

## **ISSUES FOR CONSULTATION- NON CAS TARIFF CONSULTATION**

Background:

Before we start analyzing issues placed before us in the Consultation paper put forward by the TRAI, we should treat the TRAI paper as an exercise DE-NOVO. We have to understand the problems faced by the industry and stakeholders.

If the exercise is DE-NOVO i.e. we start with a clean slate and look afresh at the issues then the very first issue which arises is whether channels can be allowed to turn PAY CHANNELS from FREE TO AIR Channels without any mechanism / addressability in place. In other words, should there be any pay channel without addressability? We should ask ourselves.

This industry in India has started as FREE TO AIR Industry with Doordarshan as pioneer when for the first time channels were put on Satellite. Cable TV started its humble beginning in the “dark” areas where terrestrial signals could not reach. Around 1984, entrepreneurs seeing the demand for television started putting up S-Band satellite dishes and started giving cable connections to consumers of Doordarshan along with one VCR channel. Cable TV was then known as Satellite TV.

From 1984 to 1990, Cable TV remained present only in those parts of the country where Doordarshan could not reach terrestrially. In some parts of Mumbai some enterprising individuals started distributing VCR channel(s) signals to cater to a multistorey buildings and hotels.

In 1991, Gulf war started, and the number of channels started increasing on these modest cable networks and new networks started. With the humble beginning of one or two channels in the initial phase and in today’s scenario of over 500 channels, this industry has gone through several changes and emergence of pay /subscription channels is the most crucial development.

In 1995, the first pay channel Star Movies was introduced to Indian market, to test the potential and to check not only the preparedness of this highly unorganized industry but also to see if they can do this under the garb of subscription agreements. At that point of time, since, Cable Act had come into force but there was no regulator and no control, the broadcasters found the easy way of pushing pay channels without addressability in the name of subscription channels.

The entire mechanism was based on a small minimum guarantee amount, which had two variable parameters, namely the subscriber numbers agreed for payment and the price of channel or bouquet. So if a channel wanted a MG of 10 lakhs, he may say 10,000 sub multiplied by 100 (as bouquet price) or even

100,000 sub multiplied by bouquet price (may be rs. 10 here). This was just to ensure an additional revenue over and above the ad revenues  
The ad revenues clear parameter was reach and is the same today (in terms of number of eyeballs reached!)

All across the world, the pay channels mean that you have to subscribe to them to be able to watch them and that is done through an addressable mechanism. This is done to keep a track and bill only the subscribers who wish to watch and pay. All such pay channels abroad follow the same. However, in India, seeing the lack of legislation and regulation, the broadcasters entered into subscription agreements with MSOs/ cable operators charging a base of 500 connections and Rs.2/- subscription which amounted to notional fee of Rs. 1000/- per month to see if they will succeed with this unique pay channel model without addressability.

Since, they started this and the amounts were meager, slowly all cable operators started showing their channels without analyzing the danger they were putting their industry into.

Seeing that they have succeeded in their plan, broadcasters started cementing their larger business plans to control this entire business as they were well aware from their past experience worldwide how this form of media is addictive. They wanted to commercially exploit and put their own control which the initial lack of regulation and legislation has allowed them.

From a consumer point of view, there should not be any pay channel until and unless he is willing to subscribe to it and pay for it. He should be charged only for the basic services - a fact recognized by the CAS regulations, where pay channels go through a box and the subscribers pay a nominal fee for Free to Air channels as a basic service.

The contradiction in our country is that subscribers don't subscribe to pay channels, it is the MSO who is forced to subscribe the bouquets and he in turn provides the same to LCO who again provides the same to subscribers.

In fact, the services being given to the subscribers today can be termed today as only basic / free to air service with no pay channels as the subscriber / stakeholders are unable to distinguish between pay and free service.

This distinction which is called Conditional Access System (CAS) has been arrived at by not only after great deliberation between stakeholders and Ministry of Information and Broadcasting and also has been cleared by both houses of parliament and has the authority of parliament behind it. Incidentally any DTH, IPTV or any other addressable TV platform needs CAS and today DTH and IPTV

are run with CAS, which is well accepted, because here the start of services was along with ADDRESSABILITY AND CHOICE!!

To sum up, one would say, that there is no scope of Pay channel in Non CAS area also and the regulations / legislations / tariff order should be futuristic in approach to ensure that pay channels should come only through an addressable mechanism and tariff orders should promote and enable the same and ensure that migration to the same is smooth.

By allowing pay channels to come without addressability we have created a situation akin to problems of unauthorized colonies / clusters in Delhi and Mumbai which once allowed to mushroom are then not only difficult to control but regularize.

The broadcasters' greed for collecting more and more revenue by not only cartelizing the channels in bouquet but also increasing rates and attempts to resist all legislations is nothing but an attempt to regularize the illegal malpractices started by them in the name of pay channels.

