BY EMAIL TO pradvbcs@trai.gov.in | vk.agarwal@trai.gov.in

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Shri. Sudhir Gupta
Secretary TRAI
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawaharlal Nehru Marg
New Delhi: 110 002

Reference: CASE FOR SCARPING OF THE PROPOSED DRAFT TELECOMMUNICATION (B&CS) 8TH (Addressable Systems) TARIFF ORDER

Dear Sir,

1. At the outset, it is submitted that Schedule II proposing the Price Cap is fundamentally flawed as nothing relevant has been considered by TRAI before proposing the same. The end Consumer (Viewer) interest has been ignored who is the biggest stakeholder and bear the entire burden of Tariff Order.
2. The 20 % margin proposed for distributor (DPOs) and last mile operators is not sufficient to adequately service the last mile consumers, where as in FMCG market the distributors margins are anywhere between 45 to 55 %. This important aspect has been completely ignored for reasons best known to them.

3. The proposed 8th Tariff Order is against the judgement dated 28.04.2015 rendered by Hon'ble TDSAT in Appeal No. 01/2014, wherein Telecom Regulatory Authority of India (TRAI) was directed to consider relevant factor including the cost of providing the service and to come out with the cost based tariff .The said judgement was also confirmed by the Hon'ble Supreme Court of India .The proposed tariff order nowhere even refers to the cost based tariff and not even a single effort has been made in this direction. The cost based tariff is desirable,since it ensures fair pricing and preserves the return on investment. Broadcasting is anatural monopoly and administered price is the most desirable regulatory regime. Broadcasting is a platform based economy having network impact, where

the cost of providing the service decreases with every next addition of a consumer.

4. Various methods of administered pricing have been recognized by the regulators across the world including the method of ‘Long Run Marginal or Average Cost’. However, TRAI miserably failed in arriving at ‘Cost Based Tariff’ and the proposal thereof. The price cap arrived on the basis of average RIO ratesis incorrect because the rates as alleged to be prevailing are unrealistic and agreements were not executed on that basis. Hence, entire basis to arrive at Schedule II- cap on MRP is flawed. In fact, the agreements were arrived at between the parties almost at 80% of such RIO rates declared by the broadcasters. The proposed draft confers legitimacy on such unrealistic prices, causing steep increase in the price of the service.

5. No exercise is undertaken by TRAI in arriving at the proposition that the Maximum Retail Price (MRP) of High Definition (HD) Channels shall not exceed three times the MRP of corresponding channel transmitted in Standard Definition (SD) format. Such format of compression is not three times higher in cost but increases only marginally. Hence, it is unjustified to even propose such relationship between the pricing of the HD and SD channels. There is hardly any difference in cost. TRAI did not carry out any exercise to justify such price proposition.

6. Broadcasters are given complete freedom of declaring any channel as premium channel. The justification for the same, given in the explanatory memorandum is vague and fictitious and only a gate passes to fleece consumers.

7. There is no justification provided in the proposed 8th Tariff Order for providing Rs. 130/- (Rupees One Hundred and Thirty Only) plus 20% GST for 100 channels (FTA). The cost of taking additional bouquet increases manifold. There is no justification given by TRAI to reach such conclusion.

8. The proposed Tariff Order when read with the proposed interconnection regulation gives the impression that 35% maximum discount can be given which is nothing but the price maintenance and is detrimental to consumer interest. In addition, the discount of 15% in the form of bouquet of the A-al-

carte channels is also price maintenance. Such conditions distort market and cause burden on the consumers.

9. The regime itself is not clear when 15% is the maximum discount and 20% is the minimum distribution fee. The language of the proposed clauses is vague.

10. The geographical variation in pricing is discriminatory and liable to be set aside. The consumers can't be discriminated in such manner.

11. The TRAI should have proposed price of not more than Re. 1 (Rupee One Only) for cloned channels, if they are advertisement free, otherwise must be made Free-to-view.

12. In such circumstances, it is clear that TRAI has completely abdicated its duty to bring by way of proposition 'cost based tariff' and to have considered consumer viewpoint. The proposed Tariff Order is arbitrary and illegal and most absurd from any stand point and more particularly against the interest of the consumers, which is liable to be scraped.

Thanking You

Yours Sincerely

Neeraj Sharma
Industry observer (Broadcasting and cable expert)
M: +91 9811735937
E: neerajsharma1401@gmail.com