

Comments on Consultation Paper on Review of Regulatory Framework for Broadcasting and Cable Services

Dated 08.08.2023

We express our sincere gratitude for the Authority's diligent efforts in commencing a Consultation Paper (CP) addressing a matter of such significant importance as the Review of Regulatory Framework for Broadcasting and Cable Services. We also want to express our gratitude to TRAI for recognizing the benefits of both deregulation and forbearance in promoting consumer choice, as well as fostering quality, growth, and innovation in the Broadcasting and Cable Services (B&CS) sector.

Consumers have indeed reaped the rewards of progressive guidelines, such as:

- (i) the ongoing forbearance on pricing for individual TV channels offered by broadcasters;
- (ii) the relaxation of the discount cap on broadcasters' channel bundles; and
- (iii) the restoration of the original INR 19 maximum retail price (MRP) limit for standalone channels that are part of a bundle.

While these measures mark significant strides toward deregulation, there remain economic regulations that dictate how stakeholders must conduct their operations. For instance, the Tariff Order still prescribes the manner in which broadcasters must structure and price their channel bundles, including the types of TV channels that can be included in such bundles. Therefore, in alignment with TRAI's suggestions in the Explanatory Memorandum of the Tariff Order dated 22 November 2022, we kindly request TRAI to consider taking further actions to deregulate the pricing and packaging of TV channels by broadcasters.

While we appreciate the ongoing consultation paper, we hold the belief that it may fall short of conducting a comprehensive "root and branch" review of the regulatory landscape. Beyond making minor adjustments to established regulatory mechanisms, both TRAI and the Indian government should consider a more extensive and in-depth evaluation. This review should determine whether the stringent framework currently in place remains necessary, beneficial, and conducive to India's economic and social development.

As a point of reference, it is crucial to recognize that India presently upholds the most detailed, exhaustive, and restrictive set of regulations pertaining to the supply of cable and satellite TV content in the Asia-Pacific region among market economies.

Hence, we strongly urge TRAI to move beyond the confines of the current consultation exercise and embark on a comprehensive examination of the scope and purpose of the entire regulatory framework. Such a review would signify a return to TRAI's foundational principles. When TRAI initially assumed the role of regulating cable TV content pricing two decades ago, it did so with the premise that there was a lack of competition in the delivery of content to consumers.

At that time, TRAI explicitly stated: "It must be emphasized that the regulation of prices as outlined above is only intended to be temporary and will persist only until there is effective competition. The optimal regulation of prices occurs through competition. Therefore, as soon as there is evidence of effective competition in a particular area, price regulation will be withdrawn. TRAI will conduct periodic reviews to assess the level of competition and the necessity for price regulation in consultation with all stakeholders."

Therefore, it is imperative to reevaluate the entire regulatory framework to ensure that it aligns with the evolving dynamics of the media and entertainment sector, fosters competition, and contributes to India's continued economic and social development.

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:

a. Justification for Review and Revision:

The NCF ceiling of Rs.130/- should be periodically reviewed to ensure that it remains fair and reflective of the changing dynamics in the broadcasting industry. Factors such as inflation, changes in technology, and market conditions may necessitate adjustments to the ceiling.

b. Methodology and Calculation for Revised Ceiling:

The revised ceiling could be determined through a comprehensive analysis that takes into account:

- **Cost Structures:** Assess the current cost structures of DPOs, considering variations in scale of operations, urban vs rural areas, and other relevant factors.
- **Inflation:** Adjust the existing ceiling for inflation to maintain its real value over time.
- **Market Dynamics:** Evaluate the impact of market dynamics, technological advancements, and changes in consumer behaviour on the cost of providing services.
- **Consumer Affordability:** Consider the affordability of subscribers, ensuring that any revision aligns with consumer interests.

c. Reasons for Not Revising NCF:

- The existing ceiling of Rs.130/- may still be deemed appropriate if the analysis reveals that it adequately covers the costs of DPOs while ensuring reasonable affordability for consumers. If the market conditions and cost structures haven't changed significantly, maintaining the current ceiling could provide stability and predictability in the industry.
- Constantly changing the Network Capacity Fee (NCF) would result in confusion among subscribers and potentially enable misleading practices by the Distribution Platform Operators (DPOs) and Local Cable Operators (LCOs). Subscribers have reported instances

where DPOs and LCOs impose higher NCF charges even when a cap is in place. If this cap is eliminated, it could potentially lead to exploitation of rural and economically disadvantaged subscribers. In such a scenario, they would have no means to access reasonably priced services, much like the current situation.

d. Consideration of Removing NCF Capping:

- The removal of NCF capping should be approached cautiously, considering the potential impact on both service providers and consumers.
- If the analysis indicates that the market is competitive, and there are sufficient safeguards to prevent exploitation, TRAI might consider removing the cap to allow for more flexibility in pricing. However, careful monitoring and regulatory measures would be necessary to ensure that subscribers are not subject to unfair practices or exorbitant charges.

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:

Whether TRAI should follow specific indices like CPI (Consumer Price Index), WPI (Wholesale Price Index), or GDP Deflator for the periodic revision of NCF is a complex decision that involves considerations of economic factors, market dynamics, and consumer welfare. Here are some considerations and justifications for such a decision:

1. Consumer Price Index (CPI):

- a. Justification: CPI measures changes in the general price level of goods and services consumed by households. It is often used to assess changes in the cost of living.
- b. Pros: Reflects consumer spending patterns and provides a measure of inflation that directly affects households.
- c. Cons: May not fully capture the cost structures specific to the broadcasting industry.

