PHD CHAMBER
OF COMMERCE AND INDUSTRY
VOICE OF INDUSTRY AND TRADE

Dr. Ranjeet Mehta
Executive Director

October 16, 2023

Subject: Comments on the Consultation Paper “Review of Regulatory Framework for Broadcasting and Cable Services” dated 08.08.2023

Dear Sir,

The PHD Chamber of Commerce and Industry (PHDCCI) welcomes the opportunity to submit its comments on the consultation paper on “Review of Regulatory Framework for Broadcasting and Cable Services” released on 08.08.2023.

The broadcasting and cable sector, being the backbone of the nation's information dissemination system, plays a pivotal role in shaping public opinion and providing entertainment to millions. Thus, its regulatory framework is of paramount importance not only for the industry but also for the country.

1. **Equitable Regulations**: The broadcasting industry thrives on diversity, with a plethora of channels catering to different tastes, cultures, and languages. The DPO industry on the other hand is characterized by intense competition among numerous service providers using diverse technologies to provide services to their customers. It is crucial that the regulatory framework ensures a level playing field for all, irrespective of their size, market dominance, or their position in the broadcasting and cable services value chain.

2. **Avoidance of Heavy-Handed Rate Regulation**: While we understand the need for a regulatory framework to protect consumer interests, the heavy-handed approach towards rate regulation, disproportionately applied on one set stakeholders in the value chain would stifle the growth off this industry. Price capping, if too stringent, can undermine the quality of content and deter investments in new technologies. Instead, we advocate for a balanced approach, where the pricing remains competitive, yet broadcasters and DPOs have the flexibility to price their offerings based on the value they bring to their respective customers.

While we appreciate the need for regulation, it should be it should be framed with the long-term growth and sustainability of the industry in mind. An over-regulated framework, disproportionately applied on one set of stakeholders would stifle innovation and deter investments, leading to a decline in the quantum and quality of content available to the Indian audience.

We thank you for considering our comments and hope that this consultation will foster a conducive environment for the growth of the broadcasting and cable services industry in India.

Please find attached the comments from the members of PHDCCI as per the Annexure A

Warm Regards,

Dr. Ranjeet Mehta
(Executive Director)

To,
Shri Anil Kumar Bharadwaj,
Advisor (B&CS),
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Sadan,
New Delhi

“Voice of Industry & Trade”

PHDCCI COMMENTS ON TRAI CONSULTATION PAPER ON REVIEW OF REGULATORY FRAMEWORK FOR BROADCASTING AND CABLE SERVICES DATED 8TH AUGUST 2023

For over a century, the PHD Chamber of Commerce and Industry (PHDCCI) has served as a pivotal force in advancing Indian industry, trade, and entrepreneurship. As a forward-thinking, proactive PAN-India organization, PHDCCI collaborates closely with both industry and government, establishing robust national and international linkages, and operating effectively at the grassroots level. Representing more than 150,000 enterprises spanning large, medium, and small sectors, PHDCCI harnesses its extensive legacy and profound sectoral knowledge to elevate the Indian economy.

Further extending our advocacy, as the unified voice of several broadband providers, cable operators, and other stakeholders in the Indian broadcasting domain, we present below our perspectives on the revision of the regulatory framework for broadcasting and cable services, and address the crucial concerns outlined by the Authority.

HEAVY RATE REGULATION IN BROADCASTING AND CABLE SERVICES NEGATIVELY IMPACTS THE FINANCIAL SUSTAINABILITY AND THE FUTURE OF THE SECTOR

The broadcasting and cable services sector experiences substantial rate regulation. Upon closer inspection, there is a noticeable discrepancy in how this regulation affects different players in the industry.

Distribution Platform Operators (DPOs), despite functioning in a fiercely competitive environment with various technologies and numerous service providers nationwide, are subjected to extensive regulation. Virtually every element of their pricing model, from Network Capacity Fees to ancillary charges like installation fees, is strictly controlled. This regulation is extensive despite the sector's competitive nature and the multitude of technologies and providers available.

