# Cable Operators Federation of India

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Without Prejudice
(By Mail/ speed post)

Ref/COFI/TRAI/15/2014

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The Chairman

Telecom Regulatory Authority of India

New Delhi-110002

**Kind Attention: Sh Sunil Kumar Singhal, Advisor (B&CS)**

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**Sub: Comments on TRAI Consultation on the draft amendment to the "Standards of Quality of Service (Digital Addressable Cable TV Systems) Regulations, 2014 (12 of 2012 dated 14 May 2012) Dated 28 August 2014**

Sir,

Reference your consultation paper on amendment to "Standards of Quality of Service (DAS) Regulations (12 of 2012) dt. 14 May 2012, dealing with Financial Disincentives.

1. At the outset we submit that we do not oppose imposing financial disincentives for deficient services however, if it has to be done, it should be applicable for all stake holders and encompass all types of services. TRAI should avoid knee jerk reaction selecting one or two clauses from

the service regulations it has framed, for imposing financial disincentives just because it has repeatedly failed to implement the impractical regulations within an arbitrary and over ambitious deadlines. It should also avoid becoming selective and vindictive, choosing only billing part of the service when there are many other basic aspects of the service needing immediate attention.

**2.** It is surprising that TRAI always wants to rein in the smallest stake holder, the LCO. No penalty is imposed on erring Broadcasters who switch off signals to blackmail MSOs/ LCOs / LMOs, violating the Regulations or give strip ads hiding the program from pay subscribers, depriving consumer a quality viewing. This strip is displayed on all consumer TVs, paid or unpaid. Consumers refuse to give full payment due to such disturbances. WHY NO PENALTY is imposed on BROADCASTER? Cable Operator is also a CONSUMER for Broadcaster. **How will he collect the billed amount in full when subscribers do not pay him?**

**TRAI is trying to improve the system of DAS from bottom to Top whereas it should have started from the Top to Bottom ie. Broadcaster-MSO-LCO. If backhaul is poor, service can never improve.** Penalties should start from top to bottom.

**3. TRAI is creating a stalemate at the consumer end by lowering Revenue share of LCOs (negotiable with fall back arrangement of 45% for BST and 35% of Pay channels), who need it badly to upgrade,** maintain and improve the last mile while ignoring the violations done by large MSOs and Broadcasters (especially Pay) resulting in deterioration of quality of service at the consumer end. Thus an LCO is helpless in providing the quality services and now **TRAI wants**

**to punish him for the sins of Broadcasters and MSOs.**

**4. Considering very little progress made in Phase-I and II of mandatory digitisation and postponement of Phase-III and Phase-IV, it is too premature to impose Financial Disincentives on LCOs and MSOs for violation of QoS Regulations for billing, postpaid and prepaid payment while leaving aside Broadcasters in the value chain.**

5. Quality of Service Regulations (12 of 2012) of 14 May 2012 along with Tariff (3 of 2012) and Interconnect Regulations (9 of 2012) dt. 30 Apr 2012, have also been challenged in the **Madhya Pradesh High Court**, Bombay High Court, Gujarat High Court and **Supreme Court** by LCOs as they infringe upon their fundamental rights of doing business **because they have put the control of LCO's business in the hands of MSOs spoiling the business model of LCOs/ LMOs.**

6. **Many MSOs are forcing LCOs to pay for all subscriber connections in advance without billing, irrespective of whether all subscribers pay them or not. Only then they assure him his share at the end of the month. The toughest task in the industry is of collecting subscriptions**. In the initial years of digitization, it is not possible to disconnect a subscriber, reducing ones' business. Only an LCO suffers in this as he has only one revenue stream but MSO and Broadcasters have many other revenue sources like subscription, advertisements (National and International), carriage fee etc.

**7.** Our past experience has shown TRAI does not have any mechanism to ensure implementation of its regulations at the grass-root level,

**particularly where violating company is a large corporate, who can take the regulator to court, employ many senior experienced lawyers to defend itself and take a stay on TRAI's action, delay the proceedings of the case to no length while continuing to violate the regulations.**

**8. TRAI as well as MIB is still issuing directions and advisories/ notices to MSOs to abide by the regulations like for non operational SMS, itemized billing, not giving receipts, overcharging for STBs and disconnecting LCOs without notices.**

9. Points affecting the Quality of Service are given below:-

**Broadcaster's Quality Check of service and signal strength** –

a) Broadcasters do not follow the ITU (International Telecom Union) guide lines and international norms for broadcast signals accommodating more channels in the same bandwidth to save money, giving poor quality signals to cable operators. Generally 3 mbps (CBR mode) is the minimum required for an MPEG 4 signal and 6 mbps for MPEG 2 to keep up the quality.

