

**Bharti Telemedia Limited's response to Consultation Paper on,
"Tariff issues related to Commercial Subscribers"**

At the outset, we wish to state for the record the benefits associated with the affordable distribution and consumption of broadcasting services. India's modern information economy is growing at an increasingly accelerated pace and policy mechanisms should be framed with inclusive goals that protect the interests of subscribers. The ever expanding reach of broadcasting services driven primarily by Distribution Platform Operators, continues to cover an increasingly larger portion of the country and inclusive provision of services will ultimately rest on affordability for consumers.

In its consultation paper, the Authority has sought the comments of stakeholders on a classification of subscribers into domestic and commercial categories.

We wish to state that a distinction between domestic and commercial subscribers is unwarranted and only has merit in cases where the costs of providing services to a specific group of customers are higher. The services rendered to both classes of subscribers along with quality, efforts and cost are the same, and if any distinction is created between domestic and commercial subscriber, one group would essentially have to pay more to receive the same service. Therefore, such a classification of subscribers would have a measurable negative impact on the health of the industry. Low end establishments such as neighborhood eateries, local healthcare clinics, small hair salons, gymnasiums, and others that may rarely, if at all, use these signals for commercial purposes, might be covered under commercial subscribers. To simply forego subscription to these services would be a far more viable option for several such establishments. Therefore, differential tariffs make economic sense if a different set of services is provisioned, which is not in the present case.

Many have cited the ability of hotels and other commercial establishments to make high profits, and have proposed that for this reason these establishments pay more for regular, and in no way differential, television programming. However, the broadcasters have failed to provide any evidence that they are incurring additional resources/cost for providing broadcasting services to the commercial subscribers. The broadcasting sector is the sole example wherein corporate customers/bulk users of any service are being forced to pay much more than the retail customers. In normal business transactions across all segments and sectors, the wholesale price of products/services are lower for bulk users/corporates compared to a retail customer. For instance, like any service or manufacturer industry, telecom companies offers much lower rates to their corporate customers or bulk users than retail customer.

We strongly believe that there should not be any link between the wholesale tariff and category of retail customer. It would be inappropriate and illogical that the supplier of products/services determine its wholesale price on the basis of who is going to use its product/service. If this is the case then suppliers, such as vegetable suppliers, milk suppliers, water suppliers, newspaper vendors, etc. will have differential wholesale rates for different category of retail customers. Therefore, there is no economic and social reason for fixing the wholesale tariffs on the basis of the category of users in the broadcasting industry.

Moreover, broadcasters are currently not subjected to any licence fee over their revenue whereas DTH operators pay 10% licence fee on their revenue including the subscription fee. Since broadcasters directly collect the exorbitant charge from commercial subscribers, they do not pay any licence fee over such amount leading to a revenue loss to the government. Therefore, the current wholesale tariff framework is neither serve the interest of consumer nor government.

Any such price regulation may only be appropriate for utilities, such as electricity and water, which are either supply constrained and/or subsidized for domestic customers and have no avenues to hedge losses than imposing higher charge for commercial subscribers. This is simply not the case with the broadcasting and cable TV industry. Over the years, the number of channels broadcasted in India has more than tripled, and the reach of distributors has grown exponentially. Broadcasters today own several channels to carry advertisement for significant durations throughout the day, and DPOs are serving more subscribers than ever.

As per FICCI-KPMG 2015 report¹, the total TV advertising revenue is estimated to have grown at 14 per cent in 2014 to INR 155 billion and going forward, it is expected to grow at a CAGR of 14 per cent over 2014 to 2019, to reach INR 299 billion. Similarly, the subscription revenue for broadcasters is estimated to have grown at 10 per cent to INR 75 billion and going forward, it is expected to grow at a CAGR of 22 per cent from 2014 to 2019 to INR 201 billion. Increase in the declared subscriber base and increase in revenue share of broadcasters in the subscription pie is expected to drive up the share of subscription to total broadcaster revenue from 33 per cent in 2014 to 40 per cent in 2019. Therefore, digitization has helped broadcasting companies in shoring up subscription and advertisement revenue which only continues to increase.

The Authority would appreciate that the definition of a ‘commercial subscriber’ has led to excessive disputes/litigations in the sector without serving any positive impact to the end customer or the Government. The Indian Broadcasting and Cable TV Industry is maturing at a rapid pace, and is in urgent need of a simple policy framework that does not discriminate

¹ https://www.kpmg.com/IN/en/IssuesAndInsights/ArticlesPublications/Documents/FICCI-KPMG_2015.pdf

against a specific group of consumers. Moreover, there is no conceivable economic and social argument for imposing higher tariffs for the same service on one group of TV subscribers.

Therefore, we request the Authority not to distinguish the wholesale price for commercial subscriber. Our question-wise response is as under:

Q1 Is there a need to define and differentiate between domestic subscribers and commercial subscribers for provision of TV signals?

Q2. In case such a classification of TV subscribers is needed, what should be the basis or criterion amongst either from those discussed above or otherwise? Please give detailed justification in support of your comments.

