

To,
Telecom regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Nagar,
(Old Minto Road),
New Delhi- 110002

25th March, 2016

Ref: 1. Consultation Paper on Tariff Issues related to TV Services dated 29th January, 2016.

2. Our response dated 11th March 2016.

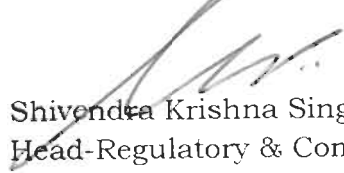
Dear Sir,

We would like to enclose herewith our counter- response on the above captioned Consultation Paper for your consideration and records.

Thanking you,

Yours Sincerely,

For Videocon d2h Limited



Shivendra Krishna Singh
Head-Regulatory & Compliance

Encl: A/a

**COUNTER RESPONSE OF VIDEOCON d2h LIMITED TO CONSULATION PAPER
 DATED 29TH JANUARY, 2016**

At the outset we reiterate our stance mentioned in our detailed response dated 11th March 2016. After going through the comments of the majority of the Broadcasters and their allied organizations, we have strong reason to believe, their comment are intelligently provided to frustrate the purpose and objective of the Consultation Paper, as explained herein below.

At the further outset, we would like to highlight the objectives of the Authority which is to review the existing Tariff arrangements and to ensure that the tariff structure is simplified, so as to reduce the incidence of disputes amongst stakeholders and to enable subscribers to avail the channels at a reasonable price.

1. WHOLESALE TARIFF

➤ **Regulated RIO - Apt Tariff Model**

On scrutiny of all comments, it is apparent that Regulated RIO Model stands out as one of the acceptable models to many stakeholders, including some of the Broadcasters, provided realistic cap of RIO is kept by Regulator.

We reiterate all pros of the Regulated RIO Model as mentioned by us in our comments. All dealings need to be regulated and overseen by TRAI to ensure that wholesale offerings to various DPOs' are based on Fair, Reasonable and Non-Discriminatory approach.

If the Authority decides to implement the Broadcaster proposed channel pricing mechanism for deciding the Wholesale Price, Discounts, Price Caps, etc then the very objective of the Authority to achieve reasonable a-la-carte rate for the end customer, gets frustrated.

The consumer interests are paramount when it comes to offerings by Broadcasters to DPOs and by DPOs to consumers. We have reason to believe that consumer interests would be secured in all respects if Regulated RIO Model is adopted, by taking in its purview all channels, be it Pay or Free, SD or HD or 4K or Niche.

All channels, irrespective of they being offered on a-la-carte or bouquet basis, need to be brought under one umbrella of Regulated RIO Model in order to ensure not only parity and level playing field amongst all stakeholders but also secure the interests of the ultimate consumers. We once again reiterate that negotiated deals entered between most of the Broadcasters and DPO's are in the bouquet form. If such deals are examined and Twin Conditions are applied (on Broadcaster negotiated rates), the actual A-la-carte rate of each channel would be much lesser than the published RIO rates.

In order to ensure that the Regulated RIO Model is implemented in letter and spirit, we need to ensure that:

- **There should be 100% transparency between commercial deals of Broadcasters and all DPOs and particularly to vertically integrated Distribution Platform.**
- **No Direct / Indirect discounts in any manner to be passed on surreptitiously to select DPOs and particularly to vertically integrated Distribution Platform.**
- **Mandate on Broadcasters to disclose any and all such discounts offered to DPOs and particularly to vertically integrated Distribution Platform.**
- **No side letter / separate arrangement permitted for providing discounts.**

We sincerely feel that if the above parameters are not achieved, than the very purpose of the consultation paper will get defeated.

➤ **Our counter-comment on the existing RIO V/s Broadcaster Proposed RIO Price**

The proposal as advocated by the Broadcasters in their response to the Consultation Paper, have found no footing before the courts. The Hon'ble TDSAT in its landmark judgment dated 7th December 2015 rejected the proposals of Broadcasters as deceptive, anti-competitive and misconceived and the same has been upheld by Hon'ble Supreme Court in the appeal filed by the Broadcasters.

