SITI Saistar Digital Media Pvt. Ltd.

Comments on Trai's Consultation Paper

on

"*Review of Regulatory Framework for Broadcasting and Cable Services*"

A. Tariff related issues

Q1. Should the present ceiling of Rs.130/- on NCF be reviewed and revised?

a. If yes, please provide justification for the review and revision.

b. If yes, please also suggest the methodology and provide details of calculation to arrive at such revised ceiling price.

c. If not, provide reasons with justification as to why NCF should not be revised.

d. Should TRAI consider and remove the NCF capping?

OUR Response: - We strongly support removal of capping on NCF (Network Capacity Fee). It is imperative to dispel the erroneous notion formed by the Authority that NCF represents a one-time expense. In reality, NCF not only capital but also various operational expenses, which inter-alia includes, Network Repair and Maintenance, Rent of the premises, staff salary, Depreciation etc.

In stark contrast to a one-time capital expense, these operational costs do not remain static but undergo an annual increase. This continual escalation necessitates periodic adjustments to the NCF to uphold the sustainability and efficiency of the network. These expenses underscore the need for flexibility in determining the NCF. It is really difficult to distribute large number of channels and provides the service at such a low price.

In light of the aforementioned factors, we strongly propose for the removal of any limitations on NCF and MSOs should be empowered to determine their NCF rates, aligning with the dynamic nature of operational expenses and market condition and create parity with the freedom given to the broadcasters.

Q2. Should TRAI follow any indices (like CPI/WPI/GDP Deflator) for revision of NCF on a periodic basis to arrive at the revised ceiling?

If yes, what should be the periodicity and index? Please provide your comments with detailed justification.

OUR Response: - Since we are suggesting complete forbearance and removal of caping on NCF, this does not require any comment.

Q3. Whether DPOs should be allowed to have variable NCF for different bouquets/plans for and within a state/ City/ Town/ Village? If yes, should there be some defined parameters for such variable NCF? Please provide detailed reasons/ justification. Will there be any adverse impact on any stakeholder, if variable NCF is considered?

OUR Response: - The determination of the Network Capacity Fee (NCF) is not significantly influenced by specific bouquets or plans tailored for individual states, cities, towns, or villages.

Instead, the NCF represents the aggregation of capital and operational expenditures, hence having variable NCF would complicate the situation.

We therefore suggest that there should be same NCF all across the country.

Q4. Should TRAI revise the current provision that NCF for 2nd TV connection and onwards in multi-TV homes should not be more than 40% of declared NCF per additional TV?

a. If yes, provide suggestions on quantitative rationale to be followed to arrive at an optimal discount rate.

b. If no, why? Please provide justification for not reconsidering the discount.

c. Should TRAI consider removing the NCF capping for multi TV homes? Please provide justification?

OUR Response: - The decision to reconsider the existing provision concerning Network Capacity Fee (NCF) for 2nd TV connections is a complex matter with far-reaching implications encompassing revenue dynamics, market conditions, and regulatory equilibrium. Moreover the DPOs are in tight conditions to survive in the business, in such a situation giving discount in NCF would further lead to their bleeding.

It is suggested to remove NCF capping for multi-TV homes and potentially introduce a distinct and revised NCF structure tailored to this category of consumers. This approach recognizes the need for a more customized pricing mechanism to address the evolving landscape of multi-TV households, while also preserving regulatory fairness and industry sustainability.

Q5. In the case of multi-TV homes, should the pay television channels for each additional TV connection be also made available at a discounted price?

a) If yes, please suggest the quantum of discount on MRP of television channel/ Bouquet for 2nd and subsequent television connection in a multi-TV home. Does multi-TV home or single TV home make a difference to the broadcaster?
What mechanism should be available to pay-channel broadcasters to verify the number of subscribers reported for multi-TV homes?

b) If not, the reasons thereof?

OUR Response: -We would like to emphasize that if there are no discounts offered by the Broadcaster on multiple TV, then it cannot be offered to the subscribers by MSOs. MSOs cannot afford to offer discount on MRP from its own pocket. This parity in pricing principles aligns with the concept of fairness and equity in the regulatory framework. Hence if the discount on second TV is offered by the Broadcasters, the same may be extended to the subscribers.

