

COMMENTS ON TRAI CONSULTATION PAPER No 1/2016

TARIFF ISSUES TELATED TO TV SERVICES

Lt Col (Veteran) VC Khare

Cable TV Industry Observer

Introduction

1.This consultation paper appears to have omitted some very significant past facts. They need to be re-capitulated.

2.When, in CAS implementation, PAY TV Broadcasters did NOT submit rate list for their programs, which was essential for subscribers to exercise their choice to watch what they selected and pay for it, ce a rate of Rs 5/- per PAY TV program was promulgated by TRAI with proportions for sharing PAY TV revenue at that rate between Broadcaster, Headend Service Provider and Cable Operator. PAY TV broadcasters never gave the basis for costing of their programs.

3.Program transmission capacity was limited since each program required one RF channel (7 or 8 MHz wide in 47-862 MHz band) for cable casting. That is how CHANNEL synonymized with PROGRAM.

4. Till 2003, Broadcaster's representatives were dealing with Headend Service Providers(HSPs). Organized Headend Service Providers(popularly called MSOs) emerged only after Cable TV Ordinance 1994 was promulgated. The aggregator/Distributor phenomenon surfaced around 2006.

5.TRAI Mandated provision of TV content on 'a-la-carte' basis by Broadcasters to Headend Service Providers (HSPs) in regulations, in the spirit of the staute, in books, but was not implemented in practice .

6.Statute provides for 'a-la-carte' pricing of PAY TV content to be included in the ICO with Headend Service Provider, who in turn is to prepare a rate card (cost plus basis to cover OPEX) and/or bundle the content so that preference/affordability aspects continue to rest with subscriber through SMS and itemized billing. This has NOT happened because of deficiencies in implementation of DAS.

7.Broadcasters earn revenue from Subscriptions as well as Advertisements and barter/ disperse levies by HSPs as Carriage/Placement Fee to dilute payouts from HSP to Broadcaster. It is believed that revenue accruing to Broadcasters is 67% from subscriptions and 33% from Advertisements. If DAS was implemented as legislated with SMS effectively installed symbolized by generation of itemized bills expected rate of growth of revenue would have been 16%.

COMMENTS ON TRAI CONSULTATION PAPER No 1/2016

TARIFF ISSUES TELATED TO TV SERVICES

Lt Col (Veteran) VC Khare

Cable TV Industry Observer

8. In DAS environment, the turn around (content reception from satellite or other sources, encoding, encryption, multiplexing, modulation, viewing authorization, combining, conversion from E2O (Electrical to Optical) processing of TV content occurs at the Headend registered with the MIB. Where HSPs own the last mile the transport stream is delivered by them over that network. Otherwise transport stream is distributed by Cable Operators (Registered with Deptt of Posts), who are NOT supposed to perform any function similar to Headend. In the regulations, often it is mentioned that content is distributed (received, aggregated and driven on networks) by cable operators (presuming that HSP is also a cable operator).

9. In IPTV too Central Office (TELCO Exchange) obtains content from Broadcaster and dumps it on their servers for access by the subscriber. This need NOT be real time broadcast access. It is deemed to be time deferred own time access.

10. For reasons of strange relationships between Cable Operators and HSPs, bi-directionality of signal transport never occurred. Hence except for a miniscule proportion of Cable homes, Broadband over coaxial cable did not materialize. Even where Cable Operators indulged in delivering Broadband, taken from TELCOs, separate CAT5 cabling was done and service accounted for separately to two agencies. Hence convergence is hardly a reality in Cable TV networks serviced by HSPs. Triple services are NOT possible in uni-directional networks operated by Cable Operators.

11. Regarding HITS, it may be noted that HITS operator too is like any other HSP registered with MIB in DAS. Very strictly speaking, they are supposed to deliver all TV content (FTA and PAY) through satellite casting to a distant ground location, in the foot print of the satellite used, erect a console to trans-modulate the entirely encrypted content stream from QPSK/8PSK to QAM and drive the network to subscriber's home. Hence content is to be obtained by HITS operator from Broadcaster. HITS operator has to pay annual rental fee for transponder leases.

