

RESPONSE BY SITI NETWORKS LIMITED

With reference to

Consultation paper on Issues related to Interconnection Regulation, 2017

At the outset we are thankful to the Authority for its continuous indulgence in the issues pertaining to the growth of the broadcasting sector in the country. We appreciate the efforts put in by the Authority for deep diving into the issues being faced by the industry and initiating the process for regulating the same.

With respect to the present consultation paper on issues related to Interconnection Regulation, 2017, our response is as below;

Issues related to Target Market

- 1. Do you think that the flexibility of defining the target market is being misused by the distribution platform operators for determining carriage fee? Provide requisite details and facts supported by documents/ data. If yes, please provide your comments on possible solution to address this issue?***

Response: The Authority has given sufficient flexibility to the DPOs to declare the target market and DPO's according to their operational areas have declared the target market. However, it is not evident that target market is declared by the DPOs for determining the carriage fee. The authority has not published any numbers with respect to carriage deals done on the basis of target market which would have affected the broadcasters. As a matter of fact, even after declaring every state as target market, there are not enough takers of carriage fee based on regulatory provisions of the carriage fee. Hence any such assumption that target market is being used by the DPO's for determining the carriage fee is not a fact. The same fact can be ascertained from the carriage fee details submitted by the broadcasters to the TRAI.

2. **Should there be a cap on the amount of carriage fee that a broadcaster may be required to pay to a DPO? If yes, what should be the amount of this cap and the basis of arriving at the same?**

Response: No. there should not be any cap on the amount of carriage fee. The provision of 20 paisa per channel is a fair cap however there should not be any linkage to the penetration, wherein carriage fee is reduced by 25% of crossing every slab of 5% and the same should be done away with.

3. **How should cost of carrying a channel may be determined both for DTH platform and MSO platform? Please provide detailed justification and facts supported by documents/data.**

Response: Cost of carrying a channel is almost similar to each other for DTH and MSO's. For DTH operators, it is transponder cost and for MSOs it is bandwidth cost which itself is a huge recurring cost apart from the capital expenditure required for setting up the headend and manpower cost. Carriage fee should not be discriminatory for any platform as it gives the same advantage / disadvantage to the stakeholders.

4. **Do you think that the right granted to the DPO to decline to carry a channel having a subscriber base less than 5% in the immediately preceding six months is likely to be misused? If yes, what can be done to prevent such misuse?**

Response: No this has not been misused.

As there is a limitation of channels carrying capacity with the DPOs, this is one of the option given to the DPOs to replace the channels with any other channel of a broadcaster who is willing to carry its channel on DPO's network. This right is a legitimate right to the DPOs and also provide the opportunity to other channels who want to carry the channels on DPO's network. There are enough checks in the existing regulatory framework to ensure that the same is not misused by the DPO's and does not need any further regulation for the same.

- 5. Should there be a well defined framework for Interconnection Agreements for placement? Should placement fee be regulated? If yes, what should be the parameters for regulating such fee? Support your answer with industry data/reasons.**

Response: in the recent years the Authority has already put in place the regulatory framework for Tariff, Interconnection and Quality of Service in which placement fee has been left in forbearance. The industry is taking time to stabilize, and Authority must not make frequent changes in the settling environment. The LCN has been already regulated and there is no need to regulate the placement as of now. In any case broadcasters have taken away this right by linking additional 15% discount to the placement of channels which has caused major loss of revenue to the distribution platforms.

- 6. Do you think that the forbearance provided to the service providers for agreements related to placement, marketing or any other agreement is favoring DPOs ? Does such forbearance allow the service providers to distort the level playing field? Please provide facts and supporting data/documents for your answer(s)**

Response: No. We strongly disagree to the above observation and the placement is the only revenue stream left to the DPOs apart from the revenue share in the subscription and NCF. TRAI has already fixed the genre and placement of channels in the defined genre only. In fact while placing the channels in its genre, there will be some channels at the beginning, middle and end of the genre and in case such opportunity is being monetized by the DPO's without effecting the right and agreements of any other stakeholders, the same should not be objected to. The broadcaster would be seeking placement only if they can afford to pay for the placement and such placement is not a disadvantage for any other channel. Hence, in our opinion, in case a broadcaster has to popularize the content of its channel and is ready to pay for the placement of its channel in the preferred LCN, the same should be allowed.