**NON CAS TARIFF- GIST OF RESPONSES IN EARLIER CONSULTATION OF 2007**

*During the last non CAS tariff consultation 2007, some of the views expressed by the stakeholders, are as follows: (based on these TRAI's last recommendations were made, which was opposed in court by Broadcasters!)*

**A) Group representing the subscribers/consumers**

***i) On the issue of forbearance: There should be no forbearance***

***ii) On continuance of existing regime with or without modifications:***

- *The existing tariff regime has protected the industry from downward revision of charges. The existing tariff should rather be brought down (VOICE)*
- *The existing ceiling should continue but the ceiling should be for all levels based on MRP system. For instance, if ceiling MRP (for consumer) is Rs. 200 the ceiling for LCO to MSO should be Rs160 (200-15%), the ceiling from MSO to Broadcaster to be Rs136 (Rs 160-15%) (Grahak Hitvardhini)*
- *The existing system of su-motu revision of prices based on WPI is not acceptable.*
- *Price increase should be considered only on specific demand and after giving consumers an opportunity to explain and increase should be once in two years.*
- *Change in reference date to 1.1.07 for determining ceiling would not be appropriate and will be illusory.*

***iii) On the issue of revision of existing regime to provide for a ceiling at end consumer level and related questions (the views expressed in regard to some questions are not clear, and at some places it is even contradictory):***

- *There should be a specific tariff stipulated and control should continue till DTH/ IPTV gives real challenge.*
- *CAS price of Rs.5 should be used as the benchmark and on that basis the rate should be: Rs 1/-villages; Rs.2/- at Tehsil towns; Rs.3/- in district cities; Rs. 4/- in capital cities and Rs, 5/- in Metro cities.*
- *The ceiling proposed by TRAI is acceptable but should be minus inflation adjustment. The ceiling should not exceed Rs. 200 and should be comparable to DTH and CAS bill (for 15 pay channels). There should be uniform ceiling across the country. On the number of channels, the suggestion is 30 FTA plus 30 pay channels (the minimum proposed is contrary to the ceiling suggested of Rs 200 for 15 pay channels).*
- *Some others do not support the overall ceiling on monthly charges. Pay channels with an a-la-carte price coupled with the ceiling on FTA charges would automatically determine the bouquet prices Differential prices for urban, metros and non-urban areas would be preferable. Prescription of a minimum number of pay channels is not necessary if pay channels have a-la-carte prices.*

***iv) On the issue of periodicity of review of tariff:***

- *No review necessary, Market forces will take care of developments*
- *Reviews should be biannual*

v) On the issue of determination of tariff between MSO/LCO/Broadcaster:

- Ala carte option with price should be adopted
- It should be left to market forces.

vi) On the issue of providing channels to MSOs on a-la-carte basis:

- Ala-carte is desirable and should be permitted.

vii) On tariff charged for commercial subscribers:

- Commercial cable subscribers should also be benefited by controls. Different prices should be fixed for commercial subscribers.

**B) Group representing broadcasters**

- There should be total forbearance. However, one broadcaster has suggested consumer end price ceiling as proposed with forbearance for others.
- Revenue share to be left to market forces. Even now the sharing of revenue between broadcaster/MSO is being done by mutual agreement only.
- Proposals in the consultation paper reflects mere tinkering attempt without addressing real issues. Inflation based adjustment not at all appropriate and does not reflect growing costs of acquiring content.
- Sports broadcasters acquire content at huge costs and the tariff regime has been having a devastating affect.
- Even if price is to be regulated
- there should be sunset provision for price regulation
- Benchmark to be defined for determination of existence of adequate competition.
- No a la-carte choice at the wholesale level should be permitted, as the consumer in the absence of addressable system will not benefit.

**C) Group representing multi system operators, cable operators etc**

(i) On the issue of total forbearance:

- The overwhelming view of the group is against total forbearance for the present.
- But views on the time limit and circumstances under which existing tariff control should continue have varied. These are
  - Till addressability (mandatory/ voluntary) is introduced/ digitalization progresses.
  - Till 2010 when commonwealth games begin.
  - Till the DTH/IPTV service matures to provide competition.
  - Till clear cut regulations are put in place indicating under what circumstances the broadcasters can increase their charges (rate as well as connectivity).

(ii) On the issue of continuance of existing tariff regime with or without modifications (there are shades of variation in views, and only broad and overall view has been captured here):

- One common view is that the existing regime could continue but ceiling should be on total pay out - both on rate and connectivity.
- Any new pay channel to be introduced only on a-la-carte basis.
- If ceiling on total pay out to broadcasters is not provided then the freeze between cable operators and consumer on account of new pay channel and increased connectivity should be lifted. (WWIL)
- Adjustment for inflation based capital assets index not appropriate.
- Existing regime was an adhoc measure and adjustment based on inflation index is inappropriate.
- On the suggestion of shifting of date of reference for ceiling to 1.1.07 there are views both for and against. The views in favour of shifting the reference date to 1.1.2007 also require some of the changes suggested above to be incorporated in the existing tariff regime.

