

GTPL Hathway P Ltd, Ahmedabad.

Response for Consultation Paper on Tariff Issues related to TV Services

Before we proceed to offer our comments on the questions posed under the Consultation Paper, it is important that we share brief background on the current day issues being faced by the MSO's. The MSO in the present regime is not only at the receiving end from both the Broadcasters as well as the LCO's but at the same time has to compete with the DTH, OTT and IPTV Operators wherein the same content has to be provided to the end consumers along with good quality and timely services.

It may be emphasized that none, other than the MSO has invested anywhere in building the network or purchase of the Set Top Boxes without which the whole process of digitization would not have even taken off. In hindsight, digitization has affected the three stakeholders in different ways:

The MSO in the distribution chain i.e. Broadcaster – MSO – Cable Operator – Customer is the only entity which has to operate within the whims and fancies of the entities above and below it. Least to say that the Broadcaster who is the channel owner and the resultant possessor of the content has monopoly over the same and thus can demand whatever it deems appropriate or whatever it deems would be a realistic sales target.

It is apparent that the MSO Sector needs to be protected and the present regime which burdens the MSOs to the maximum without any pressure on the Broadcasters and the LCOs should be done away with.

1. Content Agreements should be as per standard formats which should be made by TRAI.

a. It's the prevalent practice to forcefully make MSOs to agree for unreasonable clauses that are included in printed formats. However these clauses are never used against their allied MSOs and always misused against other MSOs and smaller operators.

b. Similar to point above, the Agreement between MSO and LCO also should be as per TRAI format.

2. HD channels also need to be brought under regulation as pricing anomalies are rampant and unreasonable price/refusal/delay to provide HD are being used as arm twisting tool. This is crucial as consumers are comparing between Digital cable and DTH based on HD offerings.

a. Dth has also made a similar demand about regulating HD.

3. Broadcasters cry “unfair revenues and underdeclaration of subscriber base” in analogue system. Both the above terms are creations of the broadcaster lobbies. The business was done on mutually agreed lump sum fees for years. Broadcaster happily agreed for a fee in the discussion with the MSO after which he paints an “Unfair” picture in front of the government.

4. “Declared subscriber base” is a creation by the broadcaster to satisfy their computerized systems brought in by them from developed countries and implemented in India. The only discussion agreed by the MSO is the lump-sum fee payable and the subscriber base was always put in by the broadcaster who decided the price and back-calculated the subscriber base. These are all part of the conspiracy by the vested interests to brand the MSO/LCO as dishonest and trying to grab from the operator the results of his decade long hardwork in the field.

5. Analogue rates are misnorms as is evident from the rates of each bouquet. For eg. Star was priced at Rs.30/- as against Zee which was priced at Rs.60/-. Is it because Star is half as popular or because Star had less cost in programming. No, the reason is that Star had reduced price from Rs.40/- to Rs.30/- in exchange for back calculating a higher subscriber base in its system. Point to note is that subscriber bases of analogue was just a back-calculated figure with the broadcaster and so was the analogue rate. Therefor the DAS rates which are derived from analogue rate are also mere creations from the fancy of the broadcaster and not a market reality.

6. In a previous consultation paper(2013) Broadcasters have claimed that pre-DAS all pay broadcasters together annually collected approx. Rs. 2700 cr in analogue from 88 million analogue cable homes. This is spelt out as 2400cr by MSM in a previous consultation paper

a. $2700 / 12 = 225$ cr per mth. /88 M homes= Rs.25.6 per home per mth. which as per them is 15% share. They desire to take it to International standard of 35%(as per them). This means taking 25.60 to Rs.60.00 on an arpu of 170.00(as per them). Even if Broadcaster’s demand to 35% share is accepted, it can only be a graded increase over 3-4 years instead of a jump right in the first year. This is where the Broadcaster has been an impediment to implement DAS. It is a serious impediment as it affects all the other stake holders in the value chain upto the consumer.

b. Accordingly the content cost collected by broadcaster has to remain in the range of 20%(Rs.25 to 35) first year, 25%(Rs.35 to Rs.42) second year and 35%(Rs.42 to Rs.60) third year.