12. The strange phenomenon of CARRIAGE FEE was the outcome of arbitrary and unjustified ad-hoc increases in PAY TV content rates, charged to HSPs, serving networks where due to technical design and installation infirmities, all content was not clearly visible to every subscriber at the farthest point on the network in terms of wireline distance from the Headend. Since advertisers wanted assured eye balls visibility, which was confined only to a portion of the spectrum, 47-862 MHz, at the farthest point in the network, Broadcasters

COMMENTS ON TRAI CONSULTATION PAPER No 1/2016

TARIFF ISSUES TELATED TO TV SERVICES

Lt Col (Veteran) VC Khare

Cable TV Industry Observer

wanted their content carrying such advertisements to be napped in to visible portion. For this obligation, and to dilute heavy bills from Broadcasters, HSPs started charging money one for CARRIAGE (mainly for FTA) and placement (PAY TV). It was financial business adjustment. In this connection, it may be noted that in analog transmission every program occupied one 7 or 8 MHz wide RF channel in 47-862 MHz band(aggregating to a maximum capacity of 106 channels). In digital transmissions, 10 to 24 programs can be compressed in each 7-8 Mhz RF channel enhancing the possible cable network capacity to over 2500 programs. Further in such technique, either the stream received will be visible with equal clarity for all programs or NOT visible at all. Hence the phenomenon of placement fee should die a natural death. However, this nuisance of Carriage Fee, for FTA, may continue since that content has poorer demand.

13. Another point to be noted is that Cable Operator, mostly referred as LCO/LMO, does NOT exist in foreign Cable TV networks. This business model existing in India is unique and hence NOT comparable with off shore practices. Also digital addressability is NOT mandated in other countries.

14. Regarding the prescribed MRP of Rs 5/- per subscriber per month by TRAI in 2004, for CAS implementation, PAY TV Broadcasters were to publish prices for their content on 'a-la-carte' basis before 13 July 2003. They did NOT do so. CAS implementation remained indifferent. In the mean time TRAI was appointed the REGULATOR for Cable TV. In absence of basis for pricing of content disclosure by Broadcasters, TRAI decided on MRP of Rs 5.00 per program per subscriber per month. However, till date basis for pricing content has NOT been obtained from Broadcasters. Hence it remains arbitrary and whimsical.

15 Regarding consumers excercising choice in selection to select programs 'a-la-carte' or bouquets and agree to pay for content authorized ,iIn terms of definition of PAY TV content, it is that content for which Headend Service Provider pays to the broadcaster.

16. Answers to Issues for Consultation

Q1. Which of the price models discussed in consultation paper would be suitable at wholesale level in broadcasting sector and why? You may also suggest a modified/ alternate model with detailed justifications.

A1. None.

COMMENTS ON TRAI CONSULTATION PAPER No 1/2016

TARIFF ISSUES TELATED TO TV SERVICES

Lt Col (Veteran) VC Khare

Cable TV Industry Observer

Q2. Which of the corresponding price models discussed in consultation paper would be suitable at retail level in broadcasting sector and why? You may also suggest a modified/ alternate model with detailed justification

A2. Rate chargeable from Headend Service Provider(HSP) is incorporated on 'a-la-carte' rate at which HSP has to pay the brodscaster at per month per subscriber basis for each program based on average number of subscribers opting to watch the program from the data in the SMS. This would form the acquired content cost by the HSP. To this is to be added per program per month operational cost and HSP's reasonable profit. That would constitute ex-Headend per program per month price. Further to this is to be added Cable Operator's commission(on percentage basis to be incorporated in the B2B ICO between HSP and CABLE OPERATOR. on per subscriber per program per month quotient to constitute retail MRP for the Subscriber. These rates are to be mentioned in the Rate Card to beprepared by the HSP to be shown to the subscriber for ordering content and also posted on HSP's web site. In addition, HSP may also prepare bouquets on similar lines to include Cable Operator's share. Once recorded in ICO and available in costing documents will yield transparency.

Q3. How will the transparency and non-discrimination requirements be fulfilled in the suggested pair of models? Explain the methodology of functioning with adequate justification A 3 Comments on answer to Q2 above adequately describe the basis and rate card itself would render non-discrimination.

Q4. How will the consumers interests like choice of channels and budgeting their expenses would be protected in the suggested pair of models? Give your comments with detailed justifications.

A4. Once rate card for a particular HSP is prepared and made applicable to all subscribers, customers will exercise choice first time through SAF and subsequently through 18x265 customer care recording all changes, as and when requested, in the log.