2. Wholesale Price Index (WPI):

- a. WPI measures changes in the average price of goods traded in bulk by wholesale businesses.
- b. Pros: Reflects changes in production and distribution costs.
- c. Cons: This may not align with the costs directly affecting end consumers.

3. GDP Deflator:

- a. Justification: GDP deflator reflects the average change in prices of all goods and services produced in an economy.
- b. Pros: Offers a broad measure of overall inflation within the economy.
- c. Cons: May not be as sensitive to changes in consumer costs as CPI.

4. Specific Industry Cost Indices:

a. Justification: Developing a specific cost index for the broadcasting industry could account for its unique cost structures.

b. Pros: Tailored to the industry, providing a more accurate reflection of cost changes.

c. Cons: This may require considerable effort to develop and maintain.

5. Periodicity:

a. Justification: The periodicity of revision depends on the volatility of costs and economic conditions.

b. Pros: Frequent revisions may better capture rapid changes in costs, while less frequent revisions provide stability.

b. Cons: Too frequent revisions could introduce uncertainty for businesses and consumers.

We would recommend the following structures:

1. Hybrid Approach: A hybrid approach may be beneficial, incorporating elements of CPI/WPI/GDP Deflator and industry-specific indices. This would help capture both general economic trends and industry-specific cost dynamics.

2. Periodicity: Consider a review every 2-3 years with the option for more frequent reviews if significant economic shifts occur.

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

Allowing DPOs (Distribution Platform Operators) to have variable NCF for different bouquets/plans within a state/city/town/village is a nuanced decision that involves weighing various factors.

Arguments in Favor of Variable NCF:

1. Markets vary, and allowing variable NCF enables DPOs to adapt their pricing strategies based on local economic conditions and consumer preferences. The parameters could include factors such as local income levels, market competition, and infrastructure costs.
2. Variable NCF allows DPOs to offer tailored plans that cater to the diverse needs and affordability of consumers in different regions. The variation could be based on the demand for certain channels or the popularity of specific genres in different areas.

3. Justification: Variable NCF encourages competition among DPOs, potentially leading to better services and pricing for consumers. Fair competition could be maintained by ensuring transparency and preventing anti-competitive practices.

Recommendations:

1. Guidelines and Transparency: Clearly defined parameters and guidelines should be established to prevent arbitrary variations in NCF.
2. Consumer Protection Measures: Robust consumer protection measures, including transparent billing practices and dispute resolution mechanisms, should be in place.
3. Regular Monitoring and Review: Periodic reviews and monitoring by regulatory authorities can ensure that variable NCF practices align with consumer interests and fair competition.

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 a justification for not reconsidering the discount.

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

Our Response:

A. Yes. The reason for revising the discount on additional TV connections should be based on the Suggestion for Quantitative Rationale:

- Analyze the incremental cost to DPOs for providing service to additional TVs within the same household.
- Consider factors like shared infrastructure costs, bandwidth optimization, and economies of scale.
- Conduct a cost-benefit analysis to determine a fair discount rate that reflects the reduced cost burden on DPOs.

C. Multi-TV homes often share resources, and removing the capping could incentivize more subscriptions, benefiting both consumers and service providers. A more flexible approach could allow DPOs to optimize their pricing strategies based on market dynamics and consumer demands.

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:

Yes, for providing discounted prices on pay television channels for additional TV connections in multi-TV homes:

The suggested quantum of discount can be:

- Consider offering a reasonable discount on the MRP of television channels/bouquets for each additional TV connection to incentivize multi-TV subscriptions.
- The discount could be structured based on a percentage of the MRP, reflecting the shared consumption within a household.

Impact on Broadcasters:

- Multi-TV homes could positively impact broadcasters as they might experience increased subscription rates and viewer engagement.
- Shared viewership within a household could contribute to higher overall channel popularity.

Verification Mechanism:

- Implement a robust mechanism for pay-channel broadcasters to verify the number of subscribers in multi-TV homes, possibly through collaboration with DPOs.
- Ensure transparency and accuracy in reporting to avoid misuse.

Q6. Is there a need to review the ceiling on discount on sum of MRP of a-la-carte channels in a bouquet (as prescribed through the second proviso to clause 4 (4) of the Tariff Order 2017) while fixing the MRP of that bouquet by DPOs?

a. If yes, what should be the ceiling on such discount? Justify with reasons.

b. If not, why? Please provide justification for not reviewing the ceiling

Our Response:

Yes, for reviewing the ceiling on the discount for a-la-carte channels in a bouquet:

1. Suggested Ceiling on Discount:

- Consider setting a reasonable and flexible ceiling on the discount for a-la-carte channels in a bouquet.
- The ceiling should be based on a percentage that allows DPOs to offer competitive pricing while preventing excessive discounts that might impact content creators adversely.

This can be done because of the following reasons:

- Flexibility in discounting can stimulate market competition, leading to innovative and consumer-friendly bouquet offerings.
- A reasonable discount ceiling can balance the interests of consumers, DPOs, and content creators, ensuring fair compensation for content.