c. As per realistic estimates and information available, the pre-DAS revenue of broadcasters was 2000 cr from 90 M hhs and arpu net of tax Rs.150. Accordingly, broadcaster share- current and proposed should work out as

d. $2000/12=167$ cr/mth. /90 M homes=Rs.18.5 per home per mth. which is 12.3% of Rs.150/-.

e. While entire digitization cost is invested by MSO and partially paid by consumer as stb charges, we will for argument sake go with Broadcaster's contention of 35% "fair share" in accordance with quoted international norms.

f. Accordingly the current 12.3% (Rs.18.50) should move to 35%(Rs.52.50)

For smooth implementation of DAS, this has to be taken into consideration and a stagewise yearly graded increase in each phase (I,II,III and IV) is what can be justified.

1. Year I- 12.3% - Rs.18.50
2. Year II- 20% - Rs.30.00
3. Year III-28% - Rs.42.00
4. Year IV-35% - Rs.52.50

7. Its also further argued by Broadcasters in various discussions that the average payout by dth is Rs.65 per sub on a base of 32 million. It's a well known fact that dth enjoys fixed deals that reduce the cost per sub with increasing subscriber base, whereas cable is forced to sign deals that have increasing cps with increasing subscriber base. The only reason why MSOs sign such illogical deals is extreme pressure that they are subjected to by the dominating pay broadcasters. As far as vertically integrated MSOs are concerned they are made to sign using hidden sweeteners and internal pressures. Thus discrimination is an evil that need to be put an end to.

8. Trai already has information on each Broadcasters annual revenues, Pre-DAS, from which each pay broadcaster share of the Rs.18.50 can be derived. This percent will determine the Pre-DAS cps for each bouquet of the broadcaster. Once this is done in conjunction with the twin conditions, the ala carte rates may be declared by Broadcasters, keeping the genre price cap. This ala carte rate is the real rate the Broadcaster commands at present as against the fancy RIO rates which are unaffordable to consumer as well as MSO.

9. The current dth subscriber base is estimated at 54 M which at the rev of 2500 cr brings the rate to Rs.40.00 per sub per mth as against Rs.65.00 mentioned above. However the absence of intermediary LCOs ensures that this does not put any financial stress on them.

10. With such high number of broadcasters and subscriber audit allowed to each one independently, some broadcasters especially those on ala carte are intentionally scuttling audits and raising disputes in reports, later filing huge claims. This become a way of working for some, especially Regional

channels who have no market demand outside home state but are carried to cater to residents from other states.

It is also not practical to have so many Broadcasters doing audit on SMS, CAS, headend etc, which cause disruption to normal service to consumers. In addition, none of the auditors have sufficient technical background to understand the technological explanations involved in the functions of the headend. It is essential to designate 3 or 4 authorized agencies to conduct audit for all broadcasters simultaneously. Also headend audit should be in the realm of BECIL certification and no other audit shall be allowed.

11. As far as Sports Channels are concerned, the same are the highest priced channels but are only watched by consumers when some specific sporting event is happening and not otherwise. The consumers do not have an option of subscribing to the channels only for the duration of the event of their choice.

It is therefore proposed that Sports Channels should be treated on a different footing from the Regular Channels under any Genre and their price should be calculated on the basis of the number of days it is actively viewed, rather than the standard practice of monthly subscriber numbers. The recent practice of splitting the same sports series on different channels of the same broadcaster is with the sole aim of bypassing price regulation. This needs to be curbed with suitable regulation.

12. Broadcasters providing content free of cost on OTT/ Internet/ YouTube etc. whereas the DPOs are paying for the same content which is seen by the end consumers. This in fact is open discrimination between platforms.

Distribution Network Model

TRAI has appreciated that huge investments have been made by the DPOs for successful implementation of Digitalization and has noticed that they are entitled to the return on their investment by way of separate revenue for use of their infrastructure and bandwidth. The Federation wholeheartedly supports TRAI in its endeavor to implement the Integrated Distribution Model and therefore out of all the various models described in the Consultation Paper by the TRAI, only the '*Distribution Network Model*', after making certain changes as suggested below would be suitable.