The proposed ceiling in RIO price by the Broadcaster is far-fetched and not in sync with the objective of the consultation process initiated by the Authority. In this regard, we would like to

produce a comparison chart of the present RIO Rates of the Broadcasters vis-à-vis the genre ceiling proposed by prominent Broadcasters.

Star's Proposal:

Genre (A)	Present RIO Rate * (B)	Current Actual Avg. Cost per Channel in bouquet (C)	Broadcaster proposed genre based ceiling (D)	% increase in RIO Rate Proposed by Broadcasters vis-à-vis the RIO Rates mentioned in column "C"
Sports Channel	Rs. 15.12	Rs. 2.50	Rs. 18	600 %
Movies	Rs. 7.42	Rs. 0.95	Rs. 10	1000%
GEC (Hindi and Regional)	Rs. 9.21	Rs. 0.95	Rs. 12	1200%

• **Zee's Proposal:**

Genre (A)	Present RIO Rate * (B)	Current Actual Avg. Cost per Channel in bouquet (C)	Broadcaster proposed genre based ceiling (D)	% increase in RIO Rate Proposed by Broadcasters vis-à-vis the RIO Rates mentioned in column "C"
Sports Channel	Rs. 15	Rs. 1.30	Rs. 19	1300 %
Movies	Rs. 7.56	Rs. 0.75	Rs. 10	1400%
GEC	Rs. 5.83	Rs. 0.75	Rs. 11	1450%

• Sony's Proposal:

Genre (A)	Present RIO Rate * (B)	Current Actual Avg. Cost per Channel in bouquet (C)	Broadcaster proposed genre based ceiling (D)	% increase in RIO Rate Proposed by Broadcasters vis-à-vis the RIO Rates mentioned in column "C" (E)
Sports Channel	Rs. 18.90	Rs. 1	Rs. 18.90	1900 %
Movies	Rs. 7.64	Rs. 1	Rs. 9.66	900%
GEC (Hindi)	Rs. 8.99	Rs. 1	Rs. 10.58	1000%

*For Present RIO Rate highest RIO Rate taken into account

➤ Impact of Broadcaster proposed RIO rate / Channel Pricing

If the Broadcaster proposed RIO Price mechanism is implemented, following would be the consequences:

- Objective of the Authority to rationalize the Channel RIO Price would be frustrated
- AI-carte price would be much more than the present price being offered by the DPO to the Subscriber. E.g: Present RIO Rate of Sony ESPN is Rs. 18.90 and the price ceiling proposed by Broadcaster is also Rs. 18.90, whereas on applying the reverse twin condition the actual price of the Channel comes to Rs. 1 only.
- It shall promote bulk deal between the Broadcasters and DPOS.
- Purpose of innovation when it comes to retail offering gets frustrated.
- Broadcasters will get unreasonable discretion power to discriminate

- Broadcaster will come up with their own/ unique formula of Channel Pricing which would lead to more ways of promoting discrimination and partial treatment to certain set of DPOS.

In this connection, we would like to highlight the stand of Hon'ble TDSAT in its landmark judgment dated 7th December 2015, which is reproduced below:

“A proper RIO, true to its nature as envisaged in the Regulations, is meant to go a long way in introducing/bringing about fairness, reasonableness and non-discrimination in interconnect arrangements between broadcaster and distributors. But what is passed off by the broadcasters as RIO, instead of doing away with non-discrimination actually becomes a device to perpetuate discrimination”

➤ **Reason for non-requirement of Broadcaster proposed ceiling**

Ever increasing Advertisement Revenue of the Broadcasters

As rightly pointed out by the Hon'ble TDSAT, the Advertisement Revenue forms an important source of revenue for the Broadcasters which is no less important than the license fee paid by the DPOs to the Broadcasters. The aforesaid is also observed by the Authority in the present consultation paper.

The broadcaster thus has a two-fold market for the same set of content wherein (a) it sells content to viewers and (b) also sells eye-balls to advertisers.

Further, the Broadcasters creates additional stream for advertisement revenue by floating cloned channels.