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

Defining the total channel carrying capacity of a Distribution Platform Operator (DPO) in terms of bandwidth (in MBPS) is a valid consideration and is often connected to the technological capabilities of the distribution network. Here are some points to consider:

1. Bandwidth Allocation for SD and HD Channels:

- Efficiency of Spectrum Utilization: Allocating bandwidth based on channel type allows for efficient spectrum utilization. Example: If SD channels require, on average, 2 MBPS, and HD channels require 6 MBPS, efficient allocation might be based on this ratio.
- Consumer Experience: Allocating sufficient bandwidth to HD channels ensures a high-quality viewing experience for subscribers. Example: Allocating a significant portion of bandwidth to HD channels can support clearer and more detailed content.
- Market Demand: Reflecting the market demand for HD content, allocating more bandwidth to HD channels may align with consumer preferences. Example: If a substantial portion of subscribers prefers HD channels, a higher allocation to HD could be justified.

Example Bandwidth Allocation (Hypothetical):

SD Channel: 2 MBPS

HD Channel: 6 MBPS

Suppose a DPO has a total bandwidth of 100 MBPS:

If 70% of subscribers prefer SD channels, and 30% prefer HD channels, the DPO might allocate bandwidth accordingly.

Allocation: (70 MBPS for SD channels) + (30 MBPS for HD channels)

The various considerations are as follows:

- Flexibility: Providing some flexibility allows DPOs to adapt to changing market dynamics and technology advancements. Example: As consumer preferences shift towards HD content, the DPO may adjust bandwidth allocation accordingly.
- Technological Advances: Technological advances may allow for more efficient compression methods, affecting the required bandwidth. Example: New compression technologies may reduce the bandwidth requirements for both SD and HD channels.
- Regulatory Framework: Regulatory guidelines should consider technological advancements and evolving consumer preferences. Example: If regulations encourage the adoption of higher quality content, bandwidth allocation might need periodic review.

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:

Yes, for reviewing the HD/SD ratio for counting channels in NCF:

Recommendation: Consider each channel as one channel, irrespective of its type (HD or SD or any other type like 4K). Justify this approach based on the evolving nature of content and consumer preferences.

Reasons:

- Content Evolution: With advancements in technology, the distinction between HD and SD content may become less relevant as more channels migrate towards higher resolution.
- Consumer Expectations: Consumers increasingly expect a variety of content types, including 4K channels. Treating each channel equally reflects this diversity.

Q9. What measures should be taken to ensure similar reception quality to subscribers for similar genre of channels? Please suggest the parameter(s) that should be monitored/checked to ensure that no television channel is discriminated against by a DPO. Please provide detailed response with technical details and justification.

Our Response:

Ensuring similar reception quality for subscribers across channels of similar genres involves monitoring various technical parameters. Discrimination in reception quality by a Distribution Platform Operator (DPO) can affect the viewer experience and raise concerns among broadcasters. Here are suggested measures and parameters to monitor:

1. Bitrate Allocation:

Parameter: Monitor the bitrate allocated to each channel within a genre.

Technical Details: Higher bitrate generally correlates with better picture and sound quality.

Justification: Similar genre channels should receive comparable bitrates to maintain consistent quality standards.

2. Resolution and Compression:

Parameter: Verify the resolution and compression settings for each channel.

Technical Details: Different resolutions (SD, HD, 4K) and compression levels impact visual quality.

Justification: Channels of similar genres should have consistent resolution and compression to provide a uniform viewing experience.

3. Error Rates and Signal Quality:

Parameter: Monitor error rates and signal quality for each channel.

Technical Details: Higher error rates or lower signal quality can lead to visual and audio artifacts.

Justification: Consistent monitoring ensures that all channels maintain a high level of signal quality.

4. Audio Quality:

Parameter: Check the audio bitrate and codec for each channel.

Technical Details: Variances in audio quality may result from differences in bitrates or compression.

Justification: Similar genre channels should offer comparable audio quality to avoid discrepancies.

5. Frame Rate Consistency:

Parameter: Ensure consistent frame rates for channels in the same genre.

Technical Details: Varied frame rates can cause judder and affect the smoothness of video playback.

Justification: Maintaining consistent frame rates contributes to a smoother and more enjoyable viewing experience.

6. Content Upconversion:

Parameter: Monitor if SD channels are being artificially upscaled to HD without improvements in quality.

Technical Details: Upconversion without enhancing content can result in poorer quality.

Justification: Channels should be presented in their native resolution without unnecessary upconversion.

7. Transmission Power and Antenna Alignment:

Parameter: Check the transmission power and antenna alignment for each channel.

Technical Details: Transmission issues can lead to signal degradation and poor reception.

Justification: Ensures that all channels receive sufficient transmission power and have proper antenna alignment.

8. Quality of Service (QoS) Metrics:

Parameter: Implement QoS metrics such as Mean Opinion Score (MOS) for audio and video quality.

Technical Details: MOS provides a quantitative measure of the perceived quality of audio and video.

Justification: Objective quality metrics help in quantifying the viewer's experience and ensuring consistency.

Q10. 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:

Yes, for mandatorily providing Free-to-Air (FTA) channels to all subscribers:

Justification:

- **Public Interest:** FTA channels often carry essential news and information. Mandating their availability ensures that critical information is accessible to all, promoting public interest.
- **Inclusivity:** It promotes inclusivity by ensuring that all subscribers have access to a basic set of channels without additional costs.