On the other hand, broadcasters seem to enjoy a greater degree of fiscal autonomy. They face little to no rate regulation, granting them more flexibility in pricing. This freedom exists even though concerns have been raised about the content monopoly broadcasters hold and their potential misuse of this power in the marketplace.

This regulatory imbalance could distort competition and fairness within the broadcasting ecosystem. It's crucial to recognize this discrepancy and contemplate strategies that distribute regulatory responsibilities equitably among all parties.

In highly competitive sectors, rate regulation might be counterproductive. Market forces in such environments naturally set prices, ensuring they align with production costs and perceived value. Rate regulation can skew these market signals, potentially causing resource misallocation and inefficiencies. It can also hinder innovation, as DPOs might have reduced motivation to invest in novel technologies with uncertain returns due to capped prices. Additionally, such regulations can deter potential new market entrants, diminishing the sector's dynamism.

PHD House, 4/2 Siri Institutional Area, August Kranti Marg, New Delhi - 110 016 (India) • Tel. : +91-11-2686 3801-04, 49545454, 49545400
Fax : +91-11-2685 5450 • E-mail : ranjeetmehta@phdcci.in / ed@phdcci.in • Website : www.phdcci.in, CIN: U74899DL1951GAP001947

While rate regulation has a role in specific sectors, especially where competition is limited, it should be applied judiciously in competitive industries like the DPO sector. A balanced approach is necessary, ensuring that both DPOs and broadcasters are regulated reasonably and equitably, taking into account market power and monopolistic tendencies where they exist.

THERE ARE GRAVE COMPETITION CONCERNS STEMMING FROM THE APPLICATION OF DIFFERENTIAL & FAVOURABLE REGULATIONS ON GOVERNMENT OWNED DD FREE DISH

Another notable regulatory disparity emerges when comparing the treatment of DD Free Dish with other DPOs.

Unlike its counterparts, DD Free Dish, owned by Prasar Bharti, operates under a significantly more lenient regulatory environment. Key regulations like tariff orders, interconnection, and quality of service regulations that bind private DPOs do not apply to DD Free Dish.

This platform offers pay channels without subscription fees, deriving its revenues instead by charging broadcasters for platform placement. Utilizing an auction-based system, DD Free Dish capitalizes on its revenue by offering channel slots to the top bidders. With a substantial subscriber base of 45 million, it provides broadcasters with a vast audience, enhancing their advertising earnings.

DD Free Dish's distinct and largely unrestricted business model offers it multiple competitive edges, disrupting market dynamics. While other DPOs navigate a web of rate regulations, DD Free Dish has the freedom to explore and implement innovative revenue models, putting competitors at a disadvantage and leading to concerns about fairness in regulatory enforcement.

A key distinction lies in bandwidth allocation. DD Free Dish employs a profitable auction system, assigning bandwidth to the highest-valued broadcasters. In contrast, private DPOs must adhere to a "first come, first serve" mandate. Although seeming equitable, this model can be inefficient, potentially allocating bandwidth to swift-acting broadcasters rather than those offering the most value or revenue potential.

This evident regulatory divide raises questions about the underpinning rationale, especially given its impact on sector competitiveness and economic dynamics. For a balanced broadcasting environment, it's essential to ensure a uniform and transparent regulatory structure for all entities, regardless of their ownership or affiliation

A REVIEW OF THE REGULATORY FRAMEWORK IS URGENTLY WARRANTED – FRAMEWORK MUST ENSURE REGULATORY PREDICTABILITY IN A DYNAMIC AND EVER EVOLVING SECTOR WITH A DIVERSITY OF SERVICE PROVIDERS

