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Date: Tuesday, November 15, 2016 5:05 pm
Subject: India TV-Response to TRAI Consultation Paper
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Cc: "gs.kesarwani@trai.gov.in" <gs.kesarwani@trai.gov.in>

Dated:15th November,2016.

To,

Sh. Sunil Kumar Singhal,

Advisor (B&CS),

Telecom Regulatory Authority of India,

Subject: India TV-Response to TRAI's Consultation Papers.

Dear Sir,

Please find the response on behalf of the Independent News Service Private Limited-(India TV) to:

- (i) Draft Telecommunication (Broadcasting and Cable Services) Interconnection (Addressable Systems) Regulations, 2016 (hereinafter The "Regulations"); and
- (ii) TheTelecommunication(Broadcasting AndCableServices) (Eighth) (AddressableSystems)TariffOrder, 2016 (hereinafter The "Tariff Order") ; and
- (iii) The Standards of Quality of Service and Consumer Protection (DigitalAddressableSystems)Regulations, 2016(hereinafter The "Said QoS")

The draft Regulations, the Tariff Order and the said QoS aforementioned raise certain important issues, comments, suggestions and response to the above are given herein under:

1. The TRAI must ensure that Digital Addressable System (DAS) is implemented and comes into effect by December 2016 as stipulated.
2. The Regulations, Tariff Order and QoS should be implemented only after DAS is completely implemented in India; or at the very least, these should be implemented only in areas where DAS has been fully implemented.
3. No carriage fee should be charged from the news broadcasters by Direct to Home Operators (DTH).
4. 4.After the Regulations, Tariff Order and QoS come into effect status quo should be maintained in respect of the LCN/the number allotted to the news channels, Pay or Free To Air (FTA) and the place given to such channels

in Electronic Program Guide (EPG) as per placement status on date i.e.15th November 2016 for at least 3 months after the implementation of the Regulations, Tariff Order and QoS. Existing FTA News Channels should mandatorily be a part of the Basic Service Tier.

5. The Regulations stipulate that the Carriage Fee will be calculated as per Schedule I attached to the Regulations. The said Schedule further clarifies that where the DAS has been rolled out Carriage Fee is payable only if the penetration of a channel is below 20%. Payment of Carriage Fee also has slabs within that, ranging from 20 paisa to 5 paisa per subscriber as mentioned in Schedule I of the Regulations.

(a) As suggested by the news broadcasters in their response to the earlier Consultation Paper, if any carriage fee is to be paid by the news broadcasters, it must necessarily have a co-relation with a subscriber base cited by the Multi System Operator (MSO)/Digital Platform Operator (DPO) and verified by the Central Facility/Auditor.

(b) Furthermore a news broadcaster must be able to choose the city/ies and/or areas/ regions within a city to which its channels may be carried and be made to pay carriage fee accordingly on actual subscribers.

(c) In relation to Schedule I of the Regulations the news broadcasters further suggest that the relevant geographical areas/target markets where the channels of the news broadcasters reach need to be defined clearly. It is suggested that where it concerns national channels in fact the “target market” or “the relevant geographical” should be defined as 40 cities in all states where DAS I and DAS II has been implemented. In the case of regional channels the “target market” or the “relevant geographical” should be defined as the key cities of those particular regional states.

(d) The news broadcasters should pay carriage fee based on the actual number of subscribers that subscribe to and watch its channels (whether pay channel or free-to-air channel) and not on the entire subscriber base of a DPO.

(e) Furthermore the news broadcasters suggest that carriage fee charged by a DPO for carrying a news broadcasters SD/HD channels has to be on the basis of the actual number of subscribers who have subscribed to those relevant channels.

(f) Since dissemination of news is critical in a democracy the “News” genre of TV channels must be given preference over other genres of television channels and the “must carry” provision should be made absolute in the case of FTA news channels, which would reduce carriage fee for these channels.

(g) In the case of the regional FTA channels at least 5 FTA channels (which regional FTA channels relate to that region/state) should be carried in the basic tier of 100 SD channels.

