Response to the Telecom Regulatory Authority of India Consultation on "Tariff Issues related to Cable TV Services in Non-CAS Areas"

April 27, 2010

The Cable and Satellite Broadcasting Association of Asia (CASBAA) is an industry-based trade association dedicated to the promotion of multi-channel television via cable, satellite, broadband and wireless video networks across the Asia-Pacific region. Member organizations include some 130 Asia-focused companies building, operating, and providing content for pay-TV systems, and include operators of cable, satellite, mobile and IPTV systems. Members are physically located in 16 jurisdictions in the Asia-Pacific region, and have broad experience in building a dynamic industry to meet the rapidly-growing demands of the region's over 330 million pay-TV households.

CASBAA welcomes the TRAI's examination "de novo" of the question of tariff regulation. We note that TRAI's responsibilities as television market regulator include introducing measures appropriate to ensure consumers have access to a wide range of services and content at competitive prices, to support government policy objectives, and to provide a framework beneficial to the overall development of the television sector. The ultimate goals are economic growth and development, technological progress, and consumer welfare.

We have believed for some years that the 2004 imposition of rate freezes and their prolongation since that time were not well conceived, not supportive of development objectives and in the long run not beneficial to consumers. In particular we were concerned that the authorities had no "exit strategy," and specifically no mechanism to take account of the growing, energetic, and consumer-friendly competition in the Indian retail television market.

Therefore, a re-examination of the entire framework is very much in order. However, the nature of that re-examination must be fully considered.

The current process, of course, was stimulated by challenges in the courts to the TRAI tariff regulation orders. In January 2009 a decision of the TDSAT set aside the tariff order of 2007; this was appealed by the TRAI and in May 2009 the Supreme Court passed judgment directing TRAI "to study the matter afresh and issue a comprehensive order covering all aspects including the issue of subscription base in a non-addressable system."

We would like to highlight two key findings in the TDSAT judgment which has been upheld by the Supreme Court:

1) "…we hold that the impugned tariff Order is not an exercise in tariff fixation in so far as it relates to fixing the prices…"

2) "On the issue of whether TRAI had wrongly concluded that adequate and effective competition in the market is lacking, despite clear evidence of substantial growth, we hold that while introduction of forbearance or otherwise is within the competence of the judgment of the Authority, it must be based on a more rational analysis than what was attempted."

It is clear that this order does not constitute a mandate for imposition of tariff regulation; rather it requires that the TRAI conduct a rational analysis of the market.
CASBAA believes that, under the orders of the Supreme Court and the TDSAT, TRAI is required to address establishment of a framework to assess whether market failure is present at a given point in time. <u>Only once the framework establishes the need for such tariff regulation</u> should the TRAI proceed to develop a methodology for arriving at tariff regulation. Specifically, a review of cost structures and profitability is only required to be done if and when it is determined that an adequate level of competition does not exist.

Therefore, we wish to draw the Authority's attention to a major failing in the current exercise – it seems to embody an unwarranted short-cut by the Authority. It commences by asking for detailed costs and profitability analyses from the industry. (TRAI seeks to use its executive orders to force compliance even from some of our members who are governed by securities exchange regulations which stipulate confidentiality of their financial information.) The purpose of this data seems to be jumping directly into a tariff-fixation exercise, which is neither required by the Court order nor demonstrably warranted.

TRAI has *assumed* that there is exists a condition of market failure in all non-CAS areas, and that hence the TRAI has the authority and the responsibility to regulate. We do not agree, as will be discussed later in this paper.

The paper also highlights our belief that the TRAI should turn its attention away from trying to evolve ever-more-complex models for regulating an ever-expanding list of subscribers, and mount a concerted national campaign to achieve digitization and upgradation of the Indian cable industry.

Questions posed by the Authority

The remainder of this submission is organized along the lines of the questions in the Authority's consultation paper. Please note that we do not attempt to answer all of the TRAI's questions. Some of them relate to the unwarranted leap to consideration of rate regulation, and others require industry data which – if there are to be responses on those subjects – must come from players in the market. Rather, we concentrate on the systemic and policy-oriented questions posed by the Authority.

