November 14, 2016

Shri. Sunil Kumar Singhal,
Advisor (B&CS)
Telecom Regulatory Authority of India ('TRAI')
Mahanagar Doorsanchar Bhawan,
Jawaharlal Lal Nehru Marg, New Delhi – 110002

Ref: Consultation Paper dated 14.10.2016 on the Draft Telecommunication (Broadcasting And Cable Services) Interconnection (Addressable Systems) Regulations, 2016 and ("**Draft Regulation**")**.**

Dear Sir,

We wish to thank the Hon'ble Authority for giving us the opportunity to express our views and extend our suggestions on the Draft Telecommunication Broadcasting And Cable Services) Interconnection (Addressable Systems) Regulations dated 14.10.2016.

We underline our response and views taking into consideration the immediate interest of the subscribers, of which TRAI is the custodian.

In context of the same, please find attached herewith our response on the issues as present in the present Consultation Paper for your kind perusal.

For any further clarification, you may write to us or contact us.

Yours Sincerely,

For B4U

_____

Authorized Signatory

COMMENTS

OF

B4U BROADBAND (INDIA) PVT. LTD. TO THE CONSULTATION PAPER

ON

DRAFT TELECOMMUNICATION (BROADCASTING AND CABLE SERVICES) INTERCONNECTION (ADDRESSABLE SYSTEMS) REGULATIONS, 2016 DATED OCTOBER 14, 2016

COMMENTS OF B4U ON THE DRAFT TELECOMMUNICATION (BROADCASTING AND CABLE SERVICES) INTERCONNECTION (ADDRESSABLE SYSTEMS) REGULATIONS, 2016 DATED 14.10.2016

INTRODUCTION

We write to you in response to the consultation paper promulgated by TRAI on Draft Interconnect Regulations for the addressable systems.

B4U as a group is an international conglomerate, operating channels like B4U Music, B4U Movies, B4U Aflam, B4U Plus and is available in various countries like USA, UK, Asia Pacific, Canada, South Africa, Europe, Middle East, Australia etc.

In India, B4U is a small broadcaster and has been operating since 1999, and currently, has two channels namely B4U Music and B4U Movies. B4U Music is a FTA channel while B4U Movies is a pay channel having negligible subscription. B4U is mainly dependent on its advertisement revenue for sustenance. Thus, we write to from the perspective of a broadcaster running smaller/niche channels, and the challenges faced by Broadcasters like us.

The biggest challenge faced by broadcasters like us relates to carriage, placement and marketing fee, and/or by whatever name called, relating to carriage and placement of channels. We highlight here, the basic issues that concern the smaller broadcasters like us, and which issues need thorough deliberation by the authority before finalizing the present Draft Regulations.

ARBITRARY APPROACH OF THE TRAI

1. While the broadcasters have been directed to receive subscription on the basis of actual subscribers watching the channel, the carriage fee has to be paid on the basis of active subscribers of the DPO. This is clearly violative of Article 14 and 19(1)(g) of the Constitution of India, firstly because a class in a class is being created without any basis, and secondly, same class is not treated equally and there is no basis for creating such a differentia. More so, TRAI fails to give any reason for such a differentia.
2. There is no basis for prescribing the rate of carriage fee. No study has been undertaken by the authority in this regard and rates have been prescribed arbitrarily.
3. The minimum percentage of active subscribers for a broadcaster to seek "Must Carry" has been kept at 5% without any basis or discussion.
4. At many places in the Explanatory Memorandum, it has been stated that discussions are based on various studies and data available with TRAI but no discussion is available nor has TRAI shared such study and data to the stakeholders.
5. Authority has failed to define the minimum number of channels that a distributor is obliged to make available. If the minimum number of channels is not prescribed, the provisions relating to "Must Carry" will never work and in fact will lead to a failure of this provision.
6. The subscription of a particular channel is dependent on the efforts and pricing of that channel by the DPO. This is absolutely arbitrary and could be a wall for a new broadcaster in the industry leading to concentration of power in the hands of a few and not allow a new broadcaster to enter the market.
7. The authority has failed to distinguish between commercial subscriber and ordinary subscriber. While the distributor may charge any amount from a commercial establishment, same benefit has not been given to the broadcasters.
8. Creation of a common interconnection regulation fails to recognize that DTH is a different technology altogether than HITS and MSO. Even otherwise while DTH reaches a subscriber directly without any intervening operator, HITS and MSO require a link cable operator. Hence, both are different classes and same formula cannot be applied, as is being sought to be done. The understanding of TRAI as reflected in the Explanatory Memorandum is wrong, even though it admits that every type of distribution network has different capabilities.
9. There is no basis of statements and findings of TRAI in the explanatory memorandum. TRAI has not produced any study or discussed any statistics for coming to various decisions, and findings, for e.g. capping of the rate for each genre, at 1.2 times the current rate, rate for carriage fee, defining geographical area, obliterating distinction between ordinary and commercial subscriber, discounts being offered, determining the rates of HD and definition of premium channels etc. Hence, the draft Regulations are clearly in violation of Article 14, 19(1)(g) and the TRAI Act.