The aspect of this model which has to further worked upon would be the manner of re-transmission of each DPO and the resultant revenue distribution to each link in distribution chain.

It should be done in such a manner as to ensure that MSOs are not worse off, in view of LCOs being part of the distribution chain, whereas revenue

share would not arise in the case of the DTH and IPTV Operators. Also, the Input Costs of the MSOs are comparatively higher than the DTH operators and thus the Distributor Network Model should have a mechanism whereby the applicability has to be different for the MSOs vis-à-vis DTH Operators.

Additionally, for this model to be an overall success, in certain situations where the bandwidth from a “common node” to the end-consumer is that of the LCO, safeguards for both the MSO and the LCO need to be prescribed.

The workability of the ‘Distribution Network Model’ also needs to be further tested keeping in mind the current market conditions and the same needs to be further examined with facts and figures i.e. between the proposed model (wherein the pricing which the broadcaster(s) are likely to notify and the basis of price at which DPOs would be compensated by way of rentals for the bandwidth needs to be determined) vis-à-vis (the current prevailing price and also keeping in mind the B-2-B (Business to Business) Model i.e. recovery from LCOs with respect to the MSOs.

The success of the model is also to be seen from the perspective that the investments required by the DPOs are independent of the Broadcaster's requirements/demands. Huge amount of additional investment is still needed in distribution networks to expand reach and upgrade capabilities. The MSOs should also have sources of revenue independent of revenue share from pay channels subscription, to ensure reasonable rate of return on investment in the existing distribution networks and to ramp up further investment. This independent source of revenue could be in the form of monthly rental from subscribers depending upon the quantum of bandwidth used.

In the said Model what needs to be ensured and fixed is the revenue share between MSO and LCO, the rate should be at least Rs. 150/- for the Basic Services. The Revenue Share so fixed between MSO and LCO should be mandatory and not an indicative revenue share or by way of any fall back options as is the situation prevailing today. The revenue from the pay channels should be distributed in ratio of 40:30:30 (Broadcaster:MSO:LCO).

In addition to the above, the Broadcaster should necessarily provide all its pay channels on à la carte with rates of each channel prescribed directly to the consumer. There should be no option of bundling or packaging allowed to the Broadcaster either for Pay channels or a combination of Pay and Free to Air.

However packaging shall be by DPO and not Broadcaster as DPO may not be able to carry every channel that the broadcaster offers in a package. If packaging is allowed to broadcaster, then the Broadcaster would definitely push the non-driver channels with the driver channels for attractive rates to consumers. The same will again restrict the choice of the consumers to choose channels and view the content of their choice. This would thus lead

to the current situation where customers would be saddled with unnecessary channels.

The responses to the various issues raised in the Consultation Paper are as following:

Q1. Which of the price models discussed in consultation paper would be suitable at wholesale level in broadcasting sector and why? You may also suggest a modified/ alternate model with detailed justifications.

Ans. The preferred model is the Integrated Distribution Network Model. Detailed Submissions made hereinabove are reiterated and relied upon. In light of the same, no response is proposed by the Association for the present question.

Q2. Which of the corresponding price models discussed in consultation paper would be suitable at retail level in broadcasting sector and why? You may also suggest a modified/ alternate model with detailed justifications.

Ans. The preferred model is the Integrated Distribution Network Model. Detailed Submissions made hereinabove are reiterated and relied upon. In light of the same, no response is proposed by the Association for the present question.

Q3. How will the transparency and non-discrimination requirements be fulfilled in the suggested pair of models? Explain the methodology of functioning with adequate justification.

Ans. The preferred model is the Integrated Distribution Network Model. Detailed Submissions made hereinabove are reiterated and relied upon. In light of the same, no response is proposed by the Association for the present question.

Q4. How will the consumer's interests like choice of channels and budgeting their expenses would be protected in the suggested pair of models? Give your comments with detailed justifications.