Q5. Which of the integrated distribution models discussed in consultation paper would be suitable and why? You may also suggest a modified/ alternate model with detailed justifications

A5. None

Q6. How will the transparency and non-discrimination requirements be fulfilled in the suggested models? Explain the methodology of functioning with adequate justification.

A6. None

COMMENTS ON TRAI CONSULTATION PAPER No 1/2016

TARIFF ISSUES TELATED TO TV SERVICES

Lt Col (Veteran) VC Khare

Cable TV Industry Observer

Q7. How will the consumers interests like choice of channels and budgeting their expenses would be protected in the suggested integrated distribution models? Give your comments with detailed justifications.

A7. None

Q8. Is there a need to identify significant market powers?

A8. No

Q9. What should be the criteria for classifying an entity as a significant market power? Support your comments with justification.

A9. Not required

Q10. Should there be differential regulatory framework for the significant market power? If yes, what should be such framework and why? How would it regulate the sector?

A10.No.

Q11. Is there a need to continue with the price freeze prescribed in 2004 and derive the price for digital platforms from analog prices? If not what should be the basic pricing framework for pricing the channels at wholesale level in digital addressable platforms?

A11. There is NO NEED for price freeze in competitive market

The basis should be sum of Content Owner's Price, as per invoice, + 100% profit for PAY TV Broadcaster(to cover establishment cost including share of DPOs) + Operation cost per program per month at uplink station + proportionate leasing cost of transponder = Integrated operational cost per program per month. This should be divided by a percentage (say 50% of 150 million) of estimated gross connectivity in subscriber homes. That would constitute price of program per subscriber per month. Such computation should be submitted every time a price revision is sought. If sales are above the minimum percentage taken into account, profits accruing to Broadcasters would get enhanced.

Q12. Do you feel that list of the Genres proposed in the consultation paper (CP) are adequate and will serve the purpose to decide genre caps for pricing the channels? You may suggest addition/ deletion of genres with justification.

A12 Irrelevant if methodology above is adopted and reviewed whenever price rise is sought by broadcasters.

Q13. Is there a need to create a common GEC genre for multiple GEC genre using different regional languages such as GEC (Hindi), GEC (English) and GEC (Regional language) etc.? Give your suggestions with justification.

A13. No

Q14. What should be the measures to ensure that price of the broadcast channels at wholesale level is not distorted by significant market power?

A.14 The concept of whole sale rate and retail rate is NOT considered relevant. There should be a price to Headend Service Provider determined by Broadcaster and another price to subscriber computed by HSP. All calculations should be subject to scrutiny any time.

Q15. What should be the basis to derive the price cap for each genre?

COMMENTS ON TRAI CONSULTATION PAPER No 1/2016

TARIFF ISSUES TELATED TO TV SERVICES

Lt Col (Veteran) VC Khare

Cable TV Industry Observer

A15.No need.

Q16. What percentage of discount should be considered on the average genre RIO prices in the given genre to determine the price cap?

A16. Not required in view of pricing norms suggested above.

Q17. What should be the frequency to revisit genre ceilings prescribed by the Authority and why?

A17Only on receiving complaints.

Q18. What should be the criteria for providing the discounts to DPOs on the notified wholesale prices of the channels and why?

A18.DPO's should be paid out of 100% mark up on cost of content as suggested in A11. In any case the denominator has only 50% of connectivity. Hence when committed connectivity through SMS rises above that profits will accrue but will not be shared by broadcasters.

Q19. What would be the maximum percentage of the cumulative discount that can be allowed on aggregated subscription revenue due to the broadcasters from a DPO based on the transparent criteria notified by the broadcaster

A19 In principle, None.

Q20. What should be parameters for categorization of channels under the “Niche Channel Genre”?

A20 Nothing should be laid down in regulations for start of niche programs, NOT channels. Broadcasters term sports genre as NICHE . This term should depend upon demand. In pricing method above the basis starts as Cost of Content. For so considered a niche program the rate will work out higher from beginning

Q21. Do you agree that niche channels need to be given complete forbearance in fixation of the price of the channel? Give your comments with justification

A21. No

Q22. What should the maximum gestation period permitted for a niche channel and why?

A22 NIL

Q23. How misuse in the name of “Niche Channel Genre” can be controlled?

A23 By NOT making any provision for Broadcaster to term that as NICHE. Demand and price should determine ‘NICHE’.

