DIGITAL CABLE OPERATOR ASSOCIATION MUMBAI
Regd. No. : MUM / 1527 / 2012 / G.B.B.S.D.
13, Akbar House, 1st Floor, N. F. Road, Colaba, Mumbai - 400 001. Tel. : 2282 8594
E-mail : dcoamcable@gmail.com

Shri Sunil Kumar Singhal
Advisor (B&CS)
TRAI
New Delhi,

Dear Sh. Singhalji,

We enclose herewith our comments on the Draft Telecommunication (B&CS) Interconnect (Addressable Systems) Regulations 2016.

We welcome the fact that all addressable systems are being equated and that the concept of "Must Carry" has also now been provided.

Carriage :

The regulations call for all details having to be provided on the Distributor of TV Channels (DOTC) to be provided on their website including pending applications.

Carriage or placement or marketing fees are something that is beyond our scope and no data gets shared other than what is available sometimes in media reports. As LCOs we would only like the Authority to make a note of the revenue stream when deciding the revenue sharing amongst MSOs and LCOs. Placement/marketing fees will continue even after the new Tariff regime kicks in.

The Proposed Regulations lay down rules for calculating carriage and nothing is payable if a channel is subscribed by more than 20% in the target market. We

would like to know what will be applicable if a new channel wishes to be launched and has a budget for marketing and wishes that the channel be sampled initially by almost all users.

Even starting afresh as a FTA channel will not ensure that it reaches almost all homes as even FTA will have now to be subscribed. Getting into the packages that are popular will make them cross the 20% limit for subscribers in any market. Can they pay carriage as marketing fees and get into the popular packages for a year ? If a DOTC adds a new channel to his existing bouquet, he has to create a new bouquet in his system and then allow consumers to choose channels/packages. Will DOTC be allowed to convert all existing subscribers of Package A to Package B from the backend without taking consumer consent ?

DD Free Dish opens tenders at frequent intervals and Broadcasters bid and pay carriage fees without the chance to negotiate like they do with other DOTC. **We recommend that there be genre wise caps be allowed for carriage also as carriage is a function of reach and not subscription OR it be linked as a percentage of the gross advertising revenue that each channel makes.**

If DD Free Dish which is an unencrypted service can keep increasing carriage revenues year on year on basis of presumtive numbers/reach, should there be any regulations on amounts earned by encrypted and addressable DOTC ?

Carriage, placement and marketing earned by MSO should also be shared between the MSO & LCO in the same manner as Rental & Distribution revenue and the Interconnect should provide for the same.

Distribution Fee & additional discounts

The proposed cap of 35% for both of the above is highly favouring the Broadcasters and is well explained in our response to the Tariff Order. We would

like the Authority to examine the same and consider the scheme proposed by us which is simpler to roll out and will find market acceptance.

Objections to the Broadcaster RIO

The proposed Broadcaster RIO mechanism envisages that they publish a draft RIO and comments on the same will have to be submitted within 30 days. The Regulation leaves it open for the Broadcaster to discard the objections without assigning any reason and then publish the draft as the Final RIO which all are supposed to sign without any alternation. Objections to the changes should be recorded in writing so that the aggrieved can challenge the same if unconvinced.

We feel the time limit of 30 days is too short for review of all RIOs. Though a major portion of previous disputes is being addressed in the new Tariff Order, we still feel that a simple RIO format like the MIA/SIA be framed by the Authority for killing all disputed terms which legal teams of each Broadcaster may bring in.

Scrolls on concerned channels

The Regulations mandate that a scroll will be run by the DOTC on every channel that is likely to be displaced. It is an excellent provision from a subscriber point of view.

Model Interconnect Agreement (MIA)

For the first time we signed MIA with MSO after mutual negotiation. In existing MIA we could add clauses after mutual negotiation without diluting any of the clauses. However, now the Explanation note mentions that the mutual clauses will be useless in case there is a conflict. On one hand the Regulation restricts

our right to contract by mandating the MIA. On the other hand it gives us a limited window to mutually add negotiated terms only to the extent that they do not conflict with MIA terms. To conclude, our right to enter into private contract are highly limited. It is our earnest request that mutually negotiated terms be treated as valid and lawful, irrespective of there being a conflict.

A very small percentage of LCOs have the skills to read and understand legal language. This was not there in the existing MIA which was introduced just at the beginning of this year. To bring this now, seems like backdoor support to MSOs to weaken LCOs.

Standard Interconnect Agreement (SIA) & Revenue Sharing

The Authority has mandated a 55:45 revenue sharing in favour of the MSO. The SIA mandates that billing for subscribers will be in the name of the MSO whilst in the MIA there is an option to generate billing in LCO name or the MSO name as per choice of the LCO.