Ans. The preferred model is the Integrated Distribution Network Model. Detailed Submissions made hereinabove are reiterated and relied upon. In light of the same, no response is proposed by the Association for the present question.

Q5. Which of the integrated distribution models discussed in consultation paper would be suitable and why? You may also suggest a modified/ alternate model with detailed justifications.

Ans. Out of the proposed integrated distribution models only the 'Distribution Network Model', after making certain changes would be suitable.

The aspect of this model which has to be further worked upon would be the manner of re-transmission of each DPO and the resultant revenue distribution to each link in distribution chain. It should be done in such a manner as to ensure that MSOs are not worse off, in view of LCOs being part of the distribution chain, where revenue share would not arise in the case of the DTH and IPTV Operators. Also, the Input Costs of the MSOs are comparatively higher than the DTH operators and thus the Distributor Network Model should have a mechanism whereby the applicability has to be different for the MSOs vis-a -vis DTH Operators.

Further, in certain situations where the bandwidth from a "common node" to the end-consumer is that of the LCO, safeguards for both the MSO and the LCO need to be prescribed, for this model to be an overall success.

The workability of the 'Distribution Network Model' also needs to be further tested keeping in mind the current market conditions and the model needs to be further examined with facts and figures i.e. between the proposed model (wherein the pricing which the broadcaster(s) are likely to notify and the basis of price at which MSOs would be compensated by way of rentals for the bandwidth needs to be determined) vis-à-vis (the current prevailing price and also keeping in mind the B2B (Business to Business) Model i.e. Recovery from LCOs with respect to the MSOs.

Q6. How will the transparency and non-discrimination requirements be fulfilled in the suggested models? Explain the methodology of functioning with adequate justification.

Ans. The response to Q5 and the detailed submissions made above may be read in response to this question also. Further, in the 'Distribution Network Model' the rental amount to be charged by the MSOs, would be in terms of a formula prescribed or fixed by TRAI. The authority has already proposed a uniform price cap across distribution platforms. Also, once the pay channel broadcaster notifies the channel pricing, the same should not be higher than what is across platforms which shall ensure that there is transparency and non-discrimination. The revenue share of the pay channels between the Broadcasters and the DPOs would ensure effective collection from the consumer and the consumer would also pay only for those channels which it wishes to subscribe to. This will lead to more revenue generation from the ground which can be used towards improvement and/or up gradation of infrastructure therefore leading to better quality services as well as value added services which can be provided to the consumers on reasonable terms.

Q7. How will the consumer's interests like choice of channels and budgeting their expenses would be protected in the suggested integrated distribution models? Give your comments with detailed justifications.

Ans. In the Distribution Network Model, the consumer has the maximum choice thus his interest in terms of choice of channels and budgeting is well taken care off. Further, the rates of channels notified by the Broadcaster are directly to the consumer and hence, the consumer is well aware of the cost of the channel and budgeting can be done on basis of the channels chosen by the consumer.

Q8. Is there a need to identify significant market powers?

Ans. No, not at this stage, however safeguards against vertical integration of broadcaster with platform need to be made.

If the suggestions made above for Distribution Network Model are accepted, it would be a new direction for the entire Industry and hence, the impact of the same may first be analysed before attempting to identify significant market powers. We are hopeful that in the new regime, the unequal bargaining power enjoyed by the Major Pay Channel Broadcasters will be reduced and will give rise to a level playing field with respect to the MSOs.

Furthermore, as stated above at the level of the DPOs there is already intense competition with each consumer having a choice between at least 7-8 DPOs. In such a competitive market it is highly unlikely that a DPO will be able to have significant market power.

It is however felt, that at this stage when a new regime is being ushered in, the need to identify significant market powers may be deferred till the effect of the new Regulations is gauged.

Q9. What should be the criteria for classifying an entity as a significant market power? Support your comments with justification.

Ans. Subject to the answer of Q8 above, TRAI may advert to the criteria mentioned by it in the Telecommunication Interconnection (Reference Interconnect Offer) Regulation, 2002 to identify significant market power.