Q24. Can a channel under “Niche Channel Genre” continue in perpetuity? If not, what should be the criteria for a niche channel to cease to continue under the “Niche Channel Genre”?

A24. No in view of A23

COMMENTS ON TRAI CONSULTATION PAPER No 1/2016

TARIFF ISSUES TELATED TO TV SERVICES

Lt Col (Veteran) VC Khare

Cable TV Industry Observer

Q25. How should the price of the HD channel be regulated to protect the interest of subscribers?

A25 Technically speaking there is NOTHING like CHANNEL when referring to TV content. This a case of mis-connotation. HD is a different aspect format for display of content being viewed on domestic TV set screen displaying, roughly, 30% more area than conventional SD. For doing so, it occupies wider band l width in the 7 or 8 MHz channel in the RF spectrum. Hence when it comes to compression of content in the RF channel the capacity gets reduced by 40 %. For example if 10 SD programs could be compressed in one channel then only one HD and 5 SD programs would be carried in the same channel or 2 HD and 2 SD programs could be packed in one channel. It therefore stands to reason that content shot in HD may be priced higher by content owners and would cost more in terms of transportation cost because of higher bandwidth consumption. The principle of pricing shall remain the same as in A11 above, starting from invoice. However it may be noted that all content is NOT shot in HD. Many broadcasters are packing SD with reformatted aspect as HD. In such a case cost of content will not change but transportation cost will vary

Q26. Should there be a linkage of HD channel price with its SD format? If so, what should be the formula to link HD format price with SD format price and why?

A26 The pricing basis/mechanism has to be standardised. All price determination should reckon with price of content as invoiced with Broadcaster.

Q27. Should similar content in different formats (HD and SD) in a given bouquet be pushed to the subscribers? How this issue can be addressed?

A27 This depends on quality, architecture and configuration of the Headend (whether that of HSP or at uplink earth station). These details are computed in program mapping at the transmitti8ng end in wireless and wireline modes. Hence cannot be generalised.

Q28. Do you agree that separation of FTA and pay channel bouquets will provide more flexibility in selection of channels to subscribers and will be more user friendly? Justify your comments.

A28 In DAS environment, HSP procures content from broadcasters through ICOs(where in a-la-carte pricing is mandated for PAY content) related authorization in IRDs, and turns around own style aggregated content for transmission over a wireline or wireless medium. Hence rate cards have to be prepared, both, for 'a-la carte' or bouquet selection by the subscriber. Hence the issue lies in HSP domain as far as pricing for subscriber domain is concerned. The spirit of DAS as legislated is that subscriber applies for DAS service through SAF filling up initial price base choice from a rate card and agrees to pay for the same

COMMENTS ON TRAI CONSULTATION PAPER No 1/2016

TARIFF ISSUES TELATED TO TV SERVICES

Lt Col (Veteran) VC Khare

Cable TV Industry Observer

at rate selected when itemized bill is generated. The statute provided for absolute choice to subscriber. But statute has not been implemented as legislated. That is a bureaucratic infirmity and failure.

Q29. How channel subscription process can be simplified and made user friendly so that subscribers can choose channels and bouquets of their choice easily? Give your suggestions with justification.

A29

. FIRST by seeking basis for pricing of content by Broadcasters, SECOND by insisting that HSP implements SMS, THIRD by ensuring that TRAI Regulations No 12 and 13 of 2012 are enforced ruthlessly, including but NOT limited to revoking registration of HSPs with MIB.

Q30. How can the activation time be minimized for subscribing to additional channels/bouquets?

A30. By training Headend staff in faithful enforcement of the DAS architecture dictated configuration, first time activation in snch with DAS act and then realistic 18x365 establishment of Customer Care duly appraised to the Subscriber. DAS implementation so far is a miserable failure on this aspect.

Q31. Should the carriage fee be regulated? If yes, what should be the basis to regulate carriage fee?

A31 Carriage fee should be prohibited in DAS environment. If Headend cannot deliver all programs with equal clarity of audio and video levels at the farthest point in the distribution chain, Registration of HSP should be revoked.

Q32. Under what circumstances, carriage fee be permitted and why?

A32 If PORNOGRAPHIC or similar content is permitted as ON DEMAND Services.