The LCO is the oldest and largest stakeholder in this business. The Authority has recognised that the LCO is the owner of its network which is the last mile connection to the subscriber. As the owner of our networks why should the billing rights be taken away from us, if we cannot agree to a mutually agreed MIA and are forced to enter into a SIA. The SIA which is the default mechanism, should mandate that the billing entity be the LCO and not the MSO as proposed. As an example, it is the retailer who raises invoices to customers and not the wholesaler from whom he buys the product.

The tasks of running day to day operations are hardly any different between the two agreements. Only bill printing as required under post paid will be the onus of the MSO in the SIA. Who will do the physical collection is vague and needs to be specified ? The country is moving to digital payments but not all subscribers will pay through digital means. Technical complaints are also going to be attended by the LCO.

On page 152 of the Explanatory Notes, it is mentioned that as a fallback arrangement MSO & LCO were sharing FTA revenue as 55:45. This was never any calculation to show how this was derived at. In the first instance we all know that there are hardly any takers for the BST package of only FTA channels. More than 99% of the revenue earned is coming from packages sold to consumers and for which the same MIA will reveal what is the percentage sharing which has been mutually agreed upon. Since we were under pressure to sign the MIS or face disconnection of signals, we were forced to accept these terms as MSOs said they had already configured their systems likewise and making changes at the last moment would derail their implementation of new packages. Hence this is cannot be taken as an industry practice and a scientific methodology needs to be undertaken.

Sources of revenue for a LCO is simply a portion of the subscription revenue that he collects from his subscribers. All other stakeholders have more than a single source of revenue. Why should the LCO be denied the right to monetise his network in a lawful manner ?

Has the Authority done any scientific study on the costs of running a cable network ? Let us look at the cost of Basic service that was defined in CAS and how it would have moved up with a simple 5% rate of inflation per annum.

	Basic during CAS	Basic + 5% inflation
2007	77	77
2008	77	77
2009	82	82
2010	82	86
2011	82	90
2012	82	95
2013		100
2014		105
2015		110
2016		115
2017		121

A LCO earns revenue from a small number of subscribers, whilst a MSO is earning revenue from many LCOs and their subscribers doing the same thing. How then is MSO justified in getting a lion's share of the revenue ? We request the Authority to relook at this formula and apply their mind correctly. Today data is available of costs and if you want LCO data we are ready to provide the same to you.

Yet another point which was included in the March 2016 notification on MIA/SIA but tucked away in the Explanatory notes was the revenue earned by sharing infrastructure for providing internet services. This is another source of revenue for sure but this is not being governed under Interconnect regulations. Where LCOs have supported MSOs in doing so, this definitely needs to be a part of the MIA/SIA. Where LCOs are doing so with their own LAN networks, there is no need for Regulation. It is observed that MSOs will only cry about cable business but will not even discuss what they make from their ISP business.

Under the proposed Tariff Order, it is the DOTC who will decide the amount to be charged for the Basic Rental of upto Rs.130/- p.m. This can be intentionally kept supressed to squeeze us out of business. Our Association feels that the LCO being the one out of the 2 stakeholders who are entitled to recover their infrastructure costs should also be given a right to decide the amount to be charged as Basic rental. There is enough competition in the market which will ensure that this remains competitive.

This amount forms a big portion of our revenue and letting the DOTC deciding the same would threaten the very existence of our business.

Over the past few years, it is our revenue share only which is coming down drastically whereas costs of running the business are going up each year. Tariffs have barely increased to keep with the increased costs.

Miscellaneous – Listing of channels in EPG

We do not agree with some of the conditions imposed herein. We hope the words consecutively does not imply that no LCN can be left blank as a provision for future requirements. If consecutively is construed by some as a chain of serial numbers, then it can create chaos as LCNs will keep changing whenever there are channels dropped by the DOTC.

Consumer prefer surfing regional content across different genres in a consecutive fashion. Now forcing them to select Marathi GEC by going to GEC genre and then selecting movie genre to view Marathi Movies etc. should not be enforced by Regulation and left to the DOTC to decide what is best for them.

We are the largest stakeholder in this business having started the business without any external support. This being so over the years we have been marginalised and have been given step motherly treatment. There has come a time now where we are not even being allowed to decide on how we should recover our costs, leave aside deciding the Retail pricing of the product (infrastructure) we are selling. Though we are recognised as a legal owner of our network and a stakeholder who runs a business, we are not allowed to decide on any aspects relating to the revenue coming to us. This remains our fundamental grievance that we have and which needs to be addressed.

We thank the Authority for their efforts and are always ready to support the growth of this industry.

Thanking you

For DCOAM

Goncalves
15/11/16

Authorised Signatory