The television channels are all pleased with the NTO 2.0 and are set to unleash the next phase of price war.

The Telecom Regulatory Authority of India (TRAI) on 3rd March, 2017 notified the new regulatory framework to ensure orderly growth of the Broadcasting and Cable TV Sector after a consultation process that lasted for more than one and a half year. This was necessitated by the complete digitization of Cable TV networks in India. The framework comprised of following Tariff Order and Regulations:

i. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (Tariff Order 2017);

ii. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 (Interconnection Regulations, 2017);


Hereinafter, the above two Regulations & the Tariff order are collectively referred to as ‘the Framework.’

However, the framework could not be implemented as per the proposed timelines due to legal challenges. After passing legal scrutiny in Hon’ble High Court Madras and Hon’ble Supreme Court, ‘the framework’ came into effect from 29th December 2018. Collectively the three determinations completely overhauled the regulatory framework for the Sector. Given the size and structure of the Sector and the changes that ‘the framework’ entailed, it was imminent that there could be some transient issues.

TRAI carried out a consumer survey during July and August 2019 through an agency. The survey results

---

The television channels are all pleased with the NTO 2.0 and are set to unleash the next phase of price war.

The Telecom Regulatory Authority of India (TRAI) on 3rd March, 2017 notified the new regulatory framework to ensure orderly growth of the Broadcasting and Cable TV Sector after a consultation process that lasted for more than one and a half year. This was necessitated by the complete digitization of Cable TV networks in India. The framework comprised of following Tariff Order and Regulations:

i. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (Tariff Order 2017);

ii. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 (Interconnection Regulations, 2017);


Hereinafter, the above two Regulations & the Tariff order are collectively referred to as ‘the Framework.’

However, the framework could not be implemented as per the proposed timelines due to legal challenges. After passing legal scrutiny in Hon’ble High Court Madras and Hon’ble Supreme Court, ‘the framework’ came into effect from 29th December 2018. Collectively the three determinations completely overhauled the regulatory framework for the Sector. Given the size and structure of the Sector and the changes that ‘the framework’ entailed, it was imminent that there could be some transient issues.

TRAI carried out a consumer survey during July and August 2019 through an agency. The survey results
reflected some inadequacies resulting in issues for the consumers. TRAI also received quite a few consumer representations during this period. ‘the Framework’ changed quite a few business processes. As a result, many positives emerged. Consumers could exercise their choices like never before. All the stakeholders in the television distribution value chain were assured of their distinct revenue stream(s). The trust-based audit regime through third party empaneled auditors started functioning. These measures helped in enabling orderly growth of the sector. Yet, it was observed that a few service providers were making unfair use of the available flexibility of the framework. The Authority took up a consultative exercise to address these issues. After due consultation in the last quarter of 2019, TRAI notified the following amendments to the Regulatory Framework 2017, on 1st January 2020:

A. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2017 (Tariff Amendment Order 2020)

B. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment) Regulations, 2017 (Interconnection Amendment Regulations, 2020)

C. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) (Third Amendment) Regulations, 2017 (QoS Amendment Regulations, 2020)

Hereinafter, the above amendments are collectively referred to as ‘the amended Framework 2020'.
Important amendments as per ‘the amended Framework 2020’ are as follows:

a) Increase in number of SD channels from 100 to 200 in the NCF of maximum Rs. 130/- per month.

b) More than 200 SD channels in the NCF of maximum Rs. 160/- per month.

c) NCF for 2nd TV connection and onwards in multi TV homes not more than 40% of declared NCF per additional TV.

d) Subscribers can choose a different set of channels for each TV connection in a multi TV home

e) Broadcasters’ freedom to fix the price of their channels continued

f) Reduction of ceiling price on MRP of pay channels for inclusion in bouquet from Rs. 19/- to Rs. 12/-. 

g) Reasonable restrictions on number of bouquets offered by broadcasters - Number of bouquets of pay channels not to be more than number of pay channels offered by a broadcaster.

h) MRP of a channel should not be more than the MRP of any bouquet containing that channel in order to bring further reasonableness in the bouquet formation and pricing.

i) Flexibility to DPOs to declare different NCFs for different geographical regions/areas within their service areas

j) DPOs may offer discounts on NCF and DRP on long term subscriptions of duration of 6 months and above.

k) Reduced amount of carriage fee - 20 paise per subscriber per month for SD channels with a cap of Rs. 4 lakh per month payable by a broadcaster to a DPO in a month for carrying a channel in the country.