Airtel's Response:

1. In continuation of our above submission, we believe that a distinction between domestic and commercial subscriber for a service for what is essentially a basic service is needless and unwarranted. For all intents and purposes, cable TV, DTH and other distribution platforms fulfill a basic service or need similar to and on par with telecommunications. Since the services provided to domestic and commercial subscribers would not differ in any way, there is no need to have any classification at all.
2. Therefore, we request the Authority not to create a distinction between the domestic and commercial subscriber in any manner.

Q3. Is there a need to review the existing tariff framework (both at wholesale and retail levels) to cater for commercial subscribers for TV services provided through addressable systems and non-addressable systems?

Q4. Is there is a need to have a different tariff framework for commercial subscribers (both at wholesale and retail levels)? In case the answer to this question is in the positive, what should be the suggested tariff framework for commercial subscribers (both at wholesale and retail levels)? Please provide the rationale and justification with your reply.

Airtel's Response:

1. **Wholesale tariff of broadcasters should be reduced for DTH operators:** There is a strong need to review the prevailing wholesale prices at which broadcasters sell TV channels/content to DTH operator. The current wholesale price which was fixed by the TRAI

in 2010 for DTH platform is quite high and as a result, DTH operators are being forced to heavily subsidize their services to compete with cable platforms due to differential regulatory costs and other licensing requirements.

The Indian media sector is undergoing a structural shift with the implementation of digitisation. While digitisation in Phase 1 and 2 cities is complete (excluding Chennai), due to strong push by government, Phase 3 and 4 digitisation deadlines have been extended from Dec 2014 to Dec 2015 and Dec 2016, respectively. As per FICCI KPMG 2015 report, the DTH industry subscriber base is likely to increase from 40m in 2014 to 74m by 2018. As explained in the main para, the digitalization has improved the revenue of the broadcasters significantly and therefore, it is critical that the wholesale tariff of broadcasters for DTH service is reviewed at a lower level immediately.

Moreover, the customers should be benefited from digitalization in the form of lower wholesale tariffs through progressive regulatory policies so that DTH operators are able to offer affordable packages / tariff for end customer.

2. **Wholesale tariff to be regulated for HD Channels:** The RIO/Wholesale rates of Standard Definitions Channels are currently regulated, however wholesale pricing for High Definition Channels is under forbearance. TRAI, vide its TTO (Addressable Systems) dated 21st July, 2010, opined that HD channels are niche and premium content that did not warrant price regulation at the time. The relevant extracts of the regulation is as under:

*The niche TV channels can only be viewed in an addressable environment and that too with the help of specialized set top boxes. These channels which have been recently introduced employ advanced technology and therefore, can be considered premium in nature. As these channels are viewed by an elite section, the Authority is of the view that there is no general public interest involved and the tariff dispensation for niche channels requiring specialized set top box TV channels should be left to market forces. **The Authority will review the position at an appropriate time.***

The ground realities today paint a different picture. Now would be an appropriate a time to review this issue de novo, taking into account the current large scale proliferation of high definition televisions, as well as a rapidly growing HD subscriber base. According to a joint study conducted by FICCI and KPMG in 2015, the share of HD panel TV sales is approximately 55 percent and it is expected to further increase over the next five years, reaching 80 percent by 2019. Currently, approximately 40 channels are on HD platform and all broadcasters are now creating more TV channels on HD platform and mostly all new channels are now coming on HD platform. As per our estimates, 40% of all new Airtel DTH subscribers opt for HD

packages which shows high consumer interest in HD channels. Such large scale of adoption is an indication that HD television content no longer falls within the realm of niche or premium offerings, but is rather a segment that is growing and as such requires the attention of the Authority.

This segment still remains unregulated at the wholesale level, and DTH Service Providers find it extremely difficult to negotiate bilateral arrangements with broadcasters, which in turn adversely impacts consumer interests and places many operators at a competitive disadvantage. The absence of a regulated wholesale pricing regime for HD Channels allows broadcasters to exercise a dominant position by employing opportunistic and arbitrary pricing for such content, and prevents larger scale proliferation of high definition content. Lack of regulation or control over wholesale pricing of HD channels may lead to even higher, more disproportionate prices for a significant number of consumers, and is tantamount to a violation of the must-provide conditions applicable to broadcasters.

Negotiations with broadcasters for HD channels are largely one-sided, and lead to unreasonably high prices for HD content, with little to no uniformity across the entire portfolio of HD channels available to distributors. We illustrate these gaps in a chart as an annexure to our response. A cursory look reveals stark differences in the ratio of prices of SD channels to their HD counterparts. These price differences range from a minimum of 2.8 times to over 20 times the price of the SD channel. It is in the context of this lack of uniformity in HD pricing that we propose wholesale price regulation of HD channels.

To that end, we propose a formal linkage between the RIO price of an SD channel and its HD equivalent, and submit that the wholesale price of an HD channel should be set at max a multiple of 1.2 times the price of its SD counterpart.

3. **No differential wholesale tariff for commercial subscriber:** Since the services provided to domestic and commercial subscribers does not differ in any way, their wholesale tariffs should be maintained at the same level. The broadcasting and cable TV industry is healthy enough to innovate, and bring new services to market, and does not need to cross-subsidize services from commercial subscribers especially when the tariffs for domestic customer is not below cost.