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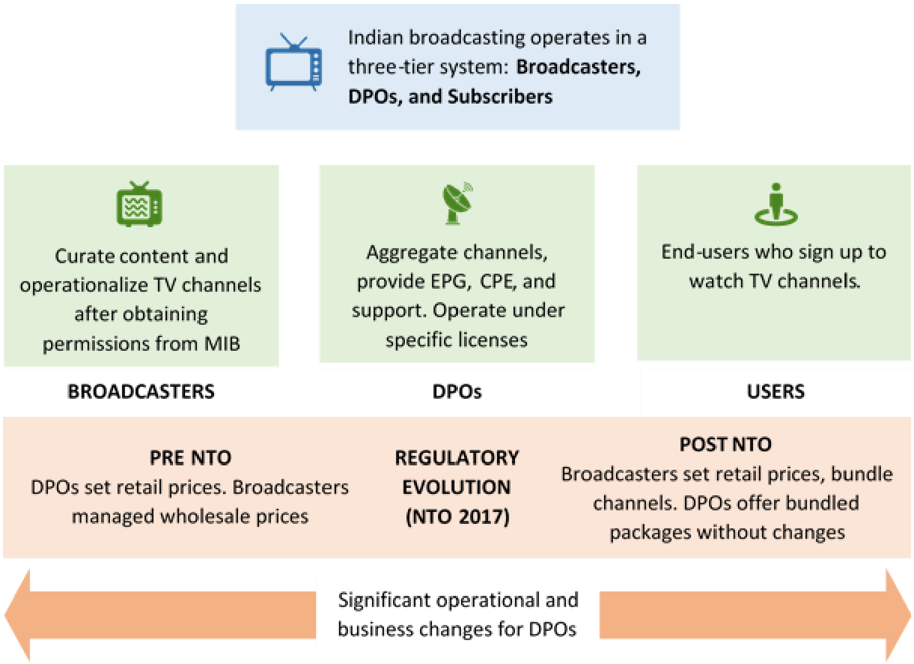
The Authority's initiative to re-assess the broadcasting and cable services regulatory framework is laudable, especially in light of the recent transition from NTO 1.0 to NTO 3.0. The adjustments within the New Tariff Order (NTO) seem to have emerged from a segmented consultative approach, focusing on isolated components rather than the entire regulatory framework. Consequently, this has resulted in an ambiguous framework, causing confusion regarding the roles and responsibilities of Distribution Platform Operators (DPOs) vis-à-vis broadcasters. This change diverges from long-standing commercial practices, leading to more complex negotiations between DPOs and broadcasters.

Historically, prior to the NTO's implementation in 2019, the pricing structure in the broadcasting sector was clear-cut. DPOs determined their retail prices, while broadcasters had control over wholesale channel rates, in line with a licensing system that prevents broadcasters from directly offering TV channels to consumers. This setup ensured distinct roles, with broadcasters accessing the market mainly through DPOs.

The NTO's introduction marked a profound alteration. DPOs were redefined as essentially representatives of broadcasters. In this revised structure, broadcasters, not DPOs, began to dictate



individual TV channel prices, and DPOs reduced to obtaining commissions based on these rates. Even more notably, while still prohibited from directly interfacing with consumers, broadcasters now enjoy powers of setting retail prices and determining channel bundle compositions. This transformation has undeniably reconfigured the broadcasting sector, significantly shifting power dynamics and industry roles.

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ALLOWING ONE STAKEHOLDER CONTROL OVER THE PRICING DECISIONS OF ANOTHER INSTIGATES ECONOMIC INSTABILITY IN THE BROADCASTING AND CABLE SERVICES SECTOR

The implementation of the NTO in 2019 fundamentally altered the dynamics of the broadcasting sector, particularly affecting the operations of DPOs. Prior to the NTO, DPOs, leveraging their direct engagement with consumers, had the insight to discern consumer trends and preferences. This positioned them to design and price channel bundles aligned with market needs. However, with the NTO's advent, their autonomy dwindled, compelling them to present broadcaster-designed and priced bundles without alterations.

A significant concern emerging from this shift is the tactical behaviour demonstrated by certain broadcasters. Capitalizing on their augmented control over retail packaging and pricing, some have bundled high-demand channels with less popular ones, marketing these at hefty discounts. While superficially appearing consumer-friendly, this strategy is primarily aimed at inflating subscription figures to elevate advertising income.