Q7. Whether the total channel carrying capacity of a DPO be defined in terms of bandwidth (in MBPS) assigned to specific channel(s).

If yes, what should be the quantum of bandwidth assigned to SD and HD channels. Please provide your comments with proper justification and examples.

OUR Response : The channel carrying capacity is already established, we therefore suggest that the Authority should maintain the same in alignment with the regulations set forth in 2017. In the absence of a fixed criterion for assessing the bandwidth consumption of a channel, the logical approach is to consider it as a unit in terms of counting the number of channels. This methodology provides a practical and consistent means of managing channel capacity within the industry. It is therefore suggested to maintain the existing practices and provisions.

Q8. Whether the extant prescribed HD/SD ratio which treats 1HD channel equivalent to 2SD channels for the purpose of counting number of channels in NCF should also be reviewed?

a. If yes, should there be a ratio/quantum? Or alternatively should each channel be considered as one channel irrespective of its type (HD or SD or any other type like 4K channel)? Justify with reasons.

b. If no, please justify your response.

OUR Response: - We firmly believe that there is no Imperative need to review the currently prescribed HD/SD ratio. This ratio was originally formulated with meticulous consideration of the bandwidth consumption attributes associated with both Standard Definition (SD) and High-Definition (HD) content. In our view, this ratio remains steadfast and applicable, rendering any revisions unnecessary.

10. Should there be a provision to mandatorily provide the Free to Air News / Non-News / Newly Launched channels available on the platform of a DPO to all the subscribers?

a. If yes, please provide your justification for the same with detailed terms and conditions.
b. If not, please substantiate your response with detailed reasoning.

OUR Response: - The existing must-carry regulations for channels clearly establish the non-discriminatory rights of all the broadcasters (including the FTA Broadcasters) for carriage of channels on the platforms of all the DPOs hence imposing this kind of condition would not serve any purpose and rather may worsen the situation as unwanted channels may be imposed on the consumers but also put burden on the carrying capacity of DPOs. The cable TV sector is undergoing inequitable competition from unregulated Free Dish and OTT platforms and introducing this kind of provision (for carrying all FTA channels) would be unjust and unfair and burdensome for all the DPOs and also would affect the carrying capacity. It is therefore suggested that there should not be any such provision which would force the DPO to carry all the FTA etc. channels as mentioned in this question.

Q11. Should Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 be made applicable to non-addressable distribution platforms such as DD Free Dish also?

OUR Response : - Digitization and Addressability has been a great achievement for the Authority and all the stakeholders. The DPOs have put lots of investment and their hard work to establish the digitization and addressability so that the system should be smooth and without any flaws and deficiencies of analogue system.

This would aim at countering piracy, bringing transparency and remove the flaws of old analogue system, hence the authority should not allow any distributor platform to distribute the services in non-addressable mode.

Accordingly, either of the MSOs/Free Dish or any other distribution platform should not be allowed to offer unencrypted signals or in analog or non-addressable mode, which would not fail the addressability system and all the hard work of the authority, and all the stake holders would go in vain. concerns.

Hence, it is really necessary and imperative that all the distribution platform and especially Free Dish to encrypt its content and distribute its services in addressable mode and all the regulations of TRAI such as Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 must be made applicable to non-addressable distribution platforms including on DD Free Dish.

Q12. Should the channels available on DD Free Dish platform be mandatorily made available as Free to Air Channels for all the platforms including all the DPOs?

OUR Response : - The presence of some pay channels on the MSO platform being offered free of cost on Free Dish is creating dissimilarities and disparity and causing customers to shift from cable connections to DD Free Dish. To establish equity between both platforms, we propose that all the pay channels which are available as FTA on Free Dish should also be made accessible free of charge for cable TV viewers.

We strongly recommend that if a channel is distributed as Free-to-Air (FTA) on one distribution platform, it should be available to as FTA on all distribution platform, and if it's labeled as a paid channel, it should remain accessible only as a paid channel across all distribution platforms.