(iii) On the replacement of the existing regime with an overall ceiling and its related questions. (There are shades of variation in views. Only broad and overall views have been captured here.):

- While some MSOs are against the overall ceiling, some others seem to recommend such a ceiling and have made specific suggestions as to what could the slabs be and the number of channels that could be linked to the slabs.
- Some have suggested specific ceiling slabs based on number of channels, for different areas, network.
- An industry observer has stated that an overall ceiling on per channel basis be fixed between broadcaster and MSO. Requirement of minimum number of channels can be for FTA and the number for pay channels should be left to service provider.
- A view has also been expressed against the overall ceiling stating that if the ceiling is still considered to be imposed then:
  - There should be a clear definition of the distribution margin between broadcasters, MSOs and LCOs as well.
  - Broadcasters should provide the option of a-la-carte choice to MSOs
  - The number of FTA /pay channels linked should remain same or more for a year.

- MSOs /LCOs to be mandated to show a certain fixed number of FTA channels in all genres with specific preference for regional language.
- Price regulation should not be inimical to move towards digitalization and addressability.
- Review of ceiling should be on annual basis and new pay channel addition only on a-la-carte basis.

(iv) On the method of determination of cable charges payable between broadcaster/ MSO/LCO and giving a-la-carte option to MSOs:

- The tariff determination should not be left to market forces
- One suggestion is to allow current system of mutual negotiation for particular area.
- Broadcasters should sell their channels on a-la-carte basis and pay channel revenue should be as in CAS area i.e. (45% for broadcasters, 30% for MSO and 25% for LCO)
- A-la-carte choice of channels should be given to the MSOs in addition to bouquets.
- If the same channel is taken in bouquet, then a-la-carte rate should apply to bouquets also
- There should be a regulation providing for a relation between the bouquet price and sum of individual channel price in the bouquet.

v) Tariff dispensation for commercial subscribers:

- rates payable by commercial subscribers should be same as that of ordinary cable subscribers unless the commercial subscribers are given signals through a dedicated lines or receive signals directly from broadcasters.
- rates to big commercial cable subscribers can be 3 times the ordinary rates.
- In the agreements with broadcasters, the MSOs/LCOs through whom the commercial subscriber is getting the feed should also be made a party (a tripartite agreement should be there).
- A hotel association has opposed our decision to keep the select category of commercial cable subscribers (3 star hotels and above) out of tariff control as being unjust and unfair.

Thus it could be seen that there are variations in the perceptions and views of the stakeholders. In the open house discussions, which were held at four places, essentially the same views were echoed by the participating stakeholder

## **ISSUES FOR CONSULATION-Our Current responses:**

### **INTRODUCTION and ONLY WAY FORWARD ISSUES:**

In 2006, Planning Commission completed a study titled 'Going Digital' for the Information and Communication Technology Sector.

In this study, the Planning Commission observed that the ICT sector has taken a great leap forward and the distinction between broadcasting, telecommunications and multi media services is fast disappearing. It noted that convergence was coming not only in technology but carriage infrastructure. It stated that the major driver of convergence is digital technology.

To quicken the pace of digitalization it recommended that the cable industry be treated as an (information) infrastructure industry on the lines of telecom. It further recommended that various incentives be given to enable faster adoption of digital distribution freeing scarce analogue capacity for other public purposes.

In 2007, the sector regulator Telecom Regulatory Authority of India (TRAI) took the first step forward in drafting a regulatory blueprint for a staggered 55 city digital rollout over a three-year period.

This recommendation has been pending with the Government for two years despite the fact that both the Planning Commission and the TRAI believe that

digitalization (i.e. through a set top box) is the only way that the customer can get to see over 500 channels allowed at present in India

In the December, 2009 SIMCON (State Information Ministers Conclave with Minister of MIB and industry associations); the Minister and the Conference strongly endorsed the need for digitalization in broadcasting sector especially in the cable sector. The general view was that there was a need to prescribe a definite timetable for such digitalization. While doing so, issues like incentivising digitalization, rationalization of tax structure, appropriate tariff and interconnection regime etc. needs to be considered and clearly laid down.

### **TRAI's Questions and our Responses:**

1. *Are the figures in Annexure B3 representative for the different genres of broadcasters? What according to you are the correct representative figures? When providing representative figures, please provide figures for the genre, and not of your company.*
2. *Are the figures in Annexure B5 representative for aggregators? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.*
3. *Are the figures in Annexure B7 representative for the national MSOs? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.*
4. *Are the figures in Annexure B7 representative for the regional MSOs? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.*
5. *Are the figures in Annexure B9 representative for the LCOs with > 500 subscribers? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.*
6. *Are the figures in Annexure B9 representative for the LCOs with =< 500 subscribers? What according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.*

**Ans. Our Comments on above ques 1 to 6:**

**On MSO ( National) model:**

The carriage revenue stream which appears a high percentage of MSO revenue is a temporary phenomenon and can reduce substantially in the years to come, depending on the market environment. Even with carriage revenues, the EBITDA margin is barely around 4%. With this margin going down, regulatory support for enhancing subscription in a transparent way other incentives to MSOs will be required for Cable MSOs to stay in business.