CATEGORY OF QUESTIONS THAT CASBAA IS NOT RESPONDING TO AS THEY RELATE TO FINANCIAL INFORMATION FROM INDIVIDUAL STAKEHOLDERS:

Q1. Are the figures in Annexure B3 representative for the different genres of broadcasters? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the genre, and not of your company.

Q2. Are the figures in Annexure B5 representative for aggregators? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Q3. Are the figures in Annexure B7 representative for the national MSOs? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Q4. Are the figures in Annexure B7 representative for the regional MSOs? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Q5. Are the figures in Annexure B9 representative for the LCOs with > 500 subscribers? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Q6. Are the figures in Annexure B9 representative for the LCOs with =< 500 subscribers? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Q7. What according to you is the average analog monthly cable bill in your state or at an all India level?

Q8. Is the market for cable services in non-CAS characterized by the following issues:

(i) Under-reporting of the analog cable subscriber base

(ii) Lack of transparency in business and transaction models
(iii) Differential pricing at the retail level
(iv) Incidence of carriage and placement fee
(v) Incidence of state and region based monopolies
(vi) Frequent disputes and lack of collaboration among stakeholders

Q9. Are these issues adversely impacting efficiency in the market and leading to market failure?

Unfortunately, the practices and conditions described above do exist in parts of the Indian cable market. However, the mere presence of such conditions cannot be construed as leading to the conclusion that the television market as a whole has failed to a degree that TRAI tariff regulation is warranted at all levels and in all places.

International practice requires that as a responsible economic regulator, TRAI must evaluate whether there are significant sources of market power among the players, and whether there is evidence that such power has been abused (and with what effect).

Evidence of market power can come from a variety of sources including market shares, vertical integration, economies of scale, overall size of the players, control of unique (not easily duplicated) infrastructure, superior technology not available to others, low competitive buying power, privileged access to financial resources or capital markets, and bundling of diverse products or services.

Markets at different stages must not be conflated, so an analysis of each element of the value chain is necessary to define the source and durability of the market power, and examine the impact that any exploitation of a market position might have.

<u>It should be noted that the TDSAT highlighted the absence of this type of detail from the evidence introduced to support the 2007 order.</u>

CASBAA notes that the consultation paper does not present information at this level of detail, and we fear that the TRAI has leapt to the conclusion that rate regulation is required without conducting the required analysis of these issues. Q. 9 is a "leading question" which in our view indicates an assumption that the above-mentioned issues do indicate market failure. But simply posing the question cannot substitute for a factual and analytic examination of the issues.

We would offer the following comments with respect to each issue:

- *Under-reporting of the analogue cable subscriber base* – The TRAI mentions that there is evidence of transactions being conducted on a "negotiated subscriber base." However, we note that this is not an indication of market power or market failure! Rather, as the consultation document mentions elsewhere, the under-reporting is due to a lack of transparency in the system itself. The government has heretofore been unable to move away from the analogue distribution system in most of the country, and as a result there is no way to conduct a transaction other than on a negotiated basis. Further, since the transactions have to be on a negotiated basis, the price level does vary from one transaction to another – and therefore the fact of negotiation among many parties cannot be seen as an indication of market failure warranting tariff regulation.

- *Lack of transparency in business and transaction models* – Again, this is true because of the absence of digital addressable systems. If such lack of transparency persisted <u>in spite of</u> knowing the actual number of subscribers, then a suspicion of market failure might be warranted. But in current circumstances, analogue systems do not have the basis to determine exact numbers of subscribers and as a result there is negotiation and no transparency.