DISTINCTION BETWEEN FREE TO AIR AND PAY CHANNEL AND SEPARATE APPROACH FOR FTA's AND PAY CHANNEL

TRAI must keep in mind that the treatment to free to air channel and pay channel must be separate, and single treatment cannot be accorded to both classes of channels.

1. Currently, the distributor of TV Channels has been mandated to carry 100 free to air channels consisting of 5 channels from each genre. However, TRAI has to keep in mind that there are in total 881 channels recorded with the Ministry of Information and Broadcasting, and about 339 free to air channels. Hence, it does not make any sense to restrict the carrying of 100 channels only. Thus, it goes without saying that the remaining free to air channels must invoke the 'must carry' provision in the same manner as any other new or not much popular channel would do. TRAI ought to have taken this aspect into account, and devise a scheme so that maximum FTA channels are made available to the consumers at an extremely low price. To create a parity with the pay channels, there should be ratio of FTA and pay channels that are being carried by the distributor, which for recommendation can be 60:40 for FTA and Pay channels respectively, as per the capacity of the distributor on a first come first serve basis in order to ensure protection to the FTA channels, for whom advertisement is the only source of revenue and to promote their visibility in its respective genre.

2. The Draft Regulations under discussion do not provide any incentive to the distributor to carry FTA channels and the distributor can only recover fee from the broadcaster if the 'must carry' provision is invoked. However, upon invocation of 'must carry', if reach of a particular channel goes beyond 20%, then the distributor is not entitled to charge any carriage fee. This will lead the distributor to ensure that the total reach of a channel invoking 'must carry' does not go beyond 20% so that the carriage fee is continued to be received.

3. Taking point no. 2 above further, all marketing activities, placement, LCN, and bouquet is in the hands of the distributor. Hence, whether the distributor wishes to popularise any channel is in the hands of the distributor, and if the distributor receives additional payment in terms of placement, and marketing fee, those channels will be promoted by the distributor.

4. Taking the above two points further, if TRAI does not mandate the minimum number of carrying capacity in the headend of the distributor, depending upon the area, the 'must carry' provision will not work for the free to air channel. Hence, the minimum carriage capacity should be provided in the draft regulations.

5. Also with the option of selection of 5 channels in each Genre being given to the distributors, there is scope for the distributors to unduly exploit the broadcasters, thus there must be a defined methodology suggested for selection, which may be basis the channels performance/popularity, basis the report of some agency like BARC.

Hence, TRAI must study the effect of the free to air channels in the industry, and create a distinction and applicability of the draft Regulations to free to air and pay channels, keeping the aforesaid issues in mind.

DISTINCTION BETWEEN DIFFERENT ADDRESSABLE SYSTEMS

Recommendation by TRAI of a single draft Regulations to all types of addressable system delivering TV broadcasting services has no basis. TRAI ought to have realized that different systems like DTH, MSO, HITS, etc. are operating in different fields, catering to different kind of subscribers and consumers, and has its own advantages and disadvantages. Some of the issues which the TRAI must re-consider are as under:

i. Different network topologies in terms of number of intermediaries, consumer interface
ii. Differences in technologies,
iii. Differences in the cost of delivery of services,
iv. Licensing conditions
v. Last mile connectivity like cable and non- cable

The authority while bringing all the addressable systems on the same footing, ought to have differentiated between the cable (Digital addressable Cable TV and HITS) and non-cable (DTH and IPTV) distribution platforms systems.

