

RESPONSE OF DISNEY BROADCASTING (INDIA) LIMITED TO CONSULTATION PAPER ON TARIFF ISSUES RELATED TO TV SERVICES ISSUED ON JANUARY 29, 2016.

We greatly appreciate and applaud the detailed and comprehensive Consultation Paper on Tariff Issues related to TV Services published by Telecom Regulatory Authority of India ("TRAI") on January 29, 2016. Please find below our submissions with respect to the said Consultation Paper.

PRICING

Currently, there are 830 permitted private satellite TV channels, of which 256 pay channels are owned by 53 pay broadcasters. Not only have the number of TV channels increased over a period of time, even the distribution platforms have increased tremendously. The distribution platform includes 60,000 local cable operators (LCOs), 6,000 Multi-System Operators (MSOs), 7 Direct-to-Home (DTH) operators, 2 Headend-in-the Sky (HITS) operators and a few IPTV service providers (collectively hereinafter referred to as DPOs). In addition to the above, Over the Top (OTT) operators too have entered the TV distribution sector in recent times.

Under each genre, there are several TV channels demonstrating enough number of TV channels with varied content to ensure healthy competition. The viewer can chose from various TV channels available under any genre depending upon their choice of content. It is an admitted fact that no two TV channels have identical content available at the same time. Besides, a viewer can watch only one TV channel at a time. It is submitted that if broadcasters are permitted to fix their price of TV channels as per demand and quality of content, consumer will receive channels at competitive prices and also good quality content. We are of the opinion that currently there are a sufficient number of TV channels and DPOs ensuring competition and market forces could determine the competitive rates of TV channels. In the light of the development in the broadcasting sector, it is imperative that the TRAI grants forbearance and permits broadcasters to fix the rates of TV channels on their own.

TARIFF MODEL APPLICABLE TO INTERCONNECTION AGREEMENT

With regard to interconnection agreements between broadcasters and DPOs, a RIO model will be appropriate giving sufficient freedom to broadcasters and DPOs for entering into mutually negotiated agreement. Further, the model should allow the following:

- (i) freedom to broadcasters to price the channels ;
- (ii) broadcasters could offer their channels both on a-la-carte and bouquet giving full freedom to price their a-la-carte and bouquet rates
- (iii) broadcaster should be entitled to decrease the RIO rate depending upon demand and supply of the TV channel and enhance the RIO rate annually.

Further, the broadcasters should be given an option to provide discounts on the rates published in the RIO with a maximum cap of 33% (thirty three percent) discount to any DPO. The basis of discounts could be various parameters on transparent and non-discriminatory basis in order to have level playing field for all DPOs such as (i) placement of channels in various packages; (ii) LCN positioning; (iii) subscriber base of the operator; (iv) penetration of the channel; and (v) number of channels. The provision of discounts will help broadcasters to set realistic channel prices and will also make a-la-carte a viable alternative for DPOs.

OPTION TO NEGOTIATE

It is proposed that Regulation should allow for broadcasters and DPOs to arrive at mutually negotiated agreements so as to ensure various packs are available to consumers at the retail levels.

It is often noted that DPOs do not allow TV channels in their basic/entry pack and negotiate lower rates with broadcasters on the basis of the entry pack. If DPOs are given freedom to package and provide entry packs to consumers, it is necessary that there should be a provision for must carry obligation on DPOs to broadcasters TV channels at their basic/entry package, so as have a wider range of TV channels available under basic/entry package to masses.

REGULATING DPOs/RETAIL

a) Payment of Subscription fees:

Recent times has witnessed increasing dispute between the broadcasters and the MSOs with regard to timely payment of subscription fees to broadcasters. One of the defenses for non-payment by MSOs is non-collection of subscription charges from subscribers/consumers by the MSOs. DPOs and Local cable operators generally do not issue any proper invoice or issue any proper receipt against collection of subscription charges. In fact, often cable operators collect subscription charges in cash and there is absolutely no accountability at the end of cable operators. It is pertinent to note that DTH operators operate in pre-paid model. They collect subscription charges from consumers and then allow consumers to avail signals of TV channels. Consumers can pay through online banking, recharge coupons and cheques. The cable sector is also heading towards addressability and MSOs like DTH operators could also adopt pre-paid model. There should be sufficient regulations and enforceability to ensure that DPOs do not default in payment of subscription fees by implementing sufficient measures like pre-paid model and advance payment of subscription fees by DPOs to broadcasters. If the enforceability of the regulations ensure payment to broadcasters on timely manner, there will be a sharp decline in the number of disputes before the Hon'ble TDSAT on issues relating to non-payment of subscription fees. It is important to note that many cable operators after accumulation of subscription fees either shut their business or transfer their business to other

entities and thus making it difficult (or nearly impossible) for broadcasters to recover subscription fees.

b) Transparency in reporting of Subscribers:

DPOs do not submit Subscriber Reports to broadcasters in a timely manner despite the provision in the Regulation which mandates submission of Subscriber Reports on monthly basis. Many times, non-submission of Subscriber Reports result in delayed payments and accumulation of arrears towards subscription fees. A facility should be provided by the DPOs allowing broadcasters to obtain Subscriber Reports from the Central Facility of DPOs. This Central Facility should be common for all broadcasters as referred to in the Consultation Paper.

It is also found that DPOs do not submit accurate Subscriber Reports and also tamper with their systems. It is important to ensure that broadcasters receive Subscriber Reports reflecting true subscriber numbers for each of the channels placed in packages as well as on an a-la carte basis. Further, though agreements between broadcasters and DPOs permit broadcasters to conduct audits of the DPOs' systems. However, the DPOs do not allow the audit and delay it under some pretext or the other. It is observed that only after the intervention by the Hon'ble TDSAT, does the DPO permit audit of their systems. On several occasions, despite the Hon'ble TDSAT's order, the DPOs do not cooperate with the broadcasters during the audit. It is, therefore, necessary for a provision in the regulations for a periodic audit of the DPOs' systems by an independent third party like BECIL and other auditors designated by the TRAI. The audit could be conducted by such designated auditors and the report of such audit should be shared with the relevant broadcasters.

c) Enhancing viewing experience of the consumers:

The quality of service regulations ("QoS Regulations") applicable to DPOs should be sufficiently robust to enhance the consumers experience and its implementation in the ground. By ensuring enforceability of QoS Regulation at DPO and retail level, QoS will be implemented in true spirit at consumer level.

Accordingly, it is suggested that in the present regime of multiple DPOs and TV channels, the principle of market forces will determine the competitive rates for TV channels at both wholesale and retail level. Further, all stake holders will strive to improvising content and enhancing quality of service at all levels to ensure increased viewership with best available choices to the viewers.