Q13. Whether there is a need to consider upgradation of DD Free Dish as an addressable platform? If yes, what technology/ mechanism is suggested for making all the STBs addressable? What would be the cost implications for existing and new consumers? Elaborate
the suggested migration methodology with suggested time-period for proposed plan. Please provide your response, with justification.

OUR Response : - As emphasized in our earlier responses, the imperative need to upgrade DD Free Dish into an addressable platform remains evident. All the DPOs have put their hard work in establishing the addressable systems and have been implementing the same for years, consequent upon which the broadcasting industry has become fully digital and addressable.

Hence Prasar Bharati should also strategize to evolve DD Free Dish into an addressable system, so as there is no leakage in the system. Notably, multiple mechanisms are already in place and have been used by other DPOs, such as Conditional Access System (CAS) and SMS, to facilitate the implementation of addressability should be used by Free Dish also.

The migration process can be methodically executed, whether on a region-wise, zone-wise, or state-wise basis, and holds the potential to be completed within a one-year timeframe. This approach ensures a seamless transition toward an addressable platform for DD Free Dish, aligning with industry standards and regulatory objectives.

Q14. In case of amendment to the RIO by the broadcaster, the extant provision provides an option to DPO to continue with the unamended RIO agreement. Should this option continue to be available for the DPO?

a. If yes, how the issue of differential pricing of television channel by different DPOs be addressed?

b. If no, then how should the business continuity interest of DPO be protected?

OUR Response: - In line with provisions of the Contractual laws, any amendment to agreements should be mutually agreed upon. Current Reference Interconnect Offers (RIOs) rightly allow broadcasters to propose changes that may or may not be accepted by Distribution Platform Operators (DPOs).

As prevalent in current scenario DPOs have a choice to either continue with the previous agreement with its validity or enter into the new amended RIOs of the broadcasters afresh. The same practice should not be disturbed as the DPOs would be able consider the benefits of the subscribers and will take the informed decision basis the suitability of channel price and its market viability.

Market forces will take care of differential pricing, if the new amendment is beneficial the DPOs would go for new one and if the existing one is more beneficial the DPOs would opt for existing one, there cannot be any exception to this and hence differential pricing may not arise

Hence let DPOs to choose to continue with existing agreements or adopt amended RIOs, keeping in mind the market response.

Q15. Sometimes, the amendment in RIO becomes expedient due to amendment in extant Regulation/ Tariff order. Should such amendment of RIO be treated in a different manner? Please elaborate and provide full justification for your comment.

OUR Response: - After the execution of the Reference Interconnect Offer (RIO), any modifications should only proceed with the consent of both parties. Nevertheless, if regulatory changes necessitate alterations to incorporate the changes as mandated by law, the same should be incorporated as per the provisions of law/regulations with the prior discussions with the

Distribution Platform Operator (DPO) so that there should be a smooth transition in accordance with the provisions of new regulations, and the same may be implemented smoothly and the amendment be carried on with the mutual consent of both the parties.

Q16. Should it be mandated that the validity of any RIO issued by a broadcaster or DPO may be for say 1 year and all the Interconnection agreement may end on a common date say 31st December every year. Please justify your response.

OUR Response: - The terms of the agreement should be flexible and left to the discretion of the parties involved. A standardized expiration date may not be practical, as one DPO deals with number of broadcasters and a common date for renewal and bringing change as per new RIO would not be possible and not be able to be implemented. Hence the existing practice to be continued which will otherwise unnecessarily create complexity and problems

17. Should flexibility be given to DPOs for listing of channels in EPG?

a. If yes, how should the interest of broadcasters (especially small ones) be safeguarded?

b. If no, what criteria should be followed so that it promotes level playing field and safeguard interest of each stakeholder?

OUR Response: - Yes, it is paramount that flexibility continues in the hands of Distribution Platform Operators (DPOs), as they possess a deep understanding of consumer preferences, especially regarding language and channel selection. With the presence of established regulations governing channel listings on Electronic Program Guides (EPGs), there is no inherent bias or discrimination. DPOs are well-equipped to decipher the nuanced choices and preferences of their subscribers, making it prudent to allow market dynamics to dictate channel placement without unwarranted regulatory intervention. Therefore flexibility should be given to DPOs for listing the channel in EPG.