**On LCO model:**

In case of LCO, the revenues are conservative and costs shown are high. It is a known fact that the declaration of a LCO varies from 5% to 30% of its actual subscriber base

The overall costs, if calculated for the total revenue of the operators per sub (for total households and not for declared households), then the costs of content, collection and maintenance will be much less.

The collection costs per sub basis can be around Rs. 10 to Rs. 15 per month/per sub

The maintenance at the headend and the trunk routes is done by the MSOs. LCOs need to spend smaller amounts on maintenance and typically that charge the customer for any change of cabling, pins etc. Hence, the maintenance costs can be at best around Rs. 15 per sub/month

Considering the above, LCOs profitability and EBITDA margins are much higher than assumed in the TRAI consultation paper.

Q.7. *What according to you is the average analog monthly cable bill in your state or at an all India Level?*

Ans. Average monthly cable bill in Delhi would be Rs. 125/- plus taxes and at an All India level, average monthly bill would be Rs. 150/- plus taxes.

Q.8 *Is the market for cable services in non-CAS characterized by the following issues:*

(i) *Under reporting of the analog subscriber base.*

Ans. It depends on how the definition of under reporting means. If it is for pay channels, which reaches homes, or is it for pay channels having a .... x ... viewership (based on TAM rating or any other method). Just because a particular channel is available to "Y" number of homes it does not mean that all in the Y homes are watching that particular channel.

Pay channels enter into a guaranteed payment arrangements with MSO, based on their own business needs and ad revenue plans. So, whatever is agreed by MSO and Broadcaster, the MSO has to pay in full, even if the MSO does not collect same from LCO.

The so called under reporting of the analog subscriber base is because of the unrealistic rates charged and the channels being bundled into bouquets which are forced on the MSOs. If any LCO is to declare the correct subscriber base he will be out of business the same day. 100% reporting would result in a subscriber paying Rs.1200/-and broadcasters taking over Rs.1000/- In any case, regulation has also recognized that there is no under reporting but this is a negotiated subscriber base.

*(ii) Lack of transparency in business and transaction models*

Ans. Yes - Transparency can only come through addressable mechanism, if the numbers of pay channels are to be accounted for. So, we need an addressable digitalization for pay channels.

As far as, Free to Air channels is concerned, the requirement of transparency is only to the Statutory Authorities which should be complied with.

Currently statutory payments are getting under reported because the LCOs fear that the same would be used by the pay broadcasters to extract exorbitant amounts if they get to know the exact Entertainment Tax /Service Tax numbers.

*(iii) Differential pricing at Retail level.*

Ans. Yes- We all are aware, that the paying capacities of various segments of Society are different. They all have different requirements and capabilities to pay. A high end subscriber would want all the premium movies / sports channels and will be willing to pay for it which would not be the case for a subscriber living in a low income household.

In case of cable operators, who provide a super bouquet to all their subscribers, they charge a differential pricing at the retail level without the content being different to accommodate different paying capacities of subscribers.

*(iv) Incidents of carriage and placement fee*



Ans. This issue is being raised unnecessarily since carriage and placement fee is not a universal phenomenon and is limited to certain markets catered by TAM only, which is a fraction of total market. It is nothing but a share of advertisement revenue which broadcasters earn when they are placed on certain frequencies / bands and are able to monetize more from advertising agencies.

1. **This is a contract between 2 parties based on the broadcasters' strategies**
2. This is part of the broadcasters channel promotion/ initiating/ launch/ brand building strategy
3. Broadcasters want channels to be carried on particular frequencies based on their research with a view to maximize reach and maximize advertising revenues. **Their approach is similar to FMCG companies who want products displayed at prominent locations in malls/ shops and pay charges for them.**
4. Broadcasters launch new pay channels, increasing payouts from the MSOs to the broadcasters.
5. The MSOs provide the channels to consumers without charging anything extra
6. Thus they incur costs but receive no increase in revenues
7. Promotion, brand building, placement income is one of the ways to recover such costs

We have today over 500 channels out of which around 132 channels are pay and rest Free to Air channels, (i.e., the ratio of 1:3). All these 132 pay channels are bundled in three to four bouquets whereas the channel carrying capacity on all analog networks is not more than 80. By virtue of their dominant position and their agreements, the top pay broadcasters occupy almost all the analog frequencies leaving very few frequencies to Free to Air channels.

(v) *Incidents of States and Region based monopolies*

Ans. This is a situation based issue but if the tariff order is transparent and the regulations have teeth, then monopolies can be avoided

(vi) *Frequent dispute and lack of collaboration among stakeholders*

Ans. Majority of the disputes into this business is because of four factors:

- 1) Unreasonable terms being imposed by pay broadcasters on service providers leading to disputes. (e.g. demand for huge increase in payments just prior to an important sports event)
- 2) Regulations / legislations have failed to protect business interest of stakeholders and investments done in the business are not safe leading to dispute.
- 3) Vertical integration in the business (e.g. broadcaster also controls an MSO) does not allow collaboration among stakeholders as stakeholders mistrust each other.
- 4) Unlike Telecom which is 100% addressable, this business is not migrating to addressability.