b) Lower bandwidth and compressing more channels in a single transponder to save on costs results in poor video/ audio quality with bleeding red colour, freezing or pixelating of picture and noise spill-over.

c) Broadcasters also keep changing satellites because of which operators have to incur more expenses for distribution with additional dish antenna, IRD etc.

d) **Broadcasters provide cheap IRDs** to the cable headends resulting in poor quality signal, unfit for distribution on a large network. Ordinary IRDs output an analog signal which requires to be digitized again, resulting in generation loss.

e) TRAI is required to define-
   i) Specifications of the uplinked signal.
   ii) Quality control of the uplinking station, inhouse or outsourced.
   iii) Transponder specifications of the satellite used.
   iv) Specifications of the downlinked signal received at the Cable Headend in terms of bandwidth and EIRP at receiving antenna to be defined.

f) Broadcasters should provide professional IRDs to cable operators/ MSOs. **Professional IRDs must conform to the BIS specifications.**

g) Content code and advertisement code violations are often done for profiting but LCO is harassed by the consumers. Apart from advisory, there should be financial compensation too.

There are around 115 MSO registered with the MIB, which is not a very large number to monitor by TRAI. **TRAI should ask for input level readings of each and every channel received from the IRD of the broadcaster (including Doordarshan) in the MSO headend so that input signal quality can be maintained as per regulations at the LCO and consumer end.**

## 10. MSOs' Quality Check of Service

**a)** Providing poor quality non-BIS compliant STBs to subscribers.

**b)** Charging 'Activation Fee', violating TRAI Tariff Order on distribution of STBs. TRAI has not even taken any action on MSOs on this issue when numerous complaints have already been made.

**c)** Even when CAFs have been given, not giving itemized bills.

**d)** CAFs do not carry choice of consumers and his signatures. All CAFs carry choice of default package of MSO. Has TRAI allowed a default Package to be provided?

**e)** Not even a single MSO has given the BST of 100 channels of choice to any subscriber. Subscriber is not aware that he can get a choice BST.

**f)** If subscriber pays his bill by prepaid system to MSO, how will TRAI guarantee that the MSO pays the share to LCO immediately?

**g)** MSO signal quality to LCO is not as per the Regulations. MSOs even switch off signals to trouble an LCO. This is one tool with an MSO to harass an LCO and destroy his business but TRAI does not have the means to either check or act on the complaint. If a subscriber of an LCO complains, LCO will be made to pay for the mischief of the MSO.

**h)** MSO does not mention to the LCO under what scheme he is providing the STB to his subscribers.

**i)** MSO do not provide redundancy in their headend to provide uninterrupted good quality signals to the LCO and consumers.

Many of these points were already submitted several times to TRAI, in our reply to various Consultation Papers earlier.

11. **Billing to Consumers Cannot be sorted out till the issue of Revenue share, availability of Pay channels in bouquet or a-la-carte, sudden withdrawl of channels by MSO, switch off of**

**STBs by MSO and control of consumers is not resolved.** This can be done only when both MSO and LCO have a mutually exclusive playing field. Only in such a situation, MSO and LCO will become business partners and not competitors as provided in the existing regulations where MSO can also be a last mile operator in his area.

12. Surprisingly, TRAI has not tried to evolve a business Model for a stable operation between MSO & LCO in the process of restructuring the cable TV industry, so that no one feels threatened and there is a hope for future growth for both. **At present the LCO feels that his investment and hardwork is not secured and his registration in post office and in MIB could be revoked on petty reasons. Providing a secured business environment is essential, atleast for the next five years, to let peaceful business consolidation takes place rather than hostile take-overs.**

13. At present everything has been left to Mutual Negotiations which will never succeed as MSO & LCO are competitors in the lastmile. **The competition turns ugly when the pay broadcasters support the competing MSO, resulting in uneven playing field. TRAI as well the Govt has failed to check such vertical MONOPOLIES and it has no means to implement its recommendations on the large corporate.** Also TRAI and MIB's hostile attitude towards the last mile cable operators has created a sense of insecurity in them that has worsened the situation. This is the reason why no stakeholder wants to invest in his business and only wait for 'Achhe Din'.