Hence, it would be ideal that the Authority:

Firstly, the present RIO Rate of the Broadcasters is regularized by the Authority taking into consideration the historical deals between Broadcasters and DPOs, to arrive at a realistic RIO Rate.

Secondly, as a future exercise and after taking into consideration the realistic RIO Rates, Authority may then taking into consideration the end consumer impact and if necessary may revisit the prices by way of fresh consultation.

Channel pricing

We firmly believe that the Authority should first take into consideration the prices of the Channels as per the interconnect agreements filed by the Broadcasters and treat the CPS deal offered to the DPOs to be treated as bouquet of channels.

If the Twin Condition is applied in reverse manner to these historical negotiated bouquet deals then it shall give the Authority a real and actual price of Broadcasters for each channel as well as of bouquet.

The ceiling proposed by the Broadcasters is unrealistic, discriminatory, would lead to a-la-carte offering being frustrated and hence the proposed ceiling of the Broadcaster cannot be considered for fixation of channel pricing under the current Consultation Paper.

➤ Suggestions for the Authority To Arrive At A Realistic RIO Price

1. Review Historical Deals

If historical deals between Broadcasters and DPOs are revisited or taken into consideration by the Authority for arrival at a realistic RIO Price, then there is no place for discounts as proposed by the Broadcasters.

2. Application of Twin Conditions In Reverse Manner

According to us there should be a correlation (Twin Condition) at the wholesale level between a-la-carte and bouquet prices. In fact in negotiated discounted deals the channels are offered in bouquet only to DPOs and priced accordingly. Therefore, the Twin Conditions referred in Telecommunication (Broadcasting & Cable Services) Interconnection (4th Amendment) Regulation 2007, Clause No. 13.2A.12 becomes applicable in such deals. If the Twin Condition is applied in reverse manner to all historical negotiated bouquet deals then it shall give us the real and actual price of Broadcasters for each channel as well as of bouquet

3. Criteria for Discount

Once the realistic RIO Price is decided by the Authority, then the criteria for discount can be deliberated between the stakeholders.

4. Achieving Authority's objective

This will achieve the Authority's prime objective of introducing a fair, transparent and non-discriminatory regime.

One of the leading broadcasters in its comments have mentioned various regulations in other jurisdictions like EU, UK, USA trying to lay emphasis on the impact of *ex ante* Regulations. However, in our view this does not apply to the current consultation paper considering the fact that both broadcasting and distribution platform markets have sufficiently evolved and is still evolving so as to be able to be in sync with the proposed regulatory regime under the supervision of the Authority.

➤ Discount Is The Source Of Discrimination At The Hands Of The Broadcasters

On the cost of repetition, we would once again like to state that the objective to achieve fair, simplified and rationalize tariff for the channels can be achieved only if the discounting regime is done away with.

We would like to reiterate that the proposal as advocated by the Broadcasters pertaining to the discounts in their response to the Consultation Paper, has earlier been rejected by the Hon'ble TDSAT in its landmark judgment dated 7th December 2015 and the TDSAT's judgment is upheld by Hon'ble Supreme Court in the appeal filed by the Broadcasters.

From the present ceiling of the RIO Rates as proposed by the Broadcasters in the Consultation Paper, it is apparent that the RIO Rates are inflated and if implemented there would be no difference between the present position and the one proposed by the Broadcasters.

As such if the channel RIO rates are re-regularized by taking into consideration the historical deals between the Broadcasters and DPOs, then the question for formulation of discount does not arrive at all.

In view of the aforesaid, following are the suggestions:

- Discount proposed by Broadcasters is anti-competitive and in violation of Competition Act, 2002.
- If the Broadcaster proposed Channel Pricing and discount is implemented, then it will promote bouquet deals.
- Since RIO would be start pointing of negotiation, there arises no question of any discount.
- No discount should be permitted basis the placement of Channel in preferred Logical Channel Number (LCN). One LCN cannot be allocated to 2 Broadcasters.
- Packaging based discount should not be permitted as the same would be violating existing regulations.
- No volume based discount should be permitted.
- Only Single Agreement should be permitted. No Side Letter to be allowed.
- No Direct or Indirect Monetary advantage or in any other form to be provided to the Broadcasters.
- No discounting mechanism should be permitted which are specially designed to provide benefit specific DPO's. It need to be ensured that, any discount model as may be proposed by the Broadcaster should at least qualify to more than three distribution platforms.
- Discount if at all permitted should be on per subscriber.

