**Shailesh Shah**
**Secretary General - Indian B'Casting Foundation**

I B F

3 September, 2013

Dear Mr. Ahmad,

Sub: **TRAI's Consultation Paper on "Distribution of TV channels from broadcasters to Platform operators" dated 6 August 2013**

Please find enclosed the IBF's response to the TRAI's Consultation Paper on "Distribution of TV channels from broadcasters to Platform operators" dated 6 August 2013.

Thanking you,

Yours sincerely,

(Shailesh Shah)

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

IBF

**IBF'S RESPONSE TO THE TRAI'S CONSULTATION PAPER ON DISTRIBUTION OF TV CHANNELS FROM BROADCASTERS TO PLATFORM OPERATORS**

## I INDUSTRY DYNAMICS

75 crore people in India are entertained and informed by television everyday. Over 12.5 crore homes are estimated to have access to cable and satellite television. In addition, Doordarshan's terrestrial network is estimated to be used by another 2.5 crore homes.

To serve this vast, diverse people, Indian cable and satellite television has grown to actively broadcast over 650 channels in about twenty years since its inception in the early 1990s. Over these years, broadcasters have largely focused on improving content to bolster revenues from advertising. Over 50,000+ local cable operators offer last mile connectivity. Well over 6,000 multi-service operators work with broadcasters and their representatives to access homes through this local cable network. In addition, six direct-to-home services companies' access viewers directly. One would call this vast, diverse and well-established market as competitive and large enough to add significantly to the economic value India creates. In fact, the industry supports over 600,000 jobs and is adding 10-15% to this base every year.

In contrast, advertising on television in India is arguably the cheapest in the world. Less is spent for advertising on television than in newsprint, even though television is a better medium to advertise on. In fact, FY2013 television advertising revenues were less than Rs15,000 crore.

Broadcasters create economic value for their investors, employees and value-chain partners by providing quality content to viewers. To do so, broadcasters need to get their fair share of viewer subscriptions just as they do from advertising. This is true in almost all parts of the world.

## II DETERRENTS TO ACCESSING EQUITABLE SUBSCRIPTION REVENUES

To ensure that television reach is maximised, the Government chose to regulate wholesale rates broadcasters charge distributors who ultimately reach viewers. These rates have been virtually constant for the last decade, as they have been frozen since December 2003.

The 50,000+ local cable operators have been in business for two decades, and over the years, have established a practice of under-declaring subscribers. As a result, MSOs don't get to know how many subscribers they serve and they too resort to under declaration. Their deprived revenue coaxes them into not declaring the little they get to know. Even in DAS areas, broadcasters are yet to know subscriber numbers or SAF submission numbers. The resulting miniscule subscription revenue accruing to broadcasters as a result of both, regulated tariffs and under-declared LCO connections, keeps them in a bind. Add to this, the lowest advertising rates in the world keeps India's television-broadcasting sector amongst the least remunerative.

As India successfully completed most of Phase I and II of digitisation, broadcasters hoped this would change. In fact, broadcasters chose to allow carriage fees to remain laissez-faire thus far as

INDIAN BROADCASTING FOUNDATION
B-304, 3rd Floor, Ansal Plaza, Khelgaon Marg, New Delhi-110049, India
Tel.: 91-11-43794400 Fax: 91-11-43794455
Email: ibf@ibfindia.com Website: www.ibfindia.com

they realised it is important for MSOs and DTH service providers to make a return on their investments in set-top-boxes and dishes in the short term.

## III SELLING, BROADCASTER REACH TO THE DISTRIBUTION NETWORK AND COSTS

Broadcasters have to sell to over 6,000 MSOs and DTH services companies to connect to viewers. The daunting task of reaching this large base keeps distribution costs exceedingly high. These distribution costs are prohibitive for small broadcasters, whose viewers are niche, few, and most often, widely spread across India.

When broadcasters have chosen to distribute independently, they have been able to reach less than a fifth of the possible viewers they should be able to. The cost of distribution to reach the larger base would be prohibitive.

## IV BROADCASTERS CHOOSE A WAY FORWARD TO DRIVE EFFICIENCY AND ACCESS SUBSCRIPTION REVENUES MORE EQUITABLY

Some larger national and regional broadcasters saw the opportunity to create efficiencies and help their fellow broadcasters by offering aggregation solutions. Several aggregators emerged and today, these aggregators offer most of the 233 pay channels, piggybacking related free-to-air channels as intermediaries for broadcasters.