14. TRAI is a silent spectator when a large political MSO is capturing an LCO network violating all regulatory norms and expects the small LCO/

LMO to go to courts (TDSAT/ High Courts/ Supreme Court) against the corporate MSO, having a coterie of lawyers on his pay-roll

15. We still wish to give our comments on the amendments, TRAI proposes to make in the Quality of Service Regulations (12 of 2012) of 14 May 2012 as given below:-

**<u>Prepaid Option.</u>**

*In regulation 14 of the Standards of Quality of Service (Digital Addressable Cable TV Systems) Regulations, 2012 (12 of 2012) (herein after referred to as the principal regulations), after sub - regulation (1), the following Explanation shall be inserted, namely, --*

*"Explanation : The pre-paid payment option offered to the subscriber shall be an electronic pre-paid mechanism wherein the amount paid by the subscriber is adjusted automatically for the services availed by him."*

**Comments:**

For example prepaid system allows the MSO to collect the subscription from the consumers of the LCOs directly making the LCO dependent on the MSO for his monthly revenue that may **lead to many disputes and delays. Under such circumstances how does the regulator expect LCO to ensure quality of service as desired**, without having the necessary resources. The regulations do not provide any security and have reduced the owner of the last mile (LCO) to a beggar. **TRAI has introduced a 'Jamindari System' of ancient India making the LCO a 'bonded labour' of the MSO to collect a 'Lagan' from the consumers.**

The Digitalization of cable TV was completed in Phase I metros on 01 November, 2012 and in Phase II cities on 31 March 2013. **We have yet to see any billing system working.** We are not in the know if any MSO has started giving itemised billing to any subscriber. **No subscriber is getting his/her choice of channels.** There is still no stable revenue share system between LCOs and MSOs. MSOs are not interested in helping LCOs make their services reach the consumers. Instead, their focus is on how to usurp the LCO's network as regulations have given them all the powers to harass them under some excuse.

The system is still in infancy and evolution stage. Under such circumstances any step like prepaid system is detrimental to the success of DAS. All the money collected will be kept by the MSO. No MSO has followed TRAI regulations in framing interconnect agreements. They do not even provide the agreements to the LCOs rendering them helpless in even approaching the courts.

a) MSOs are bundling channels in a default package of their own choice as dictated by their parent/ affiliated broadcaster.
b) They often remove or add channels in the package without any prior intimation or reason.
c) There is no system of pricing the packages. TRAI has not monitored the pricing of the MSOs for its compliance to regulations and if it is consumer affordable.
d) MSOs have no system to **maintain a record of activated consumers as they have not yet entered the CAFs in the SMS**. There is a huge mismatch in the activated consumer data sheet of cable operators with MSOs and cable operators are forced

to accept the illogical demands of MSOs in order to avoid harassment.

e) Due to errors in the subscriber management system of the MSO, connections are often activated/ deactivated during the paid period, leading to consumers grievances and their annoyance on the cable operators who have nothing to do with it.

f) There is no system and/or mechanism deployed by the Government/Authority about the awareness/education towards the consumer segment who are reluctant to pay the price of the broadcasters as accepted by TRAI. Subscribers are even approaching Consumer Forums against the cable operators on pricing and tax issues unaware that it is the government forcing them to pay more to please the broadcasters. In many cases consumer groups have taken to vandalising cable operatos' network which is all laid in the open and has no protection from the government since it is not recognised as a telecom infrastructure.

**Under the above circumstances, levying fines on the operators as proposed will be very demoralising, damaging and detrimental to the industry.**

**<u>Issue of Receipts for all payments.</u>**

*" The multi-system operator, either directly or through its linked local cable operator, shall issue a proper receipt for every payment made by a subscriber and the details of the receipt such as date and serial number of the receipt; amount paid by the subscriber etc. shall be entered into the subscriber management system of the multi-system-operator against the*

*name of the subscriber, within three days of the payment made by a subscriber."*

**Comments:**

We wish to submit that Cable Operators are only an intermediate entity in the Digital cable TV operational chain and do not control the SMS. If even after receiving the subscription amount, MSO does not enter the details in the SMS and subscriber does not get the service, **it is the LCO who will be caught by the subscriber and blamed. Such a system will always lead to disputes.**

In most of the cases the **subscribers refuse to pay or pay less subscription** because of problems with the STBs. Some of the complaints are:-

a) STBs do not have electrical protection leading to shocks and burn outs.
b) Substandard power supplies lead to frequent failures.
c) Substandard tuners leading to tuning problems.
d) Power adapters are not capable of handling Indian power conditions.
e) EMI/ EMC issues using sub-standard or recycled material in the plastic body of the STB.
f) Power cords and pins are not of BIS specs.
**g)** Consumers also refuse to pay if there are too many ads in a channel for which he is made to pay. **Consumers do not want any pay channel to carry ads. TRAI has not made the consumers aware in this respect.**