Some stakeholders challenged the amendments framework 2020. Provisions related to Network Capacity Fee (NCF), multi-TV homes and long-term subscriptions were challenged by All India Digital Cable Federation (AIDCF) and others in the High Court of Kerala. Provisions related to cap on MRP of a channel to be part of a bouquet, relationship between a-la-carte channels and bouquet pricing etc. were challenged by the Indian Broadcasting &
Digital Foundations (IBDF) and others in the High Court of Bombay.

After interim orders of the Hon’ble High Court of Kerala, the provisions related to Network Capacity Fee (NCF), multi-TV homes and long-term subscriptions contained in ‘the amended Framework 2020’ have been implemented. The consumers are availing due benefits of these amendments. Every consumer now gets 228 TV channels instead of 100 channels earlier, in a maximum NCF of Rs. 130/-. This resulted in a reduction of consumers’ NCF for availing a similar number of channels by estimated Rs. 40/- to Rs. 50/-. In addition, the amendment in NCF for multi-TV homes has enabled further savings to the tune of 60% on second (and more) television sets.

As mentioned in para 5 some broadcasters and other stakeholders challenged ‘the amended Framework 2020’ in the Hon’ble High Court of Bombay vide Writ Petition (L) No. 116 of 2020 and other connected matters therewith.

Hon’ble High Court of Bombay, vide its Judgement dated 30th June 2021 upheld the validity of New Regulatory Framework 2020 except for the condition of the average test provided in the third proviso to sub-clause (3) of clause 3 of the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020 (herein after referred as Tariff Amendment Order 2020).

The petitioners in the said case at High Court of Bombay filed Special Leave Petitions (SLPs) in the Hon’ble Supreme Court of India, challenging the judgement dated 30th June 2021. No interim relief was granted by the Hon’ble Supreme Court. On 15th February 2022, the petitioners submitted an affidavit in Hon’ble Supreme Court for withdrawal of SLPs. Hon’ble Supreme court was pleased to grant permission for the withdrawal of the SLP and passed the following order on the same day:

“The Special Leave Petitions are dismissed as withdrawn. All questions of law open are kept open.”

Meanwhile, considering that no interim relief was granted by Hon’ble Supreme Court on the judgement of Hon’ble Bombay Court, the Authority issued a letter dated 12th October 2021 (Annexure III) to all the broadcasters

NTO 2.0

Digital Foundations (IBDF) and others in the High Court of Bombay.

After interim orders of the Hon’ble High Court of Kerala, the provisions related to Network Capacity Fee (NCF), multi-TV homes and long-term subscriptions contained in ‘the amended Framework 2020’ have been implemented. The consumers are availing due benefits of these amendments. Every consumer now gets 228 TV channels instead of 100 channels earlier, in a maximum NCF of Rs. 130/-. This resulted in a reduction of consumers’ NCF for availing a similar number of channels by estimated Rs. 40/- to Rs. 50/-. In addition, the amendment in NCF for multi-TV homes has enabled further savings to the tune of 60% on second (and more) television sets.

As mentioned in para 5 some broadcasters and other stakeholders challenged ‘the amended Framework 2020’ in the Hon’ble High Court of Bombay vide Writ Petition (L) No. 116 of 2020 and other connected matters therewith.

Hon’ble High Court of Bombay, vide its Judgement dated 30th June 2021 upheld the validity of New Regulatory Framework 2020 except for the condition of the average test provided in the third proviso to sub-clause (3) of clause 3 of the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Second Amendment) Order, 2020 (herein after referred as Tariff Amendment Order 2020).

The petitioners in the said case at High Court of Bombay filed Special Leave Petitions (SLPs) in the Hon’ble Supreme Court of India, challenging the judgement dated 30th June 2021. No interim relief was granted by the Hon’ble Supreme Court. On 15th February 2022, the petitioners submitted an affidavit in Hon’ble Supreme Court for withdrawal of SLPs. Hon’ble Supreme court was pleased to grant permission for the withdrawal of the SLP and passed the following order on the same day:

“The Special Leave Petitions are dismissed as withdrawn. All questions of law open are kept open.”

Meanwhile, considering that no interim relief was granted by Hon’ble Supreme Court on the judgement of Hon’ble Bombay Court, the Authority issued a letter dated 12th October 2021 (Annexure III) to all the broadcasters

NTO 2.0
seeking compliance with the provisions of New Regulatory Framework 2020 as upheld by Hon’ble Court of Bombay, within 10 days. Consequently, most of the broadcasters submitted their Reference Interconnect Offer (RIOs) to TRAI in compliance with ‘the amended Framework 2020’. As per extent provisions, these RIOs were also published on their websites in November 2021.