Q33. Is there a need to prescribe cap on maximum carriage fee to be charged by distribution platform operators per channel per subscriber? If so, what should be the "price Cap" and how is it to be calculated?

A33 Carriage fee itself should be prohibited.

Q34. Should the carriage fee be reduced with increase in the number of subscribers for the TV channel? If so, what should be the criteria and why?

A34 Carriage fee, in technical parlance of network design, has no relation with number of subscribers (this number only affects payouts by HSP to Broadcasters). In a well designed network, all content transported should have the same audio and video quality visibility at the farthest located subscriber on the network. Hence either all programs(as chosen by subscribers) would be received or NOTHING will be received. However, as a good engineering practice, HSP should check the technical compliance of all programs transported from Headend at the farthest point in the distribution network Most HSPs never carry out such audits.

COMMENTS ON TRAI CONSULTATION PAPER No 1/2016

TARIFF ISSUES TELATED TO TV SERVICES

Lt Col (Veteran) VC Khare

Cable TV Industry Observer

Q35. Should the practice of payment of placement and marketing fees amongst stakeholders be brought under the ambit of regulation? If yes, suggest the framework and its workability.

A35 If all programs are delivered with equal visibility up to last point in network, where is the need for such fee?

Q36. Is there a need to regulate variant or cloned channels i.e. creation of multiple channels from similar content, to protect consumers' interest? If yes, how should variant channels be defined and regulated?

A36. No

Q37. Can EPG include details of the program of the channels not subscribed by the customer so that customer can take a decision to subscribe such channels?

A37 EPG, by mandate must include all programs transmitted by the Headend.

Q38. Can Electronic Program Guide (EPG) include the preview of channels, say picture in picture (PIP) for channels available on the platform of DPOs but not subscribed by the customers at no additional cost to subscribers? Justify your comments.

A38 If EPG functionality is built accordingly and Broadcasters agree to provide trailers of program a few days in advance.

Q39. Is the option of Pay-per-program viewing by subscribers feasible to implement? If so, should the tariff of such viewing be regulated? Give your comments with justification.

A39 Essentially PPV involves impulse viewing. In bi-directional networks rates at moment of ordering can be viewed on screen. In uni-directional networks this facility should be provided through customer care intimating rate per view

Q40. Will there be any additional implementation cost to subscriber for pay-per-view service?

A40 Yes ! because such ingest is server based. Operational costs for server have to be levied.

Q41. Do you agree with the approach suggested in para 5.8.6 for setting up of a central facility? If yes, please suggest detailed guidelines for setting up and operation of such entity. If no, please suggest alternative approach(s) to streamline the process of periodic reporting to broadcasters and audit of DPOs with justification.

A41 No !

TRAI should assist in development of trained auditors to inspect and report disputes if any. The nomination of such agencies should be on basis of established competence and NOT just because it is a Govt Department. It is paradoxial that even private auditors appointed by Broadcasters have failed to report that SMS's installed cannot generate itemized bills as legislated.

COMMENTS ON TRAI CONSULTATION PAPER No 1/2016

TARIFF ISSUES TELATED TO TV SERVICES

Lt Col (Veteran) VC Khare

Cable TV Industry Observer

Q42. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

A42.1 In all written work technically correct connotation needs to be used. In existing DAS Act there is NOTHING like CHANNEL in the DAS Act glossary. These are programs are transported in an RF channel.

A42.1 In absence of a Broadcasting Law in India, all broadcasting, including but not limited to PRASAR BHARTI, cannot be adjudicated against an statute. Public broadcaster's domain has NOT been questioned because it has been all FTA so far. Except for a provision to revoke downloading permissions, MIB cannot dictate governance over private broadcasters.

A42.3 Broadcast Engineering in general, and wireline broadcasting in particular, is not taught in India. Yet we have lacs of kilometres of wireline networks erected by technology ignorant man power. And yet, MIB depends upon persons with only Prasar Bharati background to enforce addressable wireline TV broadcasting.

A42.4 Cable TV is ONE point to multi-point RF transmission over wireline medium, TWO is required to be addressable, THREE has a statute and FOUR yet it is NOT accorded the status of Broadcast to be a Central Govt subject.

A42.5 There is a need to lay down minimum qualifications for employment in Cable TV business in all aspects. Required training facilities need to be created in the DIGITAL INDIA syndrome envisaged by the Hon'ble Prime Minister.