- *Differential pricing at the retail level* – The fact that differential prices are prevalent at the retail level is testimony to the fact that <u>adequate competition exists at the retail level.</u> Indeed, if there were one price prevailing throughout all of India then <u>that</u> would be an indication of a lack of competition! We challenge the TRAI assumption that "some consumers pay more than others <u>for the same product</u>. Note that television service is not to be compared with voice or broadband service in the telecom industry, where the product is standard. In the television industry, there are variations in content packages and service levels. And of course the fact that subscribers pay less in one area compared to another may suggest that the level of competition is higher in that area than others, based on which consumers are offered a discounted cable fee. (Where rates are higher, it may suggest that the cable operator is offering better service and quality content to subscribers who are willing to pay for such services.) Clearly, the growing penetration of DTH services has affected competition levels, and this only accentuates this point.

- *Incidence of carriage and placement fee* – We have not favored attempts to regulate such fees. The rise and propagation of fees of this type are due to the capacity constraints of the analogue system, and they constitute a (non-transparent and disorganized) way of using price to equilibrate the shortage of bandwidth. Where spectrum is constrained in the telecom industry, it can be auctioned for very high values, and this is viewed as a normal business practice. Where it should not be accepted is where adequate capacity exists but spectrum/bandwidth is still being hoarded/auctioned. Mere incidence of carriage and placement fee is definitely not an indicator of market failure. (In this context it is worth noting that constraints on subscription revenue because of tariff regulation force greater reliance on advertising revenue, increasing the importance of audience reach in business models, and accentuating the prevalence of carriage fee.)

- *Incidence of state- and region- based monopolies* – The consultation paper is internally contradictory on this point. It states that "lack of visibility at the last mile, especially with respect to subscriber numbers, creates practical issues with assessing the presence or absence of monopoly. To detect and control monopolistic situations, the industry requires a framework within which information can be gathered and analyzed." So the paper itself admits that this situation is a result of the analogue system. It is not possible to detect and control monopolistic market power because the analogue system does not provide a framework for gathering and analyzing information. It is a defect of the analogue system, but not an indicator of market failure.

- *Frequent disputes and lack of collaboration among stakeholders* – There are indeed frequent disputes. They are a result of the above issues, all arising from the defects of the analogue systems. To conclude that these issues result in inefficiency and adversely affects the growth of the industry implies that analog systems result in inefficiency and adversely affect the growth of the industry, and this CASBAA agrees to! However, to stretch the reasoning to say that because there are many analogue cable systems, TRAI has the power to regulate tariffs is incorrect and is a conclusion we strongly oppose.

<u>Summary and Conclusion</u>

The logic of these arguments is clear: CASBAA urgently requests the TRAI to proceed with introduction of digital addressable systems. (Further comments on this are contained in the answer to questions 29-37, below.)

While CASBAA agrees that the situations described above do exist in the Indian market, and they do indicate a suboptimal level of market efficiency, the root causes of all are the characteristics of the analogue cable systems. To conclude that deficiencies inherent in the analogue cable systems necessarily lead to a situation of market failure is incorrect. Such a conclusion would indicate that market failure will exist as long as analogue cable systems exist, and hence TRAI will have the power to regulate until such time as digital systems are universally in place. This has never been the case according to international norms.

Instead, these incidences point to an even greater need for TRAI to work towards facilitating widespread adoption of digital addressable systems and <u>thereafter to evaluate</u> occurrences of such incidences. Only if these incidences persist in the digital addressable environment should it consider them as possible indicators of market failure. Until such time, TRAI should repeal all its tariff orders, and simultaneously introduce mandatory digitalization to end the persistence of analogue-based market inefficiencies. Once the digital addressable market begins to mature, the specific regulatory framework for its introduction can be eliminated, and <u>then</u> the market should be examined for indicators of abuse of market power, and only then consider (on a localized, not national, basis) tariff regulation.

CATEGORY OF QUESTIONS RELATING TO TARIFF REGULATION, WITH WHICH CASBAA DISAGREES :

Q10. Which of the following methodology should be followed to regulate the wholesale tariff in the non-CAS areas and why?
i) Revenue share
ii) Retail minus
iii) Cost Plus
iv) Any other method/approach you would like to suggest

In principle, CASBAA does not accept the legitimacy of TRAI's assumption of wholesale rate regulation authority. There are an ample number of competitors in the wholesale market, and there is no evidence of market power.