The same however would need to be modified in view of the different market conditions applicable in the Broadcasting Sector. Furthermore, at the time of identifying and setting up a criterion for significant market power, TRAI should ensure that it does not impinge on the power of the Competition Commission of India, which has been setup with a specific purpose of ensuring fair and healthy competition.

Q10. Should there be differential regulatory framework for the significant market power? If yes, what should be such framework and why? How would it regulate the sector?

Ans. In view of the answer given to Q8 above, no separate response is necessary. The issue can be taken up by TRAI at a later date, on identifying if there is a need for the same after implementation of the new Regulations.

Q11. Is there a need to continue with the price freeze prescribed in 2004 and derive the price for digital platforms from analog prices? If not, what should be the basic pricing framework for pricing the channels at wholesale level in digital addressable platforms?

Ans. Yes. After taking into account the genre price cap, placed on each genre as prescribed in Para 4.14.4 read with 4.14.6 of the Consultation Paper and coming up with a suitable mechanism for arriving at channel pricing. At this stage if the price of channels is unfrozen before the genre price caps are finalized, it would lead to an anomalous situation where there would be no factual/ market driven prices available for arriving at such conclusions. As has been noticed in the Consultation Paper, the current market price of pay channels is around 10% of the published RIO rates, which clearly establishes that the rates set by the Broadcasters are exorbitant and de hors the market conditions/ reality.

Further, any increase in price of channels is borne by the consumers. A perusal of the Balance Sheet of most pay channel Broadcasters, shows that they have been making immense profits year on year, and even the Subscription Revenue have gone up tremendously as also observed by TRAI in its consultation paper and therefore it is in consumer interest that till such time as genre price cap is established, the present rates continue.

Q12. Do you feel that list of the Genres proposed in the consultation paper (CP) are adequate and will serve the purpose to decide genre caps for pricing the channels? You may suggest addition/ deletion of genres with justification.

Ans. Yes, however with the addition of Music Channels as a separate genre. Channels which are majorly playing music videos, songs etc. can be categorized separately as at present they are usually falling in the GEC genre, even though the content being shown does not fall in the GEC Category. The creation of a separate GEC Genre, would provide ease of access to the consumers.

Q13. Is there a need to create a common GEC genre for multiple GEC genre using different regional languages such as GEC (Hindi), GEC (English) and GEC (Regional language) etc.? Give your suggestions with justification.

Ans. Yes, for the purposes of determining genre price cap as mentioned in para 4.14.4 and 4.14.6 of the Consultation Paper.

Q14. What should be the measures to ensure that price of the broadcast channels at wholesale level is not distorted by significant market power?

Ans. No response is required in light of the answers to Question No. 7 and 8 above.

Q15. What should be the basis to derive the price cap for each genre?

Ans. The price caps have to be determined keeping in mind the fact that the prices of the channels of the pay Broadcasters at wholesale level to the DPOs are around 10% of the presently notified RIO rates. The mechanism of arriving at a genre average and applying a discount to take it close to the actual realisation of 10% while allowing a profit margin on top of it may be a feasible method.

Q16. What percentage of discount should be considered on the average genre RIO prices in the given genre to determine the price cap?

Ans. As mentioned above and as stated by TRAI in the consultation paper, the average cost of channels at wholesale rate are about 10% of the prevalent RIO prices mentioned. Thus, the Price Cap can be ascertained after taking the average of the current RIO Prices in a particular genre and bringing it down closer to the current prevailing rates at Wholesale Level.

Thereafter, the Price Cap can be further discounted by 40% - 50% depending upon the genre to arrive at a realistic price for a channel and the resultant Price Cap.

Q17. What should be the frequency to revisit genre ceilings prescribed by the Authority and why?

Ans. The genre ceilings can be revisited every 2 years depending on the popularity of content amongst the consumers and the demand for the same which can result in an upward or downward revision of the genre cap ceiling.

Q18. What should be the criteria for providing the discounts to DPOs on the notified wholesale prices of the channels and why?

Ans. DPOs should be given volume based discounts, so as to incentivise each DPO to further expand its service areas and give increased competition to incumbent DPOs. The feasible range to ensure healthy competition would be in the range of 5%, 10% and 15% for volume multiples.

