscriber in respect of whom such contravention is observed, as the Authority may by order direct.*

*(8) No order for payment of an amount by way of financial disincentive under sub-regulation (7) shall be made by the Authority unless the distributor of television channels has been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority.*

*(9) The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by order by the Authority.”*

107. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable System) Regulation 2017, as amended from time to time, stipulate following regarding financial disincentive:

*“4A. Compliance to requirements of Addressable System by distributors of television channels. —*

.....

*(2) If a distributor fails to obtain the certification of the conditional access system and/or subscriber management system deployed in its network within the stipulated timelines, as specified by the Authority under sub-regulation (1), it shall, without prejudice to the terms and conditions of its license or permission or registration, or the Act or rules or regulations or orders made, or directions issued, thereunder, be liable to pay, by way of financial disincentive, an amount of rupees one thousand per day for default up to thirty days beyond*

*the due date and an additional amount of rupees two thousand per day in case the default continues beyond thirty days from the due date, as the Authority may, by order, direct:*

*Provided that the financial disincentive levied by the Authority under this sub-regulation shall in no case exceed rupees two lakhs:*

*Provided further that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the distributor has been given a reasonable opportunity of representation against the contravention of the regulations, observed by the Authority:*

*Provided also that the Authority may direct the broadcasters to disconnect the signals of its television channel after giving written notice of three weeks to the distributor in case the default continues beyond sixty days from the due date.”*

108. The Telecommunication (Broadcasting and Cable) Services Register of Interconnection Agreements and all such other matters Regulations, 2019 stipulate following regarding financial disincentive:

*“4. Consequences for failure to report or verify the reported information by the broadcaster or distributor.— (1) If any broadcaster or distributor fails to furnish the information or certificate or fails to verify the reported information, as required under regulation 3, by the due date, it shall, without prejudice to the terms and conditions of its 8 license/permission/registration, or the Act or rules or regulations or order made or direction issued thereunder, be liable to pay, by way of financial disincentive, an amount of rupees one thousand per day for default up to thirty days beyond the due date and an additional amount of rupees two thousand per day in case the default continues beyond thirty days from the due date, as the Authority may, by order, direct.*

*Provided that the financial disincentive levied by the Authority under this sub-regulation shall in no case exceed Rupees Two Lakhs.*

*Provided further that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the broadcaster or the distributor, as the case may be, has been given a reasonable opportunity of representation against the contravention of the regulations observed by the Authority.*

*(2) The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by the Authority.”*

109. But the provisions related to financial disincentives in QoS Regulations 2017 and Interconnections regulations 2017 are applicable to limited provisions only. There are no provisions regarding financial disincentives in the Tariff Order 2017.
110. The Authority has observed that in a number of cases, the service providers are not complying with the provisions of the Tariff Order and Regulations. Non-compliance may result in inferior quality of service to subscribers and disputes among service providers. Accordingly, to ensure compliance to Tariff Order and Regulations by service providers, and to protect consumer interests, the Authority has decided to introduce provisions for imposing financial disincentives for contraventions of Tariff Order and Regulations. However, the Authority recognizes that these provisions should be simple and implementable.
111. In this regard, the Authority has noted that a significant amendment in the Cable Television Networks (Regulation) Act, 1995 was carried out by the Government on 11th August 2023 through Jan Vishwas (Amendment of Provisions) Act, 2023. The said Jan Vishwas Act was made to amend certain enactments including Cable TV Act for decriminalizing and rationalizing offences to further enhance trust-based governance for ease of living and doing business. The nature of proceedings for imposition of Penalties were amended from earlier criminal ones to more of administrative ones such as issuing advisory, or censure, or warning, or a financial penalty or both.
112. Section 16 of the aforementioned Jan Vishwas Act provides for Penalties for any violation of the provisions of the Act. No such penalty can be made without giving a reasonable opportunity of being heard. The said penalty is appealable within 30 days of the said order before the any officer authorized in this regard. Appeal may be entertained after the expiry of the period of 30 days, if the appellant explains that he was prevented by sufficient cause from preferring the appeal in time.
113. The Authority has also considered the provisions related to contraventions proposed in the Draft Broadcasting Bill, 2023, wherein different amounts of penalties have been proposed based on the gravity of the clauses. Further, service providers have been

categorized into based on their turnover and investment. Different penalties have been proposed for each category.