TRAI has been wrong in introducing a common regulatory framework for all types of addressable systems, while only seeking to maintain a level playing field, which is being maintained even otherwise. The level playing field is the mandate of the law since passing of the Judgment in the matter of *M/s Noida Software Technology Park Ltd. Vs. M/s Media Pro Enterprise India Pvt. Ltd. & Ors.* [M.A. No.166 of 2015, M.A. Nos. 223-232, 240-245, 256, 261, 266 of 2015 in Petition No. 295 (C) of 2014] and *Noida Software Technology Park Ltd. Vs.Taj Television India Pvt. Ltd. & Anr*. M.A. Nos. 167, 206 of 2015, 233-237, 246, 247, 257 of 2015 in Petition no. 526(C) of 2014] (hereinafter referred to as "**NSTPL judgment**") by the Hon'ble TDSAT. Hence, TRAI ought to have kept the issue of level playing field aside, and focused on different technologies, and ensuring that all technologies are dealt with properly.

FAILURE TO DISTINGUISH ORDINARY AND COMMERCIAL SUBSCRIBER

The Draft Regulations has defined "Active Subscribers" to mean any subscriber who has been authorized to receive signals of television channels as per the subscriber management system and whose set top box has not been denied signals. The authority has defined the term "subscriber" to mean a person receiving the television broadcasting services, provided by a service providers at a place indicated by such person without further transmitting it to any other person and each set top box located at such place, for receiving the subscribed television broadcasting services from the service provider, shall constitute one subscriber. It is unfortunate that the TRAI has done away with the distinction between two different classes of subscribers - ordinary and commercial, which existed since 2004.

Besides the above, the explanatory memorandum also fails to provide any reasoning for providing a generic definition for “subscribers” and having failed to deliberate upon the need for maintaining the distinction between commercial subscribers and ordinary subscribers that too without taking permission of the Hon'ble TDSAT and the Delhi High Court, whereby a challenge to narrow distinction created by TRAI is pending, vide its regulation being The Telecommunication (Broadcasting And Cable) Services (Fourth) (Addressable Systems) Tariff (Fifth Amendment) Order, 2015 dated 08.09.2015 vide Appeal No. 4(C) of 2015 pending before the Hon’ble TDSAT and The Telecommunication (Broadcasting And Cable) Services (Fourth) (Addressable Systems) Regulations, 2015 dated 14.09.2015 vide W.P.(C) No. 5161 0f 2015. In effect, TRAI has attempted to render the challenge pending as stated above infructuous. TRAI has not led any discussion on this aspect at the time of issuance of the detailed consultation paper dated 4.5.2016, and thus, any such change lacks transparency and thus, in violation of the TRAI Act. The authority while issuing a generic definition has violated the fundamental principle that distinct and separate classes or groups cannot be treated as equal hence, violative of Article 14 of the Constitution of India. The authority in declassifying, has erred in allowing commercial establishments to receive the television signal of the channels of the Appellant at the same rate that is applicable to the ordinary domestic subscribers for the said service, which direction/order violates the very underlying principle of Article 14 which mandates that all persons similarly situated or circumstanced shall be treated similarly and hence by corollary that persons that are situated/circumstanced differently shall be treated differently.

In light of the above, we are of the view that the authority should reconsider this definition of the subscribers, take into due consideration the comments of all the stakeholders and draw an equal and unequivocal distinction between two distinct classes of subscribers, i.e. ordinary and commercial.

NON-EXCLUSIVITY, MUST PROVIDE AND MUST CARRY

The principles of non-discrimination and transparency are the core to the interconnection framework, which are a must for the orderly growth and healthy competition in the industry. However, any effort in this regard should be made with precision, without any arbitrariness.

Must provide-

The provisions pertaining to the mandatory offering of channels to all the distributors are existing in the current regime as well, and are being enforced by the appropriate authorities from time to time. The authority in addition to the continuing with the earlier existing provisions, has made attempts at bringing in some sort of clarity stating that the signals could be denied only in the event that the distributor defaults payment to that broadcaster and not to any broadcaster. Current regime allows denial of signals in the event of default to any broadcaster. We feel that there is no necessity for deviating from the regime continuing, more so, when TRAI has not been able to substantiate the reasoning for the same either in the explanatory memorandum or otherwise.

We further feel that apart from providing non-discriminatory access to the distributor by the broadcasters, similar provision for providing non-discriminatory access should be available and mandated for the broadcasters as well. A broadcaster in the same genre and having the same popularity should be able to seek non-discriminatory access. This aspect is separate from the non-discriminatory must carry provision and as such, non-discriminatory access should be available at two levels, one at the stage of distributor seeking non-discriminatory access and second at the level of broadcasters seeking non-discriminatory provisioning of signals.