Furthermore, TRAI in its own analysis of 11 international markets presented in the consultation paper, noted that there is not one market where wholesale prices are regulated. There is no international precedent for broad wholesale price regulation.

Q11. If the revenue share model is used to regulate the wholesale tariff, what should be the prescribed share of each stakeholder? Please provide supporting data.

The current paper considers non-CAS areas, for which there is a lack of reliable subscriber data due to use of analogue. Therefore no realistic no revenue share model can be/should be evolved. Rather, the TRAI should move to digitization of the marketplace and reduction/elimination of rate regulation.

Q12. If the cost plus model is used to regulate the wholesale tariff, should it be genre wise or channel wise?

Cost-based tariff regulation is not valid; media products are not standard commodities (or commodity services, like voice telephony). Different products have different characteristics, and specific data on costings are not available in the public domain. We do not believe that TRAI can reasonably undertake any cost-based analysis without sharing the relevant information with the public. TRAI is unable to share the details since the financial information of relevant companies is not in the public domain, and there is no prospect of a change in this situation.

Q13. Can forbearance be an option to regulate wholesale tariff? If yes, how to ensure that (i) broadcasters do not increase the price of popular channels arbitrarily and (ii) the consumers do not have to pay a higher price.

As stated in response to Q10 above, we disagree on the validity of wholesale tariff regulation, and therefore see no need to argue in favor of "forbearance" as an option for regulation!

That said, we do not agree that higher prices are necessarily evil. If a consumer desires a better quality transmission of a more inclusive content bouquet, a higher price may be inevitable (and desirable in order to provide incentives for the needed investments). It should be noted that the implementation of greater digitization will allow consumers more choice in which channels they purchase. With such a system in place, consumers will pick only channels which they like/can afford, and there is no need for concern about excessive pricing.

(One other fact should be noted: the government, through its mandatory sports sharing regulations, has ensured protection of consumer interests in their ability to watch certain popular sporting events, and pricing of pay-TV in this respect is not an issue.)

Q14. What is your view on the proposal that the broadcasters recover the content cost from the advertisement revenue and carriage cost from subscription revenue? If the broadcaster is to receive both, advertisement and subscription revenue, what according to you should be the ratio between the two? Please indicate this ratio at the genre levels.

There is no ground for regulatory micro-management of business models. Different broadcasters of different types of content will of necessity adopt different business models, and this should be left for them to decide. It is not necessary or desirable for the regulator to interfere.

Q15. What is your view on continuing with the existing system of tariff regulation based on freezing of a-la-carte and bouquet rates as on 1.12.2007; and the rate of new channels based on the similarity principle at wholesale level? You may also suggest modifications, if any, including the periodicity and basis of increase in tariff ceilings.

As stated above, these orders – which were meant to be temporary in any case – should be repealed and replaced with a more modern approach to regulation that is more consistent with international benchmarks and with the economic development of the industry and the country.

Q16. Which of the following methodologies should be followed to regulate the retail tariff in non-CAS areas and why?

i) Cost Plus

ii) Consultative approach

iii) Affordability linked

iv) Any other method/approach you would like to suggest

CASBAA does not accept that national regulation of tariffs is appropriate. As discussed elsewhere in this paper, there is ample, growing competition in the pay-TV sector, and no serious determination of market failure.

This paper sets out our view that none of the proposed methodologies can work in the current Indian environment. Cost-based rate-setting assumes that products and offerings by various competitors are standard commodities, when they are not. An “affordability” approach is justified only where the product is essential for daily living. There has been no legislative determination that television is essential in India, and one seems highly unlikely. (Internationally, regulators have regarded only very basic "lifeline" packages as essential. This type of basic offering would be a legitimate regulatory concern for the TRAI.)