Q9. *Are these issues adversely impacting efficiency in the market and leading to market failure?*

Ans. Yes – Despite being a large market with a constant revenue stream in sight, very few investors have come forward into this business. Those who have done so are either vertically integrated or have suffered huge losses. The market is controlled by few dominant broadcasters who are vertically linked to the MSOs and the growth of MSO is dependent on content.

While pay broadcasters continue to get growing subscription fees from DTH companies, they continue to demand (and get) growing subscription amounts from MSOs / LCOs despite both of them losing subscriber base to incumbent players. Higher payouts are demanded on the grounds of “under declaration”.

Government is not taking steps to either implement CAS or digitalization plan which is leading to losses to MSO/LCO and with no new investment coming, efficiency is getting eroded and may lead to market failure for cable if not addressed immediately.

Q10. *Which of the following methodology should be followed to regulate the wholesale tariff in the non –CAS areas and why?*

- i) *Revenue Share.*

Ans. There is no scope of revenue share in a non- addressable regime.

- ii) *Retail minus.*

Ans. Not possible in a non addressable regime where the base is negotiated.

iii) *Cost plus.*

Ans. Not Possible in a non addressable regime, the figures arrived would be notional.

iv) *Any other method approach you would like to suggest.*

Ans. The methodology adopted by TRAI in the past for non CAS area was to freeze the tariff with a regulated growth along with a-la-carte choice given to MSOs so that they are in a position to negotiate and settle till the time we are able to implement addressability. Considering the circumstances, this was the best approach, since, the prices given were broadcaster's prices and the same was frozen subject to a-la-carte choice being given. Broadcasters could not complain. Unfortunately, this was not adhered to.

Broadcasters continued with the freeze without much agitation but did not implement the a-la-carte regime, which could have broken their monopoly, they continue with arm twisting techniques of forcing MSO/LCOs into signing agreements for payment huge lump sum amounts for entire bouquets. This has enabled the broadcasters to push their non popular channels in the name of bundling.

Q.11 *If the revenue share model is used to regulate the wholesale tariff, what should be the prescribed share of each stakeholder? Please provide supporting data?*

Ans. It should be MSOs 35%, LCOs 25%, and broadcasters 40%. The same ratio would be applicable since it is the MSO who bears the major cost of upgradation, headend maintenance, digitalization etc. as far as LCOs are concerned, since their subscriber numbers individually are small they need to be given this share to survive. As far as broadcasters are concerned, they recover their cost not only by subscription but through advertisement revenues. Many also collect revenue from India and abroad from the same content on multiple platforms.

Q.12 *If the cost plus model is used to regulate the wholesale tariff, should it be genre wise or channel wise?*

Ans. If the cost plus model is used, it should be channel wise, to avoid disputes. Each channel feels that their programming is the best and should not be compared to others in the same genre.

Q.13 *Can forbearance be an option to regulate wholesale tariff? If yes, how to ensure that (i) broadcasters do not increase the price of popular channels arbitrarily and (ii) the consumers do not have to pay a higher price.*

Ans. No, forbearance can not be an option in our kind of environment and subscription tariffs needs to be regulated till the time addressability is established ( say one year from the date of digitalization with addressability) and market is mature enough both for competition and forbearance.

*Q14. What is your view on the proposal that the broadcasters recover the content cost from the advertisement revenue and carriage cost from subscription revenue? If the broadcaster is to receive both, advertisement and subscription revenue, what according to you should be the ratio between the two? Please indicate this ratio at the genre levels?*

Ans. At present, broadcasters are recovering 70-80% from advertisement and 20-30 % from subscription and the same should be allowed. Indicating the ratio genre wise would be difficult since individual channel popularity within the genre is also there. In mature markets, pay channel have a limitation on the advertisement they can carry. In an addressable system, this question will be irrelevant as the market forces will dictate, the amount of advertising, a channel will carry.

While broadcasters continue to raise the bogey of carriage fees, they do not reveal the fact that carriage is paid for a limited networks with TAM ratings. The pay channels however collect subscription fees from the entire market and hence the carriage fees are offset against the subscription revenues.

*Q.15 What is your view on continuing with the existing system of tariff regulation based on freezing of a-la-carte and bouquet rates as on 1.12.2007; and the rate of new channels based on the similarity principle at wholesale level? You may also suggest modifications, if any, including the periodicity and basis of increase in tariff ceilings.*

Ans The existing freeze should continue both for customers and Broadcasters. New channels should be allowed based on similarity principle at wholesale level; however, new channels should not be allowed to form new bouquets or allowed to join existing bouquets which would be mockery of freeze orders at retail level. Broadcasters would use the same to maximize revenues irrespective of the content, quality and cost.

