

The following are the comments of M/s. USHODAYA ENTERPRISES PRIVATE LIMITED (TV DIVISION) broadcaster of 12 satellite channels popularly known as ETV-Network, on the issues posed for consultation by TRAI on Tariff issues relating to Cable TV Services in NON CAS areas. i.e., Consultation Paper no. 5 of 2010.

- 1. Are the figures in Annexure B3 representative for the different genres of broadcasters? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the genre, and not of your company.**
- 2. Are the figures in Annexure B5 representative for aggregators? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.**
- 3. Are the figures in Annexure B7 representative for the national MSOs? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.**
- 4. Are the figures in Annexure B7 representative for the regional MSOs? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.**
- 5. Are the figures in Annexure B9 representative for the LCOs with > 500 subscribers? If not, what according to you are the correct representative figures? When providing representative figures, please provide figures for the category, and not of your company.**
- 6. Are the figures in Annexure B9 representative for the LCOs with =< 500 subscribers? If not, what according to you are the correct**

representative figures? When providing representative figures, please provide figures for the category, and not of your company.

Comments to 1,2,3,4,5,&6:

While the efforts of the TRAI is appreciable in collating the data, we hope the authority had undertaken an exercise of conducting a survey to determine the actual no. of MSOs, agregators and LCOs operating region wise and if so how many have responded with the data. In the absence of finding of such survey and non-disclosure of the same, it will be unfair to arrive at EBITA's of different stakeholders without knowing the actual number of broadcaster, aggregators, MSOs and LCOs who had provided the said data. As such, it is difficult to agree on any of the EBITA figures that have been arrived of different stake holders.

7. What according to you is the average analog monthly cable bill in your state or at an all India level?

An average price of Rs. 150/- would be fair as the monthly subscription fee varies from Rs. 50/- to Rs. 250/- from lowest paying areas to highest paying areas.

8. Is the market for cable services in non-CAS characterized by the following issues:

(i) Under-reporting of the analog cable subscriber base

Yes: as there is no scientific method to estimate the subscriber base.

(ii) Lack of transparency in business and transaction models

–Yes, as there is no scale to measure the subscriber base, transactions are done on negotiations basing on the perceived strength of the parties.

(iii) Differential pricing at the retail level –Yes, basing on the area of operations and density of population/households retailers are charging at their own wim's and fancies.

(iv) Incidence of carriage and placement fee-Yes, because of supply and demand and also due to the anxiety of the broadcaster to ensure the viewer should have an opportunity to view their channels and to further ensure that he should be able to generate TRP's which results in revenue for broadcaster. This is being exploited by MSO as the number of measurement meters are very few and far in between, resulting in the MSO capturing territories to maximize his share of the meters and also placement revenue.

This has resulted in MSO offering signals of broadcasters free of cost to their LCO and are depending only on carriage and placement fee as their revenue model and not depending on the subscription fee collected from LCOs.

In the above scenario along with Must Provide a Must Carry clause be incorporated with mandatory digitalization along with CAS.

(v) Incidence of state and region based monopolies-Yes

For an example, In the State of Orissa an MSO by name M/s.Ortel Communications is having 90% of the subscriber base as mentioned in their website. **Copy of the same is enclosed.** The Broadcasters are totally at the mercy of the MSO who blackmails them to pay exorbitant carriage fee or face the prospect of their channel being blacked out.

(vi) Frequent disputes and lack of collaboration among stakeholders-Yes

Due to lack of transparency in the whole value chain.

9. Are these issues adversely impacting efficiency in the market and leading to market failure?

Yes, for the reasons mentioned above in Point No 8. The solution would be digitalization with CAS

10. Which of the following methodology should be followed to regulate the wholesale tariff in the non-CAS areas and why?

i) Revenue share

ii) Retail minus

iii) Cost Plus

iv) Any other method/approach you would like to suggest: yes

Forbearance would be the best approach, as the intense competition between the broadcasters will automatically regulate pricing.