International examples do indicate that a revenue-share methodology can be implemented, but it requires sound data on subscriptions and revenues, which cannot be obtained under by the analogue technologies still in wide use. (And with digitization, there should be no need to evolve a regulated revenue share approach, as the market players should negotiate division of revenues based on the different commercial considerations for different channels, platforms, etc.)

Q17. In case the affordability linked approach is to be used for retail tariff then should the tariff ceilings be prescribed (i) single at national level or (ii) different ceilings at State level or (iii) A tiered ceiling (3 tiers) as discussed in paragraph 5.3.23 or (iv) Any other

In India, the Constitution and national laws provide for provision of basic television services free of charge by the state broadcaster. There is no law that stipulates other television services as a basic necessity and hence the affordability approach is totally inappropriate. Only if the Constitution of India were to mandate these as essential services (akin to certain foodgrains) can the retail price be regulated, with the price determined by the national regulator. Clearly, this is not the case with cable television services.

Consumers will suffer under fixed tariff ceilings, as MSOs/LCOs will have an incentive to provide the minimum-possible service since their revenues will be capped. The example of Taiwan is noteworthy – This is one of the jurisdictions noted in the consultation paper to have retail rate regulation, and has had fixed tariff ceilings in force for more than 10 years. These have resulted in much delay to network upgrades and gradual "blanding out" of the content options available. Only now, with the advent of industry-driven digitization outside of the rate ceilings, is the situation beginning to improve.

For reasons similar to those discussed above with respect to wholesale tariffs, cost-based tariffs and revenue sharing are not feasible regulatory approaches in an analog environment. Furthermore we note that TRAI has also highlighted additional factors for retail tariffs such as 'wide variation in MSO/LCO infrastructure' etc., and these further point towards the fact that cost-based tariffs are not feasible.

Q18. In case of retail tariff ceiling, should a ratio between pay and FTA channels or a minimum number of FTA/pay channels be prescribed? If so, what should be the ratio/number?

Again, we do not believe it should be the role of the regulator to micro-manage business models for actors in a competitive marketplace. The role of the regulator should be to provide a framework for effective competition, not to specify the many factors used by competitors to structure their business offerings. TRAI should eschew the role of tariff-fixer and omnipresent controller.

Decisions on the construction of an operator's bouquet will depend on the operator's perception of his business opportunities, and will in any case be under constant review and revision. TRAI has neither the resource nor the responsibility to prescribe such details, and if it attempts to do so it will only render the industry more rigid and less able to respond to competitive factors.

Q19. Should the broadcasters be mandated to offer their channels on a-la-carte basis to MSOs/LCOs? If yes, should the existing system continue or should there be any modification to the existing condition associated with it?

Q20. How can it be ensured that the benefit of a-la-carte provisioning is passed on the subscribers?

Q21. Are the MSOs opting for a-la-carte after it was mandated for the broadcasters to offer their channels on a-la-carte basis by the 8th tariff amendment order dated 4.10.2007. If not, why?

We agree with the TRAI that in an efficient market with free pricing, there is no need to specify a-la-carte offer (or any other particular structure of a business offer.) But the presumption on which these questions are based is faulty – they assume that rate regulation is appropriate and desirable, because the current market is not efficient in terms of free pricing because there is no measurable subscriber base. The truth, on the other hand, is that in the analogue environment, the subscriber base for contractual purposes is determined by negotiation, not measurement. Pricing is freely negotiated between willing buyers and willing sellers.

Decisions of whether to bundle channels or offer them a-la-carte, both at wholesale and retail level, should be left for market players to decide.

Q22. Should the carriage and placement fee be regulated? If yes, how should it be regulated?

Q23. Should the quantum of carriage and placement fee be linked to some parameters? If so, what are these parameters and how can they be linked?

Q24. Can a cap be placed on the quantum of carriage and placement fee? If so, how should the cap be fixed?