- 7. Do you think that the Authority should intervene and regulate the interconnection agreements such as placement, marketing or other agreement in any name? Support your answer with justification?**

Response: Industry is taking its shape in view of the 2017 regulations and putting too much regulations at frequent intervals will stress the industry in terms of over regulations. Sufficient time should be given to the stakeholders to settle down in the changed environment and in case at a later date, the Authority feels the requirement of regulating such aspects, the same can be considered after 2/3 years.

8. How can possibility of misuse of flexibility presently given to DPOs to enter into agreements such as marketing, placement or in any other name be curbed? Give your suggestions with justification.

Response: As we have already submitted in earlier paras, regulating the industry based on few assumptions of misuse by the DPOs is not a great idea. It is only 6 months have passed after implementation of NTO out of which initial three months was also a settling time for the stakeholders. Any such conclusion based on such hasty assumptions and regulating the industry in such a short experience is a premature idea and should not be considered. In fact marketing and placement is merely a very less percentage of advertisement revenue being garnered by the broadcasters as a result of such placement.

9. Any other issue related to this consultation paper? Give your suggestion with justification.

Response: The DPOs do not have the level playing field viz-z-viz other stakeholders in this value chain. Prices of content is decided by the broadcasters and so is the discount offered to the platforms. Discount is also linked to the placement on LCN, which should not be the criteria for offering the discount. The placement is further linked to the penetration thus making placement revenue null and void for the platforms. Such conditions in the agreements are discriminatory and should be done away with. The Authority need to examine the interconnect agreements filed by the broadcasters and platform operators minutely for such inconsistencies.

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Date : 4th December 2019

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Sub: Submission on issues relating to Interconnection (DAS)

Sir,



Further to our earlier submission and consequent upon the Open House Discussion (OHD) held on 28th November 2019, we would like to submit as below;

1. Determining of Carriage Fee :

We were surprised to hear the fathoms views of some of the stakeholders in the OHD, which were not only impractical but also not in the true spirit of working in level playing field. In this respect we would like to reiterate that;

- a. Till date no Broadcasters has approached us to carry the channels despite our reminding them to enter into the carriage agreements, which clearly shows that Broadcasters are not willing to pay Carriage Fee to DPOs and payment of carriage fee has become only a misnomer and not even a single Carriage Agreement is signed between broadcaster and us.
- b. We would like to further place on records that we have declared a complete State and every state in which we operate as the target market and not combined two or more states to be declared as target market. Being fair on our side that the Broadcaster would be required to pay the carriage fee only for the State it wants to carry its channel and not for more than one states and if they so wish they can always opt for more than one market. This shows



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Advisor (B & CS-III)
Dy. No. 279/1857
Date 10/12/19

the fairness on our part so that the broadcasters is not be burdened for the subscriber base or for the place where it does not intend to distribute the channels.

- c. We intended to simplify the situation (hence declared the State as our target market) so that the new Regulation could take place smoothly.
- d. It is to be noted that the criteria for MSOs to define the Target Market is different from that of the DTH.
- e. The above shows the fairness and just approach on our part and proves that there is no misuse of any such freedom given to us. On the other hand, the Broadcaster did not co-operate with us and not signed even a single carriage agreement with us.

2. Cap On Carriage Fee :

We hereby reiterate that there should not be any cap on amount of carriage fee, as the provision of 20 paise per channel is a fair cap. Further there should not any linkage to the penetration wherein carriage fee is reduced by 25% of crossing every slab of 5% and the same should be done away.

3. Reduction of subscriber base less than 5%:

We strongly refute the perception being created that right granted to DPO to decline to carry channel having subscriber base less than 5% in preceding six months is likely to be misused.

In this respect we would like to submit that – it would be always advantageous for DPOs if penetration of broadcaster is less than 5%. As the more is the subscriber base the less is the carriage fee would be earned by DPO, hence it would be always in the interest of DPO to have lesser subscriber base else DPO would not get the carriage fee. By this it is evidently clear that the lesser number is always commercially viable for a DPO, then why would DPO refuse or misuse the same.

4. Should Placement Fee be Regulated:

With respect to this issue we would like to mention that the scenario is to be considered keeping in mind the Consumer choice, transparency and level playing field which is the intent of the issuing Regulation.

We would like to draw the attention of the Authority to the RIOs of the Broadcasters whereby they are indirectly forcing us to place their channels at the frequency of their aspirations and demand. Under the guise of incentives, they are forcing us to place the channels at the frequency they want and we as DPO are not able to ask the placement fee from the broadcasters. Consequent upon such forced clauses related to incentives in the RIOs of the Broadcasters, the concept of placement fee has become misnomer as the