Wrong Geographical location created by TRAI

The authority has also prescribed the relevant geographical area in the Appendix I appended to the Draft Regulations, which is not based on any study or data, and has been promulgated on its own, without giving any opportunity to the stakeholders to comment on the same. The Draft Regulation provides that every broadcaster shall for the purpose of carrying the channels by a distributor declare the target market in terms of the relevant geographical area. However, the "relevant geographical area" does not take into account the inherent difference that exists within the same State owing to the different language, preference of the subscribers in different parts of the State. We are of the view that the geographical area should have been classified by taking into account the criterion of preferred language. The present classification identifying the "relevant geographical area" falls short of its mark, as it has not identified the seven of the eight metro cities of India viz. Mumbai, Chennai, Kolkata, Hyderabad, Bangalore, Pune & Ahmedabad, separately in Appendix I of the Draft Regulation. While the classification ought to have been to identify the relevant geographical differences, the authority has categorized the market more or less on the basis of the number of states and Union Territories, without giving due regard to the "relevant" difference between urban and rural areas. The inclusion of these metro cities as separate categories is a basic requisite because of the pre-dominance of the people speaking the local regional and English languages. Moreover, these metro cities have become the melting pot of various languages & cultures, which makes them a good mix cosmopolitan people with relatively high paying capacity. There has also been a long practice of separate interconnect agreement between Broadcasters and DPOs(cable) for each metropolitan areas, which has proven over the time to be practical and fruitful. Thus it would be pertinent to include these cities as a region viz. Greater Metropolitan Mumbai Region, Kolkata Metropolitan Area and likewise. It does not follow logically that the choice of the consumers will be uniform across the state.

Must Carry

We welcome the step taken by the authority in mandating the distributors to declare on their website the available space, channels carried and requests received, coupled with the mandate to be bound by first come first serve basis, leading to extreme transparency in the regulatory framework which was missing for the longest time.

However, there are certain issues that the authority has not considered while framing the regulation on 'must carry', which are as under:

(a) there are no checks and balances provided against an errant distributor, and hence, implementation will always remain a big challenge,

(b) There is no mode of audit prescribed to keep a check on this first come first serve basis and as to how the distributors are likely to follow, tackle, and comply with the first come first serve option. It is not possible for any broadcaster to know as to who came first and who came later for the distributor to ensure that the first come first serve formula is truly implemented, within how much time of receipt of the request should that request be uploaded on the website etc. All these aspects have been left for the distributor to decide, leading to non-transparency,

(c) allowing the distributor to drop the channel if the viewership of the channel in respect of that distributor's subscribers does not reach 5%, leading to dropping the channel for a further period of 1 year is onerous. For any distributor to ensure that the number of subscribers remain below 5% is not difficult as it is the distributor who markets the channel amongst his subscribers, sets the price for the subscriber, promotes the channels, offers bouquets containing channels, places the same etc. Thus, in all respects, the channel subscription is in the hands of the distributor leading to extreme mis-use.

We feel that the provision of 'must carry' will not be workable until and unless the minimum number of channels are prescribed for the distributor to carry or make available through his headend. If the minimum number of channels is not prescribed, the provisions relating to "Must Carry" will never work and in fact, will lead to a failure of this provision and spurt of litigation in this regard. The problems cited in the Consultation Process relating to the capacity constraint does not hold ground in the era of addressability. It has also been the understanding of TRAI that today, DTH and HITS have together cornered approximately one third of the market share of pay cable and satellite TV consumers. In light of this study by TRAI, there cannot be a scenario where the plea of limited space for the addressable platforms. The authority also needs to analyse and do a fact finding exercise to ascertain if the said transponder limitation is real or a created scarcity. The authority must also do a consultation process on this aspect and invite comments from the various stakeholders.

Further, if the DTH and HITS operator are allowed to discontinue any channel including FTA channel, owing to the penetration of the said channel depending on its popularity, it would also amount to discrimination towards one channel with respect to other channel. The authority has further neglected and done away with the earlier existing provisions relating to regional channels and now the distributors are not under any obligation to carry even the regional channels, if the penetration of the said channels is not as per the parameters prescribed in the present Draft Regulations.

Carriage Fee

The authority has recommended that the distributors of television channels can refuse to carry the channels of a broadcaster in the event the broadcaster refuses to pay the carriage fee to the distributor. This provision amounts to denial to easy access to the broadcasters, more specifically to the small broadcasters or new broadcasters or broadcasters of a new channel.

Further, there is no study or explanation for the prescribed rate at which the carriage fee is to be calculated for a particular channel. The provision is based merely on the supposition that the distributor of TV channels should be able to recover the additional re-transmission cost for distribution of the channel on its network, and hence the broadcasters have been obligated to pay the carriage fee, and in the event of any refusal by the broadcaster to pay the carriage fee, the distributors shall have the right not to carry the channel of the broadcaster.

