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Leena Jaisani
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To,
Mr. Wasi Ahmad
Advisor (B&CS)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg
New Delhi – 110002

Subject : **TRAI's Consultation Paper on Draft Tariff Order applicable for Non-Addressable Cable TV Systems**

Dear Sir,

The Federation of Indian Chambers of Commerce & Industry (FICCI) would like to extend our warm greetings and complement Telecom Authority of India (TRAI) in its quest to make the Indian cable and broadcast sector a world class industry.

FICCI would like to take this opportunity to submit the response of the stakeholders from the Broadcast Industry to TRAI's Draft Tariff Order for Non-Addressable Cable TV systems.

FICCI would like to point out that TRAI ought not to have relied on the report filed in the Supreme Court in the year 2010 as much water has flown since then and the broadcast sector has grown manifold in the last five or six years. For example the report does not take into account the extension of the implementation of the Digitization Roadmap till 31st December 2016 and the resultant slowdown of the digitization of the Indian cable sector. Nor it takes into account growth of television channels which, as on 30th November 2014, has become 821 and the multiple platforms and choice available to the consumers.

Also the TRAI has made some important recommendations on the changing market place for cable and satellite:

(1) Recommendations on Issues Relating to Media Ownership dated 12.8.2014;
(2) Recommendations on Monopoly/Market dominance in cable TV services dated 26.11.2013;
(3) Recommendations on issues relating to entry of certain entities into broadcasting and distribution activities dated 12.11.2008 etc.

We submit that a holistic view of the developments of the sector needs to be taken by duly adverting to the present ground realities. As a result the draft Tariff Order (TO) has failed to consider if there is any need at all for tariff regulations for analogue cable systems in such changed circumstances.

The report also does not consider the effect of the Regulations and Tariff Orders issued on 10th February 2014.

We believe that the analog cable services will be better served by structural reforms rather than an all pervasive tariff formulation. Towards this end TRAI needs to review the extant interconnect regulations more than coming up with fresh tariff orders. It was expected that TRAI shall consider all the facets of analog cable which among others include continued absence of transparency in business transactions, differential pricing at the retail level, under-declaration of subscriber base, carriage and placement fees due to artificial capacity constraints, monopolistic practices both at state and regional levels, enforcement issues across the entire value chain , the “Must Provide” clause being without a corresponding “Must Carry” mandate , arbitrary channel black outs, and change in "Band" placements area transgressions and piracy, absence of proper billing systems/record keeping,; non-implementation of Quality of Service regulations and absence of an audit” ecosystem.

Given that in other industries and sectors pertaining to non essential products or services (given that admittedly television channels are non essential)– market forces have been the best regulator, we recommend that there should not be any artificial tariff ceiling either at the whole sale or retail and instead rate forbearance is the order of the day. This would also facilitate the transition to DAS as well as there is retail rate forbearance in so far as DAS notified areas are concerned. Analog cable also faces competition from DTH and as such there should not be any apprehension with regard to arbitrary price hikes by operators. Also broadcasters today are operating in a market with 821 channels and more in the pipeline. Thus their ability to charge more for their channels than what the market can bear is seriously impaired. The existing Analog cable rates both at the wholesale and the retail may be given the full inflationary hike as identified by TRAI vide its Tariff Order dated 31st March 2014 for broadcasting. However the same should only be done theoretically for the limited purpose of ascertaining the rates to be applicable for DAS notified areas in the light of the interim order passed by the Supreme Court with regard to the Tariff Order dated 21st July 2010 for broadcasting.

FICCI strongly believes that TRAI should remove artificial restrictions and adopt a soft light touch regulatory approach. In a market characterized by so many unknown variables and parameters as is the case in Non DAS areas, the Authority would do well to allow the parties to address all issues and find all answers through market based negotiations and contracts.

FICCI would like to submit that the Authority should take a holistic view of the Orders of the Hon'ble Supreme Court and the Hon'ble TDSAT. Both these Orders are not a mandate upon the Authority to affirmatively come up with prices for TV channels at the wholesale or retail. Rather, on the contrary TRAI was only directed to study the matter afresh by undertaking a ***de novo*** exercise and then take an informed decision on what should be the best way forward. We once again reiterate that the Authority should not prescribe any tariff prescription, be it at the whole sale or at the retail.

With regards,

Yours sincerely,

Leena Jaisani

(Leena Jaisani)