It is not appropriate to regulate carriage fees, which are simply an alternative form of compensation negotiated between market players. As in the international markets cited by TRAI, carriage fees should be a matter for commercial negotiation. The additional revenues can be utilized by MSOs/LCOs to invest in digitalization.

Q25. Is there a need for a separate definition of commercial subscriber in the tariff order?

Q26. If the commercial subscriber is to be defined in the tariff order, then does the existing definition of 'commercial subscriber' need to be revised? If yes, then what should be the new definition for the commercial subscriber?

Q27. In case the commercial subscriber is defined separately, then does the present categorization of identified commercial subscribers, who are not treated at par with the ordinary subscriber for tariff dispensation need to be revised? If yes, how should it be revised?

Q28. Should the cable television tariff for these identified commercial subscribers be regulated? If yes, then what is your suggestion for fixing the tariff?

Rates for commercial subscribers should be left to market forces. The tariff orders relevant to commercial establishments, like all others, should be repealed. Digitization will allow these establishments to negotiate directly with MSOs/LCOs – or alternatively with DTH providers – for a bouquet of programming that suits their needs.

Q29. Do you agree that complete digitization with addressability (a box in every household) is the way forward?

This is the most important concept discussed in the present Consultation Paper; if implemented properly it is a game-changer – one that will change the course of the Indian television very much for the better.

Clearly, the eventual goal should be complete addressability. However, the way forward must be realistic. The current need is for a realistic though urgent plan for digitization. The TRAI should draw up such a plan, which should take into account the following:

- Digitization should be the stated top priority for the sector, at every level.
- The role of the government in this process of digitization should be debated with stakeholders, including whether digitization should be mandatory or voluntary and whether there needs to be a differentiation between areas. (In our view, the primary criterion affecting the government role is a determination of which option will produce faster and smoother digitization.)
- If the decision is to make digitization mandatory, then appropriate consultation with affected stakeholders needs to be carried out on an urgent basis, and it must include:
    a. What should be the role of the government? (Just to announce the mandatory framework, or more support?)
    b. What is the need of the stakeholders that they cannot meet voluntarily and hence require the government to do?
- Announcement should be made of a clear division of responsibilities, based on this consultation. The government should lay out a clear vision for the process and for the benefits it will bring to India, to win popular acceptance.

- A neutral body – to be supervised and directed by the TRAI – should be identified to help move the process forward. It should develop the details of a plan, identify key tasks, prepare the timetable, monitor progress, raise "red flags" where progress is lagging and report, both internally to the government and externally to stakeholders and the public.
- As necessary, seek legislation to make it possible for all legal/regulatory bodies to support the process. The TRAI should be empowered to achieve the plan; it should not be left for the government's agencies to implement on their own.
- A back-up framework should be specified during the transition period during which not all areas can achieve complete addressability. (See answer to next question.)

Q30. What according to you would be an appropriate date for analog switch off? Please also give the key milestones with time lines.

We are agnostic as to a final switch off. Eventually there will be a complete switch off but the more immediate question is the region-by-region timetable for implementation. Setting, and reaching, milestones will be vital. For ease and speed of implementation, the process should be decentralized, with individual goals for regions and cities. The decentralized process must involve consultation and obtaining buy-in from local and state governments, legal bodies, police forces, etc.

With regard to the complete switch off, it should ideally coincide with an event of national importance. The ongoing development of a host of infrastructure projects tied to the Commonwealth Games indicate the importance and usefulness of having a readily identifiable target and icon for national efforts. In principle, we believe a period of 4-5 years should be enough to achieve full conversion, if enough energy can be mobilized.

31. What is the order of investment required for achieving digitization with addressability, at various stakeholder levels (MSOs, LCOs and Customers)?

The necessary investments will be very large. In principle, the costs should be borne by the entire value chain of the television industry, and the government must offer monetary support. Obviously, in practice the investments will need to be made by the distribution chain. Indirect contributions (such as in the form of carriage fees) can be made by channel broadcasters. Consumers will have to share in the cost of new terminal equipment.