Q18. Since MIB generally gives permission to a channel in multiple languages, how the placement of such channels may be regulated so that interests of all stakeholders are protected?

OUR Response: - There are cases where certain broadcasters provide multiple language feeds for the same channel and compel Distributors to carry these channels across all target markets. These conditions indirectly result in the requirement for multiple Logical Channel Numbers (LCNs) for a single channel in different states, significantly impacting DPOs with a presence in multiple states.

In light of this issue, we suggest that broadcasters to declare their primary language of transmission and the channel be placed under the same genre however a sub-genre may be given to the language.

Furthermore, we propose prohibiting broadcasters from imposing such conditions in their Reference Interconnect Offers (RIOs) whereby they indirectly control the EPG.

Q19. Should the revenue share between an MSO (including HITS Operator) and LCO as prescribed in Standard Interconnect Agreement be considered for a review?

a. If yes:

i. Should the current revenue share on NCF be considered for a revision?

ii. Should the regulations prescribe revenue share on other revenue components like Distribution Fee for Pay Channels, Discount on pay channels etc.? Please list all the revenue components along-with the suggested revenue share that should accrue to LCO.

Please provide quantitative calculations made for arriving at suggested revenue share along-with detailed comments / justification.

b. If no, please justify your comments.

OUR Response: - In the current challenging environment, where both MSOs and LCOs are struggling for their survival and maintain their revenues and subscriber base, it is not advisable to reconsider any aspect of the Interconnection Agreement between these parties.

The revenue-sharing framework between MSOs and LCOs has now been well-established, with no existing disputes. Making any changes in the existing arrangement (especially in revenue share) will disrupt the established system and market's equilibrium. Such disruptions could lead to the emergence of new disputes, particularly during a period of significant challenges within the industry.

Therefore, we recommend the continuation of existing revenue-sharing agreements between LCOs and MSOs without the need for further review.

Q20. Should there be review of capping on carriage fee?

a. If yes, how much it should be so that the interests of all stakeholders be safeguarded. Please provide rationale along with supporting data for the same.

b. If no, please justify how the interest of all stakeholders especially the small broadcasters can be safeguarded?

OUR Response : - The current capping on carriage fees for Distribution Platform Operators (DPOs) restricts their revenue potential, making it difficult to sustain their operations. Unlike broadcasters, DPOs have limited income sources and all the sources are strictly regulated. Allowing DPOs the flexibility to set carriage fees in line with their business models can spur network expansion, providing consumers with more channel options and aiding smaller broadcasters.

Therefore, the Authority must be rethink for removal of capping on carriage fee.

Q21. To increase penetration of HD channels, should the rate of carriage fee on HD channels and the cap on carriage fee on HD channels may be reduced. If yes, please specify the modified rate of carriage fee and the cap on carriage fee on HD channels. Please support your response with proper justification.

OUR Response: - Reducing carriage fees for HD channels might not necessarily result in increased penetration. Instead, it is crucial for the Authority to highlight that carriage charges are not limiting the distribution of any HD channel.

Q22. Should TRAI consider removing capping on carriage fee for introducing forbearance? Please justify your response.

OUR Response: As previously mentioned, it is strongly advocated that TRAI takes steps to eliminate the capping on carriage fees, allowing market forces to determine these fees. This shift towards a market-driven approach can promote greater flexibility for Distribution Platform Operators (DPOs), enabling them to adapt to changing consumer preferences and industry conditions more effectively. Removing the cap on carriage fees is a strategic move that can enhance the overall competitiveness and innovation within the cable TV industry and would bring equilibrium.

Q23. In respect of DPO's RIO based agreement, if the broadcaster and DPO fail to enter into new interconnection agreement before the expiry of the existing agreement, the extant Interconnection Regulation provide that if the parties fail to enter into new agreement, DPO shall not discontinue carrying a television channel, if the signals of such television channel remain available for distribution and the monthly subscription percentage for that television channel is more than twenty percent of the monthly average active subscriber base in the target market. Does this specified percentage of 20 percent need a review? If yes, what should be the revised prescribed percentage of the monthly average active subscriber base of DPO. Please provide justification for your response.