The price freeze should be considered in a genuine platform from Broadcasters to MSO. Keeping price constant and every time asking for an increase in subscriber base, anyway tantamount to circumvent price freeze!

We propose that the price freeze should also to be for agreed subscriber base. Any change in subscriber base number from the negotiated base can be only based on authentic evidence, either for increase or reduction.

*Q.16 Which of the following methodologies should be followed to regulate the retail tariff in non-CAS areas and why?*

*i) Cost Plus*

Ans. Not possible as most of the cost data can be inflated or manipulated.

*ii) Consultative approach*

Ans. Consultative approach has been tried but has not yielded any results due to differences between the stakeholders.

*iii) Affordability linked*

Ans. Affordability linked approach has been tried and is successful as far as tariff to the subscriber is concerned by LCO. Since in any case it is a common consumer who will suffer in non addressable regime if affordability linked approach is done away with.

*iv) Any other method/approach you would like to suggest*

Ans. We are agreeable to the approach and method adopted by TRAI in the first exercise done when this tariff order was formulated which was with consensus of all stakeholders and after much due diligence. It is the broadcasters who are aggrieved since in the new dispensation all stakeholders will have equal negotiating powers and their dominance to some extent will get diluted.

The major issues then continue for ala-carte choice to MSOs,  
Price freeze, if for subscribers, then same upto Broadcaster to MSO  
The current formula for pricing method given by TRAI for non CAS is fine

*Q.17 In case the affordability linked approach is to be used for retail tariff then should the tariff ceilings be prescribed (i) single at national level or (ii) different ceilings at State level or (iii) A tiered ceiling (3 tiers) as discussed in paragraph 5.3.23 or (iv) Any other.*

Ans. A tiered ceiling which is (3 tiers) as discussed in paragraph 5.3.23 is the correct approach for subscribers and the same should be allowed.

*Q.18 In case of retail tariff ceiling, should a ratio between pay and FTA channels or a minimum number of FTA/pay channels be prescribed? If so, what should be the ratio/number?*

Ans. It should be defined since otherwise broadcasters using their monopoly and the bouquet can effectively drive other FTA channels out of spectrum the ratio of pay channels vs. FTA in Analog should be in equilibrium of permitted free to air channels vs. permitted pay channels.

*Q.19 Should the broadcasters be mandated to offer their channels on a-la-carte basis to MSOs/LCOs? If yes, should the existing system continue or should there be any modification to the existing condition associated with it?*

Ans. Yes, broadcasters be mandated to offer their channels on a-la-carte basis to MSOs/LCOs. There should be a maximum ceiling of single a-la-carte channel which should not be more than Rs.10/- if the ceilings for tariff from LCOs to subscriber is to be maintained effectively. Broadcasters should not break away from the negotiated subscriber base and demand more subscriber numbers to be declared.

*Q20. How can it be ensured that the benefit of a-la-carte provisioning is passed on the subscribers?*

Ans. Since, there is a ceiling on LCO to subscriber, benefit of a-la-carte provisioning stands automatically transferred to consumer and as addressable digitalization penetrates further, the same benefit will further accrue.

*Q21. Are the MSOs opting for a-la-carte after it was mandated for the broadcasters to offer their channels on a-la-carte basis by the 8<sup>th</sup> tariff amendment order dated 4.10.2007. If not, why?*

Ans. MSOs are opting for a-la-carte choice but broadcasters are refusing to pass on the benefits and are not agreeable on subscriber numbers if existing MSOs who have earlier subscribed to bouquets approach then broadcasters demand the same revenue for a-la-carte also irrespective of the number of channels chosen. In other words, denying the benefit of a-la-carte to stakeholders.

As far as new service providers are concerned, broadcasters do not encourage competition in the areas where they have created monopolies and deny new entrants service which would be abundantly clear from the type of petitions filed in TDSAT and complains received by TRAI. The question of giving them a-la-carte choice by broadcasters is far from reality.

*Q22. Should the carriage and placement fee be regulated? If yes, how should it be regulated?*

Ans. No, it can not and should not be regulated. as explained above in the earlier carriage question

*Q23 Should the quantum of carriage and placement fee be linked to some parameters? If so, what are these parameters and how can they be linked?*

Ans. No, it can not be linked to any parameter it is restricted to certain areas, where TAM meters are installed and is not the universal phenomenon and is actually matter of demand and supply.

Can we regulate ad price and ad costs or rent charged for flats in a particular area?

*Q24. Can a cap be placed on the quantum of carriage and placement fee? If so, how should the cap be fixed?*

Ans NO. If there is no cap on the amount of advertisement broadcaster can collect, or a rent landlord can charge, then there should not any cap on carriage and placement fee. As suggested earlier, if there is a cap on number of pay channels that can be carried on analog then carriage fee paid by the free to air broadcasters will automatically stand corrected, as there will be more availability of frequencies.