114. The Authority is of the view that provisions could be emulated to design the financial disincentives regarding violation of Tariff Order, Interconnection Regulations and QoS Regulations.

115. For the purpose of imposing financial disincentives, the Authority noted that some contravention of clauses of the Tariff Order 2017 (as amended) may have large adverse implications such as affecting consumer choice, transparent information to consumers, non-discrimination among service providers, affecting healthy competition, unfair business practices, etc. Accordingly, the Authority has decided to impose a higher amount of financial disincentives for the contravention of these clauses (mentioned under Group B in Table 1). For violation/ contravention of clauses having lesser implications, and which do not directly impact consumer interests or affect healthy competition, a lower amount of financial disincentives have been prescribed (mentioned under Group A in Table 1). Although the Authority believes in light touch regulation yet ensuring compliance of Regulations and Orders is of prime importance. Balancing both, the Authority has decided to issue an Advisory/ Warning in case of the first contravention of clauses having lesser implications. Further, in order to deter service providers from repeated contraventions, a lower amount of financial disincentive has been prescribed for first contravention of each clause and a higher amount for each subsequent contravention of the same clause has been prescribed. Accordingly, different clauses of Tariff Order 2017 as amended, and the amount of financial disincentive to be imposed for their first contravention and subsequent contravention are as given below:

**Table 1: Quantum of Financial Disincentive for contravention of Provisions of the Tariff**

<b><u>Order</u></b>			
<b>Clause</b>	<b>Details</b>	<b>Maximum amount of Financial Disincentive (Q) (in Rs.)</b>	
		<b>First Contravention</b>	<b>Subsequent Contravention</b>

<b>Group A: Clauses for lower financial disincentive</b>			
3(2)(a)	Declaration of nature of channel as FTA or PAY	Advisory/ Warning	25,000
6	Reporting requirement by broadcasters	Advisory/ Warning	25,000
7	Reporting requirement by DPOs	Advisory/ Warning	25,000
8	Designation of compliance officer	Advisory/ Warning	25,000
<b>Group B: Clauses for higher financial disincentive</b>			
3(1)	Offering of all channels on a-la-carte basis to all DPOs	25,000	1,00,000
3(2)(b)	Declaration of MRP of pay channel offered on a-la-carte basis	25,000	1,00,000
2 <sup>nd</sup> Proviso to 3(2)(b)	MRP of a channel shall be uniform for all distribution platforms	25,000	1,00,000
3 <sup>rd</sup> Proviso to 3(2)(b)	Channels available on DD Free Dish to be FTA for addressable systems	25,000	1,00,000
3(3)	Formation of bouquet by broadcasters	25,000	1,00,000
4(1)	Declaration of NCF	25,000	1,00,000
4(2)	Offering of channels available on its network to the subscribers on a-la-carte basis	25,000	1,00,000
4(3)	Offering of bouquet of pay channels of broadcasters without alteration	25,000	1,00,000
4(4)	Offering of bouquets by DPOs	25,000	1,00,000
4(6)	No DPO shall charge any amount, other than the NCF from its subscribers for subscribing to FTA channels or bouquets of FTA channels	25,000	1,00,000
4(8)	DPO shall not increase the NCF for a period of six months	25,000	1,00,000



116. The Authority has noted that the financial data of all the broadcasters and DPOs is not available. Therefore, in case of DPOs, the Authority has considered subscribers base of DPOs that varies from few hundred to more than one million. Since their revenue vary as well, the implications of the violations by them also vary, therefore, it may not be justifiable to impose the same financial disincentive for all DPOs. Accordingly, the Authority has decided to categorize the DPOs on the basis of their subscribers' base and to impose graded financial disincentive for each category as follows:

**Table 2: Categories of DPOs based on subscribers base and financial disincentive for each category**

<b>Category of DPOs</b>	<b>Subscriber Base</b>	<b>Amount of Financial Disincentive Applicable</b>
Micro	Less than 30,000	10% of maximum FD amount i.e. 0.1Q
Small	Between 30,000 to 1,00,000	25% of maximum FD amount i.e. 0.25Q
Medium	Between 1,00,000 to 10,00,000	50% of maximum FD amount i.e. 0.5Q
Large	Above 10,00,000	100% of maximum FD amount i.e. Q

117. In case of broadcasters, the Authority has noted that all the clauses of Tariff Order 2017, mentioned under Group B in Table 1, are to be complied by broadcasters of pay channels, whereas clauses mentioned under Group A in Table-1 are to be complied by broadcasters of pay as well as FTA channels. Broadcasters offering only FTA channels are usually smaller ones. Accordingly, the Authority has decided that in case of broadcasters, the financial disincentive should be determined based on the nature of the channel for which contravention is noticed i.e. whether it is Pay channel or an FTA channel, as follows (except where warning/ advisory is issued):

**Table 3: Financial disincentive for broadcasters**

<b>Contravention in relation to</b>	<b>Amount of financial disincentive</b>
FTA channels	50% of maximum FD amount i.e. 0.5 Q
Pay channels	100% of maximum FD amount i.e. Q

118. The Authority has also decided that in case of more than three contraventions, mentioned under Group B in Table-1, in a block of three years, counted back from the date of latest contravention, besides imposing the financial disincentive referred to above, it may recommend to the Central Government to take appropriate action without prejudice to any other action that the Authority may take as per provisions of the TRAI Act,1997.
119. In order to curb the continued contravention of a provision i.e. a contravention that is not rectified within the timeline given for its rectification, even after imposition of financial disincentive, the Authority has also decided to impose a financial disincentive of two thousand rupees per day for first thirty days and five thousand rupees per day beyond thirty days, counted from the specified last date of compliance specified besides the financial disincentive already imposed.
120. The Authority is of the view that the amount of financial disincentive should not be increased beyond a limit otherwise, it may impact, especially the smaller service providers, adversely beyond recovery. Accordingly, the Authority has decided to cap the maximum financial disincentive imposed on a service provider for all the contraventions in a calendar year to rupees two lakh for all the contraventions of provisions mentioned under Group A in Table-1 of schedule -I and rupees five lakh for all the contraventions of provisions mentioned under Group B in Table-1 of schedule -I.
121. In case a service provider fails to make payment of financial disincentive within the stipulated period, it shall be liable to pay interest at a rate which will be 2% above the one year Marginal Cost of Lending Rate (MCLR) of State Bank of India existing as on the beginning of the Financial Year (namely 1st April) in which last day of the stipulated period falls. The interest shall be compounded annually.

#### **H. Other Issues:**

122. The Ministry of Information and Broadcasting (MIB) has issued operational guidelines for platform services (PS) in respect of DTH operators on 16th September 2022 and for MSOs on 30th November 2022. These guidelines require all PS to be grouped together under the genre "Platform Services" in the EPG, along with their MRP. These guidelines also prescribe that an option for activation/deactivation of PS should be provided to subscribers in accordance with applicable regulations of TRAI. Accordingly, in the

consultation paper the stakeholders were asked to provide comments for suitable incorporation of provisions related to PS as mentioned in the guidelines issued by MIB, in the QoS Regulations notified by TRAI. The comments and counter comments received from the stakeholders have been elaborated and analyzed in the explanatory memorandum annexed to the amendments of QoS Regulations 2017. Accordingly, definition of PS, regulations related to display of PS along with MRP in EPG and provisions related to option for activation/deactivation of PS have been incorporated in the QoS Regulations 2017.

123. Since DPOs are required to display MRP of PS in their EPG, the Authority is of the view that DPOs should declare the MRP of the PS offered by them under the provisions of the Tariff Order 2017. Accordingly, definition of PS and suitable clauses for declaring and reporting of tariff for PS offered by DPOs have been incorporated.
124. In addition, amendments to the Tariff Order 2017 necessitate amendments to related reporting requirements. Accordingly, suitable provisions to this effect have been incorporated in the Tariff Order 2017

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