- **Regulatory Balance:** Balances the interests of broadcasters, DPOs, and consumers by establishing a baseline for channel availability.

Detailed Terms and Conditions:

- **List of FTA Channels:** Define a list of FTA channels that must be made available to all subscribers.
- **Quality of Transmission:** Specify standards for the quality of transmission to ensure that FTA channels are delivered with acceptable visual and audio quality.
- **Compliance Mechanism:** Establish a mechanism to ensure compliance, including periodic audits and reporting by DPOs.
- **Non-Discriminatory Treatment:** Mandate that FTA channels receive non-discriminatory treatment in terms of placement and quality compared to other channels.

Q.11 Should Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 be made applicable to non-addressable platforms such as DD Free Dish also?

Our Response:

1. **Dominance of DD Free Dish:** DD Free Dish has experienced phenomenal growth, establishing itself as the leading Direct-to-Home (DTH) operator in India with an impressive 45 million subscribers. To put this into context, the combined subscriber base of the entire DTH industry, including Pay DTH Operators, amounts to 65 million. This positions DD Free Dish as a major player in the Indian Distribution Platform Operator (DPO) landscape.

2. **Attraction of Free Service Model:** The meteoric rise of DD Free Dish can be attributed to its unique free service model, which naturally attracts a vast number of customers. Competing with a DTH service that is perpetually free presents a significant challenge for other DPOs.

3. **National Expansion:** Initially conceived to cater to regions lacking adequate service, DD Free Dish has extended its reach across the nation. Furthermore, it has substantially enhanced its capacity, now even including private pay channels.

4. **Revenue Generation:** DD Free Dish currently hosts several pay channels, providing them to subscribers at no cost. It generates revenue by charging broadcasters a fee for inclusion on its platform. The platform utilizes auction procedures to allocate channels, optimizing its revenue potential. For broadcasters, partnering with DD Free Dish offers immediate access to its extensive 45 million subscribers, opening the door to increased advertising revenue.

5. **Commercial Transition:** While originally envisioned as a complimentary platform to meet national objectives, it's evident that DD Free Dish has expanded beyond its initial mission, evolving into a commercial entity that capitalizes on its network capacity.

6. **Regulatory Imbalance:** Despite its significant role and commercial orientation in the DPO industry, DD Free Dish operates outside the regulatory framework that governs other DPOs, creating an uneven playing field.

7. **Limitation of Consumer Choice:** Beyond the challenges it presents to other DPOs, DD Free Dish limits consumer choice. Subscribers can only access channels from broadcasters with the financial means to secure a spot on the DD Free Dish platform.

8. **Enforcing Regulatory Framework:** Given these dynamics, it is essential that the Tariff Order 2017, Interconnection Regulations 2017, and Quality of Service Regulations 2017 be enforced on DD Free Dish, as they are equally applicable to it as they are to other DPOs. This includes adherence to tariff orders, interconnection regulations, and quality of service standards.

9. **Regulatory Basis for Pay Channels:** There is no regulatory basis for DD Free Dish to carry pay channels, and this constitutes a violation of the regulatory framework. Pay channels and private television channels carrying advertisements should not be allowed on the DD Free Dish service without complete and total compliance with the same regulatory requirements applicable to all DPOs.

10. **Carriage Price Inefficiencies:** Additionally, DD Free Dish does not have to provide carriage at the regulatory price, unlike private DPOs. They auction their network capacity, whereas private DPOs are mandated by regulation to provide it on a "first come, first served" basis. This approach is inefficient and may result in the carriage of TV channels that do not generate sufficient revenue for the DPO, leading to suboptimal utilization of limited bandwidth.

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:

When considering channels carried on the DD Free Dish platform, if they are unencrypted on this platform and classify themselves as free-to-air channels, it follows that they should also be free-to-air on other platforms. This aligns with principles of natural justice and equality. A channel that aims to generate advertising revenue through DD Free Dish viewership, which constitutes nearly 33% of all Cable and Satellite households in India, operates as free-to-air on DD Free Dish while also incurring substantial carriage fees to be part of this platform. Yet, this same channel seeks payment on other platforms, which serve the remaining 67% of households.

A channel should adopt a consistent stance of either being free-to-air or pay, without the ability to declare itself free in one market and pay in another. This practice fosters inequality and discrimination. TRAI should implement suitable regulatory changes to address this practice, ensuring that channels cannot adopt discriminatory behaviors by being free-to-air in some markets and pay in others.

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:

Absolutely, Yes. Ensuring compliance with DAS (Digital Addressable System) Rules is imperative. DD Free Dish should transition into an Addressable Platform. We firmly believe that TRAI should prioritize non-discrimination, a level playing field for all service providers, and, above all, safeguarding the interests of consumers when formulating rules and regulations.

If the transition from a Non-Addressable to an Addressable Platform proves to be a complex, expensive, and time-consuming endeavour, we recommend the following immediate steps to rectify the situation. DD Free Dish has been operating in flagrant violation of DAS Regulations, which contravene the principles of equality, justice, and the livelihood rights of cable operators as enshrined in the Constitution of India.

Hence, our suggestions are as follows:

- i. Pay Broadcasters should promptly cease providing their signals to Free Dish and request the return of their IRDs (Integrated Receiver Decoders) from Prasar Bharti.
- ii. Free Dish should discontinue the broadcast of all Free-to-Air (FTA) channels belonging to private broadcasters.
- iii. Only DD Channels should be made available on Free Dish.