6. (a) In response to the earlier Consultation Paper the news broadcasters had suggested that in the larger consumer interest, Electronic Program Guide (EPG)’s of any DPO should be made available in a categorized manner with different genres of television channels (News, Sports, Movies, Kids etc.) and further such EPG should display all available television channels in each respective genre, with the objective of offering convenience to consumers.

(b) It is acceptable to news broadcasters if details of programs of channels not subscribed by a consumer were also included in the EPG; or if the EPG included a preview of the channels on the platform of the DPO’s even for channels not subscribed to by the consumer. Under the Regulations, for the convenience of the consumer there should also be sub-categorization within a genre for example within the category of news, Hindi or English, there must be further sub-categorization such as Hindi-Business and English-

Business news ; and a sub-category of Music between Hindi-Music and English-Music etc. Such sub-categorized genres would further help ascertain actual subscriber numbers for specific channels (for the purpose of pricing etc.)

7. (a) In respect of Auditing, a Central Auditor /Facility must be in place in order that the correct subscriber numbers for channels, Pay or FTA, are available to the news broadcasters. The Auditor would also be able to correlate the number of the subscribers to a channel as given by a DPO and verify the same. This would be an important issue vis-a-vis payment of carriage fee by the news broadcaster to a DPO.

(b) There must regular monthly reporting by a DPO to the Regulator/Auditor in respect of the number of subscribers to a channel which should be available for the Regulator to verify at all times.

(c) The lack of transparency and visibility in reporting the subscriber numbers has been a malaise in the Non-DAS system for the news broadcasters ; and in order to correct this the news broadcasters should be allowed to verify/audit these the numbers at least twice a year.

8. Since the rate of carriage fee has been defined as 20 paisa per set-top box per month; and slab basis penetration upto 20% HD channels at 40 paisa per set-top box per month for the purposes of infrastructure costs, it is submitted that carriage fee payable by the news broadcasters to a DPO be reduced by half in the second year; and no carriage fee should be payable in the third year since the infrastructure cost would by then have been recovered by the DPOs. When DAS has been rolled out in phases and digitization is complete, Independent News Service Private Limited reiterates that carriage fee must not be permitted to be charged from the news broadcasters.

9. The news broadcasters submit that the DPOs must not be given the right to discontinue carrying of a television channel in case the monthly subscription , in the immediate preceding six consecutive months, for that particular television channel is less than 5 percent of the subscriber base of that distributor ,in the target market specified by the news broadcaster in the interconnection agreement, in that particular month. If a DPO is given the right to disconnect on the above terms the chances of a DPO giving incorrect subscriber number to the news broadcasters and using it as an excuse to disconnect or to demand more fee in the name of placement etc. increases. Whether a news channel can carry on its business of telecasting/broadcasting with a subscriber base of less than 5 percent of the subscriber base of a distributor should be left for the market forces to decide.

10. In the Regulations the DPOs have the right to price the packages and to offer any discount they choose, which would create commercial problems for the news broadcasters. Therefore to create a level playing field amongst channels in the same genre the discounts offered by DPOs should be uniform for all channels in that genre.

11. The All the distributors of TV channels would be required to maintain on their website the list of broadcasters who had asked for placement of its TV channels on the network and have been rejected by the Distributor of TV channels on the ground of capacity constraint. The said list should also contain the date of application made by the broadcaster and as and when the distributor of TV Channels upgrades/augments/increases its channel capacity it ought to give priority to the channel first rejected on the ground of lack of capacity. This would be also in line of the policy of 'first come first served' basis as per the Preface to the Draft Regulations.

12. Schedule I of the Interconnect Regulation (Calculation of Carriage Fee) does not apply to FTA Channels; therefore this should not be the basis of Carriage Fee calculation for FTA Channels as FTA Channels have no Subscription Fee. FTA News Channels wants it reach to be maximized to 100%, therefore all charges i.e. Carriage Fee/Marketing Fee/Placement Fee put together should be capped at Rs. 0.20/- per Month per Set Top Box & it should be optional.

In case of any clarifications required please feel free to contact me.

Thanking You,

Rajmohan Nair

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