We believe that support from the government is essential, and that in return the government should legitimately expect certain benefits, especially with regard to its needs which have not heretofore been met. These include:

- A need for regularization of the stakeholders (e.g. only MSOs/LCOs who are formally licensed might be eligible for subsidies)
- A need for achievement of minimum conditions for digital services
- A need to meet certain social obligations (e.g. free airing of government social advertisements or of certain government channels)

- A need for regular reporting and transparency (A right of the government to audit both spends on investment and continuing transparency of subscriber data could be considered.)

Finally, some longer term revenue-share with the government could be considered, linked to the amount of subsidy required. This should be viewed as a long-term amortization of the government's investment, (perhaps with a grace period) and the amount should be kept modest, so as not to generate consumer backlash due to higher rates.

Q32. Is there a need to prescribe the technology/standards for digitization, if so, what should be the standard and why?

We believe that any regulations in this area should be open, to accommodate various technologies and solutions. However, adherence to a minimum set of standards may be required, and these standards should be revised periodically. A good starting point could be the existing set-top box standard for CAS areas (IS 15245:2002, *Indian Standard*: Digital Set Top Box - Specification, ICS 33.060.40), which is open, pragmatic, and reasonable. A neutral, technology-expert sub-body should be established by the TRAI to handle technology-related issues and minimum standard-setting and periodic standard-review.

Q33. What could be the possible incentives that can be offered to various stakeholders to implement digitization with addressability in the shortest possible time or make a sustainable transition?

We believe that the vast majority of investment funds necessary to fund this undertaking can be generated within the television industry. We note that international capital markets are open to India and that many market players (MSOs/LCOs) are prepared to generate large capital investments provided that the system is made mandatory, the implementation plan is clear and realistic, the fruits of digitization in terms of relaxed rate regulation are achieved, and there are no reversals. That said, some modest level of government subsidy will ensure the government's other policy goals can be met (see the answer to Q. 31).

In addition to capital markets, it should be possible to mobilize other revenues to support achieving the digitization target, including carriage/placement fees paid by broadcasters, and perhaps a share of entertainment tax/VAT collected by various levels of government. Complete transparency of these funds must be maintained, to ensure they are devoted to meeting digitization needs.

Q34. What is your view on the structure of license where MSOs are licensed and LCOs are franchises or agents of MSOs?

We agree with the TRAI's proposals in this regard.

Q35. What would be the best disclosure scheme that can ensure transparency at all levels?

We agree with the TRAI's proposals in this regard.

Q36. Should there be a 'basic service' (group of channels) available to all subscribers? What should constitute the 'basic service' that is available to all subscribers?

A basic service package is a good idea. A bare minimum of channels – whose core should be the government broadcaster's channels – can be specified, but the option should also be given to broadcasters to negotiate with MSOs for opt-in to the basic package. Such an opt-in would have to be exercised on an a-la-carte basis.

Q37. Do you think there is a need for a communication programme to educate LCOs and customers on digitization and addressability to ensure effective participation? If so, what do you suggest?

There is most definitely a need for such a communications program. Full transparency must be maintained on the motivations for the digitization push, the benefits for all stakeholders, and the government's firm policy support for it.

Q38. Stakeholders are free to raise any other issue that they feel is relevant to the consultation and give their comments thereon.

We would like to take this opportunity to summarize our main points:

- We do not agree with TRAI's concept of rate regulation. There has been no demonstration of market failure; indeed with the rise of multiple DTH systems the market has been growing ever-more competitive.
- Issues arising from continued predominance of analogue systems do not constitute grounds to conclude there is market failure.
- TRAI should turn its energies away from sterile rate debates, and begin developing and implementing a rapid plan for digitization. It should set itself a firm, and tight, deadline for developing such a plan.

We thank the Authority for raising such a plethora of interesting issues, and we repeat our appreciation for the opportunity to participate in this "de novo" review of regulatory policies.