It also needs to be pointed out here that the authority has directed the broadcasters to pay the carriage fee and the distribution fee to the distributors in the same breath. The authority has also failed to provide any explanation for obligating the broadcasters to pay both, the distribution fee as well as the carriage fee. Hence we feel that when the question is the recovery of the additional cost incurred towards re-transmission by the distributors of TV channels, there is no requirement for mandating the broadcasters to pay to the distributors via two channels, viz. distribution fee as well as carriage fee.

Must carry should be separately analysed for free to air channels

Considering that B4U is a free to air channel, and another channel has negligible subscription fee, the focus of TRAI should be on free to air channels as well, and not only on pay channels.

We feel that the matrix of carriage fee along with its discounting is very apt for a pay channel. However, when it comes to an FTA, there seems to be no incentive for the distributor to carry the FTA channels to all its subscribers in the 100 channel slab. It could lead to a situation where the distributor adds the most unknown and unpopular in the 100 channel list, and then seek carriage fee from a small broadcaster like ours, which is popular in its genre. This is definitely arbitrary, and would lead to denial of signals. This has to be tagged with the fact that if the viewership of the channel is less than 5% of the total subscribers of the distributor, then the channel will be dropped and cannot return for a period of 1 year. Hence, the concept of carriage fee will lead to a complete failure for a new channel or a channel like ours.

Further the proposed regulation brings an environment, which anti-carriage free environment. We feel that the infrastructure cost or the operational cost should get divided between the pay channel, free to air channel, and distributor, and the carriage fee rates should be accordingly prescribed. The Authority should create a vision for a carriage free environment leading to a complete ban on carriage fee over a period of say 2-3 years. Furthermore, there should be a bar or restriction on any other fee being levied by the distributor, and leaving other fee to negotiation will render the entire scheme of things to fail. In principal carriage fee should be done away with, and banned however, the broadcaster is aware of the infrastructure cost of the distributor, which is taken care off by the subscriber paying a fixed fee for the first 100 channels of Rs. 130 or any other amount which is backed by relevant data and study, further amounts for every 25 additional channels, and lastly a share from the broadcaster for distributing the channels. Hence, the distributor cannot be out of pocket and would be able to recover its cost, and make reasonable profits, which could be multiplied pursuant to the growth in the subscriber base of the distributor. Also the consumers can be further given channels at a further subsidised rates than currently proposed with the broadcasters bearing some of

the burden of the infrastructure/operational costs. So we suggest that all Channels should pay a fixed fee may be named as EPG Cost which may or may not be linked to the sub base. This can be construed as the entry cost to the distributor's platform based on the availability of bandwidth on a first come first serve basis.

Hence the matrix of carriage fee with its discounting should be different for Pay and FTA channels. FTA channels should be made available in all set top boxes, to ensure that the distributor doesn't suffer, it is recommended that FTA channels may be made available by paying 25% - 50% of the carriage fee proposed, without any further discounting.

FAILURE TO REGULATE PLACEMENT AND OTHER FORMS OF ARRANGEMENTS

In the Draft Regulations, the authority has prescribed that all the channels in the same genre must be provided by the distributor in the same genre. However, there is omission on the part of the authority to prescribe a formula to ensure transparency and non-discrimination within the same genre. While the agreements for placement have been left to the parties to negotiate, this will lead to non-discrimination as the big and monopolistic broadcasters will push smaller broadcasters like us towards the end of LCN positioning, thereby making it difficult for the broadcaster like ours to remain on the list of distributor, as the subscribers may not watch all channels in the genre, and restrict viewership to a few top channels only. We feel that an attempt has to be made to ensure orderly growth, and healthy competition, however, the attempt of the Authority does not look as if it would result in such orderly growth and healthy competition.

Hence, we feel that there should be some mode for selection of LCN by the distributors, e.g. allotting LCN in the alphabetical order. It is open to the distributor to provide any LCN to the broadcaster, which also leaves a scope for being influenced by big broadcasters. Hence it is suggested that LCN positioning should be alphabetical within the genre.

Further, as proposed currently, LCN once assigned cannot be changed for a year only. We suggest that once an LCN is assigned, the same should not be open to change except where a channel is discontinued for reasons of non-payment.