B. Interconnection-related issues

Q.14 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:

1. Amendment in Executed Agreements: According to the Contract Act, any proposed amendments to executed agreements should require the consent of both parties involved. Changes introduced by one party may or may not be agreeable to the other party.
2. Rights of DPOs in Agreement Amendments: Consequently, the existing Regulatory Framework appropriately stipulates that any amendments proposed by broadcasters may or may not be accepted by Distribution Platform Operators (DPOs). Thus, if broadcasters revise their Reference Interconnect Offer (RIO), the choice to either maintain the current agreement or transition to the new terms should firmly rest with the DPOs.
3. Preservation of Existing Practices: The prevailing practice allows DPOs to decide whether to continue with the prior agreement, taking into account its validity, or to engage in fresh agreements with broadcasters based on amended RIOs. It is imperative not to disrupt this practice, as DPOs prioritize the benefits to subscribers and make informed decisions contingent on the suitability of broadcaster channel pricing and market viability.

4. DPO Decision-Making Factors: DPOs, in making these determinations, consider critical factors, including the channel pricing presented in the new or existing agreements. They invariably opt for the choice that ensures the most cost-effective rates for their customers.
5. Equal Access for All DPOs: Furthermore, this flexibility of choosing between the existing agreement and transitioning to a new one is accessible to all DPOs, ensuring impartiality and inclusivity. Mandating a shift to new agreements could introduce instability and unpredictability for DPOs. Therefore, the existing provisions should be upheld, allowing DPOs the discretion to continue with existing agreements in the event of a modification in the RIO by a broadcaster.
7. Standardized RIO: It is suggested that a standard Reference Interconnect Offer (RIO) be approved by the Telecom Regulatory Authority of India (TRAI), similar to the Model Interconnection Agreement/Standard Interconnection Agreement RIO for cable landing stations. This would ensure that every DPO receives TV channels on the same terms and conditions.
8. Facilitating "Must Carriage" Regime: To facilitate the "Must Carriage" regime, DPOs should publish their RIO as well. This RIO should have reciprocal or similar terms and conditions as the RIO published by broadcasters to facilitate the "Must Provide" regime.
9. Objective of Broadcaster's RIO: The primary objective of the broadcaster's RIO is to facilitate the "Must Provide" regime for pay channels. Free-to-air (FTA) channels are available at no cost and do not require commercial agreements, so such RIOs do not include components of carriage fees to be paid by broadcasters to DPOs.
10. Objective of DPO's RIO: Similarly, the objective of DPOs' RIO for carriage fees is to facilitate the "Must Carry" regime for FTA channels. Pay channels are typically purchased and carried by DPOs at the price set by broadcasters, as demand for such channels often corresponds to a subscription fee. Carriage charge RIO is necessary only when a TV channel is not saleable even at a zero price (FTA) and requires carriage support from the DPO.
11. Regulatory Status of RIOs: At present, broadcaster's RIOs are not approved by TRAI, whereas DPOs' RIOs are. To establish a level playing field, both RIOs should hold the same regulatory status.

Q.15 Sometimes, the amendment in RIO becomes expedient due to amendment in extant Regulation/ Tariff order. Should such an amendment of RIO be treated in a different manner? Please elaborate and provide full justification for your comment.

Our Response:

In cases where changes are necessitated in the Reference Interconnect Offer (RIO) due to amendments in the existing Regulations or Tariff orders, it is possible to establish an addendum between the Broadcasters and Distribution Platform Operators (DPOs). This addendum would specifically modify the clauses within the existing RIO while seamlessly becoming a part of the existing RIO itself. Importantly, this modification would be concurrent with the duration of the existing RIO.

However, it is crucial to ensure that the provisioning of services and any amendments to the RIO for subscribers who have subscribed to long-term packs must align with the provisions outlined

in the prevailing Regulations and Tariff orders. This approach is essential to safeguard the interests of long-term pack customers.

Q.16 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 agreements may end on a common date say 31st December every year? Please justify your response.

Our Response:

1. The above question is in reference to situation discussed in Q14, which deliberates upon the necessity for migration to a new agreement in the event of a broadcaster amending the RIO. As detailed in the response to Q14, the existing provisions already ensure adherence to the principles of non-exclusivity and nondiscrimination.

2. As a result, imposing a fixed term for the duration of interconnection agreements is unwarranted. Such a restriction would deprive service providers of flexibility and infuse unpredictability in the sector. Longer-term agreements, by contrast, afford service providers a more stable framework to strategize their tariff structures and business models.

3. Furthermore, mandating a specific duration for interconnection agreements would not only be detrimental to business pursuits but also impose unnecessary operational challenges on service providers.

Q.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?

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Q.18 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:

1. Freedom in Organizing TV Channels on EPG: The freedom to organize TV channels within the Electronic Program Guide (EPG) is akin to the creative control afforded to broadcasters when arranging the sequence of content on their channels. Similarly, various online platforms, websites, and apps exercise autonomy in organizing their content to cater to their audience's preferences. In the offline retail space, physical stores also strategically arrange products to enhance sales and better serve their customers. This freedom to organize is a common practice across various media and retail platforms.