The Broadcaster can be permitted to devise other criteria, which shall form part of its RIO and be applicable for all DPOs on a non-discriminatory basis.

Q19. What would be the maximum percentage of the cumulative discount that can be allowed on aggregated subscription revenue due to the broadcasters from a DPO based on the transparent criteria notified by the broadcasters?

Ans. At present there is no requirement for determining the maximum percentage and the mandate of transparency would automatically address the issue at hand. Further with the proposed implementation of the Distribution Network Model, the pricing of channels would be directly to the consumer and thus the stage of cumulative discounts etc, may not arise.

Q20. What should be parameters for categorization of channels under the “Niche Channel Genre”?

Ans. Only ‘Ad Free’ and ‘3D’ channels should be considered niche channels. High Definition (HD) channels should be not be considered niche channels as observed in Para 4.18 of the Consultation Paper.

Furthermore, any criteria to identify niche channels on the nature of the content would be very difficult to implement and monitor and would also result in misuse of the ‘Niche Channel Genre’.

Any other basis of classification would result in huge and constant regulatory monitoring by TRAI of all such Niche channels.

Q21. Do you agree that niche channels need to be given complete forbearance in fixation of the price of the channel? Give your comments with justification.

Ans. No. Niche channels should not be given complete forbearance in fixation of price. Niche channels can be considered under a separate category for the purposes of the fixation of the genre price cap.

Q22. What should the maximum gestation period permitted for a niche channel and why?

Ans. The maximum gestation period permitted for a Niche Channel should be 12 – 18 months; however, the same should be subject to crossing of 1 million subscriber base.

Once, the channel crosses the 1 million subscriber mark, it should be removed from the niche genre and be considered in the genre as per its content and the price be governed as per the price cap of the genre.

Q23. How misuse in the name of “Niche Channel Genre” can be controlled?

Ans. The criteria mentioned in response to Q22 should help prevent the misuse of the niche channel genre.

Q24. Can a channel under “Niche Channel Genre” continue in perpetuity? If not, what should be the criteria for a niche channel to cease to continue under the “Niche Channel Genre”?

Ans. No. The criteria mentioned in response to Q22 should be applicable to ascertain, whether a channel continues to be a niche channel.

Q25. How should the price of the HD channel be regulated to protect the interest of subscribers?

Ans. The price of HD Channels should be regulated similar to the SD Channels. HD and SD are only display resolutions/ formats and have no linkage to the copyright of the content. Additionally, today most content produced/ licensed by the Broadcasters are shot in HD and no additional cost is incurred by the Broadcaster on account of providing HD Channels.

In fact, there is no reason or justification for pricing HD Content higher at the wholesale level by the Broadcaster. The present regime in which HD Channels are in forbearance is being abused by the Broadcasters to extort the DPOs. Further, it should be mandated upon the broadcaster to compulsorily provide the HD format signals to DPOs for retransmissions, which can thereafter be retransmitted by the DPOs in the HD or SD format depending on the choice of the customer.

This will also allow the customer to choose the viewing format of the channel and thus would not be burdened with paying additionally for the HD Channels and/or be forced to subscribe to the SD Channels.

Q26. Should there be a linkage of HD channel price with its SD format? If so, what should be the formula to link HD format price with SD format price and why?

Ans. Yes. It is reiterated that most content produced/ licensed by the Broadcasters are shot in HD and no additional cost is incurred by the Broadcaster on account of providing HD Channels. In fact, there is no reason or justification for pricing HD content higher at the wholesale level by the Broadcaster.

Q27. Should similar content in different formats (HD and SD) in a given bouquet be pushed to the subscribers? How this issue can be addressed?

Ans. Yes. However, the same should be provided to customers only if the customers are being charged for either the HD or SD Channel and not for both channels.

Q28. Do you agree that separation of FTA and pay channel bouquets will provide more flexibility in selection of channels to subscribers and will be more user friendly? Justify your comments.