2. RETAIL TARIFF

Many stakeholders have favored forbearance at Retail Level, including many of the Broadcasters. IN addition to our stance taken in our detailed response dated 11th March 2016, we would like to state that there are multiple reasons for us advocating for keeping Retail Tariff in forbearance, which reasons can be briefly enumerated as under:

2.1 Absence of Level Playing Field

As the Authority is aware that the DTH business which started in 2003, when there was predominantly cable business in vogue with its own shortcomings like its un-addressable systems. Addressability was achieved by DTH platforms. However, the DTH platform has been saddled with multiple taxes, fees as compared to its counter-parts. As the Authority is aware that there is no license fee on digital cable TV operation when in fact the license fee is charged to DTH operators.

A comparative chart between DTH platform vis-à-vis other distribution platforms is self-explanatory.

Parameters	DTH	MSO	HITS	Cable	Mobile TV	Unified License PAN India
Entry fee	Rs 10 Cr	Rs. 1 Lakh	Rs. 10 Cr	Nil	Nil	(along with data and voice)
Bank Guarantee (in Rs. Crores)	Rs. 40 Cr	Nil	Rs. 40 Cr	Nil.	Nil	-
Annual License Fee	10 % of GR	Nil	Nil	500/-	Nil	8% of AGR
WPC license fee and royalty	As prescribed	Nil	As prescribed	Nil	Nil	-
Average Entertainment Tax	10%	7-8%	7-8%	7-8%	Nil	Nil

We would like to further state that new laws and regulations are being formulated for DTH industry from time to time in spite of the fact DTH Industry being transparent in its business where every rupee earned is reported and accounted for, whereas unorganized industry such as Cable requires regulation and laws.

2.2 Mobile TV Applications of Broadcasters

Additionally, we take the opportunity to state that most of the Broadcasters are encroaching the distribution field by floating their respective Mobile Tv Applications. These Mobile TV Applications are also not governed under any laws and are blatantly flouting various laws and regulations. At one end the premier and / or simulcast of the same set of programs and contents (which are made available by the Broadcaster's to us on payment of subscription/license fees) are available on free basis to the subscribers who subscribe for these Mobile Tv Application whereas at the other end the DTH industry is contributing more than 50% of subscription revenue to all the major Broadcasters for the same set of contents and programs. This scenario coupled with the exponential and ever increasing growth in the subscriber numbers who view the same programs / contents on free basis through the Broadcaster's Mobile Tv Application, is not only discriminatory but is also jeopardizing the very existence of DTH Industry at large and would thereby defeat the purpose of paying huge license fees under the respective distribution agreements entered with the Broadcasters. Hence it is need of the hour to regulate the Mobile Tv Applications and at the same time implement forbearance at the Retail Level to give maximum flexibility to DPOs who operating in stiff competitive market.

We support the contention of certain stakeholders calling for stopping broadcasters from sharing the contents, channels, programs with Mobile TV platforms free of cost whilst charging heavily the DPOs exorbitantly for redistributing the same content, channels and programs. This can easily be called "revenue cannibalization" by Broadcasters. Level playing field in real sense of the term can only be possibly achieved if we are able to create same set of legal framework, regulatory framework, licensing framework, taxation framework and also administrative framework.

2.3 Unified Licensing Regime

Government has introduced a new license which is called unified license, under this license operator shall give voice, video and data service (i.e Mobile / Landline phone, TV Content and Internet). In fact, the platforms like India's largest industrial house reaching customers house through fibre optical cable, Fibre To Home (FTH).

