

To,
Prof. M. Kasim,
Advisor (B&CS) – III,
Telecom regulatory Authority of India
New Delhi

8th July, 2016

Ref: 1. Consultation Paper on the Issues Related to Quality of Services in Digital Addressable Systems and Consumer Protection dated 18th May, 2016.
2. Our response dated 1st July 2016.

Dear Sir,

We would like to enclose herewith our counter- response on the above captioned Consultation Paper for your consideration and records.

Thanking you,

Yours faithfully

For Videocon d2h Limited,


Shivendra Krishna Singh
Head-Regulatory & Compliance

Encl:A/a

COUNTER RESPONSE OF VIDEOCON d2h LIMITED TO CONSULATION PAPER DATED 18th MAY, 2016

We have gone through the responses filled by other stakeholders and in counter thereof we would like to submit our response as follows:-

At the outset, we would like to reiterate what has been stated by us in our response dated 1st July, 2016 to the present Consultation Paper dated 18th May 2016.

1. Need to ensure Unified legal, taxation, licensing and regulatory Regime for all DPOs

At the further outset, we would like to state that, before considering issues related to Quality of Services in Digital Addressable Systems and Consumer Protection, it is necessary and expedient to first ensure that all Digital Platforms are brought under the common and unified legal, taxation, licensing and regulatory regime. Disparity prevails within DPOs in Digital Addressable System since long and it continues to prevail today thereby making it difficult to sufficiently address diverse concerns being faced by these different platforms.

2. Quality of Service for Mobile TV Platforms

As the Authority is aware, Platforms like IPTV and Mobile TV are not at all regulated in respect of any of the matters of conducting business unlike DTH Platform which is covered under blanket of all rules and regulations. This is more relevant and germane in the context of the fact that Mobile Television is gaining more popularity amongst general masses/ customers due to phenomenal rise in the number of people using smart-phones. Therefore, it is important that the Authority should bring these Mobile TV Platforms within the regulatory framework, instead of re-regulating the already regulated platforms like DTH, who have been operating within the contours of established Quality of Services parameters, since inception. It is pertinent to note that, certain broadcasters particularly those who are vertically integrated with Distribution Platforms have created a device in the form of Mobile TV to ensure that such distribution of television channels, programs, events through Mobile TV apps go undetected by regulatory, licensing and taxation authorities and thus escape from the clutches of their respective frameworks. We are of the view that, this is the right and ideal opportunity for the Authority to bring them under the same umbrella of rules, regulations and laws which presently govern the DTH.

Different conflicting views have been expressed through their comments by various stakeholders on the same issue, which is required to be balanced by the Authority in such a way that the ultimate regulation comes out just, proper and not only Customer friendly but also ensuring that it is Platform friendly.

3. Information through tickers and scrolls instead of Public Notice

One of the broadcasters has rightly suggested to, do away with requirement of issuance of public notice in daily newspapers, in the event a channel is getting dropped and instead allow DPOs to issue such notification by way of On Screen Display ('OSD') such as tickers, scrolls etc. We agree with this proposition as such public notices often go unnoticed by customers. However, it is denied that DPOs often replace a channel with another channel and that to without seeking express consent of the subscribers. It is in this regard, that we state that only when a particular channel becomes unavailable on the Platform due to reasons beyond the control of a DPO that channel is dropped and not otherwise. Further, it will not be out of place to mention that it would be an operational nightmare to address the request of every single subscriber and will also put stress on the existing IT systems. We are of the view that, for this area of business it will be ideal if the same is left to forbearance and/or self-regulation by DPOs in order to achieve the true objective of the present consultation paper.

4. Provisioning of PMR for all DPOs

While submitting comments, one of the stakeholders has suggested provisioning of Performance Monitoring Report ('PMR') for DPOs without excluding DTH service provider who as the Authority is aware file their PMR on Quarterly basis in the prescribed format. It is in this context that, we would like to state that all DPOs need to be first brought on same regulatory footing so that application of all regulations can be made universal amongst them. Secondly, this particular stakeholder has suggested penal provisions for strict compliance of QOS regulations including but not limited to non-submission of PMR. This according to us it is a farfetched comment and is apparently made randomly. We strongly object to such provisions, as DTH Operators have been following the guidelines pertaining to QOS including the mandate for filing the PMR both in letter and spirit, since beginning.

5. eCAF: The Way Forward

This stakeholder has suggested elaborate terms and conditions, which may form part of Customer Agreement Form ('CAF'). In this regard, we state that amongst DPOs, DTH service providers have been executing CAFs with customers since beginning which contained all relevant and detailed terms and conditions in the light of applicable regulations, rules and laws and therefore, going into the terms and conditions is certainly not the objective of current consultation paper and as such the suggested terms and conditions by suggested stakeholder may be ignored. CAF is a basically a document entered bilaterally between the DTH service provider and the customer without reference to any third party including the broadcasters and therefore, it is only these two entities i.e., the service provider and the customer who can either agree, disagree, alter or modify the terms and conditions of the CAF. Further, this stakeholder has suggested that, eCAF will be unfriendly with customers, which is shocking, as eCAF is a part of the strategy of digitizing the country. We therefore request the Authority to reject these views of this stakeholder, for the reasons as explained above.

