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IMCL'S Response to Draft Amendments to the Interconnection Regulations and Tariff Order for DAS

A. Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems

Issue for consultation: - To introduce the following proviso

"Provided also that the provisions of this sub-regulation shall not apply in the case of a distributor of TV channels, who seeks signals of a particular TV channel from a broadcaster, while at the same time demanding carriage fee for carrying that channel on its distribution platform."

And delete 3(5) proviso of DAS interconnection regulation.

RESPONSE:

The above mentioned amendment **should not** be introduced and the existing 3(5) proviso of DAS interconnection should also be deleted for the following reasons:-

a) We don't agree to this term as most of the Broadcasters are part of Aggregators who give these channels to MSOs as a part of their Bouquet. MSOs have to opt and pay for these channels, as otherwise the bouquet is not available to them. For rest of the channels in bouquet, they have to opt for ala carte RIO rates given by the Aggregator (of the Broadcaster). These ala carte RIO rates become unviable for the MSO and the subscriber. These channels are paid for by the MSO, even if they don't want it. They do so, as they recover the cost from the Carriage fee

b) It contradicts with the MUST-PROVIDE proviso 3(2) of existing DAS interconnection regulation. This proviso should not be introduced keeping in mind the vertical monopolies and cross-media ownership that currently exists.

c) There are already adequate safeguards with regards to regulation of carriage fee in favour of the broadcasters in the form of Carriage Reference Interconnect Offer (RIO). As a condition MSOs have to ensure that Carriage fee must be uniform for all the broadcasters and no upward revision in Carriage fee for a minimum of 2 years; while subscription fee is negotiated every year

B) Issues related to amendments to the Tariff Order applicable for Addressable Systems.

1) Twin Conditions at retail level

RESPONSE:

The new twin conditions are definitely enablers for ensuring more market driven packages with flexibility in pay channel rates

However , in the condition , where ala carte price can be maximum 2 times the ala carte RIO rate of Aggregator (on behalf of Broadcaster) , this does not work as the MSO will be left with only 15% .

Secondly in this condition, it should be noted that all popular channel normally forms part of some bouquet of MSO. But the MSO is unable to seek selective channel and make a bouquet of his own , as the RIO ala carte rate of Aggregator (on behalf of Broadcaster) is very high and does not work for the consumers in the prevailing market conditions

The calculation of Ascribed rate in the proposed amendment becomes irrelevant if the Ascribed rate is more than two times the a-la-carte wholesale rate.
This is also too cumbersome to implement on a continuous basis and monitor. Every new bouquet/package or change in any bouquet will impact all ala carte rates

OUR SUGGESTION:
We had mentioned in our response to the main DAS tariff order that Authority should mandate a *Retail Tariff from Broadcasters instead of a Wholesale Tariff. We maintain the same suggestion still.*

The share from this Retail tariff can be regulated as a mandated equitable share from subscription
There need not be any price caps and the Broadcasters should decide the acceptability of a price for subscribers, based on the quality of their content and market feedback.

This will ensure that each stakeholder gets their rightful dues.
The non viability of the current tariff order can already be seen in phase I of DAS. The MSOs cash flows have been drastically affected and impacted their bottom lines. This is slowing down the Phase II Digitalisation due to lack of funds.