We believe that since the present Consultation Paper will bring in tariff both at wholesale and retail level and make a historical step forward in regulating both Broadcasters and DPOs, it is high time and best possible opportunity with the Authority to include all such services and platforms providing broadcasting services within the ambit of the proposed Tariff so as to prevent any further and more issues.

2.4 **Commercial Subscriber**

Furthermore, some of the Broadcasters also have urged the Authority to bring in equitable Tariff and regulatory framework by establishing a realistic differentiation between domestic and commercial establishments. However, in our view, currently as things stand we cannot differentiate between domestic and commercial subscribers and as such the focus on crystallizing various issues under this consultation paper should not be allowed to either get diluted or transgressed.

3. INTERGRATED TARIFF

None of the Broadcasters have supported the Integrated Model in spite of the fact that the Authority and majority of the DPO's are of the view that Distribution Network Model is the most practical model which can be implemented at the ground level, subject to certain modifications. Whilst, we once again strongly recommend implementation of Distribution Network Model subject to minimum starting fee of Rs. 150/- as the MSO's have recommended and with modifications as suggested in our response dated 11th March 2016, following is the additional submission, taking into consideration the comments of all stake holders to make this model successful the Authority must put cap at whole sale price to derive realistic market price of the channel.

Sharing of Advertisement Revenue with DPOs

It is high time that DPOs are given a share of the advertisement revenue earned by the Broadcasters, since Broadcasters are using pipe of DPOs to reach the consumer and DPOs spend lots of money to create this business infrastructure and to create this pipe. It is the DPOs who are primarily responsible to get the eyeballs / TRPs to the Broadcasters basis which the Broadcasters get huge advertisement revenue. TRP can only be achieved when a particular channel of the Broadcaster is made available to large number of consumers, which is made possible only by DPOs. If the channel is not available on the platform of DPOs, no advertiser will purchase advertisement slot.

Hence, the Authority while formulating a suitable Tariff Model, needs to make a provision for sharing of advertisement revenue between the Broadcasters and DPOs.

4. MANNER OF OFFERING

Whilst we reiterate what has already been stated in our response dated 11th March 2016, we believe that the comments received from the Broadcasters with regard to manner of offering do not reflect market reality and the same are discriminatory.

Presently, though as per the applicable regulations presently the manner of offering / packaging of the Channels are left to the discretion of DPOs, all historical deals would reveal exactly opposite scenario in which the Broadcasters directly compel the DPOs to package their channels in the way in which they desire their channels to be packaged and offered. We feel that this exercise of compulsion results in limited or no choice for the consumers to opt for preferred channels and / or leave out undesired channels.

We sincerely feel that the packaging should be best left to the discretion of the DPOs' since DPOs deal with end consumer and are best aware of the consumer needs and preferences.

5. Our Response to Comments of Stake Holders including FICCI, CII, MPDA and US India Business Council

On bare perusal of the response of these associations / councils, it can be seen that the comments provided by these stakeholders are tilted towards the Broadcasters and the same has been issued without prior internal consultation with DPOs. Our counter response to these stakeholders is as under:

➤ Federation of Indian Chambers of Commerce and Industry ("FICCI")

The response given by FICCI is absolutely based on brief of few broadcasters and is purely broadcaster oriented reply. It represents only one side of the coin although we are also member of FICCI but they have never taken our opinion as a DPO. We therefore request Authority to ignore the reply of FICCI.

We oppose the suggestion given by FICCI that broadcasters should be free to define discounts / incentive criteria within a range of 30 % to 40% on the listed price as well as the cumulative discount on bundles for all Pay Channels. Though FICCI has made a representation that it represents both Broadcasters and DPOs, it has not discussed or deliberated any of the issues under the Consultation Paper with DPO's and consequently their recommendations or suggested tariff models cannot be considered as involving suggestions of DPO's with regard to any of the issues. It will not be out of place to mention here that FICCI filed their response much later than the due date for filing the response and we strongly object it as apparently the same is totally tilted in favor of the Broadcasters. FICCI has no *locus standi* to file such reply without first consulting the DPOs and taking their views against each pointer and thus unduly and unjustifiably cause prejudice to the interest of DPOs.