6. Light touch approach on Must Carry provisions for DPOs

One of the Broadcaster has suggested that there should be must carry provision at retail level and that genre based packaging of channels should be mandated. It is also suggested that all channels carried on a platform of a DPO must be included and shown in EPG with the LCN and the name of channel displayed. As the Authority is aware, the DPOs face tremendous bandwidth constraints and for want of which they have limit the number of channels on their platforms. In this context, the suggestions of the above stakeholder are impractical and un-implementable and as such we request the Authority to adopt light touch regulatory approach and leave it for the DPOs to adopt commercially and technically feasible operational modes in this respect.

7. Customer Premises Equipment

One of the Broadcaster has suggested both prepaid and postpaid models for DPOs along with a suggestion regarding CPE thereby recommending that no maintenance towards CPE should be charged by DPOs from subscribers. In this regard we would like to state that, the aspects regarding pre-paid billing, maintenance charges of CPE find place in the current existing QOS regulations and a separate and independent process of consultation is going on and therefore, we suggest that the response with regard to these two issues given by the Broadcaster does not merit

consideration at the hands of the Authority. Similarly, comments with regard to call centre, complaint centre, redressal of complaints by Nodal Officer do not require to be considered by the Authority.

8. Retransmission of Mandatory Channels duly adhered by all DTH Operators

One free DTH Operator has submitted that despite Government of India issuing a notification thereby making certain channels of Doordarshan mandatory for carriage on the platforms of various DPOs including DTH. As the Authority is aware all DTH Operators are carrying on their respective platform mandatory channels of Doordarshan in accordance with the aforesaid notification of Government of India and as such stating that DPOs do not comply with these provisions is erroneous and incorrect.

In this context therefore, the demand of the free DTH Operator to the effect that the Authority by referring to the notification of the Government of India bring and introduce in the QOS the provisions thereby mandating DPOs to carry mandatory channels of Doordarshan is redundant as well as unnecessary. As the Authority and the Free DTH Operator are aware that office memorandums dated 26th November 2007, 14th December 2011, 6th September 2013, 26th May 2015, and 12th June 2015 issued by Ministry of Information and Broadcasting, Government of India are being scrupulously complied with and followed in letter and spirit by all DTH Operators, by transmitting and carrying mandatory channels on their respective platforms. This is all the more reason which demonstrates as to how the demand to bring in this obligation on the part of the DPOs into QOS regulation is meritless, and need not be considered. Thus, there is no need for having such provisions with regard to mandatory channels on DTH Platform as it is already in place. However, without prejudice to the contentions raised by us above, it is pertinent to note that when DTH Platform is in compliance with aforesaid mandate other distribution platforms like Mobile TV are having open leverage to do away with any such mandatory requirement for want of specific notification by Ministry of Information and Broadcasting or any other authority for that matter. We suggest that the Authority, should undo this in-equal scenario by reining in Mobile TV within the purview of obligation and mandate to carry the mandatory Doordarshan channels through Mobile TV as well. We are of the view that this would go miles in achieving greater eyeballs for Doordarshan feed across the country including the remotest places of the country where people have started using smart-phones.

Further, there is no need to have in place provision mandating the DPOs to file Periodical returns regarding the carriage of mandatory channels on their platforms

as this will again increase procedural and logistical burden, not only on the Authority but also on DPOs. Without prejudice to this submission as pointed out above, DTH Service Providers file their Periodical PMR containing all relevant information therein including but not limited to the names of all channels both free and pay.

9. Provisions related to Manual of Practice, well defined under existing regulations

Similarly, the demand that the Manual of Practice ('MOP') published by DPOs should prominently the responsibility of the DPO for provisioning of these mandated channels irrespective of any bouquet(s) or a-la-carte channels being subscribed by the subscribers is not relevant or germane and unnecessary. As the Authority is aware, that the provisions has laid down under regulation 21 of The Direct To Home Broadcasting Services (Standard of Quality of Service and Redressal of Grievances) Regulations, 2007 clearly lay down the requirements of contents in the MOP published by DTH Service Providers. Additionally we would like to state that every DTH Operator is also put under an obligation to periodically submit a copy of MOP at the time of filing of PMR with the Authority or at any time the Authority seeks one. It is in this context that we submit that the demand of the free DTH Operator is baseless, unnecessary and is of such nature that would only increase the logistical burden in as much as apart there are other marketing materials which include advertisements, brochures, pamphlets, leaflets, websites through which necessary platform channels and service information gets disseminated for consumer benefits. In the light of the above discussion, we request the Authority, not to consider this request regarding MOP content made by this stakeholder and reject the same.

