



**URGENT MATTER
UNDER RTI ACT**

**भारतीय दूरसंचार विनियामक प्राधिकरण
TELECOM REGULATORY AUTHORITY OF INDIA**

महानगर दूरसंचार भवन, जवाहरलाल नेहरू मार्ग,
Mahanagar Doorsanchar Bhawan, Jawahar Lal Nehru Marg,
(पुराना मिनटो रोड), नई दिल्ली-110002
(Old Minto Road), New Delhi - 110 002

No. 1(596)/2016-RTI

Dated the 17 April, 2018

To

✓ Shri Vikky Choudhry,
B-10, Illrd Friends Colony (West),
New Delhi-110065.

SUBJECT: COMPLIANCE OF CIC ORDER UNDER THE PROVISIONS OF THE RIGHT TO INFORMATION ACT, 2005.

Sir,

Please refer to CIC Order No. CIC/TRAOI/C/2017/131449 dated 07.03.2018 in your appeal case under the provisions of the Right to Information Act, 2005.

2. In the above context, please find enclosed herewith a copy of industry's representation on Tariff Issues.

Encl: as above stated

Yours faithfully,

S.K. Dutta
17/4/18
(S.K. Dutta)

Central Public Information Officer
Tele: 011-23664503

Copy to:

Shri S.C. Sharma,
Dy. Registrar,
Central Information Commission,
Baba Gang Nath Marg, Munirka,
New Delhi - 110067.

-For information please.



17 February 2014

Sub: Withdrawal of Tariff Regulations in Addressable Systems

Dear Mr Parameswaran

It was a pleasure to meet with you last month along with various IBF Members to discuss the captioned matter. Our apologies for the delay in sending this letter. Our discussion was extremely useful in setting the tone for the next generation of tariff policies in television broadcasting in view of the fact that the entire country is going to be fully addressable and digitalized by December 2014.

In continuation of our discussions, this letter sets out the need for comprehensive review and for withdrawal of existing tariff regulations in addressable systems. We hope you will initiate the necessary consultation process in this regard at the earliest. We would like to bring to your kind notice the following:

1. At the outset, it has always been the stated position of the TRAI that the price regulation in the broadcasting sector is an interim measure and will be withdrawn upon

- i) Evidence of effective competition and
- ii) Introduction of addressability

- 1.1 The above mentioned position has been stated in various tariff orders and recommendations issued by TRAI from time to time. The attention in this regard is invited to the following:

- (a) The tariffs for channels in analogue cable TV system have been under freeze both at wholesale level and at retail level since December 2003 and only inflation related increase is being allowed at periodic intervals. The input costs (production costs) are continuously rising without any respite. The few inflation related hikes allowed by TRAI are wholly inadequate to meet these ever increasing input costs. Even newly launched channels have to comply with the similarity principles qua their rates vis-à-vis the rates of existing channels as per Tariff Order dated 31st July 2006. Thus, the tariff is completely regulated in the cable. In this context, it is pertinent to point out that not only the tariff of the channels is under freeze but even the composition of bouquet has also been frozen. In other words, no new channel can be added in the existing bouquet and that it has to be separately sold/form the part of newly launched bouquet.

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- (b) It is also pertinent to point out that since the tariffs for non-DAS (analogue) areas are under freeze since December 2003 and since benchmark adopted by TRAI for the determination of tariff across all addressable platforms are the tariffs prevalent in non-DAS areas (42% of non-DAS tariff), the tariffs for all addressable platforms are also under indirect freeze. Thus, both in non-DAS areas as well as in addressable sectors the tariffs of channels are under freeze.
- (c) In this context it is also relevant to mention that in 2004 when the tariff freeze was introduced, it was termed as a temporary measure. It has been repeatedly stated by TRAI in its various consultation papers, recommendations, tariff orders and other documents that "tariff freeze" would be withdrawn once digitalization is implemented.

The TRAI itself in its Recommendations dated 1/10/2004 has observed:
"It must be emphasized that the regulation of prices as outlined above is only intended to be temporary and till such time as there is no effective competition. The best regulation of prices is done through effective competition. Therefore as soon as there is evidence that effective competition exists in a particular area price regulation will be withdrawn. TRAI will conduct reviews of the extent of competition and the need for price regulation in consultation with all stakeholders."

- (d) The "similarity principle" stipulated in various tariff orders including the tariff order dated 31/7/2006 is a fallacious concept as the channels which are in the same genre or are "similar" in fact have widely varying characteristics and can never be compared. Even within a genre, there is little rationale to put a price cap on channels whose content will be diverse. For example sports channels have rights to different sports, some of which have a wide viewership and some of which will be niche. Having one price for all sports channels is therefore illogical. Similarly a regional GEC or a news channel gets viewership based on content and "hot" news and not based on its genre or "category".
- (e) The price freeze in both analogue as well as addressable systems is causing lot of prejudice to the broadcasters and other stakeholders. The cost of programming for example sports, movies and general entertainment depends to a large extent on the type of content acquired or rights of telecast obtained from time to time and placing a cap of pricing can hinder a channel from going in for new programming which could only be supported by hike in subscription. It is pertinent to point out that the input cost for the broadcasters is continuously increasing in the form of increase in the cost of procurement of programmes from production houses, increase in the cost of IPR procurements, phenomenal increase in the cost of movie rights, increase in overhead costs, operational costs in the form of hiring of transponders etc. events rights and sports broadcasting rights etc. This has resulted in total imbalance as the broadcasters have to absorb all these increased costs themselves.