FICCI without properly appreciating the business dynamics of the DPO's has unjustifiably proceeded to present its comments on various other issues like audit, commercial subscribers and purported need of supplementary consultation paper. We do not concur with any of the comments of FICCI on any of the issues under the consultation.

➤ **Confederation of India Industry (“CII”)**

Sorry to say it is the similar case as of FICCI. The response given by CII is absolutely based on brief of few broadcasters and is purely broadcast oriented reply. It represents only one side of the coin although we are also member of CII but they have never taken opinion as a DPO. We therefore request Authority to ignore the reply of CII.

We fail to comprehend the comments provided by CII with regard to the necessity of the proposed tariff being linked to the provisions of Indian Copyrights Act, 1957 (as amended from time to time) and that Regulation 3.2 of the exiting Interconnect Regulation namely Telecommunication (Broadcasting and Cable Services) Interconnection Regulation, 2004, being in contravention of the Indian Copyright Act, 1957. We do not support these contentions and would like to put our objections thereto. CII has without any justification and proper elaboration sought to compare the DPO sector with sectors like petroleum, sugar, telecom, air fare, cement, etc and sought movement towards rates de-regulation. It has further urged the Authority again without any elaboration or justification, to ensure that the Regulatory provisions like ‘Must Provide’ and ‘Channel Pricing’ at whole sale and retail level are brought in consonance with the Indian Copyright Act, 1957 which is uncalled for, irrelevant and needs no consideration at the hands of the Authority.

➤ **Motion Pictures Distributor Association (MPDA)**

The reply by MPDA is totally irrelevant as MPDA has not appreciated the issues properly and without application of mind proceeded to object to the endeavor of the Authority to introduce a feasible and workable tariff. MPDA has not given any consideration to the dynamics of the broadcaster and distribution business. MPDA has apparently not perceived what problems DPOs are facing. They have without assigning any justification or reason objected to the entire consultation process and called for forbearance and as such their reply does not warrant any consideration.

➤ **US India Business Council**

Without appreciating the dynamics of Indian environment and eco system the US India Business council has made some comments on pricing, one can understand that the

comments of council represent only handful of broadcasters (owned by US based entities) interest.

6. SIGNIFICANT MARKET POWER

Whilst we reiterate our stance mentioned in our response dated 11th March 2016, we would like to state that some stakeholders have objected to identify significant market power for certain reasons with which we differ on various counts. Admittedly, a lot of anti-competition measures have been taken by the concerned Authorities against dominating stake holders in the recent past and such measures are on the rise every day. Today the market may be robust but is certainly not competitive and therefore there is a need for identifying significant market force as envisaged under the current consultation paper. As the Authority is aware that there are many vertically integrated stakeholders in the market exhorting immense influence on smaller entities to have their way and tilt the transactional balance in their favor to the disadvantage and prejudice of such smaller entities.

With limited reference to the question of identification, criteria for classification and differential regulatory framework for the significant market power under this consultation paper, we would like to draw the attention of this Hon'ble Authority to the Recommendations made on issues related to new DTH Licenses and Issues related to Media Ownership dated July 23, 2014 and August 12, 2014 respectively, in which the Authority has made certain recommendations keeping in mind all market dynamics and existence of vertically integrated entities and therefore the objections of broadcasters to the jurisdiction of this Authority are unjust, unwarranted and they are estopped from challenging the same.

7. NICHE CHANNELS

We would like to reiterate that Niche Channels should not be differentiated and should be treated at par with any other channel. We would like to further reiterate that if Niche Channel category is created by the Authority, the Broadcasters would get an opportunity to categorize their High Definition Channels as Niche Channel and declare unrealistically high RIO Rates as compared to their Standard Definition channel variant, ultimately affecting the end consumer who will find it unaffordable to subscribe to HD Channels. To avoid such effect on the end consumer, all channels including Niche Channels should also be regulated and be treated at par with any other Channel.