Such cross-subsidizing manoeuvres, while outwardly harmless, bear predatory undertones. Broadcasters, by integrating low-demand channels into reduced-price bundles, indirectly impose these channels' costs on DPOs. Moreover, broadcasters' often inadequate market intelligence leads to discount strategies that don't genuinely represent the actual expenses and values linked to channel distribution. This incongruence has induced financial volatility for DPOs, jeopardizing their operational longevity.

In light of this, the prevailing arrangement, where broadcasters, essentially serving as wholesalers, determine retail rates, seems inherently defective. DPOs, due to their direct connection with end-users, are ideally placed to tailor raw channel content to match market preferences. To re-establish equilibrium and safeguard the broadcasting sector's future vitality, it's advised that broadcasters' ability to set retail channel and bouquet prices be limited. This adjustment would facilitate a more consumer-focused, effective, and fair market configuration.

We summarize our specific observations and recommendations below, before moving on to the specific issues raised by the Authority

1. Re-evaluate existing rate regulations in the broadcasting and cable services sector to ensure they are appropriate given the current market dynamics.

2. Reduce or eliminate rate controls for the DPO sector, given its intense competition and technological diversity, to prevent potential deterrents to innovation and market-driven pricing.

3. Reassess the distinct regulatory privileges enjoyed by DD Free Dish to ensure that all DPOs, irrespective of ownership, operate under a consistent and transparent regulatory framework.

4. Undertake a comprehensive review of the broadcasting and cable services sector to ensure regulatory predictability and address ambiguities introduced by the NTO.

5. Re-establish a balanced power dynamic between DPOs and broadcasters, ensuring that DPOs aren't positioned merely as agents, and broadcasters have appropriate limits on their authority.

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6. Restrict broadcasters from setting retail prices for channels and bouquets to prevent predatory cross-subsidization and ensure a balanced, consumer-centric broadcasting ecosystem.
7. Restore the autonomy of DPOs in curating and pricing channel bundles, recognizing their closer ties and understanding of consumer preferences

ISSUE WISE RESPONSES

Q1-Q6

PHDCCI RESPONSE

The NCF is but one component of the overall consumer tariff, and it is therefore advised, given the industry's competitive nature, that complete regulatory restraint be applied to retail tariffs. This implies that all facets of the consumer tariff, including profit margins on TV channel prices, should rest with the DPOs. Given their direct consumer engagement, DPOs are ideally positioned to gauge market tendencies and establish suitable retail pricing.

A crucial proposed change is to uncouple the retail channel price from the wholesale rate. Broadcasters, primarily functioning as wholesalers, should limit their pricing domain to the wholesale arena. Their involvement in setting consumer retail prices disrupts market equilibrium.

While regulations like the NCF ceiling aim to shield consumers, their pertinence needs assessment against a backdrop of robust market competition. With a plethora of players in the DTH, LCO, and IPTV spaces, intrinsic competition naturally curtails unjustifiable pricing, rendering regulatory caps superfluous. Additionally, acknowledging the diversity within the DPO sector is essential. Various DPO types, whether DTH, Cable, HITS, or IPTV, have unique network setups, resulting in different associated costs. Even within specific categories, costs can diverge based on factors like infrastructure, local challenges, and operational aspects.

Considering these intricacies, a universal price cap, particularly on aspects like network costs, could prove to be counterproductive. Such a broad approach neglects the individual challenges and expenditures of distinct DPOs, potentially hampering their profitability and sustainability.

However, should the Authority choose to continue applying regulatory price controls on NCF, the framework should introduce brackets for specifying its upper and lower limits, providing room for adequate flexibility. TRAI may follow indices for revision of these brackets based on indices (like CPI/WPI/GDP Deflator) to include the impact of inflation. This exercise can be done annually, while specifying the rate card. Flexibility should also be allowed to vary NCF between urban and rural areas as their demands differ and so do the prices of setting up the transmission network. [A1]

Multi TV Homes

For households with multiple TV sets, offering discounts on additional TVs is advisable. Broadcasters should restructure their wholesale pricing to accommodate a primary TV rate and a discounted rate for additional TVs within the same residence. Additionally, an interconnection billing mechanism

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should be established with broadcasters to reflect differential pricing for extra TVs in the same household.