2. EPG as a Navigation Interface: EPG serves as an efficient navigation interface that enables customers to access their desired channels seamlessly. Customers can naturally explore and discover channels based on the appeal and quality of the content offered. Ultimately, it is the

content itself that serves as the primary driver for a channel's popularity, and its placement within the EPG plays a secondary role.

3. Empowering DPOs for Effective Customer Service: Given this perspective, it is logical to grant Distribution Platform Operators (DPOs) the freedom to arrange channels within the EPG according to their requirements for serving customers more effectively. This freedom allows DPOs to tailor their offerings to the specific needs and preferences of their audience, ultimately enhancing the viewing experience and customer satisfaction.

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

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.

If no, please justify your comments.

Our Response:

Following extensive deliberations and discussions with all stakeholders, the Regulations have been amended to include several provisions. One such provision involves revenue sharing between Multi System Operators (MSOs) and Local Cable Operators (LCOs). Both MSOs and LCOs have made significant efforts to implement and establish this practice, which has been widely accepted by all stakeholders.

The relationship dynamics between MSOs and Cable Operators are primarily governed by market-driven factors, and there should be no mandatory regulatory requirement forcing either party into a compulsory partnership. Given the well-established nature of this practice at this point, any reevaluation may disrupt the ecosystem and potentially lead to numerous disputes.

Therefore, we recommend that the existing revenue-sharing agreements between LCOs and MSOs should not undergo a review, and the current practice should be maintained.

Q.20 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?**

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Q.21 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.

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Q.22 Should TRAI consider removing capping on carriage fee for introducing forbearance? Please justify your response.

Our Response:

1. Linkage Between Must Carry and Carriage Fee: The concept of "Must Carry" is inherently connected to the issue of carriage fees in the broadcasting industry. This relationship is akin to the one between "Must Provide" and the pricing of channels. When a Distribution Platform Operator (DPO) invokes "Must Provide," it is obliged to pay the price set by the broadcaster, as per the terms and conditions specified. Under the National Regulatory Framework (NRF) of 2017, broadcasters have been granted the autonomy to establish channel prices without any specific price ceiling.

2. Regulatory Inconsistencies: However, when a broadcaster invokes "Must Carry," the DPO is mandated to charge a carriage fee that falls significantly below the actual network costs incurred. This discrepancy arises from the regulatory cap placed on carriage fees. In contrast, DD Free Dish charges a considerably higher carriage fee compared to other DPOs. For instance, the average carriage fee imposed by DD Free Dish per channel stands at approximately INR 16 Crores, as per the latest auction prices. Yet, per the regulatory limitations on DPOs, they can charge only up to INR 48 lakhs (i.e., INR 4 lakhs per month) as carriage fees for Standard Definition (SD) channels.

3. Addressing Market Distortions: The above-mentioned inconsistencies are distorting market practices, giving priority to the interests of broadcasters and DD Free Dish at the expense of other DPOs. It is imperative to rectify this situation by allowing DPOs to charge carriage fees without undue regulatory inhibitions. Additionally, to enhance transparency, the concept of "first come, first served" should be eliminated, allowing DPOs to allocate channel capacity in a transparent manner and set carriage fees in alignment with what is charged by DD Free Dish.

4. Safeguarding Smaller Broadcasters: To protect the interests of smaller broadcasters that feature content of national importance, a mechanism can be put in place for lower carriage fees. This reduction can apply to a certain maximum percentage of free network capacity. The specific amount of carriage fees for these broadcasters can be determined based on market-determined charges once they are established, fostering a fair and competitive environment. This approach ensures that smaller broadcasters are not unduly burdened and can continue to contribute content of national significance to viewers.

Q.23 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

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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:

1. This question reveals a fundamental flaw by suggesting that the responsibility for negotiating and finalizing an agreement lies solely with Distribution Platform Operators (DPOs). In reality, the onus of negotiating and concluding a contract should be shared by both parties involved.
2. Under typical circumstances, it is not mandatory for either the broadcaster or any DPO to formally sign the Reference Interconnect Offer (RIO). Instead, they are expected to collaboratively agree on the commercial terms. The requirement for an RIO only arises when both parties fail to reach a mutual agreement. Consequently, the responsibility for failing to reach an agreement should be attributed to both parties, rather than being solely placed on DPOs.
3. If the commercial terms presented by the broadcaster are not acceptable to DPOs, the broadcaster has the option to declare its channel as Free-to-Air (FTA) and request carriage based on the terms and conditions outlined in the carriage RIO published by DPOs. Conversely, if the carriage agreement proposed by a DPO is not agreeable to the broadcaster, the broadcaster can opt for the RIO published by the broadcaster.
4. Furthermore, if neither the broadcaster is willing to agree to the DPO's RIO nor the DPO is willing to accept the broadcaster's RIO, that particular platform will not carry that specific channel. It's worth noting that even presently, not every channel is available on every platform.
5. Exceptions can occur when the authority deems it to be in the public interest for a particular channel to be carried on a specific platform. In such cases, the authority may intervene in the Reference Interconnect Offer (RIO) of both the broadcaster and the DPO to facilitate the agreement.
6. However, any constraints imposed on DPOs as proposed in this question would be economically unsound and would place DPOs at a competitive disadvantage compared to broadcasters. This would potentially be in violation of Article 14 and Article 19 of the Constitution of India. DPOs should not be compelled to carry a channel at a price set by the broadcaster unless a mutually agreeable agreement is reached. The broadcaster has the option to declare its channel as FTA and employ the carriage RIO to include its channel on the platform.