8. HIGH DEFINITION CHANNELS AND CLONED CHANNELS

8.1 HD Channels

With regard to High Definition Channels, we reiterate our stance mentioned in our response dated 11th March 2016 and sincerely feel that it is high time that HD Channels needs to be regulated and treated at par with SD Channels.

For want of any regulated regime for HD Channels, Broadcasters take unreasonable and undue advantage of the situation and hold dominant position which ultimately culminates in having unilateral one sided agreements vis-à-vis the DTH service provider, who has no say in the matter at all. Net result of this is that Consumers find it extremely difficult, inconvenient and commercially unreasonable to subscribe to such HD Channels.

We would like to once again state that 99% of High Definition (HD) channels carry same feed of Standard Definition (SD) channels, it is simulcast or shuffle cast and hence there needs to be standard/same price for both SD and its HD variant.

A snapshot of the comparison between SD and HD channels as to their shoot content, transfer and ingest, post production editing, storage, Uplink / distribution and Consumer End Equipment is captured in the table below:

Content and Related Cost	Shoot content	Transfer and ingest	Post production / editing	Storage	Uplink / distribution	Consumer End Equipment
<ul style="list-style-type: none"> Cost of Actors, Actresses, Directors, Crew, Support Staff, Hiring of Studios, Set Cost, Travel, Lights and Generators, Incidental Costs like Police Approvals, etc 	<ul style="list-style-type: none"> Most shoots are nowadays digital and in HD Cameras, Lenses etc. have minimal cost differential Widely used Digital camera equipment like <u>Canon EOS 5d Mark 3</u> costs around Rs 4-5 lacs which is similar to <u>Legacy Sony Tape based cameras</u> in the market 	<ul style="list-style-type: none"> Transfer can be through broadband or physical. In physical, there is no extra cost. A HD transfer ready raw footage vis a vis a SD footage will be typically 4-5 times in size The bandwidth consumed for transfer will thereby be higher based on the size of the file The lease line cost is however, reducing 	<ul style="list-style-type: none"> The cost for editing and finishing in HD is approximately 10-12 percent higher than in SD The cost differential is rapidly coming down as all workflows are becoming HD only and thereby there is minimal impact on Total Cost Ownership (TCO) 	<p>Increased costs due to increased content size. However, storage costs are reducing at 7-8% pa.</p>	<p>Uplink of SD channels are between 2 to 2.5 times the cost of up linking of SD channels.</p> <p>In case of digital, CDN costs would be 15-20% higher for HD channels.</p>	<p>Set Top Box equipment vary between 10-20%</p>
	Negligible	HD would be 3-4 times SD transfer cost	5-10%	Upto 5%	Uplink 2 – 2.5 times; digital 15-20%	10 -20%
90% Fixed for SD and HD	10% of Variable Cost between SD and HD					

However as mentioned above if Authority is compelled to differential pricing then we are fine with 10% incremental pricing due to the input cost as explained in above explanation.

Further, the Broadcasters assertion as to HD Channels being distinctly different from SD Channels entailing substantial investment in the form of time and resources is incorrect because 99% of the HD Channels carry same content and same programming schedule and unjustifiable as currently all programs are shot by using HD equipments and then downscaling the same to standard definition and are provided for re-distribution. It is pertinent to note that the content of HD Channels is the same as carried SD Channels since it is either simulcast or shuffle-cast by the Broadcaster which ultimately results in paying twice or more for the same content. HD channel can never be shown in a special category or in a Niche category as content being the same. If we look at the LED TV industry production chart / production plan world over, we can see that 100% Tv Panels are manufactured in HD and there is no category of SD LED Panels, as globally the cost of SD panels and HD Panels are the same, so the manufacturers have stopped making SD panels. We understand that the difference in production cost is only limited to the rental of HD cameras which are 30% higher than standard definition and the transmission cost of HD channel consumes 2 times bandwidth of standard definition, post production processing cost 2 times of standard definition. These 3 components of differential of SD and HD make only 10% difference in the total HD cost, rest of the cost (actor / actress) cost, crew cost, location cost, studio cost, which is 90% of the content remains the same. As such HD cannot be categorized as special category channel and can never come under Niche category, however looking at above three components 10% differential cost between SD and HD can be kept.