Ans. Yes. Under the present Regulatory regime, the DPOs are being forced to bundle pay channels with FTA in view of the fixed fee/ CPS deals being executed with the Broadcasters. Once, the proposed Distribution Network Model is in place, then the offerings of the Broadcasters will be directly to the consumers which will be as per their viewing choices, leading to consumers being in a position to budget their expenses and pay only for their choice of channels, rather than those imposed by the Broadcaster.

Q29. How channel subscription process can be simplified and made user friendly so that subscribers can choose channels and bouquets of their choice easily? Give your suggestions with justification.

Ans. The suggestions made by TRAI in Para 4.20.1 of the Consultation Paper i.e. change of packages using Registered Mobile Number and development of Mobile Apps for selection/ change in bouquet or addition/ removal of channel can be implemented for simplification of the process.

Attempts have to be made by TRAI and all stake holders to educate and inform the consumers/subscribers of the various facilities available so that the consumer does not have to solely depend upon the DPOs.

Q30. How can the activation time be minimized for subscribing to additional channels/bouquets?

Ans. In the event the suggestions made in response to Q29 above are implemented, they would reduce the activation time for subscribing to additional channels/ bouquets.

Q31. Should the carriage fee be regulated? If yes, what should be the basis to regulate carriage fee?

Ans. Any fee paid to DPO is solely with the objective of enhancing advertising revenues and is purely voluntary. Hence should be left to the broadcasters and DPOs to decide what they want to do. This does not affect consumers directly and hence no need to regulate.

Q32. Under what circumstances, carriage fee be permitted and why?

Ans. The answer to Q31 should be read in response to this question also.. It is also to be noted, that Carriage Fee is an important source of revenue for the DPO, which helps in compensating for the cost of running and maintaining their Networks. Furthermore, Carriage Fee is also necessary to incentivize the DPOs to upgrade their Networks and increase Channel capacity, otherwise there would be no investment on the part of DPOs to improve infrastructure.

Q33. Is there a need to prescribe cap on maximum carriage fee to be charged by distribution platform operators per channel per subscriber? If so, what should be the “price Cap” and how is it to be calculated?

Ans. No. carriage fee is purely voluntary. Hence the broadcaster has the choice of paying nothing also. The issue of cap comes if carriage fee is made compulsory. Further, no content is on an exclusive basis to DPOs.

Q34. Should the carriage fee be reduced with increase in the number of subscribers for the TV channel? If so, what should be the criteria and why?

Ans. No. If there is an increase in the number of subscribers of the TV Channel, the TV Channel gets a consequential increase in advertising revenue. It should be noted that the majority of revenue earned by the Broadcasters are on account of Advertising Revenues, which is due to their wide reach on the Networks of the DPOs. The DPOs are not compensated or given a share of the Advertising Revenue earned by a Broadcaster, by virtue of being available and made popular because of the DPOs Network.

Q35. Should the practice of payment of placement and marketing fees amongst stakeholders be brought under the ambit of regulation? If yes, suggest the framework and its workability?

Ans. No. The same should not be Regulated and left to forbearance. In the event, the same is Regulated it would interfere with the rights of the DPOs to package channels as per their choice and the choice of their consumers. The DPOs are better placed to understand and implement consumer choices.

Q36. Is there a need to regulate variant or cloned channels i.e. creation of multiple channels from similar content, to protect consumers' interest? If yes, how should variant channels be defined and regulated?

Ans. Variant Channels should be defined, however, not regulated if the same is provided to customers and are charged for either of the channels and not for both channels.

In the event a DPO/ Broadcaster intends to charge separately for variants of the channels, then there would be a need to Regulate cloned channels including but not limited to giving choice to the customer to choose from either of the cloned channels to better suit its need and budget.

Of late, there is a practice of splitting the same series of sports events on many channels. This is solely with the aim of bypassing price regulations and hence should be curbed with necessary regulation.

Q37. Can EPG include details of the program of the channels not subscribed by the customer so that customer can take a decision to subscribe such channels?

Ans. Yes. This will promote consumer choice and would be a good step to increase consumer awareness of the various channels available for Subscription.