C. Quality of Service related issues

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Q.24 Whether the extant charges prescribed under the ‘QoS Regulations’ need any modification required for the same? If yes, justify with a 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.

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Q.25 Should TRAI consider removing capping on the above-mentioned charges for introducing forbearance? Please justify your response.

Our Response:

1. **Forbearance on Charges in a Competitive Environment:** We firmly advocate for complete forbearance on the charges mentioned. It is crucial to reiterate that the broadcasting industry operates within a highly competitive environment, affording consumers an extensive range of choices when it comes to selecting their Distribution Platform Operator (DPO). Given this level of competition, the imposition of specific price ceilings becomes unnecessary. Consumers are already empowered to make choices that align with their preferences.

2. **Impact of Price Ceilings on DPOs:** The imposition of price ceilings can significantly impact DPOs. Price ceilings often prevent DPOs from recovering their operating costs and investments fully. This situation may result in sub-optimal service quality and potential delays for consumers. Some service providers may resort to cost-cutting measures to operate within the prescribed price ceilings, potentially compromising the quality and efficiency of their services. Furthermore, price ceilings can hinder innovation among DPOs as they may become apprehensive about the financial implications of implementing innovative solutions to enhance customer experiences.

3. **Transparency Through Tariffs:** To ensure transparency, it is advisable to mandate that DPOs disclose these charges in their retail tariffs. Transparency benefits consumers by providing clarity on the costs associated with their chosen services. However, TRAI should refrain from regulating the specific amount or quantum of these charges. Instead, it should allow market forces to determine the pricing, fostering a competitive and responsive industry that serves consumer interests effectively.

Q.26 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:

1. The purpose of displaying price in the EPG is to inform the customer of the price at which channel is available for subscription i.e. DRP. Hence, displaying DRP is relevant from consumers' perspective.

2. Once, the current regulatory framework is migrated to the regime where DPOs will decide retail prices, only DRP will be relevant as wholesale prices (by broadcasters) will not have any relationship with retail prices.

Q.27 What periodicity should be adopted in the case of pre-paid billing system. Please comment with detailed justification.

Our Response: The current billing period as provided in the extant Regulation is working fine and customers are accustomed to current billing system. Thus, there is no need for any change.

Q.28 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:

DPOs have incurred huge costs in deploying Subscriber Management System (SMS) that are functioning as per current requirements. Any changes or alterations of introducing daily reporting would lead to requirement of additional infrastructure that is beyond the financial feasibility of many DPOs. Hence, the current system should be continued with.

Q.29 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:

We submit that since the above conditions are part of MIB guidelines for Platform services, these can be included in the QoS Regulations as well. However, this might not be feasible in certain Set-Top boxes that have been functional prior to NRF-2017. Therefore, these would need to be exempted.

D. Review of mandatory provisions of toll-free number, Consumer Corner, Subscriber Corner, establishment of website and Manual of Practice etc.

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

(a) Toll-free customer care number

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(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:

Since the above requirements have been in force since the implementation of NRF-2017 and are in consumer interest, these may be continued. There should be penal provisions, such as termination of license in case of DPOs who don't comply with these for a considerable time period of say three years.

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 QO 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 the prescription of differential financial disincentive? Please provide a list of such violations and category thereof. Please provide a justification for your response.**
- ii. How much time should be provided to the service provider to comply with regulations 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**
- iv. If yes, what should be the interest rate?**
- v. In no, what other measures should be taken to ensure recovery of financial disincentive and regulatory compliance?**
- vi. 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:

A financial penalty may be imposed on a service provider if they are found to be continuously violating any provisions of the Tariff Order, Interconnection Regulations, and QOS Regulations. It is important to consider that sometimes these violations may occur inadvertently, and service providers should not be unduly penalized for genuine mistakes. In the case of a first-time violation,

the service provider should be given an opportunity to explain the situation, and if it is determined to be a bona fide mistake, forgiveness should be considered.

However, if the service provider continues to commit the same violation, a financial penalty may be imposed. The amount of the penalty could be Rs. 25,000 for minor violations and Rs. 50,000 for major violations on the first occurrence. The classification of a violation as major or minor should be based on its severity. For example, actions such as distributing signals in analogue mode or entering subscription fee agreements on a fixed fee basis should be considered major violations.

Before imposing any penalty, the service provider should be given a reasonable opportunity to rectify the mistake within a specified timeframe. If the service provider fails to correct the violation, the fine should be doubled. If the violation persists even after that, the cancellation of the provider's license may be recommended.

In cases where consumers suffer losses due to these violations, they should be adequately compensated to the extent of the loss they have incurred.

E. Any other issue

Q32. Stakeholders may provide their comments with full details and justification on any other issue.

Our Response:

A. Quality of Service (QoS) regulations should be expanded to encompass various consumer-related issues such as installation delays and the timely resolution of consumer complaints, similar to the practices in the telecommunications sector.