OTHER ISSUES IN THE INTERCONNECTION REGULATIONS

1. The Draft Regulations make it necessary for a contact and compliance officer to be appointed in every target market. We suggest that small broadcasters should be allowed to have one contact and compliance officer combined for different areas, in order to cut costs, and achieve excellence in a highly competitive market

2. We feel that it should not be mandatory to publish the advertisement revenue of the last financial year.

Thus, to summarize the above issues raised including the issues raised in respect of the Tariff Order, we feel that the following points would be relevant:

1. The Interconnect Regulation is anti-consumer, leading to diminishing the choice for a consumer/subscriber, and further allowing the consumer/subscriber to view lesser number of channels at a higher rate than as is prevalent.

2. The Draft Regulation is anti-consumer as it is the distributor who will make most out of this. Both the consumer and the broadcaster will loose out on their share, and thus, the Draft Regulation is pro distributor. The selection of channels by a consumer as per the practical trend and also lack of knowledge on the plethora of channels, the same seems minimal.
3. There is no study or basis for capping the genre pricing at 1.2 the current price of the existing genres. TRAI has failed to conduct any study to arrive at the same.
4. There is no study, or data discussed by TRAI to arrive at many decisions like for e.g. rate for carriage fee, defining geographical area, obliterating distinction between ordinary and commercial subscriber, discounts being offered, determining the rates of HD and definition of premium channels etc.
5. The authority has failed to distinguish between commercial subscriber and ordinary subscriber. While the distributor may charge any amount from a commercial establishment, same benefit has not been given to the broadcasters.
6. Geographical location created by TRAI is arbitrary, has no basis, and unworkable. Rural, Urban, Semi Urban should be taken into consideration.
7. The consumer pays about Rs. 150 per set top box in rural areas, and Rs. 250-300 per set top box in urban areas. The pricing for rural, semi urban, urban differ, while the present regulations has made all at par which is anti-consumer. Also the subsidized rate for multiple STB's is done away with, which is again a burden for the consumer. The present Draft Regulations creates an illusionary choice for the consumer thereby increasing the cost many fold, and making it anti competitive, thereby creating unhealthy environment in the industry.
8. A distinctive approach should be taken by TRAI in respect of FTA and Pay channels, and the regulations for pay channel and FTA cannot be combined.
9. Payment of carriage fee on the entire average subscriber base is violative of Article 14 and 19(1)(g) of the Constitution of India.
10. Carriage should be charged to the channels based on the category of the channel i.e. FTA or PAY. All FTA channels must be carried and they should pay not more than 25% - 50% of the proposed fee without any discount on the basis of sub base. With regards to PAY channel the carriage fee and the discount matrix can be the same as proposed.
11. Eventually in the interest of the industry there should be no carriage fee in the long run and only a fixed cost, which is non-negotiable and equal to all broadcasters, should be paid to the distributor to take care of his operational cost. This fee would subsidize the money that an ultimate subscriber needs to pay as well. The industry should pay carriage fee to support the digitization process, the recovery of which should be over within a span of two to three years.
12. Creation of a common interconnection regulation fails to recognize that DTH is a different technology altogether than HITS and MSO. Even otherwise while DTH reaches a subscriber directly without any intervening operator, HITS and MSO require a link cable operator. Hence, both are different classes and same formula cannot be applied, as is being sought to be done. The understanding of TRAI as reflected in the Explanatory Memorandum is wrong, even though it admits that every type of distribution network has different capabilities.

13. To create a parity with the pay channels, there should be ratio of FTA and Pay channels that are being carried by the distributor, which for recommendation can be 60:40 for FTA and Pay channels respectively.
14. There should be a prescribed methodology for deriving an LCN by the distributor. It is suggested that LCN positioning should be alphabetical within the genre.
15. Non-Discriminatory access should include parity qua broadcasters as well, i.e. a broadcaster should be allowed comparison with another similar broadcaster for subscription.
16. A distributor should be considered a defaulter if payment to any service provider is due. Hence, there is no reasoning for deviating from the current regime.
17. There is no basis for the regulation on carriage fee especially related to the price for carriage fee, the subscriber base, the percentage of carriage fee, 1 year dumping of a channel if the reach or penetration does not reach 5%. The TRAI has failed to conduct a detailed study in this regard.
18. Minimum number of channel capacity for a headend on the basis of the area should be worked out by TRAI.
19. There should be a mechanism for verifying the first come first serve basis. Such requests may be placed through email/fax where the date of request is verifiable.
20. TRAI must regulate placement and other forms of arrangements also. Rather apart from the carriage and suggested fixed fee, the distributor should be barred from charging any other fee to the broadcaster.