Allowing tariff forbearance or higher rate for a commercial group of subscribers would have associated impacts that need to be evaluated. The tariff forbearance or higher rate in question is essentially a plea for the allowance of a cross subsidy in a market driven sector. Having one group of subscribers pay a different rate for the same service, is for all intents and purposes, a financial incentive afforded only to highly regulated industries where cross-

subsidization is a general norm by keeping the tariffs for ordinary subscribers at below cost, which is not the case in the broadcasting sector.

Wholesale tariffs should also in no circumstances be placed under forbearance. Broadcasters hold a monopoly over content, and we are of the view that a forbearance regime will jeopardize the interests of consumers, and force them to pay higher for the same service. Further, we wish to state for the record that such forbearance will contravene with the “must provide” provisions imposed on broadcasters. Allowing unfettered control over the pricing of “monopoly” content would essentially let broadcasters circumvent the ‘must provide’ provisions by creating the wholesale tariff barriers for a specific group of platform operators/subscribers.

In light of our submission above, we request the Authority for the following:

- A distinction between commercial and domestic subscribers is unnecessary and therefore, we propose that the wholesale tariffs for commercial subscribers should be the same as that for ordinary/domestic subscribers.
- The wholesale tariffs for DTH operators should be reviewed at a lower level considering the progress in digitalization and increased revenue of subscription and advertisement of broadcasters.
- The wholesale tariffs for HD channels should be regulated due to excessive difference in the wholesale tariffs for SD and HD channels and to protect the interests of the consumer.

Q5. Is the present framework adequate to ensure transparency and accountability in the value chain to effectively minimise disputes and conflicts among stakeholders?

Q6. In case you perceive the present framework to be inadequate, what should be the practical and implementable mechanism so as to ensure transparency and accountability in the value chain?

Q8. How can it be ensured that TV signal feed is not misused for commercial purposes wherein the signal has been provided for non-commercial purpose?

Airtel’s Response:

1. The present mechanism of creating distinction between domestic and commercial subscriber had led to excessive disputes/litigations.
2. Any distinction between two set of retail customers is inappropriate as distribution of signals have never been segregated between commercial and domestic subscriber. While selling

broadcasting services, it is difficult for the DPO creates any kind of record in their system and also they have no mechanism to verify whether such signals are being used for domestic or commercial purposes or in premises or when a domestic customer start using that signal for commercial purpose and vice versa. Technically, the signals so received by domestic and commercial subscribers are inseparable as the signals uplinked by a DTH operator consist of single feed.

3. Therefore, we believe that the regulatory process should be simplified for the sector by having a single wholesale tariff for all group of customers.

Q7. Is there a need to enable engagement of broadcasters in the determination of retail tariffs for commercial subscribers on a case-to-case basis?

Airtel's Response:

No, we do not support the different tariff regime for domestic and commercial subscriber. The engagement of broadcasters in the determination of tariffs for domestic/commercial subscribers should only be limited to wholesale tariffs and not retail tariffs. DPOs should solely be responsible for the distribution of broadcast content to any subscriber. The broadcaster's role should be limited to the sale of content to distributors who shall endeavor to bring quality services to market.

Q9. Any other suggestion which you feel is relevant in this matter. Please provide your comments with full justification.

No comments

Annexure I - Chart comparing SD and HD rates

S.No	Channel Name	SD RIO Rate per subscriber per month (In Rs.)	HD RIO Rate per subscriber per month (In Rs.)	Difference (In Rs.)	Ratio/Times
1	Colors	10.34	57.50	47.16	5.56
2	Star plus	9.05	30.00	20.95	3.31
3	Sony	10.34	46.00	35.66	4.45
4	Zee TV	6.70	30.00	23.30	4.48
5	Life OK	10.59	30.00	19.41	2.83
6	Zee Cinema	6.70	30.00	23.30	4.48
7	Star Gold	8.53	30.00	21.47	3.52
8	Star World	2.36	20.00	17.64	8.47
9	Zee Studio	3.62	30.00	26.38	8.29
10	PIX	6.20	30.00	23.80	4.84
11	Star Movies	8.53	30.00	21.47	3.52
12	Movies Now	7.41	30.00	22.59	4.05
13	Romedy Now	7.41	149.00	141.59	20.11
14	CNBC TV18 Prime	4.39	46.00	41.61	10.48
15	Sony Six	16.91	115.00	98.09	6.80
16	Star Sports 3	14.47	120.00	105.53	8.29
17	Star Sports 4	17.12	142.00	124.88	8.29
18	Ten Sports	7.75	125.00	117.25	16.13
19	Discovery Channel	7.75	24.15	16.40	3.12
20	History	7.73	40.25	32.52	5.21
21	NGC	2.97	16.00	13.03	5.39
22	MTV Indies	3.15	50.00	46.85	15.87
23	SUN TV	6.40	40.00	33.60	6.25
24	KTV	7.76	40.00	32.24	5.16
25	Gemini TV	5.32	40.00	34.68	7.52
26	Sun Music	3.62	25.00	21.38	6.91