Discount on MRP of Bouquets by DPOs

In a highly competitive DPO landscape, the rationale for regulating both the Maximum Retail Price (MRP) of bouquets and the extent of discounts is questionable. Competitive markets inherently guard against predatory pricing or practices detrimental to consumers. Without clear market failures, additional regulations might not only be unnecessary but could also hinder the market's organic operations.

Presently, broadcasters wield significant influence, and often categorize Free-to-Air (FTA) channels as paid ones in bundles, thereby bypassing carriage fees. The trend of bundling in-demand channels with less popular ones and offering these at sizeable discounts exacerbates the challenge. Such tactics disincentivize DPOs from selling channels individually, pushing them to promote bundled offerings.

For consumers, this translates into receiving channels they might not desire, but must accept due to bouquet structures and pricing. While this strategy benefits broadcasters by boosting subscription counts and subsequent advertising revenues, it fails to address authentic consumer preferences. The practice of pushing channels to consumers without direct costs warps market dynamics and introduces inefficiencies.

In summary, the primary concern is the broadcasters' unbridled authority in defining bouquet prices and structures. For a thriving, consumer-focused broadcasting sector, it's crucial to reassess the existing regulatory framework. A balanced distribution of power between broadcasters and DPOs, paired with regulations in tune with competitive market realities, is essential for a more balanced and consumer-oriented broadcasting environment

Q7

PHDCCI RESPONSE

Using Mbps as the sole metric for channel carrying capacity fails to consider the diverse technologies and methods employed by DPOs. With advancements in transmission and compression technologies, the effective channel capacity for a given Mbps bandwidth can vary widely among DPOs. As such, a singular, Mbps-based metric may inadvertently disadvantage certain DPOs, especially those using more efficient technologies, and distort market dynamics.

The 'first come, first serve' policy for channel carriage, the status quo among DPOs due to the regulatory framework, is another area that could benefit from a more market-oriented approach. While this policy may seem straightforward and fair, it doesn't necessarily optimize the utilization of the limited and valuable bandwidth DPOs possess. A market-based mechanism, such as the auction or bidding policy, would ensure that bandwidth is allocated to broadcasters who value it the most and are willing to pay a premium for it. The adoption of such a policy by DD Free Dish underscores its viability and potential benefits. Additional concessions should be given to MSMEs in this regard.

Allowing DPOs to allocate their carriage capacity through transparent market-based mechanisms would help them ensure their bandwidth is used efficiently, maximizing both economic return and consumer value. Additionally, a market-driven approach levels the playing field, ensuring all broadcasters have an equal opportunity to secure bandwidth based on their willingness to pay.

Moreover, putting carriage charges under complete forbearance would further empower DPOs, allowing them to set rates that reflect the true market value of their services.

Q8

PHDCCI RESPONSE

As noted above, there is sufficient competition in the DPO market to justify the removal of regulatory controls on retail tariffs, and we believe there is little to no public interest in the regulation of NCF.

Q9

PHDCCI RESPONSE

No Comment

Q10

PHDCCI RESPONSE

Mandating DPOs to carry specific channels, whether they're Free-to-Air, Non-News, or Newly Launched, ostensibly for the purpose of public service, is problematic for several reasons. While public service broadcasting has its place, it is essential to differentiate between genuine public service content and channels that, while branded as such, operate primarily for commercial gain. Private broadcasters, in their quest for larger audiences and higher advertisement revenues, should not expect DPOs to carry their channels without appropriate compensation.

DPOs operate within tight economic constraints, balancing bandwidth costs, content acquisition charges, and consumer subscription fees. Forcing them to carry channels without appropriate compensation would further strain their already delicate financial balance.

Mandating the carriage of specific channels, without a clear and compelling public interest rationale, could have unintended negative consequences for the industry as a whole.