OUR Response: The existing regulation raises concerns regarding self-discipline and fair business practices, as well as potentially conflicts with the Regulations that mandate a written interconnection agreement between broadcasters and Distribution Platform Operators (DPOs) for channel carriage. This situation becomes particularly problematic when agreements expire and are not renewed, potentially leading to disputes.

From our perspective, if an agreement is not renewed, the DPO should not be under obligation to continue carrying the channel. It is crucial to underscore that the absence of a written agreement between the DPO and broadcaster should release the DPO from any obligation to carry the channel on its platform. This principle should apply regardless of the channel's viewership percentage or the broadcaster's signal availability. Furthermore, it's essential to clarify that in the absence of a written agreement, neither the DPO nor the broadcaster should bear any financial liability towards each other. This approach aims to streamline and simplify the channel carriage process while ensuring that both parties adhere to clear and mutually agreed-upon terms.

Q24. Whether the extant charges prescribed under the 'QoS Regulations' need any modification required for the same? If yes, justify with detailed explanation for the review of:

a. Installation and Activation Charges for a new connection
b. Temporary suspension of broadcasting services
c. Visiting Charge in respect of registered complaint in the case of DTH services
d. Relocation of connection
e. Any other charges that need to be reviewed or prescribed.

OUR Response: Under the current regulatory framework, there exist caps on the charges mentioned above. It is submitted that the Authority eliminate these existing caps. Distribution Platform Operators (DPOs) are mandated to consistently provide these services, and in order to adhere to Quality of Service (QOS) Regulations, they must maintain an adequate workforce.

The persistent yearly increases in staff salaries, unforeseeable fluctuations in fuel prices, and other operational cost escalations necessitate periodic adjustments in pricing by DPOs. The imposition of caps on these charges places an additional burden on DPOs, compelling them to absorb these costs from their already constrained profits, and in certain instances, worsening their financial losses.

As a result, it is strongly advocated that TRAI seriously considers the removal of these caps on the aforementioned charges. This would grant DPOs the essential flexibility to adapt to fluctuating operational costs, thereby ensuring their financial viability and continued compliance with regulatory quality standards.

Q25. Should TRAI consider removing capping on the above-mentioned charges for introducing forbearance? Please justify your response.

OUR Response: Indeed, we strongly advocate for TRAI to take the decisive step of removing the existing caps on the charges mentioned above and transitioning toward a policy of forbearance. This approach would involve keeping these charges open-ended and subject to market dynamics, providing Distribution Platform Operators (DPOs) with the flexibility required to navigate changing operational costs and market conditions effectively. Such a move would contribute to a more responsive and sustainable regulatory framework in the cable TV industry.

Q26. Whether the Electronic Programme Guide (EPG) for consumer convenience should display

a. MRP only
b. MRP with DRP alongside
c. DRP only?

Justify your response by giving appropriate explanations.

OUR Response: It is advisable for the Electronic Programme Guide (EPG) to exclusively showcase the Maximum Retail Price (MRP) of channels. Broadcasters consistently declare and publicize their channels using the MRP, making it the most direct and comprehensible pricing information for subscribers. By displaying only the MRP, any potential confusion in the minds of subscribers can be effectively minimized, enhancing clarity in channel pricing.

Q27. What periodicity should be adopted in the case of pre-paid billing system. Please comment with detailed justification.

OUR Response: It is recommended that the current billing system of a 30-day cycle be kept unchanged. This billing practice has been embraced and accepted by all stakeholders within the industry. It has become a well-established and efficient system, and any alteration to the billing cycle could potentially disrupt its smooth operation, leading to unnecessary complexities.

Q28. Should the current periodicity for submitting subscriber channel viewership information to broadcasters be reviewed to ensure that the viewership data of every subscriber, even those who opt for the channel even for a day, is included in the reports? Please provide your comments in detail.