10. Pre-paid billing: Transparent & Convenient for customers:

As the Authority is aware, practically all DTH Operators conduct their business by providing DTH Services to its customers on pre-paid basis, unlike cable/MSOs who are historically providing their services on post-paid basis. The Direct To Home Broadcasting Services (Standard of Quality of Service and Redressal of Grievances) Regulations, 2007 dated 31st August 2007 very clearly and categorically considered various circumstances when DTH services can be discontinued, procedure for prior notification regarding such discontinuance and have also carved out exception to DTH Services which are provided on pre-paid basis to customers.

11. Ongoing separate consultation process on technical interoperability:

Further, it is incorrect to suggest that CPE (specially the STB) provided by a DTH Operator to its subscriber is 'generally' such that its capacity is restricted, through in-built hardware / software means to receive services of that Operator only. In this regard, we would like to draw the kind attention of the Authority, to the pre-consultation paper dated 4th April, 2016 on Set Top Box Interoperability. We would like to state further that TDSAT in its judgment in Tamil Nadu Consumer Federation vs. Telecom Regulatory Authority of India & Ors. Dated 3rd June 2011 has directed Bureau of Indian Standards ('BIS') to come out with standards and specifications for set top boxes for both MPEG 2 and MPEG 4 technology and as the Authority is aware BIS is working on the same. Thus, the issue being at the realm of crystallization, we suggest the Authority to keep this issue separate and in abeyance for the purpose of this Consultation Paper. Additionally, we would like to state that, the licensing conditions pertaining to compatibility and technical interoperability apply to those DTH Operators who have license agreements between themselves and Ministry of Information and Broadcasting and no other DTH Operator including free DTH Operator. Consequently, we state that the existing regulations will also have to be modified to that extent and aligned with this reality. It is incorrect to state that when STB cannot receive services the same leads to e-wastage.

a) Commercial Interoperability: An effective tool with Customers

It is denied that there is no effective interoperability available with the consumer. In fact there are two kinds interoperability which are effectively existing in the market. One is Commercial Interoperability, which as the Authority is aware, has been exceedingly successful in terms of consumer satisfaction and their needs. Today any customer who has subscribed to the services of a particular DTH Operator can easily move out and subscribe to the services of any other DTH Service Provider of his choice. If one glance through the average number of DTH industry churned subscribers and also goes through the average number of new subscribers per month then it will be revealed that the later is higher than the former. It is in this context, that we state that the factual assertion that there is no effective interoperability available with the consumers demand that TRAI should ensure that the subscribers should at least have flexibility to move to FTA DTH is absolutely wrong, false and contrary to the existing market scenario. Consequently, we urge the Authority to ignore the unreliable statements to this effect.

12 Consumer Awareness ensured by all DTH Operators through various modes and methods

a) Websites: An effective tool of information/ communication

As the Authority is aware all DPOs particularly DTH Operators have in place all aspects related to providing DTH services to consumers. They have their own websites on various aspects such as subscription options, products, payment options, billing, consumer grievance redressal mechanisms, FAQs, channel options etc. which they keep updating frequently as and when there is any minor or major modifications, and therefore the suggestion of the one of the stakeholders that TRAI should come up with requirements becomes redundant and therefore there is no need to consider the same. We would like to state that we consider consumer interest as paramount and as such adopt majors on routine basis to keep consumer awareness at its peak all the time.

b) EPG & Barker Channels

Similarly, it needs to be noted by the stakeholders that every DTH Operator has their home channel as well as EPG which gives subscribers information regarding all channels and services available on the platform. In fact it will not be out of place to mention that DTH Operators have multi-linguistic home channels for the purpose of disseminating the information and therefore there is no further and more need to do anything more in this regard. In fact by suggesting these things certain stakeholder is dramatically increasing the logistical, administrative and supervisory burden of the Authority. According to us, each stakeholder should ensure that minimum responsibility should be rested with the regulatory Authority and ensure that things are managed and operated at the level of stakeholders in accordance with applicable rules and regulations.

Similarly, casting a burden on TRAI and asking it to run advertisements on television channels / radio channels from time to time, in line with what regulators like IRDA / SEBI do, for cautioning the subscribers against mal-practices adopted by DPOs or malicious or misleading self promotion by any DPO etc. is not only a denigration of distribution platforms without any reason but also is an insinuation about the Authority being not aware of certain relevant facts. Firstly, we strongly take an exception to the above comment of one of the stakeholder as it is bereft of any merit and secondly it is not conducive in furtherance of achieving the objective behind formulating the unified QOS.