*Q25. Is there a need for a separate definition of commercial subscriber in the tariff order?*

Ans. As far as Non Star category hotels and other commercial establishments are concerned the price of pay channels is same. There should not be any distinction or definition for such commercial subscribers. By keeping them separate under a definition it gives broadcaster a tool once again to extract more revenue from service provider under a different head. All are aware that such customers can not own a head-end and are dependent on cable operator service. They should be treated at par with other subscribers.

As far as Star hotels are concerned, they can continue under commercial subscriber category.

*Q26. If the commercial subscriber is to be defined in the tariff order, then does the existing definition of "Commercial subscriber" need to be revised? If yes, then what should be the new definition for the commercial subscriber?*

Ans. Commercial subscriber definition should be only for Four and Five star hotels and Grade I restaurants and should not be for small establishments or Non star category hotels. It should not be linked to number of rooms. Budget hotels for travelers and tourists suffer, because they may have more number of rooms.

*Q27 In case the commercial subscriber is defined separately, then does the present categorization of identified commercial subscribers, who are not treated at par with the ordinary subscriber for tariff dispensation, need to be revised? If yes, how should it be revised?*

Ans. Yes, the definition needs to be revised as above.

*Q28. Should the cable television tariff for these identified commercial subscribers be regulated? If yes, then what is your suggestion for fixing the tariff?*

Ans. For Four and Five Star hotels, the tariff should not be more than two times the normal subscriber tariff. The content is same, the delivery is same and the subscriber is same, even, if the subscriber who at his own home is watching a serial goes to another town and for the sake of continuity wants a service in his hotel room, he should not be penalized five to six times as in the present case being done.

*Q29 Do you agree that complete digitalization with addressability (a box in every household) is the way forward?*

Ans. In our view, for Cable TV to survive, complete digitalization with addressability is a dream which can not be implemented in near future. Addressability and digitalization for pay channels only would allow broadcasters to formulate a strategy of turning pay or free to air. If majority broadcasters turn free to air then analog would be a reality for times to come but if all broadcasters turn pay then complete digitalization with addressability would be a way forward.

*Q30 What according to you would be an appropriate date for analog switch off? Please also give the key milestones with time lines.*

Ans. CAS has not been implemented since 2003, because of the consumer's need for cheaper content and a lack of political will. In a poor country like India, where more than 30% population lives below poverty line, analog switch off would be difficult to achieve. In fact in smaller towns analog transmission is only for 30-40 channels and we still have to cover lot of distance before we achieve complete digitalization. We feel the analogue switch off for pay channels are important and should be on a progressive time frame of 4-5 years. Complete analogue switch off can follow after pay channels addressability (in digital) has been achieved. Please see our comments in Ques 38.



*Q31 What is the order of investment required for achieving digitization with addressability, at various stakeholder levels (MSOs, LCOs, and Customers)?*

Ans. The investments can move from Rs. 100 crores to Rs. 1000 crore for a MSO , depending on its size. The Cable industry needs Rs. 20,000 – Rs.30,000 crores in next five year for at least 60% cable homes digitalisation

*Q32 Is there a need to prescribe the technology/standards for digitization, if so, what should be the standard and why?*

Ans. There is a need to prescribe standards for digitalization and already the box etc. are as per BIS standards. We will also have to see that we address issues like open architecture, commercial inter operability, technical inter operability etc. to ensure the problems like MPEG 2 to MPEG 4 migration etc. are addressed before they become a problem.

*Q33 What could be the possible incentives that can be offered to various stakeholders to implement digitization with addressability in the shortest possible time or make a sustainable transition?*

Ans. The first incentive would be to implement the tariff order for a-la-carta and make a provision for addressable digitalization by giving concessions in tariff to the stakeholders who migrate from analog to addressable digitalization. Cheaper finance to be made available. The tax concessions should be immediately provided

*Q34 What is your view on the structure of license where MSOs are licensed and LCOs are franchises or agents of MSOs?*

Ans. Considering MSO being licensed, the LCO also must obtain license to ensure their basic credibility

Only licensed LCOs can be franchisee/agents of the MSO or they can even deal independently with Broadcasters (which some LCO's any way presently also do)

*Q35 What would be the best disclosure scheme that can ensure transparency at all levels?*

Ans. For transparency in transactions, migration of subscriber from one player to another from one platform to another and from one channel to another channel can only be achieved and disclosed if there is addressability. We need to move forward to regime where subscribers disclose their choice between pay and free to air channels. Channels disclose their choice between free to air and pay mode

and a-la-carte to bouquet mode and the MSOs choose the channels of their consumer's choice and offer them at reasonable prices.

*Q36 Should there be a 'basic service' (group of channels) available to all subscribers? What should constitute the 'basic service' that is available to all subscribers?*

Ans. As already said, free to air channels with a limited number of pay channels should form basic service at a fixed cost as per the availability of spectrum in analog. Additional choice can be met through by addressable digitalization at reasonable prices controlled by tariff order initially and forbearance when market is mature enough.