PHD House, 4/2 Siri Institutional Area, August Kranti Marg, New Delhi - 110 016 (India) • Tel. : +91-11-2686 3801-04, 49545454, 49545400
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Q11-Q12

PHDCCI RESPONSE

As highlighted in the introduction to this response, all regulatory controls applicable to DPOs generally, should also be applied to DD Free Dish, by virtue of the fact that it too is a DPO. The differential set of rules and regulations applied on DD Free Dish accord it an artificial advantage over its peers in the broadcast and cable services value chain.

Furthermore, when a broadcaster designates a channel as a "pay channel" for a particular set of DPOs, but offers it as Free-to-Air (FTA) for another set of DPOs, such as DD Free Dish, it disrupts the level playing field.

Prasar Bharti's "Free Dish" is, by its operational nature, a DTH operator. It employs the DTH platform to deliver television channels to its subscribers. Given this, Regulation 3(2) of the Interconnect Regulations explicitly stipulates that a broadcaster cannot discriminate between different distributors of television channels. This regulation ensures that all DPOs, irrespective of their size, reach, or ownership structure, are treated on an equal footing by broadcasters. The regulation states the following

“(2) Every broadcaster shall, within sixty days of receipt of written request from a distributor of television channels for obtaining signals of television channel or within thirty days of signing of interconnection agreement with the distributor, as the case may be, provide, on non-discriminatory basis, the signals of television channel to the distributor or convey the reasons in writing for rejection of the request if the signals of television channel are denied to such distributor:”

Therefore, when a channel is designated as a "pay channel", this classification should remain consistent across the board. It shouldn't be the case that the channel is deemed "pay" for one DPO and "FTA" for another. Such inconsistencies not only undermine the regulatory framework but also pose challenges for DPOs in crafting their offerings and pricing strategies.

To maintain the integrity of the broadcasting sector, ensure fair competition, and uphold consumer interests, it is imperative that channels maintain their designated status (be it "pay" or "FTA") consistently across all DPOs. The regulatory framework should be enforced stringently to prevent any form of discriminatory practices and ensure a harmonious and competitive broadcasting landscape.

Q13

PHDCCI RESPONSE

DD Free Dish is unique in the broadcasting & cable services realm due to its non-addressable nature. This is in contrast to the broader cable industry, which was mandated to shift to an addressable system, raising questions about the consistency of regulations. It's crucial to ensure a level playing

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field among all DPOs for various reasons. Firstly, a consistent regulatory framework promotes fairness, preventing any single entity from having an undue advantage. Secondly, the shift to an addressable system is technologically feasible. Numerous DPOs have successfully adopted addressable systems, using technologies tailored for the Indian market. This shows that making DD Free Dish addressable is not only achievable but also practical.

Furthermore, an addressable system can enhance the consumer experience. It provides better customization, allows for tailored content packages, and improves overall service quality. Given the competitive nature of the DPO market in India, consumers can choose from a wide range of options, many of which are competitively priced. Some DPOs even bear the cost of set-top boxes to entice new customers. By becoming addressable, DD Free Dish can also be more agile in responding to market demands. This adaptability includes adopting flexible pricing strategies, curating content based on consumer needs, and forging strategic alliances with broadcasters.

Q14-Q16

PHDCCI RESPONSE

In the event of an amendment to the RIO by the broadcaster, it is essential to maintain the option for the DPO to continue with the unamended RIO agreement. This option should be upheld for several significant reasons. The principle of non-discrimination and ensuring a level playing field among all service providers is a fundamental tenet of the New Regulatory Framework. Allowing DPOs to choose whether to continue with the unamended RIO agreement or accept the amended terms aligns with this principle, preserving fair competition in the market. Secondly, it is crucial to safeguard the interests of consumers. DPOs and broadcasters sign agreements based on the terms and conditions of the existing RIO. Disallowing DPOs the choice to continue with the unamended RIO would be fundamentally unfair and could disrupt their business operations. This, in turn, might lead to adverse consequences for the end consumers who rely on these services.