OUR Response: The current industry standard and prevailing practice of billing cycles should be upheld, as shifting to a daily reporting system would not only be cumbersome but could also result in unwarranted disputes. Furthermore, it's worth noting that the existing system is well-established and configured for data extraction on the 7th, 14th, 21st, and 28th of each month. Implementing any significant changes would necessitate substantial investments, which may not be economically viable.

Hence, it is advisable to maintain the status quo in this regard.

Q29. MIB in its guidelines in respect of Platform Services has *inter-alia* stated the following:

a. The Platform Services Channels shall be categorised under the genre 'Platform Services' in the EPG.
b. Respective MRP of the platform service shall be displayed in the EPG against each platform service.
c. The DPO shall provide an option of activation /deactivation of platform services.

In view of above, you are requested to provide your comments for suitable incorporation of the above mentioned or any other provisions w.r.t. Platform Services channels of DPOs in the 'QoS Regulations'.

OUR Response: In our view, there is no need to include the aforementioned provisions in the Quality of Service (QOS) Regulations. These provisions already exist within the legal framework and are in full force, making their duplication in the QOS Regulations unnecessary. Incorporating them into the QOS framework would not provide any added value but would only result in redundancy. Therefore, we recommend that these provisions should be excluded from the QOS Regulations.

Q30. Is there a need to re-evaluate the provisions outlined in the 'QoS Regulations' in respect of:

a. Toll-free customer care number
b. Establishment of website
c. Consumer Corner
d. Subscriber Corner
e. Manual of Practice
f. Any other provision that needs to be re-assessed

Please justify your comments with detailed explanations.

OUR Response: The provisions concerning the aforementioned issues have been thoughtfully formulated, widely accepted, and firmly established among all stakeholders. Consequently, there is no necessity for a reevaluation of these provisions. They have effectively governed the relevant aspects within the industry and are well-suited to the existing regulatory framework.

Therefore, it is advisable to maintain the status quo regarding these provisions.

Q31. Should a financial disincentive be levied in case a service provider is found in violation of any provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?

a. If yes, please provide answers to the following questions:

i. What should be the amount of financial disincentive for respective service provider? Should there be a category of major/ minor violations for prescription of differential financial disincentive? Please provide list of such violation and category thereof. Please provide justification for your response.

ii. How much time should be provided to the service provider to comply with regulation and payment of financial disincentive. and taking with extant regulations/tariff order?

iii. In case the service provider does not comply within the stipulated time how much additional financial disincentive should be levied? Should there be a provision to levy interest on delayed payment of Financial Disincentive?

1. If yes, what should be the interest rate?

2. In no, what other measures should be taken to ensure recovery of financial disincentive and regulatory compliance?

iv. In case of loss to the consumer due to violation, how the consumer may be compensated for such default?

b. If no, then how should it be ensured that the service provider complies with the provisions of Tariff Order, Interconnection Regulations and Quality of Service Regulations?

OUR Response:

Certainly, imposing financial disincentives for service providers in case of regulatory violations is a prudent approach.

A financial disincentive may be imposed if there is willful default and the default is not cured after sending proper notices. The classification of a defaults may be divided as major and minor based upon its gravity. For instance, distributing signals in analog mode or entering subscription fee deals on a fixed fee basis should be considered major defaults.

Service providers should be given a period of 15-30 days to cure the default and if the same is not cured then only it may be punished financially.

In cases where a violation results in losses for consumers, appropriate compensation should be provided to the affected consumers, covering the extent of loss they have suffered.

These measures serve as a robust framework to ensure strict adherence to regulations, discourage non-compliance, and safeguard the interests of both service providers and consumers within the industry.

Q32. Stakeholders may provide their comments with full details and justification on any other matter related to the issues raised in the present consultation.

OUR Response: TRAI should grant permission to Distribution Platform Operators (DPOs) to carry out consolidated audits in collaboration with their Joint Ventures (JVs) under the provision of DPO-caused Subscriber Audits, as outlined in Regulation 15(1) of the Interconnection Regulations 2017. This would streamline auditing processes, enhance efficiency, and facilitate comprehensive assessments while ensuring regulatory compliance.

****THE END****