Q38. Can Electronic Program Guide (EPG) include the preview of channels, say picture in picture (PIP) for channels available on the platform of DPOs but not subscribed by the customers at no additional cost to subscribers? Justify your comments.

Ans. Yes, but this depends on the feasibility of the same on each DPOs Network. It may not be possible for all DPOs to provide such a facility as the systems installed by them may or may not provide such facility/ capacity.

In addition, the same should not be mandated at an additional cost to the DPOs, if the same is not technologically feasible for them, as it would unreasonably burden the DPOs to incur additional expenditure for a service, from which there would no revenue.

The same would also result in use of additional bandwidth of the DPOs and hence, there should be some mechanism wherein the Broadcaster willing to promote its channel should compensate the DPO for the cost incurred by it.

Also, it may be taken into consideration that even in the PIP no audio can be made available to the consumer as the audio of the background channel would be playing.

Q39. Is the option of Pay-per-program viewing by subscribers feasible to implement? If so, should the tariff of such viewing be regulated? Give your comments with justification.

Ans. No. The addition of pay-per-program viewing would lead to increase in the cost of Subscription payable by the end consumers.

In today's scenario, where pay-per-program viewing is not permitted, all content is made available by the Broadcasters to the consumers on their Regular Channels, however, if the same would be permitted the Broadcasters would then demand additional amounts for the same content, terming it as pay-per-program.

It would lead to the removal of quality content from Regular channels to Pay-per-program and the consumers would then be forced to pay for both, thus increasing their monthly expenses.

Further, for implementation of pay-per-program, MSOs would need to insist on pre-paid/upfront payments i.e. prior to the airing of the Program, and not post-paid payments as is the norm in the Industry today.

Q40. Will there be any additional implementation cost to subscriber for pay-per-view service?

Ans. Yes. The DPOs would have to provide additional bandwidth and network resources, as well as upgrading their present systems to provide pay-per-view service, which cost would have to be borne by the consumer. In any event, carrying of pay-per-view content should not be mandated on the DPOs and be left to their choice.

Q41. Do you agree with the approach suggested in para 5.8.6 for setting up of a central facility? If yes, please suggest detailed guidelines for setting up and operation of such entity. If no, please suggest alternative approach(s) to streamline the process of periodic reporting to broadcasters and audit of DPOs with justification.

Ans. Yes. However, it has to be ensured that the privacy and confidentiality of the data of the DPOs is maintained and not provided to any third party. Further, non-disclosure agreements between the DPO and the Broadcaster need to be mandated.

With such high number of broadcasters and subscriber audit allowed to each one independently, some broadcasters especially those on ala carte are intentionally scuttling audits and raising disputes in reports, later filing huge claims. This become a way of working for some, especially Regional channels who have no market demand outside home state but are carried to cater to residents from other states.

It is also not practical to have so many Broadcasters doing audit on SMS, CAS, headend etc, which cause disruption to normal service to consumers. In addition, none of the auditors have sufficient technical background to understand the technological explanations involved in the functions of the headend. It is essential to designate 3 or 4 authorized agencies to conduct audit for all broadcasters simultaneously. Also headend audit should be in the realm of BECIL certification and no other audit shall be allowed.

Q42. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

Ans. There are 5 issues which have though not been specifically mentioned in the Consultation Paper, but have a direct bearing on the issues raised in the present Consultation Paper. The issues are as under:

- The DPOs are not given a share in the Advertisement Revenue earned by the Broadcasters.

- Continuance of Forbearance towards Carriage Fee.
- Broadcasters providing content free of cost on OTT/ Internet/ YouTube etc. whereas the DPOs are paying for the same content which is seen by the end consumers.
- Exorbitantly high prices of Sports Channels.
- Mandatory fixation of revenue sharing between MSOs and LCOs and shifting of payment method from LCOs to MSOs to ***pre-paid model***.

In conclusion, we once again express our deepest gratitude to TRAI for taking up such an exhaustive exercise. We request the authority to consider our comments/suggestions and though all the details have been given, if the authority still needs any further clarification, we would be more than willing to do the same upon hearing from you.