New tariffs announced by the major broadcasters reflected a common trend. The prices of their most popular channels, including the sports channels, were increased beyond Rs. 19/- per month. In compliance with the extant provisions, all such channels that are priced higher than Rs. 12/- (per month) have been kept out of bouquet. Accordingly, all the channels with maximum retails price above Rs. 12/- have been offered only on a-la-carte basis. The revised RIOs indicated wide-scale changes in composition of almost all the bouquets being offered.

As soon as the new RIOs were announced, TRAI started receiving representations from Distribution Platform Operators (DPOs), Associations of Local Cable Operators (LCOs) and Consumer Organizations. In General, the representations reflected that the new RIOs would entail hardships on distribution ecosystem, as service offerings for every consumer will require obtaining of new choices. Consumer organizations also raised the issue of impending rise in monthly bills. DPOs also highlighted difficulties likely to be faced by them in implementing new rates in their IT systems and migrating the consumers in bulk to the new tariff regime.

On the basis of the representations, TRAI extended the timelines for implementation and also started engaging with the stakeholders for facilitating the smooth implementation of the pending provisions of ‘the amended Framework 2020’. It was impressed upon all the broadcasters to ensure that the new tariffs were in compliance with the provisions of New Regulatory Framework 2020 as upheld by Hon’ble Court of Bombay, within 10 days. Consequently, most of the broadcasters submitted their Reference Interconnect Offer (RIOs) to TRAI in compliance with ‘the amended Framework 2020’. As per extent provisions, these RIOs were also published on their websites in November 2021.

New tariffs announced by the major broadcasters reflected a common trend. The prices of their most popular channels, including the sports channels, were increased beyond Rs. 19/- per month. In compliance with the extant provisions, all such channels that are priced higher than Rs. 12/- (per month) have been kept out of bouquet. Accordingly, all the channels with maximum retails price above Rs. 12/- have been offered only on a-la-carte basis. The revised RIOs indicated wide-scale changes in composition of almost all the bouquets being offered.

As soon as the new RIOs were announced, TRAI started receiving representations from Distribution Platform Operators (DPOs), Associations of Local Cable Operators (LCOs) and Consumer Organizations. In General, the representations reflected that the new RIOs would entail hardships on distribution ecosystem, as service offerings for every consumer will require obtaining of new choices. Consumer organizations also raised the issue of impending rise in monthly bills. DPOs also highlighted difficulties likely to be faced by them in implementing new rates in their IT systems and migrating the consumers in bulk to the new tariff regime.

On the basis of the representations, TRAI extended the timelines for implementation and also started engaging with the stakeholders for facilitating the smooth implementation of the pending provisions of ‘the amended Framework 2020’. It was impressed upon all the broadcasters to ensure that the new tariffs were in compliance with the provisions of New Regulatory Framework 2020 as upheld by Hon’ble Court of Bombay, within 10 days. Consequently, most of the broadcasters submitted their Reference Interconnect Offer (RIOs) to TRAI in compliance with ‘the amended Framework 2020’. As per extent provisions, these RIOs were also published on their websites in November 2021.

New tariffs announced by the major broadcasters reflected a common trend. The prices of their most popular channels, including the sports channels, were increased beyond Rs. 19/- per month. In compliance with the extant provisions, all such channels that are priced higher than Rs. 12/- (per month) have been kept out of bouquet. Accordingly, all the channels with maximum retails price above Rs. 12/- have been offered only on a-la-carte basis. The revised RIOs indicated wide-scale changes in composition of almost all the bouquets being offered.
stakeholders that the migration to the amended Framework 2020 should not cause disruption of service to the consumers.

Through various representations and during the discussions of different associations (including LCO groups) held with TRAI, stakeholders raised various issues, inter-alia, as below:

- Every Distributor of the television channel would require to make major changes in their service offerings to align with new RIOs declared by broadcasters.
- Due to changes in composition of bouquets, almost every consumer would need to submit new choices to the distributor concerned through LCOs/ directly.
- The way new tariffs are structured, implementation entails wide scale changes in service configuration of the IT Systems by distributors.
- The transition would entail huge effort on the part of Local Cable Operators and consumers as well as on IT systems.

The stakeholders requested TRAI to take appropriate steps and ensure that consumers do not face hardships due to impending changes, including rise in monthly bills, caused by revised RIOs. In general, there was a view that TRAI may consider appropriate consultation to review certain provisions that are necessary for smooth implementation and consumers convenience.