*Q37 Do you think there is a need for a communication programme to educate LCOs and customers on digitization and addressability to ensure effective participation? If so, what do you suggest?*

Ans. Yes there is a need to do so and an All India effort along with all stakeholders i.e. LCO/MSO/Broadcaster/TRAI/Ministry of I&B/Ministry of consumer affairs be taken into confidence on the benefits of digitalization and addressability both for QOS /transparency and choice to consumers and a mass communication drive be sustained at least for two years to achieve the same.

*Q38. Stakeholders are free to raise any other issue that they feel is relevant to the consultation and give their comments thereon.*

- Ans.- Way Forward Issues:  
Digitalizing over 120 million TV customers by 2017 is a huge task.  
Most of the burden to be met by cable industry.  
Government and Regulator must notify a clear-cut roadmap with timelines to ensure that pace of digitalization is hastened.  
Time bound policy framework can accelerate the process  
Digitalisation date for conversion of analog to digital addressability for pay channels  
Categorise the market so that all players can follow a clear plan  
An Empowered Task Force Can Accelerate the Process

Brief Digitalisation Plan:

**Step I: Pay channels through Digital addressability**

- This can be based on the 55 city roll out plan of TRAI, based on its city list already provided in the report to Government of 2007 ( all cities over 1million population and all State capitals)

- This can alternatively be based on the city List in annexure 1: (as the Government feels instead of 55 city roll out, the enclosed city A, B, C definition is better)

- YEAR-1:

From A-1 cities Bangalore, Hyderabad,  
Greater Mumbai parts (Thane, Navi Mumbai to be added in next phase).  
Also remaining part which is non CAS in three metros

- YEAR 2:

A Class cities (7) in year 2

- YEAR 3:

All B1 Class Cities (22)

- YEAR 4 onwards ( 2 year time):

All B2 Class Cities

YEAR 6 onwards: All remaining cities of India

**Step II: All Channels including FTA channels through Digital**

- Year 7 onwards....

Annexure 1

For Step I:

Either 55 city Roll out as per TRAI's 2007 document

Or

As per Government's ABC class city definition

List of 75 cities according to Government Classification for Digitalisation  
List of Cities and Towns as per O.M. No. 2(21)/E.II (B)/2004 dated 18.11.2004  
issued by the Ministry of Finance (Department of Expenditure)

**INDUSIND MEDIA AND COMMUNICATIONS LTD.**



	A-1 Class Cities		A-Class Cities
1	Bangalore (U/A)	1	Ahmadabad (U/A)
2	Chennai(U/A)	2	Jaipur
3	Delhi (U/A)	3	Kanpur (U/A)
4	Greater Mumbai(U/A)	4	Lucnkow (U/A)
5	Hyderabad (U/A)	5	Nagpur(U/A)
6	Kolkata (U/A)	6	Pune(U/A)
		7	Surat (U/A)

	B1-Class Cities		B2-Class Cities
1	Agra (U/A)	1	Aurangabad (U/A)
2	Allahabad (U/A)	2	Aligarh
3	Amristar(U/A)	3	Amravati
4	Asansol (U/A)	4	Bareilly(U/A)
5	Bhopal (U/A)	5	Belgaum (U/A)
6	Coimbatore (U/A)	6	Bhavnagar(U/A)
7	Dhanbad(U/A)	7	Bhiwandi (U/A)
8	Faridabad (U/A)	8	Bhubaneshwar (U/A)
9	Indore(U/A)	9	Bikaner(U/A)
10	Jabalpur(U/A)	10	Chandigarh
11	Jamshedpur(U/A)	11	Cuttack (U/A)
12	Kochi(U/A)	12	Dehradun(U/A)
13	Ludhiana (U/A)	13	Durg-Bhilai
14	Madurai(U/A)	14	Ghaziabad
15	Meerut(U/A)	15	Gorakhpur
16	Nashik(U/A)	16	Guntur
17	Patna(U/A)	17	Guwahati (U/A)
18	Rajkot(U/A)	18	Gwalior (U/A)
19	Vadodara(U/A)	19	Hubli-Dharwad (U/A)
20	Varanasi (U/A)	20	Jalandhar(U/A)
21	Vijayawada (U/A)	21	Jammu
22	Vishakhapatnam(U/A)	22	Jamnagar(U/A)
		23	Jodhpur
		24	Kolhapur (U/A)
		25	Kota
		26	Kozhikode (U/A)
		27	Mangalore (U/A)
		28	Moradabad
		29	Mysore (U/A)
		30	Nagar (U/A) (Chattisgarh)
		31	Pondicherry(U/A)
		32	Raipur(U/A)
		33	Ranchi
		34	Salem(UA)
		35	Solapur
		36	Srinagar
		37	Thiruvananthapuram (U/A)
		38	Tiruchirappalli (U/A)
		39	Tiruppur(U/A)
		40	Warangal(U/A)

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