- (f) We are of the considered view that the rate regulation and price controls distort the market and lead to misallocation of resources. Artificially low prices deter any further investment in new channels & programming which in turn affects consumers' choices because of shortage of quality channels and lack of variety in programming. In this regard it is useful to refer to the extract of the Explanatory Memorandum to the Tariff Order dated 1/10/2004 which reads as under:

"Fixation of price charged for new pay channels to consumers is difficult because of large variations for these prices and of the difficulty in linking these to costs. Further, this is a localized issue which is not easily amenable to centralized regulations. Prices in different parts of the country are based on different systems using different methodologies for fixing the subscriber base. Many of these problems will get resolved if addressability is introduced, giving consumers choice and making the interconnect agreements more transparent."

Even in respect of fixation of tariff in non CAS areas, in its report dated 21/7/2010 to Hon'ble Supreme Court, the TRAI after exploring various methodologies of fixing the cost based tariff, has categorically stated that it is not possible to fix up the price of a channel.

2. Inflation related Increase

Simply allowing adjustment on annual basis for inflation, based on wholesale price indices as is being done presently by TRAI vide Tariff Order dated 1.10.2004/1.10.2007, is wholly insufficient & inadequate to offset the increase in input costs of a broadcaster. The approach followed by the Authority assumes that the content produced by the channels remain more or less of the same quality and variety and that increase in overhead can be compensated by allowing inflation based hike. However, the said approach is entirely inappropriate in-as-much-as there has been sea change in the quality & variety in the programming content on continuous basis which is the result of continuous investment not only in the infrastructure in terms of equipments etc. but also in the acquisition of new quality based programmes, new movies, manpower etc. and such cost components cannot in any manner be compensated merely by an inflation based hike in wholesale prices.

In view of the above, there is an urgent need to review the entire tariff framework in the sector.

3. Effective Competition in the Sector :-

The growth in effective competition in the sector is evident from the fact that market dynamics have substantially changed since 2010. There are over 650 active channels as compared to less than 450 active channels in 2010. Also, the subscriber base of DTH Operators has increased manifold from 2007 to 2013. Moreover, the introduction of viewing platforms like DTH, IPTV and HITS, and digitisation of last mile have led to a more diverse, rapidly evolving multi-platform-market. Further,

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the successful implementation of Phase I and Phase II of Digitisation provides consumers the choice of TV channels they want to watch. With the implementation of Phases III and IV by December 2014, the entire country would have moved to a digitally addressable platform. Most important, the number of viewers has considerably increased and accordingly, competitive forces are proven to be comprehensively at play.

- 3.1 In view of these ground realities, it is evident that, today, like other advanced countries, subscribers in India have a much greater choice of delivery platforms such as Cable TV, DTH, IPTV, etc. Moreover, the distribution platforms provide subscribers the ability to select and/or view specific channels of their choice on an a-la-carte basis, making competition realistic and meaningful.
- 3.2 The market is mature enough to reach its equilibrium level. The continuity of price regulation & controls will not only distort the market but will also lead to downgradation of quality of services and reduction of investment in the sector. It is to be noted that selling the channels at low prices will discourage any further investment in new channels and programming which is bound to affect the consumer choice and creating a shortage of quality channels and variety in programming content.
- 3.3 Since market is mature and the economic principal of equilibrium has made its inroad into the industry, if any channel is overpriced, the market forces will naturally drive its price down to a level that is acceptable to consumers in the market and where the channel is under priced, the market forces will effect necessary correction based on its demand & popularity by increase in price. Hence no economic rationale exists for continuation of price controls.

Way forward

4. As pointed out hereinabove, that the tariff for Digital Addressable System at present is linked to the wholesale tariff of channels in non-DAS areas i.e. 42% of non-DAS prices. Once the DAS is implemented in the entire country, there would be no non-DAS area. Accordingly, the benchmark i.e. the price of channels in non-DAS areas would cease to exist. It is therefore imperative that a tariff framework to govern the pricing of channels in Digital Addressable System is required to be in place before 31st December 2014 to ensure the continuity. We strongly recommend that forbearance in the tariff is the need of the hour. However, in order to ascertain the views of various stakeholders in the sector, a comprehensive consultation process for tariff framework post completion of implementation of Digital Addressable System in the entire country, should be initiated immediately.
- 4.1 We have already pointed out that effective competition is in play. As digital addressable systems will be in place by December 2014 and TRAI will be influential in helping establish its go forward parameters, we suggest that the process to initiate withdrawal of tariff regulation needs to commence now and be completed by July-August 2014 and be implemented w.e.f. January 2015 coinciding with the implementation of digitisation across India. In our submission, such action would be consistent with the long held views and stated position of TRAI.

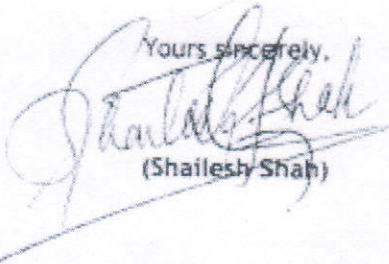
INDIAN BROADCASTING FOUNDATION

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We would further be glad to meet with you in person to discuss further course of action. We also suggest a fortnightly meeting with yourselves to discuss the progress, and to assist you in this gigantic leap for television broadcasting.

Thanking you.

Yours sincerely,



(Shailesh Shah)

Mr N Parmeswaran
Principal Advisor (Regulatory and Enforcement)
Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan
JawaharLal Nehru Marg (Old Minto Road)
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