To deliberate on the issues related to pending implementation of New Regulatory Framework 2020 and suggest a way forward, a committee consisting of members from Indian Broadcasting & Digital Foundation (IBDF), All India Digital Cable Federation (AIDCF) & DTH Association was constituted under the aegis of TRAI (Annexure IV).

The broad terms of reference of the Committee were as below:

1. To look into the process of smooth implementation of New Regulatory Framework 2020 keeping in view consumers convenience in exercising informed choices and suggest measures thereof (if any).
2. To identify issues of concern and suggest measures for overall growth of the broadcasting sector.

The purpose of the committee was to provide a platform and facilitate discussions among various stakeholders to come out on a common agreed path for smooth implementation of Tariff Amendment Order 2020. Stakeholders were advised to come up with an implementation plan with minimum disruptions or hassles to the consumers.
The committee held discussions on 23rd December 2021. Stakeholders listed the following issues which, in their opinion, required review:

a. The proposed tariffs by broadcasters through their RIOs submitted in compliance to NTO 2.0 Tariff Orders would cause a significant increase in the tariffs to consumers. The consumer price rise, if any, is required to be limited to a reasonable limit.

b. The proposed RIOs by Broadcasters may cause significant changes in the packages, especially due to keeping popular channels at higher a-la-carte prices, not being part of bouquets. This enjoins DPO to make very large number of plans and package offerings. Therefore, the DPOs require support from broadcasters so that they do not have to make large number of plans/ bouquets.

c. Considering the facts mentioned above, there is a need to simplify the process of exercising choices by consumers so that no channel should be provided to consumers without explicit consent. Consumers should have the facility to remove any channel.

d. The same product (television Channel) should be offered at the same price whether on Linear Television, Free Dish or Subscription based Video on Demand.

 e. Stakeholders suggested that more than two years have passed since NTO 2.0 amendments and more than three years have passed with NTO 1.0 implementations, since then, there is no change in prices of bouquet or a-la-carte channels. This has kept industry under stress in terms of providing quality products to the end consumers. As such restoring the MRP ceiling for bouquet inclusion to unamended tariff order level of Rs. Nineteen (19/-) would be appropriate.

f. The above provision shall also help in maintaining bouquet structure by ensuring all popular channels are within limits of bouquet. Additionally, this will also create bare minimum hassles to consumers in exercising their choices under new tariffs, as most of the tariffs may continue in their current form.

g. Allowing additional fifteen (15%) percent incentive to DPOs for bouquets as well, as has been provided for a-la-carte channel (It was pointed by the chair that the said provision pertains to Interconnection regulations and is not part of Tariff Order).
h. The second twin condition may be reviewed to enhance the discount on sum of MRP of a-la-carte of pay channels forming part of the bouquet to fifty percent. This will enable the broadcasters to cross-subsidize the packages.

i. Revision in the ceiling of Network Capacity Fee (NCF) of Rs 130/-. 

j. In case of multi-TV homes, broadcasters should also offer MRP of their channels for each additional TV connection, beyond the first TV connection, @ 40% of the MRP declared for the first TV connection. This will help consumers in saving cost of subscribing to pay channels on multiple televisions.

k. Review of ceiling of fifteen percent (15%) on discount on sum of a-la-carte channels of MRP of that bouquet available for DPOs.

l. Stakeholders suggested that TRAI should take immediate corrective measures and implement revised tariff by 1st April 2022. All DPOs present insisted that to properly implement new tariffs they will require sufficient time as prescribed.

The Stakeholders’ Committee, however, requested TRAI to immediately address critical issues so that minimum hardship is caused to the consumers in implementation of Tariff Amendment Order 2020. Stakeholders also listed other issues for subsequent consideration by TRAI. All the members of the stakeholders’ committee observed that urgent action is required to manage a smooth transition and to avoid inconvenience to consumers.

In order to address the issues as identified by the stakeholders’ committee; TRAI issued the consultation paper on ‘Issues related to New Regulatory Framework for Broadcasting and Cable services’ on 7th May 2022 for seeking stakeholders’ comments on points / issues which are pending for implementation of ‘the amended Framework 2020’. Comments and counter comments received from stakeholders were placed on TRAI’s website. This was followed by an open house discussion in New Delhi on 8th September 2022.

The following issues were placed for consultation:

A. Ceiling on MRP of TV Channels
B. Condition(s) for inclusion of a television channel in a bouquet
C. Discount structure on Bouquet pricing
D. Additional discount offered by broadcasters to DPOs