Illustration: Pricing in Print media.

11. If the revenue share model is used to regulate the wholesale tariff, what should be the prescribed share of each stakeholder? Please provide supporting data.

NO

12. If the cost plus model is used to regulate the wholesale tariff, should it be genre wise or channel wise?

NO

13. Can forbearance be an option to regulate wholesale tariff? If yes, how to ensure that (i) broadcasters do not increase the price of popular channels arbitrarily and (ii) the consumers do not have to pay a higher price.

Yes – As there are presently more than 450 channels, the content of the Respective Broadcasters and the relative price of the said channel is market driven/ content driven and in its own interest the Broadcasters shall have to offer their channels on a competitive price and will not be able to increase the price of popular channels arbitrarily, to maximize viewership which would increase ratings and

revenues. Therefore consumer interest will be automatically protected. As such Forbearance is the best option.

- 14. What is your view on the proposal that the broadcasters recover the content cost from the advertisement revenue and carriage cost from subscription revenue? If the broadcaster is to receive both, advertisement and subscription revenue, what according to you should be the ratio between the two? Please indicate this ratio at the genre levels.**

The very reason FTA channels are being converted to Pay channels is that the Advertisement revenues are not adequate to meet the costs of the content and therefore depend on the subscription revenue to sustain their operations. A percentage of the subscription fee collected by the MSOs from subscribers may be retained as carriage fee.

- 15. What is your view on continuing with the existing system of tariff regulation based on freezing of a-la-carte and bouquet rates as on 1.12.2007; and the rate of new channels based on the similarity principle at wholesale level? You may also suggest modifications, if any, including the periodicity and basis of increase in tariff ceilings.**

In view of intense competition at all levels the market forces will automatically regulate pricing. Therefore existing tariff regulations may not be really advantageous to any of the stake holders.

- 16. Which of the following methodologies should be followed to regulate the retail tariff in non-CAS areas and why?**

i) Cost Plus

ii) Consultative approach

iii) Affordability linked

iv) Any other method/approach you would like to suggest

In the current situation the LCO obtains signals from all the MSOs and prevent any other LCO from operate in that area. Hence regulations will not regulate the retail tariff as the last mile is controlled by a single LCO. To arrest this Monopoly of the single LCO it should be mandated that different MSO should have separate LCO in every area or last mile. Due to the said competition price will automatically gets regulated.

- 17. In case the affordability linked approach is to be used for retail tariff then should the tariff ceilings be prescribed (i) single at national level or (ii) different ceilings at State level or (iii) A tiered ceiling (3 tiers) as discussed in paragraph 5.3.23 or (iv) Any other**

PI refer to our comment for 16 above.

- 18. In case of retail tariff ceiling, should a ratio between pay and FTA channels or a minimum number of FTA/pay channels be prescribed? If so, what should be the ratio/number?**

PI refer to our comment for 16 above.

- 19. Should the broadcasters be mandated to offer their channels on a-la-carte basis to MSOs/LCOs? If yes, should the existing system continue or should there be any modification to the existing condition associated with it?**

The reason for offering channels of Broadcasters on a-al-carte basis to MSO/LCO is clearly stated in the judgments by TDSAT and High Courts.

- 20. How can it be ensured that the benefit of a-la-carte provisioning is passed on the subscribers?**

A-la-carte benefit will never get passed on to the subscribers for the simple reason that the pricing of the channels in comparison to Bouquet price and the calculation recommended for such pricing lure the MSO/LCO take bouquet and provide the signals to its consumers.

21. Are the MSOs opting for a-la-carte after it was mandated for the broadcasters to offer their channels on a-la-carte basis by the 8th tariff amendment order dated 4.10.2007. If not, why?

No - Because of the pricing which is not favoring the MSOs to opt for A-la-carte even though it is optional.

