

**TRAI's CONSULTATION PAPER ON
ISSUES RELATED TO AMENDMENTS TO THE INTERCONNECTION
REGULATIONS APPLICABLE TO DIGITAL ADDRESSABLE SYSTEMS & TARIFF
ORDER APPLICABLE FOR ADDRESSABLE SYSTEMS**

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RESPONSE OF MEDIA PRO ENTERPRISE INDIA PRIVATE LIMITED

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Preamble

At the outset, we submit that our response to the issues raised in the Consultation Paper is without prejudice to the rights and contentions of the Broadcasters in Civil Appeal No's 2847 to 2854 of 2011 and D-8827/2011 pending adjudication before the Hon'ble Supreme Court or any other legal proceedings initiated by any other Broadcasters/entities in relation to the Addressable Tariff Order (including in relation to the wholesale rates applicable to Add-On Packages) and Civil Appeal Nos 829-833 of 2009 pending adjudication before the Hon'ble Supreme Court or any other legal proceedings initiated by any other Broadcasters/entities inter alia in relation to the Telecommunication (Broadcasting and Cable) Services (Second) Tariff (Eighth Amendment) Order 2007 dated 4th October 2007 (collectively "Appeals").

It is further submitted that the Authority must align the The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations 2012 dated 30.04.2012 ("DAS Interconnection Regulations") to the Telecommunication (Broadcasting and Cable Services) Interconnection (Fifth Amendment) Regulations 2009, which already applies to all addressable platforms to ensure an uniform Interconnection Regulations for all addressable systems. This will not only prevent overlaps and rule out the possibility of misinterpretation which leads to unwarranted confusion, but also create a level playing field amongst all addressable delivery platforms/distributor of channels.

The Authority must also repeal the CAS Tariff Order and the provisions pertaining to CAS in the Interconnection Regulations.

To sum up, the Authority must work to have a consolidated and uniform Interconnection Regulations for all Addressable Systems and a separate consolidated Interconnection Regulation for analog – Non addressable systems.

Issues for Consultation :

A. Issues related to amendments to the Interconnection Regulations applicable for Digital Addressable Cable TV Systems.

Carriage fee

(1) Whether the following proviso should be introduced in the clause 3(2) of the interconnection regulations for DAS and the clause 3(5) of interconnection Regulation for DAS should be deleted.

“provided that the provisions of this sub-regulation shall not apply in the case of a multi-system operator, who seeks signals of a particular TV channel from a broadcaster, while at the same time demanding carriage fee for carrying that channel on its distribution platform.”.

(2) If no, the reasons thereof.

Comments : Since the carriage/placement deals pertaining to the channels distributed by MediaPro is negotiated/concluded directly between the respective channel partners of the channels distributed by MediaPro and the distributor of TV channels, we do not wish to comment on these issues.

Minimum Channel Carrying Capacity of 500 Channels for MSOs

(3) Whether there is a need to specify certain minimum channel carrying capacity for the MSOs in the interconnection regulations for DAS.

(4) If yes, what should be the different categories (example cities/town/rural area) of areas for which minimum channel carrying capacity should be prescribed and what would the capacity for each category.

Comments : We do not recommend specifying channel carrying capacity for the MSOs for DAS and feel that the same must be left to the discretion of the MSOs. Different MSOs cater to different geographies with different scale of business operations. They are best placed to decide the channel carrying capacity depending on their scale of business and the market catered to by them, which again is a factor of market forces of demand and supply.

Placement Fee

(5) Whether there is a need for regulating the placement fee in all the Digital Addressable Systems. If so, how it should be regulated. The stakeholders are requested to submit their comments with justifications.

Comments : No Comments

B. Issues related to amendments to the Tariff Order applicable for Addressable Systems.

Twin conditions at retail level

(6) The stakeholders are requested offer their comments on the following twin conditions, to prevent perverse a-la-carte pricing of the pay channels being offered as part of the bouquet(s).

“ a. The ceiling on the a-la-carte rates of pay channels forming part of bouquet(s) which shall not exceed three times the ascribed value# of the pay channel in the bouquet;

b. The a-la-carte rates of pay channels forming part of bouquet(s) shall not exceed two times the a-la carte rate of the channel offered by the broadcaster at wholesale rates for addressable systems.

#ascribed value of a pay channels in a bouquet is calculated in the following manner:

1. Proportionate Bouquet Rate for pay channels [A]= Bouquet Rate x (Sum of a la carte rate of Pay channels)/(Sum of a la carte rate of Pay channels+ Total no of FTA channels x factor*)

2. Ascribed value of a pay channel in a bouquet = [A] x a-la-carte rate of a pay channel/ (sum of a-la-carte rate of all the pay channels)

*factor=1 if uniform rate of free-to-air channel is less than or equal to Rupees three. The factor = uniform rate of free-to-air channel/ 3, if the uniform rate of free-to- air channel is greater than Rupees three.”

The stakeholders are also welcome to submit any other formulation that can achieve the same objective, along with its justification.

Comments :

At the outset, we recommend complete forbearance of retail tariff and retail packaging. In this regard we submit in the DTH sector Retail Tariff has been always under forbearance and has worked very well. In fact DTH has outperformed cable in the over regulated CAS notified areas which clearly establish that market prices have worked well. The Authority has consistently held and found competition to be adequate at the retail level particularly in addressable platforms and had accordingly kept retail tariff outside the purview of tariff controls in the Addressable Tariff Order notified in 2010. We therefore see no reason for the Authority to shift from its position in less than two years as intermittent tweaks to the regulatory regime are best avoided as it creates uncertainty.

In so far as the new formula of twin conditions proposed by the Authority, we strongly recommend that the Authority not implement this formula as the same is highly complex and impractical. It is very difficult to implement these conditions on ground and will in reality be counter-productive to the interests of all stakeholders.

Minimum Subscription Period

(7) The stakeholders are requested to offer the comments, if any, on the proposed deletion of the word 'pay' in clause 6 and 6(2) of the principal tariff order dated 21.07.2010.

Freedom to choose the channel(s) on a-la-carte and/or bouquet(s)

(8) The stakeholders are requested to offer their comments, if any, on the proposed inclusion of the following provision after sub-clause 6(4) in the tariff order dated 21.07.2010, as amended.

“It shall be open to the subscriber of the addressable systems to subscribe to any bouquet(s) or any bouquet(s) and any channel(s) (pay or free to air) or only free to air channels or only pay channels or pay channels and free to air channels”.

Comments : We have no objection to the Authority making the changes proposed in issues 7 & 8 above.

Offerings of Bouquet(s) of channels which require special Set Top Boxes (STBs) such as High Definition Television (HDTV) or Three Dimensional Television (3D TV) channels etc.

(9) Whether the channels that require special type of STB be offered only on a-la-carte basis or as part of separate bouquets that consists of only those channels that require a particular type of specialised STB.

Comments : Here again, we feel that this decision is best left to the operators.