Q17-Q18

PHDCCI RESPONSE

The Electronic Program Guide (EPG) is a central component of the viewer experience, acting as a digital roadmap to the myriad channels and programs available. The way in which this guide is structured and presented is, at its core, a strategic decision made by DPOs.

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The digital age has brought with it a plethora of platforms where content is curated and presented to users, from streaming apps to news websites. In nearly all these cases, platform operators have the discretion to organize content based on various factors, including promotional agreements. The debate around regulating EPG channel placement therefore has implications on business autonomy, market dynamics, and consumer choice.

While EPG placement can influence channel visibility, it's a misconception to equate it directly with popularity. Ultimately, content is king. Viewers seek out high-quality content, regardless of its placement on an EPG. A channel's success is more closely tied to its programming quality than its EPG position.

Just as broadcasters have the discretion to sequence their programs and ads, DPOs should be afforded the same autonomy in structuring their EPGs. This is a fundamental aspect of their business operations, allowing them to differentiate themselves in a competitive market.

Over-regulation in areas like EPG placement risks descending into micromanagement, where regulators dictate the minutiae of DPO operations. This not only burdens DPOs with compliance challenges but also risks stifling innovation and responsiveness to consumer demands.

Q19

PHDCCI RESPONSE

The relationships between MSOs and Cable Operators are grounded in both collaborative and competitive dynamics, and should be free from mandated agreements. The cost structures for MSOs and Cable Operators are fundamentally different, reflecting their distinct roles in the broadcasting value chain.

As entities that aggregate and distribute television channels from broadcasters to LCOs, MSOs incur substantial infrastructure-related expenses. These include investments in headends (central facilities for receiving broadcast signals), content acquisition costs, and charges related to long-distance bandwidth, especially for national distribution. The scale, design, and geographic reach of their networks further influence their cost structures.

Operating at the local level, Cable Operators face costs related to the last-mile delivery of content to end consumers. Their expenses are influenced by factors like RoW charges, maintenance of local cable infrastructure, and customer service operations. The extent and density of their operational area play a significant role in determining their costs.

As of now, there is no regulatory directive that necessitates MSOs and LCOs to form partnerships. Their alliances are based on business interests, market considerations, and strategic alignments. Introducing binding revenue-sharing guidelines could disrupt these organically formed relationships.

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Additionally, given the diversity in operational costs among DPOs, a standardized revenue-sharing guideline might not accurately reflect the economic realities of either party. Currently, a revenue share framework between MSOs and LCOs is in place, which has been mutually agreed upon by both parties. This arrangement has been effective, with no significant disputes reported regarding revenue-sharing between the two entities. Introducing new guidelines could unsettle this equilibrium, leading to potential conflicts.

The broadcasting distribution sector is currently grappling with challenges, including market downturns and evolving consumer behaviours. Amidst this backdrop, introducing mandatory revenue-sharing guidelines could further disrupt the market, causing unnecessary upheaval at a time when stability is essential.

Q20-Q22

PHDCCI RESPONSE

The TRAI regulation of the carriage fee limits DPOs potential to monetize their assets. While broadcasters enjoy the freedom to determine their channel prices, DPOs are restrained from setting a carriage fee that reflects their substantial infrastructure investments. This inconsistency not only affects their revenue but also disrupts market dynamics. Interestingly, TRAI's stipulated carriage charges are even less than those of DD Free Dish, a public broadcasting platform. This discrepancy further disadvantages private DPOs.

Additionally, the NTO has given broadcasters the power to set retail channel prices, essentially stripping DPOs of their fundamental right to price their services. DPOs possess keen insights into consumer behavior and market dynamics. However, the lack of pricing control diminishes their responsiveness to market shifts and consumer needs. The transition of many channels from Free-to-Air (FTA) to paid status after the NTO, effectively due to bundling with popular channels to dodge carriage fees, is a clear strategic play by broadcasters. This strategy has negative repercussions for DPOs and the broader ecosystem. DPOs not only miss out on carriage fee revenues but may also overpay for channels with limited demand. This results in resource misallocation and inflated costs for consumers.