Although, one of the prominent broadcasters has suggested in its comments that both subscribers as well as DPOs' should be at liberty to opt for HD and SD channels or their bouquets separately, all interconnect agreements executed till date would however reveal as to how the same Broadcaster has compelled both DPOs and subscribers to take both the SD and HD channel versions by paying more and leaving them with no choice to exclusively opt for either SD or HD variants of channels and bouquets by restricting their payment for the same.

The Broadcasters also compel the DPOs to package both SD and its HD variant channel in the same bouquet for which separate license fee is charged by the Broadcasters and thus force the DPO to charge the customer. It will not be out of place to mention here that over and above such compelling clause, the Broadcasters also lay down stringent terms to ensure that the penetration

levels of both SD and its HD variant channels are met by the DPOs, which all interconnect agreements would reveal stand at 90%. This vicious circle can be seen by referring to various interconnect agreements filed in the past with the Authority. Additionally, we would also like to assert that such compelling clauses under the interconnect agreements reduces the end customer as a non-entity in the entire scheme of things and leaves him with no option but to chose such thrusted Channels and bouquets. The Authority is well aware that there are many consumer grievances in this regard escalated to the Authority for resolution. We are surprised to see that the broadcasters are saying that they are not forcing both SD and HD channels to the subscribers but in reality the situation is different.

8.2 Cloned Channels

Some of the Broadcasters have tried to make out a case by stating that linguistically modified channels are not clones since separate licenses are granted for such channels and separate content rights required to be acquired. However, as the Authority is well aware, the linguistically modified channel is nothing more than a modified variant or a slightly different clone of the original channel content and as such these channels should be termed as “variant channels” or “cloned channels”. One such category of channel clones could be that with exactly the same video content but with different language overlaid on it and uplinked simultaneously (simulcast) or with a time differential built-in (shufflecast). However, Broadcasters are free to give multiple language option in same feed like Discovery has been giving.

These Broadcasters have also tried to contend that the consumers have complete freedom of choice and can select one or more channels as per their preference. However, we do not agree to this contention as the consumer is laden with additional cloned channels that entail an additional tariff burden on him. We state that this may be construed as an anti-consumer measure as it amounts to burdening the customer with additional tariff for such variants or cloned channels with content that is almost same or akin to the original one.

It is surprising to find that the Broadcasters have stated that this Hon’ble Authority does not have requisite jurisdiction over the issue of a cloned channel and further that the questions pertaining to cloned channels are misplaced. We disagree with this view as making and providing same

original channel in the form of a cloned channel is not only harming the DPOs but also is against the paramount interest of consumers at large.

9. **PAY PER PROGRAM**

One of the leading Broadcasters has challenged the Jurisdiction of the Hon'ble Authority in coming out with any feasible option of Pay Per Program Viewing by the subscribers, as also on the variant of cloned channels to protect consumer interests. However, we differ with this view of the Broadcasters and state that both these segments can also be ably regulated by the Hon'ble Authority.

10. **AUDIT**

The suggestion to have a common audit by the IBF nominated audit panel of 3 to 4 reputed CA firms with maximum of 4 audits in a fiscal year is an exaggerated and lopsided approach to say the least. This clearly indicates that the IBF is being used as a tool by Broadcasters to throttle the DPOs making IBF the supreme authority over DPOs. We suggest DPOs should be allowed to carry out audit by Broadcast Engineering Consultants India Limited ('BECIL') or equivalent independent agency and submit the report to Broadcasters rather than Broadcasters auditing the books of accounts of the DPOs. The scope of audit should be restricted number of active pay subscribers in various packages for which DPO is liable to make payment to the Broadcaster.

In view of the above counter comments, we urge the Authority to introduce Regulated RIO Model at the wholesale level and leave the pricing of the Channel at forbearance at the Retail Level.

Thanking You,

Yours Sincerely,

For Videocon d2h Limited



Shivendra Krishna Singh
Head-Regulatory & Compliance