B. In light of this, we propose that Consumer Advocacy Groups (CAGs) be integrated into the stakeholder meetings organized by TRAI within the Broadcasting and Cable Services Sector. This suggestion is based on the following considerations:

- To ensure that the consumer perspective is consistently represented in all stakeholder meetings, which is currently lacking. This inclusion would facilitate a more comprehensive approach to the formulation of regulations that have a significant impact on consumers.
- By involving consumer organizations and, consequently, consumers themselves, a better understanding of the perspectives of other stakeholders can be achieved, hopefully leading to more effective regulations.
- The participation of Consumer Advocacy Groups (CAGs) would enhance the capacity and effectiveness of these groups in advocating for consumer interests.

SUMMARY OF RESPONSE:

Here is an expanded version of the recommendations:

1. **Market Competition Acknowledgment:** In its recommendations on "Market Structure/Competition in Cable TV services" dated 7 September 2022, TRAI recognized the presence of ample competition within the market.
2. **Removal of Economic Regulations:** Considering the acknowledged competitive environment, it is recommended to remove all economic regulations, including price caps, ceilings, discount caps, and restrictions on the formation of bouquets. Service providers should be granted the autonomy to determine the pricing of their TV channels and distribution services, as well as to negotiate the terms and conditions of their interconnections based on market forces.
3. **Phased Forbearance Implementation:** For areas where forbearance may be best implemented in a gradual manner, a framework for sunset provisions relating to interconnection and other relevant regulatory principles should be identified and notified.
4. **Market-Based Agreements:** As TRAI initiates further regulatory reforms, it is recommended to permit market-based agreements between broadcasters and Distribution Platform Operators (DPOs). This approach encourages voluntary negotiations in a competitive market. In cases where DPOs and broadcasters are unable to reach a market-based agreement, the option of executing a Reference Interconnect Offer (RIO) should be provided. These RIO-based agreements should be structured according to the RIOs and rate cards published by broadcasters and the subscriber numbers and target markets published by DPOs.
5. **No Pricing and Packaging Restrictions:** It's crucial to emphasize that no restrictions should be imposed on the pricing and packaging of broadcasters' RIOs, as there is already adequate competition within the sector. This competition will naturally drive competitive prices for consumers.
6. **Focus on Regulatory Efforts:** By implementing these deregulatory measures, TRAI can shift its regulatory focus towards safeguarding the interests of service providers. This approach aims to promote the orderly growth of the sector and ensure a higher quality of services for consumers.
7. **Enabling Environment:** Protecting the interests of service providers entails creating an environment that fosters their survival in a highly innovative, hyper-competitive, and price-sensitive market. This includes facilitating a framework that encourages innovation, investment, and fair competition.
8. **Consumer Interests:** While promoting industry growth and competitiveness, it remains imperative to maintain a vigilant approach to safeguarding the interests and rights of consumers.

Ensuring that consumers have access to diverse content at competitive prices and addressing their grievances effectively should continue to be a priority.

9. Regular Monitoring: Continuous monitoring and assessment of the industry landscape are essential to adapt to changing market dynamics. This includes periodic reviews of the deregulation's impact on both service providers and consumers to ensure a balanced and thriving market.

10. Promoting Long-Term Sustainability and Growth: The proposed deregulation measures are essential for ensuring the long-term sustainability and growth of the Broadcasting and Cable Services (B&CS) sector. The continuation of "temporary" regulations, initially introduced in 2004, has led to market inefficiencies and discouraged innovation, both in terms of content development and infrastructure enhancement.

11. Inefficiencies and Incentives for Innovation: The persistence of these dated regulations has introduced inefficiencies into the market. Furthermore, it has acted as a disincentive for stakeholders to invest in and innovate within the sector. By removing these regulations, the industry can flourish with greater competitive pressures that stimulate innovation.

12. Addressing Competition-Related Issues: It's worth noting that nearly all the regulations in the B&CS sector were originally introduced to address issues related to competition. In a deregulated environment, managing misconduct concerning competition becomes essential. To achieve this:

13. Capacity Building and Expertise Enhancement: TRAI should focus on building its capacity and enhancing its in-house expertise by assembling a team of experts well-versed in competition and antitrust matters.

14. Targeted Investigations: Allegations or complaints concerning antitrust or competition issues, specific to particular target markets or geographical areas, should be investigated by TRAI. This focused approach enables more efficient identification and resolution of issues.

15. Remedial Measures over Broad Regulations: Instead of imposing broad industry-wide regulations, TRAI can opt for remedial measures tailored to address misconduct by specific parties in designated areas. This approach provides flexibility and fairness, ensuring that only those responsible for misconduct face consequences.

16. Temporary Nature of Remedial Measures: These remedial measures can be time-bound and specific to the affected parties. They should be removed once effective competition is restored in the identified area, thereby promoting fair competition and reducing the need for ongoing regulations.

17. Adapting to Changing Dynamics: The deregulatory approach is aligned with the evolving dynamics of the B&CS sector. It enables stakeholders to adapt to market shifts, changing consumer preferences, and technological advancements more effectively. By focusing on

targeted interventions and nurturing competition, the sector can thrive and remain consumer-centric.

18. **Consumer Benefits:** Ultimately, the removal of broad regulations encourages service providers to offer a diverse range of content at competitive prices, benefiting consumers who can enjoy a wider array of choices and potentially lower costs.

19. **Ongoing Monitoring:** Regular monitoring and assessment of competition in the sector should be conducted to ensure that the market remains healthy and competitive. TRAI's role in this scenario is to act as a vigilant regulator, intervening when necessary to preserve fair competition and protect consumer interests.