22. Should the carriage and placement fee be regulated? If yes, how should it be regulated?

23. Should the quantum of carriage and placement fee be linked to some parameters? If so, what are these parameters and how can they be linked?

24. Can a cap be placed on the quantum of carriage and placement fee? If so, how should the cap be fixed?

Comments for No.22,23&24: Yes the carriage and placement fee has to be regulated, however this can be done only if there is transparency in the subscriber base which can be achieved only if digitalization with CAS is mandated. A percentage of subscription revenue can be retained by the MSOs as carriage. Since in the digital platform capacity will not be a constraint placement fee does not arise.

25. Is there a need for a separate definition of commercial subscriber in the tariff order?

26. If the commercial subscriber is to be defined in the tariff order, then does the existing definition of 'commercial subscriber' need to be revised? If yes, then what should be the new definition for the commercial subscriber?

27. In case the commercial subscriber is defined separately, then does the present categorization of identified commercial subscribers, who are not treated at par with the ordinary subscriber for tariff dispensation need to be revised? If yes, how should it be revised?

28. Should the cable television tariff for these identified commercial subscribers be regulated? If yes, then what is your suggestion for fixing the tariff?

Points to Q no.25,26,27&28: The present understanding of the commercial subscriber as per the regulations should be continued.

29. Do you agree that complete digitization with addressability (a box in every household) is the way forward?

Definitely Yes

30. What according to you would be an appropriate date for analog switch off? Please also give the key milestones with time lines.

i) All four metros by December'2010 as implemented in Chennai

ii) All 10 lakh plus populated cities by June 2011

iii) 5 lakh to 10lakh populated cities by December 2011

v) 1lakh to 5 lakh populated cities by June 2012

v) 20,000 to 1 lakh populated cities by June, 2013

vi) Less than 20,000 populated cities by December, 2014

31. What is the order of investment required for achieving digitization with addressability, at various stakeholder levels (MSOs, LCOs and Customers)?

Investment required for digitalization of the 70 million analogue cable homes (apprx) would be to the tune of Rs. 8400 crores for digital Set To Boxes alone, in phase manner as suggested above

However the cost of digital head end/s would be extra and will depend on the quality of the head ends being put up by MSOs and also on the Govt policy on HITS Platform.

32. Is there a need to prescribe the technology/standards for digitization, if so, what should be the standard and why?

It should be mandated that all digital head ends should have a minimum carrying capacity of 400 channels and with a provision to increase capacity by 10% year on year basis for the next 10 years.

However all the equipments use should of minimum BIS or world class standards.

33. What could be the possible incentives that can be offered to various stakeholders to implement digitization with addressability in the shortest possible time or make a sustainable transition?

Following would be incentives that can be encouraged by the Statute:

i) Rebate on Tax incentive

ii) Import of Hardware and software

iii) Tax holiday on Service Tax & Entertainment Tax

iv) Tax free income for a period of 1 year from the date of Implementation of Conditional Access System i.e CAS

34. What is your view on the structure of license where MSOs are licensed and LCOs are franchises or agents of MSOs?

The present mode of licensing through the Postal Dept should be done away with.

TRAI should be the licensing authority forthwith, with a set of guide lines/rules for licensing which can be formed taking the views of all stake holders. The existing MSOs should also be brought under the proposed guidelines/rules.

35. What would be the best disclosure scheme that can ensure transparency at all levels?

Digitalization with CAS forthwith

36. Should there be a 'basic service' (group of channels) available to all subscribers? What should constitute the 'basic service' that is available to all subscribers?

Yes, a minimum of 60 channels be provided in the basic service available to all subscribers in which Regional GEC and FTA be offered.

37. Do you think there is a need for a communication programme to educate LCOs and customers on digitization and addressability to ensure effective participation? If so, what do you suggest?.

There is an absolute need for it and all mediums of communication may be used to effectively communicate the idea. The same should be executed by TRAI in consultation with all stake holders.