As a consequence of aggregation, broadcasters also sought to pursue the possibility of accessing a more equitable share of subscription fees collected by LCOs, MSOs and DTH services companies.

## V REQUEST FOR AN EQUITABLE SOLUTION

Four aggregators provide access to 170 of the 233 pay channels. Barring a few channels, the rest are intermediated by a few more aggregators. The largest of these aggregators caters to about 30% of the paid channel market.

All aggregators provide access to channels at discounts on tariff-bound wholesale rates. Aggregators provide four possible options to MSOs and DTH services companies:

- Every single channel is available a-la-carte as per TRAI's own mandate.
- Bouquets of all aggregated channels are available at competitive rates.
- Combinations of channels are available as alternative bouquets.
- MSOs and DTH services companies can choose any number of channels available with the aggregator to negotiate a rate.

Every one of these options is available at a discount. In offering bouquets, aggregators have ensured that smaller broadcasters' channels are available in the bouquets so that their realization is more competitive than if they were to negotiate these independently.

- Broadcasters have come together to reduce channel distribution costs and improve related efficiencies. They have come together to help smaller broadcasters reach out to viewers across this vast, diverse country. They have done so in the hope that they can get a consequent access to equitable revenue distribution.

- Today, several MSOs have healthier balance sheets in comparison with broadcasters. In several of TRAI's own consultation papers, it has been repeatedly established that subscription fees sharing is significantly skewed in favour of LCOs, MSOs and DTH service providers and broadcasters continue to receive a meagre share compounded by under-declared subscribers. In fact, MSOs and LCOs ability to dominate negotiations especially in local markets is much stronger.
- MSOs service about 70% of the market while DTH services 30% of the market. Five MSOs service 60% of the market today and six DTH services companies cover its entire 30%. In fact, 11 distributors control 70% of the distribution market. May we request an examination of how this is different in comparison to the 70% of the pay-channels intermediated by the larger aggregators and the resulting dominance thereof? More importantly, we fail to understand how this stated dominance requires regulation when the Competition Commission can clearly take action if it is misused. In fact, in two specific aggregation situations, the Competition Commission conducted an in-depth analysis and ruled against their intervention as they concluded competitive forces are working correctly.

- At the beginning of the digitisation process, MSOs and DTH services companies approached TRAI to facilitate fixed-fee contracts so that they can access better wholesale rates from broadcasters. With the options available from broadcasters through their aggregators, this has remained true even though all broadcasters would prefer to be paid on a per subscriber basis.

- Broadcasters have established different ventures at different points in time. They have also acquired or sold channels. As a consequence, a large broadcaster may have channels in separate legal entities. By way of solution provided in the consultation paper, it would mean that an aggregator would not be able to sell the channels owned by the same broadcaster in the same bouquet. Also looking back to allocations of 2007 does not reflect current realities.

In India's television sector, where advertising rates are the lowest in the world, where subscription fees are negotiated at below decade-old-tariff-bound rates, where the cost of content is market driven, where satellite costs and taxes thereof continue to increase, where carriage costs paid by broadcasters to distributors are also market driven, the very efficiency necessary to provide channels to all viewers is being questioned by in the Consultation Paper. We want to help the Authority in coming to a fair conclusion on what is happening on the ground. May we request a thorough examination of the facts that are being questioned by MSOs / LCOs please?

The alternative will result in an onerous situation that will have increased distribution costs, continued payment of carriage fees, continued investment in content at market prices, and reduced inventory to earn revenues from advertising which are already at the lowest rates in the world.

India's GDP growth estimates are expected to hit a record low. The rupee has eroded by over 20% in just the last six months. A balance-of-payments crisis, more impacting than in 1991, is likely. Consequently, advertising campaigns are being curtailed already. In such an environment, where one source of revenue is likely to slow significantly, the inability to use efficiencies and at least try and access a more equitable share of subscription fees would be perilous.

As the Authority has comprehensive access to the goings on in the sector, dominance-driven malpractices by aggregators can always be questioned by the Authority, and be rightfully brought up at the Competition Commission.

Aggregators distribute films made by several different producers. Aggregators largely distribute airline tickets and hotel rooms for many airlines and many hotels. FMCG products and pharmaceuticals are made available to consumers through aggregators and retailers and neither sells the products of just one company. We would want a fair examination of why, in particular, this aggregation is incorrect particularly in light of what it delivers.

In the last several months, broadcasters have been witness to severely increased intent to regulate. Would that be the correct approach to foster one of the most promising businesses that can help the Indian economy?

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