**TRAI needs to come out with a fresh regulation for the handling of non-paying subscribers, penalties for defaulting subscribers, business protection policy of cable operators suffering out of public grievances risen because of malfunctioning of MSO's system.**

The directives on STANDARDS OF QUALITY OF SERVICE (DIGITAL ADDRESSABLE CABLE TV SYSTEMS) (AMENDMENT) REGULATIONS, 2014 **should be held back till a fresh set of regulations is ready to tackle the above issues.**

**Imposing Financial Disincentives**

*"**16A. Consequences for contravention of the provisions of regulation 15 or regulation 16**. ---- (1) If any multi-system operator or its linked local cable operator, contravenes the provisions of sub-4 regulation (1) or sub - regulation (5) of regulation 15, it shall, without prejudice to the terms and conditions of its registration or the provisions of the Act or rules or regulations or orders made, or, directions issued, there under, be liable to pay an amount, by way of financial disincentive, not exceeding rupees twenty per contravention with respect to each subscriber and in case of second or subsequent such contraventions, to pay an amount not exceeding rupees fifty per subscriber for each contravention, as the Authority may, by order direct.*

***Provided that** if a written agreement has been entered into between the multi-system-operator and its linked local cable operator under the Telecommunication*

*(Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012, wherein the linked local cable operator has agreed to give the bill to the subscriber or to issue proper receipt to the subscriber for the payment made by him or both, and a copy of such agreement has been filed by the multi-system-operator with the Authority, then the multi-system-operator and its linked local cable operator, both shall be liable to pay financial disincentives separately.*

*(2) If any multi-system-operator contravenes the provisions of sub - regulation (2) of regulation 16, it shall, without prejudice to the terms and conditions of its registration or the provisions of the Act or rules or regulations or orders made, or, directions issued, there under, be liable to pay an amount, by way of financial disincentive, not exceeding rupees hundred for each contravention, as the Authority may, by order direct.*

*(3) No order for payment of an amount by way of financial disincentive under sub - regulation (1) and sub – regulation (2) shall be made by the Authority unless the multi - system operator or its linked local cable operator or both, as the case may be, have been given a reasonable opportunity of representing against the contravention of the regulation observed by the Authority.*

***16B**. Deposit of amount payable by way of financial disincentive under these regulations. ____ The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by order by the Authority."*

**Comments:**

Whereas it is agreed that 'financial disincentives' are essential in any organised service sector dealing with public related services in order to make the service provider fall in line, h**owever, we feel that the industry is still in its infancy and not yet ready to face such regulations till the digital process settles down. TRAI should start this financial disincentive system with the much organised sector of DTH and Satellite Broadcasting.**

TRAI must appreciate that it's main concern is in providing quality service, billing accountability and revenue collection for the Government. However, it is ignoring that the only stakeholder who would slog day and night to achieve this and is a front to the government mandated digital service is the Local Cable Operator. It must recognise the hardship of cable operators, his requirement of revenue to maintain such a service and loss to his business in bringing all the existing subscribers in the fold of the new system. Some of the suggestions are given below:-

a) **Authority does not have a proper monitoring system** to carry out such a large exercise covering the whole country. It has not provided any protection to the cable operators for the loss of their property deployed in the networks in the course of following the government directives and collecting revenue for the government.

b) **Imposing disincentives must not be based on any arbitrary regulation** where authority has to club cable operators and MSOs together, creating a doubtful situation leading to unnecessary disputes.

c) Authority must initiate a mechanism to check the noncompliance of quality of service regulations by Broadcasters, especially the ‘Pay’ Broadcasters (running advertisements for more than the stipulated time), DTH operators and large MSOs who are already organised and have a direct impact on service quality of Cable Operators as well.

d) Restructuring of the Industry must be done keeping future services and present set-up in mind, particularly for broadband services. Stubbornly sticking to hypothetical deadlines will never bring the results. There has to be some concrete solutions.

e) Lastly, TRAI should review the progress of digitisation and revise some of its tariff orders and regulations to remove the kinks from the process, which are very evident now, although we have been bringing to its notice from time to time. If need be, it should recommend the government to amend the Cable Act and Rules, especially where MSO by definition has been allowed to operate a last mile network, competing with his own LCOs, a situation objected by even the Supreme Court.

Yours Faithfully,

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