Given the challenges DPOs face, a revision of the regulatory framework is imperative. This revision should aim for:

1. **Business Flexibility for DPOs**: They should have the freedom to set carriage fees in line with market norms, comparable to DD Free Dish. This ensures parity and allows DPOs to monetize their services adequately. Moreover, a shift from a 'first come, first serve' model to a transparent and strategic channel selection mechanism would empower DPOs to tailor their offerings based on market demand.

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2. **Protection of Smaller Broadcasters**: To safeguard content diversity, particularly from smaller broadcasters with potentially significant public content, a reserved capacity can be implemented. This ensures their inclusion on DPO platforms. Pricing for this segment should be based on a percentage of the market-determined carriage fee, making it affordable for these broadcasters.
3. **Rationalizing Subscription Prices**: Broadcasters should be deterred from pricing their less-demanded channels too high. This not only skews market dynamics but also takes up DPO bandwidth that could be allocated to more in-demand channels. The "Must Carry" provision should prioritize Free-to-Air (FTA) channels, preventing bandwidth hogging by paid channels with limited demand.
4. **Revisiting the "Must Provide" Regime**: Measures should be in place to prevent broadcasters from overwhelming DPO platforms with low-demand channels. Limiting the carriage RIO to only FTA channels will allow DPOs to better manage their bandwidth and curate content in line with consumer preferences

Q23

PHDCCI RESPONSE

The RIO is not meant to replace or supersede bilateral negotiations but to provide a framework if negotiations stall. If a DPO doesn't find the terms of a broadcaster's RIO favorable, the broadcaster can choose to declare its channel as Free-to-Air (FTA) and opt for the carriage terms set out in the DPO's RIO, and vice versa.

It is a misconception that every channel must be available on all platforms. Even in the current landscape, not every channel is accessible across all platforms, reflecting the outcome of individual commercial negotiations. It is crucial to recognize that both parties have the autonomy to decide on the channels they wish to offer or carry based on commercial considerations and consumer demand.

Regulatory intervention should be limited and reserved for exceptional circumstances where it's deemed necessary for the public interest. A blanket imposition of constraints on DPOs could disrupt market dynamics, placing them at a disadvantage relative to broadcasters. Such impositions would also contravene the principles laid out in the Constitution of India, particularly Article 14 (Equality before Law) and Article 19 (Protection of certain rights regarding freedom of speech, etc.).

Q24-Q26

PHDCCI RESPONSE

PHD House, 4/2 Siri Institutional Area, August Kranti Marg, New Delhi - 110 016 (India) • Tel. : +91-11-2686 3801-04, 49545454, 49545400
Fax : +91-11-2685 5450 • E-mail : ranjeetmehta@phdcci.in / ed@phdcci.in • Website : www.phdcci.in, CIN: U74899DL1951GAP001947

Charges like the Network Capacity Fee (NCF) are not primarily revenue-generation tools for DPOs. Given the competitive landscape, these charges are more about recovering specific operational costs and discouraging potential misuse by consumers. Imposing a ceiling on such charges assumes that without regulation, DPOs would exploit consumers, but the hypercompetitive nature of the market itself serves as a natural check against such exploitation.

Given the market dynamics, it would be wise to exercise forbearance on regulating the quantum of these charges. Instead of dictating the exact amounts, the regulatory focus should shift towards ensuring transparency. To accomplish the same, DPOs may be mandated to clearly publish these charges as part of their retail tariff packages would ensure consumers are informed and can make choices based on full knowledge of costs. However, the exact amount of these charges should be left to the discretion of the DPOs.

On the issue of the price to be displayed in the EPG, the Distributor Retail Price (DRP) is the only relevant price to help consumers make informed choices about which channels to subscribe to base on their preferences and budget. It is in fact the price at which they subscribe to a particular channel. Hence, it makes sense to display only this price on the EPG, as it directly pertains to the consumer's decision-making process.

Q27-Q32

<u>PHDCCI RESPONSE</u>

No Comments.

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