Comments to the consultation on the draft Telecommunication (Broadcasting and Cable) Services (Fourth) (Addressable Systems) Tariff (Amendment) Order 2015

The Indian Pay TV industry today has grown manifold and is one of the most competitive and diverse pay TV markets in the world with a large number of MSOs and cable operators, private operating DTH systems, IPTV offerings, HITs offerings, mobile television offerings, etc.There are over 825 TV channels permitted by Ministry of Information & Broadcasting (MIB), of which, over 670 TV channels are operational. TRAI itself has acknowledged that there are over250 pay TV channels as of January 2015. All these together serve a huge and expanding TV household population of 168 million as per the FICCI-KPMG Report of 2015. In short the Indian television industry is highly competitive with hardly any entry or exit barriers. This active competition at all levels of the Pay TV industry serves to discourage perverse pricing which in effect signifies that the Indian Pay TV industry is ready for *forbearance* at all levels of the value chain.

In this context the endeavor of TRAI to propose a new formula for retail price fixation appears to be out of sync with market reality. This new formula seeks to decrease the rate of a-la-carte offerings offered by DPOs with the purported intent of providing a meaningful choice to consumers in selecting channels on a-la-carte rates. In our view that objective cannot be achieved by ad hoc measures. As a broadcaster we have reiterated time and time again that TRAI must look at “soft touch” regulation and forbearance on tariff regulation. The current scenario on tariff regulation is chaotic. Repeated attempts by TRAI to regulate tariffs through ad hoc tweaking of caps at the wholesale level have been challenged before the TDSAT and the Supreme Court. The need for a holistic and overarching review of tariff regulation is much overdue. TDSAT has stated this repeatedly in its recent orders and so has the Supreme Court when it remanded the last challenge on the inflationary increase back to the TRAI. Unfortunately, this draft Tariff Order is again a tweaking of an earlier order. Our fear is that this draft Order if implemented as it is will drive platform operators to package channels at the retail level not on genre and content but purely on price which will deny consumers diversity of content. Packaging cannot and should not be made a function purely of price. It should be left to the DPO to decide the manner in which it wishes to offer to its subscribers the channels it has taken from the broadcaster. Regretfully, this draft Order since its objective is purely to cap the discount at which the DPO offers its channels to subscribers is likely to have the unintended effect of reducing package sizes to fewer channels and also limiting the variety of channels in such a package. In that sense we believe the draft is a retrograde step and must not be implemented as drafted.

Furthermore, we are of the view that even if TRAI feels TRAI should conduct an in-depth study of the tariff and the packaging prevailing at the retail level and based on empirical data carry out a genuine tariff formulation exercise.